

Introduced by

Senators Miller, Dotzenrod, Luick

Representatives Headland, Kingsbury, Paur

1 A BILL for an Act to create and enact a new subdivision to subsection 5 of section 4-01-23, a
2 new subsection to section 6-09.13-03, and a new section to chapter 61-32 of the North Dakota
3 Century Code, relating to eligible uses of the agriculture partnership in assisting community
4 expansion fund and subsurface field tiling projects; and to amend and reenact subsection 3 of
5 section 6-09.13-01, subsection 45 of section 57-39.2-04, and sections 57-39.5-02 and 61-32-03
6 of the North Dakota Century Code, relating to sustainably grown crops, eligible uses for the
7 agriculture partnership in assisting community expansion fund, sales tax on field tile, and
8 drainage permits.

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

10 **SECTION 1.** A new subdivision to subsection 5 of section 4-01-23 of the North Dakota
11 Century Code is created and enacted as follows:

12 Implementation of soil health management practices designed to control and
13 when needed reduce salinity, excess water, and erosion and increase organic
14 matter. These practices include subsurface field tile, crop rotation, strip tilling,
15 shelterbelts, animal grazing patterns, and cover crops.

16 **SECTION 2. AMENDMENT.** Subsection 3 of section 6-09.13-01 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 3. "Farm business" means any business conducted by the farmer or farmer's family,
19 which is integrated into the farm operation and is intended to supplement farm income
20 to allow the farmer to continue farming. #The term may include nontraditional
21 agricultural, manufacturing, processing, value-added processing, targeted service
22 industries, or other activities calculated to produce income, and subsurface field tiling
23 projects.

1 **SECTION 3.** A new subsection to section 6-09.13-03 of the North Dakota Century Code is
2 created and enacted as follows:

3 Subsurface field tiling projects.

4 **SECTION 4. AMENDMENT.** Subsection 45 of section 57-39.2-04 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 45. Gross receipts from the sale or lease of farm machinery, farm machinery repair parts,
7 irrigation equipment, or irrigation equipment repair parts used exclusively for
8 agricultural purposes and subsurface field tile used exclusively for a centrally
9 assessed drain tile project.

10 **SECTION 5. AMENDMENT.** Section 57-39.5-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-39.5-02. Imposition - Exemptions.**

13 There is imposed a tax of three percent upon the gross receipts of retailers from all sales at
14 retail, including the leasing or renting, of farm machinery or irrigation equipment used
15 exclusively for agricultural purposes and subsurface field tile use exclusively for a centrally
16 assessed drain tile project. Gross receipts from sales at retail of farm machinery or irrigation
17 equipment are exempted from the tax imposed by this chapter when the sale, lease, or rental is
18 made to a purchaser or lessor who is entitled to a sales and use tax exemption under
19 subsection 6 or 12 of section 57-39.2-04 on otherwise taxable sales at retail. There are
20 specifically exempted from the tax imposed by this chapter the gross receipts from the sale or
21 lease of used farm machinery, farm machinery repair parts, used irrigation equipment, or
22 irrigation equipment repair parts used exclusively for agricultural purposes. For purposes of this
23 section, "used" means:

- 24 1. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous
25 sale;
- 26 2. Originally purchased outside this state and previously owned by a farmer; or
- 27 3. Has been under lease or rental for three years or more.

28 **SECTION 6. AMENDMENT.** Section 61-32-03 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **61-32-03. Permit to drain waters required - Penalty.**

2 AnyExcept as otherwise provided in section 7 of this Act, a person, before draining a pond,
3 slough, lake, or sheetwater, or any series thereof, which has a watershed area comprising
4 eighty acres [32.37 hectares] or more, shall first secure a permit to do so. The permit application
5 must be submitted to the state engineer. The state engineer shall refer the application to the
6 water resource district or districts within which is found a majority of the watershed or drainage
7 area of the pond, slough, lake, or sheetwater for consideration and approval, but the state
8 engineer may require that applications proposing drainage of statewide or interdistrict
9 significance be returned to the state engineer for final approval. A permit may not be granted
10 until an investigation discloses that the quantity of water which will be drained from the pond,
11 slough, lake, or sheetwater, or any series thereof, will not flood or adversely affect downstream
12 lands. If the investigation shows that the proposed drainage will flood or adversely affect lands
13 of downstream landowners, the water resource board may not issue a permit until flowage
14 easements are obtained. The flowage easements must be filed for record in the office of the
15 recorder of the county or counties in which the lands are situated. An owner of land proposing to
16 drain shall undertake and agree to pay the expenses incurred in making the required
17 investigation. This section does not apply to the construction or maintenance of any existing or
18 prospective drain constructed under the supervision of a state or federal agency, as determined
19 by the state engineer.

20 Any person draining, or causing to be drained, a pond, slough, lake, or sheetwater, or any
21 series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or more,
22 without first securing a permit to do so, as provided by this section, is liable for all damage
23 sustained by any person caused by the draining, and is guilty of an infraction. As used in this
24 section, sheetwater means shallow water that floods land not normally subject to standing
25 water. The state engineer may adopt rules for temporary permits for emergency drainage.

26 **SECTION 7.** A new section to chapter 61-32 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Subsurface field tiling - Permit - Liability.**

29 A subsurface field tiling project may be permitted by the board of the water resource district
30 in which the proposed project is located pursuant to the following criteria:

- 1 1. A tile system may outlet to the same outlet as surface water if the surface drain is not
2 currently being farmed across. A road ditch is not considered to be farmed. Upon
3 compliance with these conditions, a flowage easement is not required but may be
4 obtained.
- 5 2. The local water resource district board may require a control structure on the
6 subsurface field tile project in order that water may be shut off to alleviate spring
7 flooding and for ditch maintenance.
- 8 3. The local water resource district board shall act upon a permit application within thirty
9 days of receiving the application.
- 10 4. A permittee under this section must agree to indemnify and hold harmless the water
11 resource district issuing a permit under this section.
- 12 5. The local water resource district board may assess a fee up to one dollar per acre for
13 the permit application.
- 14 6. The person engaging in field tiling is liable for any downstream damage caused by the
15 project.