

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1295

Introduced by

Representatives S. Olson, Heilman, D. Johnston, Kasper, Maki, Toman, Nehring

Senators Enget, Magrum

1 A BILL for an Act to amend and reenact ~~subsection 3 of section 54-35-26 and sections~~
2 ~~57-40.2-03.3 and 57-60-06 of the North Dakota Century Code, relating to the evaluation of~~
3 ~~economic development tax incentives, the carbon dioxide capture and injection use tax~~
4 ~~exemption, and the ad valorem property tax exemption for carbon dioxide capture equipment~~
5 ~~used for enhanced oil recovery and secure geologic storage; to repeal sections 57-06-17.1,~~
6 ~~57-06-17.2, and 57-39.2-04.14 of the North Dakota Century Code, relating to the carbon dioxide~~
7 ~~pipeline exemption, payments in lieu of taxes for certain carbon dioxide pipeline property, and~~
8 the carbon dioxide capture and injection sales tax exemption; and to provide an effective date.

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

10 ~~SECTION 1. AMENDMENT. Subsection 3 of section 54-35-26 of the North Dakota Century~~
11 ~~Code is amended and reenacted as follows: _____~~
12 ~~3. The legislative management interim committee assigned the study responsibility under~~
13 ~~this section may examine economic development tax incentives, shall complete~~
14 ~~analysis of the incentives it designates for analysis during the interim, and shall~~
15 ~~approve a plan to provide that each of the economic development tax incentives listed~~
16 ~~in this subsection is subject to a complete analysis within each six-year period. The~~
17 ~~interim committee may include in its recommendations any amendments to this~~
18 ~~section, including amendments to add or remove incentives from the list of incentives~~
19 ~~subject to analysis under this subsection. Analysis must be completed for economic~~
20 ~~development tax incentives, including each of the following:~~

- 1 ~~_____ a. Renaissance zone credits and exemptions.~~
- 2 ~~_____ b. Research expense credit.~~
- 3 ~~_____ c. Agricultural commodity processing facility investment credit.~~
- 4 ~~_____ d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel~~
- 5 ~~_____ blending credit, and biodiesel fuel equipment credit.~~
- 6 ~~_____ e. Seed capital investment credit.~~
- 7 ~~_____ f. Internship program credit.~~
- 8 ~~_____ g. Angel fund investment credit.~~
- 9 ~~_____ h. Workforce recruitment credit.~~
- 10 ~~_____ i. Soybean or canola crushing facility construction or retrofit credit.~~
- 11 ~~_____ j. Twenty-first century manufacturing and animal agricultural workforce incentive.~~
- 12 ~~_____ k. New or expanding business exemption.~~
- 13 ~~_____ l. Manufacturing and recycling equipment sales tax exemption.~~
- 14 ~~_____ m. Coal severance and conversion tax exemptions.~~
- 15 ~~_____ n. Oil and gas gross production and oil extraction tax exemptions.~~
- 16 ~~_____ o. Fuel tax refunds for certain users.~~
- 17 ~~_____ p. New jobs credit from income tax withholding.~~
- 18 ~~_____ q. Development or renewal area incentives.~~
- 19 ~~_____ r. Sales and use tax exemption for materials used to construct a fertilizer or~~
- 20 ~~_____ chemical processing facility.~~
- 21 ~~_____ s. Sales and use tax exemption for materials used in compressing, gathering,~~
- 22 ~~_____ collecting, storing, transporting, or injecting carbon dioxide for use in enhanced~~
- 23 ~~_____ recovery of oil or natural gas.~~
- 24 ~~_____ t. Sales and use tax exemption for enterprise information technology equipment~~
- 25 ~~_____ and computer software used in a qualified data center.~~
- 26 ~~_____ u.t. Sales and use tax exemption for raw materials, single-use product contact~~
- 27 ~~_____ systems, and reagents used for biologic manufacturing.~~
- 28 ~~_____ v.u. Sales and use tax exemption for materials used to construct or expand a coal~~
- 29 ~~_____ processing facility that utilizes coal as a feedstock.~~

30 ~~_____ **SECTION 2. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is~~
31 ~~amended and reenacted as follows:~~

~~57-40.2-03.3. Use tax on contractors. (Effective through June 30, 2025)~~

~~1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to the property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of the property would be subject to pay the sales or use tax, the contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless the property has been previously subjected to a sales tax or use tax by this state, and the tax due has been paid. This section does not apply to a contractor or subcontractor that does not enter a contract for the purchase of the tangible personal property.~~

