

HOUSE BILL NO. 1222

Introduced by

Representatives Hoverson, Becker, Bellew, Magrum, D. Ruby, M. Ruby, Simons

1 A BILL for an Act to amend and reenact section 6-09-38, subsection 1 of section 12.1-32-09,
2 sections 26.1-26-42, 27-17-06, 40-57.1-06, and 40-57.1-07, subsection 11 of section 40-58-20,
3 sections 40-63-01, 40-63-02, 40-63-03, and 52-08-10, subsection 14 of section 57-01-02,
4 section 57-01-13, subsection 4 of section 57-01-15.1, paragraph 3 of subdivision b of
5 subsection 15 of section 57-02-08, and sections 57-38-01.28, 57-38-30, and 57-38-30.3 of the
6 North Dakota Century Code, relating to the elimination of individual and corporate income tax
7 and the imposition of a flat individual and corporate income tax at a rate of one percent; to
8 repeal sections 40-57.1-04, 40-57.1-04.4, 40-63-04, 40-63-06, 40-63-07, 40-63-09, and
9 40-63-10 and chapters 52-02.1, 57-38, 57-38.1, 57-38.3, 57-38.4, 57-38.5, and 57-38.6 of the
10 North Dakota Century Code, relating to the elimination of individual and corporate income tax;
11 and to provide an effective date.

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

13 **SECTION 1. AMENDMENT.** Section 6-09-38 of the North Dakota Century Code is amended
14 and reenacted as follows:

15 **6-09-38. North Dakota higher education savings plan - Administration - Rules -**
16 **Continuing appropriation.**

17 The Bank of North Dakota shall adopt rules to administer, manage, promote, and market a
18 North Dakota higher education savings plan. The Bank shall ensure that the North Dakota
19 higher education savings plan is maintained in compliance with internal revenue service
20 standards for qualified state tuition programs. The Bank, as trustee of the North Dakota higher
21 education savings plan, may impose an annual administrative fee to recover expenses incurred
22 in connection with operation of the plan or for other programs deemed to promote attendance at
23 an institution of higher education. Administrative fees received by the Bank are appropriated on
24 a continuing basis to be used as provided in this section. ~~Contributions made during the taxable~~

1 ~~year to a higher education savings plan administered by the Bank, pursuant to the provisions of~~
2 ~~the plan, are eligible for an income tax deduction as provided in chapter 57-38. Information~~
3 ~~related to contributions is confidential except as is needed by the tax commissioner for~~
4 ~~determining compliance with the income tax deduction provided in chapter 57-38.~~

5 **SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-32-09 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 1. A court may sentence a convicted offender to an extended sentence as a dangerous
8 special offender or a habitual offender in accordance with this section upon a finding of
9 any one or more of the following:
- 10 a. The convicted offender is a dangerous, mentally abnormal person whose conduct
11 has been characterized by persistent aggressive behavior and the behavior
12 makes the offender a serious danger to other persons.
 - 13 b. The convicted offender is a professional criminal who has substantial income or
14 resources derived from criminal activity.
 - 15 c. The convicted offender is a habitual offender. The court may not make such a
16 finding unless the offender is an adult and has previously been convicted in any
17 state or states or by the United States of two felonies of class C or above
18 committed at different times when the offender was an adult. For the purposes of
19 this subdivision, a felony conviction in another state or under the laws of the
20 United States is considered a felony of class C or above if it is punishable by a
21 maximum term of imprisonment of five years or more.
 - 22 d. The offender was convicted of an offense that seriously endangered the life of
23 another person and the offender had previously been convicted of a similar
24 offense.
 - 25 e. The offender is especially dangerous because the offender used a firearm,
26 dangerous weapon, or destructive device in the commission of the offense or
27 during the flight therefrom.

28 A conviction shown on direct or collateral review or at the hearing to be invalid or for
29 which the offender has been pardoned on the ground of innocence must be
30 disregarded for purposes of subdivision c. In support of findings under subdivision b, it
31 may be shown that the offender has had control of income or property not explained

1 as derived from a source other than criminal activity. For purposes of subdivision b, a
2 substantial source of income means a source of income which for any period of one
3 year or more exceeds the minimum wage, determined on the basis of a forty-hour
4 week and a fifty-week year, without reference to exceptions, under section 6(a)(1) of
5 the Fair Labor Standards Act of 1938, as amended, for an employee engaged in
6 commerce or in the production of goods for commerce, and which for the same period
7 exceeds fifty percent of the offender's ~~declared~~ adjusted gross income ~~under chapter~~
8 ~~57-38~~.

9 **SECTION 3. AMENDMENT.** Section 26.1-26-42 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **26.1-26-42. License suspension, revocation, or refusal - Grounds.**

12 The commissioner may suspend, revoke, place on probation, or refuse to continue or refuse
13 to issue any license issued under this chapter if, after notice to the licensee and hearing, the
14 commissioner finds as to the licensee any of the following conditions:

- 15 1. A materially untrue statement in the license application.
- 16 2. An acquisition or attempt to acquire a license through misrepresentation or fraud.
- 17 3. The applicant has been found to have been cheating on an examination for an
18 insurance license.
- 19 4. Any cause for which issuance of the license could have been refused had it then
20 existed and been known to the commissioner at the time of issuance.
- 21 5. The applicant or licensee has been convicted of a felony or convicted of an offense, as
22 defined by section 12.1-01-04, determined by the commissioner to have a direct
23 bearing upon a person's ability to serve the public as an insurance producer,
24 insurance consultant, or surplus lines insurance producer, or the commissioner finds,
25 after conviction of an offense, that the person is not sufficiently rehabilitated under
26 section 12.1-33-02.1.
- 27 6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive,
28 or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or
29 financially irresponsible.
- 30 7. A misrepresentation of the terms of any actual or proposed insurance contract.

