

Introduced by

1 A BILL for an Act to amend and reenact subsection 3 of section 54-35-26, subsection 7 of
2 section 57-38-30.3, and section 57-40.2-03.3 of the North Dakota Century Code, relating to the
3 list of economic development tax incentives to be reviewed, the application of tax credits
4 against individual income tax liability, and the use tax exemption for electrical generating
5 facilities; to repeal sections 10-33-124, 57-38-01.17, 57-38-01.22, 57-38-01.23, 57-38-01.27,
6 57-38-30.1, 57-38-30.6, 57-39.2-04.2, and 57-40.2-04.2 of the North Dakota Century Code,
7 relating to a certified nonprofit development corporation investment tax credit, an income tax
8 credit for blending biodiesel fuel or green diesel fuel, an income tax credit for biodiesel or green
9 diesel sales equipment costs, a microbusiness income tax credit, a wage and salary credit for
10 new industry, a corporate income tax credit for biodiesel or green diesel production or soybean
11 and canola crushing facility equipment costs, and a sales and use tax exemption for electrical
12 generating facilities; and to provide an effective date.

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

14 **SECTION 1. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century
15 Code is amended and reenacted as follows:

16 3. The legislative management interim committee assigned the study responsibility under
17 this section may examine economic development tax incentives, shall complete
18 analysis of the state-imposed tax aspects of the incentives it designates for analysis
19 during the interim, and shall approve a plan to provide that each of the economic
20 development tax incentives listed in this subsection is subject to a complete analysis
21 within each six-year period. The interim committee may include in its
22 recommendations any amendments to this section, including amendments to add or
23 remove incentives from the list of incentives subject to analysis under this subsection.

- 1 Analysis must be completed for state-imposed tax aspects of economic development
2 tax incentives, including each of the following:
- 3 a. Renaissance zone credits and exemptions.
 - 4 b. Research expense credit.
 - 5 c. Agricultural commodity processing facility investment credit.
 - 6 ~~d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel-~~
7 ~~blending credit, and biodiesel fuel equipment credit.~~
 - 8 e. Seed capital investment credit.
 - 9 ~~f. Wage and salary credit.~~
 - 10 ~~g.~~ e. Internship program credit.
 - 11 ~~h.~~ i. Microbusiness credit.
 - 12 ~~i.~~ f. Angel fund investment credit.
 - 13 ~~j.~~ g. Workforce recruitment credit.
 - 14 ~~k.~~ l. Soybean or canola crushing facility construction or retrofit credit.
 - 15 ~~l.~~ h. Manufacturing automation equipment credit.
 - 16 ~~m.~~ j. New or expanding business exemption.
 - 17 ~~n.~~ k. Manufacturing and recycling equipment sales tax exemption.
 - 18 ~~o.~~ k. Coal severance and conversion tax exemptions.
 - 19 ~~p.~~ l. Oil and gas gross production and oil extraction tax exemptions.
 - 20 ~~q.~~ m. Fuel tax refunds for certain users.
 - 21 ~~r.~~ n. New jobs credit from income tax withholding.
 - 22 ~~s.~~ o. Any economic development tax incentive created by the sixty-fourth legislative
23 assembly.

24 **SECTION 2. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 7. A taxpayer filing a return under this section is entitled to the following tax credits:
- 27 a. Family care tax credit under section 57-38-01.20.
 - 28 b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
 - 29 c. Agricultural business investment tax credit under section 57-38.6-03.
 - 30 d. Seed capital investment tax credit under section 57-38.5-03.
 - 31 e. Planned gift tax credit under section 57-38-01.21.

- 1 f. ~~Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and~~
2 ~~57-38-01.23.~~
- 3 g. Internship employment tax credit under section 57-38-01.24.
- 4 h.g. Workforce recruitment credit under section 57-38-01.25.
- 5 i.h. Angel fund investment tax credit under section 57-38-01.26.
- 6 j. ~~Microbusiness tax credit under section 57-38-01.27.~~
- 7 k.i. Marriage penalty credit under section 57-38-01.28.
- 8 l.j. Homestead income tax credit under section 57-38-01.29.
- 9 m.k. Commercial property income tax credit under section 57-38-01.30.
- 10 n.l. Research and experimental expenditures under section 57-38-30.5.
- 11 o.m. Geothermal energy device installation credit under section 57-38-01.8.
- 12 p.n. Long-term care partnership plan premiums income tax credit under section
13 57-38-29.3.
- 14 q.o. Employer tax credit for salary and related retirement plan contributions of
15 mobilized employees under section 57-38-01.31.
- 16 r.p. Automating manufacturing processes tax credit under section 57-38-01.33
17 (effective for the first five taxable years beginning after December 31, 2012).
- 18 s.q. Income tax credit for passthrough entity contributions to private education
19 institutions under section 57-38-01.7.

20 **SECTION 3. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-40.2-03.3. (Effective through June 30, 2017) Use tax on contractors.**

- 23 1. When a contractor or subcontractor uses tangible personal property in the
24 performance of that person's contract, or to fulfill contract or subcontract obligations,
25 whether the title to such property be in the contractor, subcontractor, contractee,
26 subcontractee, or any other person, or whether the titleholder of such property would
27 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a
28 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price
29 or fair market value of such property, whichever is greater, unless such property has
30 been previously subjected to a sales tax or use tax by this state, and the tax due
31 thereon has been paid.

