

Introduced by

Senators Lee, Bekkedahl, Burckhard, Kreun

Representatives Dockter, Keiser

1 A BILL for an Act to amend and reenact sections 40-63-01, 40-63-02, and 40-63-03,  
2 subsection 4 of section 40-63-04, sections 40-63-06, 40-63-07, and 40-63-10, and subdivision b  
3 of subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the creation  
4 of neighborhood zones and neighborhood zone incentives; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 40-63-01 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **40-63-01. Definitions.**

9 As used in this chapter:

- 10 1. "Boundary" means the boundary established by vote of the city governing body and  
11 approved by the department of commerce division of community services.
- 12 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of  
13 section 40-63-03 and includes the following:
- 14 a. A map of the proposed renaissance or neighborhood zone which indicates the  
15 geographic boundaries and blocks, a description of the properties and structures  
16 on each block, identification of those properties and structures to be targeted for  
17 potential zone projects, and a description of the present use and conditions of the  
18 targeted properties and structures.
- 19 b. A description of the existing physical assets, in particular natural or historical  
20 assets, of the zone and a plan for the incorporation and enhancement of the  
21 assets within the proposed development.
- 22 c. An outline of goals and objectives and proposed outcomes, including major  
23 milestones or benchmarks, by which to gauge success resulting from the  
24 designation of the zone.

- 1 d. A description of the types of projects the city would encourage in the city's  
2 targeted properties.
- 3 e. A description of the promotion, development, and management strategies to  
4 maximize investment in the zone.
- 5 f. A plan for the development, promotion, and use of a renaissance or  
6 neighborhood fund organization, if one is desired to be established. If a city is not  
7 ready to commit to establishing a renaissance or neighborhood fund  
8 organization, the city may indicate in the renaissance or neighborhood zone  
9 application the city's desire to submit a plan for approval at a later date.
- 10 g. Evidence of community support and commitment from residential and business  
11 interests. Evidence of community support must include letters of support from the  
12 governing bodies of each county and school district that contain property located  
13 within the boundaries of the proposed renaissance or neighborhood zone.
- 14 3. "Investor" means the individual, partnership, limited partnership, limited liability  
15 company, trust, or corporation making an investment in a renaissance or  
16 neighborhood fund organization.
- 17 4. "Lease" means the lease of space in a building in a designated renaissance or  
18 neighborhood zone by a new business moving into the zone or by an existing zone  
19 business expanding in the zone, and the continuation of a lease of an existing zone  
20 tenant in a building rehabilitated as an approved zone project. For existing zone  
21 tenants expanding in the zone, the term does not include existing leased space.
- 22 5. "Local zone authority" means the city or the entity designated by the city to promote,  
23 develop, and manage the zone and may include any nonprofit incorporated entity such  
24 as an economic development corporation, community development corporation, main  
25 street organization, or chamber of commerce.
- 26 6. "Original principal amount" means the funds invested in a renaissance or  
27 neighborhood fund organization after designation of the renaissance or neighborhood  
28 zone and before the sunset of that zone.
- 29 7. "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or  
30 remodeling of a building or public utility infrastructure at a cost that is equal to or

1 exceeds fifty percent of the current true and full value for commercial buildings or  
2 public utility infrastructure and twenty percent for single-family homes.

3 8. "Taxpayer" means an individual, corporation, or trust subject to the taxes imposed by  
4 chapter 57-38 and includes a partnership, subchapter S corporation, limited  
5 partnership, limited liability company, or any other passthrough entity.

6 9. "Zone" means a renaissance or neighborhood zone proposed by a city and designated  
7 by the department of commerce division of community services.

8 10. "Zone project" means the purchase, lease, rehabilitation, or historical preservation or  
9 renovation of a single-family home, building, or space in a building approved for zone  
10 incentives by a majority vote of the city governing body or zone authority.

