

NORTH DAKOTA  
LEGISLATIVE COUNCIL



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# North Dakota

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### Economic Development Tax Incentive Evaluations: Accessing Existing Data

# Statutory Requirement to Evaluate Incentives

- The regular review of economic development tax incentives in North Dakota is mandatory pursuant North Dakota Century Code Section 54-35-26, which was enacted by 2015 Senate Bill No. 2057.
- Each of the 20 incentives listed in Section 54-35-26 must be reviewed at least once every 6 years.
- Incentive evaluations are conducted after each legislative session by an interim committee selected by the Legislative Management.

# Barrier to Accessing Existing Data

- Due to a confidentiality policy exercised by the State Tax Commissioner, the interim committee tasked with studying incentives during the 2015-16 interim encountered difficulties in receiving data on incentives with a small number of claimants.

# Confidentiality Policy

- The State Tax Commissioner had a long-standing policy prohibiting the disclosure of data relating to incentives claimed by fewer than five taxpayers.
- The policy was based on the notion that disclosing the amount claimed by only one or a small number of claimants could indirectly reveal the identity of the individual or entity claiming the incentive.

# Remedy

- House Bill No. 1354 was enacted during the 2017 legislative session to allow evaluators to receive incentive data regardless of the number of claimants.

# House Bill No. 1354

- The bill requires the Tax Commissioner to disclose the amount of any tax deduction or credit earned or claimed by a taxpayer upon a written request for the information by the Chairman of the Legislative Management or the chairman of a legislative standing committee.
- The Tax Commissioner is prohibited from disclosing the taxpayer's name or any other identifying information.
- The Tax Commissioner is required to provide the taxpayer notice of potential disclosure.
- The bill applies to tax incentives awarded after July 31, 2017.

# Notice of Potential Disclosure

- The State Tax Commissioner provided notice of the law change on the agency's website and in various incentive brochures.

## **Notice of Disclosure to Legislature**

Upon written request from the chairman of Legislative Management or a chairman of a standing committee of the North Dakota Legislative Assembly, the law requires the Office of State Tax Commissioner to disclose the amount of any tax deduction or tax credit earned or claimed by a taxpayer. The taxpayer's name, social security number or federal employer identification number, or any other information specifically prohibited from being disclosed under North Dakota tax law remains confidential and will not be disclosed. This potential disclosure applies to deductions and credits earned or claimed on or after August 1, 2017.

Reference: [N.D.C.C. § 57-01-02](#)

# Additional Resources

- The text of House Bill No. 1354, and the legislative history relating to the bill, can be found at the following links:
  - [House Bill No. 1354](#)
  - [Legislative History](#)