

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.~~for an Act to create and enact a new section to chapter 6-09 and a new section  
5 to chapter 54-03 of the North Dakota Century Code, relating to dynamic fiscal impact analysis of  
6 select economic development incentives and bills introduced by the legislative assembly and  
7 the creation of a dynamic fiscal impact bill selection committee; and to provide an expiration  
8 date.

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

12 ~~— 54-35-26. Legislative interim committee review of economic development tax~~  
13 ~~incentives.~~

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

21 ~~— 1. — During each interim, the legislative management shall assign to a legislative~~  
22 ~~management interim committee study responsibility that includes completing the~~  
23 ~~analysis of economic development tax incentives as provided in this section and~~  
24 ~~reporting its findings and any associated recommended legislation to the legislative~~

1           ~~management. Upon the directive of the legislative management, the interim committee~~  
2           ~~assigned that responsibility shall perform, as a pilot project, a dynamic fiscal impact~~  
3           ~~analysis for each economic development tax incentive selected for review during the~~  
4           ~~2017-18 interim.~~

5     ~~2.~~ The legislative management interim committee assigned the study responsibility under  
6           this section shall analyze each incentive, applying considerations relevant to the  
7           perceived goals of the incentive, including any or all of the following:

8     ~~a.~~ The extent of achievement of the goals of the incentive and whether unintended  
9           consequences have developed in its application.

10    ~~b.~~ Whether the design and application of the incentive can be improved.

11    ~~c.~~ The extent of complementary or duplicative effect of other incentives or  
12           governmental programs.

13    ~~d.~~ Whether the incentive has a positive influence on business behavior or rewards  
14           business behavior that is likely to have occurred without the incentive.

15    ~~e.~~ The effect of the incentive on the state economy, including the extent of primary  
16           sector operation of the recipient and any competitive disadvantage imposed or  
17           benefit conferred on other state businesses, any benefit or burden created for  
18           local government, and the extent of the incentive's benefit that flows to  
19           out-of-state concerns.

20    ~~f.~~ The employment opportunities generated by the incentive and the extent those  
21           represent career opportunities.

22    ~~g.~~ Whether the incentive is the most effective use of state resources to achieve  
23           desired goals.

24    ~~h.~~ If the committee's analysis of the incentive is constrained by lack of data, whether  
25           statutory or administrative changes should be made to improve collection and  
26           availability of data.

27    ~~3.~~ The legislative management interim committee assigned the study responsibility under  
28           this section may examine economic development tax incentives, shall complete  
29           analysis of the state-imposed tax aspects of the incentives it designates for analysis  
30           during the interim, and shall approve a plan to provide that each of the economic  
31           development tax incentives listed in this subsection is subject to a complete analysis

- 1           ~~within each six-year period. The interim committee may include in its~~  
2           ~~recommendations any amendments to this section, including amendments to add or~~  
3           ~~remove incentives from the list of incentives subject to analysis under this subsection.~~  
4           ~~Analysis must be completed for state imposed tax aspects of economic development~~  
5           ~~tax incentives, including each of the following:~~
- 6           ~~a. Renaissance zone credits and exemptions.~~
  - 7           ~~b. Research expense credit.~~
  - 8           ~~c. Agricultural commodity processing facility investment credit.~~
  - 9           ~~d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel~~  
10           ~~blending credit, and biodiesel fuel equipment credit.~~
  - 11           ~~e. Seed capital investment credit.~~
  - 12           ~~f. Wage and salary credit.~~
  - 13           ~~g. Internship program credit.~~
  - 14           ~~h. Microbusiness credit.~~
  - 15           ~~i. Angel fund investment credit.~~
  - 16           ~~j. Workforce recruitment credit.~~
  - 17           ~~k. Soybean or canola crushing facility construction or retrofit credit.~~
  - 18           ~~l. Manufacturing automation equipment credit.~~
  - 19           ~~m. New or expanding business exemption.~~
  - 20           ~~n. Manufacturing and recycling equipment sales tax exemption.~~
  - 21           ~~o. Coal severance and conversion tax exemptions.~~
  - 22           ~~p. Oil and gas gross production and oil extraction tax exemptions.~~
  - 23           ~~q. Fuel tax refunds for certain users.~~
  - 24           ~~r. New jobs credit from income tax withholding.~~
  - 25           ~~s. Any economic development tax incentive created by the sixty-fourth legislative~~  
26           ~~assembly.~~
- 27           ~~4. By October first of each odd-numbered year, the interim committee assigned the study~~  
28           ~~responsibility under this section shall determine and approve:~~
- 29           ~~a. The economic development tax incentives under subsection 3 which will be~~  
30           ~~designated for analysis during that interim and a plan to provide for analysis of~~

1                   the remaining economic development tax incentives under subsection 3 within  
2                   the six-year period.

3                   ~~b. The perceived goals of the legislative assembly in creating or altering each~~  
4                   ~~incentive designated for analysis, for use as a baseline for committee analysis of~~  
5                   ~~the incentive.~~

6                   ~~c. The data and testimony that will be required to conduct an effective analysis of~~  
7                   ~~each incentive designated for analysis.~~

8                   ~~5. The department of commerce, tax commissioner, economic development foundation,~~  
9                   ~~and any other state agency or instrumentality shall provide data and analysis as~~  
10                  ~~requested by the interim committee conducting the analysis under this section.~~

11                  ~~a. If data is not available, the entity requested to provide the information shall~~  
12                  ~~advise the committee how the data could be obtained and the estimated cost of~~  
13                  ~~obtaining the data.~~

14                  ~~b. If data is available but cannot be shared with the committee, the entity requested~~  
15                  ~~to provide the information shall explain the reason and whether there are options~~  
16                  ~~that could be used to obtain the data or an adequate substitute for the data.~~

17                  ~~6. The interim committee conducting the analysis under this section shall report its~~  
18                  ~~findings and recommendations together with any legislation required to implement~~  
19                  ~~those recommendations to the legislative management.~~

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

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

28                  **SECTION 1.** A new section to chapter 6-09 of the North Dakota Century Code is created  
29                  and enacted as follows:

1 **Dynamic fiscal impact analysis.**

2 The Bank of North Dakota shall conduct dynamic revenue analysis of economic  
3 development tax incentives selected for review by the interim committee tasked with reviewing  
4 economic development tax incentives under section 54-35-26 and bills selected by the dynamic  
5 fiscal impact bill selection committee under section 2 of this Act.

6 **SECTION 2.** A new section to chapter 54-03 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Dynamic fiscal impact bill selection committee.**

9 1. During the 2019 legislative session, a dynamic fiscal impact bill selection committee  
10 must be formed consisting of the following members:

11 a. The majority leader and minority leader of the house of representatives;

12 b. The majority leader and minority leader of the senate;

13 c. The chairman of the legislative management, who shall serve as chairman of the  
14 committee;

15 d. The chairman of the house finance and taxation committee; and

16 e. The chairman of the senate finance and taxation committee.

17 2. The committee shall review bills introduced by the sixty-sixth legislative assembly  
18 which have a fiscal impact and forward bills selected for dynamic fiscal impact analysis  
19 to the Bank of North Dakota for review pursuant to section 1 of this Act.

20 **SECTION 3. EXPIRATION DATE.** This Act is effective through June 30, 2019, and after that  
21 date is ineffective.