- 1 2. The provisions of this chapter pertaining to the administration of the tax imposed by
2 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
3 administration of the tax levied by this section.
- 4 3. The tax imposed by this section does not apply to medical equipment purchased as
5 tangible personal property by a hospital or by a long-term care facility as defined in
6 section 50-10.1-01 and subsequently installed by a contractor into such hospital or
7 facility.
- 8 4. The tax imposed by this section does not apply to:
 - 9 a. Production equipment or tangible personal property as authorized or approved
10 for exemption by the tax commissioner under section 57-39.2-04.2;
 - 11 b. Machinery, equipment, or other tangible personal property used to construct an
12 agricultural commodity processing facility as authorized or approved for
13 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
 - 14 c. Tangible personal property used to construct or expand a system used to
15 compress, process, gather, or refine gas recovered from an oil or gas well in this
16 state or used to expand or build a gas-processing facility in this state as
17 authorized or approved for exemption by the tax commissioner under section
18 57-39.2-04.5;
 - 19 d. Tangible personal property used to construct or expand a qualifying oil refinery as
20 authorized or approved for exemption by the tax commissioner under section
21 57-39.2-04.6;
 - 22 e. Tangible personal property used to construct or expand a qualifying facility as
23 authorized or approved for exemption by the tax commissioner under section
24 57-39.2-04.10;
 - 25 f. Tangible personal property used to construct or expand a qualifying facility as
26 authorized or approved for exemption by the tax commissioner under section
27 57-39.2-04.11;
 - 28 g. Telecommunications infrastructure that is capable of providing
29 telecommunications service as authorized or approved for exemption by the
30 commissioner under chapter 57-39.2;

- 1 h. Materials used in compressing, gathering, collecting, storing, transporting, or
2 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
3 provided in section 57-39.2-04.14; or
4 i. Tangible personal property used to construct a qualifying fertilizer or chemical
5 processing facility as authorized or approved for exemption by the tax
6 commissioner under section 57-39.2-04.15.

7 **(Effective after June 30, 2017) Use tax on contractors.**

- 8 1. When a contractor or subcontractor uses tangible personal property in the
9 performance of that person's contract, or to fulfill contract or subcontract obligations,
10 whether the title to such property be in the contractor, subcontractor, contractee,
11 subcontractee, or any other person, or whether the titleholder of such property would
12 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a
13 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price
14 or fair market value of such property, whichever is greater, unless such property has
15 been previously subjected to a sales tax or use tax by this state, and the tax due
16 thereon has been paid.
- 17 2. The provisions of this chapter pertaining to the administration of the tax imposed by
18 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
19 administration of the tax levied by this section.
- 20 3. The tax imposed by this section does not apply to medical equipment purchased as
21 tangible personal property by a hospital or by a long-term care facility as defined in
22 section 50-10.1-01 and subsequently installed by a contractor into such hospital or
23 facility.
- 24 4. The tax imposed by this section does not apply to:
- 25 a. ~~Production equipment or tangible personal property as authorized or approved~~
26 ~~for exemption by the tax commissioner under section 57-39.2-04.2;~~
- 27 b. Machinery, equipment, or other tangible personal property used to construct an
28 agricultural commodity processing facility as authorized or approved for
29 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 30 e.b. Tangible personal property used to construct or expand a system used to
31 compress, process, gather, or refine gas recovered from an oil or gas well in this

1 state or used to expand or build a gas-processing facility in this state as
2 authorized or approved for exemption by the tax commissioner under section
3 57-39.2-04.5;

4 ~~d.c.~~ Tangible personal property used to construct or expand a qualifying oil refinery as
5 authorized or approved for exemption by the tax commissioner under section
6 57-39.2-04.6;

7 ~~e.d.~~ Tangible personal property used to construct or expand a qualifying facility as
8 authorized or approved for exemption by the tax commissioner under section
9 57-39.2-04.10;

10 ~~f.e.~~ Tangible personal property used to construct or expand a qualifying facility as
11 authorized or approved for exemption by the tax commissioner under section
12 57-39.2-04.11;

13 ~~g.f.~~ Materials used in compressing, gathering, collecting, storing, transporting, or
14 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
15 provided in section 57-39.2-04.14; or

16 ~~h.g.~~ Tangible personal property used to construct a qualifying fertilizer or chemical
17 processing facility as authorized or approved for exemption by the tax
18 commissioner under section 57-39.2-04.15.

19 **SECTION 4. REPEAL.** Sections 10-33-124, 57-38-01.17, 57-38-01.22, 57-38-01.23,
20 57-38-01.27, 57-38-30.1, and 57-38-30.6 of the North Dakota Century Code are repealed.

21 **SECTION 5. REPEAL.** Sections 57-39.2-04.2 and 57-40.2-04.2 of the North Dakota
22 Century Code are repealed.

23 **SECTION 6. EFFECTIVE DATE.** Sections 1, 2, and 4 of this Act are effective for taxable
24 years beginning after December 31, 2016, and sections 3 and 5 of this Act are effective for
25 taxable events occurring after June 30, 2017.