- 1 8. The licensee has been found to have knowingly solicited, procured, or sold
- 2 unnecessary or excessive insurance coverage to any person.
- 3 9. The licensee has forged another's name to an application for insurance.
- 4 10. An improper withholding of, misappropriating of, or converting to one's own use any
- 5 moneys belonging to policyholders, insurers, beneficiaries, or others received in the
- 6 course of one's insurance business.
- 7 11. The licensee has been found guilty of any unfair trade practice defined in this title or
- 8 fraud.
- 9 12. A violation of or noncompliance with any insurance laws of this state or a violation of or
- 10 noncompliance with any lawful rules or orders of the commissioner or of a
- 11 commissioner of another state.
- 12 13. The licensee's license has been suspended or revoked in any other state, province,
- 13 district, or territory for any reason or purpose other than noncompliance with
- 14 continuing education programs, or noncompliance with mandatory filing requirements
- 15 imposed upon a licensee by the state, province, district, or territory provided the filing
- 16 does not directly affect the public interest, safety, or welfare.
- 17 14. The applicant or licensee has refused to respond within twenty days to a written
- 18 request by the commissioner for information regarding any potential violation of this
- 19 section.
- 20 15. Without express prior written approval from the commissioner, the licensee
- 21 communicates with a person who the licensee knows has contacted the department
- 22 regarding an alleged violation committed by the licensee in an attempt to have the
- 23 complainant dismiss the complaint.
- 24 16. The licensee knowingly accepts insurance business from an individual who is not
- 25 licensed.
- 26 17. The applicant or licensee knowingly fails to comply with a court order imposing child
- 27 support obligation.
- 28 ~~18. The applicant or licensee fails to file the required returns or pay the taxes due under~~
- 29 ~~chapter 57-38 or comply with a court order directing payment of any income tax or~~
- 30 ~~employer income tax withholding imposed by chapter 57-38.~~

1 **SECTION 4. AMENDMENT.** Section 27-17-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **27-17-06. Immediate withdrawal of present active judges from judges retirement fund.**

4 1. From and after July 1, 1973, each judge of the supreme or district court serving on that
5 date and each former judge of the supreme or district court, not receiving judicial
6 retirement salary, may elect to withdraw the judge's previous contributions made
7 pursuant to this chapter, and thereafter not participate in a judicial retirement program
8 provided for by law. This option ceases to be available and may not be exercised after
9 June 30, 1975. If a judge selects this option, the judge is entitled to receive the
10 combined total of the following sums:

- 11 a. The entire amount of the judge's previous contributions made pursuant to this
12 chapter, to be calculated to the date of election under this section; plus
13 b. An amount calculated by applying the vesting schedule set forth in section
14 54-52-11 to an amount equal to sixty percent of the judge's individual
15 contributions as calculated in subsection 1, plus earnings thereon as calculated
16 in subsection 3; plus
17 c. An amount calculated by applying the figure .05625 to the periodic annual or
18 partial annual balances in the individual judge's account during the judge's years
19 of service prior to selecting the option provided by this section. The figure applied
20 pursuant to this subdivision must be compounded annually.

21 2. ~~The total amounts received pursuant to this section may not be considered taxable-~~
22 ~~income for the purposes of chapter 57-38.~~ Selection of the option provided by this
23 section must be made in writing to the director of the office of management and
24 budget.

25 **SECTION 5. AMENDMENT.** Section 40-57.1-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **40-57.1-06. Change in investment, new location, or change in project operator or use**
28 **requiring reapplication for tax exemption or payments in lieu of taxes.**

29 If the capital investment in the buildings, structures, fixtures, and improvements comprising
30 the project exceeds the original investment or total investment after an approved reapplication
31 under this section because expansion of the project has increased the investment in the project

1 by more than twenty percent, the project operator must reapply to receive an exemption or to
2 make payments in lieu of taxes on the added value of the property. If the project operator does
3 not reapply, or if the reapplication is disapproved, the increased capital value of the buildings,
4 structures, fixtures, and improvements comprising the project is subject to ad valorem taxation.
5 If at any time a project operator who is exempt from taxation or subject to payments in lieu of
6 taxes under this chapter moves the business to a new location, the project operator must
7 reapply to retain the remaining balance of the property tax exemption or the option to make
8 payments in lieu of taxes or elect to make application as a new business. ~~A business relocation~~
9 ~~has no effect on the income tax exemption of the project operator if it is shown by the project~~
10 ~~operator to the satisfaction of the state board of equalization that the nature of the business has~~
11 ~~not been changed by the move and that the effect of the business upon competitors has not~~
12 ~~been changed by the move.~~ In addition, a property tax exemption or option to make payments
13 in lieu of taxes provided by this chapter applies only to the project operator to whom it is granted
14 and is valid only while the property is used for the purposes stated in the application. If there is
15 a change in use of the property or if a new project operator takes possession of the property,
16 the property tax exemption or option to make payments in lieu of taxes terminates and the
17 project operator must file a new application with the municipality for a tax exemption or option to
18 make payments in lieu of taxes for the remainder of the exemption or payments in lieu of taxes
19 period provided under section 40-57.1-03.

20 **SECTION 6. AMENDMENT.** Section 40-57.1-07 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **40-57.1-07. Exemptions - Time for making application.**

23 1. No property tax exemption shall be granted under this chapter unless the application for
24 it is granted as provided in this chapter prior to the commencement of construction of the project
25 as that term is defined in section 40-57.1-02 or prior to occupancy by the project operator if the
26 project is an existing building.

27 2. ~~Application for an income tax exemption as provided in this chapter must be made by~~
28 ~~the project operator no later than one year after the commencement of project~~
29 ~~operations.~~

30 **SECTION 7. AMENDMENT.** Subsection 11 of section 40-58-20 of the North Dakota Century
31 Code is amended and reenacted as follows:

1 11. As an alternative to the sale of bonds to be amortized with tax increments as provided
2 in this section, the governing body of a municipality may, in its discretion, grant a total
3 or partial tax exemption for the project in order to provide assistance to a project
4 developer in a development or renewal area, pursuant to agreement with the
5 municipality. However, if a developer of a development or renewal project receives a
6 tax exemption for that project pursuant to this subsection, that project developer may
7 not receive a tax exemption for that project under section 40-57.1-03, ~~40-57.1-04,~~
8 40-57.1-04.1, or 40-57.1-04.3. The amount of annual tax exemption under this
9 subsection is limited to the tax increment as defined in this section as it applies to the
10 development or renewal project and may extend for a period not to exceed fifteen
11 years. In determining the total amount of the tax exemption to be authorized, the
12 municipality shall give due consideration to the same elements as are involved in the
13 sale of bonds to be amortized by tax increments. The amount to be reimbursed, by tax
14 exemption, to the project developer must be all or a portion of eligible public costs
15 which have been paid by the project developer, plus interest on those costs at a rate
16 not to exceed ten percent per annum. The amount of tax exemption must be an
17 amount sufficient to reimburse the project operator for those eligible costs, amortized
18 pursuant to the agreement between the project developer and the municipality.

