

**HOUSE BILL NO. 1250
with Senate Amendments
HOUSE BILL NO. 1250**

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

Representatives Headland, Belter, Carlson, Delzer, Kasper, Nathe

Senators Armstrong, Burckhard, Cook, Hogue, Miller, Wardner

1 A BILL for an Act to create and enact three new sections to chapter 57-38, a new subdivision to
2 subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to
3 section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code,
4 relating to corporate and individual income tax credits and transition of financial institutions to
5 corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08,
6 subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06,
7 subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of
8 section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30,
9 subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section
10 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel
11 fund for income tax credit purposes, reduction in income tax rates for corporations, individuals,
12 estates, and trusts, transition of financial institutions to corporate income tax treatment, income
13 tax credits and exclusions, and allocation to political subdivisions from the state aid distribution
14 fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the
15 financial institutions tax; to provide for a report; and to provide an effective date.

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

17 **SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century
18 Code is amended and reenacted as follows:

19 5. Bonds issued by a commerce authority under this section are declared to be issued for
20 an essential public government purpose, and together with interest and income on the
21 bonds, are exempt from all individual and corporate taxes imposed under sections
22 ~~57-35.3-03~~, 57-38-30, and 57-38-30.3.

23 **SECTION 2. AMENDMENT.** Subsection 8 of section 40-63-01 of the North Dakota Century
24 Code is amended and reenacted as follows:

1 8. "Taxpayer" means an individual, corporation, ~~financial institution~~, or trust subject to the
2 taxes imposed by chapter ~~57-35.3~~ or 57-38 and includes a partnership, subchapter S
3 corporation, limited partnership, limited liability company, or any other passthrough
4 entity.

5 **SECTION 3. AMENDMENT.** Subsection 5 of section 40-63-04 of the North Dakota Century
6 Code is amended and reenacted as follows:

7 5. The exemptions provided by this section do not eliminate any duty to file a return or to
8 report income as required under chapter ~~57-35.3~~ or 57-38.

9 **SECTION 4. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **40-63-06. Historic preservation and renovation tax credit.**

12 A credit against state tax liability as determined under sections ~~57-35.3-03~~, 57-38-30, and
13 57-38-30.3 is allowed for investments in the historic preservation or renovation of property
14 within the renaissance zone. The amount of the credit is twenty-five percent of the amount
15 invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in
16 the year in which the preservation or renovation is completed. Any excess credit may be carried
17 forward for a period of up to five taxable years.

18 **SECTION 5. AMENDMENT.** Subsection 3 of section 40-63-07 of the North Dakota Century
19 Code is amended and reenacted as follows:

20 3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3~~
21 or 57-38. An exemption under this section may be passed through to any shareholder,
22 partner, and owner if the renaissance fund organization is a passthrough entity for tax
23 purposes. A corporation or ~~financial institution~~ entitled to the exemption provided by
24 this subsection shall file required returns and report income to the tax commissioner
25 as required by the provisions of ~~these chapters~~ chapter 57-38 as if the exemption did
26 not exist. If an employer, this subsection does not exempt a renaissance fund
27 organization from complying with the income tax withholding laws.

28 **SECTION 6. AMENDMENT.** Subsection 4 of section 40-63-07 of the North Dakota Century
29 Code is amended and reenacted as follows:

30 4. A credit against state tax liability as determined under section ~~57-35.3-03~~, 57-38-30, or
31 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount

1 of the credit is fifty percent of the amount invested in the renaissance fund
2 organization during the taxable year. Any amount of credit which exceeds a taxpayer's
3 tax liability for the taxable year may be carried forward for up to five taxable years after
4 the taxable year in which the investment was made.

5 **SECTION 7. AMENDMENT.** Subsection 3 of section 57-38-01.3 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any
8 net operating loss that is attributable to North Dakota sources, including a net
9 operating loss calculated under chapter 57-35.3 for tax years beginning before
10 January 1, 2013. If the net operating loss that is attributable to North Dakota sources
11 exceeds the sum calculated pursuant to subsection 1, the excess may be carried
12 forward for the same time period that an identical federal net operating loss may be
13 carried forward. If a corporation uses an apportionment formula to determine the
14 amount of income that is attributable to North Dakota, the corporation must use the
15 same formula to determine the amount of net operating loss that is attributable to
16 North Dakota. In addition, no deduction may be taken for a carryforward when
17 determining the amount of net operating loss that is attributable to North Dakota
18 sources.

