

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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;  
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  
25 sale.
- 26 8. Securities, including patronage dividends or refunds, issued by any cooperative  
27 organized under the statutes of this state.
- 28 9. Any equipment security based on a chattel mortgage, lease, or agreement for the  
29 conditional sale of cars, motive power, or other rolling stock mortgaged, leased,  
30 sold to, or furnished for the use of a railroad or other public service utility  
31 corporation or limited liability company, and any equipment security when the



1 ownership of or title to such equipment is pledged or retained in accordance with  
2 the provisions of the laws of the United States or of any state thereof, or of the  
3 Dominion of Canada, to secure the payments of such equipment security whether  
4 it be an equipment trust certificate, bond, or note.

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

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

19 ~~12. Any security issued by a venture capital corporation or limited liability company~~  
20 ~~organized under and operating in compliance with chapter 10-30.1; provided that~~  
21 ~~prior to any offer of such security, the issuer must meet the following conditions:~~  
22 ~~a. Apply for and obtain written approval by the commissioner.~~  
23 ~~b. File an application, offering disclosure document, and pay a nonrefundable~~  
24 ~~filing fee of one hundred fifty dollars. The document and fee must accompany~~  
25 ~~the application.~~  
26 ~~e. File such additional information as the commissioner requires by rule or order~~  
27 ~~or may subsequently request.~~  
28 ~~d. Provide a copy of the offering disclosure document to each person to whom~~  
29 ~~an offer to sell or sale is made.~~

1 e. ~~Not use public advertising matter or general solicitation, except tombstone~~  
2 ~~advertisements approved by the commissioner, in connection with any offer~~  
3 ~~or sale.~~

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

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

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

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

21 (1) The New York stock exchange;

22 (2) The American stock exchange;

23 (3) The national association of securities dealers automated quotation  
24 national market system;

25 (4) Tier I of the Philadelphia stock exchange;

26 (5) Tier I of the Pacific stock exchange;

27 (6) Chicago board options exchange; or

28 (7) Any other stock exchange or automated quotation system which the  
29 commissioner approves by rule;

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

- 1 c. Any security called for by subscription rights or warrants so listed or  
2 approved; or  
3 d. Any warrant or right to purchase or subscribe to any of the foregoing.  
4 The commissioner may withdraw this exemption by order as to any exchange or  
5 system, or any particular security, if the commissioner determines that it would be  
6 in the public interest.
- 7 ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to  
8 members of the North Dakota education association.

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

11 **10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must  
12 be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the  
13 corporation may:

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

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

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

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

29 **15-10-41. Centers of excellence - Centers of excellence commission -**  
30 **Certification to budget section.**

- 1           1.    The state board of higher education shall establish a centers of excellence  
2                    program relating to economic development ~~consistent with the purpose under~~  
3                    ~~subsection 2~~ through which the centers of excellence commission makes funding  
4                    award recommendations to institutions of higher education under control of the  
5                    board, tribal colleges located in the state, private baccalaureate-granting  
6                    institutions of higher education located in the state, and university-related  
7                    foundations of public or private institutions of higher education located in the state.
- 8           2.    In this section, unless the context otherwise requires:
- 9                    a.    "Board" means the state board of higher education.
- 10                   b.   "Center" means a center of excellence relating to economic development.
- 11                   c.   "Commission" means the centers of excellence commission.
- 12                   d.   "Foundation" means the North Dakota economic development foundation.
- 13                   e.   "Industry cluster" means one of the following industries:
- 14                            (1)   Advanced manufacturing;
- 15                            (2)   Energy;
- 16                            (3)   Information and technology;
- 17                            (4)   Tourism;
- 18                            (5)   Value-added agriculture; or
- 19                            (6)   An industry, including the aerospace industry, specifically identified by  
20                                    the department of commerce as an industry that will contribute to the  
21                                    gross state product.
- 22           3.    The centers of excellence commission consists of six members. The foundation  
23                    shall appoint three members of the commission and the board shall appoint three  
24                    members of the commission. The commission members shall designate a  
25                    chairman and a vice chairman of the commission. Each member of the  
26                    commission shall serve for a term of three years, beginning July first of each  
27                    odd-numbered year; may be reappointed for additional terms; and serves at the  
28                    pleasure of the appointing entity. Initial terms must be staggered. A commission  
29                    member appointed by the board or foundation may receive compensation and  
30                    travel and expense reimbursement from the appointing entity. The commission  
31                    shall meet as necessary to review all applications; approve, disapprove, or

1 approve conditionally the applications; and make funding award recommendations.  
2 The board shall provide the commission with appropriate staff services as may be  
3 requested by the commission.

