

SENATE BILL NO. 2032

Introduced by

Legislative Council

(Economic Development Committee)

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 appropriations; to provide effective dates; and
20 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 eight members. The foundation
17 shall appoint two members of the commission, the board shall appoint three
18 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 - Web site.**

- 30 1. The office of management and budget shall establish and maintain a procurement
31 information web site on the internet. This procurement information web site must

1 provide current information regarding North Dakota government procurement
2 opportunities in order to inform potential vendors of the commodities and services
3 sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for
4 each purchase of services or commodities over the amount established for small
5 purchases, the office of management and budget and every purchasing agency
6 shall provide procurement information on the web site. The time period and
7 manner of providing procurement information on the web site must be in
8 accordance with rules adopted by the office of management and budget. The
9 office of management and budget may contract with a third party to assist in
10 providing or maintaining the procurement information web site.

- 11 2. A state agency or institution may elect to use the procurement information web site
12 for the purchase of services and commodities that are not subject to the
13 procurement requirements of this chapter, including:
- 14 a. Commodities and services exempted under section 54-44.4-02;
 - 15 b. Public improvements under title 48;
 - 16 c. Architect, engineer, construction management, and land surveying services
17 under chapter 54-44.7; and
 - 18 d. Concessions under chapter 48-09.

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

21 **54-60-02. Department of commerce - Divisions.** The North Dakota department of
22 commerce is created. ~~All records, materials, supplies, and equipment used by the division of~~
23 ~~community services, department of economic development and finance, and the department of~~
24 ~~tourism are transferred to the department.~~

- 25 1. The department must consist of:
- 26 a. A division of community services;
 - 27 b. A division of economic development and finance;
 - 28 c. A division of tourism;
 - 29 d. A division of workforce development; ~~and~~
 - 30 e. A division of international trade; and
 - 31 f. Any division the commissioner determines necessary to carry out this chapter.

1 2. The commissioner shall appoint the director of any division ~~created by the~~
2 ~~commissioner under subsection 1. Effective August 1, 2003, the commissioner~~
3 ~~shall appoint the directors of the division of community services, division of~~
4 ~~economic development and finance, and division of workforce development.~~
5 ~~Effective August 1, 2005, the commissioner shall appoint the director of the division~~
6 ~~of tourism. Each director appointed by the commissioner serves at the pleasure of~~
7 ~~the commissioner and is entitled to receive a salary set by the commissioner within~~
8 ~~the limits of legislative appropriations. Until August 1, 2003, the governor shall~~
9 ~~appoint the directors of the division of community services, division of economic~~
10 ~~development and finance, and division of workforce development and until~~
11 ~~August 1, 2005, the governor shall appoint the director of the division of tourism.~~
12 ~~The individuals appointed by the governor shall serve at the pleasure of the~~
13 ~~governor and are entitled to receive a salary set by the governor within the limits of~~
14 ~~legislative appropriations.~~

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

17 **Target industries - Report to legislative council.** The commissioner shall identify
18 target industries on which the commissioner shall focus economic development efforts. The
19 commissioner shall designate one of these target industries as a special focus target industry.
20 In identifying and updating target industries, the commissioner shall solicit the advice of the
21 foundation and the North Dakota university system. The commissioner may contract for the
22 services of a third party in identifying target industries. The commissioner shall report biennially
23 to the legislative council. This report must include information regarding the process used and
24 factors considered in identifying and updating the target industries, the specific tactics the
25 department has used to specifically address the needs of the target industries, the unique
26 tactics and the specific incentives the department has used to support the growth of the special
27 focus target industry, and any recommended legislative changes necessary to better focus
28 economic development services on these industries.

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

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

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

7 **Business hotline.** The commissioner shall create and implement a business hotline
8 program. The program must provide for a telephone number through which the department
9 shall provide, during regular business hours, in-state and out-of-state callers with information
10 regarding how to do business in the state, the services and assistance available to businesses,
11 the advantages of doing business in the state, and information on state and other resources
12 that provide assistance to businesses in the state. In addition to directly providing information,
13 the department may use the business hotline as a clearinghouse through which to refer callers
14 to other federal, state, local, or private sector economic developers. The program must include
15 an in-state and out-of-state marketing campaign in support of the program. The commissioner
16 shall follow up on business leads gained through the program and shall gather data on the
17 results of calls, including business expansion, location, and startup.