19 **SECTION 8. AMENDMENT.** Subsection 3 of section 57-38-01.26 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 3. An angel fund must:
22 a. Be a partnership, limited partnership, corporation, limited liability company, limited
23 liability partnership, trust, or estate organized on a for-profit basis which is
24 headquartered in this state.
25 b. Be organized for the purpose of investing in a portfolio of at least three primary
26 sector companies that are early-stage and mid-stage private, nonpublicly traded
27 enterprises with strong growth potential. For purposes of this section, an
28 early-stage entity means an entity with annual revenues of up to two million
29 dollars and a mid-stage entity means an entity with annual revenues over two
30 million dollars not to exceed ten million dollars. ~~Early stage and mid stage entities~~
31 ~~do not include those that have more than twenty-five percent of their revenue~~

- 1 ~~from income-producing real estate.~~ Investments in real estate or real estate
2 holding companies are not eligible investments by certified angel funds. Any
3 angel fund certificate before January 1, 2013, which has invested in real estate or
4 a real estate holding company is not eligible for recertification.
- 5 c. Consist of at least six accredited investors as defined by securities and exchange
6 commission regulation D, rule 501.
- 7 d. Not have more than twenty-five percent of its capitalized investment assets
8 owned by an individual investor.
- 9 e. Have at least five hundred thousand dollars in commitments from accredited
10 investors and that capital must be subject to call to be invested over an
11 unspecified number of years to build a portfolio of investments in enterprises.
- 12 f. Be member-managed or a manager-managed limited liability company and the
13 investor members or a designated board that includes investor members must
14 make decisions as a group on which enterprises are worthy of investments.
- 15 g. Be certified as an angel fund that meets the requirements of this section by the
16 department of commerce.
- 17 h. Be in compliance with the securities laws of this state.
- 18 i. Within thirty days after the date on which an investment in an angel fund is made,
19 the angel fund shall file with the tax commissioner and provide to the investor
20 completed forms prescribed by the tax commissioner which show as to each
21 investment in the angel fund the following:
- 22 (1) The name, address, and social security number or federal employer
23 identification number of the taxpayer or passthrough entity that made the
24 investment;
- 25 (2) The dollar amount remitted by the taxpayer or passthrough entity; and
26 (3) The date the payment was received by the angel fund for the investment.
- 27 j. Within thirty days after the end of a calendar year, the angel fund shall file with
28 the tax commissioner a report showing the name and principal place of business
29 of each enterprise in which the angel fund has an investment.

30 **SECTION 9. AMENDMENT.** Subsections 5 and 7 of section 57-38-01.32 of the North
31 Dakota Century Code are amended and reenacted as follows:

1 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to
2 fifteen million dollars per biennium. ~~This limitation applies to all contributions for which~~
3 ~~tax credits are claimed under section 57-35.3-05 and this section.~~

4 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit
5 on the taxpayer's state income ~~or financial institutions~~ tax return in the manner
6 prescribed by the tax commissioner and file with the return a copy of the form issued
7 by the housing finance agency under subsection 6.

8 **SECTION 10.** A new section to chapter 57-38 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Employer-provided child care credit.**

11 1. An employer is allowed a credit against the tax imposed under section 57-38-30 or
12 57-38-30.3 for providing a qualified child care facility. The amount of the credit under
13 this section is fifty percent of the qualified child care expenditures incurred by the
14 employer. Qualified child care expenditures under this section may not be used in the
15 calculation of any other income tax deduction or credit allowed under state law.

16 2. For purposes of this section:

17 a. "Employer" means a taxpayer who employs one or more full-time equivalent
18 employees and whose primary source of income is from a business other than
19 the business of providing child care services.

20 b. "Qualified child care expenditure" means any amount paid or incurred:

21 (1) To acquire, construct, rehabilitate, or expand property:

22 (a) That is to be used as part of a qualified child care facility;

23 (b) For which a deduction under federal law for depreciation, or
24 amortization in lieu of depreciation, is allowable; and

25 (c) That does not constitute part of the principal residence of the taxpayer
26 or any employee of the taxpayer;

27 (2) For the direct costs necessary for the operation of the child care facility;

28 (3) For the indirect or overhead costs properly attributable to the child care
29 facility, including insurance, utilities, front office salaries, property taxes,

30 legal fees, and advertising; or

1 (4) Under a contract with a qualified child care facility to provide child care
2 services to employees of the taxpayer, including any amount paid to the
3 child care facility for additional direct or indirect costs of the facility.

