

2023 HOUSE FINANCE AND TAXATION

HB 1455

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
2/6/2023

A bill relating a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and manufacture of bioscience and biotechnology products.

Chairman Headland opened the hearing at 9:01AM.

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-DeVillie, and Representative Ista. Members absent: none.

Discussion Topics:

- Bioscience industry economic impact
- Bioscience and biotechnology products tax exemption
- Biotechnology innovation

Andera Pfennig, Director of Government Affairs with Greater North Dakota Chamber, testified in support (#19212).

Amy Cleary, GA Group, distributed testimony from Richard Glynn, Executive Director for Bioscience Association of North Dakota, in favor (#19192, 19193, 19194). Mr. Glynn will speak with the committee either later today or tomorrow.

Shannon Fleischer, Associate Director of Tax Administration with North Dakota Office of State Tax Commissioner, answered questions from the committee.

Additional written testimony:

Brian Tande, Dean of the College of Engineering and Mines at University of North Dakota, testimony in support #19211.

Keith Lund, President and Chief Executive Officer with Grand Forks Region Economic Development Corporation, testimony in support #19208.

Bruce Gjovig, Chairman of Bioscience Association of North Dakota, testimony in support #19176.

Mark Voigt, professional in bioscience and biotechnology, testimony in support #19117.

House Finance and Taxation Committee
HB 1455
February 6, 2023
Page 2

Chairman Headland recessed the hearing at 9:19AM until this afternoon when Representative O'Brien is present.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
2/6/2023

A bill relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and manufacture of bioscience and biotechnology products.

Chairman Headland continued with the hearing at 2:45PM.

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-DeVilleville, and Representative Ista. No members absent.

Discussion Topics:

- Bioscience industry economic impact
- Bioscience and biotechnology products tax exemption
- Biotechnology innovation

Representative O'Brien introduced the bill in support (#19319).

Josh Teigen, Commissioner with North Dakota Department of Commerce, testified in support (#19248).

Ellen Shafer, Senior Director of Communications with Aldevron, testified in support (#19204).

Randy Schneider, Treasurer for the North Dakota Bioscience Association (BioND), North Dakota Energy Policy Commission, and North Dakota Renewable Energy Council, verbally testified in support.

Phil Murphy, North Dakota Soybean Growers Association, verbally testified in support.

Shannon Fleischer, Associate Director of Tax Administration with the North Dakota Office of the State Tax Commissioner, answered questions from the committee. (#19940)

Chairman Headland adjourned at 3:26 PM for now but kept the hearing open until Mr. Richard Glynn can testify at a later date.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
2/8/2023

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| A bill relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and manufacture of bioscience and biotechnology products. |
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Chairman Headland opened the continuation of the hearing at 10:09AM.

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-DeVillie, and Representative Ista. No members absent.

Discussion Topics:

- Research and development of bioscience technology
- Sales tax exemption for the biotechnology industry
- Economic development

Richard Glynn, Executive Director with Bioscience Association of North Dakota, testified in support (#19192, 19193, 19194, and 19955).

Chairman Headland closed the hearing at 10:37AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
2/15/2023

A bill relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and manufacture of bioscience and biotechnology products.

Chairman Headland opened the meeting at 9:01AM.

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-DeVilleville, and Representative Ista. No members absent.

Discussion Topics:

- Proposed amendment 23.0718.02001
- Committee vote

Vice Chairman Hagert distributed proposed amendments 23.0718.02001 (#20860).

Representative Dockter moved the amendment 23.0718.02001.

Representative D. Anderson 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-DeVilleville | 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 | N |
| Representative Nathan Toman | N |

Motion carried 12-2-0

Representative Toman moved to further amend on page 2, line 28, after “laboratories” strike the remaining sentence and on page 2, line 29, strike the sentence.

Representative Hagert seconded the motion.

Representative Toman withdrew his motion.

Shannon Fleischer, Associate Director with the Office of the State Tax Commissioner, answered questions from the committee.

Representative Olson moved a Do Pass as Amended.

Representative D. Anderson seconded the motion.

Shannon Fleischer, Associate Director with the Office of the State Tax Commissioner, answered questions from the committee.

Roll call vote:

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

Motion carried 8-6-0

Vice Chairman Hagert is the bill carrier.

Chairman Headland adjourned at 9:37AM.

Mary Brucker, Committee Clerk

JA
2-15-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1455

- Page 1, line 4, after the first "biotechnology" insert "in the health care industry"
 - Page 1, line 4, after "products" insert "for use in the health care industry"
 - Page 1, line 10, after the first "**biotechnology**" insert "**in the health care industry**"
 - Page 1, line 11, after "**products**" insert "**used in the health care industry**"
 - Page 1, line 14, after "biotechnology" insert "in the health care industry"
 - Page 1, line 15, after "manufacturing" insert "in the health care industry"
 - Page 2, line 6, after "products" insert "in the health care industry"
 - Page 2, line 8, replace "in areas" with "in the health care industry"
 - Page 2, line 10, after the third underscored comma insert "and"
 - Page 2, line 10, remove ", veterinary medicine."
 - Page 2, remove line 11
 - Page 2, line 12, remove "security applications of bioscience"
 - Page 2, line 14, after "technologies" insert "for use in the health care industry"
 - Page 2, line 19, remove "or animal"
 - Page 2, line 24, after "state" insert "and research conducted for purposes unrelated to the health care industry"
 - Page 2, line 25, remove "capital equipment, instruments, apparatus."
 - Page 2, line 26, remove "inputs, and"
 - Page 2, line 29, after "bioscience" insert "in the health care industry"
 - Page 2, line 31, after "processes" insert "in the health care industry"
 - Page 3, line 4, after "biotechnology" insert "in the health care industry"
 - Page 3, line 5, after "manufacturing" insert "in the health care industry"
- Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1455: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1455 was placed on the Sixth order on the calendar.

Page 1, line 4, after the first "biotechnology" insert "in the health care industry"

Page 1, line 4, after "products" insert "for use in the health care industry"

Page 1, line 10, after the first "**biotechnology**" insert "**in the health care industry**"

Page 1, line 11, after "**products**" insert "**used in the health care industry**"

Page 1, line 14, after "biotechnology" insert "in the health care industry"

Page 1, line 15, after "manufacturing" insert "in the health care industry"

Page 2, line 6, after "products" insert "in the health care industry"

Page 2, line 8, replace "in areas" with "in the health care industry"

Page 2, line 10, after the third underscored comma insert "and"

Page 2, line 10, remove ", veterinary medicine."

Page 2, remove line 11

Page 2, line 12, remove "security applications of bioscience"

Page 2, line 14, after "technologies" insert "for use in the health care industry"

Page 2, line 19, remove "or animal"

Page 2, line 24, after "state" insert "and research conducted for purposes unrelated to the health care industry"

Page 2, line 25, remove "capital equipment, instruments, apparatus."

Page 2, line 26, remove "inputs, and"

Page 2, line 29, after "bioscience" insert "in the health care industry"

Page 2, line 31, after "processes" insert "in the health care industry"

Page 3, line 4, after "biotechnology" insert "in the health care industry"

Page 3, line 5, after "manufacturing" insert "in the health care industry"

Renumber accordingly

2023 SENATE FINANCE AND TAXATION

HB 1455

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1455
3/14/2023

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| Relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology in the health care industry and manufacture of bioscience and biotechnology products for use in the health care industry. |
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10:02 AM Chairman Kannianen opened hearing.

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

Discussion Topics:

- Exemption options
- Work force

10:02 AM Representative O'Brien introduced bill #24835

10:13 AM Randy Schneider, CPA Treasurer for ND Pioneer Capital Fund, testified verbally in favor.

10:38 AM Shannon Fleisher, ND Tax Department, testified verbally neutral.

Additional written testimony:

Bruce Gjovig #24009, #24834

Andrea Pfennig #24592

Josh Teigen #24739

10:43 AM Chairman Kannianen adjourns hearing.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1455
3/20/2023

Relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology in the health care industry and manufacture of bioscience and biotechnology products for use in the health care industry.

11:17 AM Chairman Kannianen opens hearing.

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

Discussion Topics:

- Work force
- Committee discussion

11:21 AM Charles Dendy, Legal council for ND Tax Department, provided additional information.

11:30 AM Chairman Kannianen adjourns hearing.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1455
3/22/2023

Relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing; and to provide an effective date.

9:00 AM Chairman Kannianen opened the meeting.

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

Discussion Topics:

- Law consistency
- Single use products
- Amendments
- Committee Action

9:02 AM Representative O'Brien answered questions.

9:08 AM Shannon Fleisher, Associate Director of Tax Administration, Tax Department verbally provided information.

9:09 AM Senator Rummel moved to adopt Amendment LC. 23.0718.03000

9:10 AM Senator Patten seconded.

Roll call vote

| 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 |

Passed 6-0-0

9:13 AM Charles Dendy, Legal Counsel, ND Tax Department verbally provided information.

9:15 AM Senator Rummel moved to future amend with amendment. LC 23.0718.03001 #27019

9:15 AM Senator Patten seconded.

Roll call vote

| 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 |

Passed 6-0-0

9:17 AM Senator Rummel moved Do Pass as Amended.

9:17 Senator Patten seconded.

9:21 AM Representative O'Brien verbally provided additional information.

Roll call vote

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

Passed 5-1-0

Senator Rummel will carry the bill.

9:26 AM Chairman Kannianen closed the meeting.

Committee reconsidered action on March 27, 2023.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1455
3/27/2023

Relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing; and to provide an effective date.

10:42 AM Chairman Kannianen opened the meeting.

Senators present: **Kannianen, Weber, Patten, Piepkorn, Magrum.**

Senators absent: **Rummel**

Discussion Topics:

- Committee action

10:43 AM Senator Patten moved to reconsider.

10:43 AM Senator Weber 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 | AB |

Motion passed 5-0-1

10:46 AM Senator Patten moved to further amend LC 23.0718.03002 #26677

10:47 AM Senator Weber 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 | AB |

Motuion passed 5-0-1

10:47 AM Senator Patten moved a Do Pass as amended.

10:47 AM Senator Weber seconded.

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

Motion passed 4-1-1

10:48 AM Chairman Kannianen held vote open for Senator Rummel, who voted on March 27, 2023 at 11:20AM.

10:49 AM Chairman Kannianen closed the meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1455
3/27/2023

Relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing; and to provide an effective date.

11:18 AM Chairman Kannianen opened the meeting.

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

Discussion Topics:

- Committee action

11:19 AM Earlier in the morning, **Senator Patten** moved a DO PASS as Amended; **Senator Weber** seconded. The vote was held open.

Chairman Kannianen resumed roll call vote. Senator Rummel voted yes.

Final roll call vote.

| 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 passed 5-1-0

Senator Rummel will carry the bill.

11:19 AM Chairman Kannianen closed the meeting.

Nathan Liesen, Committee Clerk

AGC
3-27-23
(1-3)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1455

- Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"
- Page 1, line 1, after "57-39.2" insert a comma
- Page 1, line 2, replace "4" with "3"
- Page 1, line 2, after "to" insert "evaluation of economic development tax incentives and"
- Page 1, line 3, after "for" insert "raw"
- Page 1, line 3, after "materials" insert ", single-use product contact systems, and reagents"
- Page 1, line 3, remove "in the research and development of bioscience and"
- Page 1, remove line 4
- Page 1, line 5, remove "products"
- Page 1, line 5, replace "use in the health care industry" with "biologic manufacturing"
- Page 1, after line 6, insert:

"SECTION 1. A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing."

- Page 1, line 9, after "**for**" insert "**raw**"
- Page 1, line 9, after "**materials**" insert "**, single-use product contact systems, and reagents**"
- Page 1, line 9, remove "**in the research and development of** "
- Page 1, remove line 10
- Page 1, line 11, replace "**and biotechnology products used in the health care industry**" with "**for biologic manufacturing**"
- Page 1, line 12, remove "tangible personal property purchased for use, storage, or"
- Page 1, remove line 13
- Page 1, line 14, remove "bioscience and biotechnology in the health care industry and"
- Page 1, line 14, remove "or"
- Page 1, line 15, replace "consumables purchased" with ", single-use product contact systems, and reagents used directly for discovery, testing, screening, and production"
- Page 1, line 15, remove "use, storage, or consumption which are critical to"
- Page 1, line 16, replace "the health care industry" with "this state are exempt from taxes under this chapter"

AG
3-27-23
(2-3)

Page 1, line 17, remove "qualified biotechnology taxpayer"

Page 1, line 18, remove "or qualified bioscience"

Page 1, line 19, remove "tangible personal property."

Page 1, line 19, after the second underscored comma insert "single-use product contact systems."

Page 1, line 19, replace "consumables" with "reagents"

Page 1, line 20, remove "If a certificate is not received before the purchase, the qualified"

Page 1, remove lines 21 and 22

Page 1, line 23, remove "If the tangible personal property, raw materials, or consumables are purchased or"

Page 1, remove line 24

Page 2, remove lines 1 and 2

Page 2, line 3, remove "4."