4 4. The board shall provide application forms, accept applications, review applications  
5 for completeness and compliance with board policy, and forward complete  
6 applications to the commission according to guidelines established by the  
7 commission. ~~The board shall designate centers of excellence. A designation by~~  
8 ~~the board of a center of excellence within the economic development category~~  
9 ~~does not preclude the board or a higher education institution from designating a~~  
10 ~~center of excellence in an academic or service area. Centers of excellence~~  
11 ~~relating to economic development include the North Dakota state university center~~  
12 ~~for technology 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 funding to an institution or  
24 an affiliated nonprofit foundation, the applicant shall establish in the application  
25 how the center will:

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

31 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 the leadership and support of the~~  
8           ~~national science foundation experimental program to stimulate competitive~~  
9           ~~research programs and to encourage partnerships with other state institutions~~  
10          ~~for expanded efforts to stimulate economic growth in identified industry~~  
11          ~~clusters; to provide leadership in science and technology policy at a regional,~~  
12          ~~a national, and an international level; and to create employment opportunities~~  
13          ~~for North Dakota university system graduates. Identified industry clusters~~  
14          ~~include advanced manufacturing, aerospace, energy, information and~~  
15          ~~technology, tourism, and value added agriculture.~~
- 16          6. In considering an application, the commission shall:
- 17           a. Make a determination that the requirements of subsection 5 have been  
18           established by the applicant.
- 19           b. Consider whether the center will:
- 20           (1) Promote job growth and expansion of knowledge-based industries or  
21           the development of new products, high-tech companies, or skilled jobs  
22           in this state;
- 23           (2) Create high-value private sector employment opportunities in this state;
- 24           (3) Provide for public-private sector involvement and partnerships;
- 25           (4) Leverage other funding;
- 26           (5) Foster and practice entrepreneurship;
- 27           (6) Link to targeted industry clusters; and
- 28           (7) Include provisions for becoming self-sustaining.
- 29           c. Following approval by the board, foundation, and commission, the board and  
30           commission shall report the details of a proposed designated center to the

1                   budget section. An approved award determination must include details  
2                   regarding the terms under which the board will distribute allocated funds.

3       ~~3. 7. The state board of higher education shall allocate funds from appropriations for~~  
4       ~~undesigned centers of excellence relating to economic development based on~~  
5       ~~the criteria established and~~ The board, in partnership with the commission and  
6       foundation, shall report to the budget section annually on such the status of  
7       ~~allocations, in partnership with the North Dakota economic development~~  
8       ~~foundation, to the budget section and actual fund distributions.~~

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

18       9. Before funds awarded under this section are distributed to an institution of higher  
19       ~~education under the control of the board of higher education or which is to a~~  
20       ~~nonprofit university-related or college-related foundation, the recipient shall:~~  
21       ~~a. Provide~~ provide the board of higher education with detailed documentation of  
22       ~~the availability of two dollars of matching funds for each dollar of funds~~  
23       ~~awarded under this section as a condition of eligibility for receipt of funds~~  
24       ~~under this section; and. However, the commission may reduce the matching~~  
25       ~~funds requirement for applications from institutions other than research~~  
26       ~~universities and the recipient shall provide the board with detailed~~  
27       ~~documentation of the likely availability of the matching funds.~~

28       ~~b. Provide~~ An institution of higher education under the control of the board or a  
29       ~~nonprofit university-related or college-related foundation that receives funds~~  
30       ~~under this section shall provide the board of higher education, governor, and~~

1                   ~~North Dakota economic development~~ foundation with annual reports for four  
2                   fiscal years following receipt of the funds.

3        10.   The Bank of North Dakota may loan up to fifty million dollars to the department of  
4           commerce to provide matching funds to recipients of funds awarded under this  
5           section. The debt service due under the loan may not exceed five million dollars  
6           per biennium. The loan may be entered into upon terms, conditions, and payment  
7           provisions as the parties deem in the best interests of the state. Repayment of  
8           each loan by the department of commerce must be secured by a pledge of interest  
9           income from the student loan trust fund and repaid from that source and is  
10          contingent upon receipt of sufficient biennial appropriations by the legislative  
11          assembly for that purpose.

