

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 15-20.1, a new section to  
2 chapter 54-34.3, a new section to chapter 54-44.4, and three new sections to chapter 54-60 of  
3 the North Dakota Century Code, relating to a department of career and technical education  
4 cooperative work experience program, a division of economic development and finance local  
5 economic developer certification program, an office of management and budget procurement  
6 information program, department of commerce target industry requirements, a department of  
7 commerce state employee image training program, and a department of commerce business  
8 hotline program; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, 15-10-41, and  
9 54-34.3-03, subsection 1 of section 54-34.3-06, section 54-60-02, subsection 1 of section  
10 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03,  
11 and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North  
12 Dakota to invest funds, cross-references affected by the repeal of the venture capital  
13 corporation law, the centers of excellence program, organization of the department of  
14 commerce and division of economic development and finance, duties of the North Dakota  
15 American Indian business development office, and the seed capital investment tax credit; to  
16 repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code,  
17 relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the  
18 centers of excellence program; to provide for state agency studies, reports to the legislative  
19 council, and legislative council studies; to provide an appropriation; to provide effective dates;  
20 and to provide expiration dates.

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

22 **SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is  
23 amended and reenacted as follows:

- 1           **6-09-15. (Effective through July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota  
2 may:
- 3           1. Make, purchase, guarantee, or hold loans:
    - 4           a. To state or federally chartered lending agencies or institutions, or any other  
5           financial institutions.
    - 6           b. To holders of Bank of North Dakota certificates of deposit and savings  
7           accounts up to ninety percent of the value of the certificates and savings  
8           accounts offered as security.
    - 9           c. To actual farmers who are residents of this state, if the loans are secured by  
10           recorded mortgages giving the Bank of North Dakota a first lien on real estate  
11           in North Dakota in amounts not to exceed eighty percent of the value of the  
12           security.
    - 13           d. That are insured or guaranteed in whole or in part by the United States, its  
14           agencies, or instrumentalities.
    - 15           e. That are eligible to be guaranteed under chapter 15-62.1. Loans made  
16           pursuant to this subdivision may provide for interest that remains unpaid at  
17           the end of any period specified in the loan to be added to the principal amount  
18           of the debt and thereafter accumulate interest.
    - 19           f. To individuals or bank holding companies for the purpose of purchasing or  
20           refinancing the purchase of bank stock of a bank located in the state.
    - 21           g. To nonprofit organizations that are exempt from federal taxation under section  
22           501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of  
23           the loans to be used for construction, reconstruction, repair, renovation,  
24           maintenance, and associated costs on property under the control of the parks  
25           and recreation department.
    - 26           h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as  
27           amended through December 31, 1996, to nonprofit corporations for the  
28           purpose of relending loan funds to rural businesses.
    - 29           i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,  
30           subparts F and R; and part 1955, subparts A, B, and C, as amended through

- 1                   December 31, 1996, to finance businesses and community development  
2                   projects in rural areas.
- 3                   j.    Obtained as security pledged for or originated in the restructuring of any other  
4                   loan properly originated or participated in by the Bank.
- 5                   k.    To instrumentalities of this state.
- 6                   l.    As otherwise provided by this chapter or other statutes.
- 7                   m.   If the Bank is participating in the loan and the Bank deems it is in the best  
8                   interests of the Bank to do so, it may purchase the remaining portion of the  
9                   loan from a participating lender that is closed by regulatory action, or from the  
10                  receiver of the participating lender's assets.
- 11                  n.    To an investment company created for completing a trust preferred securities  
12                  transaction for the benefit of a financial institution located in this state.
- 13                  2.    Make agricultural real estate loans in order to participate in the agricultural  
14                  mortgage secondary market program established pursuant to the Agricultural  
15                  Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as  
16                  amended through December 31, 1996.
- 17                  3.    Purchase participation interests in loans made or held by banks, bank holding  
18                  companies, state or federally chartered lending agencies or institutions, any other  
19                  financial institutions, or any other entity that provides financial services and that  
20                  meets underwriting standards that are generally accepted by state or federal  
21                  financial regulatory agencies.
- 22                  4.    Invest its funds:
- 23                   a.    In conformity with policies of the industrial commission.
- 24                   b.    In a public venture capital corporation organized and doing business in this  
25                   state through the purchase of shares of stock.
- 26                   c.    In North Dakota alternative and venture capital investments and early-stage  
27                   capital funds including the North Dakota development fund, incorporated, not  
28                   to exceed ~~five~~ ten million dollars, for the purpose of providing funds for  
29                   investment in North Dakota alternative and venture capital investments and  
30                   early-stage capital funds. The Bank may allow for third-party management of  
31                   the funds invested under this subdivision if the management is provided by

1                   North Dakota development fund, incorporated, or a third party that is located  
2                   in the state and that has demonstrated fund management experience.

- 3           5. Buy and sell federal funds.
- 4           6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and  
5           personal property, title to which has been acquired in any manner.
- 6           7. Acquire real or personal property or property rights by purchase, lease, or the  
7           exercise of the right of eminent domain and may construct, remodel, and repair  
8           buildings.
- 9           8. Receive deposits from any source and deposit its funds in any bank or other  
10           financial institution.
- 11          9. Perform all acts and do all things necessary, convenient, advisable, or desirable to  
12           carry out the powers expressly granted or necessarily implied in this chapter  
13           through or by means of its president, officers, agents, or employees or by contracts  
14           with any person, firm, or corporation.
- 15          10. Purchase mortgage loans on residential real property originated by financial  
16           institutions.

17           **(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

- 18          1. Make, purchase, or hold loans:
- 19           a. To state or federally chartered lending agencies or institutions, or any other  
20           financial institutions.
- 21           b. To holders of Bank of North Dakota certificates of deposit and savings  
22           accounts up to ninety percent of the value of the certificates and savings  
23           accounts offered as security.
- 24           c. To actual farmers who are residents of this state, if the loans are secured by  
25           recorded mortgages giving the Bank of North Dakota a first lien on real estate  
26           in North Dakota in amounts not to exceed eighty percent of the value of the  
27           security.
- 28           d. That are insured or guaranteed in whole or in part by the United States, its  
29           agencies, or instrumentalities.
- 30           e. That are eligible to be guaranteed under chapter 15-62.1. Loans made  
31           pursuant to this subdivision may provide for interest that remains unpaid at

- 1                   the end of any period specified in the loan to be added to the principal amount  
2                   of the debt and thereafter accumulate interest.
- 3                   f. To individuals or bank holding companies for the purpose of purchasing or  
4                   refinancing the purchase of bank stock of a bank located in the state.
- 5                   g. To nonprofit organizations that are exempt from federal taxation under section  
6                   501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of  
7                   the loans to be used for construction, reconstruction, repair, renovation,  
8                   maintenance, and associated costs on property under the control of the parks  
9                   and recreation department.
- 10                  h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as  
11                  amended through December 31, 1996, to nonprofit corporations for the  
12                  purpose of relending loan funds to rural businesses.
- 13                  i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,  
14                  subparts F and R; and part 1955, subparts A, B, and C, as amended through  
15                  December 31, 1996, to finance businesses and community development  
16                  projects in rural areas.
- 17                  j. Obtained as security pledged for or originated in the restructuring of any other  
18                  loan properly originated or participated in by the Bank.
- 19                  k. To instrumentalities of this state.
- 20                  l. As otherwise provided by this chapter or other statutes.
- 21                  m. If the Bank is participating in the loan and the Bank deems it is in the best  
22                  interests of the Bank to do so, it may purchase the remaining portion of the  
23                  loan from a participating lender that is closed by regulatory action, or from the  
24                  receiver of the participating lender's assets.
- 25                  n. To an investment company created for completing a trust preferred securities  
26                  transaction for the benefit of a financial institution located in this state.
- 27                  2. Make agricultural real estate loans in order to participate in the agricultural  
28                  mortgage secondary market program established pursuant to the Agricultural  
29                  Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as  
30                  amended through December 31, 1996.

