

**2021 SENATE FINANCE AND TAXATION**

**SB 2152**

# 2021 SENATE STANDING COMMITTEE MINUTES

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

SB 2152  
1/20/2021

A BILL for an Act to amend and reenact subsection 49 of section 57-39.2-04 and subsection 24 of section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide used for secure geologic storage; and to provide an effective date.

**Vice Chair Kannianen** calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:01]

### Discussion Topics:

- Carbon dioxide sales tax incentives
- Federal tax 45Q
- Ethanol and carbon dioxide
- Geological storage
- Carbon capture and retrieval

**Senator Bell** introduces the bill and provides oral testimony in favor. [10:01]

**Lance Gaebe**, Executive Director. ND Ethanol Producers Association provides testimony in favor #1921 [10:04]

**Jason Bohr**, Lignite Energy Council provides oral testimony in favor. [10:08]

**Gerald Bachmeier**, President, North Dakota Ethanol Producers Association and President and Chief Executive Officer of Red Trail Energy provides testimony in favor #1789. [10:14]

**Jeff Zueger**, Member, North Dakota Ethanol Producers Association and CEO of Red Trail Energy provides testimony in favor #1584. [10:24]

### Additional written testimony:

**Jean Schafer**, Basin Electric Power Cooperative in favor #1778.

**Zac Smith**, Director of Communications and Government Relations in favor #1818.

**Chair Bell** adjourned hearing [10:28]

**Senator Meyer** moved DO PASS [10:28]

**Senator Kannianen** second [10:28]

<b>Senators</b>	<b>Vote</b>
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passed 7-0-0. **Senator J Roers** carrier.

**Chair Bell** adjourns the meeting. [10:31]

*Joel Crane, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2152: Finance and Taxation Committee (Sen. Bell, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2152 was placed on the Eleventh order on the calendar.

**Testimony of Lance Gaebe**  
Executive Director

**In Support of SB 2152**  
**Senate Finance and Taxation Committee**  
January 20, 2021

Chairwoman Bell and members of the Senate Finance and Taxation Committee:

My name is Lance Gaebe, and I am the executive director of the North Dakota Ethanol Producers Association, which represents North Dakota's six ethanol plants and our industry stakeholders. I am here today to support Senate Bill 2152, which we helped advanced to extend an existing carbon dioxide sales tax incentive. The exemption of tax on the sales of carbon dioxide that will be geologically stored will provide additional value for the products our facilities produce.

North Dakota's ethanol industry contributes more than \$623 million annually to the state's economy and provides thousands of direct and indirect jobs. North Dakota's economy is dependent on agriculture and ethanol is an important driver in the value of corn and all crops. The industry converts 200 million bushels of corn, representing half or more of the state's average corn crop, into 550 million gallons of ethanol and 1.5 million tons of dried distillers grains for livestock feed. The North Dakota ethanol industry produces 18 pounds of nearly pure carbon dioxide for every bushel of corn processed.

Senate Bill 2152 clarifies that carbon dioxide used for secure geologic storage would not be subject to either state sales or use tax. Carbon dioxide used for enhanced oil recovery is already specifically exempt from sales and use tax. This bill would help shore up the carbon capture projects, and accompanying business models, the ethanol industry is actively formulating and building to add more value to agriculture.

We compliment the state's foresight in creating a regulatory and tax framework for post-injection monitoring and handling of geologically stored carbon dioxide. This regime strengthens the ability to store carbon and improves markets for our ethanol. Additionally, the state Renewable Energy Council, along with private industry dollars, have invested in research to help commercialize emerging carbon dioxide capture technologies.

Capturing carbon improves the Carbon Intensity (CI) value of the ethanol as evaluated by several West Coast markets. Ethanol produced with a lower CI score is differentiated from other ethanol and is worth more in California and Oregon due to those states' Low Carbon Fuel Standards.

Our industry recognizes an opportunity to capture and store carbon dioxide to generate additional revenue and several facilities have made substantial investments in projects. Carbon dioxide is yet another product that can help generate additional revenue for the plant owners and farmers. This incentive will be good for agriculture, communities and North Dakota.

