2023 SENATE FINANCE AND TAXATION

SB 2334

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
1/24/2023

Relating to a local revenue loss reimbursement fund; and a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

10:39 AM Chairman Kannianen opens hearing.

Senators Present: **Kannianen, Weber, Patten, Rummel, Magrum.** Senator Piepkorn absent.

Discussion Topics:

- Tax use
- Project timeline
- Workforce needs

10:41 AM Senator Bekkedahl introduced bill. #15741

10:49 AM Nico Duursema – President and CEO of Cerilon Inc, in favor #16369

11:02 AM Josh Teigen - Commissioner of the North Dakota Department of Commerce, verbally in favor.

11:10 AM Geoffrey Simon - Director of Western Dakota Energy Commission, verbally in favor

11:13 AM Shanon Flisher - ND Tax Department - provided oral testimony, verbally neutral.

11:16 AM Vice Chairman Weber adjourns hearing.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
1/25/2023

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

2:29 PM Chairman Kannianen opens meeting.

Senators Present: **Kannianen, Weber, Patten, Rummel, Piepkorn, Magrum.**

Discussion Topics:

- Fertilizer export
- Gas production
- Committee action

2:29 AM Chairman Kannianen provided information and opened it up for discussion.

2:30 AM Committee discussed.

2:39 PM Senator Weber moved Do Pass.

2:39 PM Senator Patten seconded.

Senators	Vote
Senator Jordan Kannianen	Y
Senator Mark F. Weber	Y
Senator Jeffery J. Magrum	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Dean Rummel	Y

Motion passes 6-0-0

2:41 PM Senator Weber will carry.

2:41 PM Chairman Kannianen closed the meeting.

Nathan Liesen, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2334: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2334 was placed on the Eleventh order on the calendar. This bill affects workforce development.

2023 HOUSE FINANCE AND TAXATION

SB 2334

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2334
3/7/2023

A bill relating to a local revenue loss reimbursement fund and relating to a sales tax exemption for a fertilizer plant.

Chairman Headland opened the hearing at 2:31 PM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVille, and Representative Ista. No members absent.

Discussion Topics:

- Sunset date on current sales tax exemption
- Fertilizer and chemical processing facilities sales tax exemption
- New processing facilities projects

Senator Bekkedahl introduced the bill in support (#22286) and distributed written testimony in support from **Nico Duursema, President and Chief Executive Officer of Cerilon Inc.** (#22723).

Jean Schafer, Senior Legislative Representative with Basin Electric and Dakota Gas, offered a proposed amendment (#22705).

Dee Wald, General Counsel with the North Dakota Tax Commissioner's Office, provided the committee with information verbally.

Chairman Headland closed the hearing at 2:46 PM.

Vice Chairman Hagert moved an amendment to remove section 3 of the bill and on page 1, line 18 remove.

Representative Bosch seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y

Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion carred 14-0-0

Vice Chairman Hagert moved a Do Pass as Amended.

Representative Olson seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion carried 14-0-0

Vice Chairman Hagert is the bill carrier.

Chairman Headland adjourned at 2:55 PM.

Mary Brucker, Committee Clerk

23.0985.01001
Title.02000

Adopted by the House Finance and Taxation Committee

March 7, 2023

AGT 3-7-23 (1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2334

Page 1, line 1, remove "to create and enact a new section to chapter 57-39.2 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to a local revenue loss reimbursement fund;"

Page 1, line 3, remove "and section 57-39.2-26"

Page 1, line 4, remove "to provide a continuing"

Page 1, line 5, remove "appropriation;"

Page 1, remove lines 15 through 24

Page 2, remove lines 1 through 27

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2334: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2334 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new section to chapter 57-39.2 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to a local revenue loss reimbursement fund;"

Page 1, line 3, remove "and section 57-39.2-26"

Page 1, line 4, remove "to provide a continuing"

Page 1, line 5, remove "appropriation;"

Page 1, remove lines 15 through 24

Page 2, remove lines 1 through 27

Renumber accordingly

2023 CONFERENCE COMMITTEE

SB 2334

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/7/2023

Conference Committee

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

10:00 AM Chairman Weber opened meeting.

Present**: Senator Weber, Senator Patten, Senator Piepkorn, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Local loss fund
- Committee discussion

10:01 AM Chairman Weber reviewed the bill.

10:02 AM Representative Hagert shared the House discussions.

10:04 AM Chairman Weber adjourned meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/10/2023
Committee Conference

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

9:32AM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Patten, Senator Piepkorn,**
Absent: **Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- House Still in Session
- Will Reschedule

9:32AM Chairman Weber adjourns meeting.

Carie Winings, Chief Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/10/2023

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

3:35 PM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Patten, Senator Piepkorn, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Monetary increase
- Political subdivisions
- Local revenue loss fund

3:48 PM Shannon Fleischer, Associate Director for ND Tax Administration, answered additional questions.