~~2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.~~

~~3. The tax imposed by this section does not apply to:~~

~~a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2.~~

~~b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4.~~

~~c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5.~~

~~d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6.~~

~~e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10.~~

- 1 ~~f.~~ Tangible personal property used to construct or expand a qualifying facility as
2 authorized or approved for exemption by the tax commissioner under section
3 ~~57-39.2-04.11.~~
- 4 ~~g.~~ Materials used in compressing, gathering, collecting, storing, transporting, or
5 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
6 provided in section ~~57-39.2-04.14.~~
- 7 ~~h.~~ Tangible personal property used to construct a qualifying fertilizer or chemical
8 processing facility as authorized or approved for exemption by the tax
9 commissioner under section ~~57-39.2-04.15.~~
- 10 ~~i.h.~~ Tangible personal property used to construct a qualified straddle plant, a qualified
11 fractionator, or qualified associated infrastructure as authorized or approved for
12 exemption by the tax commissioner under section ~~57-39.2-04.16.~~
- 13 ~~j.i.~~ Tangible personal property as authorized or approved for exemption by the
14 tax commissioner as provided in section ~~57-39.2-04.21.~~
- 15 ~~k.j.~~ Tangible personal property as authorized or approved for exemption by the
16 tax commissioner as provided in section ~~57-39.2-04.20.~~
- 17 ~~l.k.~~ Raw materials, single-use product contact systems, and reagents used for
18 biologic manufacturing as authorized or approved for exemption by the
19 tax commissioner under section ~~57-39.2-04.19.~~
- 20 ~~m.l.~~ Tangible personal property used to construct, expand, or upgrade a facility that
21 refines renewable feedstock into sustainable aviation fuel as authorized or
22 approved by the tax commissioner under section ~~57-39.2-04.18.~~
- 23 ~~**Use tax on contractors. (Effective after June 30, 2025, and through June 30, 2029)**~~
- 24 ~~1.~~ When a contractor or subcontractor uses tangible personal property in the
25 performance of that person's contract, or to fulfill contract or subcontract obligations,
26 whether the title to the property be in the contractor, subcontractor, contractee,
27 subcontractee, or any other person, or whether the titleholder of the property would be
28 subject to pay the sales or use tax, the contractor or subcontractor shall pay a use tax
29 at the rate prescribed by section ~~57-40.2-02.1~~ measured by the purchase price or fair
30 market value of such property, whichever is greater, unless the property has been
31 previously subjected to a sales tax or use tax by this state, and the tax due has been

1 ~~paid. This section does not apply to a contractor or subcontractor that does not enter a~~
2 ~~contract for the purchase of the tangible personal property.~~

3 ~~2. The provisions of this chapter pertaining to the administration of the tax imposed by~~
4 ~~section 57-40.2-02.1, not in conflict with the provisions of this section, govern the~~
5 ~~administration of the tax levied by this section.~~

6 ~~3. The tax imposed by this section does not apply to:~~

7 ~~a. Production equipment or tangible personal property as authorized or approved~~
8 ~~for exemption by the tax commissioner under section 57-39.2-04.2;~~

9 ~~b. Machinery, equipment, or other tangible personal property used to construct an~~
10 ~~agricultural commodity processing facility as authorized or approved for~~
11 ~~exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;~~

12 ~~c. Tangible personal property used to construct or expand a system used to~~
13 ~~compress, process, gather, or refine gas recovered from an oil or gas well in this~~
14 ~~state or used to expand or build a gas-processing facility in this state as~~
15 ~~authorized or approved for exemption by the tax commissioner under section~~
16 ~~57-39.2-04.5;~~

17 ~~d. Tangible personal property used to construct or expand a qualifying oil refinery as~~
18 ~~authorized or approved for exemption by the tax commissioner under section~~
19 ~~57-39.2-04.6;~~

20 ~~e. Tangible personal property used to construct or expand a qualifying facility as~~
21 ~~authorized or approved for exemption by the tax commissioner under section~~
22 ~~57-39.2-04.10;~~

23 ~~f. Tangible personal property used to construct or expand a qualifying facility as~~
24 ~~authorized or approved for exemption by the tax commissioner under section~~
25 ~~57-39.2-04.11;~~

26 ~~g. Materials used in compressing, gathering, collecting, storing, transporting, or~~
27 ~~injecting carbon dioxide for use in enhanced recovery of oil or natural gas as~~
28 ~~provided in section 57-39.2-04.14;~~

29 ~~h. Tangible personal property used to construct a qualifying fertilizer or chemical~~
30 ~~processing facility as authorized or approved for exemption by the tax~~
31 ~~commissioner under section 57-39.2-04.15; or~~

1 ~~—— i.h. —~~ Tangible personal property used to construct a qualified straddle plant, a qualified
2 fractionator, or qualified associated infrastructure as authorized or approved for
3 exemption by the tax commissioner under section 57-39.2-04.16.

