

MUNICIPAL GOVERNMENT

CHAPTER 363

SENATE BILL NO. 2198

(Senators Cook, Wardner)
(Representatives Glassheim, Timm)

HOME RULE CHARTERS

AN ACT to amend and reenact sections 40-05.1-05 and 40-05.1-07 of the North Dakota Century Code, relating to the filing of copies of a new home rule charter and amendment or repeal of city home rule charters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶⁴ **SECTION 1. AMENDMENT.** Section 40-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-05. Ratification by majority vote - Supersession of existing charter and state laws in conflict therewith - Filing of copies of new charter. If a majority of the qualified voters voting on the charter at the election ~~shall~~ vote in favor of the home rule charter it ~~shall be deemed to be~~, the charter is ratified and shall become is the organic law of ~~such~~ the city, and ~~extend~~ extends to all its local and city matters. ~~Such~~ The charter and the ordinances made pursuant ~~thereto~~ to the charter in such matters ~~shall~~ supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict ~~therewith~~ with the charter and ordinances, and ~~shall~~ must be liberally construed for such purposes. One copy of the charter ~~so~~ ratified and approved ~~shall~~ must be filed with the secretary of state; ~~one with the clerk of district court for the county in which the city is located~~; and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter.

SECTION 2. AMENDMENT. Section 40-05.1-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-05.1-07. Amendment or repeal. The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in section 40-05.1-02 and section 40-05.1-04 for the adoption of ~~such~~ the charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of ~~such~~ the amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted ~~shall~~ must likewise be submitted to the electors of the city as set forth in this section. One copy

²⁶⁴ Section 40-05.1-05 was also amended by section 66 of House Bill No. 1275, chapter 278.

of a ratified amendment or a repeal of a home rule charter must be filed with the secretary of state and one with the city auditor. Upon proper filing of the amendment or repeal, the courts shall take judicial notice of the amendment or repeal.

Approved March 16, 1999

Filed March 16, 1999

CHAPTER 364**HOUSE BILL NO. 1318**

(Representatives Grosz, Dorso, Poolman)
(Senators Heitkamp, Wardner)

HOME RULE CITY INCOME TAX PROHIBITED

AN ACT to amend and reenact subsection 2 of section 40-05.1-06 of the North Dakota Century Code, relating to removal of authority of home rule cities to impose income taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 40-05.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; to contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; to establish charges for any city or other services, and to establish debt and mill levy limitations, provided that all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. The authority to levy taxes under this subsection does not include authority to impose income taxes.

Approved March 9, 1999

Filed March 9, 1999

CHAPTER 365**HOUSE BILL NO. 1235**

(Representative Klemin)

MUNICIPAL JUDGE CONTINUING EDUCATION

AN ACT to amend and reenact section 40-18-22 of the North Dakota Century Code, relating to continuing education for municipal judges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-18-22 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-22. Continuing education of municipal judge and alternate judge required. Each municipal judge and alternate judge shall ~~at least twice within one year after taking office, and at least twice each calendar year thereafter, attend and participate in an educational session designated for that purpose by the supreme court, unless the judge is excused from attendance~~ comply with continuing judicial education requirements established by the supreme court rule. The city shall reimburse the judge for necessary expenses of travel and subsistence as other city officials are so reimbursed.

If any judge fails to fulfill the requirements of this section, without being excused by the supreme court, the state court administrator shall report the judge's failure to the ~~commission on~~ judicial conduct commission for appropriate action.

Approved March 11, 1999

Filed March 11, 1999

CHAPTER 366**HOUSE BILL NO. 1247**

(Representative Glasheim)

SPECIAL ASSESSMENT PROPERTY INSPECTION

AN ACT to amend and reenact section 40-23-07 of the North Dakota Century Code, relating to inspection of special assessment property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-23-07 of the North Dakota Century Code is amended and reenacted as follows:

40-23-07. Determination of special assessments by commission - Political subdivisions not exempt. Whenever the commission is required to make any special assessment under the provisions of this title, the members thereof personally shall inspect any and all lots and parcels of land which may be subject to such special assessment and commission shall determine from such inspection the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure heretofore provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

Approved March 9, 1999

Filed March 9, 1999

CHAPTER 367

SENATE BILL NO. 2290

(Senators Lee, Fischer, Kroeplin)
(Representatives Devlin, Koppang, Koppelman)

EXTRATERRITORIAL ZONING

AN ACT to amend and reenact section 40-47-01.1 of the North Dakota Century Code, relating to extraterritorial zoning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-47-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-47-01.1. Extraterritorial zoning - Mediation - Determination by administrative law judge.

1. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
 - a. One mile [1.61 kilometers] if the city has a population of less than five thousand.
 - b. Two miles [3.22 kilometers] if the city has a population of five thousand or more, but less than twenty-five thousand.
 - c. Four miles [6.44 kilometers] if the city has a population of twenty-five thousand or more.
2. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.
3. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.
4. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the

extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.

4. 5. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 3 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
- a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
 - b. The proximity of the land in dispute to the corporate limits of each city involved;
 - c. The proximity of the land in dispute to developed property in the cities involved;
 - d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
 - e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
 - f. The growth pattern of the cities involved in the dispute; and

- g. Any other factor determined to be relevant by the administrative law judge.
- ~~5.~~ 6. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
- ~~6.~~ 7. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.
- ~~7.~~ 8. For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.

Approved April 1, 1999

Filed April 2, 1999

CHAPTER 368

SENATE BILL NO. 2051

(Legislative Council)
(Taxation Committee)

PROPERTY TAX EXEMPTION DECISIONS FOR NEW INDUSTRIES

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to inclusion of school board and township representatives in negotiations and deliberations on granting property tax exemptions or payments in lieu of taxes for new industries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶⁵ **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of taxes - Notice to competitors - Limitations. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations.

In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project upon which initial construction is begun after June 30, 1994. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.

By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of

²⁶⁵ Section 40-57.1-03 was also amended by section 1 of House Bill No. 1456, chapter 497.

payments in lieu of taxes due under this section in the following year. After receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.

Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.

During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action.

Approved March 11, 1999
Filed March 11, 1999

CHAPTER 369

HOUSE BILL NO. 1492

(Representatives Dorso, Clark, B. Thoreson)
(Senators Grindberg, G. Nelson)

RENAISSANCE ZONES

AN ACT to provide for renaissance zones in cities and to provide tax exemptions and credits for investments in renaissance zones; to create and enact a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to tax exemptions and credits for investments in renaissance zones; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 through 10 of this Act:

1. "Boundary" means the boundary established by vote of the city governing body and approved by the office of intergovernmental assistance.
2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 3 of this Act and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries, the total area, and the present use and conditions of the land and structures within those boundaries.
 - b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
 - c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
 - d. A description of proposed projects including public and private investments, and the programming and planned events to support and enhance the projected investments.
 - e. A description of the promotion, development, and management strategies to maximize investment in the zone.
 - f. A plan for the promotion and use of the renaissance fund corporation, including commitments by one or more investors to the corporation, if such use is intended.
 - g. Evidence of community support and commitment from residential and business interests.
3. "Investor" means the individual, partnership, limited partnership, limited liability company, trust, or corporation making an investment in a renaissance fund corporation.

4. "Local zone authority" means the city or the entity designated by the city to promote, develop, and manage the zone and may include any nonprofit incorporated entity such as an economic development corporation, community development corporation, main street organization, or chamber of commerce.
5. "Original principal amount" means the funds invested in a renaissance fund corporation after designation of the renaissance zone and before the sunset of that zone.
6. "Taxpayer" means an individual, corporation, financial institution, or trust subject to the taxes imposed by chapter 57-35.3 or 57-38.
7. "Zone" means a renaissance zone proposed by a city and designated by the office of intergovernmental assistance.
8. "Zone project" means any project contained within a designated renaissance zone and approved for zone incentives by a majority vote of the city governing body or zone authority.

SECTION 2. Eligibility - Local zone authority designation. Any incorporated city may apply to the office of intergovernmental assistance to designate a portion of the city as a renaissance zone. Any individual, partnership, limited partnership, limited liability company, trust, or corporation may apply for a tax credit or exemption under sections 4 through 7 of this Act. The governing body of a city may designate a local zone authority to implement a development plan on behalf of the city.

