

Introduced by

Legislative Management

(Judiciary Committee)

1 A BILL for an Act to amend and reenact section 1-02-12, subsection 1 of section 14-20-12,  
2 subsection 1 of section 25-02-01.1, section 52-10-04, subsection 4 of section 52-10-05,  
3 section 52-10-07, subsection 17 of section 54-52-01, subsections 2 and 7 of section 57-38-30.3,  
4 and section 57-51.1-03.1 of the North Dakota Century Code, relating to technical corrections  
5 and improper, inaccurate, redundant, missing, or obsolete references; to repeal sections  
6 57-15-10.2, 57-38-01.29, and 57-38-01.30 of the North Dakota Century Code, relating to  
7 obsolete provisions; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 1-02-12 of the North Dakota Century Code is amended  
10 and reenacted as follows:

11 **1-02-12. Headnote, cross-reference note, and source note.**

12 No headnote, source note, or cross-reference note, whether designating an entire title,  
13 chapter, section, subsection, or subdivision, constitutes any part of a statute. A headnote may  
14 not be used to determine legislative intent or the legislative history for any statute. An effective  
15 date or expiration date note ~~preceeding~~immediately following a headnote is not a part of the  
16 headnote and is a part of the statute.

**NOTE:** This section provides that the headnote for a section of the North Dakota Century  
Code is not part of the law. In 2009 a change in publication style was made and effective  
date and expiration date notes were included immediately preceding the headnote. That  
publication style is undergoing another change in which the effective date and expiration  
date note will follow immediately after the headnote.

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 14-20-12 of the North Dakota Century  
18 Code is amended and reenacted as follows:

19 1. An acknowledgment of paternity must:

20 a. Be in a record;

- 1           b. Be signed, or otherwise authenticated, under penalty of perjury by the mother  
2           and by the man seeking to establish his paternity;
- 3           c. State that the child whose paternity is being acknowledged:  
4           (1) Does not have a presumed father, or has a presumed father whose full  
5           name is stated; and  
6           (2) Does not have another acknowledged or adjudicated father;
- 7           d. State whether there has been genetic testing and, if so, that the acknowledging  
8           man's claim of paternity is consistent with the results of the testing; and
- 9           e. State that the signatories understand that the acknowledgment is the equivalent  
10          of a judicial adjudication of paternity of the child and that a challenge to the  
11          acknowledgment is permitted only under limited circumstances and is barred  
12          after ~~one year~~two years.

**NOTE:** Section 14-20-18 was amended by 2013 Session Laws Chapter 124 § 5 to change the period to challenge a voluntary acknowledgment of paternity from 1 year to 2 years. The corresponding change in Section 14-20-12(1) was inadvertently omitted.

13          **SECTION 3. AMENDMENT.** Subsection 1 of section 25-02-01.1 of the North Dakota  
14 Century Code is amended and reenacted as follows:

- 15          1. The department of human services shall seek appropriations and resources sufficient  
16          to ensure maintenance of the state hospital's accreditation by the joint commission on  
17          ~~accreditation of health care organizations~~ and certification by the health care financing  
18          administration or by similar accrediting and certifying organizations and agencies  
19          possessing hospital standards recognized by the health care industry and accepted by  
20          the department.

**NOTE:** In 2007 the Joint Commission on Accreditation of Healthcare Organizations simplified its name to The Joint Commission.

21          **SECTION 4. AMENDMENT.** Section 52-10-04 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23          **52-10-04. Contributions by employees of the state and of political subdivisions.**

- 24          1. Every employee of the state or of a political subdivision and every employer is  
25          required to pay for the period of such coverage, into the contribution fund established  
26          by section 52-10-06, contributions, with respect to wages, as defined in section  
27          52-10-02, equal to the amount of the tax which would be imposed by the Federal  
28          Insurance Contributions Act if such services constituted employment within the

1 meaning of that Act. Such employee's liability shall arise in consideration of the  
2 employee's retention in the service of the state or of a political subdivision or the  
3 employee's entry upon such service, after the enactment of this chapter.

4 2. The employee's contribution imposed by this section must be collected by deducting  
5 the amount of the contribution from wages as and when paid, but failure to make such  
6 deduction does not relieve the employee from liability for such contribution.

