

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2166

Introduced by

Senators Cook, Laffen, Unruh

Representatives Dockter, Headland, Olson

1 A BILL for an Act to create and enact a new section to chapter 40-05 of the North Dakota  
2 Century Code, relating to approval of property tax incentives granted by a city; to amend and  
3 reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of section  
4 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to  
5 approval of property tax incentives granted by a city and evaluation of economic development  
6 tax incentives; to provide for a legislative management study; and to provide an effective date.

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

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

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

- 11 1. Notwithstanding any other provision of law, before granting a property tax incentive on  
12 any parcel of property that is anticipated to receive a property tax incentive for more  
13 than five years, the governing body of a city shall send the chairman of each county  
14 commission and the president of each school district affected by the property tax  
15 incentive a letter, by certified mail, which provides notice of the terms of the proposed  
16 property tax incentive.
- 17 2. Within thirty days from receipt of the letter, each affected county and school district  
18 shall notify the city, in writing, whether the county or school district elects to participate  
19 in granting the tax incentive on the county or school district portion of tax levied on the  
20 property. The notification from a county or school district electing not to participate  
21 must include a letter explaining any reason for which the entity elected not to  
22 participate and whether the county or school district is willing to negotiate the terms of  
23 the property tax incentive with the city.

- 1       3. If the city does not receive a response from an affected county or school district within  
2       thirty days of delivery of the letter, the county and school district must be treated as  
3       participating in the property tax incentive.
- 4       4. The term "negotiation" as used in this section means the governing body of an  
5       affected county or school district may negotiate the terms of participating in the tax  
6       incentive, including the duration of the tax incentive and the taxable value selected for  
7       the base year for purposes of computing tax instruments increments.
- 8       5. If an agreement is reached through negotiation under this section, the property tax  
9       incentive must be applied in accordance with the agreement.

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

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

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

23       **40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to**  
24 **representatives of affected taxing districts.**

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

- 1        4. a. The anticipated costs of development of property to be reimbursed by tax  
2            incentives.
- 3        ~~2.~~ b. The anticipated annual revenue from tax increments which will be received to  
4            complete the development or renewal plan.
- 5        ~~3.~~ c. The anticipated date when the plan will be completed, the costs will be fully paid,  
6            and the tax increments will be released.
- 7        4. d. The estimate of the dollars annually attributable to the levies from each taxing  
8            entity which will be credited to the tax increment fund.
- 9        2. Before granting a property tax incentive on any parcel of property that is anticipated to  
10        receive a property tax incentive for more than five years, the governing body of the  
11        municipality must comply with the requirements in section 1 of this Act.

12        **SECTION 4. AMENDMENT.** Subsection 2 of section 40-63-01 of the North Dakota Century  
13        Code is amended and reenacted as follows:

- 14        2. "Development plan" means a written plan that addresses the criteria in subsection 1 of  
15        section 40-63-03 and includes the following:
- 16        a. A map of the proposed renaissance zone which indicates the geographic  
17            boundaries and blocks, a description of the properties and structures on each  
18            block, identification of those properties and structures to be targeted for potential  
19            zone projects, and a description of the present use and conditions of the targeted  
20            properties and structures.
- 21        b. A description of the existing physical assets, in particular natural or historical  
22            assets, of the zone and a plan for the incorporation and enhancement of the  
23            assets within the proposed development.
- 24        c. An outline of goals and objectives and proposed outcomes, including major  
25            milestones or benchmarks, by which to gauge success resulting from the  
26            designation of the zone.
- 27        d. A description of the types of projects the city would encourage in the city's  
28            targeted properties.
- 29        e. A description of the promotion, development, and management strategies to  
30            maximize investment in the zone.

