

HOUSE BILL NO. 1295

Introduced by

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

Senators Enget, Magrum

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

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

10 **SECTION 1. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century
11 Code is amended and reenacted as follows:

- 12 3. The legislative management interim committee assigned the study responsibility under
13 this section may examine economic development tax incentives, shall complete
14 analysis of the incentives it designates for analysis during the interim, and shall
15 approve a plan to provide that each of the economic development tax incentives listed
16 in this subsection is subject to a complete analysis within each six-year period. The
17 interim committee may include in its recommendations any amendments to this
18 section, including amendments to add or remove incentives from the list of incentives
19 subject to analysis under this subsection. Analysis must be completed for economic
20 development tax incentives, including each of the following:
- 21 a. Renaissance zone credits and exemptions.
 - 22 b. Research expense credit.
 - 23 c. Agricultural commodity processing facility investment credit.

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

27 **SECTION 2. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **57-40.2-03.3. Use tax on contractors. (Effective through June 30, 2025)**

- 30 1. When a contractor or subcontractor uses tangible personal property in the
- 31 performance of that person's contract, or to fulfill contract or subcontract obligations,

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

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

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

- 13 a. Production equipment or tangible personal property as authorized or approved
14 for exemption by the tax commissioner under section 57-39.2-04.2.
- 15 b. Machinery, equipment, or other tangible personal property used to construct an
16 agricultural commodity processing facility as authorized or approved for
17 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4.
- 18 c. Tangible personal property used to construct or expand a system used to
19 compress, process, gather, or refine gas recovered from an oil or gas well in this
20 state or used to expand or build a gas-processing facility in this state as
21 authorized or approved for exemption by the tax commissioner under section
22 57-39.2-04.5.
- 23 d. Tangible personal property used to construct or expand a qualifying oil refinery as
24 authorized or approved for exemption by the tax commissioner under section
25 57-39.2-04.6.
- 26 e. Tangible personal property used to construct or expand a qualifying facility as
27 authorized or approved for exemption by the tax commissioner under section
28 57-39.2-04.10.
- 29 f. Tangible personal property used to construct or expand a qualifying facility as
30 authorized or approved for exemption by the tax commissioner under section
31 57-39.2-04.11.

- 1 g. ~~Materials used in compressing, gathering, collecting, storing, transporting, or~~
2 ~~injecting carbon dioxide for use in enhanced recovery of oil or natural gas as~~
3 ~~provided in section 57-39.2-04.14.~~
- 4 h. Tangible personal property used to construct a qualifying fertilizer or chemical
5 processing facility as authorized or approved for exemption by the tax
6 commissioner under section 57-39.2-04.15.
- 7 i.h. Tangible personal property used to construct a qualified straddle plant, a qualified
8 fractionator, or qualified associated infrastructure as authorized or approved for
9 exemption by the tax commissioner under section 57-39.2-04.16.
- 10 j.i. Tangible personal property as authorized or approved for exemption by the
11 tax commissioner as provided in section 57-39.2-04.21.
- 12 k.j. Tangible personal property as authorized or approved for exemption by the
13 tax commissioner as provided in section 57-39.2-04.20.
- 14 l.k. Raw materials, single-use product contact systems, and reagents used for
15 biologic manufacturing as authorized or approved for exemption by the
16 tax commissioner under section 57-39.2-04.19.
- 17 m.l. Tangible personal property used to construct, expand, or upgrade a facility that
18 refines renewable feedstock into sustainable aviation fuel as authorized or
19 approved by the tax commissioner under section 57-39.2-04.18.

20 **Use tax on contractors. (Effective after June 30, 2025, and through June 30, 2029)**

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

- 1 2. The provisions of this chapter pertaining to the administration of the tax imposed by
2 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
3 administration of the tax levied by this section.
- 4 3. The tax imposed by this section does not apply to:
- 5 a. Production equipment or tangible personal property as authorized or approved
6 for exemption by the tax commissioner under section 57-39.2-04.2;
- 7 b. Machinery, equipment, or other tangible personal property used to construct an
8 agricultural commodity processing facility as authorized or approved for
9 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 10 c. Tangible personal property used to construct or expand a system used to
11 compress, process, gather, or refine gas recovered from an oil or gas well in this
12 state or used to expand or build a gas-processing facility in this state as
13 authorized or approved for exemption by the tax commissioner under section
14 57-39.2-04.5;
- 15 d. Tangible personal property used to construct or expand a qualifying oil refinery as
16 authorized or approved for exemption by the tax commissioner under section
17 57-39.2-04.6;
- 18 e. Tangible personal property used to construct or expand a qualifying facility as
19 authorized or approved for exemption by the tax commissioner under section
20 57-39.2-04.10;
- 21 f. Tangible personal property used to construct or expand a qualifying facility as
22 authorized or approved for exemption by the tax commissioner under section
23 57-39.2-04.11;
- 24 g. ~~Materials used in compressing, gathering, collecting, storing, transporting, or~~
25 ~~injecting carbon dioxide for use in enhanced recovery of oil or natural gas as~~
26 ~~provided in section 57-39.2-04.14;~~
- 27 h. Tangible personal property used to construct a qualifying fertilizer or chemical
28 processing facility as authorized or approved for exemption by the tax
29 commissioner under section 57-39.2-04.15; or

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

28 **SECTION 3. AMENDMENT.** Section 57-60-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

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

3 Each coal conversion facility and any carbon dioxide capture system located at the coal
4 conversion facility, and any equipment directly used for secure geologic storage of carbon
5 dioxide or enhanced recovery of oil or natural gas must be classified as personal property and
6 is exempt from all ad valorem taxes except for taxes on the land on which the facility, capture
7 system, or equipment is located. The exemption provided by this section may not be interpreted
8 to apply to tangible personal property incorporated as a component part of a carbon dioxide
9 pipeline ~~but this restriction does not affect eligibility of such a pipeline for the exemption under~~
10 ~~section 57-06-17.4.~~ The taxes imposed by this chapter are in lieu of ad valorem taxes on the
11 property so classified as personal property.

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

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

16 **SECTION 6. EFFECTIVE DATE.** Sections 2 and 5 of this Act are effective for taxable
17 events occurring after June 30, 2025. Sections 3 and 4 of this Act are effective for taxable years
18 beginning after December 31, 2024.