

**SENATE BILL NO. 2276**

Introduced by

Senators Klein, G. Lee, Murphy

Representatives Holman, Silbernagel, Weisz

1 A BILL ~~for an Act to create and enact a new section to chapter 57-06 and chapter 57-38, a new~~  
2 ~~subdivision to section 57-38-30.3, and a new section to chapter 57-39.2 of the North Dakota~~  
3 ~~Century Code, relating to a property tax exemption for infrastructure used to deliver natural gas~~  
4 ~~to unserved communities, an income tax credit for conversion to a natural gas heating source,~~  
5 ~~and a sales and use tax exemption for construction or expansion of a natural gas transmission~~  
6 ~~or distribution system; to amend and reenact section 57-40.2-03.3 of the North Dakota Century~~  
7 ~~Code, relating to a sales and use tax exemption for construction or expansion of a natural gas~~  
8 ~~transmission or distribution system; and to provide an effective date.~~ for an Act to provide for a  
9 legislative management study related to providing natural gas service to underserved  
10 communities in this state.

11 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 ~~— **SECTION 1.** A new section to chapter 57-06 of the North Dakota Century Code is created~~  
13 ~~and enacted as follows:~~  
14 ~~— **Natural gas infrastructure to unserved communities - Exemption.**~~  
15 ~~— The tax commissioner shall consider any operative property certified by the department of~~  
16 ~~commerce as extending natural gas service to an unserved community, for the purpose of~~  
17 ~~determining the value of the operative property within the state. The qualified cost, not including~~  
18 ~~land, of a project certified as extending natural gas to an unserved community is exempt for a~~  
19 ~~period of ten taxable years. Qualified costs do not include the cost of direct replacement,~~  
20 ~~refurbishment, repair, or maintenance of existing operative property. To receive the exemption, a~~  
21 ~~project must receive certification from the department of commerce prior to the commencement~~  
22 ~~of construction. The company receiving certification must provide a copy of the certification~~  
23 ~~letter to the tax commissioner no later than thirty days after receiving certification from the~~  
24 ~~department of commerce.~~

1 — **SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created  
2 and enacted as follows:

3 — ~~**Income tax credit for natural gas conversion costs.**~~

4 — ~~A taxpayer is entitled to a credit against the tax liability determined under section 57-38-30-~~  
5 ~~or 57-38-30.3 in the amount of fifty percent of the taxpayer's direct costs incurred to adapt or~~  
6 ~~add equipment to real property owned by the taxpayer in North Dakota for the purpose of~~  
7 ~~converting to natural gas as the primary heating fuel source.~~

8 — ~~1. The credit must be claimed in the taxable year in which the cost is incurred by the~~  
9 ~~taxpayer and may not exceed a taxpayer's liability as determined under this chapter~~  
10 ~~for the taxable year. If the amount of the credit exceeds the taxpayer's tax liability for~~  
11 ~~the taxable year, the excess may be carried forward to each of the ten succeeding~~  
12 ~~taxable years.~~

13 — ~~2. The costs used to calculate the credit earned under this section may not be used in~~  
14 ~~the calculation of any other North Dakota income tax credit or deduction.~~

15 — ~~3. A taxpayer may not claim a credit for property leased by the taxpayer.~~

16 — ~~4. A passthrough entity entitled to the credit under this section must be considered to be~~  
17 ~~the taxpayer for purposes of this section, and the amount of the credit allowed must be~~  
18 ~~determined at the passthrough entity level. The amount of the total credit determined~~  
19 ~~at the entity level must be passed through to the partners, shareholders, or members~~  
20 ~~in proportion to their respective interests in the passthrough entity.~~

21 — ~~5. For purposes of this section:~~

22 — ~~a. "Conversion" means replacement of the taxpayer's current heating source to the~~  
23 ~~use of natural gas as the primary heating source. Conversion does not include~~  
24 ~~costs incurred during new construction of a taxpayer's place of business or~~  
25 ~~residence.~~

26 — ~~b. "Direct costs" means costs for which the primary purpose was to convert the~~  
27 ~~taxpayer's primary heating source to natural gas and subsequent repair costs~~  
28 ~~that are incurred no later than one year after the natural gas heating source~~  
29 ~~became operational.~~

30 — **SECTION 3.** Subdivision s of subsection 7 of section 57-38-30.3 the North Dakota Century  
31 Code is created and enacted as follows:

1 ~~\_\_\_\_\_ s. Natural gas conversion costs tax credit under chapter 57-38.~~

2 ~~\_\_\_\_\_ **SECTION 4.** A new section to chapter 57-39.2 of the North Dakota Century Code is created~~  
3 ~~and enacted as follows:~~