Page 2, line 4, replace "includes" with "means"

Page 2, line 5, after the first "product" insert "discovery, development,"

Page 2, line 6, after "in-process" insert "products"

Page 2, line 6, remove "in the"

Page 2, line 7, replace "health care industry" with "which exclusively occurs within this state"

Page 2, line 8, remove "\"Bioscience\" means the use of compositions, methods, and organisms in cellular"

Page 2, remove lines 9 through 11

Page 2, line 12, replace "microbiology" with "\"Single-use product contact systems\" means tubing, capsule filters, ion exchange membrane chromatography devices, mixers, bioreactors, sterile fluid containment bags, connection devices, and sampling receptacles"

Page 2, remove lines 13 through 30

Page 3, replace lines 1 through 10 with:

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

Page 3, line 11, replace "Tangible personal property, raw" with "Raw"

Page 3, line 11, replace "or consumables" with "single-use product contact systems, and reagents used for biologic manufacturing"

Page 3, line 12, replace "1" with "2"

Page 3, line 13, replace "This" with "Sections 2 and 3 of this"

Page 3, line 13, replace "is" with "are"

Renumber accordingly

AG
3-27-23
(3-3)

REPORT OF STANDING COMMITTEE

HB 1455, as engrossed: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1455 was placed on the Sixth order on the calendar. This bill affects workforce development.

Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"

Page 1, line 1, after "57-39.2" insert a comma

Page 1, line 2, replace "4" with "3"

Page 1, line 2, after "to" insert "evaluation of economic development tax incentives and"

Page 1, line 3, after "for" insert "raw"

Page 1, line 3, after "materials" insert ", single-use product contact systems, and reagents"

Page 1, line 3, remove "in the research and development of bioscience and"

Page 1, remove line 4

Page 1, line 5, remove "products"

Page 1, line 5, replace "use in the health care industry" with "biologic manufacturing"

Page 1, after line 6, insert:

"SECTION 1. A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing."

Page 1, line 9, after "**for**" insert "**raw**"

Page 1, line 9, after "**materials**" insert "**, single-use product contact systems, and reagents**"

Page 1, line 9, remove "**in the research and development of** "

Page 1, remove line 10

Page 1, line 11, replace "**and biotechnology products used in the health care industry**" with "**for biologic manufacturing**"

Page 1, line 12, remove "tangible personal property purchased for use, storage, or"

Page 1, remove line 13

Page 1, line 14, remove "bioscience and biotechnology in the health care industry and"

Page 1, line 14, remove "or"

Page 1, line 15, replace "consumables purchased" with ", single-use product contact systems, and reagents used directly for discovery, testing, screening, and production"

Page 1, line 15, remove "use, storage, or consumption which are critical to"

- Page 1, line 16, replace "the health care industry" with "this state are exempt from taxes under this chapter"
- Page 1, line 17, remove "qualified biotechnology taxpayer"
- Page 1, line 18, remove "or qualified bioscience"
- Page 1, line 19, remove "tangible personal property."
- Page 1, line 19, after the second underscored comma insert "single-use product contact systems."
- Page 1, line 19, replace "consumables" with "reagents"
- Page 1, line 20, remove "If a certificate is not received before the purchase, the qualified"
- Page 1, remove lines 21 and 22
- Page 1, line 23, remove "If the tangible personal property, raw materials, or consumables are purchased or"
- Page 1, remove line 24
- Page 2, remove lines 1 and 2
- Page 2, line 3, remove "4."
- Page 2, line 4, replace "includes" with "means"
- Page 2, line 5, after the first "product" insert "discovery, development."
- Page 2, line 6, after "in-process" insert "products"
- Page 2, line 6, remove "in the"
- Page 2, line 7, replace "health care industry" with "which exclusively occurs within this state"
- Page 2, line 8, remove "\"Bioscience\" means the use of compositions, methods, and organisms in cellular"
- Page 2, remove lines 9 through 11
- Page 2, line 12, replace "microbiology" with "\"Single-use product contact systems\" means tubing, capsule filters, ion exchange membrane chromatography devices, mixers, bioreactors, sterile fluid containment bags, connection devices, and sampling receptacles"
- Page 2, remove lines 13 through 30
- Page 3, replace lines 1 through 10 with:
- "SECTION 3.** A new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:"
- Page 3, line 11, replace "Tangible personal property, raw" with "Raw"
- Page 3, line 11, replace "or consumables" with "single-use product contact systems, and reagents used for biologic manufacturing"
- Page 3, line 12, replace "1" with "2"

Page 3, line 13, replace "This" with "Sections 2 and 3 of this"

Page 3, line 13, replace "is" with "are"

Renumber accordingly

2023 CONFERENCE COMMITTEE

HB 1455

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
4/7/2023
Conference Committee

A bill relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing.

Chairman Hagert opened the conference committee meeting at 8:02 AM.

Members present: Chairman Hagert, Representative Toman, Representative Steiner, Chairman Rummel, Senator Weber, and Senator Magrum. **Members absent:** none.

Discussion Topics:

- Qualifications for sales and use tax exemption
- North Dakota employment
- Longer term businesses in North Dakota

Senator Rummel explained the senate amendments.

Committee discussion.

Senator Rummel suggested a sunset in six years.

Chairman Hagert adjourned at 8:23 AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
4/10/2023
Conference Committee

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| A bill relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing. |
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Chairman Hagert opened the meeting at 2:31 PM.

Members present: Chairman Hagert, Representative Toman, Representative Steiner, Chairman Rummel, Senator Weber, and Senator Magrum. No members absent.

Discussion Topics:

- Proposed amendments
- Primary sectors

Chairman Rummel is working with Legislative Council on amendments.

Representative Steiner would like an amendment to evaluate after two to four years and have a sunset in the year 2026.

Chairman Hagert asked the committee to get the amendments before our next meeting.

Dee Wald, General Counsel with the Office of the State Tax Commissioner, indicated she would like to see the amendments once they are brought before the committee and asked for further clarification on the committee's wishes.

Chairman Rummel recommended a six-year sunset on this rather than a four-year sunset.

Chairman Hagert adjourned at 2:52 PM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
4/12/2023
Conference Committee

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| A bill relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology in the health care industry and manufacture of bioscience and biotechnology products for use in the health care industry. |
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Chairman Hagert opened the conference committee meeting at 2:31 PM.

Members present: Chairman Hagert, Representative Toman, Representative Steiner, Chairman Rummel, Senator Weber, Senator Magrum. Members absent: none.

Discussion Topics:

- Proposed amendment 23.0718.03008

Senator Rummel distributed proposed amendments 23.0718.03008 (#27508).

Chairman Hagert also proposed adding the state to quantify the amount of liability of exemption for the year and add a sunset six years out.

Chairman Hagert adjourned at 2:35 PM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1455
4/14/2023
Conference Committee

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|---|
| A bill relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing. |
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Chairman Hagert opened the meeting at 9:33 AM.

Members present: Chairman Hagert, Representative Toman, Representative Steiner, Chairman Rummel, Senator Weber, and Senator Magrum.

Discussion Topics:

- Proposed amendment 23.0718.03009
- Committee vote

Chairman Hagert distributed proposed amendments 23.0718.03009 (#27554, 27555).

Committee discussion.

Chairman Rummel moved the Senate recede from Senate amendments and amend with 23.0718.03009.

Representative Steiner seconded the motion.

Roll call vote: Motion carried 6-0-0

Chairman Hagert is the House carrier and Chairman Rummel is the Senate carrier.

Chairman Hagert adjourned at 9:36 AM.

Mary Brucker, Committee Clerk

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1455

That the Senate recede from its amendments as printed on pages 1430 and 1431 of the House Journal and pages 1181-1183 of the Senate Journal and that Engrossed House Bill No. 1455 be amended as follows:

Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"

Page 1, line 1, after "57-39.2" insert a comma

Page 1, line 2, replace "4" with "3"

Page 1, line 2, after "to" insert "evaluation of economic development tax incentives and"

Page 1, line 3, after "for" insert "raw"

Page 1, line 3, after "materials" insert ", single-use product contact systems, and reagents"

Page 1, line 3, remove "in the research and development of bioscience and"

Page 1, remove line 4

Page 1, line 5, remove "products"

Page 1, line 5, replace "use in the health care industry" with "biologic manufacturing; to provide for a legislative management report"

Page 1, line 5, remove "and"

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

Page 1, after line 6, insert:

"SECTION 1. A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing."

Page 1, line 9, after "**for**" insert "**raw**"

Page 1, line 9, after "**materials**" insert ", **single-use product contact systems, and reagents**"

Page 1, line 9, remove "**in the research and development of** "

Page 1, remove line 10

Page 1, line 11, replace "**and biotechnology products used in the health care industry**" with "**for biologic manufacturing - Report**"

Page 1, line 12, remove "tangible personal property purchased for use, storage, or"

Page 1, remove line 13

Page 1, line 14, remove "bioscience and biotechnology in the health care industry and"

Page 1, line 14, remove "or"

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Page 1, line 15, replace "consumables purchased" with "single-use product contact systems, and reagents used directly for discovery, testing, screening, and production"

Page 1, line 15, remove "use, storage, or consumption which are critical to"

Page 1, line 16, replace "the health care industry" with "this state are exempt from taxes under this chapter"

Page 1, line 17, remove "qualified biotechnology taxpayer"

Page 1, line 18, remove "or qualified bioscience"

Page 1, line 19, remove "tangible personal property."

Page 1, line 19, after the second underscored comma insert "single-use product contact systems."

Page 1, line 19, replace "consumables" with "reagents"

Page 1, line 20, remove "If a certificate is not received before the purchase, the qualified"

Page 1, remove lines 21 and 22

Page 1, line 23, remove "If the tangible personal property, raw materials, or consumables are purchased or"

Page 1, remove line 24

Page 2, remove lines 1 and 2

Page 2, line 3, remove "4."

Page 2, line 4, replace "includes" with "means"

Page 2, line 5, after the first "product" insert "discovery, development,"

Page 2, line 6, after "in-process" insert "products"

Page 2, line 6, remove "in the"

Page 2, line 7, replace "health care industry" with "which occurs exclusively within this state"

Page 2, line 8, remove "\"Bioscience\" means the use of compositions, methods, and organisms in cellular"

Page 2, remove lines 9 through 11

Page 2, line 12, replace "microbiology" with "\"Single-use product contact systems\" means tubing, capsule filters, ion exchange membrane chromatography devices, mixers, bioreactors, sterile fluid containment bags, connection devices, and sampling receptacles"

Page 2, remove lines 13 through 30

Page 3, replace lines 1 through 8 with:

4. a. By April first of each year, each taxpayer that received the exemption under this section in the preceding calendar year shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the calendar year preceding the reporting deadline in this subdivision, the taxpayer's:

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- (1) Total sales and use tax liability exempted under this section;
 - (2) Total gross payroll;
 - (3) Total property taxes paid and square footage of buildings owned by the taxpayer;
 - (4) Total North Dakota workforce safety and insurance premiums paid;
 - (5) North Dakota unemployment taxes paid; and
 - (6) Total state income tax withheld by the taxpayer.
- b. Failure to file the report required under subdivision a is cause to disallow the exemption due to noncompliance. The tax commissioner shall provide notice of the disallowed exemption to the taxpayer and assess any sales and use tax due. An assessment of tax made under this subsection is final and irrevocably fixed.
- c. By June first of each year, the tax commissioner shall submit to the legislative management a written report summarizing the information received under subdivision a, including a comparison of information received in the current calendar year with data received in the preceding calendar year.

Page 3, replace lines 9 and 10 with:

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

Page 3, line 11, replace "Tangible personal property, raw" with "Raw"

Page 3, line 11, replace "or consumables" with "single-use product contact systems, and reagents used for biologic manufacturing"

Page 3, line 12, replace "1" with "2"

Page 3, line 13, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 3, line 13, replace "This" with "Sections 2 and 3 of this"

Page 3, line 13, replace "is" with "are"

Page 3, line 14, after "2023" insert ", and before July 1, 2029, and are thereafter ineffective"

Renumber accordingly

**2023 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1455 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
See below
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Chairman Rummel Seconded by: Representative Steiner

| Representatives | 4/14 | | Yes | No | | Senators | 4/14 | | Yes | No |
|------------------------|------|--|-----|----|--|-------------------|------|--|-----|----|
| <i>Chairman Hagert</i> | X | | X | | | Chairman Rummel | X | | X | |
| <i>Rep. Toman</i> | X | | X | | | Senator Weber | X | | X | |
| <i>Rep. Steiner</i> | X | | X | | | Senator Magrum | X | | X | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| Total Rep. Vote | | | 3 | 0 | | Total Senate Vote | | | 3 | 0 |

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Chairman Hagert Senate Carrier Chairman Rummel

LC Number 23.0718 . 03009 of amendment

LC Number 23.0718 . 06000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment:
Amend with 23.0718.03009

REPORT OF CONFERENCE COMMITTEE

HB 1455, as engrossed: Your conference committee (Sens. Rummel, Weber, Magrum and Reps. Hagert, Toman, Steiner) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1430-1431, adopt amendments as follows, and place HB 1455 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1430 and 1431 of the House Journal and pages 1181-1183 of the Senate Journal and that Engrossed House Bill No. 1455 be amended as follows:

Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"

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 - (1) Total sales and use tax liability exempted under this section;
 - (2) Total gross payroll;
 - (3) Total property taxes paid and square footage of buildings owned by the taxpayer;
 - (4) Total North Dakota workforce safety and insurance premiums paid;
 - (5) North Dakota unemployment taxes paid; and
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- b. Failure to file the report required under subdivision a is cause to disallow the exemption due to noncompliance. The tax commissioner shall provide notice of the disallowed exemption to the taxpayer and assess any sales and use tax due. An assessment of tax made under this subsection is final and irrevocably fixed.
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Re-number accordingly

Engrossed HB 1455 was placed on the Seventh order of business on the calendar.

