

Introduced by

1 A BILL for an Act to amend and reenact subsection 3 of section 54-35-26 and subsections 2 and
2 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the list of economic
3 development tax incentives to be reviewed and the application of deductions and tax credits; to
4 repeal section 57-38-01.25 of the North Dakota Century Code, relating to the workforce
5 recruitment credit; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century
8 Code is amended and reenacted as follows:

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

- 1 g. Angel fund investment credit.
- 2 h. ~~Workforce recruitment credit.~~
- 3 i. Soybean or canola crushing facility construction or retrofit credit.
- 4 j. ~~Manufacturing automation equipment credit.~~
- 5 k.i. New or expanding business exemption.
- 6 h.j. Manufacturing and recycling equipment sales tax exemption.
- 7 ~~m.k.~~ Coal severance and conversion tax exemptions.
- 8 n.l. Oil and gas gross production and oil extraction tax exemptions.
- 9 ~~o.m.~~ Fuel tax refunds for certain users.
- 10 ~~p.n.~~ New jobs credit from income tax withholding.
- 11 ~~q.o.~~ Development or renewal area incentives.
- 12 r.p. Sales and use tax exemption for materials used to construct a fertilizer or
- 13 chemical processing facility.
- 14 ~~s.q.~~ 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 t.r. Sales and use tax exemption for enterprise information technology equipment
- 18 and computer software used in a qualified data center.

19 **SECTION 2. AMENDMENT.** Subsection 2 of section 57-38-30.3 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 2. For purposes of this section, "North Dakota taxable income" means the federal taxable
- 22 income of an individual, estate, or trust as computed under the Internal Revenue Code
- 23 of 1986, as amended, adjusted as follows:
- 24 a. Reduced by interest income from obligations of the United States and income
- 25 exempt from state income tax under federal statute or United States or North
- 26 Dakota constitutional provisions.
- 27 b. Reduced by the portion of a distribution from a qualified investment fund
- 28 described in section 57-38-01 which is attributable to investments by the qualified
- 29 investment fund in obligations of the United States, obligations of North Dakota or
- 30 its political subdivisions, and any other obligation the interest from which is

- 1 exempt from state income tax under federal statute or United States or North
2 Dakota constitutional provisions.
- 3 c. Reduced by the amount equal to the earnings that are passed through to a
4 taxpayer in connection with an allocation and apportionment to North Dakota
5 under section 57-38-01.35.
- 6 d. Reduced by forty percent of:
- 7 (1) The excess of the taxpayer's net long-term capital gain for the taxable year
8 over the net short-term capital loss for that year, as computed for purposes
9 of the Internal Revenue Code of 1986, as amended. The adjustment
10 provided by this subdivision is allowed only to the extent the net long-term
11 capital gain is allocated to this state.
- 12 (2) Qualified dividends as defined under Internal Revenue Code section 1(h)
13 (11), added by section 302(a) of the Jobs and Growth Tax Relief
14 Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963
15 et seq.], but only if taxed at a federal income tax rate that is lower than the
16 regular federal income tax rates applicable to ordinary income. If, for any
17 taxable year, qualified dividends are taxed at the regular federal income tax
18 rates applicable to ordinary income, the reduction allowed under this
19 subdivision is equal to thirty percent of all dividends included in federal
20 taxable income. The adjustment provided by this subdivision is allowed only
21 to the extent the qualified dividend income is allocated to this state.
- 22 e. Increased by the amount of a lump sum distribution for which income averaging
23 was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C.
24 402], as amended. This adjustment does not apply if the taxpayer received the
25 lump sum distribution while a nonresident of this state and the distribution is
26 exempt from taxation by this state under federal law.
- 27 f. Increased by an amount equal to the losses that are passed through to a
28 taxpayer in connection with an allocation and apportionment to North Dakota
29 under section 57-38-01.35.
- 30 g. Reduced by the amount received by the taxpayer as payment for services
31 performed when mobilized under title 10 United States Code federal service as a

1 member of the national guard or reserve member of the armed forces of the
2 United States. This subdivision does not apply to federal service while attending
3 annual training, basic military training, or professional military education.

4 h. Reduced by income from a new and expanding business exempt from state
5 income tax under section 40-57.1-04.

6 i. Reduced by interest and income from bonds issued under chapter 11-37.

7 j. Reduced by up to ten thousand dollars of qualified expenses that are related to a
8 donation by a taxpayer or a taxpayer's dependent, while living, of one or more
9 human organs to another human being for human organ transplantation. A
10 taxpayer may claim the reduction in this subdivision only once for each instance
11 of organ donation during the taxable year in which the human organ donation and
12 the human organ transplantation occurs but if qualified expenses are incurred in
13 more than one taxable year, the reduction for those expenses must be claimed in
14 the year in which the expenses are incurred. For purposes of this subdivision:

15 (1) "Human organ transplantation" means the medical procedure by which
16 transfer of a human organ is made from the body of one person to the body
17 of another person.

18 (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine,
19 lung, or bone marrow.