4 The term "qualified child care expenditure" does not include expenses in excess
5 of the fair market value of such care.

6 c. "Qualified child care facility" means a facility the principal use of which is to
7 provide child care assistance to the taxpayer's employees and that meets the
8 requirements of all applicable laws and regulations of the state and local
9 government in which it is located.

10 (1) The term "qualified child care facility" does not apply to a facility which is the
11 principal residence of the operator of the facility.

12 (2) A facility may not be treated as a qualified child care facility with respect to a
13 taxpayer unless:

14 (a) Enrollment in the facility is open to employees of the taxpayer during
15 the taxable year; and

16 (b) Eligibility for enrollment must be offered to all employees on an equal
17 opportunity basis.

18 3. The taxpayer shall claim the total credit amount for the taxable year in which the
19 qualified child care expenditures are made, except depreciated property expenditures
20 shall be claimed in the taxable year in which the property is placed in service. The
21 credit under this section may not exceed the taxpayer's liability as determined under
22 this chapter for any taxable year.

23 4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer
24 must be allowed the credit in relation to the respective share paid or incurred by each
25 taxpayer of the total expenditures for the facility in each taxable year.

26 5. If the amount of the credit determined under this section exceeds the liability for tax
27 under this chapter, the excess may be carried forward to each of the next five
28 succeeding taxable years.

29 6. A partnership, subchapter S corporation, limited partnership, limited liability company,
30 or any other passthrough entity entitled to the credit under this section must be
31 considered to be the taxpayer for purposes of calculating the credit. The amount of the

1 allowable credit must be determined at the passthrough entity level. The total credit
2 determined at the entity level must be passed through to the partners, shareholders, or
3 members in proportion to their respective interests in the passthrough entity. An
4 individual taxpayer may take the credit passed through under this subsection against
5 the individual's state income tax liability under section 57-38-30.3.

6 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit
7 in the form and manner as may be prescribed by the tax commissioner.

8 8. It is the intent of the legislative assembly that the credit provided in this section must
9 be liberally construed and interpreted to effectuate the expansion of child care
10 availability in the state.

11 **SECTION 11.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota
12 Century Code is created and enacted as follows:

13 Employer-provided child care credit under section 10 of this Act.

14 **SECTION 12.** A new section to chapter 57-38 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Financial institutions - Net operating losses - Credit carryovers.**

17 1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may
18 elect to be treated as a taxable corporation under chapter 57-38. If an election is made
19 under this section, the election:

20 a. Must be made in the form and manner prescribed by the tax commissioner on the
21 return filed for the tax year beginning on January 1, 2013, or the return filed for
22 the short period required under subsection 8 of section 57-38-34; and

23 b. Is binding until the earlier of:

24 (1) The end of the tax year for which the taxpayer reports a tax liability after tax
25 credits; or

26 (2) The beginning of the tax year for which the taxpayer elects to be recognized
27 as a subchapter S corporation under section 57-38-01.4.

28 2. If an election is made under this section, the following apply:

29 a. A subchapter S corporation may not file a consolidated return.

30 b. Any unused credit carryovers earned by a financial institution under chapter
31 57-35.3 for tax years beginning before January 1, 2013, may be carried forward

1 in the same number of years the financial institution would have been entitled
2 under chapter 57-35.3.

3 c. Any unused net operating losses incurred by a financial institution under chapter
4 57-35.3 for tax years beginning before January 1, 2013, may be carried forward
5 for the same number of years the financial institution would have been entitled
6 under chapter 57-35.3.

7 **SECTION 13.** A new section to chapter 57-38 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Corporate credit for contributions to rural leadership North Dakota.**

10 There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to
11 fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable
12 year for tuition scholarships for participation in rural leadership North Dakota conducted through
13 the North Dakota state university extension service. Contributions by a taxpayer may be
14 earmarked for use by a designated recipient.

15 **SECTION 14. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-38-30. Imposition and rate of tax on corporations.**

18 A tax is hereby imposed upon the taxable income of every domestic and foreign corporation
19 which must be levied, collected, and paid annually as in this chapter provided:

- 20 1. For the first twenty-five thousand dollars of taxable income, at the rate of one and
21 ~~sixty-eight~~fifty-two hundredths percent.
- 22 2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty
23 thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~eighty-three hundredths
24 percent.
- 25 3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and
26 ~~fifteen~~sixty-five hundredths percent.