SECTION 3. Renaissance zones.

1. A city may apply to the office of intergovernmental assistance to designate a portion of that city as a renaissance zone if the following criteria are met:
 - a. The geographic area proposed for the renaissance zone is located wholly within the boundaries of the city submitting the application.
 - b. The application includes a development plan.
 - c. The proposed renaissance zone is not more than twenty square blocks.
 - d. The proposed renaissance zone has a continuous boundary and all blocks are contiguous.
 - e. The proposed land usage includes both commercial and residential property.
 - f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years.
2. The office of intergovernmental assistance shall:
 - a. Review all applications for renaissance zone designation against the criteria established in this section and designate zones.

- b. Approve or reject the duration of renaissance zone status as submitted in an application.
 - c. Approve or reject the geographic boundaries and total area of the renaissance zone as submitted in an application.
 - d. Promote the renaissance zone program.
 - e. Monitor the progress of the designated renaissance zones against submitted plans in an annual plan review.
 - f. Report on renaissance zone progress to the governor and the legislative council on an annual basis until all designated zones expire.
3. The office of intergovernmental assistance shall consider the following criteria in designating a renaissance zone:
 - a. The viability of the development plan.
 - b. The incorporation and enhancement of unique natural and historic features into the development plan.
 - c. Whether the development plan is creative and innovative in comparison to other applications.
 - d. Public and private commitment to and other resources available for the proposed renaissance zone, including the provisions for a renaissance fund corporation.
 - e. How renaissance zone designation would relate to a broader plan for the community as a whole.
 - f. How the local regulatory burden, in particular that burden associated with the renovation of historic properties and that burden associated with mixed use development, will be eased for developers and investors in the renaissance zone.
 - g. The strategies for the promotion, development, and management of the zone, including the use of a local zone authority if designated.
 - h. Any other information required by the office.
4. The office of intergovernmental assistance may not designate a portion of a city as a renaissance zone unless, as a part of the application, the city provides a resolution from the governing body of the city that states if the renaissance zone designation is granted, persons and property within the renaissance zone are exempt from taxes as provided in sections 4 through 7 of this Act.
5. A city may not propose or be part of more than one renaissance zone.
6. A parcel of property may be exempted from property taxes under section 5 of this Act only once, but during the five taxable years of eligibility for that exemption, the property tax exemption transfers with the transfer of the property to a qualifying user. The ownership or lease

of, or investment in, a parcel of property may qualify for exemption or credit under section 4 of this Act only once, but during the five taxable years of eligibility for that exemption or credit, the exemption or credit under section 4 of this Act transfers with the transfer of the property to a qualified user and with respect to the year in which the transfer is made must be prorated for use of the property during that year.

SECTION 4. Income tax exemptions.

1. An individual taxpayer who purchases single-family residential property for the individual's primary place of residence as part of a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3 for five taxable years beginning with the date of occupancy.
2. A business that purchases or leases property for any business purpose as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone.
3. An individual, partnership, limited partnership, limited liability company, trust, or corporation that purchases residential or commercial property as an investment as part of a zone project is exempt from any income tax for five taxable years resulting from income earned from that investment.
4. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapters 57-35.3 or 57-38.

SECTION 5. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, located in a zone project if the property was purchased by an individual for the individual's primary place of residence. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition.
2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements purchased by a business for any business purpose, excluding investment, as part of a zone project. An exemption granted under this subsection may not extend beyond five taxable years beginning in the year of the investment.
3. A municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements to residential or commercial property located in a zone project if the property was purchased solely for investment purposes. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition.

SECTION 6. Historic preservation and renovation tax credit. A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3 is allowed for investments in the historic preservation or

renovation of property within the renaissance zone if the investment is made between January 1, 2000, and December 31, 2004. The amount of the credit is fifty percent of the amount invested during the taxable year. Any excess credit may be carried forward for a period of up to five taxable years from the date of the investment.

SECTION 7. Renaissance fund corporation - Exemption from taxation.