3:55 AM Chairman Weber adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/12/2023
Conference Committee

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

3:35 PM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Patten, Senator Piepkorn, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Project biding
- Political subdivision
- Local participants

3:31 PM Josh Teigen, Commerce Commissioner for ND Department of Commerce, answered questions.

3:53 AM Chairman Weber adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/14/2023
Committee Conference

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

9:02 AM Chairman Weber opened meeting.

Present**: Senator Weber, Senator Patten, Senator Piepkorn, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Policies
- Funds
- Small communities

Chairman Weber reviewed the bill and called for discussion.

Senator Patten provided information.

Committee discussed.

9:28 AM Chairman Weber adjourned meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/17/2023
Conference Committee

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

9:00 AM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Piepkorn, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Absent: **Senator Patten**

Discussion Topics:

- Sunset clause
- Look back clause

Committee discussed.

9:07 AM Chairman Weber adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/19/2023
Conference Committee

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

11:00 AM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Piepkorn, Senator Patten, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Fertilizer products
- Plant processes
- Employee numbers
- Finance

11:01 AM Nico Duursema, CEO and President for Cerilon, provided additional verbal information.

11:46 AM Chairman Weber adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/20/2023
Conference Committee

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

2:30 PM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Piepkorn, Senator Patten, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Project development fund
- Bill sunset

2:31 PM Representative Hagert proposed amendment LC 23.0985.01002 #27755,

#27756, #27806

Committee discussion.

2:37 PM Chairman Weber adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/21/2023
Conference Committee

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

10:00 AM Chairman Weber opens meeting.

Present**: Senator Weber, Senator Piepkorn, Senator Patten, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Consistent language
- Facilities
- Bill sunset

10:01 AM Shannon Fleischer, Associate Tax Administrations for ND Tax Department, answered questions verbally.

10:31 AM Chairman Weber adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2334
4/21/2023
Committee Conference

Relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; and to provide an effective date.

4:04 PM Chairman Weber opened meeting.

Present**: Senator Weber, Senator Piepkorn, Senator Patten, Representative Hagert, Representative Dockter, Representative Motschenbacher.**

Discussion Topics:

- Amendment review
- Fund purpose
- Committee action

4:04 PM Shannon Fleischer, Associate Director of Tax Administration for ND Tax Department, answered questions verbally.

4:17 PM Dee Wald, General Council ND Tax Commission, provided information verbally.

4:19 PM Representative Motschenbacher moved to recede from the House Amendments and amend with LC 23.0985.01005.

4:20 PM Representative Dockter seconded.

4:20 PM motion passed 6-0-0

4:20 PM Senator Patten is the Senate carrier.
Representative Hagert is the House carrier.

4:21 PM Chairman Weber adjourned meeting.

Nathan Liesen, Committee Clerk

23.0985.01005
Title.03000

Adopted by the Conference Committee

April 21, 2023

Amd 4/24/23 1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2334

That the House recede from its amendments as printed on pages 968 and 969 of the Senate Journal and pages 1150 and 1151 of the House Journal and that Senate Bill No. 2334 be amended as follows:

Page 1, line 2, replace "local revenue loss reimbursement" with "large facility development"

Page 1, line 4, after "plant" insert and "and allocation of sales tax revenue"

Page 1, line 5, replace "and to provide an effective date" with "to provide for a legislative management report; and to provide an expiration date"

Page 1, line 18, after "57-39.2-26.2" insert ", 57-39.2-26.3"

Page 2, line 1, replace "**Local revenue loss reimbursement**" with "**Large facility development**"

Page 2, line 1, after "**appropriation**" insert "**- Report**"

Page 2, line 2, replace "local revenue loss reimbursement" with "large facility development"

Page 2, line 7, replace "57-29.2-26.1 and" with "57-39.2-26.1,"

Page 2, line 7, after "57-39.2-26.2" insert ", and 57-39.2-26.3"

Page 2, line 9, replace "local revenue loss reimbursement" with "large facility development"

Page 2, line 13, replace "The" with "Within thirty days after construction begins on the large facility, the"

Page 2, line 14, replace the first "the" with "up to two billion dollars of"

Page 2, line 14, replace "value" with "cost"

Page 2, line 14, after "property" insert "eligible for a tax exemption under section 57-39.2-04.15"

Page 2, line 14, remove "new"

Page 2, line 15, replace "infrastructure" with "the large facility"

Page 2, line 17, after the underscored semicolon insert "and"

Page 2, line 18, remove "The estimated total cost for the new infrastructure is at least five hundred million"

Page 2, remove lines 19 through 21

Page 2, line 22, replace "under chapter 57-40.2" with "The county in which the large facility is located has a hub city and received at least thirty million dollars of oil and gas gross production tax revenue allocations under section 57-51-15 from September 1, 2021, through August 31, 2022"

Page 2, line 23, after "4." insert "To qualify for the distribution under subsection 3, the large facility must:

a. Be a new fertilizer or chemical processing plant that is eligible for a tax exemption under section 57-39.2-04.15;

b. Begin construction after July 1, 2023; and

c. Have an estimated total cost of at least one billion dollars.