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

- 20 1. The taxable income of an individual, estate, or trust as computed pursuant to the
21 provisions of the United States Internal Revenue Code of 1954, as amended, shall
22 be:
- 23 a. Reduced by any interest received from obligations of the United States that is
24 included in taxable income or in the computation thereof on the federal return.
 - 25 b. Reduced by any other income included in the taxable income, or in the
26 computation thereof, on the federal return which is exempt from taxation by
27 this state because of the provisions of the Constitution of North Dakota or the
28 Constitution of the United States.
 - 29 c. Reduced by the amount of federal income tax liability, but not social security
30 and self-employment taxes, as computed under chapter 1 of the Internal
31 Revenue Code of 1954, as amended, for the same taxable year for which the

1 North Dakota return is being filed, to the extent that such taxes are computed
2 upon income which becomes a part of the North Dakota taxable income.
3 Provided, that no adjustment to federal income taxes, paid or accrued, is
4 required because of allowable deductions to federal taxable income made
5 under the cost recovery provisions of subdivision b of subsection 5 of section
6 57-38-01. However, such federal income tax liability must be reduced by all
7 credits thereon except credits for federal income tax withholding payments,
8 estimates of federal income tax, and income taxes of foreign countries.
9 Federal income taxes for prior periods assessed against the taxpayer by
10 reason of audit or other adjustment by the internal revenue service, or
11 voluntary disclosure by the taxpayer, are not deductible except in the period in
12 which income so taxed was reported or reportable or in which an adjustment
13 was required but only after an adjustment is made by or with the office of the
14 state tax commissioner. A refund of federal income tax must be reported and
15 included in North Dakota taxable income in the year in which the tax was
16 originally deducted.

17 d. (1) Reduced by three hundred dollars if the return filed is a joint return by
18 husband and wife. If separate returns are filed by husband and wife, no
19 deduction can be taken under this subdivision. This subdivision shall
20 not be applicable to estates or trusts.

21 (2) Reduced by three hundred dollars if the return filed is the return of a
22 "head of household" as defined by the United States Internal Revenue
23 Code of 1954, as amended; provided, that the term "head of
24 household" shall also include a "surviving spouse" as defined by said
25 code.

26 (3) Reduced by seven hundred fifty dollars for each adopted child who is
27 under the age of twenty-one years and who is either irreversibly
28 mentally retarded or, on the basis of the annual findings of a licensed
29 physician, is blind or disabled as determined pursuant to the provisions
30 of title XVI of the United States Social Security Act, provided the return
31 filed is the return of the parent of an adopted child and such child

- 1 qualifies as a dependent of such parent for federal income tax
2 purposes.
- 3 (4) Reduced, up to a maximum of one thousand dollars, by the amount of
4 filing fees, attorney's fees, and travel costs incurred in connection with
5 an adoption and by the actual costs paid to a licensed child-placing
6 agency in making the adoptive study and in supervising and evaluating
7 the adoptive placement. Provided, however, that the reduction allowed
8 under this paragraph shall apply only to such adoption expenses of a
9 child who qualifies under the provisions of paragraph 3.
- 10 (5) Reduced by one thousand seven hundred fifty dollars for each child
11 under the age of twenty-one years adopted by the taxpayer. The
12 reduction under this paragraph may be claimed only by an adoptive
13 parent of an adopted child and the child must qualify as a dependent of
14 the adoptive parent for federal income tax purposes. The reduction
15 may be claimed by only one spouse, for spouses filing separately under
16 this chapter. The reduction provided by this paragraph may be claimed
17 for the taxable year in which the adoption becomes final and any
18 unused portion of the reduction may be carried forward by the taxpayer
19 for up to five taxable years. The reduction does not apply to the
20 adoption of children of the taxpayer's spouse.
- 21 e. Reduced by the actual amount of the medical expenses that were incurred but
22 not allowed on the federal return by reason of the federal medical deduction
23 limitation.
- 24 f. Increased by the amount of any income taxes, or franchise or privilege taxes
25 measured by income, to the extent that such taxes were deducted to
26 determine federal taxable income.
- 27 g. Increased by the amount of any interest and dividends from foreign securities
28 and from securities of state and their political subdivisions exempt from
29 federal income tax; provided, that interest upon obligations of the state of
30 North Dakota or any of its political subdivisions shall not be included.