- 1           3.   Purchase participation interests in loans made or held by banks, bank holding  
2                    companies, state or federally chartered lending agencies or institutions, any other  
3                    financial institutions, or any other entity that provides financial services and that  
4                    meets underwriting standards that are generally accepted by state or federal  
5                    financial regulatory agencies.
- 6           4.   Invest its funds:
  - 7                   a.   In conformity with policies of the industrial commission.
  - 8                   b.   In a public venture capital corporation organized and doing business in this  
9                         state through the purchase of shares of stock.
- 10          5.   Buy and sell federal funds.
- 11          6.   Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and  
12                   personal property, title to which has been acquired in any manner.
- 13          7.   Acquire real or personal property or property rights by purchase, lease, or the  
14                   exercise of the right of eminent domain and may construct, remodel, and repair  
15                   buildings.
- 16          8.   Receive deposits from any source and deposit its funds in any bank or other  
17                   financial institution.
- 18          9.   Perform all acts and do all things necessary, convenient, advisable, or desirable to  
19                   carry out the powers expressly granted or necessarily implied in this chapter  
20                   through or by means of its president, officers, agents, or employees or by contracts  
21                   with any person, firm, or corporation.
- 22          10.  Purchase mortgage loans on residential real property originated by financial  
23                   institutions.

24           **SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08,  
27 and 10-04-08.4 do not apply to any of the following securities:

- 28           1.   Securities issued or guaranteed by the United States of America, or by any state,  
29                   territory, or insular possession thereof, or by any political subdivision of any such  
30                   state, territory, or insular possession, or by the District of Columbia, or by any  
31                   public agency or instrumentality of one or more of any of the foregoing, or payable

- 1 from assessments for improvements or revenues of publicly owned utilities therein;  
2 or a certificate of deposit for any of the foregoing, but this exemption does not  
3 include any security payable solely from revenues to be received from a  
4 nongovernmental industrial or commercial enterprise unless the security is insured  
5 or unconditionally guaranteed by, or the revenues are derived from, a person  
6 whose securities are exempt from registration under this section.
- 7 2. Securities issued by and representing an interest in or a debt of, or guaranteed by,  
8 a national bank or a national bank and trust company or bank or credit or loan or  
9 savings association or savings and loan association or credit union organized  
10 pursuant to an Act of Congress and supervised by the United States, or any  
11 agency thereof, or issued or guaranteed as to both principal and interest by an  
12 international bank of which the United States is a member, or issued by and  
13 representing an interest in or a debt of, or guaranteed by, a state bank, trust  
14 company, savings bank, savings institution, or credit union organized and  
15 supervised under the laws of any state, and securities of any person subject to  
16 examination by the commissioner of financial institutions of North Dakota.
- 17 3. Securities issued by a building and loan association subject to supervision by an  
18 agency of the state of North Dakota, or policy contracts, including variable annuity  
19 contracts, of an insurance company subject to supervision by an agency of the  
20 state of North Dakota.
- 21 4. Securities issued or guaranteed as to principal, interest, or dividends by a  
22 corporation or limited liability company owning or operating a railroad or other  
23 public service utility, if the corporation or limited liability company is subject to  
24 regulation or supervision either as to its rates and charges or as to the issue of its  
25 securities by a public service commission, or by a board, body, or official having  
26 like powers, of the United States or of any state, territory, or insular possession  
27 thereof, or of any municipality located therein, or of the District of Columbia, or of  
28 the Dominion of Canada, or any province thereof.
- 29 5. Any security issued by any person organized and operated not for private profit but  
30 exclusively for religious, educational, benevolent, fraternal, charitable, social, or

1 reformatory purposes; provided that prior to any offer of such security each person  
2 must meet the following conditions:

- 3 a. Apply for and obtain the written approval of the commissioner.
- 4 b. File an application, offering disclosure document, and pay a nonrefundable  
5 filing fee of one hundred fifty dollars, which document and fee must  
6 accompany the application.
- 7 c. File a notice identifying the basis of its qualification under this exemption with  
8 such additional information as the commissioner may require.
- 9 d. Provide a copy of the offering disclosure document to each person to whom  
10 an offer to sell or sale is made.

11 The approval is effective for a period of one year from the date of approval. At  
12 least thirty days prior to the expiration date, there must be filed an application,  
13 offering disclosure document, and a nonrefundable fee of one hundred dollars for  
14 the renewal of the filing for additional periods of one year.

- 15 6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a  
16 current transaction or the proceeds of which have been or are to be used for  
17 current transactions, is not the subject of a public offering, is prime quality  
18 negotiable commercial paper which has at the time of issuance a definite maturity  
19 of not exceeding nine months, is payable in cash only, and is not convertible into  
20 and does not carry an option or right to receive payment or any bonus in any other  
21 security.
- 22 7. Securities, other than common stock, providing for a fixed return, which have been  
23 outstanding and in the hands of the public for not less than five years and upon  
24 which no default has occurred during the five years next preceding the date of sale.
- 25 8. Securities, including patronage dividends or refunds, issued by any cooperative  
26 organized under the statutes of this state.
- 27 9. Any equipment security based on a chattel mortgage, lease, or agreement for the  
28 conditional sale of cars, motive power, or other rolling stock mortgaged, leased,  
29 sold to, or furnished for the use of a railroad or other public service utility  
30 corporation or limited liability company, and any equipment security when the  
31 ownership of or title to such equipment is pledged or retained in accordance with



1           the provisions of the laws of the United States or of any state thereof, or of the  
2           Dominion of Canada, to secure the payments of such equipment security whether  
3           it be an equipment trust certificate, bond, or note.

4           10. Any bond, note, or other evidence of debt issued by a holding corporation or limited  
5           liability company and secured by collateral consisting of any of the securities  
6           described in subsections 4 and 9, if the collateral securities equal in fair value at  
7           least one hundred twenty-five percent of the par value of the bonds, notes, or other  
8           evidences of debts secured thereby.

9           11. The execution of orders for purchase of securities by a registered dealer provided  
10          such dealer acts as agent for the purchaser, has made no solicitation of the order  
11          to purchase such securities, has no direct material interest in the sale or  
12          distribution of the securities ordered, receives no commission, profit, or other  
13          compensation other than the commissions involved in the purchase and sale of the  
14          securities and delivery to the purchaser of written confirmation of the order which  
15          clearly itemizes the commissions paid to the registered dealer. Clear and complete  
16          records of all transactions exempted under this subsection shall be maintained by  
17          the registered dealer or broker.

18          12. ~~Any security issued by a venture capital corporation or limited liability company  
19          organized under and operating in compliance with chapter 10-30.1; provided that  
20          prior to any offer of such security, the issuer must meet the following conditions:~~  
21          a. ~~Apply for and obtain written approval by the commissioner.~~  
22          b. ~~File an application, offering disclosure document, and pay a nonrefundable  
23          filing fee of one hundred fifty dollars. The document and fee must accompany  
24          the application.~~  
25          c. ~~File such additional information as the commissioner requires by rule or order  
26          or may subsequently request.~~  
27          d. ~~Provide a copy of the offering disclosure document to each person to whom  
28          an offer to sell or sale is made.~~  
29          e. ~~Not use public advertising matter or general solicitation, except tombstone  
30          advertisements approved by the commissioner, in connection with any offer or  
31          sale.~~

1           f. ~~File a report of all offers and sales made in this state within thirty days after~~  
2           ~~the completion of the offering.~~

3           ~~The approval is effective for a period of one year from the date of approval. There~~  
4           ~~must be filed, at least thirty days prior to the expiration date, an application,~~  
5           ~~disclosure document, and a nonrefundable fee of one hundred dollars for the~~  
6           ~~renewal of the filing for additional periods of one year.~~

7        ~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political  
8        subdivision of any such province, or any agency or corporate or other  
9        instrumentality of one or more of the foregoing, or any other foreign government  
10       with which the United States currently maintains diplomatic relations, if the security  
11       is recognized as a valid obligation by the issuer or guarantor. This exemption does  
12       not include any security payable solely from revenues to be received from a  
13       nongovernmental industrial or commercial enterprise.