- 1           f. A plan for the development, promotion, and use of a renaissance fund  
2           organization, if one is desired to be established. If a city is not ready to commit to  
3           establishing a renaissance fund organization, the city may indicate in the  
4           renaissance zone application the city's desire to submit a plan for approval at a  
5           later date.
- 6           g. Evidence of community support and commitment from residential and business  
7           interests. Evidence of community support must include letters of support from the  
8           governing bodies of each county and school district that contain property located  
9           within the boundaries of the proposed renaissance zone.

10           **SECTION 5. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century  
11 Code is amended and reenacted as follows:

- 12           3. The legislative management interim committee assigned the study responsibility under  
13           this section may examine economic development tax incentives, shall complete  
14           analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis  
15           during the interim, and shall approve a plan to provide that each of the economic  
16           development tax incentives listed in this subsection is subject to a complete analysis  
17           within each six-year period. The interim committee may include in its  
18           recommendations any amendments to this section, including amendments to add or  
19           remove incentives from the list of incentives subject to analysis under this subsection.  
20           Analysis must be completed for ~~state-imposed tax aspects of~~ economic development  
21           tax incentives, including each of the following:
- 22           a. Renaissance zone credits and exemptions.
  - 23           b. Research expense credit.
  - 24           c. Agricultural commodity processing facility investment credit.
  - 25           d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel  
26           blending credit, and biodiesel fuel equipment credit.
  - 27           e. Seed capital investment credit.
  - 28           f. Wage and salary credit.
  - 29           g. Internship program credit.
  - 30           h. Microbusiness credit.
  - 31           i. Angel fund investment credit.

- 1 j. Workforce recruitment credit.
- 2 k. Soybean or canola crushing facility construction or retrofit credit.
- 3 l. Manufacturing automation equipment credit.
- 4 m. New or expanding business exemption.
- 5 n. Manufacturing and recycling equipment sales tax exemption.
- 6 o. Coal severance and conversion tax exemptions.
- 7 p. Oil and gas gross production and oil extraction tax exemptions.
- 8 q. Fuel tax refunds for certain users.
- 9 r. New jobs credit from income tax withholding.
- 10 s. ~~Any economic development tax incentive created by the sixty-fourth legislative-~~
- 11 ~~assembly~~Development or renewal area incentives.
- 12 t. Sales and use tax exemption for materials used to construct a fertilizer or
- 13 chemical processing facility.
- 14 u. Sales and use tax exemption for materials used in compressing, gathering,
- 15 collecting, storing, transporting, or injecting carbon dioxide for use in enhanced
- 16 recovery of oil or natural gas.
- 17 v. Sales and use tax exemption for enterprise information technology equipment
- 18 and computer software used in a qualified data center.

19 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM**  
20 **CITY GROWTH AND DEVELOPMENT.** During the 2017-18 interim, the legislative management  
21 shall consider studying how city growth and infill development affects property taxes, and  
22 evaluate the return on investment for state and community projects. The study must examine  
23 various policies affecting city development patterns, including the impact of transfer payments  
24 between state and local governments; the cost of government services and infrastructure,  
25 including future liability; the amount of tax revenue generated per increment of assumed liability  
26 for downtown areas; and whether certain areas of a city generate more revenue than expenses  
27 while other areas generate more expenses than revenue. The legislative management shall  
28 report its findings and recommendations, together with any legislation required to implement the  
29 recommendations, to the sixty-sixth legislative assembly.

30 **SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY**  
31 **TAX INCENTIVES.** During the 2017-18 interim, the legislative management shall consider

1 studying the duplicative application of property tax incentives, including benefits received by  
2 properties located in both a tax increment financing district and a renaissance zone; the  
3 duration for which a single property may benefit from the use of multiple property tax incentives;  
4 and the impacts on the remainder of the property tax base that is not receiving incentives  
5 created as a result of offering property tax incentives. The legislative management shall report  
6 its findings and recommendations, together with any legislation required to implement the  
7 recommendations, to the sixty-sixth legislative assembly.

8 **SECTION 8. EFFECTIVE DATE.** Sections 1 through 4 of this Act are effective for property  
9 tax incentives approved after ~~December~~July 31, 2017.