TESTIMONY

HB 1455

February 3rd, 2023

North Dakota Legislative Council
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Legislative Assembly of North Dakota,

I am writing to express my support for the proposed bill to create a tax exemption for bioscience research in North Dakota [HB 1455]. As a professional in the bioscience/biotechnology industry, I can attest to the importance of this industry in driving economic growth and improving the quality of life for residents of the state of North Dakota.

The proposed tax exemption for materials used in the research and development of bioscience and biotechnology will significantly benefit companies in the industry by reducing their operational costs. This will allow them to invest more resources in research and development, which will, in turn, will drive innovation and growth in the industry.

Moreover, the tax exemption will make North Dakota a more attractive location for bioscience and biotechnology companies, encouraging them to set up operations in the state. This will create new job opportunities and stimulate the local economy.

In conclusion, I strongly support the proposed bill to create a tax exemption for bioscience research in North Dakota. This measure will benefit the industry, the economy, and the people of North Dakota.

Thank you for considering my testimony.

Sincerely,



Mark R. Voigt
Fargo, ND

To: House Finance & Taxation Committee
From: Bruce Gjovig, Chair, Bioscience Association of North Dakota (BioND)
Bruce@Gjovig.net 701-739-3132, Grand Forks
Date: February 5, 2022
RE: **For HB 1455 - Bioscience Sales & Use Tax Exemption**

As of 2020-21, at least 38 states (76%) offer exemptions on sales tax for equipment use in R&D, and 36 states reported exempting equipment purchased for biomanufacturing from sales tax. Eleven states have sales tax exemptions specifically targeted to bioscience firms. (Bioscience Economic Development in the States: Legislation & Job Creation Best Practices). North Dakota needs to be competitive to attract and grow the bioscience industry.

The **Bioscience Association of North Dakota (BioND)** seeks to build a vibrant, growing, biosciences industry (food, fuel, healthcare) in North Dakota. To do that, North Dakota needs to convince biotech entrepreneurs to remain in the state as well as to recruit biotech companies from outside the state to establish their businesses within the state. The competition for life sciences development is fierce, and other states and nations are making significant investments to advance their life science industries and leverage comparative advantages. *One of the most significant investments biotech companies make are in R&D equipment and manufacturing, thus a sales & use tax exemption on those upfront costs is highly desirable.*

Sales and use tax exemptions are used nationwide because they work for companies and their investors. Our **state income tax** has not been a deterrent for biocompanies to invest in North Dakota, but they do ask about **sales and use taxes exemptions** which 76% of states offer as an incentive. Companies care about economics esp. upfront investment and taxes on that investment.

Please do not look as the tax exemption as a loss of tax revenue, since if they do not invest, the taxes would not have been realized anyway. It is an incentive to invest in growth through R&D, equipment, and manufacturing – which growth generates other income, property and sales taxes that more than pay for the incentive in the healthcare, pharma, medical devices, agriculture, biofuels (energy), biochemicals, and environmental sciences. *Simply, incentives work and have a high return on investment (ROI).*

Developing new biotech products requires significant financial and human capital. The pace of discovery in this industry is extraordinary fast, the risk of failure is high, and often the road to product viability is long. Technology setbacks, regulatory approvals, patent issues, clinical trials, and market demand are headwinds that must be weathered. Securing financial backers in the process is critical in order to meet the considerable equipment and infrastructure costs needed to launch product development efforts. Sales tax exemptions help free up cash flow and maximize investment funds. When biotech companies are successful, the win is sometimes substantial. Biotech is the future of healthcare, agriculture, biomaterials, and biofuels. Sales tax exemptions are part of the economic development toolbox that work.

Thank you for your favorable consideration.



Bioscience Association of North Dakota
4200 James Ray Drive
Suite 500
Grand Forks ND 58202

Ph: 701-738-2431
ndbio.com
richard@ndbio.com

TESTIMONY OF RICHARD GLYNN
EXECUTIVE DIRECTOR OF THE
BIOSCIENCE ASSOCIATION OF NORTH DAKOTA

Greetings Chairman Craig Headland and Esteemed Members Finance and Taxation Committee:

I am here before you to urge you to render a “Do Pass” recommendation for HB 1455, “relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and manufacture of bioscience and biotechnology products”.

What this statute does is;

- 1). Prevent “Pyramiding” where intermediate products used to create a final end product is taxed as well as the end product itself when sold to the consumer.
- 2). It relieves a financial and administrative burden that directly impacts a businesses ability to invest in their business.
- 3). Provides an incentive for businesses to continue to expand and relocate to North Dakota.

The true retail sales and use tax in theory, is a tax on final consumption by households with little or no taxation of business purchases of operating or capital inputs. In other words, the true sales and use taxation is to occur when you have a final consumable product. Not in the creation of that product. What we have going on in North Dakota is a taxing on intermediate business inputs resulting in a “pyramiding,” or multiple taxation of part or all the same end transaction when finally purchased by the consumer. This statute “cures that” by making exempt all intermediate products used in the final consumable product.

For businesses, taxes are a financial and administrative burden that directly impacts their ability to invest in their business, their employees, and compete in the broader economy. Why are taxes so challenging for business owners? Taxes reduce profits, and profits are the primary source of financing for businesses – financing business owners use to increase wages, for capital investment, and expansion opportunities. And for business owners, profit levels are not always consistent or predictable year to year. Owners rely on strong profits to often support times of profit declines, which many owners continue to experience in the pandemic.

The goal of Bioscience Association of North Dakota is to build a vibrant, growing, life sciences industry in North Dakota. In order to do that, North Dakota needs to not only develop its resources from within and convince them to remain in the State but to recruit companies from outside the State to come and establish their businesses within the State. The competition for life sciences development is fierce, and other states, regions, and nations are making significant investments to advance their life science industries and

leverage comparative advantages. And one of their significant investments is the exemption of those businesses from the payment of Sales and Use taxes on intermediate products used in the creation of the final consumable product for both research, development (R&D) and manufacturing. 41 other States are utilizing sales and use tax exemption from sales and use tax to attract innovators and business to make their regions more attractive to life science companies.

In conclusion, I would like to say, North Dakota is home to a unique ecosystem of bioscience early stage and manufacturing companies that can utilize exemptions from sales taxes to move their cutting-edge research and commercialization efforts forward to retain and grow the industry in the State. This target tax reduction investment for the industry creates high-skill, high-wage jobs that diversify the state's economy, moderates facility operations, and supports the creation of improved standard of living and state and local taxes to support K-12 education, public safety and other budget priorities.

This is why I urge you to agree to a **“DO PASS” recommendation** on HB 1455.

Thank you for your time and attention to this important piece of Legislation.

Respectfully Submitted

Richard Glynn
Executive Director
Bioscience Association of North Dakota
richard@ndbio.com
701-317-2483



51 Broadway, Suite 500
Fargo, ND 58102
www.gfmedc.com
www.liveinfargo.com

February 3, 2023

House Finance and Taxation Committee
Chairman Craig Headland
4950 92nd Avenue SE
Montpelier, ND 58472-9630

Honorable Chairman Headland:

The Greater Fargo Moorhead Economic Development Corporation (GFMEDC) is writing to affirm our support for HB-1455 which would create a sales tax exemption for biologic materials used in research and manufacturing processes by bioscience and biotechnology firms.

As a regional economic development organization, we are tightly focused on industries that hold great promise for the state's economic future, strengthen the composition of local industry clusters, and support continued economic diversification. The bioscience industry, with its vast applications, tops countless economic development priority lists across the nation.

In consultation with experts in the bioscience industry, we understand that our contemporaries, in places like Wisconsin and Texas, are using policies like HB-1455 to make their regions more attractive to innovators and businesses deciding where to locate and grow their biotechnology companies. Policies like HB-1455 would not only put us on more even footing with other states in attracting biotech firms but would also strengthen the global competitiveness of companies that are already here.

We have much momentum in this space with world class research capabilities and talent production from NDSU and UND; powerful capital access programs for technology innovators through LIFT, PACE, and North Dakota Development Fund; and major ecosystem anchors like Aldevron that are already attracting other biotech partners and collaborators to relocate to be near them. In recent years, the GFMEDC has seen increased interest from biotech and medical device companies from other states with several new firms locating here over the last few years.

We believe strongly in the potential of the biotechnology industry to become a future driver of North Dakota's economy and to create a lasting impact to the state and urge your support HB-1455 as you consider this important public policy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Aasheim", is written over a light blue horizontal line.

Ryan Aasheim
Chief Business Development Officer

Re: Testimony in Support of House Bill No. 1455,

**Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck
Senators Kreun, Patten, J. Roers, Wanzek**

I am Kouhyar Tavakolian, the director of the Biomedical Engineering Program at the University of North Dakota. I am writing this letter in support of Bill No. 1455 relating to sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and the manufacture of bioscience and biotechnology products.

The Biomedical Engineering graduate program started eight years ago and is a collaboration between the College of Engineering and Mines, and School of Medicine and Health Sciences at UND, and the College of Engineering at NDSU. Last year we launched the first undergraduate program in Biomedical Engineering in North Dakota at UND, which is based on a novel methodology of Innovation Based Learning (IBL), where students are to create value outside the walls of the classroom for their assessment of work and from their freshman year. A critical focus for the program is to encourage students to work with biotechnology and bioengineering companies in the state and to create the required workforce for a strong biotechnology sector in the state. As such, we work with several companies in this sector in the state and worked very closely with the Bioscience Association of North Dakota (BioND) to bring even more companies to ND. We know that more companies coming to North Dakota would provide better job and internship opportunities for our students at UND and NDSU.

The current Bill (No. 1455) provides certain tax exemptions to bioscience and biotechnology companies in the state and helps us add another attractive feature to our toolkit for absorbing more companies in this sector to come to North Dakota and maintain the companies we already have in the state. As such, we are in full support of this bill and find it a significant step to strengthen the biotechnology sector in the state and to diversify our economy further.

Please feel free to reach out to me if you have any questions.

Sincerely,



Feb 5th, 2022

Kouhyar Tavakolian, PhD

Associate Professor

Director, Biomedical Engineering Program

University of North Dakota



TESTIMONY

RE: **HB 1455 – Bioscience Tax Exemption Bill**

Aldevron LLC supports the passage of House Bill No 1455 which provides “a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and manufacture of bioscience and biotechnology products.” The passage of this Bill will make North Dakota more competitive with other states as a location for bioscience company start-ups and bioscience business expansion.

We develop and custom manufacture nucleic acids and proteins at our facilities in North Dakota, Wisconsin, and Nebraska. Aldevron products become core components for a variety of research, clinical and commercial applications that are used around the world.

The process of developing and manufacturing custom products for our clients requires Aldevron to purchase expensive tangible inputs (examples below) which are used or consumed, and do not become an integral, ingredient or component part of the tangible personal property Aldevron sells to clients.

- Resin
- Cytosolic-associated glutamine amidotransferase enzyme
- Glycerol
- Guanosine triphosphate
- Potassium
- Restriction Enzymes
- Ribonuclease
- Rnase hydrolytic enzymes
- Buffer
- Agarose Gel
- Acetic Acid
- Alcohol
- Yeast
- Sterile Water
- Sodium/Ammonia Solutions

Current North Dakota law provides that “Items that become an **ingredient or component part** of tangible personal property intended to be sold ultimately at retail are exempt from sales tax.” N.D. Admin. Code § 81-04.1-01-12; N.D. Admin. Code § 81-04.1-01-23. This treatment of ingredients or component parts is typical in states assessing sales tax. North Dakota is competitive with other states in this regard.

Current North Dakota law provides that “**Chemicals and catalysts** are tax exempt only if they become an integral, ingredient or component part of tangible personal property intended to be sold ultimately at retail.” N.D. Admin. Code § 81-04.1-01-12; N.D. Admin. Code § 81-04.1-01-23. This treatment of chemicals and catalysts is not typical in states assessing sales tax.

Aldevron

4055 41st Avenue South, Fargo, ND 58104 | www.aldevron.com
T: (701) 297-9256 | Toll-free 1 877 Pure-DNA (787-3362)

North Dakota is NOT competitive with other states in this regard. For example -

Minnesota law provides that “Chemicals and catalysts used or consumed in industrial production are exempt from sales and use tax. Minn. Stat. § 297A.68(2)(a); Minnesota Sales Tax Fact Sheet 147.

