

HOUSE BILL NO. 1318

Introduced by

Representatives Gorder, D. Johnson, Mahoney, Wardner

Senators Kringstad, C. Nelson

1 A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code,
2 relating to the exclusion of school district property taxes from tax exemptions on property of
3 new and expanding businesses.

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

5 **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the 1995 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **40-57.1-03. (Effective until July 31, 1997) Municipality's authority to grant tax**
8 **exemption or payments in lieu of taxes - Notice to competitors - Limitations.** After
9 negotiation with a potential project operator, a municipality may grant a partial or complete
10 exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements
11 used in or necessary to the operation of a project for a period not exceeding five years from the
12 date of commencement of project operations. A municipality may also grant a partial or
13 complete exemption from ad valorem taxation on buildings, structures, fixtures, and
14 improvements used in or necessary to the operation of a project that produces or manufactures
15 a product from agricultural commodities for all or part of the sixth year through the tenth year
16 from the date of commencement of project operations.

17 In addition to, or in lieu of, a property tax exemption granted under this section, a
18 municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings,
19 structures, fixtures, and improvements used in the operation of a project upon which initial
20 construction is begun after June 30, 1994. The governing body of the municipality shall
21 designate the amount of the payments for each year and the beginning year and the concluding
22 year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this
23 section may not extend beyond the twentieth year from the date of commencement of project
24 operations. To establish the amount of payments in lieu of taxes, the governing body of the

1 municipality may use actual or estimated levels of assessment and taxation or may establish
2 payment amounts based on other factors. The governing body of the municipality may
3 designate different amounts of payments in lieu of taxes in different years to recognize future
4 project expansion plans or other considerations.

5 By November first of each year, the municipality that granted the option to make
6 payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of
7 taxes due under this section in the following year. After receiving the statement from the
8 municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer
9 for collection at the time when, and in the manner in which, ad valorem taxes must be certified.
10 Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this
11 section, the county treasurer shall apportion and distribute that amount to taxing districts on the
12 basis on which the general real estate tax levy is apportioned and distributed. The municipality
13 may enter into a written agreement with the local school district and any other local taxing
14 districts that wish to enter the agreement for an alternate method of apportionment and
15 distribution. If such an agreement is entered into, the county treasurer shall apportion and
16 distribute the money according to the written agreement. All provisions of law relating to
17 enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem
18 taxes apply to payments in lieu of taxes under this section. However, the discount for early
19 payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this
20 section. The buildings, structures, fixtures, and improvements comprising a project for which
21 payments in lieu of taxes are allowed under this section must be excluded from the valuation of
22 property in the taxing district for purposes of determining the mill rate for the taxing district.

23 Negotiations with potential project operators for tax exemption or payments in lieu of
24 taxes must be carried on by the city council or commission if the project is proposed to be
25 located within the boundaries of a city, and by the board of county commissioners if the project
26 is proposed to be located outside the corporate limits of any city. A partial exemption must be
27 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the
28 governing body of the municipality determines that there is no existing business within the
29 municipality for which the potential project would be a competitor, the potential project operator
30 shall publish two notices to competitors, the form of which must be prescribed by the tax
31 commissioner, of the application for tax exemption or payments in lieu of taxes in the official

1 newspaper of the municipality at least one week apart. The publications must be completed not
2 less than fifteen nor more than thirty days before the governing body of the municipality is to
3 consider the application. The municipality shall determine whether the granting of the
4 exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if
5 it so determines, shall give its approval.

6 During deliberation of a property tax exemption or the option to make payments in lieu
7 of taxes under this chapter, a municipality must include, as nonvoting ex officio members of its
8 governing body, a representative appointed by the school board of each school district affected
9 by the proposed action and a representative appointed by the board of township supervisors of
10 each township affected by the proposed action.

11 **(Effective July 1, 1997) Municipality's authority to grant tax exemption or**
12 **payments in lieu of taxes - Notice to competitors - Limitations.** After negotiation with a
13 potential project operator, a municipality may grant a partial or complete exemption from
14 ad valorem taxation on all buildings, structures, fixtures, and improvements used in or
15 necessary to the operation of a project for a period not exceeding five years from the date of
16 commencement of project operations. A municipality may also grant a partial or complete
17 exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used
18 in or necessary to the operation of a project that produces or manufactures a product from
19 agricultural commodities for all or part of the sixth year through the tenth year from the date of
20 commencement of project operations.

21 In addition to, or in lieu of, a property tax exemption granted under this section, a
22 municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings,
23 structures, fixtures, and improvements used in the operation of a project upon which initial
24 construction is begun after June 30, 1994. The governing body of the municipality shall
25 designate the amount of the payments for each year and the beginning year and the concluding
26 year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this
27 section may not extend beyond the twentieth year from the date of commencement of project
28 operations. To establish the amount of payments in lieu of taxes, the governing body of the
29 municipality may use actual or estimated levels of assessment and taxation or may establish
30 payment amounts based on other factors. The governing body of the municipality may

1 designate different amounts of payments in lieu of taxes in different years to recognize future
2 project expansion plans or other considerations.

3 By November first of each year, the municipality that granted the option to make
4 payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of
5 taxes due under this section in the following year. After receiving the statement from the
6 municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer
7 for collection at the time when, and in the manner in which, ad valorem taxes must be certified.
8 Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this
9 section, the county treasurer shall apportion and distribute that amount to taxing districts on the
10 basis on which the general real estate tax levy is apportioned and distributed. The municipality
11 may enter into a written agreement with the local school district and any other local taxing
12 districts that wish to enter the agreement for an alternate method of apportionment and
13 distribution. If such an agreement is entered into, the county treasurer shall apportion and
14 distribute the money according to the written agreement. All provisions of law relating to
15 enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem
16 taxes apply to payments in lieu of taxes under this section. However, the discount for early
17 payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this
18 section. The buildings, structures, fixtures, and improvements comprising a project for which
19 payments in lieu of taxes are allowed under this section must be excluded from the valuation of
20 property in the taxing district for purposes of determining the mill rate for the taxing district.

21 Negotiations with potential project operators for tax exemption or payments in lieu of
22 taxes must be carried on by the city council or commission if the project is proposed to be
23 located within the boundaries of a city, and by the board of county commissioners if the project
24 is proposed to be located outside the corporate limits of any city. A partial exemption must be
25 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the
26 governing body of the municipality determines that there is no existing business within the
27 municipality for which the potential project would be a competitor, the potential project operator
28 shall publish two notices to competitors, the form of which must be prescribed by the tax
29 commissioner, of the application for tax exemption or payments in lieu of taxes in the official
30 newspaper of the municipality at least one week apart. The publications must be completed not
31 less than fifteen nor more than thirty days before the governing body of the municipality is to

1 consider the application. The municipality shall determine whether the granting of the
2 exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if
3 it so determines, shall give its approval. If the municipality approves granting an exemption or
4 payments in lieu of taxes, or both, after July 31, 1997, that exemption or those payments in lieu
5 of taxes do not apply to any property taxes levied by a school district if the school board of that
6 district has approved a motion to disallow that exemption or those payments in lieu of taxes with
7 respect to that district's tax levy.