

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1182

Introduced by

Representatives Rick C. Becker, Dockter, Ertelt, Pyle, Simons, Toman

Senators O. Larsen, Meyer

1 A BILL ~~for an Act to amend and reenact sections 40-63-02, 40-63-03, and 40-63-04, and~~  
 2 ~~subsections 7 and 8 of section 57-38-30.3 of the North Dakota Century Code, relating to~~  
 3 ~~renaissance zone tax credits and exemptions; to repeal sections 40-63-06 and 40-63-07 of the~~  
 4 ~~North Dakota Century Code, relating to renaissance zone income tax credits; and to provide an~~  
 5 ~~effective date for an Act to create and enact a new section to chapter 40-05 of the North Dakota~~  
 6 Century Code, relating to approval of property tax incentives granted by a city; to amend and  
 7 reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, and subsection 3 of section  
 8 54-35-26 of the North Dakota Century Code, relating to approval of property tax incentives  
 9 granted by a city and evaluation of economic development tax incentives; to provide for a  
 10 legislative management study; and to provide an effective date.

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

12 **SECTION 1. AMENDMENT.** ~~Section 40-63-02 of the North Dakota Century Code is~~  
 13 ~~amended and reenacted as follows:~~

14 ~~— **40-63-02. Eligibility – Local zone authority designation.**~~

15 ~~— Any incorporated city may apply to the department of commerce division of community~~  
 16 ~~services to designate a portion of the city as a renaissance zone. Any individual, partnership,~~  
 17 ~~limited partnership, limited liability company, trust, or corporation may apply for a tax credit or~~  
 18 ~~exemption under sections 40-63-04 through 40-63-07 tax benefits under this chapter. The~~  
 19 ~~governing body of a city may designate a local zone authority to implement a development plan~~  
 20 ~~on behalf of the city.~~

21 ~~— **SECTION 2. AMENDMENT.** Section 40-63-03 of the North Dakota Century Code is~~  
 22 ~~amended and reenacted as follows:~~

1 ~~40-63-03. Renaissance zones.~~

2 ~~1. A city may apply to the department of commerce division of community services to~~  
3 ~~designate a portion of that city as a renaissance zone if the following criteria are met:~~

4 ~~a. The geographic area proposed for the renaissance zone is located wholly within~~  
5 ~~the boundaries of the city submitting the application.~~

6 ~~b. The application includes a development plan.~~

7 ~~c. The proposed renaissance zone is not more than thirty-four square blocks,~~  
8 ~~except in a city with a population of greater than five thousand the renaissance~~  
9 ~~zone may exceed thirty-four square blocks at the rate of one additional block for~~  
10 ~~each additional five thousand population to a maximum size of forty-nine blocks.~~

11 ~~Population is based upon the most recent federal decennial census or federal~~  
12 ~~census estimate.~~

13 ~~— If a city finds that renaissance zone projects have satisfactorily completed~~  
14 ~~one or more blocks within the renaissance zone, the city may apply for and the~~  
15 ~~department of commerce division of community services may approve withdrawal~~  
16 ~~of those blocks from the renaissance zone and replacement of those blocks with~~  
17 ~~other blocks that otherwise meet the requirements of this chapter.~~

18 ~~d. Except as provided under subdivision g, the proposed renaissance zone has a~~  
19 ~~continuous boundary and all blocks are contiguous.~~

20 ~~e. The proposed land usage includes both commercial and residential property.~~

21 ~~f. The application includes the proposed duration of renaissance zone status, not to~~  
22 ~~exceed fifteen years. Upon application by the city, the department of commerce~~  
23 ~~division of community services may extend the duration of renaissance zone~~  
24 ~~status in increments of up to five years.~~

25 ~~g. The proposed renaissance zone may have a single exception to the continuous~~  
26 ~~boundary and contiguous block requirements under subdivision d if the area of~~  
27 ~~the excepted noncontiguous blocks does not exceed three square blocks.~~

28 ~~2. The department of commerce division of community services shall:~~

29 ~~a. Review all applications for renaissance zone designation against the criteria~~  
30 ~~established in this section and designate zones.~~