14    ~~14.~~ 13. a. Any security, other than a security that is a federal covered security pursuant  
15       to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to  
16       any filing or registration requirements under this chapter, listed or designated,  
17       or approved for listing or designation upon notice of issuance on:

- 18           (1) The New York stock exchange;  
19           (2) The American stock exchange;  
20           (3) The national association of securities dealers automated quotation  
21           national market system;  
22           (4) Tier I of the Philadelphia stock exchange;  
23           (5) Tier I of the Pacific stock exchange;  
24           (6) Chicago board options exchange; or  
25           (7) Any other stock exchange or automated quotation system which the  
26           commissioner approves by rule;

27        b. Any other security of the same issuer which is of senior or substantially equal  
28        rank;

29        c. Any security called for by subscription rights or warrants so listed or approved;  
30        or

31        d. Any warrant or right to purchase or subscribe to any of the foregoing.

1           The commissioner may withdraw this exemption by order as to any exchange or  
2           system, or any particular security, if the commissioner determines that it would be  
3           in the public interest.

4    ~~45.~~ 14.   Securities issued by the North Dakota education association dues credit trust to  
5           members of the North Dakota education association.

6           **SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is  
7    amended and reenacted as follows:

8           **10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must  
9    be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the  
10   corporation may:

- 11           1.   Cooperate and contract with any private or public entity.
- 12           2.   Receive appropriations from the legislative assembly and other public moneys as  
13           well as contributions from other private or public contributors.
- 14           3.   Borrow funds not to exceed ~~five~~ ten million dollars from the Bank of North Dakota  
15           for the purpose of investing in North Dakota alternative and venture capital  
16           investments and early-stage capital funds. The corporation may provide  
17           management services for the Bank's alternative and venture capital investments  
18           and early-stage capital funds.

19           **(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a  
20   nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

- 21           1.   Cooperate and contract with any private or public entity.
- 22           2.   Receive appropriations from the legislative assembly and other public moneys as  
23           well as contributions from other private or public contributors.

24           **SECTION 4. AMENDMENT.** Section 15-10-41 of the North Dakota Century Code is  
25   amended and reenacted as follows:

26           **15-10-41. Centers of excellence - Centers of excellence commission - Budget**  
27   **section approval.**

- 28           1.   The state board of higher education shall establish a centers of excellence  
29           program relating to economic development ~~consistent with the purpose under~~  
30           ~~subsection 2~~ through which the centers of excellence commission awards funds to

1           research universities, university-related foundations, and public institutions that are  
2           located in the state.

3           2. In this section, unless the context otherwise requires:

4           a. "Center" means a center of excellence relating to economic development.

5           b. "Commission" means the centers of excellence commission.

6           c. "Foundation" means the North Dakota economic development foundation.

7           d. "Industry cluster" means one of the following industries:

8                 (1) Advanced manufacturing;

9                 (2) Energy;

10                (3) Information and technology;

11                (4) Tourism;

12                (5) Value-added agriculture; or

13                (6) An industry, including the aerospace industry, specifically identified by  
14                   the department of commerce as an industry that will contribute to the  
15                   gross state product.

16           3. The centers of excellence commission consists of seven members. The  
17           foundation shall appoint two members of the commission, the board shall appoint  
18           two members of the commission, and the legislative council shall appoint three  
19           members of the legislative assembly as nonvoting members of the commission.  
20           The commission members shall designate a chairman and a vice chairman of the  
21           commission. Each member of the commission shall serve for a term of two years,  
22           beginning July first of each odd-numbered year; may be reappointed for additional  
23           terms; and serves at the pleasure of the appointing entity. A member of the  
24           commission who is appointed by the legislative council is entitled to receive  
25           compensation per day for each day spent in attendance at commission meetings in  
26           the same amount as provided for members of the legislative council and  
27           reimbursement for travel and other necessary expenses incurred in the  
28           performance of official duties in the amounts provided by law for other state  
29           officers. A commission member appointed by the board or foundation may receive  
30           compensation and travel and expense reimbursement from the appointing entity.  
31           The commission shall meet as necessary to review applications, make designation

1           determinations, and make awards of funds. The board shall provide the  
2           commission with appropriate staff services as may be requested by the  
3           commission.

4           4. The board shall establish application forms, accept applications, review  
5           applications for completeness, and forward complete applications to the  
6           commission. The board shall commission and the legislative assembly each may  
7           ~~designate centers of excellence~~ a center. A designation by the board of a center  
8           ~~of excellence within the economic development category does not preclude the~~  
9           ~~board or a higher education institution from designating a center of excellence in~~  
10           ~~an academic or service area.~~ Centers of excellence relating to economic  
11           development include the North Dakota state university center for technology  
12           enterprise and the university of North Dakota center for innovation.

13                     ~~Before January 1, 2004, the board, in consultation with the North Dakota~~  
14                     ~~economic development foundation and with private sector input, shall establish~~  
15                     ~~definitions and eligibility criteria for centers of excellence relating to economic~~  
16                     ~~development. The board shall present the definitions and eligibility criteria for the~~  
17                     ~~centers of excellence relating to economic development to an interim committee~~  
18                     ~~designated by the legislative council. The North Dakota economic development~~  
19                     ~~foundation may identify and recommend high priority centers of excellence relating~~  
20                     ~~to economic development for consideration by the state board of higher education~~  
21                     ~~for future budget requests.~~

22           2. ~~The purpose of the program is to develop~~

23           5. Before the commission may consider an application for designation as a center,  
24           the applicant shall establish in the application how the proposed center will:

25           a. Develop and engage strategies for science and technology research and  
26           development, commercialization, entrepreneurship, infrastructure, growth and  
27           ~~expansion~~ utilization to assist the growth and expansion of knowledge-based  
28           industries, and other activities in the state to develop innovative approaches  
29           that expand the gross state product; ~~to assist.~~

30           b. Create employment opportunities for residents of this state.

- 1           c. Assist efforts to attract private and federal assistance for science and  
2           technology research and development ~~and for commercialization in growth.~~
- 3           d. Assist efforts to commercialize industry clusters most likely to increase the  
4           gross state product; to increase.
- 5           e. Increase collaboration among state, federal, and private science and  
6           technology research and development ~~and technology commercialization~~  
7           organizations in the state; ~~to strengthen.~~
- 8        6. In designating a center, the commission shall:
- 9           a. Make a determination that the requirements of subsection 5 have been  
10          established by the applicant.
- 11          b. Consider whether the proposed center will:
- 12               (1) Strengthen the leadership and support of the national science  
13               foundation experimental program to stimulate competitive research  
14               programs and to encourage partnerships with other state institutions for  
15               expanded efforts to stimulate economic growth in ~~identified~~ industry  
16               clusters; ~~to provide.~~
- 17               (2) Provide leadership in science and technology policy at a regional, a  
18               national, and an international level; ~~and to create.~~
- 19               (3) Create employment opportunities for North Dakota university system  
20               graduates. ~~Identified industry clusters include advanced~~  
21               ~~manufacturing, aerospace, energy, information and technology,~~  
22               ~~tourism, and value added agriculture.~~
- 23          c. In partnership with the board and the foundation, present the details of a  
24          proposed designated center to the budget section for approval. An approved  
25          award determination must include details regarding the terms under which the  
26          board will distribute allocated funds.
- 27        3. 7. ~~The state~~ In accordance with commission award determinations approved by the  
28          budget section, the board of higher education shall allocate funds from  
29          appropriations for undesignated centers of excellence relating to economic  
30          development based on the criteria established and for the purpose of funding  
31          centers. The board, in partnership with the commission and foundation, shall

1           report to the budget section on the status of such allocations, ~~in partnership with~~  
2           ~~the North Dakota economic development foundation, to the budget section and~~  
3           actual fund distributions.