5. A county or city may receive only one distribution under subsection 3.

6."

Page 2, line 23, replace "new infrastructure" with "large facility"

Page 2, line 25, replace "5." with "7."

Page 2, line 25, replace "tax commissioner may request" with "owner of the large facility shall provide"

Page 2, line 25, remove "from the owner of"

Page 2, line 26, replace "the new infrastructure" with "to the tax commissioner"

Page 2, line 26, replace "value" with "cost"

Page 2, line 27, replace "new infrastructure" with "large facility"

Page 2, after line 27, insert:

"8. If a county or city receives a distribution from the fund, the county or city shall provide at least one report to the legislative management on the use of the funding. The report must include the amount of funding received and spent by the county or city, including an itemized list of the amounts spent and a description of how the funding was used by the county or city."

Page 2, replace line 28, with:

"**SECTION 4. EXPIRATION DATE.** Sections 2 and 3 of this Act are effective through June 30, 2027, and after that date are ineffective."

Renumber accordingly

Date: 4/7/2023
Roll Call Vote: #1

2023 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2334 as (re) engrossed

Senate "Enter committee name" Committee

Action Taken
- ☐ **SENATE accede to House Amendments**
- ☐ **SENATE accede to House Amendments and further amend**
- ☐ **HOUSE recede from House amendments**
- ☒ **HOUSE recede from House amendments and amend as follows**

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: M*otschenbacher* Seconded by: Dockter

Senators	4/20	4/21	4/21	Yes	No		Representatives	4/20	4/21	4/21	Yes	No
Weber, Mark F. (R) (Chair)	x	X	x	X			Hagert, Jared (R)	X	x	X	X	
Patten, Dale (R)	X	X	X	X			Dockter, Jason (R)	X	X	X	X	
Piepkorn, Merrill (D)	X	x	x	x			Motschenbacher, Mike (R)	x	X	x	X	
Total Senate Vote				3			Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Patten House Carrier Hagert

LC Number 23.0985 . 01005 of amendment

LC Number 23.0985 . 03000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.0985.01005
Senate Carrier: Patten
House Carrier: Hagert

REPORT OF CONFERENCE COMMITTEE

SB 2334: Your conference committee (Sens. Weber, Patten, Piepkorn and Reps. Hagert, Dockter, Motschenbacher) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 968-969, adopt amendments as follows, and place SB 2334 on the Seventh order:

That the House recede from its amendments as printed on pages 968 and 969 of the Senate Journal and pages 1150 and 1151 of the House Journal and that Senate Bill No. 2334 be amended as follows:

Page 1, line 2, replace "local revenue loss reimbursement" with "large facility development"

Page 1, line 4, after "plant" insert and "and allocation of sales tax revenue"

Page 1, line 5, replace "and to provide an effective date" with "to provide for a legislative management report; and to provide an expiration date"

Page 1, line 18, after "57-39.2-26.2" insert ", 57-39.2-26.3"

Page 2, line 1, replace "**Local revenue loss reimbursement**" with "**Large facility development**"

Page 2, line 1, after "**appropriation**" insert "**- Report**"

Page 2, line 2, replace "local revenue loss reimbursement" with "large facility development"

Page 2, line 7, replace "57-29.2-26.1 and" with "57-39.2-26.1,"

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Page 2, line 13, replace "The" with "Within thirty days after construction begins on the large facility, the"

Page 2, line 14, replace the first "the" with "up to two billion dollars of"

Page 2, line 14, replace "value" with "cost"

Page 2, line 14, after "property" insert "eligible for a tax exemption under section 57-39.2-04.15"

Page 2, line 14, remove "new"

Page 2, line 15, replace "infrastructure" with "the large facility"

Page 2, line 17, after the underscored semicolon insert "and"

Page 2, line 18, remove "The estimated total cost for the new infrastructure is at least five hundred million"

Page 2, remove lines 19 through 21

Page 2, line 22, replace "under chapter 57-40.2" with "The county in which the large facility is located has a hub city and received at least thirty million dollars of oil and gas gross production tax revenue allocations under section 57-51-15 from September 1, 2021, through August 31, 2022"

Page 2, line 23, after "4." insert "To qualify for the distribution under subsection 3, the large facility must:

a. Be a new fertilizer or chemical processing plant that is eligible for a tax exemption under section 57-39.2-04.15;

b. Begin construction after July 1, 2023; and

c. Have an estimated total cost of at least one billion dollars.

