

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1455

Introduced by

Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck

Senators Kreun, Patten, J. Roers, Wanzek

1 A BILL for an Act to create and enact a new subdivision to subsection 3 of section 54-35-26, a
 2 new section to chapter 57-39.2, and a new subdivision to subsection ~~4~~3 of section 57-40.2-03.3
 3 of the North Dakota Century Code, relating to evaluation of economic development tax
 4 incentives and a sales and use tax exemption for raw materials, single-use product contact
 5 systems, and reagents used ~~in the research and development of bioscience and biotechnology~~
 6 ~~in the health care industry and manufacture of bioscience and biotechnology products for use in~~
 7 ~~the health care industry~~ biologic manufacturing; to provide for a legislative management report;
 8 ~~and~~ to provide an effective date; and to provide an expiration date.

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

10 **SECTION 1.** A new subdivision to subsection 3 of section 54-35-26 of the North Dakota
 11 Century Code is created and enacted as follows:

12 Sales and use tax exemption for raw materials, single-use product contact
 13 systems, and reagents used for biologic manufacturing.

14 **SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
 15 and enacted as follows:

16 **Sales tax exemption for raw materials, single-use product contact systems, and**
 17 **reagents used in the research and development of bioscience and biotechnology in the**
 18 **health care industry and manufacture of bioscience and biotechnology products used in**
 19 **the health care industry for biologic manufacturing - Report.**

- 20 1. Gross receipts from sales of tangible personal property purchased for use, storage, or
 21 consumption directly and predominately in the research and development of
 22 bioscience and biotechnology in the health care industry and raw materials or
 23 consumables purchased, single-use product contact systems, and reagents used
 24 directly for discovery, testing, screening, and production for use, storage, or

1 ~~consumption which are critical to~~ biologic manufacturing in ~~the health care industry~~ this
2 ~~state are exempt from taxes under this chapter.~~

3 2. ~~To receive the exemption at the time of purchase, the qualified biotechnology taxpayer-~~
4 ~~or qualified bioscience taxpayer must receive from the tax commissioner a certificate~~
5 ~~that the tangible personal property, raw materials, single-use product contact systems,~~
6 ~~or consumables reagents qualify for the exemption. If a certificate is not received-~~
7 ~~before the purchase, the qualified biotechnology taxpayer or qualified bioscience-~~
8 ~~taxpayer shall pay the applicable tax imposed by this chapter and apply to the tax-~~
9 ~~commissioner for a refund.~~

10 3. ~~If the tangible personal property, raw materials, or consumables are purchased or-~~
11 ~~installed by a contractor subject to the tax imposed by this chapter, the qualified-~~
12 ~~biotechnology taxpayer or qualified bioscience taxpayer may apply for a refund of the-~~
13 ~~difference between the amount remitted by the contractor.~~

14 ~~4.~~ For purposes of this section:

15 a. "Biologic manufacturing" ~~includes~~ means the manufacturing process used to
16 support biologic product ~~discovery, development,~~ generation, product impurity
17 removal, chemical or physical product alteration, and analysis of in-process
18 ~~products to final deliverable products in the health care industry which occurs~~
19 ~~exclusively within this state.~~

20 b. ~~"Bioscience" means the use of compositions, methods, and organisms in cellular~~
21 ~~and molecular research, development, and manufacturing processes in the-~~
22 ~~health care industry, including pharmaceuticals, medical therapeutics, medical~~
23 ~~diagnostics, medical devices, medical instruments, biochemistry, and-~~
24 ~~microbiology~~ "Single-use product contact systems" means tubing, capsule filters,
25 ion exchange membrane chromatography devices, mixers, bioreactors, sterile
26 fluid containment bags, connection devices, and sampling receptacles.

27 ~~c.~~ "Biotechnology" means:

28 ~~(1) The application of technologies for use in the health care industry to~~
29 ~~produce or modify products, to develop micro-organisms for specific uses,~~
30 ~~to identify targets for small pharmaceutical development, or to transform-~~
31 ~~biological systems into useful processes or products; and~~

- 1 ~~_____ (2) The potential endpoints of the resulting products, processes,~~
2 ~~_____ micro-organisms, or targets for improving human health care outcomes.~~
3 ~~_____ d. "Raw materials" include chemicals, nutrients, reagents, and biologic catalysis.~~
4 ~~_____ e. "Research and development" means qualified research as defined in section~~
5 ~~_____ 41(d)(1) of the Internal Revenue Code [26 U.S.C. 41(d)(1)], except it does not~~
6 ~~_____ include research conducted outside the state and research conducted for~~
7 ~~_____ purposes unrelated to the health care industry.~~
8 ~~_____ f. "Tangible personal property" includes supplies used in laboratories, including~~
9 ~~_____ microscopes, machines, glassware, computers, computer software, and technical~~
10 ~~_____ books and manuals.~~
11 ~~_____ g. "Qualified bioscience taxpayer" means a person that is engaged in the business~~
12 ~~_____ of bioscience in the health care industry in the state and has business operations~~
13 ~~_____ in the state, including research, development, or production directed toward~~
14 ~~_____ developing or providing bioscience products or processes in the health care~~
15 ~~_____ industry for specific commercial or public purposes.~~
16 ~~_____ h. "Qualified biotechnology taxpayer" means a C corporation, partnership, limited~~
17 ~~_____ liability company that is not a C corporation, S corporation, or sole proprietorship~~
18 ~~_____ that purchases, stores, uses, or consumes tangible personal property to be used~~
19 ~~_____ directly and predominately in the research and development of biotechnology in~~
20 ~~_____ the health care industry or raw materials or consumables that are critical to~~
21 ~~_____ biologic manufacturing in the health care industry.~~
22 4. a. By April first of each year, each taxpayer that received the exemption under this
23 section in the preceding calendar year shall file with the tax commissioner, on
24 forms and in the manner prescribed by the tax commissioner, a report showing
25 for the calendar year preceding the reporting deadline in this subdivision, the
26 taxpayer's:
27 _____ (1) Total sales and use tax liability exempted under this section;
28 _____ (2) Total gross payroll;
29 _____ (3) Total property taxes paid and square footage of buildings owned by the
30 taxpayer;
31 _____ (4) Total North Dakota workforce safety and insurance premiums paid;

1 (5) North Dakota unemployment taxes paid; and

2 (6) Total state income tax withheld by the taxpayer.

3 b. Failure to file the report required under subdivision a is cause to disallow the
4 exemption due to noncompliance. The tax commissioner shall provide notice of
5 the disallowed exemption to the taxpayer and assess any sales and use tax due.
6 An assessment of tax made under this subsection is final and irrevocably fixed.

7 c. By June first of each year, the tax commissioner shall submit to the legislative
8 management a written report summarizing the information received under
9 subdivision a, including a comparison of information received in the current
10 calendar year with data received in the preceding calendar year.

11 ~~SECTION 2. A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota~~
12 ~~Century Code is created and enacted as follows:~~

13 **SECTION 3.** A new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota
14 Century Code is created and enacted as follows:

15 ~~Tangible personal property, raw~~Raw materials, ~~or consumables~~single-use product
16 contact systems, and reagents used for biologic manufacturing as authorized or
17 approved for exemption by the tax commissioner under section ~~4~~2 of this Act.

18 **SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** ~~This~~Sections 2 and 3 of this Act
19 ~~is~~are effective for taxable events occurring after June 30, 2023, and before July 1, 2029, and
20 are thereafter ineffective.