11 **SECTION 2. AMENDMENT.** Section 40-63-02 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **40-63-02. Eligibility - Local zone authority designation.**

14 Any incorporated city may apply to the department of commerce division of community  
15 services to designate a portion of the city as a renaissance or neighborhood zone. Any  
16 individual, partnership, limited partnership, limited liability company, trust, or corporation may  
17 apply for a tax credit or exemption under sections 40-63-04 through 40-63-07. The governing  
18 body of a city may designate a local zone authority to implement a development plan on behalf  
19 of the city.

20 **SECTION 3. AMENDMENT.** Section 40-63-03 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **40-63-03. Renaissance and neighborhood zones.**

23 1. A city may apply to the department of commerce division of community services to  
24 designate a portion of that city as a renaissance or neighborhood zone if the following  
25 criteria are met:

26 a. The geographic area proposed for the renaissance or neighborhood zone is  
27 located wholly within the boundaries of the city submitting the application.

28 b. The application includes a development plan.

29 c. The proposed neighborhood zone is not more than twenty-five square blocks and  
30 the proposed renaissance zone is not more than thirty-four square blocks, except  
31 in a city with a population of greater than five thousand the renaissance zone

1           may exceed thirty-four square blocks at the rate of one additional block for each  
2           additional five thousand population to a maximum size of forty-nine blocks.  
3           Population is based upon the most recent federal decennial census or federal  
4           census estimate.

5           If a city finds that renaissance or neighborhood zone projects have  
6           satisfactorily completed one or more blocks within the renaissance or  
7           neighborhood zone, the city may apply for and the department of commerce  
8           division of community services may approve withdrawal of those blocks from the  
9           renaissance or neighborhood zone and replacement of those blocks with other  
10          blocks that otherwise meet the requirements of this chapter.

11          d. Except as provided under subdivision g, the proposed renaissance zone has a  
12          continuous boundary and all blocks are contiguous. A proposed neighborhood  
13          zone is not required to have a continuous boundary or consist of contiguous  
14          blocks.

15          e. The proposed land usage includes both commercial and residential property.

16          f. The application includes the proposed duration of renaissance or neighborhood  
17          zone status, not to exceed fifteen years for a renaissance zone or ten years for a  
18          neighborhood zone. Upon application by the city, the department of commerce  
19          division of community services may extend the duration of renaissance zone  
20          status in increments of up to five years. The duration of neighborhood zone  
21          status may not be extended.

22          g. The proposed renaissance zone may have a single exception to the continuous  
23          boundary and contiguous block requirements under subdivision d if the area of  
24          the excepted noncontiguous blocks does not exceed three square blocks.

25          2. The department of commerce division of community services shall:

26          a. Review all applications for renaissance or neighborhood zone designation  
27          against the criteria established in this section and designate zones.

28          b. Approve or reject the duration of renaissance or neighborhood zone status as  
29          submitted in an application.

30          c. Approve or reject the geographic boundaries and total area of the renaissance or  
31          neighborhood zone as submitted in an application.

- 1           d. Promote the renaissance and neighborhood zone ~~program~~programs.
- 2           e. Monitor the progress of the designated renaissance and neighborhood zones
- 3                 against submitted plans in an annual plan review.
- 4           f. Report on renaissance and neighborhood zone progress to the governor and the
- 5                 legislative management on an annual basis until all designated zones expire.
- 6        3. The department of commerce division of community services shall consider the
- 7           following criteria in designating a renaissance or neighborhood zone:
- 8           a. The viability of the development plan.
- 9           b. The incorporation and enhancement of unique natural and historic features into
- 10                 the development plan.
- 11           c. Whether the development plan is creative and innovative in comparison to other
- 12                 applications.
- 13           d. Public and private commitment to and other resources available for the proposed
- 14                 renaissance or neighborhood zone, including the provisions for a renaissance or
- 15                 neighborhood fund organization.
- 16           e. How renaissance or neighborhood zone designation would relate to a broader
- 17                 plan for the community as a whole.
- 18           f. How the local regulatory burden, in particular that burden associated with the
- 19                 renovation of historic properties and that burden associated with mixed use
- 20                 development, will be eased for developers and investors in the renaissance or
- 21                 neighborhood zone.
- 22           g. The strategies for the promotion, development, and management of the zone,
- 23                 including the use of a local zone authority if designated.
- 24           h. Any other information required by the office.
- 25        4. The department of commerce division of community services may not designate a
- 26           portion of a city as a renaissance or neighborhood zone unless, as a part of the
- 27           application, the city provides a resolution from the governing body of the city that
- 28           states if the renaissance or neighborhood zone designation is granted, persons and
- 29           property within the renaissance or neighborhood zone are exempt from taxes as
- 30           provided in sections 40-63-04 through 40-63-07.

