

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.

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

10 **SECTION 1.** A new section to chapter 57-06 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Natural gas infrastructure to unserved communities - Exemption.**

13 The tax commissioner shall consider any operative property certified by the department of
14 commerce as extending natural gas service to an unserved community, for the purpose of
15 determining the value of the operative property within the state. The qualified cost, not including
16 land, of a project certified as extending natural gas to an unserved community is exempt for a
17 period of ten taxable years. Qualified costs do not include the cost of direct replacement,
18 refurbishment, repair, or maintenance of existing operative property. To receive the exemption, a
19 project must receive certification from the department of commerce prior to the commencement
20 of construction. The company receiving certification must provide a copy of the certification
21 letter to the tax commissioner no later than thirty days after receiving certification from the
22 department of commerce.

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

1 **Income tax credit for natural gas conversion costs.**

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

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

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

13 3. A taxpayer may not claim a credit for property leased by the taxpayer.

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

19 5. For purposes of this section:

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

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

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

30 s. Natural gas conversion costs tax credit under chapter 57-38.

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

3 **Development of natural gas infrastructure as primary heating fuel source -**
4 **Exemption.**

- 5 1. Gross receipts from sales of tangible personal property used to construct or expand a
6 natural gas transmission or distribution system in this state are exempt from taxes
7 under this chapter. To be exempt, the tangible personal property must be incorporated
8 in the structure of the system or used in the construction process to the point of having
9 no residual economic value. Tangible personal property used to replace an existing
10 natural gas transmission or distribution system does not qualify for exemption under
11 this section unless the replacement creates an expansion of the system.
- 12 2. To receive the exemption at the time of purchase, the owner of the transmission or
13 distribution system must receive from the commissioner a certificate stating that the
14 tangible personal property used to construct the system which the owner intends to
15 purchase qualifies for the exemption. If a certificate is not received prior to the
16 purchase, the owner shall pay the applicable tax imposed by this chapter and apply to
17 the commissioner for a refund.
- 18 3. If the tangible personal property is purchased or installed by a contractor subject to the
19 tax imposed by this chapter, the owner of the natural gas transmission or distribution
20 system may apply for a refund of the difference between the amount remitted by the
21 contractor and the exemption imposed or allowed by this section. Application for
22 refund must be made at the time and in the manner directed by the tax commissioner
23 and must include sufficient information to permit the tax commissioner to verify the
24 sales and use taxes paid and the exempt status of the sale or use.
- 25 4. For purposes of this section, natural gas transmission or distribution system means
26 the physical framework needed to provide processed natural gas to an end consumer,
27 including pipelines or other means of transportation, interconnections to existing
28 transportation sources, border stations or regasification facilities, and any other
29 tangible facilities necessary to deliver natural gas to a consumer.

30 **SECTION 5. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **57-40.2-03.3. (Effective through June 30, 2017) Use tax on contractors.**

- 2 1. When a contractor or subcontractor uses tangible personal property in the
3 performance of that person's contract, or to fulfill contract or subcontract obligations,
4 whether the title to such property be in the contractor, subcontractor, contractee,
5 subcontractee, or any other person, or whether the titleholder of such property would
6 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a
7 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price
8 or fair market value of such property, whichever is greater, unless such property has
9 been previously subjected to a sales tax or use tax by this state, and the tax due
10 thereon has been paid.
- 11 2. The provisions of this chapter pertaining to the administration of the tax imposed by
12 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
13 administration of the tax levied by this section.
- 14 3. The tax imposed by this section does not apply to medical equipment purchased as
15 tangible personal property by a hospital or by a long-term care facility as defined in
16 section 50-10.1-01 and subsequently installed by a contractor into such hospital or
17 facility.
- 18 4. The tax imposed by this section does not apply to:
- 19 a. Production equipment or tangible personal property as authorized or approved
20 for exemption by the tax commissioner under section 57-39.2-04.2;
- 21 b. Machinery, equipment, or other tangible personal property used to construct an
22 agricultural commodity processing facility as authorized or approved for
23 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 24 c. Tangible personal property used to construct or expand a system used to
25 compress, process, gather, or refine gas recovered from an oil or gas well in this
26 state or used to expand or build a gas-processing facility in this state as
27 authorized or approved for exemption by the tax commissioner under section
28 57-39.2-04.5;
- 29 d. Tangible personal property used to construct or expand a qualifying oil refinery as
30 authorized or approved for exemption by the tax commissioner under section
31 57-39.2-04.6;

- 1 e. Tangible personal property used to construct or expand a qualifying facility as
2 authorized or approved for exemption by the tax commissioner under section
3 57-39.2-04.10;
- 4 f. 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 57-39.2-04.11; ~~or~~
- 7 g. Telecommunications infrastructure that is capable of providing
8 telecommunications service as authorized or approved for exemption by the
9 commissioner under chapter 57-39.2; or
- 10 h. Tangible personal property used to construct or expand a natural gas
11 transmission or distribution system as authorized or approved for exemption by
12 the tax commissioner under chapter 57-38.

13 **(Effective after June 30, 2017) Use tax on contractors.**

- 14 1. When a contractor or subcontractor uses tangible personal property in the
15 performance of that person's contract, or to fulfill contract or subcontract obligations,
16 whether the title to such property be in the contractor, subcontractor, contractee,
17 subcontractee, or any other person, or whether the titleholder of such property would
18 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a
19 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price
20 or fair market value of such property, whichever is greater, unless such property has
21 been previously subjected to a sales tax or use tax by this state, and the tax due
22 thereon has been paid.
- 23 2. The provisions of this chapter pertaining to the administration of the tax imposed by
24 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
25 administration of the tax levied by this section.
- 26 3. The tax imposed by this section does not apply to medical equipment purchased as
27 tangible personal property by a hospital or by a long-term care facility as defined in
28 section 50-10.1-01 and subsequently installed by a contractor into such hospital or
29 facility.
- 30 4. The tax imposed by this section does not apply to:

- 1 a. Production equipment or tangible personal property as authorized or approved
2 for exemption by the tax commissioner under section 57-39.2-04.2;
- 3 b. Machinery, equipment, or other tangible personal property used to construct an
4 agricultural commodity processing facility as authorized or approved for
5 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 6 c. Tangible personal property used to construct or expand a system used to
7 compress, process, gather, or refine gas recovered from an oil or gas well in this
8 state or used to expand or build a gas-processing facility in this state as
9 authorized or approved for exemption by the tax commissioner under section
10 57-39.2-04.5;
- 11 d. Tangible personal property used to construct to expand a qualifying oil refinery as
12 authorized or approved for exemption by the tax commissioner under section
13 57-39.2-04.6;
- 14 e. Tangible personal property used to construct or expand a qualifying facility as
15 authorized or approved for exemption by the tax commissioner under section
16 57-39.2-04.10; ~~or~~
- 17 f. 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 57-39.2-04.11; or
- 20 g. Tangible personal property used to construct or expand a natural gas
21 transmission or distribution system as authorized or approved for exemption by
22 the tax commissioner under chapter 57-38.

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