4           8. A recipient of funds awarded under this section shall use the funds to enhance  
5           capacity; enhance infrastructure; and leverage state, federal, and private sources  
6           of funding. ~~Funds~~ A recipient of funds awarded under this section may not be  
7           ~~used~~ use the funds to supplant funding for current operations or academic  
8           instruction or to pay indirect costs. ~~The board may award funds under this section~~  
9           ~~to research universities, university-related foundations, and public institutions that~~  
10          ~~are located in the state which demonstrate the potential to deliver expertise and~~  
11          ~~service to industry clusters that will contribute to the gross state product. A~~  
12          ~~recipient of funds under this section which is~~

13          9. Before funds awarded under this section are distributed to an institution of higher  
14          education under the control of the board ~~of higher education~~ or ~~which is~~ to a  
15          nonprofit university-related foundation, the recipient shall:

16          a. ~~Provide~~ provide the board ~~of higher education~~ with detailed documentation of  
17          the availability of two dollars of matching funds for each dollar of funds  
18          awarded under this section ~~as a condition of eligibility for receipt of funds~~  
19          ~~under this section; and.~~

20          b. ~~Provide~~ An institution of higher education under the control of the board or a  
21          nonprofit university-related foundation that receives funds under this section  
22          shall provide the board ~~of higher education~~, governor, and ~~North Dakota~~  
23          ~~economic development~~ foundation with annual reports for four fiscal years  
24          following receipt of the funds.

25           **SECTION 5.** A new section to chapter 15-20.1 of the North Dakota Century Code is  
26          created and enacted as follows:

27           **Cooperative work experience program.** The department shall administer a  
28          cooperative work experience grant program to provide funds to a school or a consortia of  
29          schools for the purpose of supporting local work experience programs that provide innovative  
30          strategies to enhance real world, on-the-job, cooperative work experiences for students in this  
31          state. The department shall establish eligibility criteria for funds under this section. A recipient

1 of funds under this section may use the funds to fund a program coordinator position or to fund  
2 the local program, which may include internships, on-the-job training, school-to-work activities,  
3 and business programs.

4 **SECTION 6. AMENDMENT.** Section 54-34.3-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-34.3-03. Division structure.** The division consists of:

- 7 1. ~~A~~ a finance office;
- 8 2. ~~An international trade office;~~ and
- 9 3. ~~Other,~~ offices established by statute, and offices that the director organizes and  
10 establishes as necessary to carry out most efficiently and effectively the mission  
11 and duties of the division.

12 **SECTION 7. AMENDMENT.** Subsection 1 of section 54-34.3-06 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14 1. A North Dakota American Indian business development office to assist North  
15 Dakota American Indian tribal and individual economic development  
16 representatives, businesses, and ~~North Dakota American Indian~~ entrepreneurs  
17 with access to state and federal programs designed to assist ~~them~~ these business  
18 interests. The office shall provide services to assist in the formation of  
19 partnerships between American Indian and non-American Indian businesses.

20 **SECTION 8.** A new section to chapter 54-34.3 of the North Dakota Century Code is  
21 created and enacted as follows:

22 **Local economic developer certification program.** The director shall implement a  
23 certification program through which the division provides training to assist local economic  
24 developers in meeting the needs of businesses. The director may contract with a third-party  
25 service provider to assist in implementing the program. The director may set and charge a fee  
26 for the receipt of services under this program.

27 **SECTION 9.** A new section to chapter 54-44.4 of the North Dakota Century Code is  
28 created and enacted as follows:

29 **Procurement information.** The office of management and budget shall provide  
30 information, including an up-to-date list of North Dakota government procurement opportunities,  
31 through the internet, to inform potential vendors of the commodities and services sought by



1 state agencies. The office of management and budget may contract with a third party to assist  
2 in providing or maintaining this information.

3 **SECTION 10. AMENDMENT.** Section 54-60-02 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-60-02. Department of commerce - Divisions.** The North Dakota department of  
6 commerce is created. ~~All records, materials, supplies, and equipment used by the division of~~  
7 ~~community services, department of economic development and finance, and the department of~~  
8 ~~tourism are transferred to the department.~~

- 9 1. The department must consist of:
- 10 a. A division of community services;
  - 11 b. A division of economic development and finance;
  - 12 c. A division of tourism;
  - 13 d. A division of workforce development; ~~and~~
  - 14 e. A division of international trade; and
  - 15 f. Any division the commissioner determines necessary to carry out this chapter.
- 16 2. The commissioner shall appoint the director of any division ~~created by the~~  
17 ~~commissioner under subsection 1. Effective August 1, 2003, the commissioner~~  
18 ~~shall appoint the directors of the division of community services, division of~~  
19 ~~economic development and finance, and division of workforce development.~~  
20 ~~Effective August 1, 2005, the commissioner shall appoint the director of the division~~  
21 ~~of tourism. Each director appointed by the commissioner serves at the pleasure of~~  
22 ~~the commissioner and is entitled to receive a salary set by the commissioner within~~  
23 ~~the limits of legislative appropriations. Until August 1, 2003, the governor shall~~  
24 ~~appoint the directors of the division of community services, division of economic~~  
25 ~~development and finance, and division of workforce development and until~~  
26 ~~August 1, 2005, the governor shall appoint the director of the division of tourism.~~  
27 ~~The individuals appointed by the governor shall serve at the pleasure of the~~  
28 ~~governor and are entitled to receive a salary set by the governor within the limits of~~  
29 ~~legislative appropriations.~~

30 **SECTION 11.** A new section to chapter 54-60 of the North Dakota Century Code is  
31 created and enacted as follows:

1           **Target industries - Report to legislative council.** The commissioner shall identify  
2 target industries on which the commissioner shall focus economic development efforts. The  
3 commissioner shall designate one of these target industries as a special focus target industry.  
4 In identifying and updating target industries, the commissioner shall solicit the advice of the  
5 foundation and the North Dakota university system. The commissioner may contract for the  
6 services of a third party in identifying target industries. The commissioner shall report biennially  
7 to the legislative council. This report must include information regarding the process used and  
8 factors considered in identifying and updating the target industries, the specific tactics the  
9 department has used to specifically address the needs of the target industries, the unique  
10 tactics and the specific incentives the department has used to support the growth of the special  
11 focus target industry, and any recommended legislative changes necessary to better focus  
12 economic development services on these industries.

13           **SECTION 12.** A new section to chapter 54-60 of the North Dakota Century Code is  
14 created and enacted as follows:

15           **North Dakota image information program.** The commissioner shall implement a  
16 program for use by state agencies to assist state agencies and state agencies' employees to  
17 present to the public a positive image of the state. The commissioner may expand the program  
18 to include use of the program by the private sector.

19           **SECTION 13.** A new section to chapter 54-60 of the North Dakota Century Code is  
20 created and enacted as follows:

21           **Business hotline.** The commissioner shall create and implement a business hotline  
22 program. The program must provide for a telephone number through which the department  
23 shall provide, during regular business hours, in-state and out-of-state callers with information  
24 regarding how to do business in the state, the services and assistance available to businesses,  
25 the advantages of doing business in the state, and information on state and other resources  
26 that provide assistance to businesses in the state. In addition to directly providing information,  
27 the department may use the business hotline as a clearinghouse through which to refer callers  
28 to other federal, state, local, or private sector economic developers. The program must include  
29 an in-state and out-of-state marketing campaign in support of the program. The commissioner  
30 shall follow up on business leads gained through the program and shall gather data on the  
31 results of calls, including business expansion, location, and startup.

1           **SECTION 14. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           1. The taxable income of an individual, estate, or trust as computed pursuant to the  
4 provisions of the United States Internal Revenue Code of 1954, as amended, shall  
5 be:

6           a. Reduced by any interest received from obligations of the United States that is  
7 included in taxable income or in the computation thereof on the federal return.

8           b. Reduced by any other income included in the taxable income, or in the  
9 computation thereof, on the federal return which is exempt from taxation by  
10 this state because of the provisions of the Constitution of North Dakota or the  
11 Constitution of the United States.

12           c. Reduced by the amount of federal income tax liability, but not social security  
13 and self-employment taxes, as computed under chapter 1 of the Internal  
14 Revenue Code of 1954, as amended, for the same taxable year for which the  
15 North Dakota return is being filed, to the extent that such taxes are computed  
16 upon income which becomes a part of the North Dakota taxable income.  
17 Provided, that no adjustment to federal income taxes, paid or accrued, is  
18 required because of allowable deductions to federal taxable income made  
19 under the cost recovery provisions of subdivision b of subsection 5 of section  
20 57-38-01. However, such federal income tax liability must be reduced by all  
21 credits thereon except credits for federal income tax withholding payments,  
22 estimates of federal income tax, and income taxes of foreign countries.  
23 Federal income taxes for prior periods assessed against the taxpayer by  
24 reason of audit or other adjustment by the internal revenue service, or  
25 voluntary disclosure by the taxpayer, are not deductible except in the period in  
26 which income so taxed was reported or reportable or in which an adjustment  
27 was required but only after an adjustment is made by or with the office of the  
28 state tax commissioner. A refund of federal income tax must be reported and  
29 included in North Dakota taxable income in the year in which the tax was  
30 originally deducted.

