

Introduced by

1 A BILL for an Act to amend and reenact section 1-01-49, subsection 4 of section 10-30.5-01,
2 subdivision b of subsection 1 of section 10-33-124, subsection 4 of section 26.1-50-01,
3 subsection 3 of section 40-57.1-02, subsection 11 of section 52-02.1-01, subdivision b of
4 subsection 2 of section 57-38-01.33, subdivision c of subsection 4 of section 57-38-30.5,
5 subsection 4 of section 57-38.5-01, and subdivision g of subsection 6 of section 57-39.2-04.3 of
6 the North Dakota Century Code, relating to a uniform definition of a primary sector business;
7 and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 1-01-49 of the North Dakota Century Code is amended
10 and reenacted as follows:

11 **1-01-49. Other general definitions.**

12 As used in this code, unless the context otherwise requires:

- 13 1. "Depose" includes every mode of written statement under oath or affirmation.
- 14 2. "Executor" includes administrator and "administrator" includes executor.
- 15 3. "Individual" means a human being.
- 16 4. "Oath" includes "affirmation".
- 17 5. "Organization" includes a foreign or domestic association, business trust, corporation,
18 enterprise, estate, joint venture, limited liability company, limited liability partnership,
19 limited partnership, partnership, trust, or any legal or commercial entity.
- 20 6. "Partnership" includes a limited liability partnership registered under chapter 45-22.
- 21 7. "Penitentiary" includes any affiliated facilities.
- 22 8. "Person" means an individual, organization, government, political subdivision, or
23 government agency or instrumentality.

- 1 9. "Personal property" includes money, goods, chattels, things in action, and evidences
2 of debt.
- 3 10. "Preceding" and "following" when used by way of reference to a chapter or other part
4 of a statute means the next preceding or next following chapter or other part.
- 5 11. "Primary sector business" means an individual, corporation, limited liability company,
6 partnership, or association that through the employment of knowledge or labor adds
7 value to a product, process, or service which results in the creation of new wealth.
- 8 12. "Process" means a writ or summons issued in the course of judicial proceedings.
- 9 ~~12.~~13. "Property" includes property, real and personal.
- 10 ~~13.~~14. "Real property" shall be coextensive with lands, tenements, and hereditaments.
- 11 ~~14.~~15. "Rule" includes regulation.
- 12 ~~15.~~16. "Signature" or "subscription" includes "mark" when the person cannot write, the
13 person's name being written near it and written by a person who writes that person's
14 own name as a witness.
- 15 ~~16.~~17. "State" when applied to the different parts of the United States, includes the District of
16 Columbia and the territories.
- 17 ~~17.~~18. "Testify" includes every mode of oral statement under oath or affirmation.
- 18 ~~18.~~19. "United States" includes the District of Columbia and the territories.
- 19 ~~19.~~20. "Will" includes codicils.
- 20 ~~20.~~21. "Writ" means an order or precept in writing, issued in the name of the state or of a
21 court or judicial officer.

22 **SECTION 2. AMENDMENT.** Subsection 4 of section 10-30.5-01 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 4. ~~"Primary sector business" means an individual, corporation, limited liability company,
25 partnership, or association which through the employment of knowledge or labor adds
26 value to a product, process, or service that results in the creation of new wealth. The
27 term has the meaning provided in section 1-01-49 and includes tourism but does not
28 include production agriculture.~~

29 **SECTION 3. AMENDMENT.** Subdivision b of subsection 1 of section 10-33-124 of the North
30 Dakota Century Code is amended and reenacted as follows:

1 b. ~~"Primary sector business" means an individual, corporation, limited liability~~
2 ~~company, partnership, or association that, through a process employing~~
3 ~~knowledge and labor, addshas the meaning provided in section 1-01-49 and must~~
4 ~~also add~~ value to a product produced for resale.

5 **SECTION 4. AMENDMENT.** Subsection 4 of section 26.1-50-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 4. ~~"Primary sector business" means an individual, corporation, limited liability company,~~
8 ~~partnership, or association that through the employment of knowledge or labor adds~~
9 ~~value to a product, process, or service which results in the creation of new wealth~~has
10 the meaning provided in section 1-01-49. Qualification as a primary sector business
11 under this subsection must be determined by the department of commerce division of
12 economic development and finance.