7 3. If more or less than the correct amount of the contribution imposed by this section is  
8 paid or deducted with respect to any remuneration, proper adjustments, or refund if  
9 adjustment is impracticable, must be made, without interest, in such manner and at  
10 such times as the state agency shall prescribe.

11 ~~4. All unexpended employer contributions in the social security contribution fund paid in-~~  
12 ~~to provide a fund out of which the legislative assembly could appropriate for the~~  
13 ~~administration of this chapter and chapter 52-09 as of June 30, 1987, must be~~  
14 ~~transferred by the office of management and budget to the bureau for deposit by the~~  
15 ~~bureau into the old-age survivors' fund established by section 52-09-05.~~

**NOTE:** All members of the old-age survivors' fund are deceased and the fund has been closed.

16 **SECTION 5. AMENDMENT.** Subsection 4 of section 52-10-05 of the North Dakota Century  
17 Code is amended and reenacted as follows:

18 4. Delinquent payments due under subdivision a of subsection 3 must bear interest at the  
19 rate specified in the Social Security Act at 42 U.S.C. 418 and may be recovered by  
20 action in a court of competent jurisdiction against the political subdivision liable  
21 therefor or may, at the request of the state agency, be deducted from any other  
22 moneys payable to such subdivision by any department or agency of the state. In no  
23 case may the interest imposed hereby be less than five dollars. In addition, a penalty  
24 may be assessed on delinquent reports if such penalty is provided for in the Social  
25 Security Act at 42 U.S.C. 418. Any such penalty must be under the terms, conditions,  
26 and in the amounts specified in the Social Security Act. In no case may any penalty  
27 imposed hereby be less than five dollars. ~~Annually, on each September thirtieth, the~~  
28 ~~bureau shall determine the balance in the fund created by section 52-10-06 resulting~~  
29 ~~from interest and penalties collected which are not or will not be due to the secretary~~

1           of the treasury. ~~The bureau shall transfer this balance on September thirtieth to the~~  
2           ~~old-age survivors' fund created by section 52-09-05.~~

**NOTE:** All members of the old-age survivors' fund are deceased and the fund has been closed.

3           **SECTION 6. AMENDMENT.** Section 52-10-07 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **52-10-07. Referenda and certification.**

- 6           1.   With respect to employees of the state and political subdivisions who are under  
7           chapter 52-09 or who may by election come under that chapter, the governor is  
8           empowered to authorize a referendum, and with respect to the employees of any  
9           political subdivision who are under a locally administered retirement system, the  
10          governor shall authorize a referendum upon request of the governing body of such  
11          subdivision; and with respect to employees covered by any other retirement system,  
12          the governor may authorize a referendum; and in either case the referendum must be  
13          conducted and the governor shall designate an agency or individual to supervise its  
14          conduct, in accordance with the requirements of section 218(d)(3) of the Social  
15          Security Act [42 U.S.C. 418], on the question of whether service in positions covered  
16          by a retirement system established by the state or by a political subdivision thereof  
17          should be excluded from or included under an agreement under this chapter. The  
18          notice of referendum required by section 218(d)(3)(C) of the Social Security Act [42  
19          U.S.C. 418] to be given to employees must contain or must be accompanied by a  
20          statement, in such form and such detail as the agency or individual designated to  
21          supervise the referendum shall deem necessary and sufficient, to inform the  
22          employees of the rights which will accrue to them and their dependents and survivors,  
23          and the liabilities to which they will be subject, if their services are included under an  
24          agreement under this chapter.
- 25          2.   Upon receiving evidence satisfactory to the governor that with respect to any such  
26          referendum the conditions specified in section 218(d)(3) of the Social Security Act [42  
27          U.S.C. 418] have been met, the governor, or an official designated by the governor to  
28          act in the governor's behalf in respect to this subsection, shall so certify to the  
29          secretary of health and human services.

**NOTE:** All members of the old-age survivors' fund are deceased and the fund has been closed.

1       **SECTION 7. AMENDMENT.** Subsection 17 of section 54-52-01 of the North Dakota Century  
2 Code, which becomes effective after July 31, 2017, is amended and reenacted as follows:

3       17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as~~  
4       the governing authority for the retirement system created under section 54-52-03.

