Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023

SENATE BILL NO. 2334
(Senators Bekkedahl, Sorvaag, Wanzek)
(Representatives Brandenburg, Kempenich)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a 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 and allocation of sales tax revenue; to provide a continuing appropriation; to provide for a legislative management report; 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:

Large facility development fund - State treasurer - Continuing appropriation - Report.

1. There is created in the state treasury the 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 57-39.2-26.1, 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 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. 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 up to two billion dollars of estimated cost of tangible property eligible for a tax exemption under section 57-39.2-04.15 used in the construction of 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 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.

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 large facility is within city limits, only a city is eligible to receive a distribution under subsection 3.

7. The owner of the large facility shall provide information and documentation to the tax commissioner to determine the estimated cost of the tangible property and the estimated total cost of the large facility for calculations under this section.

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.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2334.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 79	Nays 13	Absent 2

Secretary of the Senate

Received by the Governor at _____M. on _____, 2023.

Approved at _____M. on _____, 2023.

Governor

Filed in this office this _____day of _____, 2023,

at _____ o'clock _____M.

Secretary of State