4 ~~\_\_\_\_\_ **Development of natural gas infrastructure as primary heating fuel source --**~~

5 ~~**Exemption.**~~

6 ~~\_\_\_\_\_ 1. Gross receipts from sales of tangible personal property used to construct or expand a~~  
7 ~~natural gas transmission or distribution system in this state are exempt from taxes~~  
8 ~~under this chapter. To be exempt, the tangible personal property must be incorporated~~  
9 ~~in the structure of the system or used in the construction process to the point of having~~  
10 ~~no residual economic value. Tangible personal property used to replace an existing~~  
11 ~~natural gas transmission or distribution system does not qualify for exemption under~~  
12 ~~this section unless the replacement creates an expansion of the system.~~

13 ~~\_\_\_\_\_ 2. To receive the exemption at the time of purchase, the owner of the transmission or~~  
14 ~~distribution system must receive from the commissioner a certificate stating that the~~  
15 ~~tangible personal property used to construct the system which the owner intends to~~  
16 ~~purchase qualifies for the exemption. If a certificate is not received prior to the~~  
17 ~~purchase, the owner shall pay the applicable tax imposed by this chapter and apply to~~  
18 ~~the commissioner for a refund.~~

19 ~~\_\_\_\_\_ 3. If the tangible personal property is purchased or installed by a contractor subject to the~~  
20 ~~tax imposed by this chapter, the owner of the natural gas transmission or distribution~~  
21 ~~system may apply for a refund of the difference between the amount remitted by the~~  
22 ~~contractor and the exemption imposed or allowed by this section. Application for~~  
23 ~~refund must be made at the time and in the manner directed by the tax commissioner~~  
24 ~~and must include sufficient information to permit the tax commissioner to verify the~~  
25 ~~sales and use taxes paid and the exempt status of the sale or use.~~

26 ~~\_\_\_\_\_ 4. For purposes of this section, natural gas transmission or distribution system means~~  
27 ~~the physical framework needed to provide processed natural gas to an end consumer,~~  
28 ~~including pipelines or other means of transportation, interconnections to existing~~  
29 ~~transportation sources, border stations or regasification facilities, and any other~~  
30 ~~tangible facilities necessary to deliver natural gas to a consumer.~~

1 ~~SECTION 5. AMENDMENT.~~ Section 57-40.2-03.3 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3 ~~57-40.2-03.3. (Effective through June 30, 2017) Use tax on contractors.~~

4 ~~1. When a contractor or subcontractor uses tangible personal property in the~~  
5 ~~performance of that person's contract, or to fulfill contract or subcontract obligations,~~  
6 ~~whether the title to such property be in the contractor, subcontractor, contractee,~~  
7 ~~subcontractee, or any other person, or whether the titleholder of such property would~~  
8 ~~be subject to pay the sales or use tax, such contractor or subcontractor shall pay a~~  
9 ~~use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price~~  
10 ~~or fair market value of such property, whichever is greater, unless such property has~~  
11 ~~been previously subjected to a sales tax or use tax by this state, and the tax due~~  
12 ~~thereon has been paid.~~

13 ~~2. The provisions of this chapter pertaining to the administration of the tax imposed by~~  
14 ~~section 57-40.2-02.1, not in conflict with the provisions of this section, govern the~~  
15 ~~administration of the tax levied by this section.~~

16 ~~3. The tax imposed by this section does not apply to medical equipment purchased as~~  
17 ~~tangible personal property by a hospital or by a long-term care facility as defined in~~  
18 ~~section 50-10.1-01 and subsequently installed by a contractor into such hospital or~~  
19 ~~facility.~~

20 ~~4. The tax imposed by this section does not apply to:~~

21 ~~a. Production equipment or tangible personal property as authorized or approved~~  
22 ~~for exemption by the tax commissioner under section 57-39.2-04.2;~~

23 ~~b. Machinery, equipment, or other tangible personal property used to construct an~~  
24 ~~agricultural commodity processing facility as authorized or approved for~~  
25 ~~exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;~~

26 ~~c. Tangible personal property used to construct or expand a system used to~~  
27 ~~compress, process, gather, or refine gas recovered from an oil or gas well in this~~  
28 ~~state or used to expand or build a gas processing facility in this state as~~  
29 ~~authorized or approved for exemption by the tax commissioner under section~~  
30 ~~57-39.2-04.5;~~

1 ~~\_\_\_\_\_ d. Tangible personal property used to construct or expand a qualifying oil refinery as~~  
2 ~~authorized or approved for exemption by the tax commissioner under section~~  
3 ~~57-39.2-04.6;~~