**NOTE:** The composition of the governing authority in Section 54-52-03 was amended by 2015 Session Laws Chapter 56 § 5. The change to subsection 17, in effect through July 31, 2017, was made; however, the change to subsection 17, in effect after July 31, 2017, was inadvertently omitted.

5       **SECTION 8. AMENDMENT.** Subsection 2 of section 57-38-30.3 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7       2. For purposes of this section, "North Dakota taxable income" means the federal taxable  
8       income of an individual, estate, or trust as computed under the Internal Revenue Code  
9       of 1986, as amended, adjusted as follows:

- 10       a. Reduced by interest income from obligations of the United States and income  
11       exempt from state income tax under federal statute or United States or North  
12       Dakota constitutional provisions.
- 13       b. Reduced by the portion of a distribution from a qualified investment fund  
14       described in section 57-38-01 which is attributable to investments by the qualified  
15       investment fund in obligations of the United States, obligations of North Dakota or  
16       its political subdivisions, and any other obligation the interest from which is  
17       exempt from state income tax under federal statute or United States or North  
18       Dakota constitutional provisions.
- 19       c. Reduced by the amount equal to the earnings that are passed through to a  
20       taxpayer in connection with an allocation and apportionment to North Dakota  
21       under section 57-38-01.35.
- 22       d. Reduced by forty percent of:
- 23       (1) The excess of the taxpayer's net long-term capital gain for the taxable year  
24       over the net short-term capital loss for that year, as computed for purposes  
25       of the Internal Revenue Code of 1986, as amended. The adjustment  
26       provided by this subdivision is allowed only to the extent the net long-term  
27       capital gain is allocated to this state.

1           (2) Qualified dividends as defined under Internal Revenue Code section 1(h)  
2           (11), added by section 302(a) of the Jobs and Growth Tax Relief  
3           Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963  
4           et seq.], but only if taxed at a federal income tax rate that is lower than the  
5           regular federal income tax rates applicable to ordinary income. If, for any  
6           taxable year, qualified dividends are taxed at the regular federal income tax  
7           rates applicable to ordinary income, the reduction allowed under this  
8           subdivision is equal to thirty percent of all dividends included in federal  
9           taxable income. The adjustment provided by this subdivision is allowed only  
10          to the extent the qualified dividend income is allocated to this state.

11          e. Increased by the amount of a lump sum distribution for which income averaging  
12          was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C.  
13          402], as amended. This adjustment does not apply if the taxpayer received the  
14          lump sum distribution while a nonresident of this state and the distribution is  
15          exempt from taxation by this state under federal law.

16          f. Increased by an amount equal to the losses that are passed through to a  
17          taxpayer in connection with an allocation and apportionment to North Dakota  
18          under section 57-38-01.35.

19          g. Reduced by the amount received by the taxpayer as payment for services  
20          performed when mobilized under title 10 United States Code federal service as a  
21          member of the national guard or reserve member of the armed forces of the  
22          United States. This subdivision does not apply to federal service while attending  
23          annual training, basic military training, or professional military education.

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

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

27          j- Reduced by up to ten thousand dollars of qualified expenses that are related to a  
28          donation by a taxpayer or a taxpayer's dependent, while living, of one or more  
29          human organs to another human being for human organ transplantation. A  
30          taxpayer may claim the reduction in this subdivision only once for each instance  
31          of organ donation during the taxable year in which the human organ donation and

1 the human organ transplantation occurs but if qualified expenses are incurred in  
2 more than one taxable year, the reduction for those expenses must be claimed in  
3 the year in which the expenses are incurred. For purposes of this subdivision:

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

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

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

13 ~~k.j.~~ Increased by the amount of the contribution upon which the credit under section  
14 57-38-01.21 is computed, but only to the extent that the contribution reduced  
15 federal taxable income.