Wisconsin law provides that “Chemicals and catalysts are exempt if used exclusively and directly by a manufacturer in manufacturing an item destined for sale and the chemicals and catalysts become ingredients or component parts of the manufactured item or are consumed or destroyed or lose their identity in the manufacturing process. Wis. Stat. § 77.54(2); Wis. Admin. Code Tax § 11.41(1)(a); see Wisconsin Publication 203.

Under current law, non-bioscience manufacturers in North Dakota are likely exempt from ND sales tax on a much greater portion of their COGS inputs compared to bioscience manufacturers in North Dakota. This is due to the nature of bioscience manufacturing where vast inputs are used and consumed, and not an identifiable component of the finished good.

Current North Dakota law provides that “**Consumables** are not exempt from sales tax because only items that become an integral, ingredient or component part of tangible personal property are eligible for the manufacturing exemption. N.D. Admin. Code § 81-04.1-01-12; N.D. Admin. Code § 81-04.1-01-23. This treatment of consumables is not typical in states assessing sales tax. North Dakota is NOT competitive with other states in this regard. For example -

Minnesota law provides that “Consumables used in industrial production are exempt from sales and use tax. Including, petroleum products, lubricants, certain dies, jigs, patterns, and molds.” Minn. Stat. § 297A.68(2)(a); Minn. R. 8130.5500(9)(A); Minnesota Sales Tax Fact Sheet 147.

Wisconsin law provides that “Sales of tangible personal property are exempt from sales and use tax when that property is used exclusively and directly by a manufacturer in manufacturing an item that is destined for sale and that property is consumed or destroyed or loses its identity in manufacturing the item for sale. Wis. Stat. § 77.54(2); Wis. Admin. Code Tax § 11.41(1)(a); see Wisconsin Publication 203.

Passage of House Bill No 1455 will not only level the playing field for bioscience manufactures in North Dakota but will further encourage investment into an industry that is growing quickly and looking for viable and supportive states to set up business for the long term.

Aldevron

4055 41st Avenue South, Fargo, North Dakota 58104 | www.aldevron.com
T: (701) 297-9256 | Toll-free 1 877 Pure-DNA (787-3362) | F: 1 (701) 280-1642



**Testimony of Mr. Keith Lund
Grand Forks Region Economic Development Corporation President & CEO**

**House Bill 1455
House Finance and Taxation Committee
Bismarck, North Dakota – February 6, 2023**

Chairman Headland, Vice Chairman Hagert, and members of the House Finance and Taxation Committee. My name is Keith Lund, and I am President & CEO of the Grand Forks Region Economic Development Corporation. I am providing testimony today in support of HB 1455.

As a regional economic development organization, the Grand Forks Region EDC's focus is the expansion and diversification of the Grand Forks region's economy, and by extension, the State of North Dakota's economy. In pursuit of this goal, we strive to grow industries that bring additional resources to North Dakota through the sale of products and services across the nation, and in many cases, the world. The bioscience industry, with its vast applications, is a key target of many economic development regions across the nation, including ours.

HB 1455 will provide a sales and use tax exemption for materials used in research, development and production of bioscience and biotechnology products. To grow the bioscience industry, North Dakota must be competitive. 38 states have deployed similar policies to make their regions more attractive to bioscience businesses seeking a new or expanded location. In fact, we have seen bioscience activity transfer out of North Dakota to other states with these policies in place. The passage of HB 1455 would not only increase North Dakota's competitiveness with other states, but it would also strengthen the competitiveness of companies that currently operate in North Dakota, encouraging growth here rather than in other parts of the country.

We strongly believe in the potential of the bioscience industry to become a future driver of North Dakota's economy and to make a lasting impact on the State. This potential would be greatly accelerated by the passage of HB 1455.

Thank you, Chairman Headland, Vice Chairman Hagert, and members of the House Finance and Taxation Committee for your service to North Dakota and for the opportunity to provide testimony today.

UND.edu

COLLEGE OF ENGINEERING & MINES

Office of the Dean

Upson II, Room 165
243 Centennial Dr Stop 8155
Grand Forks, ND 58202-8155
Phone: 701.777.3411
Fax: 701.777.4838
Website: engineering.UND.edu

February 6, 2023

Re: Testimony in Support of House Bill 1455,

To: Chairman Headland, Vice-Chairman Hagert, Representatives Anderson, Bosch, Dockter, Finley-DeVille, Fisher, Grueneich, Hatlestad, Ista, Motschenbacher, Olson, Steiner, and Toman

As Dean of the College of Engineering and Mines at UND, I am writing to express support for House Bill 1455, relating to a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and the manufacture of bioscience and biotechnology products.

Our College's mission includes supporting the state's major industries and the development of new industries that diversify the state's economy. The bioscience industry is an important and growing sector for North Dakota and we support it through several of our academic and research programs. Our biomedical engineering program includes both graduate degrees, offered in conjunction with North Dakota State University, and an undergraduate degree launched this academic year. Central to each of these programs is the ability of our students to interact directly with companies in the bioscience industry and help them develop solutions to real-world problems. By working closely with industry partners, as well as with the Bioscience Association of North Dakota, we strive to enhance the bioscience ecosystem in North Dakota and create new employment opportunities for our graduates in the state.

I believe HB 1455, if passed, will provide incentives that not only attract new companies to North Dakota, but also strengthen our existing companies. A sales tax exemption would allow companies to make more significant investments into research and development, leading to improved technologies, better products, and greater potential for the long-term success of this industry.

Sincerely,

A handwritten signature in black ink that reads 'Brian Tande'.

Brian Tande, PhD
Dean of the College of Engineering and Mines



GREATER NORTH DAKOTA CHAMBER
HB 1455
House Finance & Taxation Committee
Chair Craig Headland
February 5, 2023

Mr. Chairman and members of the House Finance & Taxation Committee, my name is Andrea Pfennig with the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **support** of House Bill 1455.

Our members support the advancement of innovation and entrepreneurship through targeted incentives and economic development policies that position North Dakota to be globally competitive.

According to the Biotechnology Innovation Organization, the total economic impact of the bioscience industry on the U.S. economy, as measured by overall output, totaled \$2.9 trillion dollars in 2021. This is a high impact industry and North Dakota is competing on a national level to attract investment.

A sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and the manufacture of bioscience and biotechnology products would be a successful tool to help establish a burgeoning industry in North Dakota. We urge a Do Pass recommendation on HB 1455.



Testimony in Support of
House Bill No. 1455
House Finance Taxation Committee
February 6, 2023

TESTIMONY OF

Josh Teigen, Commissioner, ND Department of Commerce

Chairman Headland and members of the committee. My name is Josh Teigen and I have the opportunity to serve as the Commissioner with the ND Department of Commerce. I am here today to express my support of HB 1455.

The mission of Commerce is to increase the overall wealth of the state and we do this through the attraction of capital and talent. One of the primary driving factors that enables us to do these things is a favorable tax and regulatory environment which is something that we market frequently as we compete with other states for business. On many fronts, ND is winning; however, when it comes to bioscience, our state's tax environment lags even states that are notorious for their unfriendly business environment and sky-high taxes.

States like Connecticut, Minnesota, and even California has programs to assist the bioscience industry that ND does not, and this is something that we need to address. Marketing ND as business friendly, with favorable regulatory and tax environments cannot be pick and choose on industry. We must appeal to all industries, especially one as important as bioscience to the state.

The recent \$9.6 billion acquisition of Aldevron certainly shines a bright light on what the bioscience industry could be in ND. However, I think we sometimes forget that bioscience is a horizontal industry that also has consequential impacts for energy, agriculture, and healthcare.

Some might say we were able to grow Aldevron here without this tax incentive, so why do we need it now? The reality is, Aldevron would not be in our state if it wasn't for its ND founder and roots at NDSU. As a state, we cannot attract the next Aldevron without the passage of this bill. The optics that this acquisition brings to our state as a hub to attract future companies will look to leverage existing talent and infrastructure, but we cannot miss this opportunity by failing to keep pace with tax incentives that other states we compete with are marketing to the same companies we are looking to attract.

Beyond just the healthcare sector of bioscience, the opportunity for advancements in the energy and agricultural sectors of our economy that will be enabled by bioscience advancement and applications are enormous. If we want to continue our dominance in these two sectors, as well as further diversify our economy, we must pass favorable policy such as HB 1455 or we will continue to fall behind states that we currently criticize for their unfriendly environments. The reality is, ND is the unfriendly environment as it stands today.

I urge you to support this critical piece of legislation and will be happy to stand for any questions you may have.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Appropriations

Representative Emily O'Brien

District 42
5021 West Elm Court
Grand Forks, ND 58203-0606
eobrien@ndlegis.gov

February 6, 2023

**House Bill 1455
Finance and Taxation Committee
Representative Headland, Chairman**

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

I am Representative Emily O'Brien, from District 42, Grand Forks, North Dakota.

House Bill 1455 would provide a sale and use tax exemption for materials used in the research and development of bioscience and biotechnology and the manufacture of bioscience and biotechnology products.

What is bioscience and biotechnology? – as defined under House Bill 1455 – bioscience means the use of compositions, methods, and organisms in cellular and molecular research, development, and manufacturing processes in areas including pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, and agriculture and industrial, environmental, and homeland security applications of bioscience. Biotechnology is the application of technologies to produce or modify products, to develop micro-organisms for specific uses, to identify targets for small pharmaceutical development, or to transform biological systems into useful processes or products.

The potential endpoints of these resulting products, processes, micro-organisms, or target for improving human or animal health care outcomes.

There is a growing recognition among other states and their policymakers that biotechnology innovation can help solve many of the problems in America, and hundreds of early-stage companies are being established in this industry.

Currently, there are over 30+ tax incentives for businesses in North Dakota. Some examples include agricultural commodity processing plant construction materials (NDCC 57-38.6), liquefied gas processing (NDCC 57-39.2-04.10), and biodiesel equipment (57-38-01.22, 57-38-01.23 and 57-38-30.6). All of which are important.

When I think about revenue and economic development driven by House Bill 1455 – I can think of five major sectors –

1. Agricultural Feedstock and Chemicals
2. Drugs and Pharmaceuticals
3. Medical Devices and Equipment
4. Research, Testing, and Medical Laboratories
5. Bioscience – Related Distribution

The Bioscience industry uses the knowledge of living organisms or other biological systems to manufacture innovative products that address health, agricultural and environmental challenges. This diverse industry spans many markets and includes manufacturing, services, and research activities. The United States bioscience industry continues to be a significant economic engine creating high-wage, family-sustaining jobs with average wages well above the private sector.

In a study by TEconomy, nationally, in 2021, the Bioscience Industry employed 10.3 million individuals, with a total of \$796 billion in wages and benefits, an economic output of \$2.9 trillion, paying \$102 billion in state and local taxes, and \$169 billion in federal taxes.

During the Interim, we learned from the Biotechnology Innovation Organization study on North Dakota's Competitive Bioscience Technology industry that in 2018 there were 4,159 employees, in 524 establishments, making an average of \$64,269.00 annually. That equates to the bioscience industry putting \$267.3 million per year into the economy of North Dakota.

In 2021, North Dakota bioscience firms increased their employment base by 7% since 2018 to reach 4,299 industry jobs spanning 602 business establishments, making an average of \$84,600 annually. That equates to the bioscience industry putting \$363.7 million per year into the economy of North Dakota.

The specialized employment concentration is in two of the industry's subsectors – agricultural feedstock, industrial biosciences, and bioscience-related distribution.

House Bill 1455 is not just key to growing North Dakota's economy and creating more jobs – it unlocks the door to medical advances that may ultimately save lives and reduce healthcare expenses.

House Bill 1455 could be at the forefront of turning corn and soybeans into sources of renewable energy, building products, and even pharmaceuticals.

House Bill 1455 would modernize tax incentives that are already given to other industries in the state. This is nothing new.

Section 1. Explains what would qualify under the sales tax exemption –

Subsection 1. Gross receipts from sales of tangible personal property for use, storage, or consumption directly and predominately in the research and development of bioscience and biotechnology and raw materials or consumables purchased for use, storage, or consumption which are critical to biologic manufacturing.

Subsection 2. The qualified bioscience or biotechnology taxpayer must receive from the tax commissioner a certificate that the tangible personal property qualifies for the exemption.

Subsection 3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified bioscience or qualified biotechnology taxpayer may apply for a refund of the difference between the amount remitted by the contractor.

Subsection 4. Definitions

Section 2. Authorization of the Tax Commissioner to authorize or approve tangible personal property, raw materials, or consumables as authorized under section 1 of this Act.

Section 3. Provides the effective date for taxable events occurring after June 30, 2021.

There is a fiscal note attached to House Bill 1455. As you will see in the fiscal note, it is stated that House Bill may reduce state general fund and state aid distribution fund revenues in the 2023-2025 biennium, but to what degree qualifying bioscience and biotechnology projects will be undertaken is not known.

What I do know is that we are competing with other states – companies are not afraid to relocate their businesses to states with more competitive business incentives. If current bioscience companies in North Dakota decide to relocate to states with bioscience business incentives – we will see a reduction in state general fund and state aid distribution fund revenues.

