

**FIRST ENGROSSMENT**

**ENGROSSED 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 transporters; and to repeal section 38-22-10 of the North Dakota Century Code, relating  
4 to 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.

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

1           domain to construct infrastructure associated with carbon dioxide transport for  
2           disposal in geological storage or for geological sequestration.

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

5           **49-19-01. Definition of common pipeline carriers.**

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

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

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

27          **49-19-11. Pipeline carrier must agree to carry without discrimination.**

28          A common pipeline carrier, in the acceptance of the provisions of this chapter, shall agree  
29 expressly that it, without discrimination, will accept, carry, or purchase, the oil, coal, or gas, ~~or~~  
30 ~~carbon dioxide~~ of the state or of any person not the owner of any pipeline, operating a lease or

1 purchasing oil, coal, or gas, ~~or carbon dioxide~~ at prices and under regulations to be prescribed  
2 by the commission.

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

5 **49-19-19. Discrimination between shippers in facilities furnished, service rendered,**  
6 **and rates prohibited.**

7 ~~Ne~~

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

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

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