- 1 h. Except for residents, reduced by the amount of net income not allocated and
2 apportioned to this state under the provisions of chapter 57-38.1, but only to
3 the extent that the amount of net income not allocated and apportioned to this
4 state under the provisions of that chapter is not included in any adjustment
5 made pursuant to the preceding subdivisions.
- 6 i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- 7 j. Reduced by any amount, up to a maximum of five thousand dollars, received
8 pursuant to the firefighters relief associations authorized by chapters 18-05
9 and 18-11, policemen's pension funds authorized by chapter 40-45, or the
10 highway patrolmen's retirement system authorized by chapter 39-03.1;
11 provided, however, that the adjustment provided in this subdivision shall be
12 reduced by any amount received pursuant to the federal Social Security Act.
- 13 k. j. Reduced by any amount, up to a maximum of one thousand dollars, received
14 by any person as payment for services performed while on active duty in the
15 armed forces of the United States or as payment for attending periodic
16 training meetings for drill and instruction as a member of the national guard or
17 of a reserve unit of the armed forces of the United States. However, persons
18 serving in the armed forces of the United States, except field grade and
19 general officers, who are stationed outside of any state of the United States or
20 the District of Columbia for not less than thirty days during the tax year shall
21 be allowed an additional reduction of up to three hundred dollars per month
22 for each month or portion of a month received as payment for services
23 performed while on active duty at such location.
- 24 l. k. Reduced by any amount, up to a maximum of five thousand dollars, received
25 by any person fifty years of age or older as retired military personnel pay for
26 service in the United States army, navy, air force, coast guard, or marine
27 corps or reserve components thereof; provided, however, that the adjustment
28 provided in this subdivision shall be reduced by any amount received
29 pursuant to the federal Social Security Act.
- 30 m. l. Reduced by the amount of interest received during that taxable year on a
31 contract for deed on the sale of eighty or more acres [32.37 or more hectares]

1 of agricultural land to a beginning farmer. The contract for deed must extend
2 for not less than ten years and have an annual interest rate equal to or less
3 than the minimum rate allowed by the internal revenue service before interest
4 is imputed. In order for an individual, estate, or trust to qualify for this
5 reduction, the taxpayer must obtain a statement from the buyer stating that
6 the buyer meets all requirements of the beginning farmer definition, together
7 with such other information as the state tax commissioner may require. The
8 value placed on any real property located in North Dakota and owned by the
9 buyer must be the amount listed as the true and full value on the most recent
10 real estate tax statement for that particular piece of property. In determining
11 the net worth of any person, including the person's dependents and spouse, if
12 any, for purposes of this subdivision, the value of their equity in their principal
13 residence, the value of one personal or family motor vehicle, and the value of
14 their household goods, including furniture, appliances, musical instruments,
15 clothing, and other personal belongings may not be included. This statement
16 must be filed along with the income tax return. For the purposes of this
17 subdivision, "beginning farmer" means any person who is:

- 18 (1) A resident of this state.
- 19 (2) Receiving more than one-half of that person's gross annual income
20 from farming, unless the person initially commences farming during the
21 tax year for which an adjustment will be claimed under this subdivision.
- 22 (3) Intending to use any farmland to be purchased or rented for agricultural
23 purposes.
- 24 (4) Except for contracts for deed entered into prior to July 1, 1985, having
25 adequate training by education in the type of farming operation which
26 the person wishes to begin through satisfactory participation in the adult
27 farm management education program of the state board for career and
28 technical education or an equivalent program approved by the
29 agriculture commissioner.
- 30 (5) Having, including the net worth of any dependents and spouse, a net
31 worth of less than one hundred thousand dollars.

1 ~~m.~~ m. Reduced by the amount of interest received during that taxable year on a
2 contract on the sale of any land, buildings, improvements, and equipment
3 associated with the land, buildings, or improvements, used or useful in
4 connection with a revenue-producing enterprise to a beginning businessman,
5 excluding beginning farmers as defined in subdivision ~~m.~~ l. The contract must
6 extend for not less than ten years and have an annual interest rate equal to or
7 less than the minimum rate allowed by the internal revenue service before
8 interest is imputed. In order for an individual, estate, or trust to qualify for this
9 reduction, the taxpayer must obtain a statement from the buyer containing a
10 list of the buyer's assets and debts and giving the buyer's net worth, together
11 with any other information required by the state tax commissioner. The value
12 placed on any real property located in North Dakota and owned by the buyer
13 shall be the amount listed as the current market value on the most recent real
14 estate tax statement for that particular piece of property. In determining the
15 net worth of any person, including that person's dependents and spouse, if
16 any, the value of their equity in their principal residence, the value of one
17 personal or family motor vehicle, and the value of their household goods,
18 including furniture, appliances, musical instruments, clothing, and other
19 personal belongings is not to be included. This statement is to be filed along
20 with the income tax return. For the purposes of this subdivision, "beginning
21 businessman", excluding beginning farmers as defined in subdivision ~~m.~~ l.,
22 means any person who is:

- 23 (1) A resident of this state.
- 24 (2) Receiving more than one-half of that person's gross annual income
25 from a revenue-producing enterprise, unless the person initially
26 commences business during the tax year for which an adjustment will
27 be claimed under this subdivision.
- 28 (3) Intending to use any revenue-producing enterprise purchased or rented
29 for business purposes.
- 30 (4) Adequately trained, by experience or education, in the type of
31 revenue-producing enterprise which that person wishes to begin.