- 1 d. (1) Reduced by three hundred dollars if the return filed is a joint return by  
2 husband and wife. If separate returns are filed by husband and wife, no  
3 deduction can be taken under this subdivision. This subdivision shall  
4 not be applicable to estates or trusts.
- 5 (2) Reduced by three hundred dollars if the return filed is the return of a  
6 "head of household" as defined by the United States Internal Revenue  
7 Code of 1954, as amended; provided, that the term "head of  
8 household" shall also include a "surviving spouse" as defined by said  
9 code.
- 10 (3) Reduced by seven hundred fifty dollars for each adopted child who is  
11 under the age of twenty-one years and who is either irreversibly  
12 mentally retarded or, on the basis of the annual findings of a licensed  
13 physician, is blind or disabled as determined pursuant to the provisions  
14 of title XVI of the United States Social Security Act, provided the return  
15 filed is the return of the parent of an adopted child and such child  
16 qualifies as a dependent of such parent for federal income tax  
17 purposes.
- 18 (4) Reduced, up to a maximum of one thousand dollars, by the amount of  
19 filing fees, attorney's fees, and travel costs incurred in connection with  
20 an adoption and by the actual costs paid to a licensed child-placing  
21 agency in making the adoptive study and in supervising and evaluating  
22 the adoptive placement. Provided, however, that the reduction allowed  
23 under this paragraph shall apply only to such adoption expenses of a  
24 child who qualifies under the provisions of paragraph 3.
- 25 (5) Reduced by one thousand seven hundred fifty dollars for each child  
26 under the age of twenty-one years adopted by the taxpayer. The  
27 reduction under this paragraph may be claimed only by an adoptive  
28 parent of an adopted child and the child must qualify as a dependent of  
29 the adoptive parent for federal income tax purposes. The reduction  
30 may be claimed by only one spouse, for spouses filing separately under  
31 this chapter. The reduction provided by this paragraph may be claimed

- 1 for the taxable year in which the adoption becomes final and any  
2 unused portion of the reduction may be carried forward by the taxpayer  
3 for up to five taxable years. The reduction does not apply to the  
4 adoption of children of the taxpayer's spouse.
- 5 e. Reduced by the actual amount of the medical expenses that were incurred but  
6 not allowed on the federal return by reason of the federal medical deduction  
7 limitation.
- 8 f. Increased by the amount of any income taxes, or franchise or privilege taxes  
9 measured by income, to the extent that such taxes were deducted to  
10 determine federal taxable income.
- 11 g. Increased by the amount of any interest and dividends from foreign securities  
12 and from securities of state and their political subdivisions exempt from  
13 federal income tax; provided, that interest upon obligations of the state of  
14 North Dakota or any of its political subdivisions shall not be included.
- 15 h. Except for residents, reduced by the amount of net income not allocated and  
16 apportioned to this state under the provisions of chapter 57-38.1, but only to  
17 the extent that the amount of net income not allocated and apportioned to this  
18 state under the provisions of that chapter is not included in any adjustment  
19 made pursuant to the preceding subdivisions.
- 20 i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- 21 j. Reduced by any amount, up to a maximum of five thousand dollars, received  
22 pursuant to the firefighters relief associations authorized by chapters 18-05  
23 and 18-11, policemen's pension funds authorized by chapter 40-45, or the  
24 highway patrolmen's retirement system authorized by chapter 39-03.1;  
25 provided, however, that the adjustment provided in this subdivision shall be  
26 reduced by any amount received pursuant to the federal Social Security Act.
- 27 k. j. Reduced by any amount, up to a maximum of one thousand dollars, received  
28 by any person as payment for services performed while on active duty in the  
29 armed forces of the United States or as payment for attending periodic  
30 training meetings for drill and instruction as a member of the national guard or  
31 of a reserve unit of the armed forces of the United States. However, persons

1 serving in the armed forces of the United States, except field grade and  
2 general officers, who are stationed outside of any state of the United States or  
3 the District of Columbia for not less than thirty days during the tax year shall  
4 be allowed an additional reduction of up to three hundred dollars per month  
5 for each month or portion of a month received as payment for services  
6 performed while on active duty at such location.

7 ~~h.~~ k. Reduced by any amount, up to a maximum of five thousand dollars, received  
8 by any person fifty years of age or older as retired military personnel pay for  
9 service in the United States army, navy, air force, coast guard, or marine  
10 corps or reserve components thereof; provided, however, that the adjustment  
11 provided in this subdivision shall be reduced by any amount received  
12 pursuant to the federal Social Security Act.

13 ~~m.~~ l. Reduced by the amount of interest received during that taxable year on a  
14 contract for deed on the sale of eighty or more acres [32.37 or more hectares]  
15 of agricultural land to a beginning farmer. The contract for deed must extend  
16 for not less than ten years and have an annual interest rate equal to or less  
17 than the minimum rate allowed by the internal revenue service before interest  
18 is imputed. In order for an individual, estate, or trust to qualify for this  
19 reduction, the taxpayer must obtain a statement from the buyer stating that  
20 the buyer meets all requirements of the beginning farmer definition, together  
21 with such other information as the state tax commissioner may require. The  
22 value placed on any real property located in North Dakota and owned by the  
23 buyer must be the amount listed as the true and full value on the most recent  
24 real estate tax statement for that particular piece of property. In determining  
25 the net worth of any person, including the person's dependents and spouse, if  
26 any, for purposes of this subdivision, the value of their equity in their principal  
27 residence, the value of one personal or family motor vehicle, and the value of  
28 their household goods, including furniture, appliances, musical instruments,  
29 clothing, and other personal belongings may not be included. This statement  
30 must be filed along with the income tax return. For the purposes of this  
31 subdivision, "beginning farmer" means any person who is:

- 1 (1) A resident of this state.
  - 2 (2) Receiving more than one-half of that person's gross annual income
  - 3 from farming, unless the person initially commences farming during the
  - 4 tax year for which an adjustment will be claimed under this subdivision.
  - 5 (3) Intending to use any farmland to be purchased or rented for agricultural
  - 6 purposes.
  - 7 (4) Except for contracts for deed entered into prior to July 1, 1985, having
  - 8 adequate training by education in the type of farming operation which
  - 9 the person wishes to begin through satisfactory participation in the adult
  - 10 farm management education program of the state board for career and
  - 11 technical education or an equivalent program approved by the
  - 12 agriculture commissioner.
  - 13 (5) Having, including the net worth of any dependents and spouse, a net
  - 14 worth of less than one hundred thousand dollars.
- 15 ~~n.~~ m. Reduced by the amount of interest received during that taxable year on a
- 16 contract on the sale of any land, buildings, improvements, and equipment
- 17 associated with the land, buildings, or improvements, used or useful in
- 18 connection with a revenue-producing enterprise to a beginning businessman,
- 19 excluding beginning farmers as defined in subdivision ~~n~~ l. The contract must
- 20 extend for not less than ten years and have an annual interest rate equal to or
- 21 less than the minimum rate allowed by the internal revenue service before
- 22 interest is imputed. In order for an individual, estate, or trust to qualify for this
- 23 reduction, the taxpayer must obtain a statement from the buyer containing a
- 24 list of the buyer's assets and debts and giving the buyer's net worth, together
- 25 with any other information required by the state tax commissioner. The value
- 26 placed on any real property located in North Dakota and owned by the buyer
- 27 shall be the amount listed as the current market value on the most recent real
- 28 estate tax statement for that particular piece of property. In determining the
- 29 net worth of any person, including that person's dependents and spouse, if
- 30 any, the value of their equity in their principal residence, the value of one
- 31 personal or family motor vehicle, and the value of their household goods,