House Bill 1455 has only one difference from House Bill 1456 from the last session – which adds manufacturing. A co-sponsor from the other chamber wanted to include manufacturing on this bill.

Thank you Chairman Headland and members of the committee. I will stand for any questions.

HB 1455 defines “bioscience” to include pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, and plant biology.

Many of these businesses have the ability to apply for existing North Dakota tax exemptions which may include:

Income Tax

- Agricultural business investment income tax credit
- Angel fund investment income tax credit
- Automation income tax credit
- Seed capital investment income tax credit
- Research expense income tax credit
- New or expanding business income tax credit
- Workforce recruitment tax credit

Property Tax

- New or expanding business property tax credit

Sales and Use Tax

- Manufacturing sales and use tax exemption

Shannon Fleischer

Associate Director – Tax Administration Division

NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

600 E Boulevard Ave., Dept. 127

Bismarck, ND 58505-0599

701-328-3431 | nd.gov/tax



North Dakota Legislative Council

Prepared for the Taxation Committee
 LC# 23.9284.01000
 April 2022

INCENTIVES AVAILABLE TO BIOSCIENCE, MANUFACTURING, AND AGRICULTURAL INDUSTRIES

This memorandum provides information on tax and finance incentives available to bioscience, manufacturing, and agricultural industries in this state. The applicability of the incentives listed below may vary based on the specific nature of a business or project. For purposes of this memorandum, energy production incentives are not included in the following chart, with the exception of biofuel-related incentives.

| | Bioscience Industry ¹ | Manufacturing Industry | Agricultural Industry |
|--------------------|--|---|---|
| Tax Incentives | <ul style="list-style-type: none"> ✓ Angel investor income tax credit ✓ Automation income tax credit ✓ Biodiesel equipment sales tax exemption ✓ Biodiesel income tax credits ✓ New or expanding business incentives ✓ Renaissance zone incentives ✓ Research expense income tax credit ✓ Seed capital investment income tax credit | <ul style="list-style-type: none"> Angel investor income tax credit Automation income tax credit Manufacturing agricultural or recycling equipment sales tax exemption New or expanding business incentives Renaissance zone incentives Research expense income tax credit Seed capital investment income tax credit | <ul style="list-style-type: none"> ✓ Angel investor income tax credit Agricultural commodity processing facility investment income tax credit Agricultural processing plant construction materials sales tax exemption Automation income tax credit Fertilizer and chemical processing facilities sales tax exemption Agricultural processing machinery and equipment sales tax exemption ✓ New or expanding business incentives ✓ Renaissance zone incentives ✓ Research expense income tax credit ✓ Seed capital investment income tax credit |
| Finance Incentives | <ul style="list-style-type: none"> Bioscience innovation grant program (BIG) - Department of Agriculture Biofuels partnership in assisting community expansion (Biofuels PACE) - Bank of North Dakota Flex partnership in assisting community expansion program (Flex PACE) - Bank of North Dakota Innovation technology loan fund (LIFT) - Department of Commerce MATCH program - Bank of North Dakota North Dakota development fund - Department of Commerce North Dakota ethanol incentive program - Department of Commerce North Dakota's renewable energy program (REP) - Industrial Commission | <ul style="list-style-type: none"> Export enhancement program - Bank of North Dakota Flex partnership in assisting community expansion program (Flex PACE) - Bank of North Dakota Industrial development bond program (IDB) - Public Finance Authority MATCH program - Bank of North Dakota North Dakota development fund - Department of Commerce Partnership in assisting community expansion program (PACE) - Bank of North Dakota | <ul style="list-style-type: none"> Agriculture commodity export enhancement program - Bank of North Dakota Agriculture diversification and development fund - Bank of North Dakota Agriculture partnership in assisting community expansion program (Ag PACE) - Bank of North Dakota Agricultural products utilization commission (APUC) - Department of Commerce Beginning farmer chattel loan - Bank of North Dakota Beginning farmer real estate loan - Bank of North Dakota Biofuels partnership in assisting community expansion program (Biofuels PACE) - Bank of North Dakota |

| Bioscience Industry ¹ | Manufacturing Industry | Agricultural Industry |
|--|------------------------|--|
| <p>Partnership in assisting community expansion program (PACE) - Bank of North Dakota</p> <p>Value-added guarantee loan - Bank of North Dakota</p> | | <p>Established farmer real estate loan program - Bank of North Dakota</p> <p>Family farm loan program - Bank of North Dakota</p> <p>Farm and ranch bank participation loan program - Bank of North Dakota</p> <p>Farm operating loan program - Bank of North Dakota</p> <p>Farm real estate loan guarantee program - Bank of North Dakota</p> <p>First time farmer finance program - Bank of North Dakota</p> <p>Flex partnership in assisting community expansion program (Flex PACE) - Bank of North Dakota</p> <p>Innovation technology loan fund (LIFT) - Department of Commerce</p> <p>Livestock pollution prevention program (LP3) - Department of Agriculture</p> <p>Livestock waste management system loan program - Bank of North Dakota</p> <p>MATCH program - Bank of North Dakota</p> <p>North Dakota ethanol incentive program - Department of Commerce</p> <p>Partnership in assisting community expansion program (PACE) - Bank of North Dakota</p> <p>Value-added agriculture equity loan program (Envest) - Bank of North Dakota</p> <p>Value-added guarantee loan - Bank of North Dakota</p> |

¹The bioscience industry is comprised of companies operating in many different industries. Prior to its amendment into a study directive, House Bill No. 1456 (2021) defined bioscience as the use of compositions, methods, and organisms in cellular and molecular research, development, and manufacturing processes in areas, including pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, and agriculture and industrial, environmental, and homeland security applications of bioscience. A company in the bioscience industry may qualify for various incentives applicable to other industries.

23.0718.02001
Title.

Prepared by the Legislative Council staff for
Representative Hagert
February 14, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1455

- Page 1, line 4, after the first "biotechnology" insert "in the health care industry"
 - Page 1, line 4, after "products" insert "for use in the health care industry"
 - Page 1, line 10, after the first "**biotechnology**" insert "**in the health care industry**"
 - Page 1, line 11, after "**products**" insert "**used in the health care industry**"
 - Page 1, line 14, after "biotechnology" insert "in the health care industry"
 - Page 1, line 15, after "manufacturing" insert "in the health care industry"
 - Page 2, line 6, after "products" insert "in the health care industry"
 - Page 2, line 8, replace "in areas" with "in the health care industry"
 - Page 2, line 10, after the third underscored comma insert "and"
 - Page 2, line 10, remove ", veterinary medicine."
 - Page 2, remove line 11
 - Page 2, line 12, remove "security applications of bioscience"
 - Page 2, line 14, after "technologies" insert "for use in the health care industry"
 - Page 2, line 19, remove "or animal"
 - Page 2, line 24, after "state" insert "and research conducted for purposes unrelated to the health care industry"
 - Page 2, line 25, remove "capital equipment, instruments, apparatus."
 - Page 2, line 26, remove "inputs, and"
 - Page 2, line 29, after "bioscience" insert "in the health care industry"
 - Page 2, line 31, after "processes" insert "in the health care industry"
 - Page 3, line 4, after "biotechnology" insert "in the health care industry"
 - Page 3, line 5, after "manufacturing" insert "in the health care industry"
- Re-number accordingly

HOUSE BILL NO. 1455

Introduced by

Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck

Senators Kreun, Patten, J. Roers, Wanzek

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 and
3 use tax exemption for materials used in the research and development of bioscience and
4 biotechnology in the health care industry and manufacture of bioscience and biotechnology
5 products for use in the health care industry; and to provide an effective date.

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

7 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Sales tax exemption for materials used in the research and development of**
10 **bioscience and biotechnology in the health care industry and manufacture of bioscience**
11 **and biotechnology products used in the health care industry.**

12 1. Gross receipts from sales of tangible personal property purchased for use, storage, or
13 consumption directly and predominately in the research and development of
14 bioscience and biotechnology in the health care industry and raw materials or
15 consumables purchased for use, storage, or consumption which are critical to biologic
16 manufacturing in the health care industry.

17 2. To receive the exemption at the time of purchase, the qualified biotechnology taxpayer
18 or qualified bioscience taxpayer must receive from the tax commissioner a certificate
19 that the tangible personal property, raw materials, or consumables qualify for the
20 exemption. If a certificate is not received before the purchase, the qualified
21 biotechnology taxpayer or qualified bioscience taxpayer shall pay the applicable tax
22 imposed by this chapter and apply to the tax commissioner for a refund.

23 3. If the tangible personal property, raw materials, or consumables are purchased or
24 installed by a contractor subject to the tax imposed by this chapter, the qualified

- 1 biotechnology taxpayer or qualified bioscience taxpayer may apply for a refund of the
2 difference between the amount remitted by the contractor.
- 3 4. For purposes of this section:
- 4 a. "Biologic manufacturing" includes the manufacturing process used to support
5 biologic product generation, product impurity removal, chemical or physical
6 product alteration, and analysis of in-process to final deliverable products in the
7 health care industry.
- 8 b. "Bioscience" means the use of compositions, methods, and organisms in cellular
9 and molecular research, development, and manufacturing processes in areas in
10 the health care industry, including pharmaceuticals, medical therapeutics,
11 medical diagnostics, medical devices, medical instruments, biochemistry, and
12 microbiology; ~~veterinary medicine, plant biology, and agriculture and industrial,~~
13 ~~environmental, and homeland security applications of bioscience.~~
- 14 c. "Biotechnology" means:
- 15 (1) The application of technologies for use in the health care industry to
16 produce or modify products, to develop micro-organisms for specific uses,
17 to identify targets for small pharmaceutical development, or to transform
18 biological systems into useful processes or products; and
- 19 (2) The potential endpoints of the resulting products, processes,
20 micro-organisms, or targets for improving human ~~or animal~~ health care
21 outcomes.
- 22 d. "Raw materials" include chemicals, nutrients, reagents, and biologic catalysis.
- 23 e. "Research and development" means qualified research as defined in section
24 41(d)(1) of the Internal Revenue Code [26 U.S.C. 41(d)(1)], except it does not
25 include research conducted outside the state and research conducted for
26 purposes unrelated to the health care industry.
- 27 f. "Tangible personal property" includes ~~capital equipment, instruments, apparatus,~~
28 ~~inputs, and~~ supplies used in laboratories, including microscopes, machines,
29 glassware, computers, computer software, and technical books and manuals.
- 30 g. "Qualified bioscience taxpayer" means a person that is engaged in the business
31 of bioscience in the health care industry in the state and has business operations

1 in the state, including research, development, or production directed toward
2 developing or providing bioscience products or processes in the health care
3 industry for specific commercial or public purposes.
4 h. "Qualified biotechnology taxpayer" means a C corporation, partnership, limited
5 liability company that is not a C corporation, S corporation, or sole proprietorship
6 that purchases, stores, uses, or consumes tangible personal property to be used
7 directly and predominately in the research and development of biotechnology in
8 the health care industry or raw materials or consumables that are critical to
9 biologic manufacturing in the health care industry.

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

12 Tangible personal property, raw materials, or consumables as authorized or
13 approved for exemption by the tax commissioner under section 1 of this Act.

14 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
15 June 30, 2023.

To: House Finance & Taxation Committee
From: Bruce Gjovig, Chair, Bioscience Association of North Dakota (BioND)
Bruce@Gjovig.net 701-739-3132, Grand Forks
Date: February 5, 2022
RE: **For HB 1455 - Bioscience Sales & Use Tax Exemption**

As of 2020-21, at least 38 states (76%) offer exemptions on sales tax for equipment use in R&D, and 36 states reported exempting equipment purchased for biomanufacturing from sales tax. Eleven states have sales tax exemptions specifically targeted to bioscience firms. (Bioscience Economic Development in the States: Legislation & Job Creation Best Practices). North Dakota needs to be competitive to attract and grow the bioscience industry.

The **Bioscience Association of North Dakota (BioND)** seeks to build a vibrant, growing, biosciences industry (food, fuel, healthcare) in North Dakota. To do that, North Dakota needs to convince biotech entrepreneurs to remain in the state as well as to recruit biotech companies from outside the state to establish their businesses within the state. The competition for life sciences development is fierce, and other states and nations are making significant investments to advance their life science industries and leverage comparative advantages. *One of the most significant investments biotech companies make are in R&D equipment and manufacturing, thus a sales & use tax exemption on those upfront costs is highly desirable.*

Sales and use tax exemptions are used nationwide because they work for companies and their investors. Our **state income tax** has not been a deterrent for biocompanies to invest in North Dakota, but they do ask about **sales and use taxes exemptions** which 76% of states offer as an incentive. Companies care about economics esp. upfront investment and taxes on that investment.