- ~~1 b. Approve or reject the duration of renaissance zone status as submitted in an~~
- ~~2 application.~~
- ~~3 c. Approve or reject the geographic boundaries and total area of the renaissance~~
- ~~4 zone as submitted in an application.~~
- ~~5 d. Promote the renaissance zone program.~~
- ~~6 e. Monitor the progress of the designated renaissance zones against submitted~~
- ~~7 plans in an annual plan review.~~
- ~~8 f. Report on renaissance zone progress to the governor and the legislative~~
- ~~9 management on an annual basis until all designated zones expire.~~
- ~~10 3. The department of commerce division of community services shall consider the~~
- ~~11 following criteria in designating a renaissance zone:~~
- ~~12 a. The viability of the development plan.~~
- ~~13 b. The incorporation and enhancement of unique natural and historic features into~~
- ~~14 the development plan.~~
- ~~15 c. Whether the development plan is creative and innovative in comparison to other~~
- ~~16 applications.~~
- ~~17 d. Public and private commitment to and other resources available for the proposed~~
- ~~18 renaissance zone, including the provisions for a renaissance fund organization.~~
- ~~19 e. How renaissance zone designation would relate to a broader plan for the~~
- ~~20 community as a whole.~~
- ~~21 f. How the local regulatory burden, in particular that burden associated with the~~
- ~~22 renovation of historic properties and that burden associated with mixed use~~
- ~~23 development, will be eased for developers and investors in the renaissance zone.~~
- ~~24 g. The strategies for the promotion, development, and management of the zone,~~
- ~~25 including the use of a local zone authority if designated.~~
- ~~26 h. Any other information required by the office.~~
- ~~27 4. The department of commerce division of community services may not designate a~~
- ~~28 portion of a city as a renaissance zone unless, as a part of the application, the city~~
- ~~29 provides a resolution from the governing body of the city that states if the renaissance~~
- ~~30 zone designation is granted, persons and property within the renaissance zone are~~
- ~~31 exempt from taxes as provided in sections 40-63-04 through 40-63-07 this chapter.~~

1 ~~5. A city may not propose or be part of more than one renaissance zone.~~

2 ~~6. A parcel of property may be exempted from property taxes under section 40-63-05~~  
3 ~~only once, but during the five taxable years of eligibility for that exemption, the~~  
4 ~~property tax exemption transfers with the transfer of the property to a qualifying user.~~  
5 ~~The ownership or lease of, or investment in, a parcel of property may qualify for~~  
6 ~~exemption or credit under section 40-63-04 only once, but during the five taxable~~  
7 ~~years of eligibility for that exemption or credit, the exemption or credit under section~~  
8 ~~40-63-04 transfers with the transfer of the property to a qualified user and with respect~~  
9 ~~to the year in which the transfer is made must be prorated for use of the property~~  
10 ~~during that year.~~

11 ~~7. A city may apply to the department of commerce division of community services at any~~  
12 ~~time during the duration of a zone to expand a previously approved renaissance zone~~  
13 ~~that is less than the maximum size allowed under subdivision c of subsection 1. If the~~  
14 ~~expansion is approved by the department of commerce division of community~~  
15 ~~services, the blocks in the expansion are eligible for up to fifteen years of renaissance~~  
16 ~~zone status.~~

17 ~~8.7. The use of grant funds as the sole source of investment in the purchase of a building~~  
18 ~~or space in a building does not qualify a taxpayer for any tax exemption or credit~~  
19 ~~available under the chapter, and grant funds may not be counted in determining if the~~  
20 ~~cost of rehabilitation meets or exceeds the current true and full value of the building.~~

21 ~~9.8. If a portion of an approved renaissance zone is not progressing, the city may request~~  
22 ~~the department of commerce division of community services to permit deleting that~~  
23 ~~portion and to make an adjustment of the boundaries to add another equal, contiguous~~  
24 ~~area to the original zone.~~

25 ~~10.9. If within a renaissance zone there is property that is included in a tax increment~~  
26 ~~financing district, the city in which the property is located shall provide the department~~  
27 ~~of commerce an annual report regarding any such property at the time requested by~~  
28 ~~the department of commerce. The report required under this subsection must identify~~  
29 ~~the property, provide the expected duration of inclusion of the property in the tax~~  
30 ~~increment financing district and the renaissance zone, and identify any property and~~  
31 ~~income tax benefits of the property and the expected duration of those benefits. The~~

1 department of commerce shall deliver an annual report compiling the information  
2 required under this subsection to the legislative management interim committee on  
3 taxation issues or upon request of any other interim committee of the legislative  
4 management.