19 **SECTION 8. AMENDMENT.** Section 40-63-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **40-63-01. Definitions.**

22 As used in this chapter:

- 23 1. "Boundary" means the boundary established by vote of the city governing body and
24 approved by the department of commerce division of community services.
- 25 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of
26 section 40-63-03 and includes the following:
- 27 a. A map of the proposed renaissance zone which indicates the geographic
28 boundaries and blocks, a description of the properties and structures on each
29 block, identification of those properties and structures to be targeted for potential
30 zone projects, and a description of the present use and conditions of the targeted
31 properties and structures.

- 1 b. A description of the existing physical assets, in particular natural or historical
2 assets, of the zone and a plan for the incorporation and enhancement of the
3 assets within the proposed development.
- 4 c. An outline of goals and objectives and proposed outcomes, including major
5 milestones or benchmarks, by which to gauge success resulting from the
6 designation of the zone.
- 7 d. A description of the types of projects the city would encourage in the city's
8 targeted properties.
- 9 e. A description of the promotion, development, and management strategies to
10 maximize investment in the zone.
- 11 f. A plan for the development, promotion, and use of a renaissance fund
12 organization, if one is desired to be established. If a city is not ready to commit to
13 establishing a renaissance fund organization, the city may indicate in the
14 renaissance zone application the city's desire to submit a plan for approval at a
15 later date.
- 16 g. Evidence of community support and commitment from residential and business
17 interests. Evidence of community support must include letters of support from the
18 governing bodies of each county and school district that contain property located
19 within the boundaries of the proposed renaissance zone.
- 20 3. "Investor" means the individual, partnership, limited partnership, limited liability
21 company, trust, or corporation making an investment in a renaissance fund
22 organization.
- 23 4. "Lease" means the lease of space in a building in a designated renaissance zone by a
24 new business moving into the zone or by an existing zone business expanding in the
25 zone, and the continuation of a lease of an existing zone tenant in a building
26 rehabilitated as an approved zone project. For existing zone tenants expanding in the
27 zone, the term does not include existing leased space.
- 28 5. "Local zone authority" means the city or the entity designated by the city to promote,
29 develop, and manage the zone and may include any nonprofit incorporated entity such
30 as an economic development corporation, community development corporation, main
31 street organization, or chamber of commerce.

- 1 6. "Original principal amount" means the funds invested in a renaissance fund
2 organization after designation of the renaissance zone and before the sunset of that
3 zone.
- 4 7. "Rehabilitation", as used in ~~sections 40-63-04 and~~section 40-63-05, means the repair
5 or remodeling of a building or public utility infrastructure at a cost that is equal to or
6 exceeds fifty percent of the current true and full value for commercial buildings or
7 public utility infrastructure and twenty percent for single-family homes.
- 8 8. "Taxpayer" means an individual, corporation, or trust ~~subject to the taxes imposed by~~
9 ~~chapter 57-38~~ and includes a partnership, subchapter S corporation, limited
10 partnership, limited liability company, or any other passthrough entity.
- 11 9. "Zone" means a renaissance zone proposed by a city and designated by the
12 department of commerce division of community services.
- 13 10. "Zone project" means the purchase, lease, rehabilitation, or historical preservation or
14 renovation of a building or space in a building approved for zone incentives by a
15 majority vote of the city governing body or zone authority.

16 **SECTION 9. AMENDMENT.** Section 40-63-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **40-63-02. Eligibility - Local zone authority designation.**

19 Any incorporated city may apply to the department of commerce division of community
20 services to designate a portion of the city as a renaissance zone. Any individual, partnership,
21 limited partnership, limited liability company, trust, or corporation may apply for a tax ~~credit or~~
22 exemption under ~~sections 40-63-04 through 40-63-07~~section 40-63-05. The governing body of a
23 city may designate a local zone authority to implement a development plan on behalf of the city.

24 **SECTION 10. AMENDMENT.** Section 40-63-03 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **40-63-03. Renaissance zones.**

- 27 1. A city may apply to the department of commerce division of community services to
28 designate a portion of that city as a renaissance zone if the following criteria are met:
- 29 a. The geographic area proposed for the renaissance zone is located wholly within
30 the boundaries of the city submitting the application.
- 31 b. The application includes a development plan.

1 c. The proposed renaissance zone is not more than thirty-four square blocks,
2 except in a city with a population of greater than five thousand the renaissance
3 zone may exceed thirty-four square blocks at the rate of one additional block for
4 each additional five thousand population to a maximum size of forty-nine blocks.
5 Population is based upon the most recent federal decennial census or federal
6 census estimate.

7 If a city finds that renaissance zone projects have satisfactorily completed
8 one or more blocks within the renaissance zone, the city may apply for and the
9 department of commerce division of community services may approve withdrawal
10 of those blocks from the renaissance zone and replacement of those blocks with
11 other blocks that otherwise meet the requirements of this chapter.

12 d. Except as provided under subdivision g, the proposed renaissance zone has a
13 continuous boundary and all blocks are contiguous.

14 e. The proposed land usage includes both commercial and residential property.

15 f. The application includes the proposed duration of renaissance zone status, not to
16 exceed fifteen years. Upon application by the city, the department of commerce
17 division of community services may extend the duration of renaissance zone
18 status in increments of up to five years.

19 g. The proposed renaissance zone may have a single exception to the continuous
20 boundary and contiguous block requirements under subdivision d if the area of
21 the excepted noncontiguous blocks does not exceed three square blocks.

22 2. The department of commerce division of community services shall:

23 a. Review all applications for renaissance zone designation against the criteria
24 established in this section and designate zones.

25 b. Approve or reject the duration of renaissance zone status as submitted in an
26 application.

27 c. Approve or reject the geographic boundaries and total area of the renaissance
28 zone as submitted in an application.

29 d. Promote the renaissance zone program.

30 e. Monitor the progress of the designated renaissance zones against submitted
31 plans in an annual plan review.