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

14           **Cooperative work experience program.** The department shall administer a  
15 cooperative work experience grant program to provide funds to a school or a consortia of  
16 schools for the purpose of supporting local work experience programs that provide innovative  
17 strategies to enhance real world, on-the-job, cooperative work experiences for students in this  
18 state. The department shall establish eligibility criteria for funds under this section. A recipient  
19 of funds under this section may use the funds to fund a program coordinator position or to fund  
20 the local program, which may include internships, on-the-job training, school-to-work activities,  
21 and business programs.

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

24           **54-34.3-03. Division structure.** The division consists of:

- 25           ~~1.~~   A a finance office;
- 26           ~~2.~~   An international trade office; and
- 27           ~~3.~~   Other, offices established by statute, and offices that the director organizes and  
28           establishes as necessary to carry out most efficiently and effectively the mission  
29           and duties of the division.

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



1           1.    A North Dakota American Indian business development office to assist North  
2                    Dakota American Indian tribal and individual economic development  
3                    representatives, businesses, and ~~North Dakota American Indian~~ entrepreneurs  
4                    with access to state and federal programs designed to assist ~~them~~ these business  
5                    interests. The office shall provide services to assist in the formation of  
6                    partnerships between American Indian and non-American Indian businesses.

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

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

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

16          **Procurement information - Web site.**

17          1.    The office of management and budget shall establish and maintain a procurement  
18                information web site on the internet. This procurement information web site must  
19                provide current information regarding North Dakota government procurement  
20                opportunities in order to inform potential vendors of the commodities and services  
21                sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for  
22                each purchase of services or commodities over the amount established for small  
23                purchases, the office of management and budget and every purchasing agency  
24                shall provide procurement information on the web site. The time period and  
25                manner of providing procurement information on the web site must be in  
26                accordance with rules adopted by the office of management and budget. The  
27                office of management and budget may contract with a third party to assist in  
28                providing or maintaining the procurement information web site.

29          2.    A state agency or institution may elect to use the procurement information web site  
30                for the purchase of services and commodities that are not subject to the  
31                procurement requirements of this chapter, including:

- 1           a. Commodities and services exempted under section 54-44.4-02;
- 2           b. Public improvements under title 48;
- 3           c. Architect, engineer, construction management, and land surveying services  
4             under chapter 54-44.7; and
- 5           d. Concessions under chapter 48-09.

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

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

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

1           ~~the pleasure of the governor and are entitled to receive a salary set by the~~  
2           ~~governor within the limits of legislative appropriations.~~

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

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

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

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

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

25           **Business hotline.** The commissioner shall create and implement a business hotline  
26 program. The program must provide for a telephone number through which the department  
27 shall provide, during regular business hours, in-state and out-of-state callers with information  
28 regarding how to do business in the state, the services and assistance available to businesses,  
29 the advantages of doing business in the state, and information on state and other resources  
30 that provide assistance to businesses in the state. In addition to directly providing information,  
31 the department may use the business hotline as a clearinghouse through which to refer callers

1 to other federal, state, local, or private sector economic developers. The program must include  
2 an in-state and out-of-state marketing campaign in support of the program. The commissioner  
3 shall follow up on business leads gained through the program and shall gather data on the  
4 results of calls, including business expansion, location, and startup.

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

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

1 office of the state tax commissioner. A refund of federal income tax must be  
2 reported and included in North Dakota taxable income in the year in which the  
3 tax was originally deducted.

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

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

13 (3) Reduced by seven hundred fifty dollars for each adopted child who is  
14 under the age of twenty-one years and who is either irreversibly  
15 mentally retarded or, on the basis of the annual findings of a licensed  
16 physician, is blind or disabled as determined pursuant to the provisions  
17 of title XVI of the United States Social Security Act, provided the return  
18 filed is the return of the parent of an adopted child and such child  
19 qualifies as a dependent of such parent for federal income tax  
20 purposes.