13 **SECTION 5. AMENDMENT.** Subsection 3 of section 40-57.1-02 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 3. ~~"Primary sector business" means an individual, corporation, limited liability company,~~
16 ~~partnership, or association which through the employment of knowledge or labor adds~~
17 ~~value to a product, process, or service that results in the creation of new wealth~~has the
18 meaning provided in section 1-01-49.

19 **SECTION 6. AMENDMENT.** Subsection 11 of section 52-02.1-01 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 11. ~~"Primary sector business" means an employer engaged in locating to or in this state~~
22 ~~which previously had no presence in this state, or in expanding its operations within~~
23 ~~this state, which through the employment of knowledge or labor, adds value to a~~
24 ~~product, process, or export service that results in the creation of new wealth, excluding~~
25 ~~production agriculture, if it~~has the meaning provided in section 1-01-49. For purposes
26 of this subsection, a primary sector business must also be an employer, excluding an
27 employer engaged in production agriculture, locating to or in this state which
28 previously had no presence in this state, or expanding its operations within this state,
29 and which meets the following eligibility criteria:

30 a. An employer entering into an agreement, and increasing its base employment
31 level by at least one employee, or in the case of an employer without an

1 established base employment level in this state creating at least five employees,
2 within the time set in the agreement, is entitled to the new jobs credit from
3 withholding.

4 b. An employer must have an economically productive and socially desirable
5 purpose within the state.

6 c. An employer must not be closing or reducing its operation in one area of the state
7 and relocating substantially the same operation in another area.

8 d. An employer adding value to a service through the employment of knowledge or
9 labor must be adding value to an export service.

10 **SECTION 7. AMENDMENT.** Subdivision b of subsection 2 of section 57-38-01.33 of the
11 North Dakota Century Code is amended and reenacted as follows:

12 b. ~~"Primary sector business" means a business certified by the department of~~
13 ~~commerce which, through the employment of knowledge or labor, adds value to a~~
14 ~~product, process, or service that results in the creation of new wealth~~has the
15 meaning provided in section 1-01-49. For purposes of this subdivision,
16 qualification as a primary sector business must be certified by the department of
17 commerce.

18 **SECTION 8. AMENDMENT.** Subdivision c of subsection 4 of section 57-38-30.5 of the
19 North Dakota Century Code is amended and reenacted as follows:

20 c. ~~"Primary sector business" means a qualified business that through the~~
21 ~~employment of knowledge or labor adds value to a product, process, or~~
22 ~~service~~has the meaning provided in section 1-01-49.

23 **SECTION 9. AMENDMENT.** Subsection 4 of section 57-38.5-01 of the North Dakota
24 Century Code is amended and reenacted as follows:

25 4. ~~"Primary sector business" means a qualified business that through the employment of~~
26 ~~knowledge or labor adds value to a product, process, or service and which results in~~
27 ~~the creation of new wealth~~has the meaning provided in section 1-01-49 but does not
28 include an agricultural commodity processing facility as defined under section
29 57-38.6-01. For purposes of this subsection, a primary sector business must also be a
30 qualified business.

1 **SECTION 10. AMENDMENT.** Subdivision g of subsection 6 of section 57-39.2-04.3 of the
2 North Dakota Century Code is amended and reenacted as follows:

3 g. "Primary sector business" means ~~an individual, corporation, limited liability~~
4 ~~company, partnership, or association that through the employment of knowledge~~
5 ~~or labor adds value to a product, process, or service which results in the creation~~
6 ~~of new wealth and which has been~~ has the meaning provided in section 1-01-49.
7 For purposes of this subdivision, qualification as a primary sector business must
8 be certified by the department of commerce division of economic development
9 and finance to be qualified under this subdivision.

10 **SECTION 11. EFFECTIVE DATE.** Section 10 of this Act is effective for taxable events
11 occurring after June 30, 2017, and the remainder of this Act is effective for taxable years
12 beginning after December 31, 2016.