5 ~~SECTION 3. AMENDMENT.~~ Section 40-63-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 ~~40-63-04. (Effective for the first five taxable years beginning after December 31, 2017)~~

8 **Income tax exemptions.**

9 ~~1. An individual taxpayer who purchases or rehabilitates single family residential property~~  
10 ~~for the individual's primary place of residence as a zone project before January 1,~~  
11 ~~2018, is exempt from up to ten thousand dollars of personal income tax liability as~~  
12 ~~determined under section 57-38-30.3 for five taxable years beginning with the date of~~  
13 ~~occupancy or completion of rehabilitation.~~

14 ~~2. A taxpayer that purchases, leases, rehabilitates, or makes leasehold improvements to~~  
15 ~~residential, public utility infrastructure, or commercial property for any business or~~  
16 ~~investment purpose as a zone project before January 1, 2018, is exempt from tax on~~  
17 ~~income derived from the business or investment locations within the zone for five~~  
18 ~~taxable years, beginning with the date of purchase, lease, or completion of~~  
19 ~~rehabilitation.~~

20 ~~a. The maximum amount of income that a taxpayer may exempt from tax under this~~  
21 ~~subsection for any taxable year is five hundred thousand dollars. The limitation in~~  
22 ~~this subdivision applies to the sum of the exempt income derived from the~~  
23 ~~taxpayer's business and investment interests in all zone projects.~~

24 ~~b. If a zone project consists of a physical expansion of an existing building owned~~  
25 ~~and used by the taxpayer for business or investment purposes, the amount of~~  
26 ~~income exempt from tax under this subsection is limited to an amount equal to~~  
27 ~~the income derived from the business, or from the investment use of the building,~~  
28 ~~during the taxable year multiplied by a ratio equal to the square footage added by~~  
29 ~~the expansion divided by the total square footage of the building after expansion.~~

30 ~~3. If the cost of a new business purchase, leasehold improvement, or expansion of an~~  
31 ~~existing business, approved as a zone project, exceeds seventy five thousand dollars,~~

1 and the business is located in a city with a population of not more than two thousand  
2 five hundred, an individual taxpayer may, in lieu of the exemption provided in  
3 subsection 2, elect to take an income tax exemption of up to two thousand dollars of  
4 individual income tax liability as determined under section 57-38-30.3. The election  
5 must be made on the taxpayer's return as originally and timely filed. The election is  
6 irrevocable and binding for the duration of the exemptions provided in subsection 2 or  
7 this subsection. If an election is not made on the original return, the taxpayer is only  
8 eligible for the exemption provided in subsection 2.

9 ~~4.~~ If a property owner not participating in a renaissance zone project is required to make  
10 changes in utility services or in a building structure before January 1, 2018, because of  
11 changes made to property that is part of a zone project, the owner of the  
12 nonparticipating property is entitled to state income tax credits equal to the total  
13 amount of the investment necessary to complete the required changes. The credit  
14 must be approved by the local renaissance zone authority. The credit must be claimed  
15 in the taxable year in which the related project was completed. The credit may not  
16 exceed the taxpayer's tax liability, and an unused credit may be carried forward up to  
17 five taxable years.

18 ~~5.~~ The ownership or lease of, or investment in, a parcel of property may qualify for an  
19 exemption or credit under this section only once, but during the five taxable years of  
20 eligibility for that exemption or credit, the exemption or credit under this section  
21 transfers with the transfer of the property to a qualified user and with respect to the  
22 year in which the transfer is made must be prorated for use of the property during that  
23 year.

24 ~~6.~~ The exemptions provided by this section do not eliminate any duty to file a return or to  
25 report income as required under chapter 57-38.

26 **SECTION 4. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota  
27 Century Code is amended and reenacted as follows:—

28 ~~7.~~ A taxpayer filing a return under this section is entitled to the following tax credits:

29 ~~a.~~ Family care tax credit under section 57-38-01.20.

