

SENATE BILL NO. 2322

Introduced by

Senator Magrum

1 A BILL for an Act to amend and reenact sections 32-15-02, 49-19-01, 49-19-11, and 49-19-19 of
2 the North Dakota Century Code, relating to the revocation of common carrier status of carbon
3 dioxide pipelines; and to repeal section 38-22-10 of the North Dakota Century Code, relating to
4 the exercise of public domain in geological storage of carbon dioxide.

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

6 **SECTION 1. AMENDMENT.** Section 32-15-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **32-15-02. Purposes for which exercised - Prohibited uses.**

- 9 1. Subject to the provisions of this chapter, the right of eminent domain may be exercised
10 in behalf of the following public uses:
- 11 1. a. All public uses authorized by the government of the United States.
- 12 2. b. Public buildings and grounds for the use of the state and all other public uses
13 authorized by the legislative assembly of the state.
- 14 3. c. Public buildings and grounds for the use of any county, city, park district, or
15 school district; canals, aqueducts, flumes, ditches, or pipes for conducting water
16 for the use of the inhabitants of any county or city, or for draining any county or
17 city; raising the banks of streams, removing obstructions therefrom, and
18 widening, deepening, or straightening their channels; roads, streets, and alleys,
19 and all other uses for the benefit of any county, city, or park district, or the
20 inhabitants thereof, which may be authorized by the legislative assembly, but the
21 mode of apportioning and collecting the costs of such improvement shall be such
22 as may be provided in the statutes by which the same may be authorized.
- 23 4. d. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank
24 and turnpike roads, railroads and street railways, electric light plants and power

- 1 transmission lines and canals, ditches, flumes, aqueducts, and pipes for public
2 transportation, supplying mines, and irrigating, draining, and reclaiming lands.
- 3 5. e. Roads, tunnels, ditches, flumes, pipes, and dumping places for working mines,
4 outlets, natural or otherwise, for the flow, deposit, or conduct of the tailings or
5 refuse from mines and mill dams.
- 6 6. f. Byroads leading from highways to residences and farms.
- 7 7. g. Telegraph and telephone lines.
- 8 8. h. Sewage disposal of any city, or of any settlement consisting of not less than ten
9 families, or of any public buildings belonging to the state, or of any college or
10 university.
- 11 9. i. Cemeteries and public parks.
- 12 10. j. Oil, gas, and coal, ~~and carbon dioxide~~ pipelines and works and plants for
13 supplying or conducting gas, oil, coal, ~~carbon dioxide~~, heat, refrigeration, or
14 power for the use of any county, city, or the inhabitants thereof, together with
15 lands, buildings, and all other improvements in or upon which to erect, install,
16 place, maintain, use, or operate pumps, stations, tanks, and other machinery or
17 apparatus, and buildings, works, and plants for the purpose of generating,
18 refining, regulating, compressing, transmitting, or distributing the same, or
19 necessary for the proper development and control of such gas, oil, coal, ~~carbon~~
20 ~~dioxide~~, heat, refrigeration, or power, either at the time of the taking of said
21 property or for the future proper development and control thereof.
- 22 11. k. Lands sought to be acquired by the state or any duly authorized and designated
23 state official or board, which lands necessarily must be flooded in widening or
24 raising the waters of any body or stream of navigable or public water in the state
25 of North Dakota.
- 26 2. Notwithstanding any other provision of law, the state or a political subdivision or any
27 public utility, corporation, limited liability company, association, or other entity granted
28 the power of eminent domain by the state, may not exercise the right of eminent
29 domain to construct infrastructure associated with:
- 30 a. Carbon capture;
- 31 b. Solar energy;

- 1 c. Wind energy;
- 2 d. Hydrogen energy;
- 3 e. Carbon dioxide transport for disposal in geological storage or for geological
- 4 sequestration; or
- 5 f. Anything under a federal 45Q tax credit as defined under title 25, United States
- 6 Code, section 45Q or any similar type of tax credits.

7 **SECTION 2. AMENDMENT.** Section 49-19-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **49-19-01. Definition of common pipeline carriers.**

10 ~~Every~~Subject to subsection 2 of section 32-15-02, every person:

- 11 1. Owning, operating, or managing any pipeline or any part of any pipeline within this
12 state for the transportation of crude petroleum, gas, or coal, ~~or carbon dioxide~~ to or for
13 the public for hire, or engaged in the business of transporting crude petroleum, gas, or
14 coal, ~~or carbon dioxide~~ by pipelines;
- 15 2. Owning, operating, managing, or participating in the ownership, operation, or
16 management of, under lease, contract of purchase, agreement to buy or sell, or other
17 agreement or arrangement of any kind whatsoever, any pipeline, or any part of any
18 pipeline, for the transportation of crude petroleum, gas, or coal bought from others
19 from any oil, gas, or coal field or place of production, to any distributing, refining, or
20 marketing center or reshipping point;
- 21 3. Engaged in the business of producing, purchasing, transporting for hire or transporting
22 for sale within this state of natural gas, which is transported through pipelines, or any
23 part of a pipeline, the right of way for which is granted or secured under the provisions
24 of this chapter or, subject to chapter 32-15, through the exercise of the right of eminent
25 domain; or
- 26 4. Made a common carrier by or under the terms of a contract with or in pursuance of the
27 laws of the United States, is a common carrier and is subject to the provisions of this
28 chapter as a common pipeline carrier.

29 **SECTION 3. AMENDMENT.** Section 49-19-11 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **49-19-11. Pipeline carrier must agree to carry without discrimination.**

2 A common pipeline carrier, in the acceptance of the provisions of this chapter, shall agree
3 expressly that it, without discrimination, will accept, carry, or purchase, the oil, coal, or gas, ~~or~~
4 ~~carbon dioxide~~ of the state or of any person not the owner of any pipeline, operating a lease or
5 purchasing oil, coal, or gas, ~~or carbon dioxide~~ at prices and under regulations to be prescribed
6 by the commission.

7 **SECTION 4. AMENDMENT.** Section 49-19-19 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **49-19-19. Discrimination between shippers in facilities furnished, service rendered,**
10 **and rates prohibited.**

11 No

12 1. A common pipeline carrier may not discriminate between or against shippers in regard-
13 to regarding facilities furnished, services rendered, or rates charged under the same or
14 similar circumstances in the transportation of crude petroleum, coal, or gas, ~~or carbon~~
15 ~~dioxide~~, nor may there be any discrimination in the transportation of crude petroleum,
16 coal, or gas, ~~or carbon dioxide~~ produced or purchased by itself directly or indirectly. In
17 ~~this~~the connection the pipeline must be considered as a shipper of the crude
18 petroleum, coal, or gas, ~~or carbon dioxide~~ produced or purchased by itself directly or
19 indirectly and handled through its facilities. ~~No such~~

20 2. A carrier in such operation operating under this section, directly or indirectly, may not
21 charge, demand, collect, or receive from anyone a greater or lesser compensation for
22 any service rendered than from another for a like contemporaneous service. ~~This does~~
23 ~~not limit~~This section does not preclude the right of the commission to prescribe rates
24 and regulations from or to some places different from other rates or regulations for
25 transportation from or to other places as it may determine, nor is any carrier guilty of
26 discrimination when obeying any order of the commission. Where there is offered for
27 transportation more crude petroleum, or coal, ~~or carbon dioxide~~ than can be
28 transported immediately, the same product must be apportioned equitably. Gas must
29 be taken on a pro rata basis or on such basis as may be established by the industrial
30 commission pursuant to section 38-08-06.

31 **SECTION 5. REPEAL.** Section 38-22-10 of the North Dakota Century Code is repealed.