- 1 f. Report on renaissance zone progress to the governor and the legislative
2 management on an annual basis until all designated zones expire.
- 3 3. The department of commerce division of community services shall consider the
4 following criteria in designating a renaissance zone:
 - 5 a. The viability of the development plan.
 - 6 b. The incorporation and enhancement of unique natural and historic features into
7 the development plan.
 - 8 c. Whether the development plan is creative and innovative in comparison to other
9 applications.
 - 10 d. Public and private commitment to and other resources available for the proposed
11 renaissance zone, including the provisions for a renaissance fund organization.
 - 12 e. How renaissance zone designation would relate to a broader plan for the
13 community as a whole.
 - 14 f. How the local regulatory burden, in particular that burden associated with the
15 renovation of historic properties and that burden associated with mixed use
16 development, will be eased for developers and investors in the renaissance zone.
 - 17 g. The strategies for the promotion, development, and management of the zone,
18 including the use of a local zone authority if designated.
 - 19 h. Any other information required by the office.
- 20 4. The department of commerce division of community services may not designate a
21 portion of a city as a renaissance zone unless, as a part of the application, the city
22 provides a resolution from the governing body of the city that states if the renaissance
23 zone designation is granted, ~~persons and property within the renaissance zone are~~is
24 exempt from ~~taxes~~tax as provided in ~~sections 40-63-04 through 40-63-07~~section
25 40-63-05.
- 26 5. A city may not propose or be part of more than one renaissance zone.
- 27 6. A parcel of property may be exempted from property taxes under section 40-63-05
28 only once, but during the five taxable years of eligibility for that exemption, the
29 property tax exemption transfers with the transfer of the property to a qualifying user.
30 ~~The ownership or lease of, or investment in, a parcel of property may qualify for~~
31 ~~exemption or credit under section 40-63-04 only once, but during the five taxable~~

1 ~~years of eligibility for that exemption or credit, the exemption or credit under section-~~
2 ~~40-63-04 transfers with the transfer of the property to a qualified user and with respect~~
3 ~~to the year in which the transfer is made must be prorated for use of the property~~
4 ~~during that year.~~

5 7. A city may apply to the department of commerce division of community services at any
6 time during the duration of a zone to expand a previously approved renaissance zone
7 that is less than the maximum size allowed under subdivision c of subsection 1. If the
8 expansion is approved by the department of commerce division of community
9 services, the blocks in the expansion are eligible for up to fifteen years of renaissance
10 zone status.

11 8. The use of grant funds as the sole source of investment in the purchase of a building
12 or space in a building does not qualify a taxpayer for any tax exemption ~~or credit-~~
13 available under the chapter, and grant funds may not be counted in determining if the
14 cost of rehabilitation meets or exceeds the current true and full value of the building.

15 9. If a portion of an approved renaissance zone is not progressing, the city may request
16 the department of commerce division of community services to permit deleting that
17 portion and to make an adjustment of the boundaries to add another equal, contiguous
18 area to the original zone.

19 10. If within a renaissance zone there is property that is included in a tax increment
20 financing district, the city in which the property is located shall provide the department
21 of commerce an annual report regarding any such property at the time requested by
22 the department of commerce. The report required under this subsection must identify
23 the property, provide the expected duration of inclusion of the property in the tax
24 increment financing district and the renaissance zone, and identify any property ~~and~~
25 income tax benefits of the property and the expected duration of those benefits. The
26 department of commerce shall deliver an annual report compiling the information
27 required under this subsection to the legislative management interim committee on
28 taxation issues or upon request of any other interim committee of the legislative
29 management.

30 **SECTION 11. AMENDMENT.** Section 52-08-10 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **52-08-10. Preparation of business plan - Revolving loans.**

2 Subject to state board of higher education policies, the president of an institution of higher
3 education that is assigned primary responsibility for workforce training shall prepare an annual
4 business plan that must include provisions for use of the training capacity of the tribal colleges
5 within the designated region, in consultation with the workforce training board. ~~The business-~~
6 ~~plan may include participation as a community under the new jobs training program under~~
7 ~~chapter 52-02.1.~~ The workforce training board shall approve the business plan and make
8 recommendations for funding of the business plan to the state board of higher education. Any
9 state funds received under this program by the institutions of higher education assigned primary
10 responsibility for workforce training must be used for business and customized training
11 activities. The state board of higher education may establish for each institution of higher
12 education assigned primary responsibility for workforce training a revolving loan fund for
13 workforce training program startups using the borrowing authority provided in section
14 15-10-16.1.

15 **SECTION 12. AMENDMENT.** Subsection 14 of section 57-01-02 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 14. May waive, upon a showing of good cause, any and all tax due. A lien must have been
18 filed against the debtor's property prior to the request for a waiver. The attorney
19 general shall approve the waiver. ~~Notwithstanding the provisions of this section, if a~~
20 ~~debtor and the internal revenue service enter into an offer in compromise pursuant to~~
21 ~~section 7122 of the Internal Revenue Code [26 U.S.C. 7122], as amended, the tax~~
22 ~~commissioner may reduce a debtor's individual income tax liability. However, if the~~
23 ~~federal offer in compromise, for any reason, is subsequently declared void by the~~
24 ~~internal revenue service, the debtor is liable for the original amount of tax due.~~

25 **SECTION 13. AMENDMENT.** Section 57-01-13 of the North Dakota Century Code is
26 amended and reenacted as follows:

1 **57-01-13. Collection of delinquent sales, use, motor vehicle fuels, special fuels,**
2 **importer for use, aviation fuel, motor vehicle excise, telecommunications carriers,**
3 **income, and alcoholic beverage gross receipts taxes. (Contingent expiration date – [See](#)**
4 **[note](#))**

5 1. Notwithstanding the secrecy and confidential information provisions in chapters 57-38,
6 57-39.2, and 57-40.2, the tax commissioner may, for the purpose of collecting
7 delinquent North Dakota sales, use, motor vehicle fuels, special fuels, importer for
8 use, aviation fuel, motor vehicle excise, telecommunications carriers, income, or
9 alcoholic beverage gross receipts taxes due from a taxpayer not residing or domiciled
10 in this state, contract with any collection or credit agency, within or without the state,
11 for the collection of the delinquent sales, use, motor vehicle fuels, special fuels,
12 importer for use, aviation fuel, motor vehicle excise, telecommunications carriers,
13 income, or alcoholic beverage gross receipts taxes, including penalties and interest
14 thereon. For purposes of this section, a delinquent tax is defined as a tax liability that
15 is due and owing for a period longer than six months and for which the taxpayer has
16 been given at least three notices in writing requesting payment. The notices must be
17 sent by first class mail to the taxpayer at the taxpayer's last known mailing address.
18 The third notice must be sent with a copy of an affidavit of mailing. If the tax
19 commissioner has assigned a delinquent tax liability pursuant to this section,
20 subsequent sales, use, motor vehicle fuels, special fuels, importer for use, aviation
21 fuel, motor vehicle excise, telecommunications carriers, income, or alcoholic beverage
22 gross receipts taxes that become due from the same taxpayer may be assigned
23 immediately and without further notice to the taxpayer, so long as the originally
24 assigned liability has not been fully collected.