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Page 2, line 25, replace "tax commissioner may request" with "owner of the large facility shall provide"

Page 2, line 25, remove "from the owner of"

Page 2, line 26, replace "the new infrastructure" with "to the tax commissioner"

Page 2, line 26, replace "value" with "cost"

Page 2, line 27, replace "new infrastructure" with "large facility"

Page 2, after line 27, insert:

"8. If a county or city receives a distribution from the fund, the county or city shall provide at least one report to the legislative management on the use of the funding. The report must include the amount of funding received and spent by the county or city, including an itemized list of the amounts spent and a description of how the funding was used by the county or city."

Page 2, replace line 28, with:

"**SECTION 4. EXPIRATION DATE.** Sections 2 and 3 of this Act are effective through June 30, 2027, and after that date are ineffective."

Renumber accordingly

SB 2334 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2334

SB 2334 Hearing **January 24, 2023**
Senate Finance and Tax Committee

Hon. Jordan Kannianen, Chairman

Chairman Kannianen and Committee,

Thank you Mr. Chairman. For the record I am Brad Bekkedahl, Senator from District 1, here to introduce SB 2334 which is a bill to remove a sunset on a current sales tax exemption for fertilizer and chemical processing facilities. The change to existing legislation is found on line 9 of page 1 and deletes the language requiring the exemption be applied before the date of June 30, 2023. The critical need for continuation of the sales tax exemption will be better explained by interested parties testifying in support after me. I am sure you will be impressed with the projects they currently have under design to be built near the community of Trenton, North Dakota. In the world of business recruitment, you will also hear testimony from the ND Department of Commerce, which has been critical in working with the company and their decision to site this large facility in our state. The competition was fierce to bring them here, and the removal of this sales tax exemption is a major factor in their location plans. I respectfully request the committee to recommend passage of the exemption sunset date removal.

The other area of the bill that is before you is found on page 2 and entails the creation of a local revenue loss reimbursement fund. In recruiting businesses of this size and investment, we have seen that local government entities frequently are called upon to provide incentives and assistance as well as state economic development programs. These could be in the form of property tax exemptions or PILOTS, infrastructure development or improvements such as roads, water, and sewer, along with the need to provide public safety equipment and personnel for protection. I will walk the committee through the provisions of the bill now and then stand for any questions on this part of the bill or the first section dealing with the sales tax exemption sunset date removal.

Chairman Kannianen, thank you for the opportunity to introduce this bill that is now and will be critical to bringing value added projects to our energy development in North Dakota.

CERILON

January 24, 2023

Presentation to ND Legislative Session

Mr Chairman and Committee members,

Thank you very much for the opportunity to present at this hearing.

Standing back and looking at the world, we are in very unique times.
We, at Cerilon breathe and live our values every day which can be summarized in 4 pillars, Ownership, Leadership, Stewardship and Excellence.
This means that we will own the challenges, opportunities, and decisions on which we take action, step forward, and lead with vision and courage. We plan with intentionality, mindful that we are stewards of what has been entrusted to us very. This means that we steward the environment, the people, the resources, the experience, knowledge, the know-how we create for future generations. This is not something we take lightly. We continuously strive towards excellence in our actions, interactions and results.

Globally we see a focus on the environment, development constraints, carbon reduction. We accept those expectations and are doing our part to support and respond to these expectations. Over the past decade, we have seen movement from globalization to the need for having energy and product security and managing global supply chain challenges. The global pandemic has resulted in increased costs, and scarcity or challenges accessing critical skills in the workforce. We need to lead with a adaptive strategic plan.

Amidst it all we also see courage, beauty, people making a difference, young and old standing up for their families, communities, and their countries. This is not a time for mediocracy, but a time for focused effort to protect our future, to protect our environment, to protect our children. This is a time for leadership and action.

Both the energy and the agriculture industries are at a pivotal point. The decisions we are making today will direct our shared future in North Dakota for the next several decades. During downturns, recessions, and rapid growth, it is the people with strategic leadership that will have an edge to direct the future.

In North Dakota we want to achieve a few strategic objectives:

1) Enhance energy security and develop a downstream industry leading to a robust energy industry in the State that can withstand boom and bust cycles and add value in the State of ND. Protection of the current oil and gas production with improved local offtake of gas will be crucial in the next number of years with the rising opportunity for more oil production, downward pressure on flaring, and the increase in the Gas Oil Ration (GOR) of legacy wells. The ability to move more gas and thus not have to curtail oil production is strategic.
2) We want to create a platform to establish integration between the energy and downstream

industries for a more robust energy sector in North Dakota. GTL, Ammonia and fertilizer developments, and other downstream chemical facilities are good examples of this.