- 1           5.   A city may not propose or be part of more than one renaissance zone or more than  
2           one neighborhood zone. A city may propose to be part of a renaissance zone and a  
3           neighborhood zone and blocks proposed for inclusion in either zone may overlap.
- 4           6.   A parcel of property may be exempted from property taxes under section 40-63-05  
5           only once, but during the five taxable years of eligibility for that exemption, the  
6           property tax exemption transfers with the transfer of the property to a qualifying user.  
7           The ownership or lease of, or investment in, a parcel of property may qualify for  
8           exemption or credit under section 40-63-04 only once, but during the five taxable  
9           years of eligibility for that exemption or credit, the exemption or credit under section  
10          40-63-04 transfers with the transfer of the property to a qualified user and with respect  
11          to the year in which the transfer is made must be prorated for use of the property  
12          during that year. An investment used to calculate an income tax credit under this  
13          chapter may not be used to calculate any other income tax credit.
- 14          7.   A city may apply to the department of commerce division of community services at any  
15          time during the duration of a zone to expand a previously approved renaissance or  
16          neighborhood zone that is less than the maximum size allowed under subdivision c of  
17          subsection 1. If thea renaissance zone expansion is approved by the department of  
18          commerce division of community services, the blocks in the expansion are eligible for  
19          up to fifteen years of renaissance zone status. If a neighborhood zone expansion is  
20          approved by the department of commerce division of community services, the blocks  
21          in the expansion are eligible for up to ten years of neighborhood zone status.
- 22          8.   The use of grant funds as the sole source of investment in the purchase of a building  
23          or space in a building does not qualify a taxpayer for any tax exemption or credit  
24          available under the chapter, and grant funds may not be counted in determining if the  
25          cost of rehabilitation meets or exceeds the current true and full value of the building.
- 26          9.   If a portion of an approved renaissance or neighborhood zone is not progressing, the  
27          city may request the department of commerce division of community services to permit  
28          deleting that portion and to make an adjustment of the boundaries to add another  
29          equal, ~~contiguous~~ area to the original zone. Area added to a renaissance zone must  
30          be contiguous.

1       10. If within a renaissance zone there is property that is included in a tax increment  
2       financing district, the city in which the property is located shall provide the department  
3       of commerce an annual report regarding any such property at the time requested by  
4       the department of commerce. The report required under this subsection must identify  
5       the property, provide the expected duration of inclusion of the property in the tax  
6       increment financing district and the renaissance zone, and identify any property and  
7       income tax benefits of the property and the expected duration of those benefits. The  
8       department of commerce shall deliver an annual report compiling the information  
9       required under this subsection to the legislative management interim committee on  
10      taxation issues or upon request of any other interim committee of the legislative  
11      management.