Available to answer your questions today are Jeff Zueger, Midwest AgEnergy CEO, and Gerald Bachmeier, Red Trail Energy CEO. Their companies are adding additional value to the ethanol produced by investing in carbon dioxide capture infrastructure. These gentlemen can give you more details on the projects they are working on and how this bill would be an important tool in the additional enhancement of the agriculture processing value chain.

We thank you for your support of the state's ethanol industry in the past and urge your favorable consideration of SB 2152. The state's ethanol producers appreciate your affirmative consideration.

# #1789

**Gerald Bachmeier**

President & Chief Executive Officer, Red Trail Energy LLC

**In Support of SB 2152**

**Senate Finance and Taxation Committee**

January 20, 2021

Members of the Senate Finance and Taxation Committee

My name is Gerald Bachmeier, I am the President of the North Dakota Ethanol Producers Association and President and Chief Executive Officer of Red Trail Energy, an ethanol production facility in Richardton, North Dakota.

I support Senate Bill 2152 which will ensure geologically stored CO<sub>2</sub> is not subject to sales and use tax.

Red Trail Energy has been working on a major Carbon Capture and Storage project. This investment will provide an additional revenue opportunity for our company because we can capture and store the CO<sub>2</sub> we would normally vent and improve the Carbon Intensity value of the ethanol we produce. We will receive more for our ethanol from some markets and estimate the economic impact of this project to be tens of millions of dollars per year.

This projects like this will generate additional revenue for the 900+ North Dakota owners of Red Trail and other North Dakota ethanol plants. These investments are good for farmers, communities, and North Dakota.

We appreciate the state's proactive approach to support value-added agriculture, and we believe SB 2152 is a continuation of the effort to bolster our state's rural economy.

Members of the Senate Finance and Taxation Committee

My name is Jeff Zueger, I am a member of the North Dakota Ethanol Producers Association and the CEO for Midwest AgEnergy. I am here to testify in favor of SB2152 as it supports the continued advancement of CO2 sequestration in North Dakota. North Dakota has established itself as a leader in enabling and supporting the development of Carbon Capture and Underground Storage and this bill will further advance projects in our state.

Midwest AgEnergy is currently developing a CO2 underground storage project at our Blue Flint Ethanol facility near Underwood. This bill is important to the continued development of that project as it is contemplated that our CO2 will be transacted as part of a partnership to develop our project. The CO2 transaction is simply a mechanism to separate the production of CO2 from the storage of CO2 and we believe should not be a taxable event as the CO2 is simply going to be injected into the earth as opposed to being released into the atmosphere as occurs today.

We believe that proactive legislation such as SB2152 will continue to advance a carbon economy in our state enabling extended life of current assets and future projects to expand the states economy.



# #1778



Bill Number	Name	Lobbyist #	Support	Oppose	Neutral
SB 2152	Jean Schafer	8	X		

We stand in support of this bill and would reiterate the testimony provided by the Lignite Energy Council.

#1818



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Living

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North Dakota Association of Rural Electric Cooperatives  
3201 Nygren Drive NW • P.O. Box 727 • Mandan, ND 58554-0727

January 20, 2021

To: Senate Finance and Taxation Committee

RE: Support of Senate Bill 2152

From: Zac Smith, communications and government relations director, NDAREC

Chair Bell and members of the Senate Finance and Taxation committee, the North Dakota Association of Rural Electric Cooperatives (NDAREC) represents sixteen electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit, and distribute electricity across the state of North Dakota. NDAREC supports SB 2152 on behalf of its members.

North Dakota is a world leader in support for carbon capture, utilization, and storage. NDAREC's members seek technology solutions that can help position our facilities to bear the back-and-forth swings of carbon dioxide regulation. The state and the Legislature have led the way in partnering with industry to fund research and development into carbon capture. This CCUS projects are complex, expensive and risk intensive. In addition, as utilities that serve the rural population of North Dakota, NDAREC's members support efforts to advance agricultural interests and the ethanol industry. The targeted incentives within 2152 will help the ethanol industry and it will help coal, a resource that is under significant environmental pressure.