20 (3) "Qualified expenses" means lost wages not compensated by sick pay and
21 unreimbursed medical expenses as defined for federal income tax
22 purposes, to the extent not deducted in computing federal taxable income,
23 whether or not the taxpayer itemizes federal income tax deductions.

24 k. Increased by the amount of the contribution upon which the credit under section
25 57-38-01.21 is computed, but only to the extent that the contribution reduced
26 federal taxable income.

27 l. Reduced by the amount of any payment received by a veteran or beneficiary of a
28 veteran under section 37-28-03 or 37-28-04.

29 m. ~~Reduced by the amount received by a taxpayer that was paid by an employer~~
30 ~~under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire~~
31 ~~the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the~~

1 extent the amount received by the taxpayer is included in federal taxable income.
2 The reduction applies only if the employer is entitled to the credit under section
3 57-38-01.25. The taxpayer must attach a statement from the employer in which
4 the employer certifies that the employer is entitled to the credit under section
5 57-38-01.25 and which specifically identified the type of payment and the amount
6 of the exemption under this section.

7 ~~n.~~ Reduced by the amount up to a maximum of five thousand dollars, or ten
8 thousand dollars if a joint return is filed, for contributions made under a higher
9 education savings plan administered by the Bank of North Dakota, pursuant to
10 section 6-09-38.

11 ~~e.n.~~ Reduced by the amount of income of a taxpayer, who resides anywhere within
12 the exterior boundaries of a reservation situated in this state or situated both in
13 this state and in an adjoining state and who is an enrolled member of a federally
14 recognized Indian tribe, from activities or sources anywhere within the exterior
15 boundaries of a reservation situated in this state or both situated in this state and
16 in an adjoining state.

17 ~~p.o.~~ For married individuals filing jointly, reduced by an amount equal to the excess of
18 the recomputed itemized deductions or standard deduction over the amount of
19 the itemized deductions or standard deduction deducted in computing federal
20 taxable income. For purposes of this subdivision, "itemized deductions or
21 standard deduction" means the amount under section 63 of the Internal Revenue
22 Code that the married individuals deducted in computing their federal taxable
23 income and "recomputed itemized deductions or standard deduction" means an
24 amount determined by computing the itemized deductions or standard deduction
25 in a manner that replaces the basic standard deduction under section 63(c)(2) of
26 the Internal Revenue Code for married individuals filing jointly with an amount
27 equal to double the amount of the basic standard deduction under section 63(c)
28 (2) of the Internal Revenue Code for a single individual other than a head of
29 household and surviving spouse. If the married individuals elected under
30 section 63(e) of the Internal Revenue Code to deduct itemized deductions in
31 computing their federal taxable income even though the amount of the allowable

1 standard deduction is greater, the reduction under this subdivision is not allowed.
2 Married individuals filing jointly shall compute the available reduction under this
3 subdivision in a manner prescribed by the tax commissioner.
4 ~~e.p.~~ Reduced by an amount equal to the exemption available for a qualifying child
5 under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended,
6 for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a
7 fetal death certificate has been filed under section 23-02.1-20. For purposes of
8 this subdivision, the exemption may only be claimed in the taxable year in which
9 the stillbirth occurred.

10 **SECTION 3. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 7. A taxpayer filing a return under this section is entitled to the following tax credits:
- 13 a. Family care tax credit under section 57-38-01.20.
 - 14 b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
 - 15 c. Agricultural business investment tax credit under section 57-38.6-03.
 - 16 d. Seed capital investment tax credit under section 57-38.5-03.
 - 17 e. Planned gift tax credit under section 57-38-01.21.
 - 18 f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and
19 57-38-01.23.
 - 20 g. Internship employment tax credit under section 57-38-01.24.
 - 21 ~~h. Workforce recruitment credit under section 57-38-01.25.~~
 - 22 ~~i. Angel fund investment tax credit under section 57-38-01.26 (effective for the first
23 taxable year beginning after December 31, 2016).~~
 - 24 ~~j. Marriage penalty credit under section 57-38-01.28.~~
 - 25 ~~k.i.~~ Research and experimental expenditures under section 57-38-30.5.
 - 26 ~~t.j.~~ Geothermal energy device installation credit under section 57-38-01.8.
 - 27 ~~m.k.~~ Long-term care partnership plan premiums income tax credit under section
28 57-38-29.3.
 - 29 ~~n.l.~~ Employer tax credit for salary and related retirement plan contributions of
30 mobilized employees under section 57-38-01.31.

1 e. ~~Automating manufacturing processes tax credit under section 57-38-01.33-~~
2 ~~(effective for the first five taxable years beginning after December 31, 2012).~~

3 p.m. Income tax credit for passthrough entity contributions to private education
4 institutions under section 57-38-01.7.

5 q.n. Angel investor tax credit under section 57-38-01.26.

6 **SECTION 4. REPEAL.** Section 57-38-01.25 of the North Dakota Century Code is repealed.

7 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
8 December 31, 2018.