- 1 (5) The owner of property with a net worth, including the net worth of
2 property of that person's dependents and spouse, if any, of less than
3 one hundred thousand dollars.
- 4 e. n. Reduced by any amount, up to a maximum of three hundred dollars received
5 by any person or six hundred dollars if a joint return is filed, as interest earned
6 from a financial institution located in this state. For purposes of this
7 subdivision, "financial institution" means any organization authorized to do
8 business under state or federal laws relating to financial institutions, including
9 banks and trust companies, savings banks, building and loan associations,
10 savings and loan companies or associations, and credit unions.
- 11 p. ~~Repealed by S.L. 1999, ch. 487, § 3.~~
- 12 q. ~~Reduced by the amount, up to a maximum of five thousand dollars for any
13 person or ten thousand dollars if a joint return is filed, of investment made
14 after January 1, 1989, in a venture capital corporation organized pursuant to
15 chapter 10-30.1. This deduction may only be taken in the tax year in which
16 the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a
17 taxpayer that makes an investment in a venture capital corporation on or after
18 July 1, 1989, is only entitled to a deduction if the venture capital corporation
19 uses the funds it receives from the taxpayer to invest or provide financing to
20 qualified entities, which entities do not include a business or an affiliate of a
21 business that owns tax-exempt securities.~~
- 22 r. o. Reduced by any amount, up to a maximum of five thousand dollars, received
23 as retirement benefits paid by the United States, a territory or possession or
24 political subdivision thereof, the government of the District of Columbia, or an
25 agency or instrumentality of one or more of the foregoing, other than retired
26 military personnel pay, as exempted in subdivision l k; provided, however, that
27 the adjustment provided in this subdivision must be reduced by any amount
28 received pursuant to the federal Social Security Act.
- 29 s. p. Reduced by the portion of a distribution from a qualified investment fund
30 described in section 57-38-01 which is attributable to investments by the
31 qualified investment fund in obligations of the United States, obligations of

1 North Dakota or its political subdivisions, and any other obligation the interest
2 from which is exempt from state income tax under federal statute or United
3 States or North Dakota constitutional provisions; provided the amount of the
4 distribution excluded under this subdivision is included in federal taxable
5 income.

6 ~~†~~ q. Reduced by an amount equal to the earnings that are passed through to a
7 taxpayer in connection with an allocation and apportionment to North Dakota
8 under chapter 57-35.3.

9 ~~†~~ r. Reduced by the amount received by the taxpayer as payment for services
10 performed when called or ordered to title 10 United States Code federal
11 service as a member of the national guard or reserve member of the armed
12 forces of the United States. An individual claiming the reduction under this
13 subdivision may not also claim the reduction under subdivision ~~k~~ j for the time
14 the individual was under federal orders for active duty and may not claim a
15 reduction on income already excluded from federal taxation due to service in
16 a combat or hazardous duty zone. This subdivision does not apply to federal
17 service while attending annual training, basic military training, professional
18 military education, or active guard and reserve tours for which the member
19 has volunteered.

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

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

- 25 1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~
26 l of subsection 1 of section 57-38-01.2, means any person who:
- 27 a. Is a resident of this state.
 - 28 b. Receives more than one-half of that person's gross annual income from a
29 revenue-producing enterprise, unless the person initially commences
30 business during the tax year for which a deduction will be claimed under
31 sections 57-38-71 through 57-38-74.

- 1 c. Intends to use any revenue-producing enterprise purchased or rented for
- 2 business purposes.
- 3 d. Has had adequate training, by experience or education, in the type of
- 4 revenue-producing enterprise which that person wishes to begin.
- 5 e. Has, including the net worth of that person's dependents and spouse, if any, a
- 6 net worth of less than one hundred thousand dollars, not including the value
- 7 of their equity in their principal residence, the value of one personal or family
- 8 motor vehicle, and the value of their household goods, including furniture,
- 9 appliances, musical instruments, clothing, and other personal belongings.