27 **SECTION 15. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 1. A tax is hereby imposed for each taxable year upon income earned or received in that
30 taxable year by every resident and nonresident individual, estate, and trust. A taxpayer
31 computing the tax under this section is only eligible for those adjustments or credits

1 that are specifically provided for in this section. Provided, that for purposes of this
 2 section, any person required to file a state income tax return under this chapter, but
 3 who has not computed a federal taxable income figure, shall compute a federal
 4 taxable income figure using a pro forma return in order to determine a federal taxable
 5 income figure to be used as a starting point in computing state income tax under this
 6 section. The tax for individuals is equal to North Dakota taxable income multiplied by
 7 the rates in the applicable rate schedule in subdivisions a through d corresponding to
 8 an individual's filing status used for federal income tax purposes. For an estate or
 9 trust, the schedule in subdivision e must be used for purposes of this subsection.

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

If North Dakota taxable income is:	The tax is equal to:
Not over \$34,500 <u>\$36,250</u>	1.51% <u>1.29%</u>
Over \$34,500 <u>\$36,250</u>	\$520.95 <u>\$467.74</u> plus 2.82% <u>2.41%</u>
but not over \$83,600 <u>\$87,850</u>	of amount over \$34,500 <u>\$36,250</u>
Over \$83,600 <u>\$87,850</u>	\$1,905.57 <u>\$1,711.15</u> plus
3.13% <u>2.67%</u>	
but not over \$174,400 <u>\$183,250</u>	of amount over \$83,600 <u>\$87,850</u>
Over \$174,400 <u>\$183,250</u>	\$4,747.61 <u>\$4,262.73</u> plus
3.63% <u>3.10%</u>	
but not over \$379,150 <u>\$398,350</u>	of amount over
\$174,400 <u>\$183,250</u>	
Over \$379,150 <u>\$398,350</u>	\$12,180.04 <u>\$10,934.86</u> plus
3.99% <u>3.41%</u>	
of amount over	
\$379,150 <u>\$398,350</u>	

26 b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$57,700 <u>\$60,650</u>	1.51% <u>1.29%</u>
Over \$57,700 <u>\$60,650</u>	\$871.27 <u>\$782.57</u> plus 2.82% <u>2.41%</u>
but not over \$139,350 <u>\$146,400</u>	of amount over \$57,700 <u>\$60,650</u>

Sixty-third
Legislative Assembly

1	Over \$139,350 <u>\$146,400</u>	\$3,173.80 <u>\$2,848.90</u> plus
2	3.13% <u>2.67%</u>	
3	but not over \$212,300 <u>\$223,050</u>	of amount over
4	\$139,350 <u>\$146,400</u>	
5	Over \$212,300 <u>\$223,050</u>	\$5,457.14 <u>\$4,898.99</u> plus
6	3.63% <u>3.10%</u>	
7	but not over \$379,150 <u>\$398,350</u>	of amount over
8	\$212,300 <u>\$223,050</u>	
9	Over \$379,150 <u>\$398,350</u>	\$11,513.79 <u>\$10,336.57</u> plus
10	3.99% <u>3.41%</u>	
11		of amount over
12	\$379,150 <u>\$398,350</u>	
13	c. Married filing separately.	
14	If North Dakota taxable income is:	The tax is equal to:
15	Not over \$28,850 <u>\$30,325</u>	1.51% <u>1.29%</u>
16	Over \$28,850 <u>\$30,325</u>	\$435.64 <u>\$391.29</u> plus 2.82% <u>2.41%</u>
17	but not over \$69,675 <u>\$73,200</u>	of amount over \$28,850 <u>\$30,325</u>
18	Over \$69,675 <u>\$73,200</u>	\$1,586.90 <u>\$1,424.46</u> plus
19	3.13% <u>2.67%</u>	
20	but not over \$106,150 <u>\$111,525</u>	of amount over \$69,675 <u>\$73,200</u>
21	Over \$106,150 <u>\$111,525</u>	\$2,728.57 <u>\$2,449.51</u> plus
22	3.63% <u>3.10%</u>	
23	but not over \$189,575 <u>\$199,175</u>	of amount over
24	\$106,150 <u>\$111,525</u>	
25	Over \$189,575 <u>\$199,175</u>	\$5,756.90 <u>\$5,168.30</u> plus
26	3.99% <u>3.41%</u>	
27		of amount over
28	\$189,575 <u>\$199,175</u>	
29	d. Head of household.	
30	If North Dakota taxable income is:	The tax is equal to:
31	Not over \$46,250 <u>\$48,600</u>	1.51% <u>1.29%</u>