21 (4) Reduced, up to a maximum of one thousand dollars, by the amount of  
22 filing fees, attorney's fees, and travel costs incurred in connection with  
23 an adoption and by the actual costs paid to a licensed child-placing  
24 agency in making the adoptive study and in supervising and evaluating  
25 the adoptive placement. Provided, however, that the reduction allowed  
26 under this paragraph shall apply only to such adoption expenses of a  
27 child who qualifies under the provisions of paragraph 3.

28 (5) Reduced by one thousand seven hundred fifty dollars for each child  
29 under the age of twenty-one years adopted by the taxpayer. The  
30 reduction under this paragraph may be claimed only by an adoptive  
31 parent of an adopted child and the child must qualify as a dependent of

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

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

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

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

1 clothing, and other personal belongings may not be included. This statement  
2 must be filed along with the income tax return. For the purposes of this  
3 subdivision, "beginning farmer" means any person who is:

- 4 (1) A resident of this state.
- 5 (2) Receiving more than one-half of that person's gross annual income  
6 from farming, unless the person initially commences farming during the  
7 tax year for which an adjustment will be claimed under this subdivision.
- 8 (3) Intending to use any farmland to be purchased or rented for agricultural  
9 purposes.
- 10 (4) Except for contracts for deed entered into prior to July 1, 1985, having  
11 adequate training by education in the type of farming operation which  
12 the person wishes to begin through satisfactory participation in the  
13 adult farm management education program of the state board for  
14 career and technical education or an equivalent program approved by  
15 the agriculture commissioner.
- 16 (5) Having, including the net worth of any dependents and spouse, a net  
17 worth of less than one hundred thousand dollars.

18 ~~h~~ m. Reduced by the amount of interest received during that taxable year on a  
19 contract on the sale of any land, buildings, improvements, and equipment  
20 associated with the land, buildings, or improvements, used or useful in  
21 connection with a revenue-producing enterprise to a beginning businessman,  
22 excluding beginning farmers as defined in subdivision ~~h~~ l. The contract must  
23 extend for not less than ten years and have an annual interest rate equal to or  
24 less than the minimum rate allowed by the internal revenue service before  
25 interest is imputed. In order for an individual, estate, or trust to qualify for this  
26 reduction, the taxpayer must obtain a statement from the buyer containing a  
27 list of the buyer's assets and debts and giving the buyer's net worth, together  
28 with any other information required by the state tax commissioner. The value  
29 placed on any real property located in North Dakota and owned by the buyer  
30 shall be the amount listed as the current market value on the most recent real  
31 estate tax statement for that particular piece of property. In determining the



1 net worth of any person, including that person's dependents and spouse, if  
2 any, the value of their equity in their principal residence, the value of one  
3 personal or family motor vehicle, and the value of their household goods,  
4 including furniture, appliances, musical instruments, clothing, and other  
5 personal belongings is not to be included. This statement is to be filed along  
6 with the income tax return. For the purposes of this subdivision, "beginning  
7 businessman", excluding beginning farmers as defined in subdivision ~~m~~ l,  
8 means any person who is:

- 9 (1) A resident of this state.
- 10 (2) Receiving more than one-half of that person's gross annual income  
11 from a revenue-producing enterprise, unless the person initially  
12 commences business during the tax year for which an adjustment will  
13 be claimed under this subdivision.
- 14 (3) Intending to use any revenue-producing enterprise purchased or rented  
15 for business purposes.
- 16 (4) Adequately trained, by experience or education, in the type of  
17 revenue-producing enterprise which that person wishes to begin.
- 18 (5) The owner of property with a net worth, including the net worth of  
19 property of that person's dependents and spouse, if any, of less than  
20 one hundred thousand dollars.

21 ~~e.~~ n. Reduced by any amount, up to a maximum of three hundred dollars received  
22 by any person or six hundred dollars if a joint return is filed, as interest earned  
23 from a financial institution located in this state. For purposes of this  
24 subdivision, "financial institution" means any organization authorized to do  
25 business under state or federal laws relating to financial institutions, including  
26 banks and trust companies, savings banks, building and loan associations,  
27 savings and loan companies or associations, and credit unions.

28 ~~p.~~ Repealed by S.L. 1999, ch. 487, § 3.