12      **SECTION 4. AMENDMENT.** Subsection 4 of section 40-63-04 of the North Dakota Century  
13      Code is amended and reenacted as follows:

14      4. If a property owner not participating in a renaissance or neighborhood zone project is  
15      required to make changes in utility services or in a building structure because of  
16      changes made to property that is part of a zone project, the owner of the  
17      nonparticipating property is entitled to state income tax credits equal to the total  
18      amount of the investment necessary to complete the required changes. The credit  
19      must be approved by the local renaissance or neighborhood zone authority. The credit  
20      must be claimed in the taxable year in which the related project was completed. The  
21      credit may not exceed the taxpayer's tax liability, and an unused credit may be carried  
22      forward up to five taxable years.

23      **SECTION 5. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is  
24      amended and reenacted as follows:

25      **40-63-06. Historic preservation and renovation tax credit.**

26      A credit against state tax liability as determined under sections 57-38-30 and 57-38-30.3 is  
27      allowed for investments in the historic preservation or renovation of property within the  
28      renaissance or neighborhood zone. The amount of the credit is twenty-five percent of the  
29      amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be  
30      claimed in the year in which the preservation or renovation is completed. Any excess credit may  
31      be carried forward for a period of up to five taxable years.

1       **SECTION 6. AMENDMENT.** Section 40-63-07 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **40-63-07. Renaissance or neighborhood fund organization - Exemption from taxation.**

- 4       1. Each city with a designated renaissance or neighborhood zone may establish a  
5 renaissance or neighborhood fund organization, if the detailed plan for such an  
6 organization is clearly established in the development plan and approved with the  
7 plan, or is submitted at a later date to the department of commerce division of  
8 community services for approval after the designation of a renaissance or  
9 neighborhood zone.
- 10       2. The purpose of a renaissance or neighborhood fund organization is solely to raise  
11 funds to be used to finance zone projects and other projects located in designated  
12 renaissance or neighborhood zones. A renaissance or neighborhood fund organization  
13 may provide financing to projects undertaken by individuals, partnerships, limited  
14 partnerships, limited liability companies, trusts, corporations, nonprofit organizations,  
15 and public entities. The financing may include any combination of equity investments,  
16 loans, guarantees, and commitments for financing. The amount of financing is not  
17 limited by this chapter.
- 18       3. A renaissance or neighborhood fund organization shall confirm the following conditions  
19 are met before providing financing to a zone project:
- 20       a. The funding is required for the project to proceed;  
21       b. The funding is adequate for the completion of the project; and  
22       c. The funding does not exceed the amount required to complete the project.
- 23       4. A renaissance or neighborhood fund organization is exempt from any tax imposed by  
24 chapter 57-38. An exemption under this section may be passed through to any  
25 shareholder, partner, and owner if the renaissance or neighborhood fund organization  
26 is a passthrough entity for tax purposes. A corporation entitled to the exemption  
27 provided by this subsection shall file required returns and report income to the tax  
28 commissioner as required by the provisions of chapter 57-38 as if the exemption did  
29 not exist. If an employer, this subsection does not exempt a renaissance or  
30 neighborhood fund organization from complying with the income tax withholding laws.



- 1     ~~4.5.~~   A credit against state tax liability as determined under section 57-38-30 or 57-38-30.3  
2           is allowed for investments in a renaissance or neighborhood fund organization. The  
3           amount of the credit is fifty percent of the amount invested in the renaissance or  
4           neighborhood fund organization during the taxable year. Any amount of credit which  
5           exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to  
6           five taxable years after the taxable year in which the investment was made.
- 7     ~~5.6.~~   The total amount of credits allowed under this section may not exceed, in the  
8           aggregate, ten million five hundred thousand dollars for investments in renaissance  
9           fund organizations or, in the aggregate, ten million five hundred thousand dollars for  
10          investments in neighborhood fund organizations. A renaissance or neighborhood fund  
11          organization that has received investments that qualify for the credits under this  
12          subsection shall use those investments to finance projects within a renaissance or  
13          neighborhood zone.
- 14    ~~6.7.~~   Income to a renaissance or neighborhood fund organization derived from the sale or  
15          refinancing of zone properties financed wholly or in part by the organization may be  
16          disbursed as annual dividends equal to the income, minus ten percent, derived from  
17          all sources and proportional to the investment. In the event of a loss to the fund  
18          resulting in a temporary diminishment of the fund below the original principal amount,  
19          no annual dividend may be paid until the fund is restored.
- 20    ~~7.8.~~   Income to a renaissance or neighborhood fund organization derived from interest or  
21          the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or  
22          securities may be used for administration.
- 23    ~~8.9.~~   If an investment in a renaissance or neighborhood fund organization which is the basis  
24          for a credit under this section is redeemed by the investor within ten years of the date  
25          it is purchased, the credit provided by this section for the investment must be  
26          disallowed, and any credit previously claimed and allowed with respect to the  
27          investment must be paid to the tax commissioner with the appropriate return of the  
28          taxpayer covering the period in which the redemption occurred. When payments are  
29          made to the tax commissioner under this section, the amount collected must be  
30          handled in the same manner as if no credit had been allowed.