- 1 including furniture, appliances, musical instruments, clothing, and other  
2 personal belongings is not to be included. This statement is to be filed along  
3 with the income tax return. For the purposes of this subdivision, "beginning  
4 businessman", excluding beginning farmers as defined in subdivision ~~h~~ l,  
5 means any person who is:
- 6 (1) A resident of this state.
  - 7 (2) Receiving more than one-half of that person's gross annual income  
8 from a revenue-producing enterprise, unless the person initially  
9 commences business during the tax year for which an adjustment will  
10 be claimed under this subdivision.
  - 11 (3) Intending to use any revenue-producing enterprise purchased or rented  
12 for business purposes.
  - 13 (4) Adequately trained, by experience or education, in the type of  
14 revenue-producing enterprise which that person wishes to begin.
  - 15 (5) The owner of property with a net worth, including the net worth of  
16 property of that person's dependents and spouse, if any, of less than  
17 one hundred thousand dollars.
- 18 ~~e.~~ n. Reduced by any amount, up to a maximum of three hundred dollars received  
19 by any person or six hundred dollars if a joint return is filed, as interest earned  
20 from a financial institution located in this state. For purposes of this  
21 subdivision, "financial institution" means any organization authorized to do  
22 business under state or federal laws relating to financial institutions, including  
23 banks and trust companies, savings banks, building and loan associations,  
24 savings and loan companies or associations, and credit unions.
- 25 ~~p.~~ ~~Repealed by S.L. 1999, ch. 487, § 3.~~
- 26 ~~q.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any~~  
27 ~~person or ten thousand dollars if a joint return is filed, of investment made~~  
28 ~~after January 1, 1989, in a venture capital corporation organized pursuant to~~  
29 ~~chapter 10-30.1. This deduction may only be taken in the tax year in which~~  
30 ~~the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a~~  
31 ~~taxpayer that makes an investment in a venture capital corporation on or after~~



1                   ~~July 1, 1989, is only entitled to a deduction if the venture capital corporation~~  
2                   ~~uses the funds it receives from the taxpayer to invest or provide financing to~~  
3                   ~~qualified entities, which entities do not include a business or an affiliate of a~~  
4                   ~~business that owns tax-exempt securities.~~

5           o.   Reduced by any amount, up to a maximum of five thousand dollars, received  
6                   as retirement benefits paid by the United States, a territory or possession or  
7                   political subdivision thereof, the government of the District of Columbia, or an  
8                   agency or instrumentality of one or more of the foregoing, other than retired  
9                   military personnel pay, as exempted in subdivision k; provided, however, that  
10                  the adjustment provided in this subdivision must be reduced by any amount  
11                  received pursuant to the federal Social Security Act.

12           p.   Reduced by the portion of a distribution from a qualified investment fund  
13                   described in section 57-38-01 which is attributable to investments by the  
14                   qualified investment fund in obligations of the United States, obligations of  
15                   North Dakota or its political subdivisions, and any other obligation the interest  
16                   from which is exempt from state income tax under federal statute or United  
17                   States or North Dakota constitutional provisions; provided the amount of the  
18                   distribution excluded under this subdivision is included in federal taxable  
19                   income.

20           q.   Reduced by an amount equal to the earnings that are passed through to a  
21                   taxpayer in connection with an allocation and apportionment to North Dakota  
22                   under chapter 57-35.3.

23           r.   Reduced by the amount received by the taxpayer as payment for services  
24                   performed when called or ordered to title 10 United States Code federal  
25                   service as a member of the national guard or reserve member of the armed  
26                   forces of the United States. An individual claiming the reduction under this  
27                   subdivision may not also claim the reduction under subdivision k j for the time  
28                   the individual was under federal orders for active duty and may not claim a  
29                   reduction on income already excluded from federal taxation due to service in  
30                   a combat or hazardous duty zone. This subdivision does not apply to federal  
31                   service while attending annual training, basic military training, professional

1 military education, or active guard and reserve tours for which the member  
2 has volunteered.

3 Provided, however, that each adjustment in the above subdivisions authorized  
4 under law shall be allowed only to the extent that the adjustment is allocated and  
5 apportioned to North Dakota income.

6 **SECTION 15. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8 1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~  
9 | of subsection 1 of section 57-38-01.2, means any person who:
- 10 a. Is a resident of this state.
  - 11 b. Receives more than one-half of that person's gross annual income from a  
12 revenue-producing enterprise, unless the person initially commences  
13 business during the tax year for which a deduction will be claimed under  
14 sections 57-38-71 through 57-38-74.
  - 15 c. Intends to use any revenue-producing enterprise purchased or rented for  
16 business purposes.
  - 17 d. Has had adequate training, by experience or education, in the type of  
18 revenue-producing enterprise which that person wishes to begin.
  - 19 e. Has, including the net worth of that person's dependents and spouse, if any, a  
20 net worth of less than one hundred thousand dollars, not including the value  
21 of their equity in their principal residence, the value of one personal or family  
22 motor vehicle, and the value of their household goods, including furniture,  
23 appliances, musical instruments, clothing, and other personal belongings.

24 **SECTION 16. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise  
27 requires:

- 28 1. "Director" means the director of the department of commerce division of economic  
29 development and finance.
- 30 2. "New wealth" means revenues to a North Dakota business which are generated by  
31 sales of products or services to customers outside of the state. "New wealth" also

1 includes revenues to a qualified business the customers of which previously were  
2 unable to acquire, or had limited availability of, the product or service from a North  
3 Dakota provider.

4 3. "Passthrough entity" means a corporation that for the applicable tax year is treated  
5 as an S corporation or a general partnership, limited partnership, limited liability  
6 partnership, trust, or limited liability company and which for the applicable tax year  
7 is not taxed as a corporation under chapter 57-38.

8 4. "Primary sector business" means a qualified business that through the employment  
9 of knowledge or labor adds value to a product, process, or service and which  
10 results in the creation of new wealth.

11 ~~4.~~ 5. "Qualified business" means:

12 a. A primary sector business that:

13 (1) Is incorporated or its satellite operation is incorporated as a for-profit  
14 corporation or is a partnership, limited partnership, limited liability  
15 company, limited liability partnership, or joint venture;

16 (2) Is in compliance with the requirements for filings with the securities  
17 commissioner under the securities laws of this state;

18 (3) Has North Dakota residents as a majority of its employees in the North  
19 Dakota principal office or the North Dakota satellite operation; and

20 (4) Has its principal office in this state and has the majority of its business  
21 activity performed in this state, except sales activity, or has a significant  
22 operation in North Dakota that has or is projected to have more than ten  
23 employees or one hundred fifty thousand dollars of sales annually; or

24 b. An organization that:

25 (1) Is in compliance with the requirements for filings with the securities  
26 commissioner under the securities laws of this state; and

27 (2) Attracts investments to build and own a value-added agricultural  
28 processing facility that it leases with an option to purchase to a primary  
29 sector business that qualifies under subdivision a.

30 ~~5.~~ 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough  
31 entity.

1           **SECTION 17. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **57-38.5-02. Certification - Investment reporting by qualified businesses -**  
4 **Maximum investments in qualified businesses.** The director shall certify whether a business  
5 that has requested to become a qualified business meets the requirements of subsection 4 5 of  
6 section 57-38.5-01 and the certification must include the period of time the certification covers.  
7 The director shall establish the necessary forms and procedures for certifying qualified  
8 businesses. The maximum aggregate amount of qualified investments a qualified business  
9 may receive is limited to two million five hundred thousand dollars under this chapter. The  
10 limitation on investments under this section may not be interpreted to limit additional investment  
11 by a taxpayer for which that taxpayer is not applying for a credit.