1. Each city with a designated renaissance zone may establish a renaissance fund corporation, if the provisions for such a corporation are clearly established in the development plan and approved with the plan. The renaissance fund corporation may be a for-profit subsidiary of the local authority if one is designated.
2. The purpose of a renaissance fund corporation is solely to raise funds to be used to make investments in zone projects, and to provide financing to enterprise zone projects in a manner that will encourage capital investment in downtowns and central portions of cities, encourage the establishment or expansion of commercial businesses in downtowns and central portions of cities, and encourage the purchase of homes and encourage residency in the downtowns and central portions of cities.
3. A renaissance fund corporation may provide financing to zone projects, including projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this Act.
4. A renaissance fund corporation is exempt from any tax imposed by chapters 57-35.3 or 57-38. A corporation or financial institution entitled to the exemption provided by this subsection must file required returns and report income to the tax commissioner as required by the provisions of those chapters as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund corporation from complying with the income tax withholding laws.
5. A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund corporation. The amount of the credit is fifty percent of the amount invested in the renaissance fund corporation during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.
6. The total amount of credits allowed under this section may not exceed, in the aggregate, two million five hundred thousand dollars for all taxpayers in all taxable years.
7. Income to a renaissance fund corporation derived from the sale or refinancing of zone properties financed wholly or in part by the corporation may be dispersed as annual dividends equal to the income, minus ten percent, derived from all sources and proportional to the investment. In the event of a loss to the fund resulting in a temporary diminishment of the fund below the original principal amount, no annual dividend may be paid until the fund is restored.

8. Income to a renaissance fund corporation derived from interest or the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or securities may be used for administration.
9. If an investment in a renaissance fund corporation which is the basis for a credit under this section is redeemed by the investor within ten years of the date it is purchased, the credit provided by this section for the investment must be disallowed, and any credit previously claimed and allowed with respect to the investment must be paid to the tax commissioner with the appropriate return of the taxpayer covering the period in which the redemption occurred. When payments are made to the tax commissioner under this section, the amount collected must be handled in the same manner as if no credit had been allowed.
10. A renaissance fund corporation may invest in any housing, commercial, or infrastructure project in a zone project.
11. Each petition for investment must include a plan for sale or refinancing that results in proceeds equal to or in excess of the proportional investment made by the renaissance fund corporation.

SECTION 8. Contributions - Use. A local zone authority shall use contributions received under sections 4, 5, 6, and 7 of this Act for the support of the renaissance zone, including promotion, development, and management of the zone.

SECTION 9. Rules and administration - Income tax secrecy exception. The tax commissioner shall administer sections 1 through 10 of this Act with respect to an income tax exemption or credit and has the same powers as provided under section 57-38-56 for purposes of sections 1 through 10 of this Act. The office of intergovernmental assistance, in cooperation with the tax commissioner, shall issue forms to a taxpayer who may be eligible for the income tax exemption or tax credit sufficient for the tax commissioner to monitor the use of any exemptions or credits received by a taxpayer. The secrecy provisions of section 57-38-57 do not apply to exemptions or credits received by taxpayers under sections 4, 6, and 7 of this Act, but only when a local zone authority inquires of the tax commissioner about exemptions or credits claimed under sections 4, 6, and 7 of this Act with regard to that local zone authority or to the extent necessary for the tax commissioner to administer the tax exemptions or credits.

SECTION 10. Pass-through of tax exemption or credit. A partnership, subchapter S corporation, limited partnership, limited liability company or any other pass-through entity that purchases or leases property in a renaissance zone for any business purpose, invests in a historic preservation or renovation of property within a renaissance zone, or invests in a renaissance fund corporation must be considered to be the taxpayer for purposes of any investment limitations in sections 4, 6, and 7 of this Act, and the amount of the exemption or credit allowed with respect to the entity's investments must be determined at the pass-through entity level. The amount of the total exemption or credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the pass-through entity.

²⁶⁶ **SECTION 11.** A new subsection to section 57-38-30.3 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 4, 6, and 7 of this Act.

SECTION 12. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1998, and does not apply to any investments or activities that occurred before January 1, 1999.

Approved April 8, 1999
Filed April 8, 1999

²⁶⁶ Section 57-38-30.3 was also amended by section 6 of Senate Bill No. 2009, chapter 31, and section 1 of House Bill No. 1113, chapter 512.