4 ~~—— j.i. —~~ Tangible personal property as authorized or approved for exemption by the
5 tax commissioner as provided in section 57-39.2-04.21.

6 ~~—— k.j. —~~ Tangible personal property as authorized or approved for exemption by the
7 tax commissioner as provided in section 57-39.2-04.20.

8 ~~—— l.k. —~~ Raw materials, single-use product contact systems, and reagents used for
9 biologic manufacturing as authorized or approved for exemption by the
10 tax commissioner under section 57-39.2-04.19.

11 ~~——~~ **Use tax on contractors. (Effective after June 30, 2029)**

12 ~~—— 1. —~~ When a contractor or subcontractor uses tangible personal property in the
13 performance of that person's contract, or to fulfill contract or subcontract obligations,
14 whether the title to the property be in the contractor, subcontractor, contractee,
15 subcontractee, or any other person, or whether the titleholder of the property would be
16 subject to pay the sales or use tax, the contractor or subcontractor shall pay a use tax
17 at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair
18 market value of such property, whichever is greater, unless the property has been
19 previously subjected to a sales tax or use tax by this state, and the tax due has been
20 paid. This section does not apply to a contractor or subcontractor that does not enter a
21 contract for the purchase of the tangible personal property.

22 ~~—— 2. —~~ The provisions of this chapter pertaining to the administration of the tax imposed by
23 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
24 administration of the tax levied by this section.

25 ~~—— 3. —~~ The tax imposed by this section does not apply to:

26 ~~—— a. —~~ Production equipment or tangible personal property as authorized or approved
27 for exemption by the tax commissioner under section 57-39.2-04.2;

28 ~~—— b. —~~ Machinery, equipment, or other tangible personal property used to construct an
29 agricultural commodity processing facility as authorized or approved for
30 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;

- 1 ~~———— c. Tangible personal property used to construct or expand a system used to~~
2 ~~compress, process, gather, or refine gas recovered from an oil or gas well in this~~
3 ~~state or used to expand or build a gas processing facility in this state as~~
4 ~~authorized or approved for exemption by the tax commissioner under section~~
5 ~~57-39.2-04.5;~~
- 6 ~~———— d. Tangible personal property used to construct or expand a qualifying oil refinery as~~
7 ~~authorized or approved for exemption by the tax commissioner under section~~
8 ~~57-39.2-04.6;~~
- 9 ~~———— e. Tangible personal property used to construct or expand a qualifying facility as~~
10 ~~authorized or approved for exemption by the tax commissioner under section~~
11 ~~57-39.2-04.10;~~
- 12 ~~———— f. Tangible personal property used to construct or expand a qualifying facility as~~
13 ~~authorized or approved for exemption by the tax commissioner under section~~
14 ~~57-39.2-04.11;~~
- 15 ~~———— g. Materials used in compressing, gathering, collecting, storing, transporting, or~~
16 ~~injecting carbon dioxide for use in enhanced recovery of oil or natural gas as~~
17 ~~provided in section 57-39.2-04.14;~~
- 18 ~~———— h. Tangible personal property used to construct a qualifying fertilizer or chemical~~
19 ~~processing facility as authorized or approved for exemption by the tax~~
20 ~~commissioner under section 57-39.2-04.15; or~~
- 21 ~~———— i. h. Tangible personal property used to construct a qualified straddle plant, a qualified~~
22 ~~fractionator, or qualified associated infrastructure as authorized or approved for~~
23 ~~exemption by the tax commissioner under section 57-39.2-04.16.~~
- 24 ~~———— j. i. Tangible personal property as authorized or approved for exemption by the~~
25 ~~tax commissioner as provided in section 57-39.2-04.21.~~
- 26 ~~———— k. j. Tangible personal property as authorized or approved for exemption by~~
27 ~~the tax commissioner as provided in section 57-39.2-04.20.~~
- 28 ~~———— **SECTION 3. AMENDMENT.** Section 57-60-06 of the North Dakota Century Code is~~
29 ~~amended and reenacted as follows:~~

