

SENATE BILL NO. 2378

Introduced by

Senators Unruh, Dever, Laffen, Poolman

1 A BILL ~~for an Act to create and enact sections 6-09-49 and 57-38-01.36 and a new subdivision~~
2 ~~to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to local~~
3 ~~community incentive fund grants and tax credits; to amend and reenact subsection 9 of section~~
4 ~~57-38-57 of the North Dakota Century Code, relating to confidentiality of tax information; and to~~
5 ~~provide an effective date.~~ for an Act to create and enact a new section to chapter 57-38 and a
6 new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code,
7 relating to an income tax credit for contributions to qualified community of life projects; to
8 provide an effective date; and to provide an expiration date.

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

10 ~~— **SECTION 1.** Section 6-09-49 of the North Dakota Century Code is created and enacted as~~
11 ~~follows:~~

12 ~~— **6-09-49. Local community incentive fund - Administration - Rules - Tax credit.**~~

13 ~~— 1. The Bank of North Dakota shall adopt rules to establish and administer a local~~
14 ~~community incentive fund program as provided under this section. The Bank shall~~
15 ~~establish the local community incentive fund which is a special fund at the Bank, shall~~
16 ~~accept financial contributions to this fund, shall deposit these contributions in the fund,~~
17 ~~and shall distribute grants awarded under this section. A contributor under this section~~
18 ~~may qualify for an income tax credit under section 57-38-01.36.~~

19 ~~— 2. The Bank shall consult with the parks and recreation department to establish a grant~~
20 ~~application process, grant recipient qualifications, and grant distribution protocol under~~
21 ~~this section.~~

22 ~~— 3. The recipient of a grant under this section shall use the grant to directly or indirectly~~
23 ~~fund the construction, refurbishing, reconstruction, rehabilitation, acquisition, or~~
24 ~~improvement of recreational, arts, science, and quality of life amenity projects. A grant~~

~~awarded under this section may not be the primary funding for a community project.~~

~~However, a grant under this section may fund up to one hundred percent of the cost of recreational equipment for a community.~~

~~4. Eligible recipients of a grant under this section include units of local, state, and tribal government and nonprofit organizations serving communities in this state. An individual may not qualify for a grant under this section.~~

~~**SECTION 2.** Section 57-38-01.36 of the North Dakota Century Code is created and enacted as follows:~~

~~**57-38-01.36. Local community incentive fund tax credit.**~~

~~1. A taxpayer is entitled to a credit as determined under this section against state income tax liability under section 57-38-30 or 57-38-30.3 for contributing to the local community incentive fund under section 6-09-49. The amount of the credit is equal to the amount contributed to the fund during the taxable year.~~

~~2. North Dakota taxable income must be increased by the amount of the contribution upon which the credit under this section is computed but only to the extent the contribution reduced federal taxable income.~~

~~3. The contribution amount used to calculate the credit under this section may not be used to calculate any other state income tax deduction or credit allowed by law.~~

~~4. If the amount of the credit exceeds the taxpayers tax liability for the taxable year, the excess may be carried forward to each of the ten succeeding taxable years.~~

~~5. The aggregate amount of tax credits allowed to all eligible contributors is limited to twenty million dollars per biennium. This limitation applies to all contributions for which tax credits are claimed under section 6-09-49 and this section.~~

~~6. Within thirty days after the date on which a taxpayer makes a contribution to the local community incentive fund, the Bank of North Dakota shall file with each contributing taxpayer, and a copy with the tax commissioner, completed forms that show as to each contribution to the fund by that taxpayer the following:~~

~~a. The name, address, and social security number or federal employer identification number of the taxpayer that made the contribution.~~

~~b. The dollar amount paid for the contribution by the taxpayer.~~

~~c. The date the payment was received by the fund.~~

1 ~~7. To receive the tax credit provided under this section, a taxpayer shall claim the credit~~
2 ~~on the taxpayer's state income tax return in the manner prescribed by the tax~~
3 ~~commissioner and file with the return a copy of the form issued by the Bank of North~~
4 ~~Dakota under subsection 6.~~

5 ~~8. Notwithstanding the time limitations contained in section 57-38-38, this section does~~
6 ~~not prohibit the tax commissioner from conducting an examination of the credit~~
7 ~~claimed and assessing additional tax due under section 57-38-38.~~

8 ~~9. A passthrough entity making a contribution to the local community incentive fund~~
9 ~~under this section is considered to be the taxpayer for purposes of this section, and~~
10 ~~the amount of the credit allowed must be determined at the passthrough entity level.~~
11 ~~The amount of the total credit determined at the entity level must be passed through to~~
12 ~~the partners, shareholders, or members in proportion to their respective interests in~~
13 ~~the passthrough entity.~~

14 ~~**SECTION 3.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota~~
15 ~~Century Code is created and enacted as follows:~~

16 ~~Local community incentive fund credit under section 2 of this Act.~~

17 ~~**SECTION 4. AMENDMENT.** Subsection 9 of section 57-38-57 of the North Dakota Century~~
18 ~~Code is amended and reenacted as follows:~~

19 ~~9. The tax commissioner may disclose a taxpayer's name, address, and identification~~
20 ~~number to the Bank of North Dakota for the sole purpose of administering the tax~~
21 ~~deduction for contributions to the North Dakota higher education savings plan and the~~
22 ~~local community incentive fund.~~

23 ~~**SECTION 5. EFFECTIVE DATE.** This Act is effective for the first two taxable years~~
24 ~~beginning after December 2014.~~

25 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created
26 and enacted as follows:

27 **Income tax credit for contributions to qualified community of life projects.**

28 1. A taxpayer is entitled to a credit against the tax imposed under section 57-38-30 or
29 57-38-30.3 in an amount equal to forty percent of the amount contributed by the
30 taxpayer during the taxable year to a qualified nonprofit organization for qualified
31 community of life projects. Eligible recipients of the contributions under this section

1 include units of local government, state government, tribal government, and nonprofit
2 organizations serving communities in this state. An individual may not qualify for a
3 grant under this section. The maximum credit that may be claimed under this section
4 in a taxable year is twenty thousand dollars for an individual or forty thousand dollars
5 for married individuals filing a joint return. The credit allowed under this section may
6 not exceed that taxpayer's income tax liability.

7 2. A passthrough entity entitled to the credit under this section must be considered to be
8 the taxpayer for purposes of this section, and the amount of the credit allowed must be
9 determined at the passthrough entity level. The amount of the total credit determined
10 at the entity level must be passed through to the partners, shareholders, or members
11 in proportion to their respective interests in the passthrough entity.

12 3. The amount of the contribution upon which an allowable credit is computed must be
13 added to federal taxable income in computing North Dakota taxable income in any
14 taxable year in which the contribution reduces federal taxable income, but only to the
15 extent that the contribution reduced federal taxable income.

16 4. For purposes of this section:

17 a. "Qualified community of life projects" include the construction, refurbishing,
18 reconstruction, rehabilitation, acquisition, or improvement of recreational, arts,
19 science, and quality of life amenity projects.

20 b. "Qualified nonprofit organization" means a North Dakota incorporated or
21 established tax-exempt organization under 26 U.S.C. 501(c)(3) to which
22 contributions qualify for federal charitable income tax deductions with an
23 established business presence or situs in North Dakota.

24 **SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota
25 Century Code is created and enacted as follows:

26 Qualified community of life project income tax credit under section 1 of this Act.

27 **SECTION 3. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for the first four
28 taxable years beginning after December 31, 2014, and is thereafter ineffective.