25 2. a. Fees for services, reimbursement, or any other remuneration to a collection or
26 credit agency must be based on the amount of tax, penalty, and interest actually
27 collected. Each contract entered into between the tax commissioner and the
28 collection or credit agency must provide for the payment of fees for the services,
29 reimbursements, or other remuneration not in excess of fifty percent of the
30 amount of delinquent sales, use, motor vehicle fuels, special fuels, importer for

1 use, aviation fuel, motor vehicle excise, income, or alcoholic beverage gross
2 receipts taxes, including penalties and interest actually collected.

3 b. All funds collected by the collection or credit agency must be remitted to the tax
4 commissioner monthly from the date of collection from a taxpayer. Forms to be
5 used for the remittances must be prescribed by the tax commissioner. The tax
6 commissioner shall transfer the funds to the state treasurer for deposit in the
7 state general fund. An amount equal to the amount of fees for services,
8 reimbursement, or any other remuneration to the collection or credit agency as
9 set forth in the contract authorized by this section is appropriated as a standing
10 and continuing appropriation to the tax commissioner for payment of fees due
11 under the contract.

12 e. Before entering into a contract, the tax commissioner shall require a bond from
13 the collection or credit agency not in excess of ten thousand dollars,
14 guaranteeing compliance with the terms of the contract.

15 3. A collection or credit agency entering into a contract with the tax commissioner for the
16 collection of delinquent taxes pursuant to this section thereby agrees that it is doing
17 business in this state for the purposes of the North Dakota income tax laws.

18 **Collection of delinquent sales, use, motor vehicle fuels, special fuels, importer for**
19 **use, aviation fuel, motor vehicle excise, telecommunications carriers, income, and**
20 **alcoholic beverage gross receipts taxes. (Contingent effective date - See note)**

21 1. Notwithstanding the secrecy and confidential information provisions in chapters ~~57-38~~
22 ~~and~~ chapter 57-39.2, the tax commissioner may, for the purpose of collecting
23 delinquent North Dakota sales, use, motor vehicle fuels, special fuels, importer for
24 use, aviation fuel, motor vehicle excise, telecommunications carriers, ~~income~~, or
25 alcoholic beverage gross receipts taxes due from a taxpayer not residing or domiciled
26 in this state, contract with any collection or credit agency, within or without the state,
27 for the collection of the delinquent sales, use, motor vehicle fuels, special fuels,
28 importer for use, aviation fuel, motor vehicle excise, telecommunications carriers,
29 ~~income~~, or alcoholic beverage gross receipts taxes, including penalties and interest
30 thereon. For purposes of this section, a delinquent tax is defined as a tax liability that
31 is due and owing for a period longer than six months and for which the taxpayer has

1 been given at least three notices in writing requesting payment. The notices must be
2 sent by regular mail to the taxpayer at the taxpayer's last-known mailing address. The
3 third notice must be sent with a copy of an affidavit of mailing. If the tax commissioner
4 has assigned a delinquent tax liability pursuant to this section, subsequent sales, use,
5 motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise,
6 ~~income~~, or alcoholic beverage gross receipts taxes that become due from the same
7 taxpayer may be assigned immediately and without further notice to the taxpayer, so
8 long as the originally assigned liability has not been fully collected.

- 9 2. a. Fees for services, reimbursement, or any other remuneration to a collection or
10 credit agency must be based on the amount of tax, penalty, and interest actually
11 collected. Each contract entered into between the tax commissioner and the
12 collection or credit agency must provide for the payment of fees for the services,
13 reimbursements, or other remuneration not in excess of fifty percent of the
14 amount of delinquent sales, use, motor vehicle fuels, special fuels, importer for
15 use, aviation fuel, motor vehicle excise, ~~income~~, or alcoholic beverage gross
16 receipts taxes, including penalties and interest actually collected.
- 17 b. All funds collected, less the fees for collection services, as provided in the
18 contract, must be remitted to the tax commissioner monthly from the date of
19 collection from a taxpayer. Forms to be used for the remittances must be
20 prescribed by the tax commissioner.
- 21 c. Before entering into a contract, the tax commissioner shall require a bond from
22 the collection or credit agency not in excess of ten thousand dollars,
23 guaranteeing compliance with the terms of the contract.

- 24 ~~3. A collection or credit agency entering into a contract with the tax commissioner for the~~
25 ~~collection of delinquent taxes pursuant to this section thereby agrees that it is doing~~
26 ~~business in this state for the purposes of the North Dakota income tax laws.~~

27 **SECTION 14. AMENDMENT.** Subsection 4 of section 57-01-15.1 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 4. If a tax incentive applicant or claimant is a corporation or passthrough entity, any of the
30 corporation's or passthrough entity's officers, governors, managing members, or

1 partners charged with the responsibility for filing and paying property, income, ~~income-~~
2 ~~withholding,~~ sales, or use tax are subject to the provisions of subsections 2 and 3.

3 **SECTION 15. AMENDMENT.** Paragraph 3 of subdivision b of subsection 15 of section
4 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

5 (3) "Net income from farming activities" means federal taxable income from
6 those activities as computed for income tax purposes ~~pursuant to chapter-~~
7 ~~57-38~~ adjusted to include the following:

8 (a) The difference between gross sales price less expenses of sale and
9 the amount reported for sales of agricultural products for which the
10 farmer reported a capital gain.

11 (b) Interest expenses from farming activities which have been deducted
12 in computing taxable income.

13 (c) Depreciation expenses from farming activities which have been
14 deducted in computing taxable income.

15 **SECTION 16. AMENDMENT.** Section 57-38-01.28 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-38-01.28. Marriage penalty credit.**

18 1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of not to
19 exceed three hundred dollars per couple ~~as determined under this section.~~ The tax
20 commissioner shall adjust the maximum amount of the credit under this subsection ~~each-~~
21 ~~taxable year at the time and rate adjustments are made to rate schedules under subdivision g of~~
22 ~~subsection 1 of~~ section 57-38-30.3.

