

**FISCAL NOTE**  
**Requested by Legislative Council**  
**03/27/2019**

Amendment to: Engrossed HB 1205

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1205 with Senate Amendments extends the period of time available to use the current sales and use tax exemption for a fertilizer or chemical processing plant. Additionally, the engrossed bill creates a new sales tax exemption for qualified straddle plants and fractionators.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 and 2 of engrossed HB 1205 with Senate Amendments extends the availability of the current sales and use tax exemption for materials used to construct a fertilizer or chemical processing plant to June 30, 2023, provided an air quality permit is properly completed.

Sections 3 and 4 of engrossed HB 1205 with Senate Amendments creates a new sales and use tax exemption for materials used to construct a qualified straddle plant or a qualified fractionator, and the associated infrastructure.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The State Tax and State Health departments are not aware of any pending projects that may utilize this extended existing exemption contained in Section 1 and 2.

The new exemption created in Sections 3 and 4 is likely to reduce state general fund and state aid distribution fund revenues in the 2019-21 biennium, but there is no information available about the potential use of this new exemption. The fiscal impact cannot be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 701.328.3402

**Date Prepared:** 03/28/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/29/2019**

Amendment to: HB 1205

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1205 extends the period of time available for utilization of the current sales and use tax exemption for construction of a fertilizer or chemical processing plant. Additionally, the engrossed bill creates a new sales tax exemption for qualified straddle plants and fractionators.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of engrossed HB 1205 extends the availability of the current sales and use tax exemption for materials used to construct a fertilizer or chemical processing plant to June 30, 2023, provided an air quality permit is properly completed.

Sections 2 and 3 of engrossed HB 1205 create a new sales and use tax exemption for materials used to construct a qualified straddle plant or a qualified fractionator.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The State Tax and State Health departments are not aware of any pending projects that may utilize this extended existing exemption contained in Section 1.

The new exemption created in Sections 2 and 3 is likely to reduce state general fund and state aid distribution fund revenues in the 2019-21 biennium, but there is no information available about the potential use of this new exemption. The fiscal impact cannot be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 701.328.3402

**Date Prepared:** 01/31/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/07/2019**

Bill/Resolution No.: HB 1205

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1205 extends the period of time available for utilization of the current sales and use tax exemption for construction of a fertilizer or chemical processing plant.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1205 extends the availability of the current sales and use tax exemption for materials used to construct a fertilizer or chemical processing plant to June 30, 2023, provided an air quality permit is properly completed.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The State Tax and State Health departments are not aware of any pending projects that may utilize this extended exemption. Any fiscal impact cannot be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 701.328.3402

**Date Prepared:** 01/11/2019

**2019 HOUSE FINANCE AND TAXATION**

**HB 1205**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1205  
1/14/2019  
30719

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Mary Brucker
-------------------------------

### Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; and to provide an effective date.

### Minutes:

Attachment 1, 2
-----------------

**Chairman Headland:** Opened hearing on HB 1205.

**Representative Dockter:** Introduced bill. I'm putting this bill in to extend the sales tax exemption for fertilizer or chemical processing facility. They had the project at Spiritwood but that never happened so we're looking at extending this exemption for another four years because there's a good possibility of a project in the future.

**Chairman Headland:** Is there testimony in support of HB 1205?

**Dave Glatt, Section Chief for the North Dakota Department of Health, Environmental Health section:** Distributed proposed amendment. See attachment #1. This references the Department of Health for an air quality permit. Hopefully in a few months we will not be part of the Department of Health but will be the Department of Environmental Quality and we will be the ones giving air quality permits.

**Shane Goettle, Project Consultant/Lobbyist for Bakken Midstream Natural Gas, LLC:** Distributed written testimony, see attachment #2. Ended testimony at 8:36.

**Chairman Headland:** The company you mentioned wouldn't be considered a chemical processing facility already?

**Shane Goettle:** They might be. The company I'm working with is interested in doing just the component piece; the straddle and the fractionator then demonstrating that feedstock is available to petrochemical companies. In itself is not going to further process them into polypropylene, ethylene, or polyethylene; they would make those feedstocks available. They are big projects. The idea is to build a gateway. When a petrochemical company looks at North Dakota they want to know where to get the propane and the ethane but it's not readily

available unless you build straddle, fractionate and break those components out. That's a very significant investment to do that.

**Chairman Headland:** Straddling and fractionating are not chemical processes?

**Shane Goettle:** It depends on what you mean by chemical processes. It's not changing them it's just breaking them out. A chemical process is changing the chemistry but a straddle and a fractionator don't change the chemistry they just break out the constituent components.

**Representative Kading:** You're trying to figure out whether or not to build the straddle facility at the cost of \$800-1 billion. What dollar amount would say if you got this tax incentive?

**Shane Goettle:** The straddle facility is roughly \$350-400 million, the fractionator is around \$400-450 million so they are pretty comparable in terms of the investment that will go into them. That is predominantly construction so you apply the sales and use tax to that and that's what it would roughly be worth. We're in the feasibility study stage at this point so I don't have exact numbers at this time.

**Representative Kading:** Do you have a rough estimate on how much it would save you?

**Shane Goettle:** With the sales and use tax at 5% multiplied by \$800 million so \$400,000.

**Representative Trottier:** Can this lead to producing high nitrogen urea and hydrous ammonia in agriculture?

**Shane Goettle:** I think there could be some applications for that as well. Our company isn't looking at that. That could certainly be something other companies would look at though.

**Representative B. Koppelman:** If we expand the amendment would there be any other things we would have to be aware of as a committee when it comes to cost?

**Shane Goettle:** One of the things I thought of with this incentive with regard to fractionator and straddle facilities is that they be set up in North Dakota to make the ethane and propane and other liquids available in quantities to attract petrochemicals. Smaller facilities exclude them from this kind of incentive. I think you would want to avoid incenting other facilities that are already being built without these incentives in place.

**Representative Hatlestad:** I assume with this kind of investment that you would have to have a petrochemical project in the background?

**Shane Goettle:** That would have been true up to the past three to four months because our business plan has an intermediate step to utilize these feedstocks for other temporary uses until such time as a petrochemical facility would locate. The whole idea is to demonstrate they are available. We are looking at technology that could generate electricity using ethane with new TE turbines. They could flip them over to natural gas once you no longer need the ethane because the petrochemical facility is using it. To fractionate all this ethane and have no place to go with it until a petrochemical facility is built is a real big problem. In our model

we are trying to find temporary uses for these liquids and demonstrate the ability for a feedstock. This has been a challenge in attracting petrochemical facilities here. It's available in small quantities but to get that volume there is our biggest challenge. Alberta faced this problem in the 1970s. All the liquids were being sent off to the east coast in Canada for petrochemical processing and Alberta got aggressive in trying to add value to those. When you go to Calgary today you see petrochemical facilities all over the place; they did it. You have to demonstrate the feedstocks available first.

**Chairman Headland:** Are there existing pipelines and pipeline owners who are willing to partner with a petrochemical company?

**Shane Goettle:** We are in the midst of exploring that; our team is in town this week to talk to shippers on some of the pipelines. You need a pipeline first of all because you're going to be straddling a pipeline. It's really the shippers who have the problem with the high heat content from the ethane and it needs to be managed. There are only two things you can do with ethane; you can mix it in with the dry gas stream and try to consume it or you make plastic out of it. Our model is to ship them out of state and get them processed elsewhere.

