

FISCAL NOTE
Requested by Legislative Council
12/20/2016

Bill/Resolution No.: HB 1049

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1049 repeals the corporate income tax credit for wages and salaries paid by new industries.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of HB 1049 repeals the corporate income tax credit allowed for wages and salaries paid by new businesses operating in the state. If enacted, HB 1049 is expected to have no fiscal impact as this credit has not been claimed by any corporate taxpayer for several years. Generally, other available new business tax credits and exemptions are more beneficial to new taxpayers than is this wage and salary tax credit.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/02/2017

2017 HOUSE FINANCE AND TAXATION

HB 1049

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1049
1/4/2017
26529

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Buckner

Explanation or reason for introduction of bill/resolution:

A bill relating to the list of economic development tax incentives subject to regular review and relating to the wage and salary credit.

Minutes:

Attachment 1

Chairman Headland: Opened hearing.

Vice Chairman Dockter: Introduced bill. This incentive was first enacted in 1969. The goal of the credit was to provide an incentive to encourage new industry to locate to the state. We received testimony from the Tax Department and Department of Commerce and learned that the credit was claimed on less than five corporate tax returns in tax years from 2006-2010 and not claimed on any tax returns in tax years 2011-2014. Inability of a corporation claiming a property or income tax exemption as a new or expanding business to also claim a credit might be a contributing factor of the credit and the lack of use. Similar credits are found in 13 states. The interim committee did not receive any comments from parties supporting this credit. Emily Thompson will be going into more detail.

Chairman Headland: Are there any questions?

Emily Thompson, Counsel, Legislative Council: Vice Chairman Dockter did a very nice job summarizing this bill. The amount of the specific credit we're looking at which is only available to corporate income taxpayers, is equal to 1% of the wages and salaries paid by the corporate income taxpayer in each of the first three taxable years that corporation is in operation. The amount is equal to half a percentage per year for the fourth and fifth year. In 1969 it was passed. It was claimed by less than five claimants from 2006-2010 and not claimed on any returns from 2011-2014. The only change in the first section of the bill is removing the specific wage and salary credit from the list of those credits that the next interim committees will be studying. Section two repeals the language relating to the credit. I would be happy to answer any questions.

Chairman Headland: Are there any questions for Emily?

Representative Schobinger: Is there any testimony as to why this credit isn't being taken advantage of?

Emily Thompson: The main consensus seemed to be an assumption that says the language in this credit prohibits a corporation that is receiving a new and expanding business credit from also receiving this credit. It is likely that those corporations that would qualify under this credit were opting to take the other credit because it is more beneficial to the taxpayer.

Chairman Headland: Are there any other questions for Emily? Is there testimony in support of HB 1049?

Jennifer Greuel, Executive Director of Economic Development Association of North Dakota: We are in support of HB 1049. See attachment #1.

Chairman Headland: Any other support? Is there any testimony against HB 1049? Seeing none we will close the hearing. I would entertain a motion.

Representative Grueneich: Made a motion for a Do Pass.

Representative Steiner: Seconded.

ROLL CALL VOTE: 13 YES 0 NO 1 ABSENT
MOTION CARRIED FOR DO PASS
REPRESENTATIVE ERTELT WILL CARRY THIS BILL

Date: 1-4-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1049

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Grueneich Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	AB	
Vice Chairman Dockter	✓		Representative Mitskog	✓	
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Ertelt

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1049: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1049 was placed on the Eleventh order on the calendar.

2017 SENATE FINANCE AND TAXATION

HB 1049

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

House Bill 1049
3/1/2017
Job #: 28533

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to the list of economic development tax incentives subject to regular review; to repeal section 57-38-30.1 of the North Dakota Century Code, relating to the wage and salary credit; and to provide an effective date.

Minutes:

Attachments #: 1, 2, 3

All Senators present.

Chairman Cook: Opened the public hearing on HB 1049.