- 1 ~~\_\_\_\_\_ b. Renaissance zone tax credits under sections section 40-63-04, 40-63-06, and~~  
2 ~~\_\_\_\_\_ 40-63-07 (effective for the first five taxable years beginning after December 31,~~  
3 ~~\_\_\_\_\_ 2017).~~
- 4 ~~\_\_\_\_\_ c. Agricultural business investment tax credit under section 57-38.6-03.~~
- 5 ~~\_\_\_\_\_ d. Seed capital investment tax credit under section 57-38.5-03.~~
- 6 ~~\_\_\_\_\_ e. Planned gift tax credit under section 57-38-01.21.~~
- 7 ~~\_\_\_\_\_ f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and~~  
8 ~~\_\_\_\_\_ 57-38-01.23.~~
- 9 ~~\_\_\_\_\_ g. Internship employment tax credit under section 57-38-01.24.~~
- 10 ~~\_\_\_\_\_ h. Workforce recruitment credit under section 57-38-01.25.~~
- 11 ~~\_\_\_\_\_ i. Angel fund investment tax credit under section 57-38-01.26.~~
- 12 ~~\_\_\_\_\_ j. Microbusiness tax credit under section 57-38-01.27.~~
- 13 ~~\_\_\_\_\_ k. Marriage penalty credit under section 57-38-01.28.~~
- 14 ~~\_\_\_\_\_ l. Homestead income tax credit under section 57-38-01.29.~~
- 15 ~~\_\_\_\_\_ m. Commercial property income tax credit under section 57-38-01.30.~~
- 16 ~~\_\_\_\_\_ n. Research and experimental expenditures under section 57-38-30.5.~~
- 17 ~~\_\_\_\_\_ o. Geothermal energy device installation credit under section 57-38-01.8.~~
- 18 ~~\_\_\_\_\_ p. Long-term care partnership plan premiums income tax credit under section~~  
19 ~~\_\_\_\_\_ 57-38-29.3.~~
- 20 ~~\_\_\_\_\_ q. Employer tax credit for salary and related retirement plan contributions of~~  
21 ~~\_\_\_\_\_ mobilized employees under section 57-38-01.31.~~
- 22 ~~\_\_\_\_\_ r. Automating manufacturing processes tax credit under section 57-38-01.33~~  
23 ~~\_\_\_\_\_ (effective for the first five taxable years beginning after December 31, 2012).~~
- 24 ~~\_\_\_\_\_ s. Income tax credit for passthrough entity contributions to private education~~  
25 ~~\_\_\_\_\_ institutions under section 57-38-01.7.~~
- 26 ~~\_\_\_\_\_ **SECTION 5. AMENDMENT.** Subsection 8 of section 57-38-30.3 of the North Dakota~~  
27 ~~\_\_\_\_\_ Century Code is amended and reenacted as follows:\_\_\_\_\_~~
- 28 ~~\_\_\_\_\_ 8. A taxpayer filing a return under this section is entitled to the exemption provided under~~  
29 ~~\_\_\_\_\_ section 40-63-04 (effective for the first five taxable years beginning after December 31,~~  
30 ~~\_\_\_\_\_ 2017).~~

1 ~~— **SECTION 6. REPEAL.** Sections 40-63-06 and 40-63-07 of the North Dakota Century Code~~  
2 ~~are repealed.~~

3 ~~— **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable years beginning after~~  
4 ~~December 31, 2017.~~

5 **SECTION 1.** A new section to chapter 40-05 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Duties of cities granting property tax incentives.**

8 1. Notwithstanding any other provision of law, before granting a property tax incentive on  
9 any parcel of property that is anticipated to receive a property tax incentive for more  
10 than five years, the governing body of a city shall send the chairman of each county  
11 commission and the president of each school district affected by the property tax  
12 incentive a letter, by certified mail, which provides notice of the terms of the proposed  
13 property tax incentive.

14 2. Within thirty days from receipt of the letter, each affected county and school district  
15 shall notify the city, in writing, whether the county or school district elects to participate  
16 in granting the tax incentive on the county or school district portion of tax levied on the  
17 property. The notification from a county or school district electing not to participate  
18 must include a letter explaining any reason for which the entity elected not to  
19 participate and whether the county or school district is willing to negotiate the terms of  
20 the property tax incentive with the city.

21 3. If the city does not receive a response from an affected county or school district within  
22 thirty days of delivery of the letter, the county and school district must be treated as  
23 participating in the property tax incentive.

24 4. The term "negotiation" as used in this section means the governing body of an  
25 affected county or school district may negotiate the terms of participating in the tax  
26 incentive, including the duration of the tax incentive and the taxable value selected for  
27 the base year for purposes of computing tax increments.

28 5. If an agreement is reached through negotiation under this section, the property tax  
29 incentive must be applied in accordance with the agreement.

30 **SECTION 2. AMENDMENT.** Subsection 7 of section 40-57.1-03 of the North Dakota  
31 Century Code is amended and reenacted as follows:



1 7. During the negotiation and deliberation of a property tax exemption or the option to  
2 make payments in lieu of taxes under this chapter, a municipality shall include, as  
3 nonvoting ex officio members of its governing body, a representative appointed by the  
4 school board of each school district affected by the proposed action and a  
5 representative appointed by the board of township supervisors of each township  
6 affected by the proposed action. Before granting a property tax incentive on any parcel  
7 of property that is anticipated to receive a property tax incentive for more than five  
8 years, the governing body of a city must comply with the requirements in section 1 of  
9 this Act.