**Chairman Headland:** Is there further testimony in support?

**Scott Rising, Soybean Growers of North Dakota:** We testified a couple years ago that we were in favor of looking at a fertilizer plant opportunity. Any opportunity to bring the value added and a bit more competitive market in the fertilizer business to help us at input costs and enhance production we are in favor of.

**Representative Steiner:** The governor mentioned soybeans were going to be used at the refinery west of Dickinson. He mentioned it was North Dakota soybeans. I think one of the things North Dakota wanted to do was have a soybean processing plant so as you move into renewable fuels soybean could be used. We wouldn't then have to go to Iowa and get the soybeans that are crushed. Can you tell me if they are North Dakota soybeans that will be used in that refinery?

**Scott Rising:** I'm not real familiar where that sits today. The proposal is to have a soybean crushing facility with additional processing value added. The site was Spiritwood. There was some kind of agreement that when it happens if the oil could be used in the refinery. I'm not clear on the exact status of those discussions.

**Chairman Headland:** Is there any discussion on fertilizer? When we passed this incentive two sessions ago they were discussions on two plants. I know what happened to the one in my district but what happened to the one they were discussing in the Grand Forks area?

**Scott Rising:** I'm not familiar with that. I've had comments with soybean growers mostly in the northern end of the valley looking to try and revive that in some format. The increasing prices of anhydrous fertilizer are driving that interest I'm sure.

**Representative Trottier:** Is this similar to Wall street bankers financing something like this and we're finding out in North Dakota that we can't seem to find the capital to build some of these projects?

**Scott Rising:** I have no information on that.

**Chairman Headland:** Is there further testimony in support?

**Brady Pelton, North Dakota Petroleum Council:** We are in support of this bill. We're entering a new stage of energy development, one that is very focused on identifying and capitalizing on the value added energy opportunities. This bill will aid in extending the value of petrochemical production beyond the mere price of the commodity. It extends the value to locations in the state outside of the oil producing region.

**Chairman Headland:** Further testimony in support?

**Shawn Kessel, Department of Commerce:** We are in support of this bill. We are also working with Bakken Midstream. We are aware of the soybean crush facility and they are doing an equity investment. Petrochemical could be a game changer in North Dakota if that industry is available. In order to get to that industry, we need to straddle plants as the next step. The investments talked about today do not include the petrochemical plant itself, that is just the straddle and fractionator. \$800 million in those facilities and the petrochemical facility would be in addition to that investment.

**Chairman Headland:** Does the straddle and fractioning process have to both be built or can one work without the other?

**Shawn Kessel:** The intention of Bakken Midstream is to do both. The fractionator is the process by which the natural gas stream is separated into ethane, butane and propane. They are looking for markets for all three products. There can be multiple straddles in North Dakota depending upon market viability and the stream itself. There has to be sufficient amount of natural gas and those products available within that stream.

**Chairman Headland:** Is there further testimony in support?

**Shawn Goettle:** I'd like to correct my math; \$800 million times 5% is \$40 million, not \$400,000.

**Chairman Headland:** Is there further support? Is there opposition? Seeing none we will close the hearing on HB 1205.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1205  
1/16/2019  
30889

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Mary Brucker
-------------------------------

### Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; and to provide an effective date.

### Minutes:

No attachments
----------------

**Chairman Headland:** I'd like to discuss this bill. It's extending what is already on the books out a few more biennium to allow for the possibility of a plant to come on board. We were presented with an amendment. Representative Dockter, can you fill us in?

**Representative Dockter:** Shane Goettle is going to get us more information but we haven't received it yet. I will follow up with Shane and get back to committee.

**Representative B. Koppelman:** We had an amendment offered to change the name of the State Department of Health to Department of Environmental Quality to be consistent with some of the changes that came up last legislative session.

**Representative Mitskog:** Mr. Glatt provided an amendment.

**Chairman Headland:** Representative Dockter, are you going to get an amendment after you talk to Mr. Goettle?

**Representative Dockter:** Yes. We could just pass the bill out with this amendment from Mr. Glatt.

**Chairman Headland:** Well I think there were concerns he brought forward regarding straddling and fractionating that would extend out to them.

**Representative Dockter:** I will get a hold of Mr. Goettle. We all have the one amendment from Mr. Glatt.

**Chairman Headland:** I think we should wait and do it all in one motion. We will set this aside until Representative Dockter gets the additional information.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1205  
1/28/2019  
31593

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Mary Brucker
-------------------------------

### Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; and to provide an effective date.

### Minutes:

Attachments 1-2
-----------------

**Representative Dockter:** Distributed proposed amendments and a Christmas tree version of the bill. See attachments 1 and 2.

**Chairman Headland:** I thought it was a hog house so why do we need the Christmas tree version?

**Representative Dockter:** It redefines all of section two and three. I just got this Christmas tree version in my packet.

**Chairman Headland:** Dee, could you come up and explain the amendments to HB 1205?

**Representative B. Koppelman:** There was another amendment suggested. Somebody talked about changing the State Department of Health to Department of Environmental Quality.

**Chairman Headland:** We should probably do that in the other amendment.

**Representative B. Koppelman:** I don't think the other amendments touch that part.

**Dee Wald, General Counsel for the Office of the State Tax Commissioner:** The amendments add a sales tax exemption for materials used to construct a qualified straddle or a qualified fractionator. The language you see here is the exact same language that we use for other sales tax exemptions for gas gathering and others. Section 1 is the general statement that the purchase of the tangible personal property is exempt if it is incorporated into the qualifying straddle plant or fractionator or used in the construction process to the point of having no residual economic value. It then clarifies that replacement property doesn't qualify for the exemption. Subsection 2 requires that if the owner of the plant wants to get the exemption at the time the material is purchased they must receive an exemption

certificate from the tax commissioner. If not, then the plant owner shall pay the tax when they purchase the materials then apply for a refund with us. If a contractor installs the property, the owner may apply for a refund at the difference between the amount paid to the contractor and the exemption. The rest of subsection 4 defines fractionator expansions and what a qualified straddle plant is. Subsection 3, the new section 3, puts the exemption in the use tax provision of the code. It refers back to the sales tax portion if there's any confusion about whether sales or use tax is exempt that clarifies it. The bill as introduced is still in there so it's still extending the date for the fertilizer chemical processing plants. The bill does two things; fertilizer plants and straddle plant fractionators.

**Representative Mitskog:** Similar exemptions, are they permanent in nature or do they have an expiration date?

**Dee Wald:** The ones that are left are permanent. Most of the ones you had an expiration date on expired.

**Chairman Headland:** This was set to expire on the 30<sup>th</sup>. I think we're going to extend it because there's interest now. I have no issue extending it out to 2023 like it is. If it gets built we're all going to be better for it. Are there any questions on the amendment?

**Representative Dockter: MADE A MOTION TO ADOPT AMENDMENT**

**Representative Hatlestad: SECONDED**

**VOICE VOTE: MOTION CARRIED**

**Representative B. Koppelman: MADE A MOTION TO ADOPT AMENDMENT** by striking the words "Department of Health" and replace it with "Department of Environmental Quality."