Please do not look as the tax exemption as a loss of tax revenue, since if they do not invest, the taxes would not have been realized anyway. It is an incentive to invest in growth through R&D, equipment, and manufacturing – which growth generates other income, property and sales taxes that more than pay for the incentive in the healthcare, pharma, medical devices, agriculture, biofuels (energy), biochemicals, and environmental sciences. *Simply, incentives work and have a high return on investment (ROI).*

Developing new biotech products requires significant financial and human capital. The pace of discovery in this industry is extraordinary fast, the risk of failure is high, and often the road to product viability is long. Technology setbacks, regulatory approvals, patent issues, clinical trials, and market demand are headwinds that must be weathered. Securing financial backers in the process is critical in order to meet the considerable equipment and infrastructure costs needed to launch product development efforts. Sales tax exemptions help free up cash flow and maximize investment funds. When biotech companies are successful, the win is sometimes substantial. Biotech is the future of healthcare, agriculture, biomaterials, and biofuels. Sales tax exemptions are part of the economic development toolbox that work.

Thank you for your favorable consideration.



GREATER NORTH DAKOTA CHAMBER
HB 1455
Senate Finance & Taxation Committee
Chair Jordan Kannianen
March 13, 2023

Mr. Chairman and members of the Senate Finance & Taxation Committee, my name is Andrea Pfennig with the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **support** of House Bill 1455.

Our members support the advancement of innovation and entrepreneurship through targeted incentives and economic development policies that position North Dakota to be globally competitive.

According to the Biotechnology Innovation Organization, the total economic impact of the bioscience industry on the U.S. economy, as measured by overall output, totaled \$2.9 trillion dollars in 2021. This is a high impact industry and North Dakota is competing on a national level to attract investment.

The proposed sales and use tax exemption would be a successful tool to help establish a burgeoning industry in North Dakota. We urge a Do Pass recommendation on HB 1455.



Testimony in Neutral of
House Bill No. 1455
Senate Finance and Taxation Committee
March 14, 2023

TESTIMONY OF

Josh Teigen, Commissioner, ND Department of Commerce

Chairman Kanneanen and members of the committee. My name is Josh Teigen and I have the opportunity to serve as the Commissioner with the ND Department of Commerce. I am here today to express my support of HB 1455.

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Some might say we were able to grow Aldevron here without this tax incentive, so why do we need it now? The reality is, Aldevron would not be in our state if it wasn't for its ND founder and roots at NDSU. As a state, we cannot attract the next Aldevron without the passage of this bill. The optics that this acquisition brings to our state as a hub to attract future companies will look to leverage existing talent and infrastructure, but we cannot miss this opportunity by failing to keep pace with tax incentives that other states we compete with are marketing to the same companies we are looking to attract.

Beyond just the healthcare sector of bioscience, the opportunity for advancements in the energy and agricultural sectors of our economy that will be enabled by bioscience advancement and applications are enormous. If we want to continue our dominance in these two sectors, as well as further diversify our economy, we must pass favorable policy such as HB 1455 or we will continue to fall behind states that we currently criticize for their unfriendly environments. The reality is, ND is the "unfriendly" environment as it stands today.

I urge you to support this critical piece of legislation and will be happy to stand for any questions you may have.



BioND

**Bioscience Association of North Dakota
4200 James Ray Drive, Suite 500, #503**

Grand Forks ND

Richard Glynn, Exec. Director

Ph: 701-738-2431

richard@ndbio.com

Dear Chairman Jordan L. Kannianen and Members of the Senate Finance and Taxation Committee;

The following is testimony to this Committee in support of HB 1455, a Bill to create a "Sales tax exemption for materials used in the research and development of bioscience and biotechnology in the health care industry and manufacture of bioscience and biotechnology products used in the health care industry."

The Bioscience Association is a state affiliate of the Biotechnology Innovation Organization (BIO), the largest trade association representing biotechnology companies in the U.S. and in more than 30 countries. One of the goals of the Bioscience Association of North Dakota is to not only help local biotech industries expand but to bring the advancing biotechnology industry to our State. The Biotech Industry was born and exploded in the United States in the year 1977. From that time, the Industry has grown and currently, in 2022, the market size, measured by revenue, is \$140.8 Billion dollars.

One of the major goals of the Association is to recruit more bioscience and biotechnology manufacturing companies, such as Aldevron, Genovac, and Agathos, to our State. These companies employ a great many people who are graduates of our Universities with Aldevron alone, employing over 850 people in its Fargo Plant. We want more Aldevron, Genovac and Agathos, to come and do their manufacturing in our State. But in order to "entice" them to come to our State we must have not only a competitive incentive package, but workforce availability, lower regulation, a business-friendly environment and a competitive tax package. It is the latter, a competitive tax package, where we fall behind.

These manufacturers must purchase expensive tangible inputs along with "Chemicals and catalysts" which are used or consumed, and do not become an integral, ingredient or component part of the tangible personal property. This is due to the nature of bioscience manufacturing where vast inputs are used and consumed, and not an identifiable component of the finished good. Under current North Dakota law "Consumables, as well as Chemicals and catalysts are not exempt from sales tax because only items that become an integral, ingredient or component part of tangible personal property are eligible for the manufacturing exemption. N.D. Admin. Code § 81-04.1-01-12; N.D. Admin.Code § 81-04.1-01-23; . This treatment of consumables, catalysts and chemicals is not typical in states assessing sales tax. North Dakota is NOT competitive with other states in this regard.

Two examples of this are Minnesota and Wisconsin, both fierce competitors in the attraction of biotech and bioscience manufacturing companies. "Minnesota law provides that "Chemicals and catalysts used or consumed in industrial production are exempt from sales and use tax. Minn. Stat. § 297A.68(2)(a); Minnesota Sales Tax Fact Sheet 147." It also provides that "Consumables used in industrial production are exempt



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Emily O'Brien

District 42
5021 West Elm Court
Grand Forks, ND 58203-0606
eobrien@ndlegis.gov

COMMITTEES:

Appropriations

March 14, 2023

House Bill 1455 Finance and Taxation Committee Senator Kannianen, Chairman

Chairman Kannianen and members of the Senate Finance and Taxation Committee:

I am Representative Emily O'Brien, from District 42, Grand Forks, North Dakota.

House Bill 1455 would provide a sales and use tax exemption for materials used in the research and development of bioscience and biotechnology and the manufacture of bioscience and biotechnology products.

There is a growing recognition among other states and their policymakers that biotechnology innovation can help solve many of the problems in America, and hundreds of early-stage companies are being established in this industry.

Currently, there are over 30+ tax incentives for businesses in North Dakota. Some examples include agricultural commodity processing plant construction materials (NDCC 57-38.6), liquefied gas processing (NDCC 57-39.2-04.10), and biodiesel equipment (57-38-01.22, 57-38-01.23 and 57-38-30.6). All of which are important.

When I think about revenue and economic development driven by House Bill 1455 – I can think of five major sectors –

1. Agricultural Feedstock and Chemicals
2. Drugs and Pharmaceuticals
3. Medical Devices and Equipment
4. Research, Testing, and Medical Laboratories
5. Bioscience – Related Distribution

The Bioscience industry uses the knowledge of living organisms or other biological systems to manufacture innovative products that address health, agricultural and environmental challenges. This diverse industry spans many markets and includes manufacturing, services, and research activities. The United States bioscience industry continues to be a significant economic engine creating high-wage, family-sustaining jobs with average wages well above the private sector.

In a study by TEconomy, nationally, in 2021, the Bioscience Industry employed 10.3 million individuals, with a total of \$796 billion in wages and benefits, an economic output of \$2.9 trillion, paying \$102 billion in state and local taxes, and \$169 billion in federal taxes.

During the Interim, we learned from the Biotechnology Innovation Organization study on North Dakota's Competitive Bioscience Technology industry that in 2018 there were 4,159 employees in 524 establishments, making an average of \$64,269.00 annually. That equates to the bioscience industry putting \$267.3 million per year into the economy of North Dakota.

In 2021, North Dakota bioscience firms increased their employment base by 7% since 2018 to reach 4,299 industry jobs spanning 602 business establishments, making an average of \$84,600 annually. That equates to the bioscience industry putting \$363.7 million per year into the economy of North Dakota.

The specialized employment concentration is in two of the industry's subsectors – agricultural feedstock, industrial biosciences, and bioscience-related distribution.

House Bill 1455 is not just key to growing North Dakota's economy and creating more jobs – it unlocks the door to medical advances that may ultimately save lives and reduce healthcare expenses.

House Bill 1455 could be at the forefront of turning corn and soybeans into sources of renewable energy, building products, and even pharmaceuticals.

House Bill 1455 would modernize tax incentives that are already given to other industries in the state. This is nothing new.

The House amended the bill to be limited to health care industry. To run through the bill quickly:

Section 1. Explains what would qualify under the sales tax exemption –

Subsection 1. Gross receipts from sales of tangible personal property for use, storage, or consumption directly and predominately in the research and development of bioscience and biotechnology and raw materials or consumables purchased for use, storage, or consumption, which are critical to biologic manufacturing.

Subsection 2. The qualified bioscience or biotechnology taxpayer must receive from the tax commissioner a certificate that the tangible personal property qualifies for the exemption.

Subsection 3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified bioscience or qualified biotechnology taxpayer may apply for a refund of the difference between the amount remitted by the contractor.

Subsection 4. Definitions

Section 2. Authorization of the Tax Commissioner to authorize or approve tangible personal property, raw materials, or consumables as authorized under section 1 of this Act.

Section 3. Provides the effective date for taxable events occurring after June 30, 2021.

There is a fiscal note attached to House Bill 1455. As you will see in the fiscal note, it is stated that House Bill may reduce state general fund and state aid distribution fund revenues in the 2023-2025 biennium, but to what degree qualifying bioscience and biotechnology projects will be undertaken is not known.

What I do know is that we are competing with other states – companies are not afraid to relocate their businesses to states with more competitive business incentives. If current bioscience companies in North Dakota decide to relocate to states with bioscience business incentives – we will see a reduction in state general fund and state aid distribution fund revenues.

House Bill 1455 has only one difference from House Bill 1456 from the last session – which adds manufacturing.

A co-sponsor from the Senate chamber wanted to include manufacturing on this bill.

Thank you Chairman Kannianen and members of the committee. I will stand for any questions.

23.0718.03002

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1455

Introduced by

Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck
Senators Kreun, Patten, J. Roers, Wanzek

1 A BILL for an Act to create and enact a new subdivision to subsection 3 of section 54-35-26, a-
2 new section to chapter 57-39.2, and a new subdivision to subsection 43 of section 57-40.2-03.3
3 of the North Dakota Century Code, relating to evaluation of economic development tax
4 incentives and a sales and use tax exemption for raw materials, single-use product contact
5 systems, and reagents used in the research and development of bioscience and biotechnology-
6 in the health care industry and manufacture of bioscience and biotechnology products for use in-
7 the health care industry biologic manufacturing; and to provide an effective date.

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

9 **SECTION 1.** A new subdivision to subsection 3 of section 54-35-26 of the North Dakota
10 Century Code is created and enacted as follows:

11 Sales and use tax exemption for raw materials, single-use product contact
12 systems, and reagents used for biologic manufacturing.

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

15 Sales tax exemption for raw materials, single-use product contact systems, and
16 reagents used in the research and development of bioscience and biotechnology in the
17 health care industry and manufacture of bioscience and biotechnology products used in
18 the health care industry for biologic manufacturing.

- 19 1. Gross receipts from sales of tangible personal property purchased for use, storage, or
20 consumption directly and predominately in the research and development of
21 bioscience and biotechnology in the health care industry and raw materials or
22 consumables purchased, single-use product contact systems, and reagents used
23 directly for discovery, testing, screening, and production for use, storage, or

1 ~~consumption which are critical to~~ biologic manufacturing in the health care industry ~~this~~
2 ~~state are exempt from taxes under this chapter.~~

3 2. ~~To receive the exemption at the time of purchase, the qualified biotechnology taxpayer-~~
4 ~~or qualified bioscience taxpayer must receive from the tax commissioner a certificate~~
5 ~~that the tangible personal property, raw materials, single-use product contact systems,~~
6 ~~or consumables reagents qualify for the exemption. If a certificate is not received-~~
7 ~~before the purchase, the qualified biotechnology taxpayer or qualified bioscience-~~
8 ~~taxpayer shall pay the applicable tax imposed by this chapter and apply to the tax-~~
9 ~~commissioner for a refund.~~

10 3. ~~If the tangible personal property, raw materials, or consumables are purchased or-~~
11 ~~installed by a contractor subject to the tax imposed by this chapter, the qualified-~~
12 ~~biotechnology taxpayer or qualified bioscience taxpayer may apply for a refund of the-~~
13 ~~difference between the amount remitted by the contractor.~~

14 ~~4.~~ For purposes of this section:

15 a. "Biologic manufacturing" ~~includes~~ means the manufacturing process used to
16 support biologic product ~~discovery, development,~~ generation, product impurity
17 removal, chemical or physical product alteration, and analysis of in-process
18 ~~products to final deliverable products in the health care industry which exclusively~~
19 ~~occurs within this state.~~

20 b. ~~"Bioscience" means the use of compositions, methods, and organisms in cellular~~
21 ~~and molecular research, development, and manufacturing processes in the-~~
22 ~~health care industry, including pharmaceuticals, medical therapeutics, medical-~~
23 ~~diagnostics, medical devices, medical instruments, biochemistry, and-~~
24 ~~microbiology~~ "Single-use product contact systems" means tubing, capsule filters,
25 ion exchange membrane chromatography devices, mixers, bioreactors, sterile
26 fluid containment bags, connection devices, and sampling receptacles.