(0:00:37-0:04:15) Emily Thompson, Legislative Council: Testified in a neutral capacity for HB 1049. This bill was part of a study during the interim political subdivision taxation committee as part of SB 2057 from 64th Legislative session. SB 2057 created a study of economic development tax incentives from a list of 21 in statute that are to be reviewed once in every 3 interims. This bill repeals the Wage and Salary credit, it provides for a corporate income tax for new industry, defined as a corporate enterprise engaged in assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products. The taxpayer must be a domestic corporation, incorporated for the first time after January 1, 1969. Or a foreign corporation that received a certificate of authority for the first time after January 1, 1969. The amount of the credit is equal to 1 percent of wages and salaries paid in the first 3 tax years and in an amount equal to one-half of 1 percent of wages and salaries paid during years 4 and 5 of operation. The committee received testimony from various individuals on the credit. Support from the Economic Development Association in repealing the credit for lack of use. It was enacted in 1969 with the goal of providing an incentive to try and encourage new industry to locate into this state. It's been used very infrequently since. The number of claimants was less than 5 for tax years 2006-2010 and not used on any returns from 2011 to 2014. Due to its lack of use the committee selected it as one of the incentives to be repealed.

In Section 1 you'll see that we're removing the Wage and Salary credit from the list of incentives to be studied as it's being repealed, it will no longer need to be on the list incentives to be studied. Handed out **attachment #1**, a memo prepared for the interim committee that

explains the credit, how much it's been used, and a summary of the testimony received during the interim hearing.

Senator Dotzenrod: When we passed 2057 two years ago, did that have a date of expiration on it, or when we repeal in Section 2, does that repeal the whole bill?

Emily Thompson: Section 1 strips just the one credit off the list of the bill that was passed two years ago. Section 2 repeals the statutory citation for the wage and salary credit since it's being taken out of the code.

Senator Dotzenrod: The provisions that we passed two years ago are still intact. Still in the Century Code. If we pass this, it doesn't take the place of that, it just changes the list a little bit.

Emily Thompson: The statute that created the study is still intact, it's just removing one item from the list.

Chairman Cook: Committee received testimony in support of the bill from GNDC and handed out. **(Attachment #2)**

(0:06:00-0:09:20) Dana Bohn, Economic Development Association of North Dakota (EDND): testified in support of HB 1049 with **attachment #3.**

Chairman Cook: If I read between the lines, you've given up on sales tax exemption for electric generating facilities and telecommunications infrastructure.

Dana Bohn: They have very large fiscal notes, the automation credit only has a \$500,000 fiscal note.

Chairman Cook: Closed the public hearing on HB 1049.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

House Bill 1049
3/8/2017
Job #: 28904

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to the list of economic development tax incentives subject to regular review; to repeal section 57-38-30.1 of the North Dakota Century Code, relating to the wage and salary credit; and to provide an effective date.

Minutes:

No Attachments

All Senators present.

Chairman Cook: Are we ready with 1049?

Senator Meyer moved a do pass on HB 1049.

Senator Dotzenrod seconded.

Committee Discussion: Repeals the wage and salary credit, another one that was not used. Most corporations don't pay much state income tax, that's probably why it's not getting used.

A Roll Call Vote was taken. 6 ayes, 0 nays, 0 absent.

Motion carried.

Senator Laffen will carry the bill.

Date: 3/8

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1049

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. Meyer Seconded By Sen. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chair Brad Bekkedahl	✓				
Senator Lonnie J. Laffen	✓				
Senator Jessica Unruh	✓				
Senator Scott Meyer	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Laffen Laffen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1049: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1049 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1049

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Testimony of Jennifer Greuel, Executive Director
Economic Development Association of North Dakota (EDND)
In Support of HB 1048, 1049 and 1050
January 4, 2017

Chairman and members of the House Finance and Taxation Committee:

The Economic Development Association of North Dakota represents more than 80 large and small and rural and urban economic development organizations on the front line of growing businesses and communities in North Dakota. The primary purpose of the organization is to support the creation of new wealth and the diversification of North Dakota's economy.

EDND stands before you in support of the eliminating the Certified Nonprofit Development Corporation Investment Credit (HB 1048), the Wage and Salary Credit (HB 1049), and the Microbusiness Income Tax Credit (HB 1050) due to the lack of use and limited scope of each.

Economic development tax incentives can be important tools in supporting entrepreneurship, innovation and start-up companies in the state, which is critical to diversifying North Dakota's economy. North Dakota no longer simply competes with other states, but rather on a global scale. Properly structured tax incentives can help companies meet the challenges facing businesses today.

EDND would like to thank you for your commitment to review all incentives and adjust or enhance incentives accordingly, as would most benefit the state. Our organization has been supportive of your efforts to demonstrate the value of the state's investment in business support programs to grow and diversify North Dakota's economy. We were very active in the interim study process because we too want to assure North Dakota taxpayers these investments provide a return on their investment.

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1-4-17

Thank you for the opportunity to address the committee and express support for these bills and your continued commitment to keeping North Dakota globally competitive to recruit and retain viable businesses.