Sixty-third
Legislative Assembly

1	Over \$46,250 <u>\$48,600</u>	\$698.38 <u>\$627.09</u> plus 2.82% <u>2.41%</u>
2	but not over \$119,400 <u>\$125,450</u>	of amount over \$46,250 <u>\$48,600</u>
3	Over \$119,400 <u>\$125,450</u>	\$2,761.24 <u>\$2,478.96</u> plus
4	3.13% <u>2.67%</u>	
5	but not over \$193,350 <u>\$203,150</u>	of amount over
6	\$119,400 <u>\$125,450</u>	
7	Over \$193,350 <u>\$203,150</u>	\$5,075.84 <u>\$4,557.14</u> plus
8	3.63% <u>3.10%</u>	
9	but not over \$379,150 <u>\$398,350</u>	of amount over
10	\$193,350 <u>\$203,150</u>	
11	Over \$379,150 <u>\$398,350</u>	\$11,820.38 <u>\$10,611.99</u> plus
12	3.99% <u>3.41%</u>	
13		of amount over
14	\$379,150 <u>\$398,350</u>	
15	e. Estates and trusts.	
16	If North Dakota taxable income is:	The tax is equal to:
17	Not over \$2,300 <u>\$2,450</u>	1.51% <u>1.22%</u>
18	Over \$2,300 <u>\$2,450</u>	\$34.73 <u>\$29.82</u> plus 2.82% <u>2.27%</u>
19	but not over \$5,450 <u>\$5,700</u>	of amount over \$2,300 <u>\$2,450</u>
20	Over \$5,450 <u>\$5,700</u>	\$123.56 <u>\$103.69</u> plus 3.13% <u>2.52%</u>
21	but not over \$8,300 <u>\$8,750</u>	of amount over \$5,450 <u>\$5,700</u>
22	Over \$8,300 <u>\$8,750</u>	\$212.77 <u>\$180.64</u> plus 3.63% <u>2.93%</u>
23	but not over \$11,350 <u>\$11,950</u>	of amount over \$8,300 <u>\$8,750</u>
24	Over \$11,350 <u>\$11,950</u>	\$323.48 <u>\$274.27</u> plus 3.99% <u>3.22%</u>
25		of amount over \$11,350 <u>\$11,950</u>
26	f. For an individual who is not a resident of this state for the entire year, or for a	
27	nonresident estate or trust, the tax is equal to the tax otherwise computed under	
28	this subsection multiplied by a fraction in which:	
29	(1) The numerator is the federal adjusted gross income allocable and	
30	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. 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 **SECTION 16. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3
23 of the North Dakota Century Code are amended and reenacted as follows:

24 c. Reduced by the amount equal to the earnings that are passed through to a
25 taxpayer in connection with an allocation and apportionment to North Dakota
26 under ~~chapter 57-35.3~~ section 12 of this Act.

27 d. Reduced by ~~thirty~~ forty percent of:

28 (1) The excess of the taxpayer's net long-term capital gain for the taxable year
29 over the net short-term capital loss for that year, as computed for purposes
30 of the Internal Revenue Code of 1986, as amended. The adjustment

- 1 provided by this subdivision is allowed only to the extent the net long-term
2 capital gain is allocated to this state.
- 3 (2) ~~The qualified dividend income that is taxed at the same rate as long-term~~
4 ~~capital gain for federal income tax purposes under Internal Revenue Code~~
5 ~~provisions in effect on December 31, 2008. Qualified dividends as defined~~
6 ~~under Internal Revenue Code section 1(h)(11), added by section 302(a) of~~
7 ~~the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27;~~
8 ~~117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax~~
9 ~~rate that is lower than the regular federal income tax rates applicable to~~
10 ~~ordinary income. If, for any taxable year, qualified dividends are taxed at the~~
11 ~~regular federal income tax rates applicable to ordinary income, the reduction~~
12 ~~allowed under this subdivision is equal to twenty percent of all dividends~~
13 ~~included in federal taxable income. The adjustment provided by this~~
14 subdivision is allowed only to the extent the qualified dividend income is
15 allocated to this state.
- 16 f. Increased by an amount equal to the losses that are passed through to a
17 taxpayer in connection with an allocation and apportionment to North Dakota
18 under ~~chapter 57-35.3~~section 12 of this Act.