27 ~~c.~~ "Biotechnology" means:

28 ~~(1) The application of technologies for use in the health care industry to~~
29 ~~produce or modify products, to develop micro-organisms for specific uses,~~
30 ~~to identify targets for small pharmaceutical development, or to transform-~~
31 ~~biological systems into useful processes or products; and~~

- 1 ~~_____ (2) The potential endpoints of the resulting products, processes,~~
2 ~~micro-organisms, or targets for improving human health care outcomes.~~
3 ~~_____ d. "Raw materials" include chemicals, nutrients, reagents, and biologic catalysis.~~
4 ~~_____ e. "Research and development" means qualified research as defined in section~~
5 ~~41(d)(1) of the Internal Revenue Code [26 U.S.C. 41(d)(1)], except it does not~~
6 ~~include research conducted outside the state and research conducted for~~
7 ~~purposes unrelated to the health care industry.~~
8 ~~_____ f. "Tangible personal property" includes supplies used in laboratories, including~~
9 ~~microscopes, machines, glassware, computers, computer software, and technical~~
10 ~~books and manuals.~~
11 ~~_____ g. "Qualified bioscience taxpayer" means a person that is engaged in the business~~
12 ~~of bioscience in the health care industry in the state and has business operations~~
13 ~~in the state, including research, development, or production directed toward~~
14 ~~developing or providing bioscience products or processes in the health care~~
15 ~~industry for specific commercial or public purposes.~~
16 ~~_____ h. "Qualified biotechnology taxpayer" means a C corporation, partnership, limited~~
17 ~~liability company that is not a C corporation, S corporation, or sole proprietorship~~
18 ~~that purchases, stores, uses, or consumes tangible personal property to be used~~
19 ~~directly and predominately in the research and development of biotechnology in~~
20 ~~the health care industry or raw materials or consumables that are critical to~~
21 ~~biologic manufacturing in the health care industry.~~

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

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

26 ~~Tangible personal property, raw~~Raw materials, ~~or consumables~~single-use product
27 ~~contact systems, and reagents used for biologic manufacturing~~ as authorized or
28 approved for exemption by the tax commissioner under section 42 of this Act.

29 **SECTION 4. EFFECTIVE DATE.** ~~This~~Sections 2 and 3 of this Act ~~is~~are effective for taxable
30 events occurring after June 30, 2023.

23.0718.03001

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1455

Introduced by

Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck
Senators Kreun, Patten, J. Roers, Wanzek

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 ~~43~~ of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales and
3 use tax exemption for raw materials, single-use product contact systems, and reagents used ~~in-~~
4 ~~the research and development of bioscience and biotechnology in the health care industry and~~
5 ~~manufacture of bioscience and biotechnology products for use in the health care~~
6 ~~industry~~biologic manufacturing; and to provide an effective date.

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

8 SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created
9 and enacted as follows:

10 Sales tax exemption for raw materials, single-use product contact systems, and
11 reagents used in the research and development of bioscience and biotechnology in the
12 health care industry and manufacture of bioscience and biotechnology products used in
13 the health care industry for biologic manufacturing.

- 14 1. Gross receipts from sales of tangible personal property purchased for use, storage, or
15 consumption directly and predominately in the research and development of
16 bioscience and biotechnology in the health care industry and raw materials or
17 consumables purchased, single-use product contact systems, and reagents used
18 directly for discovery, testing, screening, and production for use, storage, or
19 consumption which are critical to biologic manufacturing in the health care industrythis
20 state are exempt from taxes under this chapter.
- 21 2. To receive the exemption at the time of purchase, the qualified biotechnology taxpayer
22 or qualified bioscience taxpayer must receive from the tax commissioner a certificate
23 that the tangible personal property, raw materials, single-use product contact systems,
24 or consumables reagents qualify for the exemption. If a certificate is not received

- 1 ~~before the purchase, the qualified biotechnology taxpayer or qualified bioscience-~~
2 ~~taxpayer shall pay the applicable tax imposed by this chapter and apply to the tax-~~
3 ~~commissioner for a refund.~~
- 4 3. ~~If the tangible personal property, raw materials, or consumables are purchased or-~~
5 ~~installed by a contractor subject to the tax imposed by this chapter, the qualified-~~
6 ~~biotechnology taxpayer or qualified bioscience taxpayer may apply for a refund of the-~~
7 ~~difference between the amount remitted by the contractor.~~
- 8 ~~4.~~ For purposes of this section:
- 9 a. "Biologic manufacturing" ~~includes~~ means the manufacturing process used to
10 support biologic product ~~discovery, development, generation, product impurity~~
11 ~~removal, chemical or physical product alteration, and analysis of in-process~~
12 ~~products to final deliverable products in the health care industry which exclusively~~
13 ~~occurs within this state.~~
- 14 b. "Bioscience" ~~means the use of compositions, methods, and organisms in cellular-~~
15 ~~and molecular research, development, and manufacturing processes in the-~~
16 ~~health care industry, including pharmaceuticals, medical therapeutics, medical-~~
17 ~~diagnostics, medical devices, medical instruments, biochemistry, and-~~
18 ~~microbiology~~ "Single-use product contact systems" means tubing, capsule filters,
19 ion exchange membrane chromatography devices, mixers, bioreactors, sterile
20 fluid containment bags, connection devices, and sampling receptacles.
- 21 ~~c.~~ "Biotechnology" means:
- 22 ~~(1) The application of technologies for use in the health care industry to-~~
23 ~~produce or modify products, to develop micro-organisms for specific uses,-~~
24 ~~to identify targets for small pharmaceutical development, or to transform-~~
25 ~~biological systems into useful processes or products; and~~
- 26 ~~(2) The potential endpoints of the resulting products, processes,-~~
27 ~~micro-organisms, or targets for improving human health care outcomes.~~
- 28 ~~d.~~ "Raw materials" include chemicals, nutrients, reagents, and biologic catalysis.
- 29 ~~e.~~ "Research and development" means qualified research as defined in section
30 ~~41(d)(1) of the Internal Revenue Code [26 U.S.C. 41(d)(1)], except it does not~~

- 1 ~~include research conducted outside the state and research conducted for~~
2 ~~purposes unrelated to the health care industry.~~
- 3 ~~f. "Tangible personal property" includes supplies used in laboratories, including~~
4 ~~microscopes, machines, glassware, computers, computer software, and technical~~
5 ~~books and manuals.~~
- 6 ~~g. "Qualified bioscience taxpayer" means a person that is engaged in the business~~
7 ~~of bioscience in the health care industry in the state and has business operations~~
8 ~~in the state, including research, development, or production directed toward~~
9 ~~developing or providing bioscience products or processes in the health care~~
10 ~~industry for specific commercial or public purposes.~~
- 11 ~~h. "Qualified biotechnology taxpayer" means a C corporation, partnership, limited~~
12 ~~liability company that is not a C corporation, S corporation, or sole proprietorship~~
13 ~~that purchases, stores, uses, or consumes tangible personal property to be used~~
14 ~~directly and predominately in the research and development of biotechnology in~~
15 ~~the health care industry or raw materials or consumables that are critical to~~
16 ~~biologic manufacturing in the health care industry.~~

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

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

21 ~~Tangible personal property, raw~~Raw materials, ~~or consumables~~single-use product
22 ~~contact systems, and reagents used for biologic manufacturing as authorized or~~
23 ~~approved for exemption by the tax commissioner under section 1 of this Act.~~

24 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
25 June 30, 2023.

23.0718.03008

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1455

Introduced by

Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck
Senators Kreun, Patten, J. Roers, Wanzek

1 A BILL for an Act to create and enact a new subdivision to subsection 3 of section 54-35-26, a
2 new section to chapter 57-39.2, and a new subdivision to subsection 43 of section 57-40.2-03.3
3 of the North Dakota Century Code, relating to evaluation of economic development tax
4 incentives and a sales and use tax exemption for raw materials, single-use product contact
5 systems, and reagents used in the research and development of bioscience and biotechnology
6 in the health care industry and manufacture of bioscience and biotechnology products for use in
7 the health care industrybiologic manufacturing; to provide for a legislative management report;
8 and to provide an effective date.

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

10 SECTION 1. A new subdivision to subsection 3 of section 54-35-26 of the North Dakota
11 Century Code is created and enacted as follows:

12 Sales and use tax exemption for raw materials, single-use product contact
13 systems, and reagents used for biologic manufacturing.

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

16 Sales tax exemption for raw materials, single-use product contact systems, and
17 reagents used in the research and development of bioscience and biotechnology in the
18 health care industry and manufacture of bioscience and biotechnology products used in
19 the health care industry for biologic manufacturing - Report.

- 20 1. Gross receipts from sales of tangible personal property purchased for use, storage, or
21 consumption directly and predominately in the research and development of
22 bioscience and biotechnology in the health care industry and raw materials or
23 consumables purchased, single-use product contact systems, and reagents used
24 directly for discovery, testing, screening, and production for use, storage, or

- 1 ~~consumption which are critical to biologic manufacturing in the health care industry~~ this
2 ~~state are exempt from taxes under this chapter.~~
- 3 2. ~~To receive the exemption at the time of purchase, the qualified biotechnology taxpayer~~
4 ~~or qualified bioscience taxpayer must receive from the tax commissioner a certificate~~
5 ~~that the tangible personal property, raw materials, single-use product contact systems,~~
6 ~~or consumables reagents qualify for the exemption. If a certificate is not received~~
7 ~~before the purchase, the qualified biotechnology taxpayer or qualified bioscience~~
8 ~~taxpayer shall pay the applicable tax imposed by this chapter and apply to the tax~~
9 ~~commissioner for a refund.~~
- 10 3. ~~If the tangible personal property, raw materials, or consumables are purchased or~~
11 ~~installed by a contractor subject to the tax imposed by this chapter, the qualified~~
12 ~~biotechnology taxpayer or qualified bioscience taxpayer may apply for a refund of the~~
13 ~~difference between the amount remitted by the contractor.~~
- 14 ~~4. For purposes of this section:~~
- 15 a. ~~"Biologic manufacturing" includes means the manufacturing process used to~~
16 ~~support biologic product discovery, development, generation, product impurity~~
17 ~~removal, chemical or physical product alteration, and analysis of in-process~~
18 ~~products to final deliverable products in the health care industry which exclusively~~
19 ~~occurs within this state.~~
- 20 b. ~~"Bioscience" means the use of compositions, methods, and organisms in cellular~~
21 ~~and molecular research, development, and manufacturing processes in the~~
22 ~~health care industry, including pharmaceuticals, medical therapeutics, medical~~
23 ~~diagnostics, medical devices, medical instruments, biochemistry, and~~
24 ~~microbiology~~ "Single-use product contact systems" means tubing, capsule filters,
25 ion exchange membrane chromatography devices, mixers, bioreactors, sterile
26 fluid containment bags, connection devices, and sampling receptacles.
- 27 ~~c. "Biotechnology" means:~~
- 28 ~~(1) The application of technologies for use in the health care industry to~~
29 ~~produce or modify products, to develop micro-organisms for specific uses,~~
30 ~~to identify targets for small pharmaceutical development, or to transform~~
31 ~~biological systems into useful processes or products; and~~

Sixty-eighth
Legislative Assembly

- 1 ~~(2) The potential endpoints of the resulting products, processes,~~
2 ~~micro-organisms, or targets for improving human health care outcomes.~~
- 3 ~~d. "Raw materials" include chemicals, nutrients, reagents, and biologic catalysis.~~
4 ~~e. "Research and development" means qualified research as defined in section~~
5 ~~41(d)(1) of the Internal Revenue Code [26 U.S.C. 41(d)(1)], except it does not~~
6 ~~include research conducted outside the state and research conducted for~~
7 ~~purposes unrelated to the health care industry.~~
- 8 ~~f. "Tangible personal property" includes supplies used in laboratories, including~~
9 ~~microscopes, machines, glassware, computers, computer software, and technical~~
10 ~~books and manuals.~~
- 11 ~~g. "Qualified bioscience taxpayer" means a person that is engaged in the business~~
12 ~~of bioscience in the health care industry in the state and has business operations~~
13 ~~in the state, including research, development, or production directed toward~~
14 ~~developing or providing bioscience products or processes in the health care~~
15 ~~industry for specific commercial or public purposes.~~
- 16 ~~h. "Qualified biotechnology taxpayer" means a C corporation, partnership, limited~~
17 ~~liability company that is not a C corporation, S corporation, or sole proprietorship~~
18 ~~that purchases, stores, uses, or consumes tangible personal property to be used~~
19 ~~directly and predominately in the research and development of biotechnology in~~
20 ~~the health care industry or raw materials or consumables that are critical to~~
21 ~~biologic manufacturing in the health care industry.~~
- 22 4. a. By April first of each year, each taxpayer that received the exemption under this
23 section in the preceding calendar year shall file with the tax commissioner, on
24 forms and in the manner prescribed by the tax commissioner, a report showing
25 for the calendar year preceding the reporting deadline in this subdivision, the
26 taxpayer's:
- 27 (1) Total gross payroll;
28 (2) Total property taxes paid and square footage of buildings owned by the
29 taxpayer;
30 (3) Total North Dakota workforce safety and insurance premiums paid;
31 (4) North Dakota unemployment taxes paid; and

- 1 (5) Total state income tax withheld by the taxpayer.
2 b. Failure to file the report required under subdivision a is cause to disallow the
3 exemption due to noncompliance. The tax commissioner shall provide notice of
4 the disallowed exemption to the taxpayer and assess any sales and use tax due.
5 An assessment of tax made under this subsection is final and irrevocably fixed.
6 c. By June first of each year, the tax commissioner shall submit to the legislative
7 management a written report summarizing the information received under
8 subdivision a, including a comparison of information received in the current
9 calendar year with data received in the preceding calendar year.