3) We want to create new technology jobs for people in North Dakota and strengthen the communities across the state with relevant infrastructure and support.

The tax bill change is important because we want North Dakota to continue to be competitive compared with other jurisdictions. Tax is one of the levers than will positively influence a project business case. The State's investment package needs to include tax relief, positive investment environment, incentives, and debt support.

The objective of the proposed tax changes is really to extend existing tax incentives to new entrants in the downstream and chemical industry. Those existing incentives exempt tangible personal property used to construct a fertilizer or chemical processing facility in this state, and any component integral to the fertilizer or chemical processing plant from being subject to sales and use tax. The bill also provides for a new fund to assist local tax authorities with interim funding during initial periods of property tax exemptions also offered in any offered total tax incentive package. The Cerilon GTL project is one such processing facility that would be eligible for this proposed continued benefit.

And what does the State get in return? The Cerilon GTL project will provide the following key benefits:

1) Provide winter and summer diesel within North Dakota into sectors like mining, agriculture and oil fields all of which supports energy security and local demand. Our diesel contains virtually zero Sulphur and has additional environmental benefits with lower SOx, NOx and particulate emissions, while also fully biodegradable compared to conventional diesel.
2) Enables and supports Carbon Capture and Sequestration (CCS) creating the lowest carbon footprint GTL facility in the world. Our GTL is classified as a green transition energy and will lead GTL in North America soon. This means that we not only offer exceptional quality products like ULSD, Naphtha and Group III+ lubricant base-oils, but low carbon products.
3) Provides a large user of natural gas within the State, in the order of a ¼ bcf of natural gas per day for Plant number one. We are considering building a second, duplicate plant on our site a few years after the first plant startup which will mean an additional ¼ bcf per day.
4) Creates significant synergies and a platform for Ammonia production with the use of Nitrogen and Oxygen from our Air Separation Units. Because we generate Hydrogen as part of our process, both the GTL and Ammonia together with CCS will leave us the capability to produce blue GTL products and blue ammonia on site.
5) Our GTL facility will use very little water and be largely self-sustainable in power needs as we generate water in our process and also will have excess self-generated power on-site that could be added back to the grid.
6) Create well-paying, skilled jobs, and community development, a hub of expertise for future GTL projects wherever located.

These proposed tax changes support a strategic item in a portfolio of incentives that will be required for the downstream industry development, the agriculture integration, and will be positive enhancement in light of other jurisdictions.

We believe is the right decision at this time for ND.

Thank you very much Chairman and Committee members.

Nico Duursema,
President and CEO
Cerilon Inc.

SB 2334 Hearing **March 7, 2023**
House Finance and Tax Committee

Honorable Representative Headland, Chairman

Chairman Headland and Committee,

Thank you, Mr. Chairman. For the record I am Brad Bekkedahl, Senator from District 1, here to introduce SB 2334 which is a bill to remove a sunset on a current sales tax exemption for fertilizer and chemical processing facilities. The change to existing legislation is found on line 9 of page 1 and deletes the language requiring the exemption be applied before the date of June 30, 2023. The critical need for continuation of the sales tax exemption revolves around a large gas value added industry project. In the world of business recruitment, you will also hear testimony from the ND Department of Commerce, which has been critical in working with the company and their decision to site this large facility in our state. The competition was fierce to bring them here, and the removal of this sales tax exemption is a major factor in their location plans. I respectfully request the committee to recommend passage of the exemption sunset date removal.

The other area of the bill that is before you is found on page 2 and entails the creation of a local revenue loss reimbursement fund. In recruiting businesses of this size and investment, we have seen that local government entities frequently are called upon to provide incentives and assistance as well as state economic development programs. These could be in the form of property tax exemptions or PILOTS, infrastructure development or improvements such as roads, water, and sewer, along with the need to provide public safety equipment and personnel for protection. With this bill submission, I would encourage your discussion on the size of the mega project threshold, the type of project that could qualify for this local revenue loss reimbursement fund, as well as consideration of an Emergency Clause amendment so that the continuation of the exemption has no interruption before the bill becomes law if passed. I appreciate your attention and consideration.

Chairman Headland, thank you for the opportunity to introduce this bill that is now and will be critical to bringing value added projects to our development in North Dakota.

PROPOSED AMENDMENT TO SENATE BILL NO. 2334

Page 1, line 3, remove "subsection 2 of"

Page 1, replace lines 7 through 14 with:

"**SECTION 1. AMENDMENT.** Section 57-30.2-04.15 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.15. Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.