23 2. ~~The credit under this section is the difference between the tax on the couple's joint~~
24 ~~North Dakota taxable income under the rates and income levels in subdivision b of~~
25 ~~subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and income-~~
26 ~~levels of subdivision a of subsection 1 of section 57-38-30.3 on the qualified income of~~
27 ~~the lesser-earning spouse, and the tax under the rates and income levels of~~
28 ~~subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint North Dakota~~
29 ~~taxable income, minus the qualified income of the lesser-earning spouse.~~

- 1 3. ~~For a nonresident or part-year resident, the credit under this section must be adjusted~~
2 ~~based on the percentage calculated under subdivision f of subsection 1 of section~~
3 ~~57-38-30.3.~~
- 4 4. ~~For purposes of this section:~~
- 5 a. ~~"Qualifying income" means the sum of the following, to the extent included in~~
6 ~~North Dakota taxable income:~~
- 7 (1) ~~Earned income as defined in section 32(c)(2) of the Internal Revenue Code;~~
8 (2) ~~Income received from a retirement pension, profit-sharing, stock bonus, or~~
9 ~~annuity plan; and~~
- 10 (3) ~~Social security benefits as defined in section 86(d)(1) of the Internal~~
11 ~~Revenue Code.~~
- 12 b. ~~"Qualifying income of the lesser earning spouse" means the qualifying income of~~
13 ~~the spouse with the lesser amount of qualifying income for the taxable year~~
14 ~~minus the sum of:~~
- 15 (1) ~~The amount for one exemption under section 151(d) of the Internal Revenue~~
16 ~~Code; and~~
- 17 (2) ~~One-half of the amount of the standard deduction under section 63(c)(2)(A)~~
18 ~~(4) of the Internal Revenue Code.~~

19 **SECTION 17. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **57-38-30. Imposition and rate of tax on corporations.**

22 A tax at the rate of one percent is hereby imposed upon the taxable income of every
23 domestic and foreign corporation which must be levied, collected, and paid annually as in this
24 chapter provided:

- 25 1. ~~For the first twenty-five thousand dollars of taxable income, at the rate of one and~~
26 ~~forty-one hundredths percent.~~
- 27 2. ~~On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty~~
28 ~~thousand dollars, at the rate of three and fifty-five hundredths percent.~~
- 29 3. ~~On all taxable income exceeding fifty thousand dollars, at the rate of four and~~
30 ~~thirty-one hundredths percent.~~

1 **SECTION 18. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-38-30.3. Individual, estate, and trust income tax.**

4 1. A tax is hereby imposed for each taxable year upon income earned or received in that
5 taxable year by every resident and nonresident individual, estate, and trust. A taxpayer
6 computing the tax under this section is only eligible for those adjustments or credits
7 that are specifically provided for in this section. Provided, that for purposes of this
8 section, any person required to file a state income tax return under this chapter, but
9 who has not computed a federal taxable income figure, shall compute a federal
10 taxable income figure using a pro forma return in order to determine a federal taxable
11 income figure to be used as a starting point in computing state income tax under this
12 section. The tax for individuals, estates, and trusts is equal to one percent of North
13 Dakota taxable income multiplied by the rates in the applicable rate schedule in
14 subdivisions a through d corresponding to an individual's filing status used for federal
15 income tax purposes. For an estate or trust, the schedule in subdivision e must be
16 used for purposes of this subsection.

17 a. ~~Single, other than head of household or surviving spouse.~~

18 ~~If North Dakota taxable income is:~~

19	Over	Not over	The tax is equal to	Of amount over
20	\$0	\$37,450	1.10%	\$0
21	\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
22	\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
23	\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
24	\$411,500		\$9,602.44 + 2.90%	\$411,500

25 b. ~~Married filing jointly and surviving spouse.~~

26 ~~If North Dakota taxable income is:~~

27	Over	Not over	The tax is equal to	Of amount over
28	\$0	\$62,600	1.10%	\$0
29	\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
30	\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200

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1	\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
2	\$411,500		\$9,074.74 + 2.90%	\$411,500
3	e. Married filing separately.			
4	If North Dakota taxable income is:			
5	Over	Not over	The tax is equal to	Of amount over
6	\$0	\$31,300	1.10%	\$0
7	\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
8	\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
9	\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
10	\$205,750		\$4,537.37 + 2.90%	\$205,750
11	d. Head of household.			
12	If North Dakota taxable income is:			
13	Over	Not over	The tax is equal to	Of amount over
14	\$0	\$50,200	1.10%	\$0
15	\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200
16	\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600
17	\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850
18	\$411,500		\$9,317.20 + 2.90%	\$411,500
19	e. Estates and trusts.			
20	If North Dakota taxable income is:			
21	Over	Not over	The tax is equal to	Of amount over
22	\$0	\$2,500	1.10%	\$0
23	\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500
24	\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900
25	\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050
26	\$12,300		\$254.17 + 2.90%	\$12,300
27	f. For an individual who is not a resident of this state for the entire year, or for a			
28	nonresident estate or trust, the tax is equal to the tax otherwise computed under			
29	this subsection multiplied by a fraction in which:			
30	(1) The numerator is the federal adjusted gross income allocable and			
31	apportionable to this state; and			

1 (2) The denominator is the federal adjusted gross income from all sources
2 reduced by the net income from the amounts specified in subdivisions a and
3 b of subsection 2.

4 In the case of married individuals filing a joint return, if one spouse is a resident
5 of this state for the entire year and the other spouse is a nonresident for part or
6 all of the tax year, the tax on the joint return must be computed under this
7 subdivision.

8 g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the
9 schedules set forth in subdivisions a through e. The new schedules must be
10 determined by increasing the minimum and maximum dollar amounts for each
11 income bracket for which a tax is imposed by the cost-of-living adjustment for the
12 taxable year as determined by the secretary of the United States treasury for
13 purposes of section 1(f) of the United States Internal Revenue Code of 1954, as
14 amended. For this purpose, the rate applicable to each income bracket may not
15 be changed, and the manner of applying the cost-of-living adjustment must be
16 the same as that used for adjusting the income brackets for federal income tax
17 purposes.

18 ~~h.b.~~ The tax commissioner shall prescribe an optional simplified method of computing
19 tax under this section that may be used by an individual taxpayer who is not
20 entitled to claim an adjustment under subsection 2 or credit against income tax
21 liability under subsection 7.

22 2. For purposes of this section, "North Dakota taxable income" means the federal taxable
23 income of an individual, estate, or trust as computed under the Internal Revenue Code
24 of 1986, as amended, adjusted as follows:

25 a. Reduced by interest income from obligations of the United States and income
26 exempt from state income tax under federal statute or United States or North
27 Dakota constitutional provisions.