1 ~~— 57-60-06. Property classified and exempted from ad valorem taxes – In lieu of certain~~
2 ~~other taxes – Credit for certain other taxes.~~

3 ~~— Each coal conversion facility and any carbon dioxide capture system located at the coal~~
4 ~~conversion facility, and any equipment directly used for secure geologic storage of carbon~~
5 ~~dioxide or enhanced recovery of oil or natural gas must be classified as personal property and~~
6 ~~is exempt from all ad valorem taxes except for taxes on the land on which the facility, capture~~
7 ~~system, or equipment is located. The exemption provided by this section may not be interpreted~~
8 ~~to apply to tangible personal property incorporated as a component part of a carbon dioxide~~
9 ~~pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under~~
10 ~~section 57-06-17.1. The taxes imposed by this chapter are in lieu of ad valorem taxes on the~~
11 ~~property so classified as personal property.~~

12 ~~— SECTION 4. REPEAL. Sections 57-06-17.1 and 57-06-17.2 of the North Dakota Century~~
13 ~~Code are repealed.~~

14 ~~— SECTION 5. REPEAL. Section 57-39.2-04.14 of the North Dakota Century Code is~~
15 ~~repealed.~~

16 **SECTION 1. AMENDMENT.** Section 57-06-17.1 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **57-06-17.1. Carbon dioxide pipeline exemption.**

19 Property, not including land, is exempt from taxation during construction and for the first ten
20 full taxable years following initial operation if it consists of a pipeline, constructed after 1996,
21 and necessary associated equipment for the transportation or storage of carbon dioxide for
22 ~~secure geologic storage or~~exclusive use in enhanced recovery of oil or natural gas.

23 **SECTION 2. AMENDMENT.** Section 57-39.2-04.14 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **57-39.2-04.14. Sales and use tax exemption for materials used in compressing,**
26 **gathering, collecting, storing, transporting, or injecting carbon dioxide for** ~~secure~~
27 ~~geologic storage or~~exclusive use in enhanced recovery of oil or natural gas.

- 28 1. Gross receipts from sales of tangible personal property used to construct or expand a
29 system used to compress, gather, collect, store, transport, or inject carbon dioxide for
30 ~~secure geologic storage or~~exclusive use in enhanced recovery of oil or natural gas in
31 this state are exempt from taxes under this chapter. To be exempt, the tangible

1 personal property must be incorporated into a system used to compress, gather,
2 collect, store, transport, or inject carbon dioxide for ~~secure geologic storage-~~
3 ~~or~~exclusive use in enhanced recovery of oil or natural gas. Tangible personal property
4 used to replace an existing system to compress, gather, collect, store, transport, or
5 inject carbon dioxide for ~~secure geologic storage-~~or exclusive use in enhanced
6 recovery of oil or natural gas does not qualify for exemption under this section unless
7 the replacement creates an expansion of the system.

8 2. To receive the exemption under this section at the time of purchase, the owner of the
9 gas compressing, gathering, collecting, storing, transporting, or injecting system must
10 receive from the tax commissioner a certificate that the tangible personal property
11 used to construct or expand a system used to compress, gather, collect, store,
12 transport, or inject carbon dioxide for ~~secure geologic storage-~~or exclusive use in
13 enhanced recovery of oil or natural gas qualifies for the exemption. If a certificate is
14 not received before the purchase, the owner shall pay the applicable tax imposed by
15 this chapter and apply to the tax commissioner for a refund.

16 3. If the tangible personal property is purchased or installed by a contractor subject to the
17 tax imposed by this chapter, the owner of the gas compressing, gathering, collecting,
18 storing, transporting, or injecting system may apply to the tax commissioner for a
19 refund of the difference between the amount remitted by the contractor and the
20 exemption imposed or allowed by this section. Application for a refund must be made
21 at the time and in the manner directed by the tax commissioner and must include
22 sufficient information to permit the tax commissioner to verify the sales and use taxes
23 paid and the exempt status of the sale or use.

24 4. This chapter and chapter 57-40.2 apply to the exemption under this section.

25 **SECTION 3. EFFECTIVE DATE.** ~~Sections 2 and 5~~Section 2 of this Act ~~are~~is effective for
26 taxable events occurring after June 30, 2025. ~~Sections 3 and 4~~Section 1 of this Act ~~are~~is
27 effective for taxable years beginning after December 31, 2024.