NDAREC asks for a DO PASS recommendation.

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**2021 HOUSE FINANCE AND TAXATION**

**SB 2152**

# 2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Room JW327E, State Capitol

SB 2152  
3/8/2021

A bill relating to a sales and use tax exemption for carbon dioxide used for secure geologic storage.

**Chairman Headland** opened the hearing at 9:00am.

<b>Representatives</b>	<b>Present</b>
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	AB
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	AB
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

## **Discussion Topics:**

- Investment policy
- Carbon capture and storage
- Sales tax exemption for enhanced oil recovery

**Senator Bell** introduced bill (no written testimony).

**Jonathon Fortner, Lignite Energy Council**, support (no written testimony).

**Lance Gaebe, North Dakota Ethanol Producers Association**, support #7831.

**Jeff Zueger, Chief Executive Officer with Midwest AgEnergy**, support (#7833).

**Shannon Fleischer, North Dakota Tax Commissioner's Office**, answered questions from the committee.

**Representative Bosch** made a motion for a DO PASS.

**Representative D. Anderson** seconded the motion.

**Roll call vote:**

<b>Representatives</b>	<b>Vote</b>
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	AB
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	AB
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	N
Representative Wayne A. Trottier	Y

**Motion carried 11-1-2**

**Representative D. Anderson is the bill carrier.**

**Chairman Headland** closed meeting at 9:44am.

*Mary Brucker, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2152: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO PASS (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING).** SB 2152 was placed on the Fourteenth order on the calendar.

**Testimony of Lance Gaebe**  
Executive Director

#7831

**In Support of SB 2152**  
**Senate Finance and Taxation Committee**  
March 8, 2021

Chairman Headland and members of the House Finance and Taxation Committee:

My name is Lance Gaebe, and I am the executive director of the North Dakota Ethanol Producers Association, which represents North Dakota's six ethanol plants and our industry stakeholders. I am here today to support Senate Bill 2152, which we helped advanced to extend an existing carbon dioxide sales tax incentive. The exemption of tax on the sales of carbon dioxide that will be geologically stored will provide additional value for the products our facilities produce.

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We compliment the state's foresight in creating a regulatory and tax framework for post-injection monitoring and handling of geologically stored carbon dioxide. This regime strengthens the ability to store carbon and improves markets for our ethanol. Additionally, the state Renewable Energy Council, along with private industry dollars, have invested in research to help commercialize emerging carbon dioxide capture technologies.

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We thank you for your support of the state's ethanol industry in the past and urge your favorable consideration of SB 2152. The state's ethanol producers appreciate your affirmative consideration.



**Jeff Zueger**

Chief Executive Officer, Midwest AgEnergy

701.442.7501 - Phone

**In Support of SB 2152**

**House Finance and Taxation Committee**

March 8, 2021

Members of the House Finance and Taxation Committee

My name is Jeff Zueger, I am a board member of the North Dakota Ethanol Producers Association and Chief Executive Officer of Midwest AgEnergy, which operates ethanol production facilities near Underwood and Spiritwood, North Dakota.

I am here to testify in favor of SB2152 as it supports the continued advancement of CO2 sequestration in North Dakota. North Dakota has established itself as a leader in enabling and supporting the development of Caron Capture and Underground Storage and this bill will further advance projects in our state. I support Senate Bill 2152 which will ensure geologically stored CO2 is not subject to sales and use tax.

Midwest AgEnergy is currently developing a CO2 underground storage project at our Blue Flint Ethanol facility near Underwood. This bill is important to the continued development of that project as it is contemplated that our CO2 will be transacted as part of a partnership to develop our project. The CO2 transaction is simply a mechanism to separate the production of CO2 from the storage of CO2 and we believe should not be a taxable event as the CO2 is simply going to be injected into the earth as opposed to being released into the atmosphere as occurs today.

This projects like this will generate additional revenue for our and other North Dakota ethanol plants. These investments are good for farmers, communities, and North Dakota.

We appreciate the state's proactive approach to support value-added agriculture, and we believe SB 2152 is a continuation of the effort to bolster our state's rural economy.