1. Gross receipts from sales of tangible personal property used to construct or expand a fertilizer or chemical processing facility in this state, and any component integral to the fertilizer or chemical processing plant, are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated in the structure of the facility or used in the construction process to the point of having no residual economic value. The exemption provided in this section applies to all phases of construction under the permit or application for permit required by subsection 2. An integral component to the fertilizer or chemical processing plant:

   a. May be owned directly or indirectly by the fertilizer or chemical processing facility, or by an unrelated third party;

   b. Must be located at the facility site; and

   c. Must be necessary for the plant's processing of fertilizer or chemicals.

2. ~~On or before June 30, 2023, the~~ The owner of the fertilizer or chemical processing plant must receive from the department of environmental quality 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.

3. To receive the exemption under this section at the time of purchase, the owner of the processing facility must receive from the tax commissioner a certificate that the tangible personal property used to construct the processing facility which the owner intends to purchase qualifies for exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.

CERILON

January 24, 2023

Presentation to ND Legislative Session

Mr Chairman and Committee members,

Thank you very much for the opportunity to present at this hearing.

Standing back and looking at the world, we are in very unique times.
We, at Cerilon breathe and live our values every day which can be summarized in 4 pillars, Ownership, Leadership, Stewardship and Excellence.
This means that we will own the challenges, opportunities, and decisions on which we take action, step forward, and lead with vision and courage. We plan with intentionality, mindful that we are stewards of what has been entrusted to us very. This means that we steward the environment, the people, the resources, the experience, knowledge, the know-how we create for future generations. This is not something we take lightly. We continuously strive towards excellence in our actions, interactions and results.

Globally we see a focus on the environment, development constraints, carbon reduction. We accept those expectations and are doing our part to support and respond to these expectations. Over the past decade, we have seen movement from globalization to the need for having energy and product security and managing global supply chain challenges. The global pandemic has resulted in increased costs, and scarcity or challenges accessing critical skills in the workforce. We need to lead with a adaptive strategic plan.

Amidst it all we also see courage, beauty, people making a difference, young and old standing up for their families, communities, and their countries. This is not a time for mediocracy, but a time for focused effort to protect our future, to protect our environment, to protect our children. This is a time for leadership and action.

Both the energy and the agriculture industries are at a pivotal point. The decisions we are making today will direct our shared future in North Dakota for the next several decades. During downturns, recessions, and rapid growth, it is the people with strategic leadership that will have an edge to direct the future.

In North Dakota we want to achieve a few strategic objectives:

1) Enhance energy security and develop a downstream industry leading to a robust energy industry in the State that can withstand boom and bust cycles and add value in the State of ND. Protection of the current oil and gas production with improved local offtake of gas will be crucial in the next number of years with the rising opportunity for more oil production, downward pressure on flaring, and the increase in the Gas Oil Ration (GOR) of legacy wells. The ability to move more gas and thus not have to curtail oil production is strategic.
2) We want to create a platform to establish integration between the energy and downstream

industries for a more robust energy sector in North Dakota. GTL, Ammonia and fertilizer developments, and other downstream chemical facilities are good examples of this.

3) We want to create new technology jobs for people in North Dakota and strengthen the communities across the state with relevant infrastructure and support.

The tax bill change is important because we want North Dakota to continue to be competitive compared with other jurisdictions. Tax is one of the levers than will positively influence a project business case. The State's investment package needs to include tax relief, positive investment environment, incentives, and debt support.

The objective of the proposed tax changes is really to extend existing tax incentives to new entrants in the downstream and chemical industry. Those existing incentives exempt tangible personal property used to construct a fertilizer or chemical processing facility in this state, and any component integral to the fertilizer or chemical processing plant from being subject to sales and use tax. The bill also provides for a new fund to assist local tax authorities with interim funding during initial periods of property tax exemptions also offered in any offered total tax incentive package. The Cerilon GTL project is one such processing facility that would be eligible for this proposed continued benefit.

And what does the State get in return? The Cerilon GTL project will provide the following key benefits:

1) Provide winter and summer diesel within North Dakota into sectors like mining, agriculture and oil fields all of which supports energy security and local demand. Our diesel contains virtually zero Sulphur and has additional environmental benefits with lower SOx, NOx and particulate emissions, while also fully biodegradable compared to conventional diesel.
2) Enables and supports Carbon Capture and Sequestration (CCS) creating the lowest carbon footprint GTL facility in the world. Our GTL is classified as a green transition energy and will lead GTL in North America soon. This means that we not only offer exceptional quality products like ULSD, Naphtha and Group III+ lubricant base-oils, but low carbon products.
3) Provides a large user of natural gas within the State, in the order of a ¼ bcf of natural gas per day for Plant number one. We are considering building a second, duplicate plant on our site a few years after the first plant startup which will mean an additional ¼ bcf per day.
4) Creates significant synergies and a platform for Ammonia production with the use of Nitrogen and Oxygen from our Air Separation Units. Because we generate Hydrogen as part of our process, both the GTL and Ammonia together with CCS will leave us the capability to produce blue GTL products and blue ammonia on site.
5) Our GTL facility will use very little water and be largely self-sustainable in power needs as we generate water in our process and also will have excess self-generated power on-site that could be added back to the grid.
6) Create well-paying, skilled jobs, and community development, a hub of expertise for future GTL projects wherever located.

