Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2060

Introduced by

Legislative Council

(Workforce Committee)

A BILL for an Act to amend and reenact subsection 7 of section 40-63-01, subdivision g of subsection 1 of section 40-63-03, and sections 40-63-04, 40-63-05, and 40-63-06 of the North Dakota Century Code, relating to renaissance zone rehabilitation of utility infrastructure, renaissance zone boundaries, and the transferability of renaissance zone historic preservation and renovation tax credits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or remodeling of a building or utility infrastructure at a cost that is equal to or exceeds fifty percent of the current true and full value for commercial buildings or utility infrastructure and twenty percent for single-family homes.

SECTION 2. AMENDMENT. Subdivision g of subsection 1 of section 40-63-03 of the North Dakota Century Code is amended and reenacted as follows:

g. The proposed renaissance zone may have a single exception to the continuous boundary and contiguous block requirements under subdivision d if the area of the excepted noncontiguous blocks does not exceed three square blocks ~~and if the shortest distance between the noncontinuous boundaries of the two portions of the zone does not exceed one-half mile [.80 kilometer]~~.

SECTION 3. AMENDMENT. Section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

40-63-04. Income tax exemptions.

1. An individual taxpayer who purchases or rehabilitates single-family residential property for the individual's primary place of residence as a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.
2. Any taxpayer that purchases, leases, or rehabilitates residential, utility infrastructure, or commercial property for any business or investment purpose as a zone project is exempt from any tax on income derived from the business or investment locations within the zone for five taxable years, beginning with the date of purchase, lease, or completion of rehabilitation.
3. If the cost of a new business purchase, leasehold improvement, or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3. The election must be made on the taxpayer's zone project application. The election is irrevocable and binding for the duration of the exemptions provided in subsection 2 or this subsection. If no election is made on the zone project application, the taxpayer is only eligible for the exemption provided in subsection 2.
4. If a property owner not participating in a renaissance zone project is required to make changes in utility services or in a building structure because of changes made to property that is part of a zone project, the owner of the nonparticipating property is entitled to state income tax credits equal to the total amount of the investment necessary to complete the required changes. An income tax credit under this section must be taken within five years of project completion.
5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter 57-35.3 or 57-38.

SECTION 4. AMENDMENT. Section 40-63-05 of the North Dakota Century Code is amended and reenacted as follows:

40-63-05. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, if the property was purchased or rehabilitated by an individual for the individual's primary place of residence as a zone project. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition or completion of rehabilitation.
2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, <u>utility infrastructure,</u> and improvements purchased or rehabilitated as a zone project for any business or investment purpose. An exemption under this subsection may not extend beyond five taxable years following the date of purchase or completion of rehabilitation.

SECTION 5. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit <u>- Transferability</u>.

<u>1.</u> A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years. <u>Any unused credit under this section to which the owner of property is entitled at the time of the sale of the property transfers to the purchaser of the property at the time of sale as provided for under this section.</u>

<u>2.</u> <u>The following apply if a transfer of a credit under this section takes place:</u>

<u>a.</u> <u>The tax credit transferor and the purchaser of the property jointly shall file with the tax commissioner a copy of the purchase agreement and a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, and the taxable year or years for which the credit may be claimed. The transferor and</u>

the purchaser also shall file a document allowing the tax commissioner to disclose tax information to either party for the purpose of verifying the correctness of the transferred tax credit. The purchase agreement, supporting statement, and waiver must be filed within thirty days after the date the purchase agreement is fully executed as provided in subdivision b.

b. The purchaser of the property shall claim the credit beginning with the purchaser's taxable year in which the purchase agreement was fully executed by the parties. A purchaser under this section has only such rights to claim and use the credit under the terms that would have applied to the transferor.

c. If the amount of the credit available under this section is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the internal review service or the tax commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the internal revenue service or the tax commissioner. The purchaser shall file amended returns reporting the additional tax due or claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed in these sections may have expired for the purchaser.

d. The tax commissioner has four years after the date the purchase agreement is fully executed to audit the returns of the transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the purchaser if additional tax is found due. This subdivision does not limit or restrict any other time period prescribed in chapter 57-38 for the assessment of tax.

SECTION 6. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008.