**Representative Dockter: SECONDED**

**VOICE VOTE: MOTION CARRIED**

**Chairman Headland:** We have the amended bill before us.

**Representative Dockter: MADE A MOTION FOR A DO PASS AS AMENDED**

**Representative Hatlestad: SECONDED**

**Chairman Headland:** Discussion.

**Representative Steiner:** How likely is this to happen?

**Chairman Headland:** In a discussion I had with the people representing the person who did the study on this said it was a 50-50 chance.

**Representative Dockter:** I'll be in favor of this even if we don't know if it will happen or not. We meet every two years so to stretch this out to 2023 leaves the companies an opportunity to evaluate and see if it's feasible.

**Representative Ertelt:** In testimony from Bakken Midstream Natural Gas they sited tremendous potential with ethane and propane with strong economic fundamentals which is driving their interest. They stated there are many associated risks and I don't believe the taxpayers should be bearing the weight of those risks. I'll be voting no.

**ROLL CALL VOTE: 12 YES   1 NO   1 ABSENT**  
**MOTION CARRIED**

**Representative Dockter will carry this bill.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1205

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator;"

Page 1, after line 12, insert:

**"SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Sales tax exemption for materials used to construct a qualified straddle plant or a qualified fractionator.**

1. Gross receipts from sales of tangible personal property used to construct or expand a qualified straddle plant or a qualified fractionator in this state are exempt from the tax imposed under this chapter. To qualify for the exemption, the tangible personal property must be incorporated into a qualifying straddle plant or a qualifying fractionator plant, or used in the construction process to the point of having no residual economic value. Replacement of tangible personal property does not qualify for the exemption under this section unless the replacement creates an expansion of the plant.
2. To receive the exemption at the time of purchase, the owner of the plant must receive from the tax commissioner a certificate that the tangible personal property used to construct the plant qualifies for the exemption. If a certificate is not received prior to the purchase, the plant owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the amount remitted by the contractor and the exemption allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner, and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
4. For purposes of this section:
  - a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids stream into purity natural gas liquids, including ethane, propane, butane, and C-five plus.
  - b. "Expansion" means an increase in production volume, employment, or the type of products produced.
  - c. "Qualified fractionator" means a deep cut fractionator located in this state with a daily design capacity of at least forty-five thousand barrels

of ethane, fifteen thousand barrels of propane, thirteen thousand barrels of butane, and three thousand barrels of C-five plus.

- d. "Qualified straddle plant" means a straddle plant located in this state that is either connected to a qualified fractionator or produces Y-grade liquids that are dedicated for use by a qualified fractionator.
- e. "Straddle plant" means a gas processing plant located on or near a gas transmission line, which removes residual natural gas liquids from the gas stream and returns the residue gas to the transmission line.

**SECTION 3.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property used to construct a qualified straddle plant or a qualified fractionator as authorized or approved for exemption by the tax commissioner under section 2 of this Act."

Renumber accordingly

January 28, 2019

DP 1/28/19  
1 of 2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1205

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator;"

Page 1, line 8, overstrike "state"

Page 1, line 8, overstrike "health" and insert immediately thereafter "environmental quality"

Page 1, after line 12, insert:

"**SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Sales tax exemption for materials used to construct a qualified straddle plant or a qualified fractionator.**

1. Gross receipts from sales of tangible personal property used to construct or expand a qualified straddle plant or a qualified fractionator in this state are exempt from the tax imposed under this chapter. To qualify for the exemption, the tangible personal property must be incorporated into a qualifying straddle plant or a qualifying fractionator plant, or used in the construction process to the point of having no residual economic value. Replacement of tangible personal property does not qualify for the exemption under this section unless the replacement creates an expansion of the plant.
2. To receive the exemption at the time of purchase, the owner of the plant must receive from the tax commissioner a certificate that the tangible personal property used to construct the plant qualifies for the exemption. If a certificate is not received prior to the purchase, the plant owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the amount remitted by the contractor and the exemption allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner, and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
4. For purposes of this section:
  - a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids stream into purity natural gas liquids, including ethane, propane, butane, and C-five plus.
  - b. "Expansion" means an increase in production volume, employment, or the type of products produced.

DP 1/28/19  
2 of 2

- c. "Qualified fractionator" means a deep cut fractionator located in this state with a daily design capacity of at least forty-five thousand barrels of ethane, fifteen thousand barrels of propane, thirteen thousand barrels of butane, and three thousand barrels of C-five plus.
- d. "Qualified straddle plant" means a straddle plant located in this state that is either connected to a qualified fractionator or produces Y-grade liquids that are dedicated for use by a qualified fractionator.
- e. "Straddle plant" means a gas processing plant located on or near a gas transmission line, which removes residual natural gas liquids from the gas stream and returns the residue gas to the transmission line.

**SECTION 3.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property used to construct a qualified straddle plant or a qualified fractionator as authorized or approved for exemption by the tax commissioner under section 2 of this Act."

Renumber accordingly

Date: 1-28-19  
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1205

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: proposed amendment 19.0912.01001

- See attachments #1-2 dated Jan. 24, 2019

Recommendation: ☒ Adopt Amendment

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions:

☐ Reconsider

☐

Motion Made By Rep. Dockter Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice Vote - Motion carried

Date: 1-28-19  
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1205

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: - revised amendment

Recommendation:

☒ Adopt Amendment

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions:

☐ Reconsider

☐

Motion Made By Rep. Koppelman Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice Vote = Motion carried

Date: 1-28-19  
Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1205

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 19.0912.01002

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Dockter Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt	✓	✓			
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading	✓				
Representative Koppelman	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Dockter

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1205: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1205 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator;"

Page 1, line 8, overstrike "state"

Page 1, line 8, overstrike "health" and insert immediately thereafter "environmental quality"

Page 1, after line 12, insert:

"**SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Sales tax exemption for materials used to construct a qualified straddle plant or a qualified fractionator.**

1. Gross receipts from sales of tangible personal property used to construct or expand a qualified straddle plant or a qualified fractionator in this state are exempt from the tax imposed under this chapter. To qualify for the exemption, the tangible personal property must be incorporated into a qualifying straddle plant or a qualifying fractionator plant, or used in the construction process to the point of having no residual economic value. Replacement of tangible personal property does not qualify for the exemption under this section unless the replacement creates an expansion of the plant.
2. To receive the exemption at the time of purchase, the owner of the plant must receive from the tax commissioner a certificate that the tangible personal property used to construct the plant qualifies for the exemption. If a certificate is not received prior to the purchase, the plant owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the amount remitted by the contractor and the exemption allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner, and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
4. For purposes of this section:
  - a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids stream into purity natural gas liquids, including ethane, propane, butane, and C-five plus.
  - b. "Expansion" means an increase in production volume, employment, or the type of products produced.
  - c. "Qualified fractionator" means a deep cut fractionator located in this state with a daily design capacity of at least forty-five thousand barrels of ethane, fifteen thousand barrels of propane, thirteen

thousand barrels of butane, and three thousand barrels of C-five plus.

- d. "Qualified straddle plant" means a straddle plant located in this state that is either connected to a qualified fractionator or produces Y-grade liquids that are dedicated for use by a qualified fractionator.
- e. "Straddle plant" means a gas processing plant located on or near a gas transmission line, which removes residual natural gas liquids from the gas stream and returns the residue gas to the transmission line.