19 **SECTION 17.** Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code
20 are created and enacted as follows:

- 21 7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year
22 ending December 31, 2012, payment of the tax under this chapter is due six months
23 after the due date of the return as required under this section. The provisions of
24 subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under
25 this subsection. This subsection applies to the first tax year beginning after
26 December 31, 2012.
- 27 8. A person that previously reported under chapter 57-35.3 on a calendar year basis and
28 files its federal income tax return on a fiscal year basis must file a short period return
29 for the period beginning January 1, 2013, and ending on the last day of the tax year in
30 calendar year 2013.

1 **SECTION 18.** Subsection 11 to section 57-38-38 of the North Dakota Century Code is
2 created and enacted as follows:

3 11. This section applies if additional tax would be due under the provisions of chapter
4 57-35.3 in effect for taxable years beginning before January 1, 2013.

5 **SECTION 19.** Subsection 16 to section 57-38-40 of the North Dakota Century Code is
6 created and enacted as follows:

7 16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for
8 a taxable year beginning before January 1, 2013, may file a claim for refund or credit
9 of an overpayment of tax.

10 **SECTION 20. AMENDMENT.** Section 57-39.2-26.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-39.2-26.1. Allocation of revenues among political subdivisions.**

13 Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and
14 motor vehicle excise tax collections, equal to ~~forty-three~~ and one-half percent of an amount
15 determined by multiplying the quotient of one percent divided by the general sales tax rate, that
16 was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor
17 vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3
18 must be deposited by the state treasurer in the state aid distribution fund. The state tax
19 commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and
20 motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund
21 as determined under this section. Revenues deposited in the state aid distribution fund are
22 provided as a standing and continuing appropriation and must be allocated as follows:

23 1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in
24 the first month after each quarterly period as provided in this subsection.

25 a. Sixty-four percent of the amount must be allocated among the seventeen
26 counties with the greatest population, in the following manner:

27 (1) Thirty-two percent of the amount must be allocated equally among the
28 counties; and

29 (2) The remaining amount must be allocated based upon the proportion each
30 such county's population bears to the total population of all such counties.

- 1 b. Thirty-six percent of the amount must be allocated among all counties, excluding
2 the seventeen counties with the greatest population, in the following manner:
3 (1) Forty percent of the amount must be allocated equally among the counties;
4 and
5 (2) The remaining amount must be allocated based upon the proportion each
6 such county's population bears to the total population of all such counties.

7 A county shall deposit all revenues received under this subsection in the county
8 general fund. Each county shall reserve a portion of its allocation under this
9 subsection for further distribution to, or expenditure on behalf of, townships, rural fire
10 protection districts, rural ambulance districts, soil conservation districts, county
11 recreation service districts, county hospital districts, the Garrison Diversion
12 Conservancy District, the southwest water authority, and other taxing districts within
13 the county, excluding school districts, cities, and taxing districts within cities. The share
14 of the county allocation under this subsection to be distributed to a township must be
15 equal to the percentage of the county share of state aid distribution fund allocations
16 that township received during calendar year 1996. The governing boards of the county
17 and township may agree to a different distribution.

- 18 2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the
19 first month after each quarterly period based upon the proportion each city's
20 population bears to the total population of all cities.

21 A city shall deposit all revenues received under this subsection in the city general
22 fund. Each city shall reserve a portion of its allocation under this subsection for further
23 distribution to, or expenditure on behalf of, park districts and other taxing districts
24 within the city, excluding school districts. The share of the city allocation under this
25 subsection to be distributed to a park district must be equal to the percentage of the
26 city share of state aid distribution fund allocations that park district received during
27 calendar year 1996, up to a maximum of thirty percent. The governing boards of the
28 city and park district may agree to a different distribution.

29 **SECTION 21. REPEAL.** Chapter 57-35.3 of the North Dakota Century Code is repealed.

30 **SECTION 22. LEGISLATIVE MANAGEMENT REPORT.** By December 31, 2014, the

31 department of human services, with the assistance of the tax commissioner, shall prepare and

Sixty-third
Legislative Assembly

- 1 file a report with the legislative council on the impact of the employer-provided child care credit
- 2 on the availability of child care and on existing child care providers' ability to continue to provide
- 3 affordable quality child care and the effects on the ability of the state's workforce to find
- 4 affordable quality child care.

- 5 **SECTION 23. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
- 6 December 31, 2012.