

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2044

Introduced by

Legislative Management

(Political Subdivision Taxation Committee)

1 A BILL for an Act to amend and reenact section 54-35-26 of the North Dakota Century Code,  
2 relating to dynamic fiscal impact analysis of economic development tax incentives reviewed by  
3 a legislative management interim committee; to provide an appropriation; and to provide an  
4 expiration date.

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

6 **SECTION 1. AMENDMENT.** Section 54-35-26 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **54-35-26. Legislative interim committee review of economic development tax**  
9 **incentives.**

10 The legislative assembly enacts economic development tax incentives with the intent to  
11 encourage businesses to locate, grow, and remain in the state; to enhance employment  
12 opportunities for citizens; and to foster the most advantageous direction, diversity, and growth of  
13 the state economy. The legislative assembly requires systematic, detailed analysis of enacted  
14 economic development tax incentives to assure that incentives are, and will continue, serving  
15 the intended purposes in a cost-effective and equitable manner consistent with the intent of the  
16 legislative assembly. To serve this intent and requirement:

17 1. During each interim, the legislative management shall assign to a legislative  
18 management interim committee study responsibility that includes completing the  
19 analysis of economic development tax incentives as provided in this section and  
20 reporting its findings and any associated recommended legislation to the legislative  
21 management. Upon the directive of the legislative management, the interim committee  
22 assigned that responsibility shall perform, as a pilot project, a dynamic fiscal impact  
23 analysis for each economic development tax incentive selected for review during the  
24 2017-18 interim.

- 1           2. The legislative management interim committee assigned the study responsibility under  
2 this section shall analyze each incentive, applying considerations relevant to the  
3 perceived goals of the incentive, including any or all of the following:
- 4           a. The extent of achievement of the goals of the incentive and whether unintended  
5 consequences have developed in its application.
  - 6           b. Whether the design and application of the incentive can be improved.
  - 7           c. The extent of complementary or duplicative effect of other incentives or  
8 governmental programs.
  - 9           d. Whether the incentive has a positive influence on business behavior or rewards  
10 business behavior that is likely to have occurred without the incentive.
  - 11          e. The effect of the incentive on the state economy, including the extent of primary  
12 sector operation of the recipient and any competitive disadvantage imposed or  
13 benefit conferred on other state businesses, any benefit or burden created for  
14 local government, and the extent of the incentive's benefit that flows to  
15 out-of-state concerns.
  - 16          f. The employment opportunities generated by the incentive and the extent those  
17 represent career opportunities.
  - 18          g. Whether the incentive is the most effective use of state resources to achieve  
19 desired goals.
  - 20          h. If the committee's analysis of the incentive is constrained by lack of data, whether  
21 statutory or administrative changes should be made to improve collection and  
22 availability of data.
- 23          3. The legislative management interim committee assigned the study responsibility under  
24 this section may examine economic development tax incentives, shall complete  
25 analysis of the state-imposed tax aspects of the incentives it designates for analysis  
26 during the interim, and shall approve a plan to provide that each of the economic  
27 development tax incentives listed in this subsection is subject to a complete analysis  
28 within each six-year period. The interim committee may include in its  
29 recommendations any amendments to this section, including amendments to add or  
30 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. Internship program credit.
  - 11 h. Microbusiness credit.
  - 12 i. Angel fund investment credit.
  - 13 j. Workforce recruitment credit.
  - 14 k. Soybean or canola crushing facility construction or retrofit credit.
  - 15 l. Manufacturing automation equipment credit.
  - 16 m. New or expanding business exemption.
  - 17 n. Manufacturing and recycling equipment sales tax exemption.
  - 18 o. Coal severance and conversion tax exemptions.
  - 19 p. Oil and gas gross production and oil extraction tax exemptions.
  - 20 q. Fuel tax refunds for certain users.
  - 21 r. New jobs credit from income tax withholding.
  - 22 s. Any economic development tax incentive created by the sixty-fourth legislative  
23 assembly.
- 24 4. By October first of each odd-numbered year, the interim committee assigned the study  
25 responsibility under this section shall determine and approve:
- 26 a. The economic development tax incentives under subsection 3 which will be  
27 designated for analysis during that interim and a plan to provide for analysis of  
28 the remaining economic development tax incentives under subsection 3 within  
29 the six-year period.

- 1           b. The perceived goals of the legislative assembly in creating or altering each  
2           incentive designated for analysis, for use as a baseline for committee analysis of  
3           the incentive.
- 4           c. The data and testimony that will be required to conduct an effective analysis of  
5           each incentive designated for analysis.
- 6        5. The department of commerce, tax commissioner, economic development foundation,  
7        and any other state agency or instrumentality shall provide data and analysis as  
8        requested by the interim committee conducting the analysis under this section.
- 9           a. If data is not available, the entity requested to provide the information shall  
10          advise the committee how the data could be obtained and the estimated cost of  
11          obtaining the data.
- 12          b. If data is available but cannot be shared with the committee, the entity requested  
13          to provide the information shall explain the reason and whether there are options  
14          that could be used to obtain the data or an adequate substitute for the data.
- 15        6. The interim committee conducting the analysis under this section shall report its  
16        findings and recommendations together with any legislation required to implement  
17        those recommendations to the legislative management.

18        **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general  
19        fund in the state treasury, not otherwise appropriated, the sum of \$358,841, or so much of the  
20        sum as may be necessary, to the legislative council for the purpose of acquiring dynamic fiscal  
21        impact analysis software to be used to conduct the pilot project and for salaries and operating  
22        expenses for a professional services position, for the biennium beginning July 1, 2017, and  
23        ending June 30, 2019. The legislative council is authorized one full-time equivalent position.

24        **SECTION 3. EXPIRATION DATE.** Section 1 of this Act is effective through June 30, 2019,  
25        and after that date is ineffective.