**SECTION 3.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property used to construct a qualified straddle plant or a qualified fractionator as authorized or approved for exemption by the tax commissioner under section 2 of this Act."

Renumber accordingly

**2019 SENATE FINANCE AND TAXATION**

**HB 1205**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1205  
3/13/2019  
Job #33634

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Alicia Larsgaard
-----------------------------------

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator; to amend and reenact subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; and to provide an effective date.

### Minutes:

Attachments: 3
----------------

**Chairman Cook:** Called the hearing to order on HB 1205.

**Representative Jason Dockter, District 7, Bismarck:** Introduced the bill. This bill extends the sunset on sales and use tax exempt for sales and use tax for materials used to construct a fertilizer or chemical processing facility and construct a straddle plant or fractionator and change the dates from 2019 to 2023. We also amended the bill. We needed to change the "State Department of Health" to the "Department of Environmental Quality". That is a requirement with the new change. We also amended the bill to extend the same incentive to the intermediate facilities that are part of the feed stock supply chain. These changes are to help ND be competitive for added value in the energy industry. There is no fiscal note because they have never had a project like this in the past so they do not know what the fiscal impact would be. Whatever impact it will be, it will be 10-20-30 fold with the amount of investment and everything that is brought to the state. If one of these projects come to the state, we want to make sure we are ready and have the incentives for the project to move ahead.

**Shane Goettle, Lobbysit, Bakken Midstream Natural Gas, LLC:** Testified in favor of the bill. See attachment #1. Shane also distributed proposed amendments to the committee. See attachment #2.

**Senator Dotzenrod:** The things listed under D in the amendments, my understanding is that they would be exempt from sales tax?

**Shane Goettle:** Yes. It is all centered around the qualified fractionator. That has to be located in ND and it has to be of the size we know will serve world class petrochemical companies. These types of associated infrastructure wouldn't get the incentive unless they are serving this qualified fractionator.

**Senator Dotzenrod:** A lot of the activity in the Bakken has come to the benefit of the ND sales tax. When you are exemption roads developed and everything else, the benefit we would be achieving is the jobs we have as well as economic activity and normal activity that goes along with something new rather than the revenues we might get from sales tax. Is that correct?

**Shane Goettle:** Yes. In agriculture, this is not a new incentive. When we have implied this incentive before, we were basically incenting a sales and use tax exemption for the facility and the industrial park. That Tax Department has looked at what is inside that fence. The situation here is that it isn't located inside a fence. All of these facilities are necessary. When you start talking about storage, the industrial park has a different type of footprint than what we would normally have for value edit energy projects. It is not new to incent the rail that would be inside that fence as well as the roads that would be inside that fence. We have done that and it has been part of our policy. We are asking for the same policy here. We have had 10 years of development and we have yet to have a midstream company come in a develop this kind of thing that is necessary for a petrochemical company to even consider locating here. We are in conversations with some big names to try to get them here. We would be hard pressed to invest a dollar until we knew we had one of those companies coming here. We do not know if that will happen. We have to demonstrate that we will have the capital together to make this happen. I have been networking on this for a long time. I think this will be the key to unlock this development.

**Senator Patten:** This would only effect the sales tax during construction and there is no property tax exemption requested that will be associated with this?

**Shane Goettle:** Yes, to the sales tax during construction. I cannot guarantee there is no property tax exemption requested. They would probably look at every development tool that is available. It has been customary for us to incent these kinds of value edit agriculture projects in this way in this state. We are not asking for a new policy that has not worked for other projects in the past. I am sure they apply for local property tax exemptions too. That project is not far enough along to take a look at all of that too. The investment will be in the billions. A world class petrochemical company will employ 400-500 people. It will also pay a great deal in income tax as well as other taxes. Even if there are some limited property tax exemptions, those expire eventually and then they end up paying property taxes. These facilities will be huge and extremely valuable. When the day comes that they do pay property taxes, they will pay considerable property taxes.

**Johnathan Russo, Energy Business Development Manager, ND Department of Commerce:** Testified in favor of the bill. See attachment #3.

**Chairman Cook:** Where is the closest in fractionator to us?

**John Russo:** Shane would probably know better than me. I know the gulf coast and Pennsylvania have them.

**Shane Goettle:** There is some fractionating that goes on at some of the processing plants right now. It is all for export and it is not nearly the size of what we are talking about here. I know there is fractionation in Calgary, Alberta. They have a very robust petrochemical industry as well as in Kansas. Those are similar to the size we are looking at here.

**Chairman Cook:** Any further testimony on the bill? Hearing none, we will close the hearing on HB 1205.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1205  
3/18/2019  
Job #33868

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Alicia Larsgaard
-----------------------------------

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator; to amend and reenact subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; and to provide an effective date.

### Minutes:

Attachments: 0
----------------

**Chairman Cook:** Called the committee to order on HB 1205. That is expected to be about a \$20 M - \$25 M sales tax exemption. I got one thought on that. I would like to put an amendment on there that puts a restriction on the amount of local tax incentives that could be offered. I would put a condition on getting that sales tax exemption to not being able to get a property tax exemption. I am thinking of the fertilizer plant that was going to be built in Jamestown. They went to the county and the city and got everything they needed. They came to the state and we were ready to give them everything they needed and Senator Wanzek introduced a bill to make Stutsman County an impact county and they asked for like \$20 M in state relief. I was embarrassed about that. I think we should have that on there so we can get a discussion on that in the conference committee.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1205  
3/26/2019  
Job #34229

☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Alicia Larsgaard
-----------------------------------

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator; to amend and reenact subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; and to provide an effective date.

### Minutes:

Attachments: 0
----------------

**Chairman Cook:** Called the committee to order on HB 1205.

**Chairman Cook:** There are amendments that have been offered that add in qualified associated infrastructure to the fractionator and to the plant. There is a definition of what that qualified associated infrastructure means. It looks like it means everything they might be building on to that plant.

**Senator Unruh:** Moved to adopt amendment 19.0912.02001.

**Senator Kannianen:** Seconded.

**Chairman Cook:** Any Discussion?

**Senator Dotzenrod:** The purpose of this amendment is that they want to make sure there is nothing left out. They want to put together a list so it is specific. It looks like there are 6 items in paragraph D they are adding. I do not object to it. I just think they are really going the extra mile to make sure everything is in there.

**Chairman Cook:** Yes, they are.

**Senator Kannianen:** In a testimony, it was said that from the time this bill was drafted and passed in the House, to the time it got to us, maybe their plans had changed or the scope of the projects had grown or expanded.

**Senator Unruh:** I remember the same thing as Senator Kannianen. I think that adding this in will help us focus on those large scale facilities. These pieces of equipment are for those larger scale projects rather than catching some of the small ones.

**Chairman Cook:** This is potentially a billion-dollar project. If half of that is labor and half is tangible property, that is \$25 M. I was always concerned that they might get a percent of a large incentive from the state and then go to the county, and then the city. Four years ago, when we dealt with the fertilizer plant at Jamestown, we did grab some amendments that require projects such as this that start exceeding \$1 B, commerce is involved and all the parties that may give an incentive are at the table so it is done at one time. That makes me feel comfortable.