10 **SECTION 3. AMENDMENT.** Section 40-58-20.2 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to**  
13 **representatives of affected taxing districts.**

14 1. Before approval of a development or renewal plan for any development or renewal  
15 area under section 40-58-20, the governing body of the municipality shall conduct a  
16 public hearing on the proposal. The governing body shall provide invitations to  
17 participate in the public hearing to the governing body of each county, school district,  
18 and park district within the development or renewal area. At a minimum, the governing  
19 body of the municipality shall provide the following information at the public hearing:

20 ~~1.~~ a. The anticipated costs of development of property to be reimbursed by tax  
21 incentives.

22 ~~2.~~ b. The anticipated annual revenue from tax increments which will be received to  
23 complete the development or renewal plan.

24 ~~3.~~ c. The anticipated date when the plan will be completed, the costs will be fully paid,  
25 and the tax increments will be released.

26 ~~4.~~ d. The estimate of the dollars annually attributable to the levies from each taxing  
27 entity which will be credited to the tax increment fund.

28 2. Before granting a property tax incentive on any parcel of property that is anticipated to  
29 receive a property tax incentive for more than five years, the governing body of the  
30 municipality must comply with the requirements in section 1 of this Act.

1       **SECTION 4. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century  
2 Code is amended and reenacted as follows:

3           3. The legislative management interim committee assigned the study responsibility under  
4 this section may examine economic development tax incentives, shall complete  
5 analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis  
6 during the interim, and shall approve a plan to provide that each of the economic  
7 development tax incentives listed in this subsection is subject to a complete analysis  
8 within each six-year period. The interim committee may include in its  
9 recommendations any amendments to this section, including amendments to add or  
10 remove incentives from the list of incentives subject to analysis under this subsection.

11 Analysis must be completed for ~~state-imposed tax aspects of~~ economic development  
12 tax incentives, including each of the following:

- 13           a. Renaissance zone credits and exemptions.
- 14           b. Research expense credit.
- 15           c. Agricultural commodity processing facility investment credit.
- 16           d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel  
17           blending credit, and biodiesel fuel equipment credit.
- 18           e. Seed capital investment credit.
- 19           f. Wage and salary credit.
- 20           g. Internship program credit.
- 21           h. Microbusiness credit.
- 22           i. Angel fund investment credit.
- 23           j. Workforce recruitment credit.
- 24           k. Soybean or canola crushing facility construction or retrofit credit.
- 25           l. Manufacturing automation equipment credit.
- 26           m. New or expanding business exemption.
- 27           n. Manufacturing and recycling equipment sales tax exemption.
- 28           o. Coal severance and conversion tax exemptions.
- 29           p. Oil and gas gross production and oil extraction tax exemptions.
- 30           q. Fuel tax refunds for certain users.
- 31           r. New jobs credit from income tax withholding.

1 s. ~~Any economic development tax incentive created by the sixty-fourth legislative-~~  
2 ~~assembly~~Development or renewal area incentives.

3 t. Sales and use tax exemption for materials used to construct a fertilizer or  
4 chemical processing facility.

5 u. Sales and use tax exemption for materials used in compressing, gathering,  
6 collecting, storing, transporting, or injecting carbon dioxide for use in enhanced  
7 recovery of oil or natural gas.

8 v. Sales and use tax exemption for enterprise information technology equipment  
9 and computer software used in a qualified data center.

10 **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM**  
11 **CITY GROWTH AND DEVELOPMENT.** During the 2017-18 interim, the legislative management  
12 shall consider studying how city growth and infill development affects property taxes, and  
13 evaluate the return on investment for state and community projects. The study must examine  
14 various policies affecting city development patterns, including the impact of transfer payments  
15 between state and local governments; the cost of government services and infrastructure,  
16 including future liability; the amount of tax revenue generated per increment of assumed liability  
17 for downtown areas; and whether certain areas of a city generate more revenue than expenses  
18 while other areas generate more expenses than revenue. The legislative management shall  
19 report its findings and recommendations, together with any legislation required to implement the  
20 recommendations, to the sixty-sixth legislative assembly.

21 **SECTION 6. EFFECTIVE DATE.** Sections 1 through 3 of this Act are effective for property  
22 tax incentives approved after December 31, 2017.