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

12 **57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise
13 requires:

- 14 1. "Director" means the director of the department of commerce division of economic
- 15 development and finance.
- 16 2. "New wealth" means revenues to a North Dakota business which are generated by
- 17 sales of products or services to customers outside of the state. "New wealth" also
- 18 includes revenues to a qualified business the customers of which previously were
- 19 unable to acquire, or had limited availability of, the product or service from a North
- 20 Dakota provider.
- 21 3. "Passthrough entity" means a corporation that for the applicable tax year is treated
- 22 as an S corporation or a general partnership, limited partnership, limited liability
- 23 partnership, trust, or limited liability company and which for the applicable tax year
- 24 is not taxed as a corporation under chapter 57-38.
- 25 4. "Primary sector business" means a qualified business that through the employment
- 26 of knowledge or labor adds value to a product, process, or service and which
- 27 results in the creation of new wealth.
- 28 ~~4.~~ 5. "Qualified business" means:
- 29 a. A primary sector business that:

- 1 (1) Is incorporated or its satellite operation is incorporated as a for-profit
- 2 corporation or is a partnership, limited partnership, limited liability
- 3 company, limited liability partnership, or joint venture;
- 4 (2) Is in compliance with the requirements for filings with the securities
- 5 commissioner under the securities laws of this state;
- 6 (3) Has North Dakota residents as a majority of its employees in the North
- 7 Dakota principal office or the North Dakota satellite operation; and
- 8 (4) Has its principal office in this state and has the majority of its business
- 9 activity performed in this state, except sales activity, or has a significant
- 10 operation in North Dakota that has or is projected to have more than ten
- 11 employees or one hundred fifty thousand dollars of sales annually; or
- 12 b. An organization that:
- 13 (1) Is in compliance with the requirements for filings with the securities
- 14 commissioner under the securities laws of this state; and
- 15 (2) Attracts investments to build and own a value-added agricultural
- 16 processing facility that it leases with an option to purchase to a primary
- 17 sector business that qualifies under subdivision a.

18 ~~5.~~ 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough

19 entity.

20 **SECTION 17. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is

21 amended and reenacted as follows:

22 **57-38.5-02. Certification - Investment reporting by qualified businesses -**

23 **Maximum investments in qualified businesses.** The director shall certify whether a business

24 that has requested to become a qualified business meets the requirements of subsection ~~4~~ 5 of

25 section 57-38.5-01 and the certification must include the period of time the certification covers.

26 The director shall establish the necessary forms and procedures for certifying qualified

27 businesses. The maximum aggregate amount of qualified investments a qualified business

28 may receive is limited to two million five hundred thousand dollars under this chapter. The

29 limitation on investments under this section may not be interpreted to limit additional investment

30 by a taxpayer for which that taxpayer is not applying for a credit.

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

3 **57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified
4 investment in a qualified business, the taxpayer is entitled to a credit against state income tax
5 liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the credit to which a
6 taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified
7 businesses during the taxable year, subject to the following:

- 8 1. The aggregate annual investment for which a taxpayer may obtain a tax credit
9 under this section is not ~~less than five thousand dollars and not~~ more than two
10 hundred fifty thousand dollars. This subsection may not be interpreted to limit
11 additional investment by a taxpayer for which that taxpayer is not applying for a
12 credit.
- 13 2. In any taxable year, a taxpayer may claim no more than one-third of the credit
14 under this section which is attributable to investments in a single taxable year.
- 15 3. Any amount of credit under this section not allowed because of the limitations in
16 this section may be carried forward for up to four taxable years after the taxable
17 year in which the investment was made.
- 18 4. A ~~partnership~~ passthrough entity that invests in a qualified business must be
19 considered to be the taxpayer for purposes of the investment limitations in this
20 section and the amount of the credit allowed with respect to a ~~partnership's~~
21 passthrough entity's investment in a qualified business must be determined at the
22 ~~partnership~~ passthrough entity level. The amount of the total credit determined at
23 the ~~partnership~~ passthrough entity level must be allowed to the ~~partners, limited to~~
24 ~~individuals, estates, and trusts,~~ members in proportion to their respective interests
25 in the ~~partnership~~ passthrough entity.
- 26 5. The investment must be at risk in the business. An investment for which a credit is
27 received under this section must remain in the business for at least three years.
- 28 6. The entire amount of an investment for which a credit is claimed under this section
29 must be expended by the qualified business for plant, equipment, research and
30 development, marketing and sales activity, or working capital for the qualified
31 business.

