

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.~~ j. Soybean or canola crushing facility construction or retrofit credit.
  - 15 ~~l.~~ h. Manufacturing automation equipment credit.
  - 16 ~~m.~~ i. New or expanding business exemption.
  - 17 ~~n.~~ j. 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.

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Legislative Assembly

- 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.