**Senator Dotzenrod:** I look at projects like this that create a whole industry by themselves. They are so big. A lot of activity goes with it. I am not so bothered here about giving up sales tax because I think that it is some upfront sales tax for an activity that is going to go on for a long time. I do not know if we have a policy guideline to go by but it appears to me that this is something that we would want to try and get here if we can. It will be some loss of sales tax but I think in the long run, there is a gain for the state that is worth it.

**Chairman Cook:** There is a tremendous gain. Not to mention, less flaring. We are now consuming natural gas rather than shipping it out.

#### **A Voice Vote Was Taken**

#### **Motion Carried**

**Senator Kannianen:** Moved a Do Pass on HB 1205 as amended.

**Senator Meyer:** Seconded.

#### **Chairman Cook: Any Discussion?**

**Senator Unruh:** I do plan to vote for this but I want to make sure that it is on the record that I am doing this with some hesitation. I am not really sure how big of a sales tax exemption this is going to be. I contemplated having us discuss a cap that would go along with it up to \$25 M. Other industries have caps on the sales tax exemption that we allow. I decided against introducing something like that but I will support it but it is with hesitation. I do not know how big this is and it is tough for me to give this out. I think it is for a good cause and I hope this helps this project come to fruition.

**Chairman Cook:** The House wants a conference so maybe we will have to put you on the conference committee.

**Senator Unruh:** I would be fine with that.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent**

#### **Motion Carried**

Senate Finance and Taxation Committee  
HB 1205  
March 26, 2019  
Page 3

**Senator Unruh will carry the bill.**

March 26, 2019

SK 1462  
3/26

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1205

Page 1, line 3, replace "or" with ", a"

Page 1, line 3, after "fractionator" insert ", or qualified associated infrastructure"

Page 1, line 5, remove "and"

Page 1, line 6, after "date" insert "; and to provide an expiration date"

Page 1, after line 15, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code is amended and reenacted as follows:

2. On or before June 30, 20192023, the owner of the fertilizer or chemical processing plant must receive from the state department of health an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section."

Page 1, line 18, replace "or" with an underscored boldfaced comma

Page 1, line 19, after "**fractionator**" insert "**, or qualified associated infrastructure**"

Page 1, line 21, replace "or" with an underscored comma

Page 1, line 21, after "fractionator" insert ", or qualified associated infrastructure"

Page 2, line 3, after "plant" insert "or qualified associated infrastructure"

Page 2, line 4, after "plant" insert "or qualified associated infrastructure"

Page 2, line 7, remove "plant"

Page 2, line 22, after "c." insert "\"Qualified associated infrastructure\" means:

- (1) Natural gas liquid pipelines built to supply mixed natural gas liquids to the qualified fractionator;
- (2) Storage facilities for mixed natural gas liquids that will be processed by the qualified fractionator;
- (3) Storage facilities for purity natural gas liquids, including ethane, propane, butane, and C-five plus, that are produced by the qualified fractionator;
- (4) Disposal facilities built for the qualified fractionator and for onsite purchasers of the fractionator's processed end-product;
- (5) Rail upgrades required for the qualified fractionator and onsite purchasers to access rail transportation; and

- (6) Roads developed for the qualified fractionator, storage facilities, and onsite customers.

d."

Page 2, line 26, replace "d." with "e."

Page 2, line 29, replace "e." with "f."

Page 3, line 3, replace "or" with an underscored comma

Page 3, line 4, after "fractionator" insert ", or qualified associated infrastructure"

Page 3, after line 7, insert:

**"SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** If, by July 1, 2019, the legislative council has not received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state department of health have been transferred to the department of environmental quality, section 2 of this Act becomes effective on July 1, 2019, and remains in effect until the date certification is received, after which section 2 of this Act is ineffective. If the certification is received before July 1, 2019, section 2 of this Act does not become effective.

Section 1 of this Act become effective on July 1, 2019, if the legislative council has received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state department of health have been transferred to the department of environmental quality. If the certification is not received by July 1, 2019, section 1 of this Act becomes effective on the date certification is received."

Renumber accordingly

Date: 3-26-18  
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1205

Senate	Finance and Taxation	Committee
--------	----------------------	-----------

☐ Subcommittee

Amendment LC# or Description: 19.0912.02001

Recommendation: ☒ Adopt Amendment

☐ Do Pass    ☐ Do Not Pass    ☐ Without Committee Recommendation

☐ As Amended    ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider    ☐

Motion Made By Unnik Seconded By Kannian

[illegible]

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent

## Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3-26-19  
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1205

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Kannianen Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	<input checked="" type="checkbox"/>		Senator Dotzenrod	<input checked="" type="checkbox"/>	
Vice Chairman Kannianen	<input checked="" type="checkbox"/>				
Senator Meyer	<input checked="" type="checkbox"/>				
Senator Patten	<input checked="" type="checkbox"/>				
Senator Unruh	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Unruh

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1205, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1205 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "or" with ", a"

Page 1, line 3, after "fractionator" insert ", or qualified associated infrastructure"

Page 1, line 5, remove "and"

Page 1, line 6, after "date" insert "; and to provide an expiration date"

Page 1, after line 15, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code is amended and reenacted as follows:

2. On or before June 30, ~~2019~~**2023**, the owner of the fertilizer or chemical processing plant must receive from the state department of health an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section."

Page 1, line 18, replace "or" with an underscored boldfaced comma

Page 1, line 19, after "fractionator" insert ", or qualified associated infrastructure"

Page 1, line 21, replace "or" with an underscored comma

Page 1, line 21, after "fractionator" insert ", or qualified associated infrastructure"

Page 2, line 3, after "plant" insert "or qualified associated infrastructure"

Page 2, line 4, after "plant" insert "or qualified associated infrastructure"

Page 2, line 7, remove "plant"

Page 2, line 22, after "c." insert "'Qualified associated infrastructure' means:

- (1) Natural gas liquid pipelines built to supply mixed natural gas liquids to the qualified fractionator;
- (2) Storage facilities for mixed natural gas liquids that will be processed by the qualified fractionator;
- (3) Storage facilities for purity natural gas liquids, including ethane, propane, butane, and C-five plus, that are produced by the qualified fractionator;
- (4) Disposal facilities built for the qualified fractionator and for onsite purchasers of the fractionator's processed end-product;
- (5) Rail upgrades required for the qualified fractionator and onsite purchasers to access rail transportation; and
- (6) Roads developed for the qualified fractionator, storage facilities, and onsite customers.

d."

Page 2, line 26, replace "d." with "e."

Page 2, line 29, replace "e." with "f."

Page 3, line 3, replace "or" with an underscored comma

Page 3, line 4, after "fractionator" insert ", or qualified associated infrastructure"

Page 3, after line 7, insert:

**"SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** If, by July 1, 2019, the legislative council has not received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state department of health have been transferred to the department of environmental quality, section 2 of this Act becomes effective on July 1, 2019, and remains in effect until the date certification is received, after which section 2 of this Act is ineffective. If the certification is received before July 1, 2019, section 2 of this Act does not become effective.

Section 1 of this Act become effective on July 1, 2019, if the legislative council has received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state department of health have been transferred to the department of environmental quality. If the certification is not received by July 1, 2019, section 1 of this Act becomes effective on the date certification is received."

