

SENATE BILL NO. 2378

Introduced by

Senators Unruh, Dever, Laffen, Poolman

1 A BILL for an Act to create and enact sections 6-09-49 and 57-38-01.36 and a new subdivision
2 to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to local
3 community incentive fund grants and tax credits; to amend and reenact subsection 9 of section
4 57-38-57 of the North Dakota Century Code, relating to confidentiality of tax information; and to
5 provide an effective date.

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

7 **SECTION 1.** Section 6-09-49 of the North Dakota Century Code is created and enacted as
8 follows:

9 **6-09-49. Local community incentive fund - Administration - Rules - Tax credit.**

- 10 1. The Bank of North Dakota shall adopt rules to establish and administer a local
11 community incentive fund program as provided under this section. The Bank shall
12 establish the local community incentive fund which is a special fund at the Bank, shall
13 accept financial contributions to this fund, shall deposit these contributions in the fund,
14 and shall distribute grants awarded under this section. A contributor under this section
15 may qualify for an income tax credit under section 57-38-01.36.
- 16 2. The Bank shall consult with the parks and recreation department to establish a grant
17 application process, grant recipient qualifications, and grant distribution protocol under
18 this section.
- 19 3. The recipient of a grant under this section shall use the grant to directly or indirectly
20 fund the construction, refurbishing, reconstruction, rehabilitation, acquisition, or
21 improvement of recreational, arts, science, and quality of life amenity projects. A grant
22 awarded under this section may not be the primary funding for a community project.
23 However, a grant under this section may fund up to one hundred percent of the cost of
24 recreational equipment for a community.

1 4. Eligible recipients of a grant under this section include units of local, state, and tribal
2 government and nonprofit organizations serving communities in this state. An
3 individual may not qualify for a grant under this section.

4 **SECTION 2.** Section 57-38-01.36 of the North Dakota Century Code is created and enacted
5 as follows:

6 **57-38-01.36. Local community incentive fund tax credit.**

- 7 1. A taxpayer is entitled to a credit as determined under this section against state income
8 tax liability under section 57-38-30 or 57-38-30.3 for contributing to the local
9 community incentive fund under section 6-09-49. The amount of the credit is equal to
10 the amount contributed to the fund during the taxable year.
- 11 2. North Dakota taxable income must be increased by the amount of the contribution
12 upon which the credit under this section is computed but only to the extent the
13 contribution reduced federal taxable income.
- 14 3. The contribution amount used to calculate the credit under this section may not be
15 used to calculate any other state income tax deduction or credit allowed by law.
- 16 4. If the amount of the credit exceeds the taxpayers tax liability for the taxable year, the
17 excess may be carried forward to each of the ten succeeding taxable years.
- 18 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to
19 twenty million dollars per biennium. This limitation applies to all contributions for which
20 tax credits are claimed under section 6-09-49 and this section.
- 21 6. Within thirty days after the date on which a taxpayer makes a contribution to the local
22 community incentive fund, the Bank of North Dakota shall file with each contributing
23 taxpayer, and a copy with the tax commissioner, completed forms that show as to
24 each contribution to the fund by that taxpayer the following:
- 25 a. The name, address, and social security number or federal employer identification
26 number of the taxpayer that made the contribution.
- 27 b. The dollar amount paid for the contribution by the taxpayer.
- 28 c. The date the payment was received by the fund.
- 29 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit
30 on the taxpayer's state income tax return in the manner prescribed by the tax

1 commissioner and file with the return a copy of the form issued by the Bank of North
2 Dakota under subsection 6.

3 8. Notwithstanding the time limitations contained in section 57-38-38, this section does
4 not prohibit the tax commissioner from conducting an examination of the credit
5 claimed and assessing additional tax due under section 57-38-38.

6 9. A passthrough entity making a contribution to the local community incentive fund
7 under this section is considered to be the taxpayer for purposes of this section, and
8 the amount of the credit allowed must be determined at the passthrough entity level.
9 The amount of the total credit determined at the entity level must be passed through to
10 the partners, shareholders, or members in proportion to their respective interests in
11 the passthrough entity.

12 **SECTION 3.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota
13 Century Code is created and enacted as follows:

14 Local community incentive fund credit under section 2 of this Act.

15 **SECTION 4. AMENDMENT.** Subsection 9 of section 57-38-57 of the North Dakota Century
16 Code is amended and reenacted as follows:

17 9. The tax commissioner may disclose a taxpayer's name, address, and identification
18 number to the Bank of North Dakota for the sole purpose of administering the tax
19 deduction for contributions to the North Dakota higher education savings plan and the
20 local community incentive fund.

21 **SECTION 5. EFFECTIVE DATE.** This Act is effective for the first two taxable years
22 beginning after December 2014.