- 1 7. A taxpayer who owns a controlling interest in the qualified business or whose
2 full-time professional activity is the operation of the business is not entitled to a
3 credit under this section. A member of the immediate family of a taxpayer
4 disqualified by this subsection is not entitled to the credit under this section. For
5 purposes of this subsection, "immediate family" means the taxpayer's spouse,
6 parent, sibling, or child or the spouse of any such person.
- 7 8. The tax commissioner may disallow any credit otherwise allowed under this section
8 if any representation by a business in the application for certification as a qualified
9 business proves to be false or if the taxpayer or qualified business fails to satisfy
10 any conditions under this section or any conditions consistent with this section
11 otherwise determined by the tax commissioner. The amount of any credit
12 disallowed by the tax commissioner that reduced the taxpayer's income tax liability
13 for any or all applicable tax years, plus penalty and interest as provided under
14 section 57-38-45, must be paid by the taxpayer.

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

17 **57-38.5-05. Seed capital investment tax credit limits.** The aggregate amount of
18 seed capital investment tax credit allowed for investments under this chapter ~~through calendar~~
19 ~~year 2002 is limited to one million dollars and after calendar year 2002 is limited to two million~~
20 five hundred thousand dollars for each calendar year. If investments in qualified businesses
21 reported to the commissioner under section 57-38.5-07 exceed the limits on tax credits for
22 investments imposed by this section, the credit must be allowed to taxpayers in the
23 chronological order of their investments in qualified businesses as determined from the forms
24 filed under section 57-38.5-07.

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

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

29 **SECTION 22. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE**
30 **COUNCIL STUDY.** During the 2005-06 and 2007-08 interims, the legislative council shall study
31 the state's business climate through a business climate initiative. The business climate

1 initiative must include receipt of agency reports regarding economic development legislation
2 introduced by the legislative council during previous legislative sessions, active participation in
3 business climate focus groups across the state, and active participation in biennial business
4 congresses. The focus groups shall discuss ways to enhance the state's business climate to
5 stimulate job growth and enhance economic prosperity by encouraging the growth of existing
6 businesses in the state, creating new businesses in the state, and encouraging expansion or
7 relocation of businesses to this state. Each business congress must receive a report on the
8 activities of the focus group discussions, shall identify methods to enhance the state's business
9 climate to stimulate job growth and enhance economic prosperity, and shall evaluate the impact
10 of existing state economic development programs. The department of commerce shall
11 organize the business climate focus groups and the business congresses. Before each
12 business congress, which must be held before June 1, 2006, and before June 1, 2008, the
13 department shall hold a minimum of six focus group discussions, two of which specifically focus
14 on local economic developers and four of which specifically focus on private business needs.
15 The department shall consult with the legislative council in compiling focus group and business
16 congress participant invitation lists and drafting and distributing invitations, establishing focus
17 group and business congress dates and locations, and preparing agendas for focus groups and
18 business congresses. The legislative council shall contract with a third party to provide
19 professional services to plan, facilitate, report on, and coordinate followup for the focus groups
20 and business congresses. The legislative council shall report its findings and
21 recommendations, together with any legislation required to implement the recommendations, to
22 the sixtieth and sixty-first legislative assemblies.

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

24 During the 2005-06 interim, the legislative council shall study issues relating to venture and risk
25 capital and whether and how some of these issues may be negatively impacting business
26 development in the state. The study must address how to define venture and risk capital for
27 purposes of the study; real and perceived issues regarding gaps in the availability of venture
28 and risk capital in the state; whether state programs adequately address the venture and risk
29 capital needs of businesses in the state and whether these programs should be changed to
30 increase availability to venture and risk capital, including whether the partnership in assisting
31 community expansion program might be used as a model to address possible venture and risk

1 capital availability issues and whether the state could effectively play a role as facilitator in
2 improving access to venture and risk capital; how the state could assist in creating an
3 environment more conducive to attracting private venture and risk capital in the state; and how
4 other states have attempted to address venture and risk capital concerns of businesses. The
5 legislative council shall report its findings and recommendations, together with any legislation
6 required to implement the recommendations, to the sixtieth legislative assembly.

7 **SECTION 24. DAKOTA MANUFACTURING INITIATIVE.** The department of
8 commerce shall seek to contract with the Dakota manufacturing extension partnership,
9 incorporated, to implement the Dakota manufacturing initiative. The initiative includes building
10 a membership association of manufacturers in North Dakota and South Dakota, complementing
11 existing national, regional, and local manufacturing entities; providing nonduplicative services to
12 the association's manufacturing members which address critical needs, including identifying
13 and developing private procurement opportunities; and developing a consortium of major
14 manufacturers in North Dakota and South Dakota to design and support overall supply chain
15 development and supplier development. Under the initiative, state funds must be leveraged
16 with additional public and private funds, which may include federal funding sources, South
17 Dakota state funding, and funding from manufacturers.