29 ~~q.~~ Reduced by the amount, up to a maximum of five thousand dollars for any  
30 person or ten thousand dollars if a joint return is filed, of investment made  
31 after January 1, 1989, in a venture capital corporation organized pursuant to

1 ~~chapter 10-30.1. This deduction may only be taken in the tax year in which~~  
2 ~~the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a~~  
3 ~~taxpayer that makes an investment in a venture capital corporation on or after~~  
4 ~~July 1, 1989, is only entitled to a deduction if the venture capital corporation~~  
5 ~~uses the funds it receives from the taxpayer to invest or provide financing to~~  
6 ~~qualified entities, which entities do not include a business or an affiliate of a~~  
7 ~~business that owns tax-exempt securities.~~

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

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

23 ~~t. q.~~ Reduced by an amount equal to the earnings that are passed through to a  
24 taxpayer in connection with an allocation and apportionment to North Dakota  
25 under chapter 57-35.3.

26 ~~u. r.~~ Reduced by the amount received by the taxpayer as payment for services  
27 performed when called or ordered to title 10 United States Code federal  
28 service as a member of the national guard or reserve member of the armed  
29 forces of the United States. An individual claiming the reduction under this  
30 subdivision may not also claim the reduction under subdivision ~~k j~~ for the time  
31 the individual was under federal orders for active duty and may not claim a

1 reduction on income already excluded from federal taxation due to service in  
2 a combat or hazardous duty zone. This subdivision does not apply to federal  
3 service while attending annual training, basic military training, professional  
4 military education, or active guard and reserve tours for which the member  
5 has volunteered.

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

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

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

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

29 **57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise  
30 requires:

- 1           1. "Director" means the director of the department of commerce division of economic  
2           development and finance.
- 3           2. "New wealth" means revenues to a North Dakota business which are generated by  
4           sales of products or services to customers outside of the state. "New wealth" also  
5           includes revenues to a qualified business the customers of which previously were  
6           unable to acquire, or had limited availability of, the product or service from a North  
7           Dakota provider.
- 8           3. "Passthrough entity" means a corporation that for the applicable tax year is treated  
9           as an S corporation or a general partnership, limited partnership, limited liability  
10           partnership, trust, or limited liability company and which for the applicable tax year  
11           is not taxed as a corporation under chapter 57-38.
- 12           4. "Primary sector business" means a qualified business that through the  
13           employment of knowledge or labor adds value to a product, process, or service  
14           and which results in the creation of new wealth.
- 15        ~~4.~~ 5. "Qualified business" means:
- 16           a. A primary sector business that:
- 17                (1) Is incorporated or its satellite operation is incorporated as a for-profit  
18                corporation or is a partnership, limited partnership, limited liability  
19                company, limited liability partnership, or joint venture;
- 20                (2) Is in compliance with the requirements for filings with the securities  
21                commissioner under the securities laws of this state;
- 22                (3) Has North Dakota residents as a majority of its employees in the North  
23                Dakota principal office or the North Dakota satellite operation; and
- 24                (4) Has its principal office in this state and has the majority of its business  
25                activity performed in this state, except sales activity, or has a significant  
26                operation in North Dakota that has or is projected to have more than  
27                ten employees or one hundred fifty thousand dollars of sales annually;
- 28                or
- 29           b. An organization that:
- 30                (1) Is in compliance with the requirements for filings with the securities  
31                commissioner under the securities laws of this state; and



- 1           3. Any amount of credit under this section not allowed because of the limitations in  
2           this section may be carried forward for up to four taxable years after the taxable  
3           year in which the investment was made.
- 4           4. A ~~partnership~~ passthrough entity that invests in a qualified business must be  
5           considered to be the taxpayer for purposes of the investment limitations in this  
6           section and the amount of the credit allowed with respect to a ~~partnership's~~  
7           passthrough entity's investment in a qualified business must be determined at the  
8           ~~partnership~~ passthrough entity level. The amount of the total credit determined at  
9           the ~~partnership~~ passthrough entity level must be allowed to the ~~partners, limited to~~  
10          ~~individuals, estates, and trusts,~~ members in proportion to their respective interests  
11          in the ~~partnership~~ passthrough entity.
- 12          5. The investment must be at risk in the business. An investment for which a credit is  
13          received under this section must remain in the business for at least three years.
- 14          6. The entire amount of an investment for which a credit is claimed under this section  
15          must be expended by the qualified business for plant, equipment, research and  
16          development, marketing and sales activity, or working capital for the qualified  
17          business.
- 18          7. A taxpayer who owns a controlling interest in the qualified business or whose  
19          full-time professional activity is the operation of the business is not entitled to a  
20          credit under this section. A member of the immediate family of a taxpayer  
21          disqualified by this subsection is not entitled to the credit under this section. For  
22          purposes of this subsection, "immediate family" means the taxpayer's spouse,  
23          parent, sibling, or child or the spouse of any such person.
- 24          8. The tax commissioner may disallow any credit otherwise allowed under this  
25          section if any representation by a business in the application for certification as a  
26          qualified business proves to be false or if the taxpayer or qualified business fails to  
27          satisfy any conditions under this section or any conditions consistent with this  
28          section otherwise determined by the tax commissioner. The amount of any credit  
29          disallowed by the tax commissioner that reduced the taxpayer's income tax liability  
30          for any or all applicable tax years, plus penalty and interest as provided under  
31          section 57-38-45, must be paid by the taxpayer.

