

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1571

Introduced by

Representatives Steiner, Kasper, Maki, Wolff, Toman, Motschenbacher

Senators Magrum, Paulson, Wobbema

1 A BILL for an Act to amend and reenact subsection 3 of section 54-35-26 and section
2 57-40.2-03.3 of the North Dakota Century Code, relating to evaluation of economic
3 development tax incentives and the use tax exemption for raw materials, single-use product
4 contact systems, and reagents used for biologic manufacturing; to repeal section 57-39.2-04.19
5 of the North Dakota Century Code, relating to the sales tax exemption for raw materials,
6 single-use product contact systems, and reagents used for biologic manufacturing; and to
7 provide an effective date.

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

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

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

- 1 e. Seed capital investment credit.
- 2 f. Internship program credit.
- 3 g. Angel fund investment credit.
- 4 h. Workforce recruitment credit.
- 5 i. Soybean or canola crushing facility construction or retrofit credit.
- 6 j. Twenty-first century manufacturing and animal agricultural workforce incentive.
- 7 k. New or expanding business exemption.
- 8 l. Manufacturing and recycling equipment sales tax exemption.
- 9 m. Coal severance and conversion tax exemptions.
- 10 n. Oil and gas gross production and oil extraction tax exemptions.
- 11 o. Fuel tax refunds for certain users.
- 12 p. New jobs credit from income tax withholding.
- 13 q. Development or renewal area incentives.
- 14 r. Sales and use tax exemption for materials used to construct a fertilizer or
- 15 chemical processing facility.
- 16 s. Sales and use tax exemption for materials used in compressing, gathering,
- 17 collecting, storing, transporting, or injecting carbon dioxide for use in enhanced
- 18 recovery of oil or natural gas.
- 19 t. Sales and use tax exemption for enterprise information technology equipment
- 20 and computer software used in a qualified data center.
- 21 ~~u. Sales and use tax exemption for raw materials, single-use product contact-~~
- 22 ~~systems, and reagents used for biologic manufacturing.~~
- 23 ~~v.~~ Sales and use tax exemption for materials used to construct or expand a coal
- 24 processing facility that utilizes coal as a feedstock.

25 **SECTION 2. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **57-40.2-03.3. Use tax on contractors. (Effective through June 30, 2025)**

- 28 1. When a contractor or subcontractor uses tangible personal property in the
- 29 performance of that person's contract, or to fulfill contract or subcontract obligations,
- 30 whether the title to the property be in the contractor, subcontractor, contractee,
- 31 subcontractee, or any other person, or whether the titleholder of the property would be

subject to pay the sales or use tax, the contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless the property has been previously subjected to a sales tax or use tax by this state, and the tax due has been paid. This section does not apply to a contractor or subcontractor that does not enter a contract for the purchase of the tangible personal property.

2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.

3. The tax imposed by this section does not apply to:

- a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2.
- b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4.
- c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5.
- d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6.
- e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10.
- f. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.11.

- 1 g. Materials used in compressing, gathering, collecting, storing, transporting, or
- 2 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
- 3 provided in section 57-39.2-04.14.
- 4 h. Tangible personal property used to construct a qualifying fertilizer or chemical
- 5 processing facility as authorized or approved for exemption by the tax
- 6 commissioner under section 57-39.2-04.15.
- 7 i. Tangible personal property used to construct a qualified straddle plant, a qualified
- 8 fractionator, or qualified associated infrastructure as authorized or approved for
- 9 exemption by the tax commissioner under section 57-39.2-04.16.
- 10 j. Tangible personal property as authorized or approved for exemption by the
- 11 tax commissioner as provided in section 57-39.2-04.21.
- 12 k. Tangible personal property as authorized or approved for exemption by the
- 13 tax commissioner as provided in section 57-39.2-04.20.
- 14 l. ~~Raw materials, single-use product contact systems, and reagents used for~~
- 15 ~~biologic manufacturing as authorized or approved for exemption by the~~
- 16 ~~tax commissioner under section 57-39.2-04.19.~~
- 17 m. Tangible personal property used to construct, expand, or upgrade a facility that
- 18 refines renewable feedstock into sustainable aviation fuel as authorized or
- 19 approved by the tax commissioner under section 57-39.2-04.18.

Use tax on contractors. (Effective after June 30, 2025, and through June 30, 2029)

1. When a contractor or subcontractor uses tangible personal property in the
- performance of that person's contract, or to fulfill contract or subcontract obligations,
- whether the title to the property be in the contractor, subcontractor, contractee,
- subcontractee, or any other person, or whether the titleholder of the property would be
- subject to pay the sales or use tax, the contractor or subcontractor shall pay a use tax
- at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair
- market value of such property, whichever is greater, unless the property has been
- previously subjected to a sales tax or use tax by this state, and the tax due has been
- paid. This section does not apply to a contractor or subcontractor that does not enter a
- contract for the purchase of the tangible personal property.