18 **SECTION 25. DAKOTA MANUFACTURING INITIATIVE - REPORT TO**
19 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the commissioner of commerce shall
20 report to the legislative council on the status of the Dakota manufacturing initiative provided for
21 under section 24 of this Act. This report must include information regarding how the initiative
22 has been established and regarding the activities of the Dakota manufacturing extension
23 partnership, incorporated. The commissioner shall include in the report whether the state
24 should continue this initiative or whether the goal of assisting manufacturers would be better
25 served by alternative means. The commissioner shall report whether there are potential
26 changes that could be made to improve the networking of manufacturing businesses and other
27 suppliers in this state.

28 **SECTION 26. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS -**
29 **EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the
30 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council
31 on the status of the Bank's investments in alternative and venture capital investments and

1 early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president
2 shall inform the legislative council whether this investment program should continue and
3 whether there are potential changes that could be made to improve the state's venture capital
4 and early-stage capital investment structure.

5 **SECTION 27. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.**

6 During the 2005-06 interim, the state board of higher education and the centers of excellence
7 commission shall report to the legislative council on the status of the centers of excellence
8 program under section 15-10-41. The report must include information regarding funding,
9 private sector participation, and accomplishments of each center of excellence and whether
10 there are potential changes that could be made to improve the centers of excellence program.

11 **SECTION 28. COOPERATIVE WORK EXPERIENCE PROGRAM - REPORT TO**
12 **LEGISLATIVE COUNCIL.** During the 2005-06 and 2007-08 interims, the director of the

13 department of career and technical education shall report to the legislative council on the status
14 of the cooperative work experience program under section 5 of this Act. The director shall
15 inform the legislative council whether the program should continue and whether there are
16 potential changes that could be made to increase and improve the partnerships between
17 businesses and school districts.

18 **SECTION 29. NORTH DAKOTA AMERICAN INDIAN BUSINESS DEVELOPMENT**
19 **OFFICE - DIVISION OF INTERNATIONAL TRADE - REPORT TO LEGISLATIVE COUNCIL.**

20 During the 2005-06 interim, the commissioner of commerce shall report to the legislative council
21 on the status of the North Dakota American Indian business development office and the status
22 of the division of international trade, whether the North Dakota American Indian business
23 development office and the division of international trade should continue, and whether there
24 are potential changes that could be made to enhance the support of American Indian
25 businesses and to enhance the support of international trade by North Dakota businesses.

26 **SECTION 30. LOCAL ECONOMIC DEVELOPERS CERTIFICATION PROGRAM -**
27 **REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the commissioner of

28 commerce shall report to the legislative council on the status of the certification program
29 through which the division of economic development and finance provides training services to
30 local economic developers under section 8 of this Act. The report must include information
31 regarding what services have been provided under the program to assist local economic

1 developers, to whom the services were provided, local economic developer level of satisfaction
2 with the program, whether the program should continue, and whether there are changes that
3 could be made to better assist local economic developers.

4 **SECTION 31. IMAGE INFORMATION PROGRAM - REPORT TO LEGISLATIVE**

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

13 **SECTION 32. BUSINESS HOTLINE PROGRAM - REPORT TO LEGISLATIVE**

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

22 **SECTION 33. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO**

23 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education
24 shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating
25 more efficient commercialization of new technologies. The study must include roundtable
26 discussions; include consideration of leveraging research, capital, and entrepreneurs; include
27 consideration of successful actions taken by other states to increase technology
28 commercialization; and focus on approaches that are specifically tailored to the state's unique
29 circumstances. The board may contract with a third party to conduct the study. Before July 1,
30 2006, the chancellor of the North Dakota university system shall report to the legislative council

1 the outcome of the study and identify proposed legislative changes necessary to implement any
2 recommendations to stimulate technology commercialization in this state.