These proposed tax changes support a strategic item in a portfolio of incentives that will be required for the downstream industry development, the agriculture integration, and will be positive enhancement in light of other jurisdictions.

CERILON

We believe is the right decision at this time for ND.

Thank you very much Chairman and Committee members.

Nico Duursema,
President and CEO
Cerilon Inc.

23.0985.01002
Title.

Prepared by the Legislative Council staff for
Representative Hagert
April 20, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2334

That the House recede from its amendments as printed on pages 968 and 969 of the Senate Journal and pages 1150 and 1151 of the House Journal and that Senate Bill No. 2334 be amended as follows:

Page 1, line 2, replace "local revenue loss reimbursement" with "large project development"

Page 1, line 5, remove "and"

Page 1, line 5, after "date" insert "; and to provide an expiration date"

Page 1, line 18, after "57-39.2-26.2" insert ", 57-39.2-26.3"

Page 2, line 1, replace "**Local revenue loss reimbursement**" with "**Large project development**"

Page 2, line 2, replace "local revenue loss reimbursement" with "large project development"

Page 2, line 7, replace the first "and" with an underscored comma

Page 2, line 7, after "57-39.2-26.2" insert ", and 57-39.2-26.3"

Page 2, line 9, replace "local revenue loss reimbursement" with "large project development"

Page 2, line 13, replace "The" with "After construction begins on the new infrastructure, the"

Page 2, line 14, replace the first "the" with "up to one billion dollars of"

Page 2, line 14, after the third "of" insert "the"

Page 2, line 17, after "development" insert ";

b. The county, in which the new infrastructure is located, received at least thirty million dollars of oil and gas gross production tax revenue allocations under section 57-51-15 during the twelve-month period ended August 31, 2022, and has a hub city within the county"

Page 2, line 18, replace "b." with "c."

Page 2, line 18, replace "five hundred million" with "one billion"

Page 2, line 19, after "dollars" insert "and relates to a fertilizer plant"

Page 2, line 20, replace "c." with "d."

Page 2, line 20, after "is" insert "located"

Page 2, line 20, after "or" insert "within"

Page 2, line 20, after "limits" insert "of a city in the county"

Page 2, line 21, replace "d." with "e."

Page 2, line 28, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 2, line 28, after "2023" insert ", remains effective through June 30, 2027, and after that date is ineffective"

Renumber accordingly

23.0985.01002

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2334

Introduced by

Senators Bekkedahl, Sorvaag, Wanzek

Representatives Brandenburg, Kempenich

A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a ~~local revenue loss reimbursement~~large project development fund; to amend and reenact subsection 2 of section 57-39.2-04.15 and section 57-39.2-26 of the North Dakota Century Code, relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; ~~and~~ to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, 2023, the~~The owner of the fertilizer or chemical processing plant must receive from the department of environmental quality 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.

SECTION 2. AMENDMENT. Section 57-39.2-26 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26. Allocation of revenue.

Except as provided by sections 57-39.2-26.1 ~~and~~, 57-39.2-26.2, 57-39.2-26.3, and section 3 of this Act, all moneys collected and received under this chapter must be paid into the state treasury and must be credited by the state treasurer to the general fund. Moneys deposited with the commissioner as security for the payment of tax, penalties, or costs due must be deposited and accounted for as provided in subsection 3 of section 57-39.2-12.

SECTION 3. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

~~Local revenue loss reimbursement~~Large project development fund - State treasurer - Continuing appropriation.

1. There is created in the state treasury the ~~local revenue loss reimbursement~~large project development fund. The fund consists of all moneys transferred to the fund under subsection 2. All moneys in the fund are appropriated to the state treasurer on a continuing basis for the purpose of providing distributions to an eligible county or city.
2. Notwithstanding any other provision of law, after the allocations under sections 57-29.2-26.1 ~~and~~, 57-39.2-26.2, and 57-39.2-26.3, a portion of sales, gross receipts, and use, tax collections equal to the amount under subsection 3 must be deposited by the state treasurer in the ~~local revenue loss reimbursement~~large project development fund as needed. The tax commissioner shall calculate the amount needed for distribution under subsection 3 and shall certify to the state treasurer the portion of sales, gross receipts, and use tax net revenues that must be deposited in the fund to provide for the distribution.
3. ~~The~~After construction begins on the new infrastructure, the state treasurer shall distribute to a county or city an amount equal to one percent of ~~the~~up to one billion dollars of estimated value of tangible property used in the construction of the new infrastructure if:
   a. The county or city is levying a local sales tax for infrastructure, public safety, or economic development;
   b. The county, in which the new infrastructure is located, received at least thirty million dollars of oil and gas gross production tax revenue allocations under section 57-51-15 during the twelve-month period ended August 31, 2022, and has a hub city within the county;
   ~~b.~~c. The estimated total cost for the new infrastructure is at least ~~five hundred million~~one billion dollars and relates to a fertilizer plant;
   ~~c.~~d. The new infrastructure is located within the county or within the city limits of a city in the county; and
   ~~d.~~e. The new infrastructure is exempt from sales tax under this chapter or use tax under chapter 57-40.2.