Renumber accordingly

**2019 CONFERENCE COMMITTEE**

**HB 1205**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1205  
4/8/2019  
34614

☐ Subcommittee  
☒ Conference Committee

Committee Clerk: Mary Brucker
-------------------------------

### Explanation or reason for introduction of bill/resolution:

A BILL relating to a sales tax exemption for materials used to construct a straddle plant, a fractionator, or qualified associated infrastructure; relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.

### Minutes:

No attachments
----------------

**Chairman Grueneich:** Opened hearing on conference committee HB 1205. I would like to ask Shane Goettle to explain what the amendments do.

**Shane Goettle, Bakken Midstream Natural Gas:** A lot of what you saw put forward in the House you see in front of you again today. I will explain the changes that the Senate put on this bill. On the first page the change has to do with the change from the Health Department to the Department of Environmental Quality. The other big change is on the bottom of page 2, line 31. Most of the other definitions you saw in the House but the project I'm representing also changed significantly since the time it was first introduced in the House. One thing that became very critical to the project I'm working with is underground storage of natural gas liquids. That's what drove the definition of qualified associated infrastructure. Dee was involved with drafting some of these amendments. One of the things you see when a sales and use tax exemption is given to a project is that it is applied to the equipment and everything inside the fence of an industrial park. This project doesn't fit neatly inside an industrial park because the storage is going to have a fractionator in an industrial park co-located with customers we hope to attract to this kind of project. The key thing that changed was understanding how important underground storage was going to be for wide-grade liquids as they come in to the fractionator because they may come in faster than the fractionator can run them. The fractionator breaks the wide grade liquid stream into ethane, propane, butane, and C5 plus. Each of those products need their own storage. From this fractionator we need a whole stream of pipelines going out to storage. The experts told us that the fractionator will probably need to be located within 20 miles of wherever that underground storage is. The fractionator inside an industrial park will have pipeline going out to the storage facility then back again which will be the feedstock for co-located petro chemical facilities. Normally the Tax Department would apply that to everything inside the fence. This is an industrial park that's a little bigger than the typical footprint for a factory which is what drove the Senate

amendments. Everything else should be familiar to you. The chairman and the CEO of Bakken Midstream are here with me today.

**Chairman Grueneich:** Welcome. We have an amended bill before us.

**Representative Steiner:** Made a motion that the House accede to the Senate amendments.

**Representative Mitskog:** Seconded.

**Chairman Grueneich:** Discussion?

**Roll call vote: 6 Yes 0 No 0 Absent**

Conference Committee closed.

Date: 4-8-19  
Roll Call Vote #: 1

**2019 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1205 as (re) engrossed

**House Finance and Taxation Committee**

- Action Taken ☒ **HOUSE accede to Senate Amendments**  
☐ **HOUSE accede to Senate Amendments and further amend**  
☐ **SENATE recede from Senate amendments**  
☐ **SENATE recede from Senate amendments and amend as follows**  
  
☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Steiner Seconded by: Rep. Mitskog

Representatives	4-8		Yes	No		Senators	4-8		Yes	No
Chairman Grueneich	X		X			Senator Unruh	X		X	
Representative Steiner	X		X			Senator Kannianen	X		X	
Representative Mitskog	X		X			Senator Patten	X		X	
Total Rep. Vote			3			Total Senate Vote			3	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Grueneich Senate Carrier Senator Unruh

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

~

**REPORT OF CONFERENCE COMMITTEE**

**HB 1205, as engrossed:** Your conference committee (Sens. Unruh, Kannianen, Patten and Reps. Grueneich, Steiner, Mitskog) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ pages 1394-1395 and place HB 1205 on the Seventh order.

Engrossed HB 1205 was placed on the Seventh order of business on the calendar.

**2019 TESTIMONY**

**HB 1205**

#1  
HB 1205  
1-14-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1205

Page 1, line 8, overstrike "state department of health" and insert immediately thereafter  
"department of environmental quality"

Renumber accordingly

#2  
HB 1205  
1-14-19  
p. 1

**Testimony to the House Finance and Taxation Committee**  
**Chairman Craig Headland**

**Shane Goettle, Project Consultant/Lobbyist**  
**BMNG Natural Gas, LLC**  
[sgoettle@odney.com](mailto:sgoettle@odney.com)

**HOUSE BILL 1205**

Mr. Chairman and members of the Committee, my name is Shane Goettle. In addition to serving as a lobbyist today on behalf of Bakken Midstream Natural Gas, LLC, (“BMNG”), I am actively involved with BMNG to identify opportunities for adding value to North Dakota energy in general, and natural gas and natural gas liquids in particular. I am here today in both capacities to testify in favor of HB 1205.

Four years ago, this committee considered this very incentive. The bill before you today is very simple in that it repositions the sunset on this incentive from June 30, 2019 to June 30, 2023.

For decades now, North Dakota has supported the development of value-added agriculture projects through the use of a sales and use tax exemption for construction materials that go into value-added agriculture facilities. This is a permanent incentive. Some of our bio-fuels plants (ethanol and bio-diesel) have been built with the value-added energy incentives like this that are a permanent feature of our tax policy. The incentive before you today takes that success in value-added agriculture and applies it to value-added energy.

We have tremendous opportunities in North Dakota to turn crude oil, natural gas and natural gas liquids into exciting projects for our home state, diversifying our economy and setting the stage to expand not only our energy economy, but also our manufacturing and export sectors; which brings me to one such opportunity.

#2  
HB 1205  
1-14-19  
P. 2

**BAKKEN MIDSTREAM NATURAL GAS, LLC**

BMNG is a Delaware limited liability company. Its principals, advisors and strategic partner have considerable experience in development, construction and management of energy related value-added projects. After several months of work dedicated towards studying the feasibility of value-added energy opportunities in natural gas liquids in North Dakota, BMNG is considering moving ahead on at least one opportunity.

This opportunity relates to the potential to build a straddle plant that will capture natural gas liquids and be accompanied by a fractionator that will turn the NGLs into its constitute components, namely ethane, propane, butane and lighter liquids. If we move forward with this project, our business plan includes making these products available to companies that wish to utilize them to build a North Dakota-based petrochemical industry. In particular, we believe there is tremendous potential with ethane and propane.

Bakken sourced ethane and propane are the most physically and economically remote from Gulf Coast petrochemical demand. BMNG believes that development of substantial local uses for North Dakota sourced ethane and propane will be an indispensable part of North Dakota's continued economic development.

Despite the strengths of the development team, our strategic partner, and strong economic fundamentals driving our interest in value-added energy, there are many associated risks.

First, there is no guarantee that value-added energy projects will take off in this state. The crude and natural gas production is being shipped to other states where value is added. This is a highly competitive environment with some very big players. Projects of this sort require billions of dollars in investment, which will make them the largest economic development projects ever undertaken in this state.

Second, North Dakota is remote. But for our state's rich supplies of natural gas, North Dakota is not an otherwise obvious place to develop the natural gas liquids that are the gateway to substantial petrochemical development projects. Companies looking to build here and take advantage of our feedstocks must also consider increased development and construction costs because of the remoteness of North Dakota, our tight labor supply, our cold weather and our distance from other obvious places to consider developing world-scale petrochemical facilities. In short, why build in North Dakota when these products can be taken by pipeline to the Gulf Coast? We must answer that question.