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

18 ~~m.~~ ~~Reduced by the amount received by a taxpayer that was paid by an employer~~  
19 ~~under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire~~  
20 ~~the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the~~  
21 ~~extent the amount received by the taxpayer is included in federal taxable income.~~  
22 ~~The reduction applies only if the employer is entitled to the credit under section~~  
23 ~~57-38-01.25. The taxpayer must attach a statement from the employer in which~~  
24 ~~the employer certifies that the employer is entitled to the credit under section~~  
25 ~~57-38-01.25 and which specifically identified the type of payment and the amount~~  
26 ~~of the exemption under this section.~~

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

1            e-l.    Reduced by the amount of income of a taxpayer, who resides anywhere within  
2                            the exterior boundaries of a reservation situated in this state or situated both in  
3                            this state and in an adjoining state and who is an enrolled member of a federally  
4                            recognized Indian tribe, from activities or sources anywhere within the exterior  
5                            boundaries of a reservation situated in this state or both situated in this state and  
6                            in an adjoining state.

7            p-m.    For married individuals filing jointly, reduced by an amount equal to the excess of  
8                            the recomputed itemized deductions or standard deduction over the amount of  
9                            the itemized deductions or standard deduction deducted in computing federal  
10                            taxable income. For purposes of this subdivision, "itemized deductions or  
11                            standard deduction" means the amount under section 63 of the Internal Revenue  
12                            Code that the married individuals deducted in computing their federal taxable  
13                            income and "recomputed itemized deductions or standard deduction" means an  
14                            amount determined by computing the itemized deductions or standard deduction  
15                            in a manner that replaces the basic standard deduction under section 63(c)(2) of  
16                            the Internal Revenue Code for married individuals filing jointly with an amount  
17                            equal to double the amount of the basic standard deduction under section 63(c)  
18                            (2) of the Internal Revenue Code for a single individual other than a head of  
19                            household and surviving spouse. If the married individuals elected under  
20                            section 63(e) of the Internal Revenue Code to deduct itemized deductions in  
21                            computing their federal taxable income even though the amount of the allowable  
22                            standard deduction is greater, the reduction under this subdivision is not allowed.  
23                            Married individuals filing jointly shall compute the available reduction under this  
24                            subdivision in a manner prescribed by the tax commissioner.

**NOTE:** Paragraph i is no longer necessary because Chapter 11-37, which dealt with  
commerce authorities, was repealed by 2015 Sessions Laws Chapter 439 §104.

Paragraphs l and m were effective only for the 2007 and 2008 income tax years, with an  
extension for the 2009 income tax year for certain taxpayers inadvertently omitted under the  
2007 legislation.

25            **SECTION 9. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota  
26 Century Code is amended and reenacted as follows:

- 27            7.    A taxpayer filing a return under this section is entitled to the following tax credits:  
28                    a.    Family care tax credit under section 57-38-01.20.



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- 1           b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.  
2           c. Agricultural business investment tax credit under section 57-38.6-03.  
3           d. Seed capital investment tax credit under section 57-38.5-03.  
4           e. Planned gift tax credit under section 57-38-01.21.  
5           f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and  
6           57-38-01.23.  
7           g. Internship employment tax credit under section 57-38-01.24.  
8           h. Workforce recruitment credit under section 57-38-01.25.  
9           i. Angel fund investment tax credit under section 57-38-01.26.  
10          j. Microbusiness tax credit under section 57-38-01.27.  
11          k. Marriage penalty credit under section 57-38-01.28.  
12          l. ~~Homestead income tax credit under section 57-38-01.29.~~  
13          ~~m. Commercial property income tax credit under section 57-38-01.30.~~  
14          n. Research and experimental expenditures under section 57-38-30.5.  
15          e-m. Geothermal energy device installation credit under section 57-38-01.8.  
16          p-n. Long-term care partnership plan premiums income tax credit under section  
17          57-38-29.3.  
18          q-o. Employer tax credit for salary and related retirement plan contributions of  
19          mobilized employees under section 57-38-01.31.  
20          r-p. Automating manufacturing processes tax credit under section 57-38-01.33  
21          (effective for the first five taxable years beginning after December 31, 2012).  
22          s-q. Income tax credit for passthrough entity contributions to private education  
23          institutions under section 57-38-01.7.

**NOTE:** Paragraphs l and m were effective only for the 2007 and 2008 income tax years, with an extension for the 2009 income tax year for certain taxpayers inadvertently omitted under the 2007 legislation.