28 b. Reduced by the portion of a distribution from a qualified investment fund
29 described in section 57-38-01 which is attributable to investments by the qualified
30 investment fund in obligations of the United States, obligations of North Dakota or
31 its political subdivisions, and any other obligation the interest from which is

- 1 exempt from state income tax under federal statute or United States or North
2 Dakota constitutional provisions.
- 3 c. Reduced by the amount equal to the earnings that are passed through to a
4 taxpayer in connection with an allocation and apportionment to North Dakota
5 under section 57-38-01.35.
- 6 d. Reduced by forty percent of:
- 7 (1) The excess of the taxpayer's net long-term capital gain for the taxable year
8 over the net short-term capital loss for that year, as computed for purposes
9 of the Internal Revenue Code of 1986, as amended. The adjustment
10 provided by this subdivision is allowed only to the extent the net long-term
11 capital gain is allocated to this state.
- 12 (2) Qualified dividends as defined under Internal Revenue Code section 1(h)
13 (11), added by section 302(a) of the Jobs and Growth Tax Relief
14 Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963
15 et seq.], but only if taxed at a federal income tax rate that is lower than the
16 regular federal income tax rates applicable to ordinary income. If, for any
17 taxable year, qualified dividends are taxed at the regular federal income tax
18 rates applicable to ordinary income, the reduction allowed under this
19 subdivision is equal to thirty percent of all dividends included in federal
20 taxable income. The adjustment provided by this subdivision is allowed only
21 to the extent the qualified dividend income is allocated to this state.
- 22 e. Increased by the amount of a lump sum distribution for which income averaging
23 was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C.
24 402], as amended. This adjustment does not apply if the taxpayer received the
25 lump sum distribution while a nonresident of this state and the distribution is
26 exempt from taxation by this state under federal law.
- 27 f. Increased by an amount equal to the losses that are passed through to a
28 taxpayer in connection with an allocation and apportionment to North Dakota
29 under section 57-38-01.35.
- 30 g. Reduced by the amount received by the taxpayer as payment for services
31 performed when mobilized under title 10 United States Code federal service as a

1 member of the national guard or reserve member of the armed forces of the
2 United States. This subdivision does not apply to federal service while attending
3 annual training, basic military training, or professional military education.

4 h. Reduced by income from a new and expanding business exempt from state
5 income tax under section 40-57.1-04.

6 ~~i. Reduced by interest and income from bonds issued under chapter 11-37.~~

7 ~~j.~~ Reduced by up to ten thousand dollars of qualified expenses that are related to a
8 donation by a taxpayer or a taxpayer's dependent, while living, of one or more
9 human organs to another human being for human organ transplantation. A
10 taxpayer may claim the reduction in this subdivision only once for each instance
11 of organ donation during the taxable year in which the human organ donation and
12 the human organ transplantation occurs but if qualified expenses are incurred in
13 more than one taxable year, the reduction for those expenses must be claimed in
14 the year in which the expenses are incurred. For purposes of this subdivision:

15 (1) "Human organ transplantation" means the medical procedure by which
16 transfer of a human organ is made from the body of one person to the body
17 of another person.

18 (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine,
19 lung, or bone marrow.

20 (3) "Qualified expenses" means lost wages not compensated by sick pay and
21 unreimbursed medical expenses as defined for federal income tax
22 purposes, to the extent not deducted in computing federal taxable income,
23 whether or not the taxpayer itemizes federal income tax deductions.

24 ~~k-j.~~ Increased by the amount of the contribution upon which the credit under section
25 57-38-01.21 is computed, but only to the extent that the contribution reduced
26 federal taxable income.

27 ~~l-k.~~ Reduced by the amount of any payment received by a veteran or beneficiary of a
28 veteran under section 37-28-03 or 37-28-04.

29 ~~m-l.~~ Reduced by the amount received by a taxpayer that was paid by an employer
30 under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire
31 the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the

1 extent the amount received by the taxpayer is included in federal taxable income.
2 The reduction applies only if the employer is entitled to the credit under section
3 57-38-01.25. The taxpayer must attach a statement from the employer in which
4 the employer certifies that the employer is entitled to the credit under section
5 57-38-01.25 and which specifically identified the type of payment and the amount
6 of the exemption under this section.

7 n.m. Reduced by the amount up to a maximum of five thousand dollars, or ten
8 thousand dollars if a joint return is filed, for contributions made under a higher
9 education savings plan administered by the Bank of North Dakota, pursuant to
10 section 6-09-38.

11 e.n. Reduced by the amount of income of a taxpayer, who resides anywhere within
12 the exterior boundaries of a reservation situated in this state or situated both in
13 this state and in an adjoining state and who is an enrolled member of a federally
14 recognized Indian tribe, from activities or sources anywhere within the exterior
15 boundaries of a reservation situated in this state or both situated in this state and
16 in an adjoining state.

17 p.o. For married individuals filing jointly, reduced by an amount equal to the excess of
18 the recomputed itemized deductions or standard deduction over the amount of
19 the itemized deductions or standard deduction deducted in computing federal
20 taxable income. For purposes of this subdivision, "itemized deductions or
21 standard deduction" means the amount under section 63 of the Internal Revenue
22 Code that the married individuals deducted in computing their federal taxable
23 income and "recomputed itemized deductions or standard deduction" means an
24 amount determined by computing the itemized deductions or standard deduction
25 in a manner that replaces the basic standard deduction under section 63(c)(2) of
26 the Internal Revenue Code for married individuals filing jointly with an amount
27 equal to double the amount of the basic standard deduction under section 63(c)
28 (2) of the Internal Revenue Code for a single individual other than a head of
29 household and surviving spouse. If the married individuals elected under
30 section 63(e) of the Internal Revenue Code to deduct itemized deductions in
31 computing their federal taxable income even though the amount of the allowable

1 standard deduction is greater, the reduction under this subdivision is not allowed.

2 Married individuals filing jointly shall compute the available reduction under this
3 subdivision in a manner prescribed by the tax commissioner.

4 ~~¶.~~ Reduced by an amount equal to the exemption available for a qualifying child
5 under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended,
6 for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a
7 fetal death certificate has been filed under section 23-02.1-20. For purposes of
8 this subdivision, the exemption may only be claimed in the taxable year in which
9 the stillbirth occurred.

