

Introduced by

Representative Becker

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact section 57-01-15.2 of the North Dakota Century Code,  
2 relating to COVID-19 vaccination requirement limitations on recipients of state and local tax  
3 incentives and exemptions; to amend and reenact subsection 3 of section 54-60.1-03 of the  
4 North Dakota Century Code, relating to terms of a business incentive requiring COVID-19  
5 vaccination requirements; to provide for application; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 3 of section 54-60.1-03 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9 3. A business incentive agreement must include:

- 10 a. A description of the business incentive, including the value of the business  
11 incentive, which may be the amount of the incentive, the fair market value of the  
12 property conveyed to the recipient, or the fair market value of other in-kind  
13 benefits provided to the recipient; the type of incentive; and the type of district if  
14 the incentive is tax increment financing.
- 15 b. A statement of the public purposes of the business incentive.
- 16 c. Goals for the business incentive. The goals must include the number of jobs to be  
17 created and the average compensation of the new jobs created. The information  
18 on average compensation must include identification of the average benefits and  
19 the average earnings to be provided by the employer on all jobs to be created or  
20 retained in association with the incentive. The job and average compensation  
21 goals may include separate goals for the number of part-time or full-time jobs to  
22 be created or, in cases in which potential job loss is specific and demonstrable,  
23 goals for the number of jobs to be retained. In addition to other specific goal

- 1                   timeframes, the job and average compensation goals must contain specific goals  
2                   to be attained within two years of the benefit date.
- 3           d.    A description of the financial obligation of the recipient if the goals are not met.  
4                   This financial obligation must include an exception for any unmet goal that results  
5                   from an act of God or terrorism.
- 6           e.    A commitment by the recipient to continue operations in the jurisdiction in which  
7                   the business incentive is used for five years or more after the benefit date.
- 8           f.    The name and address of the parent company of the recipient, if any.
- 9           g.    A list of all financial assistance by all grantors for the project.
- 10          h.    A commitment by the recipient that the recipient will not require an employee,  
11                   independent contractor, or customer or other recipient of goods or services to be  
12                   vaccinated against COVID-19. This subdivision does not prohibit a recipient from  
13                   requiring COVID-19 vaccination if the requirement is the result of a federal  
14                   vaccine mandate for which failure to comply would result in direct financial losses  
15                   to the recipient. As used in this subdivision, the term "COVID-19" means severe  
16                   acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any  
17                   mutation or viral fragments of SARS-CoV-2.
- 18          i.    The recipient's obligation if the recipient does not fulfill the business incentive  
19                   agreement.

20           **SECTION 2.** Section 57-01-15.2 of the North Dakota Century Code is created and enacted  
21 as follows:

22           **57-01-15.2. Tax incentives and exemptions - Prohibition on COVID-19 vaccination**  
23 **requirements.**

- 24           1.   A person may not claim a state or local tax incentive or tax exemption identified in  
25                   chapter 40-57.1, chapter 40-63, or title 57 for the taxable period if the person requires,  
26                   or at any time during the taxable period required, the person's employee, independent  
27                   contractor, or customer or other recipient of goods or services to be vaccinated against  
28                   COVID-19. This subsection does not apply if the COVID-19 vaccination requirement is  
29                   the result of a federal vaccine mandate for which failure to comply would result in  
30                   direct financial losses to the person.

- 1       2. A political subdivision may not grant a local tax incentive or tax exemption identified in  
2       chapter 40-57.1, chapter 40-63, or title 57 for the taxable period if the person  
3       requesting the tax incentive or tax exemption requires, or at any time during the  
4       taxable period required, the person's employee, independent contractor, or customer  
5       or other recipient of goods or services to be vaccinated against COVID-19. This  
6       subsection does not apply if the COVID-19 vaccination requirement is the result of a  
7       federal vaccine mandate for which failure to comply would result in direct financial  
8       losses to the person.
- 9       3. A person claiming a state or local tax incentive or exemption identified in chapter  
10      40-57.1, chapter 40-63, or title 57 shall attach to the return or other filing schedule on  
11      which the tax incentive or exemption is claimed a verified statement:
- 12      a. The person does not require and during the taxable period did not require the  
13      person's employee, independent contractor, or customer or other recipient of  
14      goods or services to be vaccinated against COVID-19; or
- 15      b. As a result of a federal vaccine mandate for which failure to comply would result  
16      in direct financial losses to the person, the person does require or during the  
17      taxable period did require the person's employee, independent contractor, or  
18      customer or other recipient of goods or services to be vaccinated against  
19      COVID-19.
- 20      4. If a person fails to comply with this section, the tax commissioner shall disallow that  
21      person's state tax exemption or credit claimed under any law authorizing the tax  
22      commissioner to audit and shall assess the additional tax due.
- 23      5. This section does not apply to a tax exemption authorized by the Constitution of North  
24      Dakota.
- 25      6. As used in this section, the term "COVID-19" means severe acute respiratory  
26      syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral  
27      fragments of SARS-CoV-2.

28       **SECTION 3. APPLICATION.** This Act applies to business incentives awarded and to tax  
29 incentives and exemptions claimed or granted on or after the effective date of this Act.

30       **SECTION 4. EFFECTIVE DATE.** This Act becomes effective upon its filing with the  
31 secretary of state.