

SENATE BILL NO. 2147

Introduced by

Senators Taylor, Bowman

Representatives Nicholas, S. Meyer, Onstad

(At the request of the Department of Agriculture)

1 A BILL for an Act to create and enact a new section to chapter 4-01, a new section to chapter
2 6-01, and a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the
3 North Dakota certified beef program, creation of a livestock guarantee program, and sales tax
4 exemptions for livestock facility construction materials; to amend and reenact section
5 4-14.1-03.1, subsection 1 of section 57-38.6-01, and section 57-38.6-03 of the North Dakota
6 Century Code, relating to authority of the agricultural products utilization commission and
7 investment tax credits for investing in agricultural businesses; to provide an appropriation; to
8 provide an effective date; and to provide an expiration date.

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

10 **SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is
11 created and enacted as follows:

12 **North Dakota certified beef program.** There is created the North Dakota certified
13 beef program. The agriculture commissioner is directed to coordinate with the state board of
14 animal health, the North Dakota stockmen's association, North Dakota state university beef
15 systems center of excellence, and the United States department of agriculture in developing a
16 North Dakota source-verified and process-verified beef marketing program.

17 **SECTION 2. AMENDMENT.** Section 4-14.1-03.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **4-14.1-03.1. Agricultural products utilization commission - Authority.** The North
20 Dakota agricultural products utilization commission may apply for, accept, and expend any
21 appropriation, grant, gift, or service made available from public or private sources consistent
22 with the purpose of this chapter. The commission may administer grant programs consistent
23 with the purpose of this chapter, including a basic and applied research grant program,
24 utilization and marketing grant program, cooperative marketing grant program which includes

1 nature-based tourism businesses, farm diversification grant program, agricultural prototype
2 development grant program, distressed value-added business technical assistance program,
3 and a North American marketing grant program. The commission may require, by contract,
4 repayment of a grant, in whole or in part, if the grant recipient does not fulfill the conditions
5 under which the grant was awarded. The commission may also negotiate repayment of a grant
6 through preferred stock, intellectual property, and other methods if the commission determines
7 that it is in the public interest to do so.

8 **SECTION 3.** A new section to chapter 6-01 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Livestock loan guarantee program.** There is created a livestock loan guarantee
11 program at the Bank of North Dakota with the following requirements:

- 12 1. Eligibility. The program is available only to qualified applicants who are
13 commercial cattle feedlot operators who are certified by the certification board, that
14 meet all siting permits and remain in compliance, and that background or feed
15 cattle to fat market weight.
- 16 2. Feedlot certification. To be eligible for this program, a feedlot must be certified by
17 the certification board consisting of the chairman of the department of animal
18 science at North Dakota state university, president of the Bank of North Dakota,
19 president of the North Dakota stockmen's association, and chairman of the credit
20 review board or their representatives.
- 21 3. Criteria. Criteria for certification may include financial position of the feedlot owner
22 or operator, management skills of the owner or operator, education and experience
23 of the owner and staff, and reputation of the feedlot.
- 24 4. Implementation. The Bank of North Dakota may establish rules or guidelines for
25 the feedlot to receive the loan guarantee. These rules must include a fee for the
26 loan guarantee, establish equity requirements not to exceed fifteen percent, and
27 establish policies to target the expansion of livestock feeding in North Dakota.
- 28 5. Program limitation. The Bank of North Dakota is limited to a maximum amount of
29 loans guaranteed under this program to a maximum guarantee amount of thirty
30 million dollars.

1 **SECTION 4. AMENDMENT.** Subsection 1 of section 57-38.6-01 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. "Agricultural commodity processing facility" means a facility that through
4 processing involving the employment of knowledge and labor adds value to an
5 agricultural commodity capable of being raised in this state. Adding value includes
6 dairy production operations, livestock feedlot operations, and swine feeding and
7 finishing operations.

8 **SECTION 5. AMENDMENT.** Section 57-38.6-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-38.6-03. Agricultural business investment tax credit.** If a taxpayer makes a
11 qualified investment in a qualified business, the taxpayer is entitled to a credit against state
12 income tax liability as determined under section 57-38-29 or 57-38-30.3. The amount of the
13 credit to which a taxpayer is entitled is ~~thirty~~ fifty percent of the amount invested by the taxpayer
14 in qualified businesses during the taxable year, subject to the following:

- 15 1. The aggregate annual investment for which a taxpayer may obtain a tax credit
16 under this section is not more than twenty thousand dollars. This subsection may
17 not be interpreted to limit additional investment by a taxpayer for which that
18 taxpayer is not applying for a credit.
- 19 2. In any taxable year, a taxpayer may claim no more than fifty percent of the credit
20 under this section which is attributable to qualified investments in a single taxable
21 year. The amount of the credit allowed under this section for any taxable year may
22 not exceed fifty percent of the taxpayer's tax liability as otherwise determined
23 under chapter 57-38.
- 24 3. Any amount of credit under this section not allowed because of the limitations in
25 this section may be carried forward for up to fifteen taxable years after the taxable
26 year in which the investment was made.
- 27 4. A partnership that invests in a qualified business must be considered to be the
28 taxpayer for purposes of the investment limitations in this section and the amount
29 of the credit allowed with respect to a partnership's investment in a qualified
30 business must be determined at the partnership level. The amount of the total
31 credit determined at the partnership level must be allowed to the partners, limited

- 1 to individuals, estates, and trusts, in proportion to their respective interests in the
2 partnership.
- 3 5. The investment must be at risk in the business. A qualified investment must be in
4 the form of a purchase of ownership interests or the right to receive payment of
5 dividends from the business. An investment for which a credit is received under
6 this section must remain in the business for at least three years.
- 7 6. The entire amount of an investment for which a credit is claimed under this section
8 must be expended by the qualified business for plant, equipment, research and
9 development, marketing and sales activity, or working capital for the qualified
10 business.
- 11 7. The tax commissioner may disallow any credit otherwise allowed under this section
12 if any representation by a business in the application for certification as a qualified
13 business proves to be false or if the taxpayer or qualified business fails to satisfy
14 any conditions under this section or any conditions consistent with this section
15 otherwise determined by the tax commissioner. The amount of any credit
16 disallowed by the tax commissioner that reduced the taxpayer's income tax liability
17 for any or all applicable tax years, plus penalty and interest provided under section
18 57-38-45, must be paid by the taxpayer.

19 **SECTION 6.** A new section to chapter 57-39.2 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Sales tax exemption for production livestock facility construction materials -**
22 **Refund - Repayment.**

- 23 1. As used in this section, unless the context otherwise requires:
- 24 a. "Livestock" means beef and dairy cattle, sheep, hogs, or poultry.
- 25 b. "Owner" means any person owning a new production livestock facility.
- 26 c. "Production livestock facility" means new buildings, structures, equipment,
27 and fixtures constructed for livestock production, but not including structures
28 such as grain bins or other storage facilities incidental to livestock production.
- 29 2. Gross receipts from sales of tangible personal property used to construct new
30 production livestock facilities in this state are exempt from taxation under this
31 chapter. To qualify for this exemption, the tangible personal property must be

- 1 incorporated in the structure of the facility or used in the construction process to
2 the point of having no residual economic value.
- 3 3. If the tangible personal property is purchased or installed by a contractor subject to
4 the tax imposed by this chapter, the owner may apply for a refund of the taxes paid
5 by the contractor. The owner may apply for a refund of any taxes paid under this
6 chapter or chapter 57-40.2 by the owner for purchases of qualifying tangible
7 personal property. Refund applications under this section must be made at the
8 times and in the manner directed by the tax commissioner and must include
9 sufficient information to permit the tax commissioner to verify the payment of sales
10 and use taxes and the exempt status of the sale or use.
- 11 4. The owner must supply the tax commissioner with a copy of any required
12 environmental permits for the facility.
- 13 5. If a facility has not been used for livestock production within five years from the
14 time of the exemption or refund under this section, the owner is liable for
15 repayment of the full amount of taxes for which exemption was allowed under this
16 section.

17 **SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the
18 general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much
19 of the sum as may be necessary, to the agriculture commissioner for the purpose of defraying
20 the expenses of the North Dakota certified beef program, for the biennium beginning July 1,
21 2005, and ending June 30, 2007.

22 **SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the
23 general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much
24 of the sum as may be necessary, to the agriculture commissioner for the purpose of defraying
25 the expenses of farmers' market development and promotion, for the biennium beginning
26 July 1, 2005, and ending June 30, 2007.

27 **SECTION 9. EFFECTIVE DATE - EXPIRATION DATE.** Section 6 of this Act is
28 effective for taxable events occurring after June 30, 2005, and before July 1, 2009. The
29 repayment provisions of subsection 5 of section 6 of this Act continue to apply to any exemption
30 granted during the time this section is in effect.

1 **SECTION 10. EXPIRATION DATE.** Section 3 of this Act is effective through June 30,
2 2007, and after that date is ineffective.