- 1 2. The provisions of this chapter pertaining to the administration of the tax imposed by
- 2 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
- 3 administration of the tax levied by this section.
- 4 3. The tax imposed by this section does not apply to:
- 5 a. Production equipment or tangible personal property as authorized or approved
- 6 for exemption by the tax commissioner under section 57-39.2-04.2; ~~and~~
- 7 b. Machinery, equipment, or other tangible personal property used to construct an
- 8 agricultural commodity processing facility as authorized or approved for
- 9 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4; ~~and~~
- 10 c. Tangible personal property used to construct or expand a system used to
- 11 compress, process, gather, or refine gas recovered from an oil or gas well in this
- 12 state or used to expand or build a gas-processing facility in this state as
- 13 authorized or approved for exemption by the tax commissioner under section
- 14 57-39.2-04.5; ~~and~~
- 15 d. Tangible personal property used to construct or expand a qualifying oil refinery as
- 16 authorized or approved for exemption by the tax commissioner under section
- 17 57-39.2-04.6; ~~and~~
- 18 e. Tangible personal property used to construct or expand a qualifying facility as
- 19 authorized or approved for exemption by the tax commissioner under section
- 20 57-39.2-04.10; ~~and~~
- 21 f. Tangible personal property used to construct or expand a qualifying facility as
- 22 authorized or approved for exemption by the tax commissioner under section
- 23 57-39.2-04.11; ~~and~~
- 24 g. Materials used in compressing, gathering, collecting, storing, transporting, or
- 25 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
- 26 provided in section 57-39.2-04.14; ~~and~~
- 27 h. Tangible personal property used to construct a qualifying fertilizer or chemical
- 28 processing facility as authorized or approved for exemption by the tax
- 29 commissioner under section 57-39.2-04.15; ~~or~~

- i. Tangible personal property used to construct a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.16.
- j. Tangible personal property as authorized or approved for exemption by the tax commissioner as provided in section 57-39.2-04.21.
- k. Tangible personal property as authorized or approved for exemption by the tax commissioner as provided in section 57-39.2-04.20.
- ~~l. Raw materials, single-use product contact systems, and reagents used for biologic manufacturing as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.19.~~

~~Use tax on contractors. (Effective after June 30, 2029)~~

- ~~1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to the property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of the property would be subject to pay the sales or use tax, the contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless the property has been previously subjected to a sales tax or use tax by this state, and the tax due has been paid. This section does not apply to a contractor or subcontractor that does not enter a contract for the purchase of the tangible personal property.~~
- ~~2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.~~
- ~~3. The tax imposed by this section does not apply to:~~
 - ~~a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2;~~
 - ~~b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;~~

- 1 e. ~~Tangible personal property used to construct or expand a system used to~~
2 ~~compress, process, gather, or refine gas recovered from an oil or gas well in this~~
3 ~~state or used to expand or build a gas processing facility in this state as~~
4 ~~authorized or approved for exemption by the tax commissioner under section~~
5 ~~57-39.2-04.5;~~
- 6 d. ~~Tangible personal property used to construct or expand a qualifying oil refinery as~~
7 ~~authorized or approved for exemption by the tax commissioner under section~~
8 ~~57-39.2-04.6;~~
- 9 e. ~~Tangible personal property used to construct or expand a qualifying facility as~~
10 ~~authorized or approved for exemption by the tax commissioner under section~~
11 ~~57-39.2-04.10;~~
- 12 f. ~~Tangible personal property used to construct or expand a qualifying facility as~~
13 ~~authorized or approved for exemption by the tax commissioner under section~~
14 ~~57-39.2-04.11;~~
- 15 g. ~~Materials used in compressing, gathering, collecting, storing, transporting, or~~
16 ~~injecting carbon dioxide for use in enhanced recovery of oil or natural gas as~~
17 ~~provided in section 57-39.2-04.14;~~
- 18 h. ~~Tangible personal property used to construct a qualifying fertilizer or chemical~~
19 ~~processing facility as authorized or approved for exemption by the tax~~
20 ~~commissioner under section 57-39.2-04.15; or~~
- 21 i. ~~Tangible personal property used to construct a qualified straddle plant, a qualified~~
22 ~~fractionator, or qualified associated infrastructure as authorized or approved for~~
23 ~~exemption by the tax commissioner under section 57-39.2-04.16.~~
- 24 j. ~~Tangible personal property as authorized or approved for exemption by the~~
25 ~~tax commissioner as provided in section 57-39.2-04.21.~~
- 26 k. ~~Tangible personal property as authorized or approved for exemption by the~~
27 ~~tax commissioner as provided in section 57-39.2-04.20.~~

28 **SECTION 3. REPEAL.** Section 57-39.2-04.19 of the North Dakota Century Code is
29 repealed.

30 **SECTION 4. EFFECTIVE DATE.** Sections 2 and 3 of this Act are effective for taxable
31 events occurring after June 30, 2025.