12           **SECTION 18. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified  
15 investment in a qualified business, the taxpayer is entitled to a credit against state income tax  
16 liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the credit to which a  
17 taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified  
18 businesses during the taxable year, subject to the following:

- 19           1. The aggregate annual investment for which a taxpayer may obtain a tax credit  
20           under this section is not ~~less than five thousand dollars and not~~ more than two  
21           hundred fifty thousand dollars. This subsection may not be interpreted to limit  
22           additional investment by a taxpayer for which that taxpayer is not applying for a  
23           credit.
- 24           2. In any taxable year, a taxpayer may claim no more than one-third of the credit  
25           under this section which is attributable to investments in a single taxable year.
- 26           3. Any amount of credit under this section not allowed because of the limitations in  
27           this section may be carried forward for up to four taxable years after the taxable  
28           year in which the investment was made.
- 29           4. A ~~partnership~~ passthrough entity that invests in a qualified business must be  
30           considered to be the taxpayer for purposes of the investment limitations in this  
31           section and the amount of the credit allowed with respect to a ~~partnership's~~

1            passthrough entity's investment in a qualified business must be determined at the  
2            ~~partnership~~ passthrough entity level. The amount of the total credit determined at  
3            the ~~partnership~~ passthrough entity level must be allowed to the ~~partners, limited to~~  
4            ~~individuals, estates, and trusts,~~ members in proportion to their respective interests  
5            in the ~~partnership~~ passthrough entity.

6            5. The investment must be at risk in the business. An investment for which a credit is  
7            received under this section must remain in the business for at least three years.

8            6. The entire amount of an investment for which a credit is claimed under this section  
9            must be expended by the qualified business for plant, equipment, research and  
10           development, marketing and sales activity, or working capital for the qualified  
11           business.

12           7. A taxpayer who owns a controlling interest in the qualified business or whose  
13           full-time professional activity is the operation of the business is not entitled to a  
14           credit under this section. A member of the immediate family of a taxpayer  
15           disqualified by this subsection is not entitled to the credit under this section. For  
16           purposes of this subsection, "immediate family" means the taxpayer's spouse,  
17           parent, sibling, or child or the spouse of any such person.

18           8. The tax commissioner may disallow any credit otherwise allowed under this section  
19           if any representation by a business in the application for certification as a qualified  
20           business proves to be false or if the taxpayer or qualified business fails to satisfy  
21           any conditions under this section or any conditions consistent with this section  
22           otherwise determined by the tax commissioner. The amount of any credit  
23           disallowed by the tax commissioner that reduced the taxpayer's income tax liability  
24           for any or all applicable tax years, plus penalty and interest as provided under  
25           section 57-38-45, must be paid by the taxpayer.

26           **SECTION 19. AMENDMENT.** Section 57-38.5-05 of the North Dakota Century Code is  
27           amended and reenacted as follows:

28           **57-38.5-05. Seed capital investment tax credit limits.** The aggregate amount of  
29           seed capital investment tax credit allowed for investments under this chapter ~~through calendar~~  
30           ~~year 2002 is limited to one million dollars and after calendar year 2002 is limited to two million~~  
31           five hundred thousand dollars for each calendar year. If investments in qualified businesses

1 reported to the commissioner under section 57-38.5-07 exceed the limits on tax credits for  
2 investments imposed by this section, the credit must be allowed to taxpayers in the  
3 chronological order of their investments in qualified businesses as determined from the forms  
4 filed under section 57-38.5-07.

5 **SECTION 20. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century  
6 Code are repealed.

7 **SECTION 21. REPEAL.** Section 15-10-41 of the North Dakota Century Code is  
8 repealed.

9 **SECTION 22. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE**  
10 **COUNCIL STUDY.** During the 2005-06 and 2007-08 interims, the legislative council shall study  
11 the state's business climate through a business climate initiative. The business climate  
12 initiative must include receipt of agency reports regarding economic development legislation  
13 introduced by the legislative council during previous legislative sessions, active participation in  
14 business climate focus groups across the state, and active participation in biennial business  
15 congresses. The focus groups shall discuss ways to enhance the state's business climate to  
16 stimulate job growth and enhance economic prosperity by encouraging the growth of existing  
17 businesses in the state, creating new businesses in the state, and encouraging expansion or  
18 relocation of businesses to this state. Each business congress must receive a report on the  
19 activities of the focus group discussions, shall identify methods to enhance the state's business  
20 climate to stimulate job growth and enhance economic prosperity, and shall evaluate the impact  
21 of existing state economic development programs. The department of commerce shall  
22 organize the business climate focus groups and the business congresses. Before each  
23 business congress, which must be held before June 1, 2006, and before June 1, 2008, the  
24 department shall hold a minimum of six focus group discussions, two of which specifically focus  
25 on local economic developers and four of which specifically focus on private business needs.  
26 The department shall consult with the legislative council in compiling focus group and business  
27 congress participant invitation lists and drafting and distributing invitations, establishing focus  
28 group and business congress dates and locations, and preparing agendas for focus groups and  
29 business congresses. The legislative council shall contract with a third party to provide  
30 professional services to plan, facilitate, report on, and coordinate followup for the focus groups  
31 and business congresses. The legislative council shall report its findings and

1 recommendations, together with any legislation required to implement the recommendations, to  
2 the sixtieth and sixty-first legislative assemblies.

3 **SECTION 23. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.**

4 During the 2005-06 interim, the legislative council shall study issues relating to venture and risk  
5 capital and whether and how some of these issues may be negatively impacting business  
6 development in the state. The study must address how to define venture and risk capital for  
7 purposes of the study; real and perceived issues regarding gaps in the availability of venture  
8 and risk capital in the state; whether state programs adequately address the venture and risk  
9 capital needs of businesses in the state and whether these programs should be changed to  
10 increase availability to venture and risk capital, including whether the partnership in assisting  
11 community expansion program might be used as a model to address possible venture and risk  
12 capital availability issues and whether the state could effectively play a role as facilitator in  
13 improving access to venture and risk capital; how the state could assist in creating an  
14 environment more conducive to attracting private venture and risk capital in the state; and how  
15 other states have attempted to address venture and risk capital concerns of businesses. The  
16 legislative council shall report its findings and recommendations, together with any legislation  
17 required to implement the recommendations, to the sixtieth legislative assembly.

18 **SECTION 24. DAKOTA MANUFACTURING INITIATIVE.** The department of  
19 commerce shall seek to contract with the Dakota manufacturing extension partnership,  
20 incorporated, to implement the Dakota manufacturing initiative. The initiative includes building  
21 a membership association of manufacturers in North Dakota and South Dakota, complementing  
22 existing national, regional, and local manufacturing entities; providing nonduplicative services to  
23 the association's manufacturing members which address critical needs, including identifying  
24 and developing private procurement opportunities; and developing a consortium of major  
25 manufacturers in North Dakota and South Dakota to design and support overall supply chain  
26 development and supplier development. Under the initiative, state funds must be leveraged  
27 with additional public and private funds, which may include federal funding sources, South  
28 Dakota state funding, and funding from manufacturers.

29 **SECTION 25. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
30 commissioner of commerce shall report to the legislative council on the status of the Dakota  
31 manufacturing initiative provided for under section 24 of this Act. This report must include

1 information regarding how the initiative has been established and regarding the activities of the  
2 Dakota manufacturing extension partnership, incorporated. The commissioner shall include in  
3 the report whether the state should continue this initiative or whether the goal of assisting  
4 manufacturers would be better served by alternative means. The commissioner shall report  
5 whether there are potential changes that could be made to improve the networking of  
6 manufacturing businesses and other suppliers in this state.

7 **SECTION 26. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
8 president of the Bank of North Dakota shall report to the legislative council on the status of the  
9 Bank's investments in alternative and venture capital investments and early-stage capital funds  
10 under subdivision c of subsection 4 of section 6-09-15. The president shall inform the  
11 legislative council whether this investment program should continue and whether there are  
12 potential changes that could be made to improve the state's venture capital and early-stage  
13 capital investment structure.

14 **SECTION 27. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
15 state board of higher education and the centers of excellence commission shall report to the  
16 legislative council on the status of the centers of excellence program under section 15-10-41.  
17 The report must include information regarding funding, private sector participation, and  
18 accomplishments of each center of excellence and whether there are potential changes that  
19 could be made to improve the centers of excellence program.

20 **SECTION 28. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 and  
21 2007-08 interims, the director of the department of career and technical education shall report  
22 to the legislative council on the status of the cooperative work experience program under  
23 section 5 of this Act. The director shall inform the legislative council whether the program  
24 should continue and whether there are potential changes that could be made to increase and  
25 improve the partnerships between businesses and school districts.