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HB 1049

Attachment #1

Pg 1

17.9091.04000

Prepared for the Political Subdivision Taxation Committee

ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY - WAGE AND SALARY CREDIT

Pursuant to North Dakota Century Code Section 54-35-26, created by 2015 Senate Bill No. 2057, a variety of economic development tax incentives are to be reviewed by a Legislative Management interim committee over the ensuing six-year period. The study is aimed at ensuring that economic development tax incentives are serving their intended purposes in a cost-effective and equitable manner. This memorandum has been provided to assist in the review of the wage and salary credit and provides an explanation of the incentive, the perceived goals of the Legislative Assembly in creating or altering the incentive, and the data and testimony that will be required to conduct an effective analysis of the incentive.

EXPLANATION OF THE WAGE AND SALARY CREDIT

Section 57-38-30.1 provides for corporate income tax credit for new industry, which is defined as "a corporate enterprise engaged in assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products or any combination thereof." The taxpayer must be a domestic corporation, which is not the result of a business reorganization or acquisition, incorporated in this state for the first time after January 1, 1969, or a foreign corporation that has received a certificate of authority to transact business in this state after January 1, 1969.

The amount of the credit is equal to 1 percent of wages and salaries paid by the corporate income taxpayer in each of the first three tax years of operation and in an amount equal to one-half of 1 percent of wages and salaries paid by the taxpayer during the fourth and fifth tax years of operation. A corporation receiving a property or income tax exemption pursuant to Chapter 40-57.1 as a new and expanding business is not eligible to receive the credit.

PERCEIVED GOALS OF THE LEGISLATIVE ASSEMBLY IN CREATING OR ALTERING THE WAGE AND SALARY CREDIT

Section 57-38-30.1, providing for a corporate income tax credit for new industry, was created through the passage of 1969 House Bill No. 464. The bill provided for a corporate income tax credit equal to 1 percent of wages and salaries paid by the corporate income taxpayer in each of the first three tax years of operation and in an amount equal to one-half of 1 percent of wages and salaries paid by the taxpayer during the fourth and fifth tax years of operation. Upon a review of the legislative history pertaining to House Bill No. 464, the perceived goal of the Legislative Assembly in creating this credit was to provide an incentive to encourage new industry to locate to this state. The estimated fiscal effect of the corporate income tax credit for new industry could not be determined during the 1969 legislative session.

Any additional changes made to the language of Section 57-38-30.1, as originally enacted, have been essentially technical in nature. These changes were effectuated by 1971 House Bill No. 1164, 1973 House Bill No. 1440, and 1995 Senate Bill No. 2191. The credit has been used relatively infrequently since its enactment.

DATA AND TESTIMONY REQUIRED TO CONDUCT AN EFFECTIVE ANALYSIS OF THE WAGE AND SALARY CREDIT

The interim Political Subdivision Taxation Committee identified various items of data and testimony that would need to be collected to effectively analyze the wage and salary credit. The following list identifies the information the committee sought to collect and the receipt of that information throughout the course of the 2015-16 interim.

1. The number of claimants and the fiscal impact of the incentive.
 - Information (Appendix A) provided to the Political Subdivision Taxation Committee by the Tax Department on December 2, 2015, indicated the total amount of the credit claimed in tax years 2006 through 2010 cannot be disclosed due to confidentiality restrictions as the credit was claimed on less than five returns in each tax year. The credit was not claimed on any corporate income tax returns in tax years 2011 through 2014.
2. The use of similar incentives in other states.
 - Incentives similar to this state's wage and salary credit (Appendix B) were found in 13 other states.
3. Employment opportunities, business growth, or diversity in the state's economy resulting from the availability of the incentive.
 - The committee has not identified any employment opportunities, business growth, or diversity in the state's economy resulting from the availability of the incentive as the incentive has not been claimed by any taxpayers in the last several years.

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HB 1049

#1

17.9091.04000

Political Subdivision Taxation Committee

4. Negative impacts created as a result of the incentive.
 - The committee has not identified any negative impacts created as a result of the incentive as the incentive has not been claimed by any taxpayers in the last several years.
5. Benefits that flow to out-of-state concerns resulting from the incentive.
 - The committee has not identified any negative impacts created as a result of the incentive as the incentive has not been claimed by any taxpayers in the last several years.
6. Testimony from interested parties.
 - Testimony has not been received from parties in support of retaining the wage and salary credit.
 - Testimony (Appendix C) was provided by the Economic Development Association of North Dakota in support of eliminating the wage and salary credit.