Applying a sales and use tax exemption to the materials used in construction, as HB 1205 proposes to do, would send a very strong signal of support from the state of North Dakota. Such a signal is something we can easily highlight in the capital markets, where the question is already being asked, "Why North Dakota?"

In addition to resetting the sunset in HB 1205 for fertilizer and petrochemical facilities, I invite this committee to consider extending the same incentive to the intermediate facilities necessary to make feedstocks available to petrochemical plants. For example, a straddle facility on an existing pipeline along with a nearby fractionator, sufficiently sized to supply product to a petrochemical plant, will alone cost a minimum of \$800 million to \$1 billion to construct. Again, why here? Why do this in North Dakota?

Passing HB 1205, and amending it to apply to other facilities in the feedstock supply chain, would send a signal to the world that North Dakota stands ready to provide a significant and robust boost to value-added energy. I ask for your favorable consideration of this bill and an amendment along the lines of what I have discussed. I would be happy to address any questions.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1205

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant or fractionator;"

Page 1, after line 12, insert:

"**SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Sales tax exemption for materials used to construct a qualified straddle plant or a qualified fractionator.**

1. Gross receipts from sales of tangible personal property used to construct or expand a qualified straddle plant or a qualified fractionator in this state are exempt from the tax imposed under this chapter. To qualify for the exemption, the tangible personal property must be incorporated into a qualifying straddle plant or a qualifying fractionator plant, or used in the construction process to the point of having no residual economic value. Replacement of tangible personal property does not qualify for the exemption under this section unless the replacement creates an expansion of the plant.
2. To receive the exemption at the time of purchase, the owner of the plant must receive from the tax commissioner a certificate that the tangible personal property used to construct the plant qualifies for the exemption. If a certificate is not received prior to the purchase, the plant owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the amount remitted by the contractor and the exemption allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner, and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
4. For purposes of this section:
  - a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids stream into purity natural gas liquids, including ethane, propane, butane, and C-five plus.
  - b. "Expansion" means an increase in production volume, employment, or the type of products produced.
  - c. "Qualified fractionator" means a deep cut fractionator located in this state with a daily design capacity of at least forty-five thousand barrels

of ethane, fifteen thousand barrels of propane, thirteen thousand barrels of butane, and three thousand barrels of C-five plus.

#1  
HB 1205  
1-28-19  
P. 2

- d. "Qualified straddle plant" means a straddle plant located in this state that is either connected to a qualified fractionator or produces Y-grade liquids that are dedicated for use by a qualified fractionator.
- e. "Straddle plant" means a gas processing plant located on or near a gas transmission line, which removes residual natural gas liquids from the gas stream and returns the residue gas to the transmission line.

**SECTION 3.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property used to construct a qualified straddle plant or a qualified fractionator as authorized or approved for exemption by the tax commissioner under section 2 of this Act."

Renumber accordingly

Introduced by

Representatives Dockter, Headland, Howe, Porter

Senator Cook

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subdivision to  
2 subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax  
3 exemption for materials used to construct a straddle plant or fractionator; to amend and reenact  
4 subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code, relating to a sales and  
5 use tax exemption for materials used to construct a fertilizer or chemical processing facility; and  
6 to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 57-39.2-04.15 of the North Dakota  
9 Century Code is amended and reenacted as follows:

- 10 2. On or before June 30, ~~2019~~2023, the owner of the fertilizer or chemical processing  
11 plant must receive from the state department of health an air quality permit or a notice  
12 that the air quality permit application is complete. The owner shall provide this  
13 documentation to the tax commissioner to qualify for the exemption under this section.  
14 Denial, expiration, or revocation of a permit terminates the exemption under this  
15 section.

16 **SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created  
17 and enacted as follows:

18 **Sales tax exemption for materials used to construct a qualified straddle plant or a**  
19 **qualified fractionator.**

- 20 1. Gross receipts from sales of tangible personal property used to construct or expand a  
21 qualified straddle plant or a qualified fractionator in this state are exempt from the tax  
22 imposed under this chapter. To qualify for the exemption, the tangible personal  
23 property must be incorporated into a qualifying straddle plant or a qualifying  
24 fractionator plant, or used in the construction process to the point of having no residual

1 economic value. Replacement of tangible personal property does not qualify for the  
2 exemption under this section unless the replacement creates an expansion of the  
3 plant.

4 2. To receive the exemption at the time of purchase, the owner of the plant must receive  
5 from the tax commissioner a certificate that the tangible personal property used to  
6 construct the plant qualifies for the exemption. If a certificate is not received prior to  
7 the purchase, the plant owner shall pay the applicable tax imposed by this chapter and  
8 apply to the tax commissioner for a refund.

9 3. If the tangible personal property is purchased or installed by a contractor subject to the  
10 tax imposed by this chapter, the owner may apply for a refund of the difference  
11 between the amount remitted by the contractor and the exemption allowed by this  
12 section. Application for a refund must be made at the time and in the manner directed  
13 by the tax commissioner, and must include sufficient information to permit the tax  
14 commissioner to verify the sales and use taxes paid and the exempt status of the sale  
15 or use.

16 4. For purposes of this section:

17 a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids  
18 stream into purity natural gas liquids, including ethane, propane, butane, and  
19 C-five plus.

20 b. "Expansion" means an increase in production volume, employment, or the type of  
21 products produced.

22 c. "Qualified fractionator" means a deep cut fractionator located in this state with a  
23 daily design capacity of at least forty-five thousand barrels of ethane, fifteen  
24 thousand barrels of propane, thirteen thousand barrels of butane, and three  
25 thousand barrels of C-five plus.

26 d. "Qualified straddle plant" means a straddle plant located in this state that is either  
27 connected to a qualified fractionator or produces Y-grade liquids that are  
28 dedicated for use by a qualified fractionator.

29 e. "Straddle plant" means a gas processing plant located on or near a gas  
30 transmission line, which removes residual natural gas liquids from the gas stream  
31 and returns the residue gas to the transmission line.

1     **SECTION 3.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota  
2 Century Code is created and enacted as follows:

3             Tangible personal property used to construct a qualified straddle plant or a  
4             qualified fractionator as authorized or approved for exemption by the tax  
5             commissioner under section 2 of this Act.

6     **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable periods beginning after  
7 June 30, 2019.

Testimony to the Senate Finance and Taxation Committee  
Chairman Dwight Cook

Shane Goettle, Project Consultant/Lobbyist  
Bakken Midstream Natural Gas, LLC  
[sgoettle@odney.com](mailto:sgoettle@odney.com)

3/13 HB 1205  
#1 pg. 1

### HOUSE BILL 1205

Chairman Cook and members of the Senate Finance and Tax Committee, my name is Shane Goettle. In addition to serving as a lobbyist today on behalf of Bakken Midstream Natural Gas, LLC, ("BMNG"), I am actively involved with BMNG to identify opportunities for adding value to North Dakota energy in general, and natural gas liquids ("NGLs") in particular. I am here today in both capacities to testify in favor of HB 1205.

Four years ago, this committee considered a sales and use tax exemption for construction materials that go into petrochemical or fertilizer facilities. The first thing the bill before you does is very simple in that it repositions the sunset on this incentive from June 30, 2019 to June 30, 2023.