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

3           **57-38.5-05. Seed capital investment tax credit limits.** The aggregate amount of  
4 seed capital investment tax credit allowed for investments under this chapter ~~through calendar~~  
5 ~~year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two million  
6 five hundred thousand dollars for each calendar year. If investments in qualified businesses  
7 reported to the commissioner under section 57-38.5-07 exceed the limits on tax credits for  
8 investments imposed by this section, the credit must be allowed to taxpayers in the  
9 chronological order of their investments in qualified businesses as determined from the forms  
10 filed under section 57-38.5-07.

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

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

15           **SECTION 22. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE**  
16 **COUNCIL STUDY.** During the 2005-06 and 2007-08 interims, the legislative council shall  
17 study the state's business climate through a business climate initiative. The business climate  
18 initiative must include receipt of agency reports regarding economic development legislation  
19 introduced by the legislative council during previous legislative sessions, active participation in  
20 business climate focus groups across the state, and active participation in biennial business  
21 congresses. The focus groups shall discuss ways to enhance the state's business climate to  
22 stimulate job growth and enhance economic prosperity by encouraging the growth of existing  
23 businesses in the state, creating new businesses in the state, and encouraging expansion or  
24 relocation of businesses to this state. Each business congress must receive a report on the  
25 activities of the focus group discussions, shall identify methods to enhance the state's business  
26 climate to stimulate job growth and enhance economic prosperity, and shall evaluate the impact  
27 of existing state economic development programs. The department of commerce shall  
28 organize the business climate focus groups and the business congresses. Before each  
29 business congress, which must be held before June 1, 2006, and before June 1, 2008, the  
30 department shall hold a minimum of six focus group discussions, two of which specifically focus  
31 on local economic developers and four of which specifically focus on private business needs.

1 The department shall consult with the legislative council in compiling focus group and business  
2 congress participant invitation lists and drafting and distributing invitations, establishing focus  
3 group and business congress dates and locations, and preparing agendas for focus groups and  
4 business congresses. The legislative council shall contract with a third party to provide  
5 professional services to plan, facilitate, report on, and coordinate followup for the focus groups  
6 and business congresses. The legislative council shall report its findings and  
7 recommendations, together with any legislation required to implement the recommendations, to  
8 the sixtieth and sixty-first legislative assemblies.

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

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

24 **SECTION 24. DAKOTA MANUFACTURING INITIATIVE.** The department of  
25 commerce shall seek to contract with the Dakota manufacturing extension partnership,  
26 incorporated, to implement the Dakota manufacturing initiative. The initiative includes building  
27 a membership association of manufacturers in North Dakota and South Dakota, complementing  
28 existing national, regional, and local manufacturing entities; providing nonduplicative services to  
29 the association's manufacturing members which address critical needs, including identifying  
30 and developing private procurement opportunities; and developing a consortium of major  
31 manufacturers in North Dakota and South Dakota to design and support overall supply chain



1 development and supplier development. Under the initiative, state funds must be leveraged  
2 with additional public and private funds, which may include federal funding sources, South  
3 Dakota state funding, and funding from manufacturers.

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

14 **SECTION 26. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS -**  
15 **EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the  
16 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council  
17 on the status of the Bank's investments in alternative and venture capital investments and  
18 early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president  
19 shall inform the legislative council whether this investment program should continue and  
20 whether there are potential changes that could be made to improve the state's venture capital  
21 and early-stage capital investment structure.