ATTACH:3

3/1/17

HB 1049

Attachment # 2

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March 1, 2017
The Honorable Senator Dwight Cook
Finance and Taxation Committee
Re: Support for House Bill 1049

Chairman Cook and members of the committee:

My name is Brent Bogar and I am representing the Greater North Dakota Chamber. The GNDC works on behalf of all our members to support building a strong, vibrant business climate in North Dakota. GNDC stands today in support of HB 1049.

GNDC has worked with its members and legislators over the years to create a business climate in North Dakota. At times this has been accomplished through various incentives for businesses that are designed to encourage investment, job retention and creation, economic diversification, and growth for North Dakota's economy.

The creation of any incentive should be measured for its effectiveness and we have seen the start of this with the review of various incentives that have been adopted by the legislature over the years. GNDC fully supports the review of such incentives to ensure that they are producing the intended results.

HB 1049 is a bill that comes from the review of the tax incentives completed during the interim committee work. It is the removal of an incentive that does not produce results and has not been utilized for some time. It is important that in creating a business climate in North Dakota that the incentives that are offered are effective and utilized and if they are not to remove them from statute to minimize confusion. That is what HB 1049 does and GNDC supports the bill.

Chairman, members of the committee GNDC urges a Do Pass on HB 1049.



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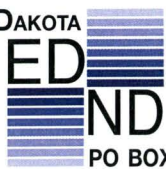
3/1/17

HB 1049

Attachment # 3

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ECONOMIC DEVELOPMENT ASSOCIATION OF NORTH DAKOTA



PO BOX 1091 • BISMARCK, NORTH DAKOTA 58502

Testimony of Dana Bohn

Economic Development Association of North Dakota (EDND)

In Support of HB 1048 and HB 1049

March 1, 2017

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

I'm Dana Bohn and I am representing the Economic Development Association of North Dakota (EDND), and would like to express our support for HB 1048 and HB 1049.

The Economic Development Association of North Dakota represents more than 80 large and small and rural and urban economic development organizations on the front line of growing businesses and communities in North Dakota. The primary purpose of the organization is to support the creation of new wealth and the diversification of North Dakota's economy.

Our organization has been supportive of the legislature's efforts to demonstrate the value of the state's investment in business support programs to grow and diversify North Dakota's economy. EDND activity participated in the interim study on economic tax incentives because we too want to assure North Dakota taxpayers these investments provide a return on their investment.

Economic development tax incentives can be important tools in supporting entrepreneurship, innovation and start-up companies in the state, which is critical to diversifying North Dakota's economy. Properly structured tax incentives can help companies meet the challenges facing businesses today, and EDND wants to ensure the taxpayers are receiving a return on investment.

Background on Interim Study Bills

EDND has been supportive of the elimination of the following incentives due to the lack of use and limited scope of each:

- Certified Nonprofit Development Corporation Investment Credit (HB 1048)
- Wage and Salary Credit (HB 1049)
- Microbusiness Income Tax Credit (HB 1050)

EDND also supported further review and continuation of three incentives that will sunset in 2017:

- Sales Tax Exemption for Wind-Powered Electrical Generating Facilities (HB 1024)
- Telecommunications Infrastructure Sales Tax Exemption (HB 1046)
- Automation Tax Credit (HB 1047)

Although the interim Political Subdivision Taxation Committee introduced bills to continue these three incentives, they were defeated in the House.

3/1/17

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#3

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EDND also supports adopting and funding an evaluation tool, such as REMI, and the necessary staff support needed to properly evaluate the remaining economic development tax incentives during future interims (SB 2044). We would like to see a dynamic fiscal impact analysis completed prior to elimination of these three incentives because they received a significant amount of favorable testimony during the interim study.

At a minimum, we would ask this committee to consider amending one of the bills you will be working on to reinstate the continuation of the automation tax credit, which has been an effective economic development tool because it helps with the following:

- Increasing global competitiveness,
- Addressing workforce needs, and
- Encouraging companies to invest in North Dakota rather than other facilities elsewhere.

EDND would like to thank you for your commitment reviewing economic development incentives and adjusting or enhancing incentives accordingly, as would most benefit the state. Your continued commitment to keeping North Dakota globally competitive to recruit and retain viable businesses is greatly appreciated.

In closing, EDND urges the committee's support of HB 1048 and HB 1049.