

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1410**

Introduced by

Representatives Thoreson, Belter, Haak, Headland, Owens

Senators Cook, O'Connell, Oehlke

1 A BILL for an Act to create and enact a new section to chapter 57-39.2, a new subsection to
2 section 57-39.2-04, and a new subsection to section 57-40.2-04 of the North Dakota Century
3 Code, relating to sales and use tax exemptions for materials used to construct a processing
4 facility to produce liquefied natural gas and for liquified natural gas used for agricultural,
5 industrial, or railroad purposes; to amend and reenact subsection 4 of section 57-40.2-03.3 and
6 section 57-43.2-02.3 of the North Dakota Century Code, relating to exemption from special fuels
7 taxes for liquified natural gas used for agricultural, industrial, or railroad purposes and materials
8 used to liquify natural gas; and to provide an effective date.

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

10 **SECTION 1.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is
11 created and enacted as follows:

12 Gross receipts from sales of liquified natural gas used for agricultural, industrial, or
13 railroad purposes as defined in section 57-43.2-01.

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

16 **Sales tax exemption for materials used to construct a processing facility to produce**
17 **liquefied natural gas.**

18 1. Gross receipts from sales of tangible personal property used to construct or expand a
19 processing facility in this state to produce liquefied natural gas are exempt from taxes
20 under this chapter. To be exempt, the tangible personal property must be incorporated
21 in the structure of the facility or used in the construction process to the point of having
22 no residual economic value.

23 2. To receive the exemption at the time of purchase, the owner of the processing facility
24 must receive from the commissioner a certificate that the tangible personal property

1 used to construct the processing facility which the owner intends to purchase qualifies
2 for the exemption. If a certificate is not received prior to the purchase, the owner shall
3 pay the applicable tax imposed by this chapter and apply to the commissioner for a
4 refund.

5 3. If the tangible personal property is purchased or installed by a contractor subject to the
6 tax imposed by this chapter, the owner may apply for a refund of the difference
7 between the amount remitted by the contractor and the exemption imposed or allowed
8 by this section.

9 **SECTION 3. AMENDMENT.** Subsection 4 of section 57-40.2-03.3 of the North Dakota
10 Century Code is amended and reenacted as follows:

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

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

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

17 c. Tangible personal property used to construct or expand a system used to
18 compress, process, gather, or refine gas recovered from an oil or gas well in this
19 state or used to expand or build a gas-processing facility in this state as
20 authorized or approved for exemption by the tax commissioner under section
21 57-39.2-04.5; ~~or~~

22 d. Tangible personal property used to construct to expand a qualifying oil refinery as
23 authorized or approved for exemption by the tax commissioner under section
24 57-39.2-04.6; or

25 e. Tangible personal property used to construct or expand a qualifying facility as
26 authorized or approved for exemption by the tax commissioner under section 2 of
27 this Act.

28 **SECTION 4.** A new subsection to section 57-40.2-04 of the North Dakota Century Code is
29 created and enacted as follows:

30 Gross receipts from sales of liquified natural gas used for agricultural, industrial, or
31 railroad purposes as defined in section 57-43.2-01.

1 **SECTION 5. AMENDMENT.** Section 57-43.2-02.3 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-43.2-02.3. Exemptions.**

- 4 1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax
5 exemption purposes and sold for an agricultural, industrial, or railroad purpose is
6 exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is
7 sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03.
8 Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes
9 and sold for use as heating fuel is exempt from the special fuel tax imposed by
10 sections 57-43.2-02 and 57-43.2-03. Fuel purchased for use in a licensed motor
11 vehicle is not exempt from the tax imposed by section 57-43.2-02.
- 12 2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad
13 purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time
14 the fuel is sold to the consumer and is subject instead to the tax imposed by section
15 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax
16 imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the
17 consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel
18 is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at
19 the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor
20 vehicle is not exempt from the tax imposed by section 57-43.2-02.
- 21 3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a
22 component part of tangible personal property intended to be sold ultimately at retail is
23 exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax
24 imposed by section 57-43.2-03.
- 25 4. Liquified natural gas sold or used for an agricultural, industrial, or railroad purpose is
26 exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03.

27 **SECTION 6. EFFECTIVE DATE.** Sections 2 and 3 of this Act are effective for taxable
28 events occurring after June 30, 2013. Sections 1, 4, and 5 of this Act are effective upon receipt
29 of certification by the tax commissioner from the plant owner that construction of the gas
30 liquefaction plant eligible for the exemptions under sections 2 and 3 of this Act is complete.