10 3. The same filing status used when filing federal income tax returns must be used when
11 filing state income tax returns.

12 4. a. A resident individual, estate, or trust is entitled to a credit against the tax imposed
13 under this section for the amount of income tax paid by the taxpayer for the
14 taxable year by another state or territory of the United States or the District of
15 Columbia on income derived from sources in those jurisdictions that is also
16 subject to tax under this section.

17 b. For an individual, estate, or trust that is a resident of this state for the entire
18 taxable year, the credit allowed under this subsection may not exceed an amount
19 equal to the tax imposed under this section multiplied by a ratio equal to federal
20 adjusted gross income derived from sources in the other jurisdiction divided by
21 federal adjusted gross income less the amounts under subdivisions a and b of
22 subsection 2.

23 c. For an individual, estate, or trust that is a resident of this state for only part of the
24 taxable year, the credit allowed under this subsection may not exceed the lesser
25 of the following:

26 (1) The tax imposed under this chapter multiplied by a ratio equal to federal
27 adjusted gross income derived from sources in the other jurisdiction
28 received while a resident of this state divided by federal adjusted gross
29 income derived from North Dakota sources less the amounts under
30 subdivisions a and b of subsection 2.

- 1 (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal
2 adjusted gross income derived from sources in the other jurisdiction
3 received while a resident of this state divided by federal adjusted gross
4 income derived from sources in the other states.
- 5 d. The tax commissioner may require written proof of the tax paid to another state.
6 The required proof must be provided in a form and manner as determined by the
7 tax commissioner.
- 8 5. Individuals, estates, or trusts that file an amended federal income tax return changing
9 their federal taxable income figure for a year for which an election to file state income
10 tax returns has been made under this section shall file an amended state income tax
11 return to reflect the changes on the federal income tax return.
- 12 6. The tax commissioner may prescribe procedures and guidelines to prevent requiring
13 income that had been previously taxed under this chapter from becoming taxed again
14 because of the provisions of this section and may prescribe procedures and guidelines
15 to prevent any income from becoming exempt from taxation because of the provisions
16 of this section if it would otherwise have been subject to taxation under the provisions
17 of this chapter.
- 18 7. A taxpayer filing a return under this section is entitled to the following tax credits:
- 19 a. Family care tax credit under section 57-38-01.20.
20 b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
21 c. Agricultural business investment tax credit under section 57-38.6-03.
22 d. Seed capital investment tax credit under section 57-38.5-03.
23 e. Planned gift tax credit under section 57-38-01.21.
24 f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and
25 57-38-01.23.
26 g. Internship employment tax credit under section 57-38-01.24.
27 h. Workforce recruitment credit under section 57-38-01.25.
28 i. ~~Angel fund investment tax credit under section 57-38-01.26 (effective for the first~~
29 ~~taxable year beginning after December 31, 2016).~~
30 j. Marriage penalty credit under section 57-38-01.28.
31 k-j. Research and experimental expenditures under section 57-38-30.5.

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- 1 ~~l.k.~~ Geothermal energy device installation credit under section 57-38-01.8.
- 2 ~~m.l.~~ Long-term care partnership plan premiums income tax credit under section
- 3 57-38-29.3.
- 4 ~~n.m.~~ Employer tax credit for salary and related retirement plan contributions of
- 5 mobilized employees under section 57-38-01.31.
- 6 ~~o.~~ ~~Automating manufacturing processes tax credit under section 57-38-01.33-~~
- 7 ~~(effective for the first five taxable years beginning after December 31, 2012).~~
- 8 ~~p.n.~~ Income tax credit for passthrough entity contributions to private education
- 9 institutions under section 57-38-01.7.
- 10 ~~q.o.~~ Angel investor tax credit under section 57-38-01.26.
- 11 8. A taxpayer filing a return under this section is entitled to ~~the~~any exemption provided for
- 12 which the taxpayer qualifies under section 40-63-04.
- 13 9. a. If an individual taxpayer engaged in a farming business elects to average farm
- 14 income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the
- 15 taxpayer may elect to compute tax under this subsection. If an election to
- 16 compute tax under this subsection is made, the tax imposed by subsection 1 for
- 17 the taxable year must be equal to the sum of the following:
- 18 (1) The tax computed under subsection 1 on North Dakota taxable income
- 19 reduced by elected farm income.
- 20 (2) The increase in tax imposed by subsection 1 which would result if North
- 21 Dakota taxable income for each of the three prior taxable years were
- 22 increased by an amount equal to one-third of the elected farm income.
- 23 However, if other provisions of this chapter other than this section were
- 24 used to compute the tax for any of the three prior years, the same
- 25 provisions in effect for that prior tax year must be used to compute the
- 26 increase in tax under this paragraph. For purposes of applying this
- 27 paragraph to taxable years beginning before January 1, 2001, the increase
- 28 in tax must be determined by recomputing the tax in the manner prescribed
- 29 by the tax commissioner.
- 30 b. For purposes of this subsection, "elected farm income" means that portion of
- 31 North Dakota taxable income for the taxable year which is elected farm income

1 as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C.
2 1301], as amended, reduced by the portion of an exclusion claimed under
3 subdivision d of subsection 2 that is attributable to a net long-term capital gain
4 included in elected farm income.

5 c. The reduction in North Dakota taxable income under this subsection must be
6 taken into account for purposes of making an election under this subsection for
7 any subsequent taxable year.

8 d. The tax commissioner may prescribe rules, procedures, or guidelines necessary
9 to administer this subsection.

10 ~~40. The tax commissioner may prescribe tax tables, to be used in computing the tax~~
11 ~~according to subsection 1, if the amounts of the tax tables are based on the tax rates~~
12 ~~set forth in subsection 1. If prescribed by the tax commissioner, the tables must be~~
13 ~~followed by every individual, estate, or trust determining a tax under this section.~~

14 **SECTION 19. REPEAL.** Sections 40-57.1-04, 40-57.1-04.4, 40-63-04, 40-63-06, 40-63-07,
15 40-63-09, and 40-63-10 and chapters 52-02.1, 57-38, 57-38.1, 57-38.3, 57-38.4, 57-38.5, and
16 57-38.6 of the North Dakota Century Code are repealed.

17 **SECTION 20. EFFECTIVE DATE.** Sections 16 through 18 of this Act are effective for
18 taxable years beginning after December 31, 2018, and the remainder of this Act is effective for
19 taxable years beginning after December 31, 2019.