4. If the new infrastructure is within city limits, only a city is eligible to receive a distribution under subsection 3.

5. The tax commissioner may request information and documentation from the owner of the new infrastructure to determine the estimated value of the tangible property and the estimated total cost of the new infrastructure for calculations under this section.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. This Act becomes effective on July 1, 2023, remains effective through June 30, 2027, and after that date is ineffective.

23.0985.01004

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2334

Introduced by

Senators Bekkedahl, Sorvaag, Wanzek

Representatives Brandenburg, Kempenich

A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a ~~local revenue loss reimbursement~~large facility development fund; to amend and reenact subsection 2 of section 57-39.2-04.15 and section 57-39.2-26 of the North Dakota Century Code, relating to a sales tax exemption for a fertilizer plant; to provide a continuing appropriation; ~~and~~ to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, 2023, the~~The owner of the fertilizer or chemical processing plant must receive from the department of environmental quality 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.

SECTION 2. AMENDMENT. Section 57-39.2-26 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26. Allocation of revenue.

Except as provided by sections 57-39.2-26.1 ~~and~~, 57-39.2-26.2, 57-39.2-26.3, and section 3 of this Act, all moneys collected and received under this chapter must be paid into the state treasury and must be credited by the state treasurer to the general fund. Moneys deposited with the commissioner as security for the payment of tax, penalties, or costs due must be deposited and accounted for as provided in subsection 3 of section 57-39.2-12.

SECTION 3. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

~~Local revenue loss reimbursement~~Large facility development fund - State treasurer - Continuing appropriation.

1. There is created in the state treasury the ~~local revenue loss reimbursement~~large facility development fund. The fund consists of all moneys transferred to the fund under subsection 2. All moneys in the fund are appropriated to the state treasurer on a continuing basis for the purpose of providing distributions to an eligible county or city.
2. Notwithstanding any other provision of law, after the allocations under sections ~~57-29.2-26.1 and~~57-39.2-26.1, 57-39.2-26.2, and 57-39.2-26.3, a portion of sales, gross receipts, and use, tax collections equal to the amount under subsection 3 must be deposited by the state treasurer in the ~~local revenue loss reimbursement~~large facility development fund as needed. The tax commissioner shall calculate the amount needed for distribution under subsection 3 and shall certify to the state treasurer the portion of sales, gross receipts, and use tax net revenues that must be deposited in the fund to provide for the distribution.
3. ~~The~~Within thirty days after construction begins on the large facility, the state treasurer shall distribute to a county or city an amount equal to one percent of ~~the~~up to two billion dollars of estimated ~~value~~cost of tangible property eligible for a tax exemption under section 57-39.2-04.15 used in the construction of ~~new infrastructure~~the large facility if:
   a. The county or city is levying a local sales tax for infrastructure, public safety, or economic development; and
   b. ~~The estimated total cost for the new infrastructure is at least five hundred million dollars;~~
   ~~c. The new infrastructure is within the county or the city limits; and~~
   ~~d. The new infrastructure is exempt from sales tax under this chapter or use tax under chapter 57-40.2~~The county, in which the large facility is located, has a hub city and received at least thirty million dollars of oil and gas gross production tax revenue allocations under section 57-51-15 during the twelve-month period ended August 31, 2022.
4. To qualify for the distribution under subsection 3, the large facility must:

a. Be a new fertilizer or chemical processing plant that is eligible for a tax exemption under section 57-39.2-04.15;

b. Begin construction after July 1, 2023; and

c. Have an estimated total cost of at least one billion dollars.

5. A county or city may receive only one distribution under subsection 3.

6. If the ~~new infrastructure~~large facility is within city limits, only a city is eligible to receive a distribution under subsection 3.

~~5.~~7. The ~~tax commissioner may request~~owner of the large facility shall provide information and documentation ~~from the owner of the new infrastructure~~to the tax commissioner to determine the estimated ~~value~~cost of the tangible property and the estimated total cost of the ~~new infrastructure~~large facility for calculations under this section.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 2023.

SECTION 5. EXPIRATION DATE. Sections 2 and 3 of this Act are effective through June 30, 2027, and after that date are ineffective.