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

28 **SECTION 28. COOPERATIVE WORK EXPERIENCE PROGRAM - REPORT TO**  
29 **LEGISLATIVE COUNCIL.** During the 2005-06 and 2007-08 interims, the director of the  
30 department of career and technical education shall report to the legislative council on the status  
31 of the cooperative work experience program under section 5 of this Act. The director shall

1 inform the legislative council whether the program should continue and whether there are  
2 potential changes that could be made to increase and improve the partnerships between  
3 businesses and school districts.

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

6 During the 2005-06 interim, the commissioner of commerce shall report to the legislative  
7 council on the status of the North Dakota American Indian business development office and the  
8 status of the division of international trade, whether the North Dakota American Indian business  
9 development office and the division of international trade should continue, and whether there  
10 are potential changes that could be made to enhance the support of American Indian  
11 businesses and to enhance the support of international trade by North Dakota businesses.

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

14 commerce shall report to the legislative council on the status of the certification program  
15 through which the division of economic development and finance provides training services to  
16 local economic developers under section 8 of this Act. The report must include information  
17 regarding what services have been provided under the program to assist local economic  
18 developers, to whom the services were provided, local economic developer level of satisfaction  
19 with the program, whether the program should continue, and whether there are changes that  
20 could be made to better assist local economic developers.

21 **SECTION 31. IMAGE INFORMATION PROGRAM - REPORT TO LEGISLATIVE**  
22 **COUNCIL.** During the 2005-06 interim, the commissioner of commerce shall report to the  
23 legislative council on the status of the image information program under section 12 of this Act.  
24 The report must include information regarding what information the program provides to state  
25 agencies and state agencies' employees, the manner in which the information is provided, the  
26 state agencies reached through the program, whether the program has been expanded to  
27 provide information to the private sector, whether the program should continue, and whether  
28 there are potential changes that could be made to better enhance the state's and private  
29 sector's ability to present a positive image of the state.

30 **SECTION 32. BUSINESS HOTLINE PROGRAM - REPORT TO LEGISLATIVE**  
31 **COUNCIL.** During the 2005-06 interim, the commissioner of commerce shall report to the

1 legislative council on the status of the business hotline program under section 13 of this Act.  
2 This report must include information regarding what information the program provides to  
3 callers; the number of calls made to the business hotline number; the manner in which the  
4 information is provided to callers; followup data; how the program is marketed; whether the  
5 program should continue; and whether there are potential changes that could be made to  
6 improve the dissemination of business information to businesses in the state, to persons  
7 planning on starting a business in the state, and to businesses wishing to do business in the  
8 state.

9 **SECTION 33. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO**  
10 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education  
11 shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating  
12 more efficient commercialization of new technologies. The study must include roundtable  
13 discussions; include consideration of leveraging research, capital, and entrepreneurs; include  
14 consideration of successful actions taken by other states to increase technology  
15 commercialization; and focus on approaches that are specifically tailored to the state's unique  
16 circumstances. The board may contract with a third party to conduct the study. Before July 1,  
17 2006, the chancellor of the North Dakota university system shall report to the legislative council  
18 the outcome of the study and identify proposed legislative changes necessary to implement any  
19 recommendations to stimulate technology commercialization in this state.

20 **SECTION 34. INSURANCE AND LIABILITY STUDY - REPORT TO LEGISLATIVE**  
21 **COUNCIL.** During the 2005-06 interim, the insurance commissioner shall conduct a study of  
22 the state's liability insurance marketplace. The study must include consideration of issues that  
23 may result in barriers for businesses seeking to obtain affordable liability insurance coverage,  
24 with specific focus on the travel and tourism industry, and must include consideration of  
25 successful actions taken by other states to improve the availability and affordability of liability  
26 insurance. The insurance commissioner may contract with a third party in performing this  
27 study. Before July 1, 2006, the insurance commissioner shall report to the legislative council  
28 the outcome of the study and identify proposed legislative changes necessary to implement any  
29 recommendations to make the state's laws and availability of liability insurance more attractive  
30 to businesses in this state.