24          **SECTION 10. AMENDMENT.** Section 57-51.1-03.1 of the North Dakota Century Code is  
25          amended and reenacted as follows:

1           **57-51.1-03.1. Stripper well, new well, work-over, and secondary or tertiary project**  
2 **certification for tax exemption or rate reduction - Filing requirement.**

3           To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying  
4 well status prepared by the industrial commission must be submitted to the tax commissioner as  
5 follows:

- 6           1. To receive, from the first day of eligibility, a tax exemption on production from a  
7 stripper well property or individual stripper well under subsection 2 of section  
8 57-51.1-03, the industrial commission's certification must be submitted to the tax  
9 commissioner within eighteen months after the end of the stripper well property's or  
10 stripper well's qualification period.
- 11          2. To receive, from the first day of eligibility, a tax exemption ~~under subsection 3 of~~  
12 ~~section 57-51.1-03 and a rate reduction on production from a new well under~~  
13 subsection 4 of section 57-51.1-02~~57-51.1-03~~, the industrial commission's certification  
14 must be submitted to the tax commissioner within eighteen months after a new well is  
15 completed.
- 16          3. ~~To receive, from the first day of eligibility, a tax exemption under subsection 4 of~~  
17 ~~section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02,~~  
18 ~~the industrial commission's certification must be submitted to the tax commissioner~~  
19 ~~within eighteen months after the work-over project is completed.~~
- 20          4. To receive, from the first day of eligibility, a tax exemption under subsection 3 of  
21 section 57-51.1-03 ~~and a tax rate reduction under section 57-51.1-02~~ on production  
22 from a secondary or tertiary project, the industrial commission's certification must be  
23 submitted to the tax commissioner within the following time periods:
  - 24           a. ~~For a tax exemption,~~ within eighteen months after the month in which the first  
25 incremental oil was produced.
  - 26           b. ~~For a tax rate reduction,~~ within eighteen months after the end of the period  
27 qualifying the project for the rate reduction.
- 28          5. ~~To receive, from the first day of eligibility, a tax exemption or the reduction on~~  
29 ~~production for which any other tax exemption or rate reduction may apply, the~~  
30 ~~industrial commission's certification must be submitted to the tax commissioner within~~  
31 ~~eighteen months of the completion, recompletion, or other qualifying date.~~

1       6. ~~To receive, from the first day of eligibility, a tax exemption under subsection 6 of~~  
2       ~~section 57-51.1-03 on production from a two-year inactive well, the industrial~~  
3       ~~commission's certification must be submitted to the tax commissioner within eighteen-~~  
4       ~~months after the end of the two-year inactive well's qualification period.~~

5 If the industrial commission's certification is not submitted to the tax commissioner within the  
6 eighteen-month period provided in this section, then the exemption ~~or rate reduction~~ does not  
7 apply for the production periods in which the certification is not on file with the tax  
8 commissioner. When the industrial commission's certification is submitted to the tax  
9 commissioner after the eighteen-month period, the tax exemption ~~or rate reduction~~ applies to  
10 prospective production periods only and the exemption ~~or rate reduction~~ is effective the first day  
11 of the month in which the certification is received by the tax commissioner.

**NOTE:** House Bill No. 1476 (2015) eliminated various oil extraction tax exemptions and rate reductions. References to portions of Sections 57-51.1-02 and 57-51.1-03 eliminated in the bill were inadvertently left in Section 57-51.1-03.1.

12       **SECTION 11. REPEAL.** Sections 57-15-10.2, 57-38-01.29, and 57-38-01.30 of the North  
13 Dakota Century Code are repealed.

**NOTE:** Section 57-15-10.2, which addressed tax levy for port purposes, is being repealed because Chapter 11-36, which dealt with port authorities, was repealed by 2015 Session Laws Chapter 439 § 104.

Sections 57-38-01.29 and 5-38-01.30 are being repealed because these sections were effective only for the 2007 and 2008 income tax years, with an extension for the 2009 income tax year for certain taxpayers inadvertently omitted under the 2007 legislation.

14       **SECTION 12. EFFECTIVE DATE.** Section 10 of this Act is effective for taxable events  
15 occurring after December 31, 2015.