

Introduced by

1 A BILL for an Act to amend and reenact subsection 4 of section 10-30.5-01, subdivision b of  
2 subsection 1 of section 10-33-124, subsection 4 of section 26.1-50-01, subsection 3 of section  
3 40-57.1-02, subsection 11 of section 52-02.1-01, subdivision b of subsection 2 of section  
4 57-38-01.33, subdivision c of subsection 4 of section 57-38-30.5, subsection 4 of section  
5 57-38.5-01, and subdivision g of subsection 6 of section 57-39.2-04.3 of the North Dakota  
6 Century Code, relating to a uniform definition of primary sector business; and to provide an  
7 effective date.

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

9 **SECTION 1. AMENDMENT.** Subsection 4 of section 10-30.5-01 of the North Dakota  
10 Century Code is amended and reenacted as follows:

11 4. "Primary sector business" means an individual, corporation, limited liability company,  
12 partnership, or association ~~which~~that through the employment of knowledge or labor  
13 adds value to a product, process, or service ~~that~~which results in the creation of new  
14 wealth. ~~The~~For purposes of this subsection, the term includes tourism but does not  
15 include production agriculture.

16 **SECTION 2. AMENDMENT.** Subdivision b of subsection 1 of section 10-33-124 of the North  
17 Dakota Century Code is amended and reenacted as follows:

18 b. "Primary sector business" means an individual, corporation, limited liability  
19 company, partnership, or association ~~that, through a process employing~~  
20 ~~knowledge and labor,~~ through the employment of knowledge or labor adds value  
21 to a product ~~produced for resale,~~ process, or service which results in the creation  
22 of new wealth. For purposes of this subdivision, a primary sector business adding  
23 value to a product must also produce that product for resale.

1       **SECTION 3. AMENDMENT.** Subsection 4 of section 26.1-50-01 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       4. "Primary sector business" means an individual, corporation, limited liability company,  
4 partnership, or association that through the employment of knowledge or labor adds  
5 value to a product, process, or service which results in the creation of new wealth.  
6 ~~Qualification~~For purposes of this subsection, qualification as a primary sector business  
7 ~~under this subsection~~ must be determined by the department of commerce division of  
8 economic development and finance.

9       **SECTION 4. AMENDMENT.** Subsection 3 of section 40-57.1-02 of the North Dakota  
10 Century Code is amended and reenacted as follows:

11       3. "Primary sector business" means an individual, corporation, limited liability company,  
12 partnership, or association ~~which~~that through the employment of knowledge or labor  
13 adds value to a product, process, or service ~~that~~which results in the creation of new  
14 wealth.

15       **SECTION 5. AMENDMENT.** Subsection 11 of section 52-02.1-01 of the North Dakota  
16 Century Code is amended and reenacted as follows:

17       11. "Primary sector business" means an ~~employer engaged in locating to or in this state~~  
18 ~~which previously had no presence in this state, or in expanding its operations within~~  
19 ~~this state, which~~individual, corporation, limited liability corporation, partnership, or  
20 association that through the employment of knowledge or labor, adds value to a  
21 product, process, or ~~export~~ service ~~that~~ which results in the creation of new wealth,  
22 ~~excluding production agriculture, if it.~~ For purposes of this subsection, a primary sector  
23 business must also be an employer, excluding an employer engaged in production  
24 agriculture, locating to or in this state which previously had no presence in this state,  
25 or expanding its operations within this state, and which meets the following eligibility  
26 criteria:  
27       a. An employer entering into an agreement, and increasing its base employment  
28 level by at least one employee, or in the case of an employer without an  
29 established base employment level in this state creating at least five employees,  
30 within the time set in the agreement, is entitled to the new jobs credit from  
31 withholding.

- 1           b. An employer must have an economically productive and socially desirable  
2           purpose within the state.
- 3           c. An employer must not be closing or reducing its operation in one area of the state  
4           and relocating substantially the same operation in another area.
- 5           d. An employer adding value to a service through the employment of knowledge or  
6           labor must be adding value to an export service.

7           **SECTION 6. AMENDMENT.** Subdivision b of subsection 2 of section 57-38-01.33 of the  
8 North Dakota Century Code is amended and reenacted as follows:

- 9           b. "Primary sector business" means ~~a business certified by the department of~~  
10           ~~commerce which;~~ an individual, corporation, limited liability company, partnership,  
11           or association that through the employment of knowledge or labor, adds value to  
12           a product, process, or service ~~that~~ which results in the creation of new wealth. For  
13           purposes of this subdivision, qualification as a primary sector business must be  
14           certified by the department of commerce.

15           **SECTION 7. AMENDMENT.** Subdivision c of subsection 4 of section 57-38-30.5 of the  
16 North Dakota Century Code is amended and reenacted as follows:

- 17           c. "Primary sector business" means ~~a qualified business~~ an individual, corporation,  
18           limited liability company, partnership, or association that through the employment  
19           of knowledge or labor adds value to a product, process, or service which results  
20           in the creation of new wealth.

21           **SECTION 8. AMENDMENT.** Subsection 4 of section 57-38.5-01 of the North Dakota  
22 Century Code is amended and reenacted as follows:

- 23           4. "Primary sector business" means ~~a qualified business~~ an individual, corporation, limited  
24           liability company, partnership, or association that through the employment of  
25           knowledge or labor adds value to a product, process, or service ~~and~~ which results in  
26           the creation of new wealth ~~but~~. For purposes of this subsection, a primary sector  
27           business must also be a qualified business and does not include an agricultural  
28           commodity processing facility as defined under section 57-38.6-01.

29           **SECTION 9. AMENDMENT.** Subdivision g of subsection 6 of section 57-39.2-04.3 of the  
30 North Dakota Century Code is amended and reenacted as follows:

1           g. "Primary sector business" means an individual, corporation, limited liability  
2           company, partnership, or association that through the employment of knowledge  
3           or labor adds value to a product, process, or service which results in the creation  
4           of new wealth ~~and which has been~~. ~~For purposes of this subdivision, qualification~~  
5           as a primary sector business must be certified by the department of commerce  
6           division of economic development and finance ~~to be qualified under this~~  
7           ~~subdivision.~~

8           **SECTION 10. EFFECTIVE DATE.** Section 9 of this Act is effective for taxable events  
9           occurring after June 30, 2017, and the remainder of this Act is effective for taxable years  
10          beginning after December 31, 2016.