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

2   During the 2005-06 interim, the upper great plains transportation institute shall conduct a study  
3   of how improvements to the transportation infrastructure of this state might enhance the  
4   business climate and the state's competitive position in economic development, with a focus on  
5   the potential to expand the sale of goods to markets outside the state by strengthening the  
6   state's transportation infrastructure. In conducting this study, the upper great plains  
7   transportation institute shall consult with the department of transportation and the department  
8   shall cooperate in the study. The study must include consideration of how to improve the  
9   load-carrying limits of the state's highways and associated costs and benefits; consideration of  
10  what enhancements must be made to the state's highways to allow load limits to be raised to  
11  more efficiently move goods to market and associated costs and benefits; exploration of the  
12  phenomenon of the decline of freight service by rail, including the prospects for offering  
13  incentives to rail providers to expand the availability of rail for transportation of goods to market  
14  and the associated costs and benefits; recommendations on how to enhance the state's  
15  transportation infrastructure; whether it is feasible to identify and assist airports that are  
16  specially situated in order to assist in economic development; and an analysis of the projected  
17  economic development impacts associated with the recommended infrastructure  
18  improvements. Before July 1, 2006, the upper great plains transportation institute shall report  
19  to the legislative council the outcome of the study and identify proposed legislative changes  
20  necessary to implement any recommended changes to the state's transportation infrastructure.

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

22 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the department of commerce, in  
23  consultation with the state board of higher education, shall conduct a study of the state's  
24  intellectual property laws as they relate to the protection of intellectual property rights. The  
25  study must include a review of the state's intellectual property laws, including barriers that may  
26  inhibit research and development in the state, and must include consideration of successful  
27  actions taken by other states to improve the protection of intellectual property rights. The  
28  department shall contract with a third party in performing this study. Before July 1, 2006, the  
29  commissioner of commerce shall report to the legislative council the outcome of the study and  
30  identify proposed legislative changes necessary to implement any recommendations to improve  
31  the protection of intellectual property rights.

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

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

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

10 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the department of commerce shall  
11 conduct a study of the state's economic development incentives. The study must include an  
12 inventory of all of the state's economic development incentives, a review of the nature of each  
13 incentive, an indication of the targeted class of recipients of each incentive, an indication of the  
14 stage of business targeted by each incentive, an analysis of possible barriers to using the  
15 incentives, an analysis of possible gaps and overlaps in the state's economic development  
16 incentive system, a review of the effectiveness of each incentive and how to gauge the  
17 effectiveness of each incentive, and a review of economic development incentive best practices  
18 and how the state's incentives compare to best practices. The department of commerce may  
19 contract with a third party in performing this study. Before July 1, 2006, the commissioner of  
20 commerce shall report to the legislative council the outcome of the study and identify proposed  
21 legislative changes necessary to implement any recommended changes to the state's  
22 economic development incentive system to make the state's business environment more  
23 effective, efficient, and competitive.

24           **SECTION 39. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the  
25 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and  
26 tax incentives to stimulate business. The study must include consideration of gaps in tax  
27 incentives, include consideration of successful actions taken by other states to improve their tax  
28 environment for doing business, and focus on approaches that are specifically tailored to the  
29 state's unique circumstances. The tax commissioner may contract with a third party to conduct  
30 the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the

1 outcome of the study and identify proposed legislative changes necessary to implement any  
2 recommendations to stimulate the state's business climate.

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

8	GENERAL	SPECIAL
9 PURPOSE	FUND	FUNDS
10 Target industry identification and report	\$50,000	
11 Image information program	100,000	
12 Business hotline program	30,000	
13 Division of international trade	413,103	
14 Local economic developer certification and	50,000	\$100,000
15 training program		
16 Dakota manufacturing initiative	165,000	
17 Intellectual property rights study and report	50,000	
18 Economic development incentives study and report	30,000	
19 Business climate initiative study	<u>50,000</u>	_____
20 Total	\$938,103	\$100,000

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

26           **SECTION 41. APPROPRIATION.** There is appropriated out of any moneys in the  
27 general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much  
28 of the sum as may be necessary, to the office of management and budget for the purpose of  
29 establishing and maintaining procurement information on the internet and for performing the  
30 procurement assistance study, for the biennium beginning July 1, 2005, and ending June 30,  
31 2007.

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

5           **SECTION 43. EXPIRATION DATE.** Section 13 of this Act is effective through July 31,  
6 2007, and after that date is ineffective. Sections 5 and 12 of this Act are effective through  
7 July 31, 2009, and after that date are ineffective.