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

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

14 ~~Tangible personal property, raw~~Raw materials, ~~or consumables~~single-use product
15 contact systems, and reagents used for biologic manufacturing as authorized or
16 approved for exemption by the tax commissioner under section 12 of this Act.

17 **SECTION 4. EFFECTIVE DATE.** ~~This~~Sections 2 and 3 of this Act ~~is~~are effective for taxable
18 events occurring after June 30, 2023.

23.0718.03009
Title.

Prepared by the Legislative Council staff for
Representative Hagert
April 13, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1455

That the Senate recede from its amendments as printed on pages 1430 and 1431 of the House Journal and pages 1181-1183 of the Senate Journal and that Engrossed House Bill No. 1455 be amended as follows:

Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"

Page 1, line 1, after "57-39.2" insert a comma

Page 1, line 2, replace "4" with "3"

Page 1, line 2, after "to" insert "evaluation of economic development tax incentives and"

Page 1, line 3, after "for" insert "raw"

Page 1, line 3, after "materials" insert ", single-use product contact systems, and reagents"

Page 1, line 3, remove "in the research and development of bioscience and"

Page 1, remove line 4

Page 1, line 5, remove "products"

Page 1, line 5, replace "use in the health care industry" with "biologic manufacturing; to provide for a legislative management report"

Page 1, line 5, remove "and"

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

Page 1, after line 6, insert:

"SECTION 1. A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing."

Page 1, line 9, after "**for**" insert "**raw**"

Page 1, line 9, after "**materials**" insert "**, single-use product contact systems, and reagents**"

Page 1, line 9, remove "**in the research and development of** "

Page 1, remove line 10

Page 1, line 11, replace "**and biotechnology products used in the health care industry**" with "**for biologic manufacturing - Report**"

Page 1, line 12, remove "tangible personal property purchased for use, storage, or"

Page 1, remove line 13

Page 1, line 14, remove "bioscience and biotechnology in the health care industry and"

Page 1, line 14, remove "or"

- Page 1, line 15, replace "consumables purchased" with ". single-use product contact systems, and reagents used directly for discovery, testing, screening, and production"
- Page 1, line 15, remove "use, storage, or consumption which are critical to"
- Page 1, line 16, replace "the health care industry" with "this state are exempt from taxes under this chapter"
- Page 1, line 17, remove "qualified biotechnology taxpayer"
- Page 1, line 18, remove "or qualified bioscience"
- Page 1, line 19, remove "tangible personal property."
- Page 1, line 19, after the second underscored comma insert "single-use product contact systems."
- Page 1, line 19, replace "consumables" with "reagents"
- Page 1, line 20, remove "If a certificate is not received before the purchase, the qualified"
- Page 1, remove lines 21 and 22
- Page 1, line 23, remove "If the tangible personal property, raw materials, or consumables are purchased or"
- Page 1, remove line 24
- Page 2, remove lines 1 and 2
- Page 2, line 3, remove "4."
- Page 2, line 4, replace "includes" with "means"
- Page 2, line 5, after the first "product" insert "discovery, development."
- Page 2, line 6, after "in-process" insert "products"
- Page 2, line 6, remove "in the"
- Page 2, line 7, replace "health care industry" with "which exclusively occurs within this state"
- Page 2, line 8, remove """Bioscience" means the use of compositions, methods, and organisms in cellular"
- Page 2, remove lines 9 through 11
- Page 2, line 12, replace "microbiology" with """Single-use product contact systems" means tubing, capsule filters, ion exchange membrane chromatography devices, mixers, bioreactors, sterile fluid containment bags, connection devices, and sampling receptacles"
- Page 2, remove lines 13 through 30
- Page 3, replace lines 1 through 8 with:
4. a. By April first of each year, each taxpayer that received the exemption under this section in the preceding calendar year shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the calendar year preceding the reporting deadline in this subdivision, the taxpayer's:

- (1) Total sales and use tax liability exempted under this section:
 - (2) Total gross payroll:
 - (3) Total property taxes paid and square footage of buildings owned by the taxpayer:
 - (4) Total North Dakota workforce safety and insurance premiums paid:
 - (5) North Dakota unemployment taxes paid; and
 - (6) Total state income tax withheld by the taxpayer.
- b. Failure to file the report required under subdivision a is cause to disallow the exemption due to noncompliance. The tax commissioner shall provide notice of the disallowed exemption to the taxpayer and assess any sales and use tax due. An assessment of tax made under this subsection is final and irrevocably fixed.
- c. By June first of each year, the tax commissioner shall submit to the legislative management a written report summarizing the information received under subdivision a, including a comparison of information received in the current calendar year with data received in the preceding calendar year.

Page 3, replace lines 9 and 10 with:

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

Page 3, line 11, replace "Tangible personal property, raw" with "Raw"

Page 3, line 11, replace "or consumables" with "single-use product contact systems, and reagents used for biologic manufacturing"

Page 3, line 12, replace "1" with "2"

Page 3, line 13, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 3, line 13, replace "This" with "Sections 2 and 3 of this"

Page 3, line 13, replace "is" with "are"

Page 3, line 14, after "2023" insert ", and before July 1, 2029, and are thereafter ineffective"

Renumber accordingly

23.0718.03009

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1455

Introduced by

Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck
Senators Kreun, Patten, J. Roers, Wanzek

1 A BILL for an Act to create and enact a new subdivision to subsection 3 of section 54-35-26, a
2 new section to chapter 57-39.2, and a new subdivision to subsection 43 of section 57-40.2-03.3
3 of the North Dakota Century Code, relating to evaluation of economic development tax
4 incentives and a sales and use tax exemption for raw materials, single-use product contact
5 systems, and reagents used ~~in the research and development of bioscience and biotechnology~~
6 ~~in the health care industry and manufacture of bioscience and biotechnology products for use in~~
7 ~~the health care industry~~ biologic manufacturing; to provide for a legislative management report;
8 ~~and~~ to provide an effective date; and to provide an expiration date.

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

10 SECTION 1. A new subdivision to subsection 3 of section 54-35-26 of the North Dakota
11 Century Code is created and enacted as follows:

12 Sales and use tax exemption for raw materials, single-use product contact
13 systems, and reagents used for biologic manufacturing.

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

16 Sales tax exemption for raw materials, single-use product contact systems, and
17 reagents used ~~in the research and development of bioscience and biotechnology in the~~
18 ~~health care industry and manufacture of bioscience and biotechnology products used in~~
19 ~~the health care industry~~ for biologic manufacturing - Report.

20 1. Gross receipts from sales of ~~tangible personal property purchased for use, storage, or~~
21 ~~consumption directly and predominately in the research and development of~~
22 ~~bioscience and biotechnology in the health care industry and raw materials or~~
23 ~~consumables purchased, single-use product contact systems, and reagents used~~
24 directly for discovery, testing, screening, and production for ~~use, storage, or~~

- 1 ~~consumption which are critical to biologic manufacturing in the health care industry~~ this
2 state are exempt from taxes under this chapter.
- 3 2. ~~To receive the exemption at the time of purchase, the qualified biotechnology taxpayer~~
4 ~~or qualified bioscience taxpayer must receive from the tax commissioner a certificate~~
5 ~~that the tangible personal property, raw materials, single-use product contact systems,~~
6 ~~or consumables~~ reagents ~~qualify for the exemption. If a certificate is not received~~
7 ~~before the purchase, the qualified biotechnology taxpayer or qualified bioscience~~
8 ~~taxpayer shall pay the applicable tax imposed by this chapter and apply to the tax~~
9 ~~commissioner for a refund.~~
- 10 3. ~~If the tangible personal property, raw materials, or consumables are purchased or~~
11 ~~installed by a contractor subject to the tax imposed by this chapter, the qualified~~
12 ~~biotechnology taxpayer or qualified bioscience taxpayer may apply for a refund of the~~
13 ~~difference between the amount remitted by the contractor.~~
- 14 ~~4.~~ 4. For purposes of this section:
- 15 a. "Biologic manufacturing" includes ~~means~~ the manufacturing process used to
16 support biologic product discovery, development, generation, product impurity
17 removal, chemical or physical product alteration, and analysis of in-process
18 products to final deliverable products in the health care industry which exclusively
19 occurs within this state.
- 20 b. ~~"Bioscience" means the use of compositions, methods, and organisms in cellular~~
21 ~~and molecular research, development, and manufacturing processes in the~~
22 ~~health care industry, including pharmaceuticals, medical therapeutics, medical~~
23 ~~diagnostics, medical devices, medical instruments, biochemistry, and~~
24 ~~microbiology~~ "Single-use product contact systems" means tubing, capsule filters,
25 ion exchange membrane chromatography devices, mixers, bioreactors, sterile
26 fluid containment bags, connection devices, and sampling receptacles.
- 27 ~~c.~~ "Biotechnology" means:
- 28 ~~(1) The application of technologies for use in the health care industry to~~
29 ~~produce or modify products, to develop micro-organisms for specific uses,~~
30 ~~to identify targets for small pharmaceutical development, or to transform~~
31 ~~biological systems into useful processes or products; and~~

- 1 ~~(2) The potential endpoints of the resulting products, processes,~~
2 ~~micro-organisms, or targets for improving human health care outcomes.~~
- 3 ~~d. "Raw materials" include chemicals, nutrients, reagents, and biologic catalysis.~~
4 ~~e. "Research and development" means qualified research as defined in section~~
5 ~~41(d)(1) of the Internal Revenue Code [26 U.S.C. 41(d)(1)], except it does not~~
6 ~~include research conducted outside the state and research conducted for~~
7 ~~purposes unrelated to the health care industry.~~
- 8 ~~f. "Tangible personal property" includes supplies used in laboratories, including~~
9 ~~microscopes, machines, glassware, computers, computer software, and technical~~
10 ~~books and manuals.~~
- 11 ~~g. "Qualified bioscience taxpayer" means a person that is engaged in the business~~
12 ~~of bioscience in the health care industry in the state and has business operations~~
13 ~~in the state, including research, development, or production directed toward~~
14 ~~developing or providing bioscience products or processes in the health care~~
15 ~~industry for specific commercial or public purposes.~~
- 16 ~~h. "Qualified biotechnology taxpayer" means a C corporation, partnership, limited~~
17 ~~liability company that is not a C corporation, S corporation, or sole proprietorship~~
18 ~~that purchases, stores, uses, or consumes tangible personal property to be used~~
19 ~~directly and predominately in the research and development of biotechnology in~~
20 ~~the health care industry or raw materials or consumables that are critical to~~
21 ~~biologic manufacturing in the health care industry.~~
- 22 4. a. By April first of each year, each taxpayer that received the exemption under this
23 section in the preceding calendar year shall file with the tax commissioner, on
24 forms and in the manner prescribed by the tax commissioner, a report showing
25 for the calendar year preceding the reporting deadline in this subdivision, the
26 taxpayer's:
- 27 (1) Total sales and use tax liability exempted under this section;
28 (2) Total gross payroll;
29 (3) Total property taxes paid and square footage of buildings owned by the
30 taxpayer;
31 (4) Total North Dakota workforce safety and insurance premiums paid;

1 (5) North Dakota unemployment taxes paid; and

2 (6) Total state income tax withheld by the taxpayer.

3 b. Failure to file the report required under subdivision a is cause to disallow the
4 exemption due to noncompliance. The tax commissioner shall provide notice of
5 the disallowed exemption to the taxpayer and assess any sales and use tax due.
6 An assessment of tax made under this subsection is final and irrevocably fixed.

7 c. By June first of each year, the tax commissioner shall submit to the legislative
8 management a written report summarizing the information received under
9 subdivision a, including a comparison of information received in the current
10 calendar year with data received in the preceding calendar year.

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

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

15 ~~Tangible personal property, raw~~Raw materials, ~~or consumables~~single-use product
16 ~~contact systems, and reagents used for biologic manufacturing as authorized or~~
17 ~~approved for exemption by the tax commissioner under section 42 of this Act.~~

18 **SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** ~~This~~Sections 2 and 3 of this Act
19 ~~is~~are effective for taxable events occurring after June 30, 2023, and before July 1, 2029, and
20 are thereafter ineffective.