26 **SECTION 29. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
27 commissioner of commerce shall report to the legislative council on the status of the North  
28 Dakota American Indian business development office and the status of the division of  
29 international trade, whether the North Dakota American Indian business development office and  
30 the division of international trade should continue, and whether there are potential changes that



1 could be made to enhance the support of American Indian businesses and to enhance the  
2 support of international trade by North Dakota businesses.

3 **SECTION 30. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
4 commissioner of commerce shall report to the legislative council on the status of the  
5 certification program through which the division of economic development and finance provides  
6 training services to local economic developers under section 8 of this Act. The report must  
7 include information regarding what services have been provided under the program to assist  
8 local economic developers, to whom the services were provided, local economic developer  
9 level of satisfaction with the program, whether the program should continue, and whether there  
10 are changes that could be made to better assist local economic developers.

11 **SECTION 31. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
12 commissioner of commerce shall report to the legislative council on the status of the image  
13 information program under section 12 of this Act. The report must include information regarding  
14 what information the program provides to state agencies and state agencies' employees, the  
15 manner in which the information is provided, the state agencies reached through the program,  
16 whether the program has been expanded to provide information to the private sector, whether  
17 the program should continue, and whether there are potential changes that could be made to  
18 better enhance the state's and private sector's ability to present a positive image of the state.

19 **SECTION 32. REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the  
20 commissioner of commerce shall report to the legislative council on the status of the business  
21 hotline program under section 13 of this Act. This report must include information regarding  
22 what information the program provides to callers; the number of calls made to the business  
23 hotline number; the manner in which the information is provided to callers; followup data; how  
24 the program is marketed; whether the program should continue; and whether there are potential  
25 changes that could be made to improve the dissemination of business information to  
26 businesses in the state, to persons planning on starting a business in the state, and to  
27 businesses wishing to do business in the state.

28 **SECTION 33. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO**  
29 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education  
30 shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating  
31 more efficient commercialization of new technologies. The study must include roundtable

1 discussions; include consideration of leveraging research, capital, and entrepreneurs; include  
2 consideration of successful actions taken by other states to increase technology  
3 commercialization; and focus on approaches that are specifically tailored to the state's unique  
4 circumstances. The board may contract with a third party to conduct the study. Before July 1,  
5 2006, the chancellor of the North Dakota university system shall report to the legislative council  
6 the outcome of the study and identify proposed legislative changes necessary to implement any  
7 recommendations to stimulate technology commercialization in this state.

8 **SECTION 34. INSURANCE AND LIABILITY STUDY - REPORT TO LEGISLATIVE**

9 **COUNCIL.** During the 2005-06 interim, the insurance commissioner shall conduct a study of  
10 the state's liability insurance marketplace. The study must include consideration of issues that  
11 may result in barriers for businesses seeking to obtain affordable liability insurance coverage,  
12 with specific focus on the travel and tourism industry, and must include consideration of  
13 successful actions taken by other states to improve the availability and affordability of liability  
14 insurance. The insurance commissioner may contract with a third party in performing this  
15 study. Before July 1, 2006, the insurance commissioner shall report to the legislative council  
16 the outcome of the study and identify proposed legislative changes necessary to implement any  
17 recommendations to make the state's laws and availability of liability insurance more attractive  
18 to businesses in this state.

19 **SECTION 35. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.**

20 During the 2005-06 interim, the upper great plains transportation institute shall conduct a study  
21 of how improvements to the transportation infrastructure of this state might enhance the  
22 business climate and the state's competitive position in economic development, with a focus on  
23 the potential to expand the sale of goods to markets outside the state by strengthening the  
24 state's transportation infrastructure. The study must include consideration of how to improve  
25 the load-carrying limits of the state's highways and associated costs and benefits; consideration  
26 of what enhancements must be made to the state's highways to allow load limits to be raised to  
27 more efficiently move goods to market and associated costs and benefits; exploration of the  
28 phenomenon of the decline of freight service by rail, including the prospects for offering  
29 incentives to rail providers to expand the availability of rail for transportation of goods to market  
30 and the associated costs and benefits; recommendations on how to enhance the state's  
31 transportation infrastructure; whether it is feasible to identify and assist airports that are

1 specially situated in order to assist in economic development; and an analysis of the projected  
2 economic development impacts associated with the recommended infrastructure  
3 improvements. Before July 1, 2006, the upper great plains transportation institute shall report  
4 to the legislative council the outcome of the study and identify proposed legislative changes  
5 necessary to implement any recommended changes to the state's transportation infrastructure.

6 **SECTION 36. INTELLECTUAL PROPERTY RIGHTS STUDY - REPORT TO**  
7 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the department of commerce, in  
8 consultation with the state board of higher education, shall conduct a study of the state's  
9 intellectual property laws as they relate to the protection of intellectual property rights. The  
10 study must include a review of the state's intellectual property laws, including barriers that may  
11 inhibit research and development in the state, and must include consideration of successful  
12 actions taken by other states to improve the protection of intellectual property rights. The  
13 department shall contract with a third party in performing this study. Before July 1, 2006, the  
14 commissioner of commerce shall report to the legislative council the outcome of the study and  
15 identify proposed legislative changes necessary to implement any recommendations to improve  
16 the protection of intellectual property rights.

17 **SECTION 37. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE**  
18 **COUNCIL.** During the 2005-06 interim, the director of the office of management and budget  
19 shall report to the legislative council on the status of providing procurement information through  
20 the internet under section 9 of this Act; perform a study on the most effective manner in which  
21 to provide for a procurement assistance center; and report to the legislative council on the  
22 outcome of the procurement assistance center study, including what services might be provided  
23 by such a center, how services might be provided by such a center, and what legislative  
24 changes would be required to implement such a center.

25 **SECTION 38. ECONOMIC DEVELOPMENT INCENTIVES STUDY - REPORT TO**  
26 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the department of commerce shall  
27 conduct a study of the state's economic development incentives. The study must include an  
28 inventory of all of the state's economic development incentives, a review of the nature of each  
29 incentive, an indication of the targeted class of recipients of each incentive, an indication of the  
30 stage of business targeted by each incentive, an analysis of possible barriers to using the  
31 incentives, an analysis of possible gaps and overlaps in the state's economic development

1 incentive system, a review of the effectiveness of each incentive and how to gauge the  
2 effectiveness of each incentive, and a review of economic development incentive best practices  
3 and how the state's incentives compare to best practices. The department of commerce may  
4 contract with a third party in performing this study. Before July 1, 2006, the commissioner of  
5 commerce shall report to the legislative council the outcome of the study and identify proposed  
6 legislative changes necessary to implement any recommended changes to the state's  
7 economic development incentive system to make the state's business environment more  
8 effective, efficient, and competitive.

9 **SECTION 39. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the  
10 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and  
11 tax incentives to stimulate business. The study must include consideration of gaps in tax  
12 incentives, include consideration of successful actions taken by other states to improve their tax  
13 environment for doing business, and focus on approaches that are specifically tailored to the  
14 state's unique circumstances. The tax commissioner may contract with a third party to conduct  
15 the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the  
16 outcome of the study and identify proposed legislative changes necessary to implement any  
17 recommendations to stimulate the state's business climate.

18 **SECTION 40. APPROPRIATION.** There is appropriated out of any moneys in the  
19 general fund in the state treasury, not otherwise appropriated, the sum of \$165,000, or so much  
20 of the sum as may be necessary, to the department of commerce for the purpose of contracting  
21 with the Dakota manufacturing extension partnership, incorporated, to implement the Dakota  
22 manufacturing initiative, under section 24 of this Act, for the biennium beginning July 1, 2005,  
23 and ending June 30, 2007.

24 **SECTION 41. EFFECTIVE DATE.** Sections 16, 17, 18, and 19 of this Act are effective  
25 for taxable years beginning after December 31, 2004. Section 20 of this Act becomes effective  
26 on August 1, 2007. Sections 2, 14, and 15 of this Act are effective for taxable years beginning  
27 after December 31, 2008. Section 21 of this Act becomes effective August 1, 2009.

28 **SECTION 42. EXPIRATION DATE.** Section 13 of this Act is effective through July 31,  
29 2007, and after that date is ineffective. Sections 5 and 12 of this Act are effective through  
30 July 31, 2009, and after that date are ineffective.