4 ~~\_\_\_\_\_ e. Tangible personal property used to construct or expand a qualifying facility as~~  
5 ~~authorized or approved for exemption by the tax commissioner under section~~  
6 ~~57-39.2-04.10;~~

7 ~~\_\_\_\_\_ f. Tangible personal property used to construct or expand a qualifying facility as~~  
8 ~~authorized or approved for exemption by the tax commissioner under section~~  
9 ~~57-39.2-04.11; or~~

10 ~~\_\_\_\_\_ g. Telecommunications infrastructure that is capable of providing~~  
11 ~~telecommunications service as authorized or approved for exemption by the~~  
12 ~~commissioner under chapter 57-39.2.; or~~

13 ~~\_\_\_\_\_ h. Tangible personal property used to construct or expand a natural gas~~  
14 ~~transmission or distribution system as authorized or approved for exemption by~~  
15 ~~the tax commissioner under chapter 57-38.~~

16 ~~\_\_\_\_\_ **(Effective after June 30, 2017) Use tax on contractors.**~~

17 ~~\_\_\_\_\_ 1. When a contractor or subcontractor uses tangible personal property in the~~  
18 ~~performance of that person's contract, or to fulfill contract or subcontract obligations,~~  
19 ~~whether the title to such property be in the contractor, subcontractor, contractee,~~  
20 ~~subcontractee, or any other person, or whether the titleholder of such property would~~  
21 ~~be subject to pay the sales or use tax, such contractor or subcontractor shall pay a~~  
22 ~~use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price~~  
23 ~~or fair market value of such property, whichever is greater, unless such property has~~  
24 ~~been previously subjected to a sales tax or use tax by this state, and the tax due~~  
25 ~~thereon has been paid.~~

26 ~~\_\_\_\_\_ 2. The provisions of this chapter pertaining to the administration of the tax imposed by~~  
27 ~~section 57-40.2-02.1, not in conflict with the provisions of this section, govern the~~  
28 ~~administration of the tax levied by this section.~~

29 ~~\_\_\_\_\_ 3. The tax imposed by this section does not apply to medical equipment purchased as~~  
30 ~~tangible personal property by a hospital or by a long-term care facility as defined in~~

1           ~~section 50-10.1-01 and subsequently installed by a contractor into such hospital or~~  
2           ~~facility.~~

3     ~~4. The tax imposed by this section does not apply to:~~

4     ~~a. Production equipment or tangible personal property as authorized or approved~~  
5           ~~for exemption by the tax commissioner under section 57-39.2-04.2;~~

6     ~~b. Machinery, equipment, or other tangible personal property used to construct an~~  
7           ~~agricultural commodity processing facility as authorized or approved for~~  
8           ~~exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;~~

9     ~~c. Tangible personal property used to construct or expand a system used to~~  
10           ~~compress, process, gather, or refine gas recovered from an oil or gas well in this~~  
11           ~~state or used to expand or build a gas processing facility in this state as~~  
12           ~~authorized or approved for exemption by the tax commissioner under section~~  
13           ~~57-39.2-04.5;~~

14     ~~d. Tangible personal property used to construct to expand a qualifying oil refinery as~~  
15           ~~authorized or approved for exemption by the tax commissioner under section~~  
16           ~~57-39.2-04.6;~~

17     ~~e. Tangible personal property used to construct or expand a qualifying facility as~~  
18           ~~authorized or approved for exemption by the tax commissioner under section~~  
19           ~~57-39.2-04.10; or~~

20     ~~f. Tangible personal property used to construct or expand a qualifying facility as~~  
21           ~~authorized or approved for exemption by the tax commissioner under section~~  
22           ~~57-39.2-04.11.; or~~

23     ~~g. Tangible personal property used to construct or expand a natural gas~~  
24           ~~transmission or distribution system as authorized or approved for exemption by~~  
25           ~~the tax commissioner under chapter 57-38.~~

26     ~~**SECTION 6. EFFECTIVE DATE.** Sections 1 through 3 of this Act are effective for taxable~~  
27     ~~years beginning after December 31, 2014. Sections 4 and 5 of this Act are effective for taxable~~  
28     ~~events occurring after June 30, 2015.~~

29     **SECTION 1. LEGISLATIVE MANAGEMENT STUDY.** The legislative management shall  
30     consider studying, during the 2015-16 interim, issues related to providing natural gas service to  
31     underserved communities in this state from available natural gas not otherwise committed in

Sixty-fourth  
Legislative Assembly

- 1 main gas transmission lines near those underserved communities. The legislative management
- 2 shall report its findings and recommendations, together with any legislation required to
- 3 implement the recommendations, to the sixty-fifth legislative assembly.