

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1205

Introduced by

Representatives Dockter, Headland, Howe, Porter

Senator Cook

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subdivision to  
2 subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax  
3 exemption for materials used to construct a straddle plant ~~or, a~~ fractionator, or qualified  
4 associated infrastructure; to amend and reenact subsection 2 of section 57-39.2-04.15 of the  
5 North Dakota Century Code, relating to a sales and use tax exemption for materials used to  
6 construct a fertilizer or chemical processing facility; ~~and~~ to provide an effective date; and to  
7 provide an expiration date.

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

9 **SECTION 1. AMENDMENT.** Subsection 2 of section 57-39.2-04.15 of the North Dakota  
10 Century Code is amended and reenacted as follows:

11 2. On or before June 30, ~~2019~~2023, the owner of the fertilizer or chemical processing  
12 plant must receive from the state department of health ~~environmental quality~~ an air  
13 quality permit or a notice that the air quality permit application is complete. The owner  
14 shall provide this documentation to the tax commissioner to qualify for the exemption  
15 under this section. Denial, expiration, or revocation of a permit terminates the  
16 exemption under this section.

17 **SECTION 2. AMENDMENT.** Subsection 2 of section 57-39.2-04.15 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19 2. On or before June 30, ~~2019~~2023, the owner of the fertilizer or chemical processing  
20 plant must receive from the state department of health an air quality permit or a notice  
21 that the air quality permit application is complete. The owner shall provide this  
22 documentation to the tax commissioner to qualify for the exemption under this section.  
23 Denial, expiration, or revocation of a permit terminates the exemption under this  
24 section.

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

3       **Sales tax exemption for materials used to construct a qualified straddle plant ~~or, a~~**  
4 **qualified fractionator, or qualified associated infrastructure.**

5       1. Gross receipts from sales of tangible personal property used to construct or expand a  
6 qualified straddle plant ~~or, a~~ qualified fractionator, or qualified associated infrastructure  
7 in this state are exempt from the tax imposed under this chapter. To qualify for the  
8 exemption, the tangible personal property must be incorporated into a qualifying  
9 straddle plant or a qualifying fractionator plant, or used in the construction process to  
10 the point of having no residual economic value. Replacement of tangible personal  
11 property does not qualify for the exemption under this section unless the replacement  
12 creates an expansion of the plant or qualified associated infrastructure.

13       2. To receive the exemption at the time of purchase, the owner of the plant or qualified  
14 associated infrastructure must receive from the tax commissioner a certificate that the  
15 tangible personal property used to construct the plant qualifies for the exemption. If a  
16 certificate is not received prior to the purchase, the ~~plant~~-owner shall pay the  
17 applicable tax imposed by this chapter and apply to the tax 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 may apply for a refund of the difference  
20 between the amount remitted by the contractor and the exemption allowed by this  
21 section. Application for a refund must be made at the time and in the manner directed  
22 by the tax commissioner, and must include sufficient information to permit the tax  
23 commissioner to verify the sales and use taxes paid and the exempt status of the sale  
24 or use.

25       4. For purposes of this section:

26       a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids  
27 stream into purity natural gas liquids, including ethane, propane, butane, and  
28 C-five plus.

29       b. "Expansion" means an increase in production volume, employment, or the type of  
30 products produced.

31       c. "Qualified associated infrastructure" means:

- 1 (1) Natural gas liquid pipelines built to supply mixed natural gas liquids to the  
2 qualified fractionator;
- 3 (2) Storage facilities for mixed natural gas liquids that will be processed by the  
4 qualified fractionator;
- 5 (3) Storage facilities for purity natural gas liquids, including ethane, propane,  
6 butane, and C-five plus, that are produced by the qualified fractionator;
- 7 (4) Disposal facilities built for the qualified fractionator and for onsite purchasers  
8 of the fractionator's processed end-product;
- 9 (5) Rail upgrades required for the qualified fractionator and onsite purchasers to  
10 access rail transportation; and
- 11 (6) Roads developed for the qualified fractionator, storage facilities, and onsite  
12 customers.
- 13 d. "Qualified fractionator" means a deep cut fractionator located in this state with a  
14 daily design capacity of at least forty-five thousand barrels of ethane, fifteen  
15 thousand barrels of propane, thirteen thousand barrels of butane, and three  
16 thousand barrels of C-five plus.
- 17 d.e. "Qualified straddle plant" means a straddle plant located in this state that is either  
18 connected to a qualified fractionator or produces Y-grade liquids that are  
19 dedicated for use by a qualified fractionator.
- 20 e.f. "Straddle plant" means a gas processing plant located on or near a gas  
21 transmission line, which removes residual natural gas liquids from the gas stream  
22 and returns the residue gas to the transmission line.

23 **SECTION 4.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota  
24 Century Code is created and enacted as follows:

25 Tangible personal property used to construct a qualified straddle plant ~~or~~, a  
26 qualified fractionator, **or qualified associated infrastructure** as authorized or  
27 approved for exemption by the tax commissioner under section 2 of this Act.

28 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable periods beginning after  
29 June 30, 2019.

30 **SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** If, by July 1, 2019, the legislative  
31 council has not received certification from the chief of the environmental health section of the

1 state department of health that all authority, powers, and duties from the environmental health  
2 section of the state department of health have been transferred to the department of  
3 environmental quality, section 2 of this Act becomes effective on July 1, 2019, and remains in  
4 effect until the date certification is received, after which section 2 of this Act is ineffective. If the  
5 certification is received before July 1, 2019, section 2 of this Act does not become effective.

6 Section 1 of this Act become effective on July 1, 2019, if the legislative council has received  
7 certification from the chief of the environmental health section of the state department of health  
8 that all authority, powers, and duties from the environmental health section of the state  
9 department of health have been transferred to the department of environmental quality. If the  
10 certification is not received by July 1, 2019, section 1 of this Act becomes effective on the date  
11 certification is received.