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

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

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

15 During the 2005-06 interim, the upper great plains transportation institute shall conduct a study
16 of how improvements to the transportation infrastructure of this state might enhance the
17 business climate and the state's competitive position in economic development, with a focus on
18 the potential to expand the sale of goods to markets outside the state by strengthening the
19 state's transportation infrastructure. In conducting this study, the upper great plains
20 transportation institute shall consult with the department of transportation and the department
21 shall cooperate in the study. The study must include consideration of how to improve the
22 load-carrying limits of the state's highways and associated costs and benefits; consideration of
23 what enhancements must be made to the state's highways to allow load limits to be raised to
24 more efficiently move goods to market and associated costs and benefits; exploration of the
25 phenomenon of the decline of freight service by rail, including the prospects for offering
26 incentives to rail providers to expand the availability of rail for transportation of goods to market
27 and the associated costs and benefits; recommendations on how to enhance the state's
28 transportation infrastructure; whether it is feasible to identify and assist airports that are
29 specially situated in order to assist in economic development; and an analysis of the projected
30 economic development impacts associated with the recommended infrastructure
31 improvements. Before July 1, 2006, the upper great plains transportation institute shall report

1 to the legislative council the outcome of the study and identify proposed legislative changes
2 necessary to implement any recommended changes to the state's transportation infrastructure.

3 **SECTION 36. INTELLECTUAL PROPERTY RIGHTS STUDY - REPORT TO**

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

14 **SECTION 37. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE**

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

22 **SECTION 38. ECONOMIC DEVELOPMENT INCENTIVES STUDY - REPORT TO**

23 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the department of commerce shall
24 conduct a study of the state's economic development incentives. The study must include an
25 inventory of all of the state's economic development incentives, a review of the nature of each
26 incentive, an indication of the targeted class of recipients of each incentive, an indication of the
27 stage of business targeted by each incentive, an analysis of possible barriers to using the
28 incentives, an analysis of possible gaps and overlaps in the state's economic development
29 incentive system, a review of the effectiveness of each incentive and how to gauge the
30 effectiveness of each incentive, and a review of economic development incentive best practices
31 and how the state's incentives compare to best practices. The department of commerce may

1 contract with a third party in performing this study. Before July 1, 2006, the commissioner of
2 commerce shall report to the legislative council the outcome of the study and identify proposed
3 legislative changes necessary to implement any recommended changes to the state's
4 economic development incentive system to make the state's business environment more
5 effective, efficient, and competitive.

6 **SECTION 39. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the
7 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and
8 tax incentives to stimulate business. The study must include consideration of gaps in tax
9 incentives, include consideration of successful actions taken by other states to improve their tax
10 environment for doing business, and focus on approaches that are specifically tailored to the
11 state's unique circumstances. The tax commissioner may contract with a third party to conduct
12 the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the
13 outcome of the study and identify proposed legislative changes necessary to implement any
14 recommendations to stimulate the state's business climate.

15 **SECTION 40. APPROPRIATION.** The funds provided in this section, or so much of the
16 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
17 treasury, not otherwise appropriated, and from special funds derived from fees and other
18 income, to the department of commerce for the following purposes, for the biennium beginning
19 July 1, 2005, and ending June 30, 2007, as follows:

20		GENERAL	SPECIAL
21	PURPOSE	FUND	FUNDS
22	Target industry identification and report	\$50,000	
23	Image information program	100,000	
24	Business hotline program	30,000	
25	Division of international trade	413,103	
26	Local economic developer certification and	50,000	\$100,000
27	training program		
28	Dakota manufacturing initiative	165,000	
29	Intellectual property rights study and report	50,000	
30	Economic development incentives study and report	30,000	

1	Business climate initiative study	<u>50,000</u>	_____
2	Total	\$938,103	\$100,000

3 The image information program and business hotline program are authorized one full-time
4 equivalent position, to be shared between the programs. The division of international trade is
5 authorized one and one-half full-time equivalent positions. The special funds for the local
6 economic developer certification and training program are derived from fees charged for the
7 services offered under the program.

8 **SECTION 41. APPROPRIATION.** There is appropriated out of any moneys in the
9 general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much
10 of the sum as may be necessary, to the office of management and budget for the purpose of
11 establishing and maintaining procurement information on the internet and for performing the
12 procurement assistance study, for the biennium beginning July 1, 2005, and ending June 30,
13 2007.

14 **SECTION 42. EFFECTIVE DATE.** Sections 16, 17, 18, and 19 of this Act are effective
15 for taxable years beginning after December 31, 2004. Section 20 of this Act becomes effective
16 on August 1, 2007. Sections 2, 14, and 15 of this Act are effective for taxable years beginning
17 after December 31, 2008. Section 21 of this Act becomes effective August 1, 2009.

18 **SECTION 43. EXPIRATION DATE.** Section 13 of this Act is effective through July 31,
19 2007, and after that date is ineffective. Sections 5 and 12 of this Act are effective through
20 July 31, 2009, and after that date are ineffective.