For decades now, North Dakota has supported the development of value-added agriculture projects through the use of a sales and use tax exemption for construction materials that go into value-added agriculture facilities. This is a permanent incentive. Some of our bio-fuels plants (ethanol and bio-diesel) have been built with the value-added energy incentives like this that are a permanent feature of our tax policy. The incentive before you today takes that success in value-added agriculture and applies it to value-added energy.

We have tremendous opportunities in North Dakota to turn crude oil, natural gas and natural gas liquids into exciting projects for our home state, diversifying our economy and setting the stage to expand not only our energy economy, but also our manufacturing and export sectors; which brings me to one such opportunity.

**BAKKEN MIDSTREAM NATURAL GAS, LLC**

BMNG is a Delaware limited liability company. Its principals, advisors and strategic partner have considerable experience in development, construction and management of energy related value-added projects. After several months of work dedicated towards studying the feasibility of value-added energy opportunities in natural gas liquids in North Dakota, BMNG is considering moving ahead on at least one opportunity.

This opportunity relates to the potential to build a fractionator that will turn the NGLs into its constituent components, namely ethane, propane, butane and lighter liquids. If we move forward with this project, our business plan includes making these products available to companies that wish to utilize them to build a North Dakota-based petrochemical industry. In particular, we believe there is tremendous potential with ethane and propane.

Bakken sourced ethane and propane are the most physically and economically remote from Gulf Coast petrochemical demand. BMNG believes that development of substantial local uses for North Dakota sourced ethane and propane will be an indispensable part of North Dakota's continued economic development.

Despite the strengths of the development team, our strategic partner, and strong economic fundamentals driving our interest in value-added energy, there are many associated risks.

First, there is no guarantee that value-added energy projects will take off in this state. The crude and natural gas production is currently being shipped to other states where value is added. This is a highly competitive environment with some very big players. Projects of this sort require billions of dollars in investment, which will make them the largest economic development projects ever undertaken in this state.

Second, North Dakota is remote. But for our state's rich supplies of natural gas, North Dakota is not an otherwise obvious place to develop the natural gas liquids that are the gateway to substantial petrochemical development projects. Companies looking to build here and take advantage of our feedstocks must also consider increased development and construction costs because of the remoteness of North Dakota, our tight labor supply, our cold weather and our distance from other obvious places to consider developing world-scale petrochemical facilities. In short, why build in North Dakota when these products can be taken by pipeline to the Gulf Coast? We must answer that question.

Applying a sales and use tax exemption to the materials used in construction, as HB 1205 proposes to do, would send a very strong signal of support from the state of North Dakota. Such a signal is something we can easily highlight in the capital markets, where the question is already being asked, "Why North Dakota?"

In addition to resetting the sunset in HB 1205 for fertilizer and petrochemical facilities, the bill before you also extends the same incentive to the intermediate facilities necessary to make feedstocks available to petrochemical plants. For example, a fractionator, sufficiently sized to supply product to a petrochemical plant, will, along with intrastate Y-grade pipelines, storage facilities, and other associated facilities, will cost a minimum of \$800 million to \$1 billion to construct. Again, why here? Why do this in North Dakota?

When this bill was in the House, BMNG was in the midst of a feasibility study to determine how best to design a project that would fully support everything a petrochemical company needs, which includes, on the front end, transport of Y-grade liquids, fractionation, storage of Y-grade liquids and purity products (ethane, propane, butane and lighter gas liquids), and power.

3/13 HB 1205 #1 pg. 4

The fractionator is the central feature of our business plan. It will be located in an industrial park with redundant power supply and rail access for finished products. All of this is necessary to attract real petrochemical investment.

Passing HB 1205, and amending it so it clearly applies to all the facilities in the feedstock supply chain and also supports the facilities would send a signal to the world that North Dakota stands ready to provide a significant and robust boost to value-added energy.

I ask for your favorable consideration of this bill and an amendment along the lines of what I have discussed.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1205

Page 1, line 3, after "fractionator" insert ", and qualified associated infrastructure"

Page 1, line 19, after "**fractionator**" insert "**, and qualified associated infrastructure**"

Page 1, line 21, after "fractionator" insert ", and qualified associated infrastructure"

Page 2, line 3, after "plant" insert "or qualified associated infrastructure"

Page 2, line 4, after "plant" insert "or qualified associated infrastructure"

Page 2, line 7, remove "plant"

Page 2, after line 25, insert:

"d.     "Qualified associated infrastructure" means:

- (1)     Natural gas liquid pipelines built to supply mixed natural gas liquids to the qualified fractionator;
- (2)     Storage facilities for mixed natural gas liquids that will be processed by the qualified fractionator;
- (3)     Storage facilities for purity natural gas liquids, including ethane, propane, butane, and C-five plus, that are produced by the qualified fractionator;
- (4)     Disposal facilities built for the qualified fractionator and for on-site purchasers of the fractionator's processed end-product;
- (5)     Rail upgrades required for the qualified fractionator and on-site purchasers to access rail transportation; and
- (6)     Roads developed for the qualified fractionator, storage facilities, and on-site customers."

Page 2, line 26, and replace "d" with "e"

Page 2, line 29, and replace "e" with "f"

Page 3, line 4, after "fractionator" insert ", and qualified associated infrastructure"

Re-number accordingly

**DEPARTMENT OF COMMERCE TESTIMONY  
SUPPORT FOR HB 1205  
SENATE FINANCE AND TAXATION COMMITTEE  
SENATOR DWIGHT COOK, CHAIRMAN**

**JONATHAN RUSSO, ENERGY BUSINESS DEVELOPMENT MANAGER, ND DEPARTMENT OF COMMERCE**

Good morning, Mr. Chairman and members of the committee, my name is Jonathan Russo, and I serve as the Energy Business Development Manager for the North Dakota Department of Commerce. The Commerce Commissioner serves as the chairperson of the EmPower North Dakota Commission and I am here today representing EmPower.

During 2017-2018, the EmPower North Dakota Commission focused on three key areas for continuing to grow energy production and new energy-related industries:

1. **Infrastructure** – Up-to-date infrastructure is the foundation for continuing existing development and expanding into new areas.
2. **Research and Development** – Research and development serves as the bridge for industry to move from ideas to new development and commercialization.
3. **Public Policy** – In any society, governmental entities enact laws, make policies, and allocate resources.

HB 1205 extends the exemption of sales tax for building materials to include the construction of a straddle plant or fractionator and it also extends the time the benefit is active. There is active interest in the building of these facilities in the state. Commerce has been working to create a new industry in North Dakota that requires a fractionator to produce the feedstock for petrochemicals.

A straddle plant and fractionator would create a bridge that paves the way for a petrochemical industry in North Dakota. To compete with other states that already have this necessary industry infrastructure, these steps need to be completed. Without this infrastructure, North Dakota will continue to have difficulty attracting petrochemical companies and be unable to capitalize on some of its most valuable resources. This bill will make the construction of these much-needed facilities more attractive. It is for these reasons that the Empower Commission supports HB 1205.

Mr. Chairman and members of the Senate Finance and Tax Committee, there are others in the audience who can speak to more specifics. That concludes my testimony, I ask for a DO Pass recommendation on HB 1205 and I am happy to entertain any questions.