1     ~~9-10.~~    A renaissance or neighborhood fund organization shall secure an annual audit of its  
2            financial records, prepared by an independent certified public accounting firm in  
3            accordance with generally accepted auditing standards. The audit report must include  
4            a statement of the percentage of annual investments received by the organization  
5            which have been invested by the organization in investments permitted under this  
6            chapter, including the use of investments, distinguishing between organization  
7            investments made in renaissance or neighborhood zones and outside renaissance or  
8            neighborhood zones. A renaissance or neighborhood fund organization shall file a  
9            copy of each audit of its financial records under this subsection with the governing  
10          body of the city in which it was established, the department of commerce division of  
11          community services, and the tax commissioner. The department of commerce division  
12          of community services shall provide an annual report to the budget section of the  
13          legislative management showing the conclusions of audit reports filed under this  
14          subsection.

15    ~~40-11.~~   Renaissance or neighborhood fund organization officers and employees may be  
16          actively involved in the enterprises in which the renaissance or neighborhood fund  
17          organization invests but the renaissance or neighborhood fund organization may not  
18          invest in any enterprise if any one renaissance or neighborhood fund organization  
19          officer or employee owns more than forty-nine percent of the ownership interest in the  
20          enterprise. A renaissance or neighborhood fund organization may not invest in an  
21          enterprise if renaissance or neighborhood fund organization officers and employees  
22          collectively own more than forty-nine percent of the ownership interests, either through  
23          direct ownership or through ownership of interest in a passthrough entity.

24     12.    A neighborhood fund organization is eligible to receive a state appropriation as a grant  
25     or low interest loan to meet the objectives of single-family home restoration.

26     **SECTION 7. AMENDMENT.** Section 40-63-10 of the North Dakota Century Code is  
27     amended and reenacted as follows:

28     **40-63-10. Passthrough of tax exemption or credit.**

29     A partnership, subchapter S corporation, limited partnership, limited liability company, or  
30     any other passthrough entity that purchases or leases property in a renaissance or  
31     neighborhood zone for any business purpose, invests in a historic preservation or renovation of

1 property within a renaissance or neighborhood zone, or invests in a renaissance or  
2 neighborhood fund organization must be considered to be the taxpayer for purposes of any  
3 investment limitations in sections 40-63-04, 40-63-06, and 40-63-07, and the amount of the  
4 exemption or credit allowed with respect to the entity's investments must be determined at the  
5 passthrough entity level. The amount of the total exemption or credit determined at the entity  
6 level must be passed through to the partners, shareholders, or members in proportion to their  
7 respective interests in the passthrough entity.

8 **SECTION 8. AMENDMENT.** Subdivision b of subsection 7 of section 57-38-30.3 of the  
9 North Dakota Century Code is amended and reenacted as follows:

10 b. Renaissance and neighborhood zone tax credits under sections 40-63-04,  
11 40-63-06, and 40-63-07.

12 **SECTION 9. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
13 December 31, 2020.