

Fifty-ninth
Legislative Assembly
of North Dakota

REENGROSSED 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 of the North Dakota
2 Century Code, relating to a department of career and technical education cooperative work
3 experience program; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, and
4 54-34.3-03, subsection 1 of section 54-34.3-06, section 54-60-02, subsection 1 of section
5 57-38-01.2, and subsection 1 of section 57-38-71 of the North Dakota Century Code, relating to
6 the authority of the Bank of North Dakota to invest funds, cross-references affected by the
7 repeal of the venture capital corporation law, organization of the department of commerce and
8 division of economic development and finance, and duties of the North Dakota American Indian
9 business development office; to repeal chapters 10-30.1 and 10-30.2 of the North Dakota
10 Century Code, relating to venture capital corporations and the Myron G. Nelson Fund,
11 Incorporated; to provide for state agency studies, reports to the legislative council, and a
12 legislative council study; to provide appropriations; to provide effective dates; and to provide an
13 expiration date.

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

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

17 **6-09-15. (Effective through July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota
18 may:

- 19 1. Make, purchase, guarantee, or hold loans:
 - 20 a. To state or federally chartered lending agencies or institutions, or any other
21 financial institutions.
 - 22 b. To holders of Bank of North Dakota certificates of deposit and savings
23 accounts up to ninety percent of the value of the certificates and savings
24 accounts offered as security.

- 1 c. To actual farmers who are residents of this state, if the loans are secured by
- 2 recorded mortgages giving the Bank of North Dakota a first lien on real estate
- 3 in North Dakota in amounts not to exceed eighty percent of the value of the
- 4 security.
- 5 d. That are insured or guaranteed in whole or in part by the United States, its
- 6 agencies, or instrumentalities.
- 7 e. That are eligible to be guaranteed under chapter 15-62.1. Loans made
- 8 pursuant to this subdivision may provide for interest that remains unpaid at
- 9 the end of any period specified in the loan to be added to the principal amount
- 10 of the debt and thereafter accumulate interest.
- 11 f. To individuals or bank holding companies for the purpose of purchasing or
- 12 refinancing the purchase of bank stock of a bank located in the state.
- 13 g. To nonprofit organizations that are exempt from federal taxation under section
- 14 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of
- 15 the loans to be used for construction, reconstruction, repair, renovation,
- 16 maintenance, and associated costs on property under the control of the parks
- 17 and recreation department.
- 18 h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as
- 19 amended through December 31, 1996, to nonprofit corporations for the
- 20 purpose of relending loan funds to rural businesses.
- 21 i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,
- 22 subparts F and R; and part 1955, subparts A, B, and C, as amended through
- 23 December 31, 1996, to finance businesses and community development
- 24 projects in rural areas.
- 25 j. Obtained as security pledged for or originated in the restructuring of any other
- 26 loan properly originated or participated in by the Bank.
- 27 k. To instrumentalities of this state.
- 28 l. As otherwise provided by this chapter or other statutes.
- 29 m. If the Bank is participating in the loan and the Bank deems it is in the best
- 30 interests of the Bank to do so, it may purchase the remaining portion of the

- 1 loan from a participating lender that is closed by regulatory action, or from the
2 receiver of the participating lender's assets.
- 3 n. To an investment company created for completing a trust preferred securities
4 transaction for the benefit of a financial institution located in this state.
- 5 2. Make agricultural real estate loans in order to participate in the agricultural
6 mortgage secondary market program established pursuant to the Agricultural
7 Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as
8 amended through December 31, 1996.
- 9 3. Purchase participation interests in loans made or held by banks, bank holding
10 companies, state or federally chartered lending agencies or institutions, any other
11 financial institutions, or any other entity that provides financial services and that
12 meets underwriting standards that are generally accepted by state or federal
13 financial regulatory agencies.
- 14 4. Invest its funds:
- 15 a. In conformity with policies of the industrial commission.
- 16 b. In a public venture capital corporation organized and doing business in this
17 state through the purchase of shares of stock.
- 18 c. In North Dakota alternative and venture capital investments and early-stage
19 capital funds including the North Dakota development fund, incorporated, not
20 to exceed ~~five~~ ten million dollars, for the purpose of providing funds for
21 investment in North Dakota alternative and venture capital investments and
22 early-stage capital funds. The Bank may allow for third-party management of
23 the funds invested under this subdivision if the management is provided by
24 North Dakota development fund, incorporated, or a third party that is located
25 in the state and that has demonstrated fund management experience.
- 26 5. Buy and sell federal funds.
- 27 6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and
28 personal property, title to which has been acquired in any manner.
- 29 7. Acquire real or personal property or property rights by purchase, lease, or the
30 exercise of the right of eminent domain and may construct, remodel, and repair
31 buildings.

- 1 8. Receive deposits from any source and deposit its funds in any bank or other
- 2 financial institution.
- 3 9. Perform all acts and do all things necessary, convenient, advisable, or desirable to
- 4 carry out the powers expressly granted or necessarily implied in this chapter
- 5 through or by means of its president, officers, agents, or employees or by contracts
- 6 with any person, firm, or corporation.
- 7 10. Purchase mortgage loans on residential real property originated by financial
- 8 institutions.

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

- 10 1. Make, purchase, or hold loans:
 - 11 a. To state or federally chartered lending agencies or institutions, or any other
 - 12 financial institutions.
 - 13 b. To holders of Bank of North Dakota certificates of deposit and savings
 - 14 accounts up to ninety percent of the value of the certificates and savings
 - 15 accounts offered as security.
 - 16 c. To actual farmers who are residents of this state, if the loans are secured by
 - 17 recorded mortgages giving the Bank of North Dakota a first lien on real estate
 - 18 in North Dakota in amounts not to exceed eighty percent of the value of the
 - 19 security.
 - 20 d. That are insured or guaranteed in whole or in part by the United States, its
 - 21 agencies, or instrumentalities.
 - 22 e. That are eligible to be guaranteed under chapter 15-62.1. Loans made
 - 23 pursuant to this subdivision may provide for interest that remains unpaid at
 - 24 the end of any period specified in the loan to be added to the principal amount
 - 25 of the debt and thereafter accumulate interest.
 - 26 f. To individuals or bank holding companies for the purpose of purchasing or
 - 27 refinancing the purchase of bank stock of a bank located in the state.
 - 28 g. To nonprofit organizations that are exempt from federal taxation under section
 - 29 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of
 - 30 the loans to be used for construction, reconstruction, repair, renovation,

- 1 maintenance, and associated costs on property under the control of the parks
2 and recreation department.
- 3 h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as
4 amended through December 31, 1996, to nonprofit corporations for the
5 purpose of relending loan funds to rural businesses.
- 6 i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,
7 subparts F and R; and part 1955, subparts A, B, and C, as amended through
8 December 31, 1996, to finance businesses and community development
9 projects in rural areas.
- 10 j. Obtained as security pledged for or originated in the restructuring of any other
11 loan properly originated or participated in by the Bank.
- 12 k. To instrumentalities of this state.
- 13 l. As otherwise provided by this chapter or other statutes.
- 14 m. If the Bank is participating in the loan and the Bank deems it is in the best
15 interests of the Bank to do so, it may purchase the remaining portion of the
16 loan from a participating lender that is closed by regulatory action, or from the
17 receiver of the participating lender's assets.
- 18 n. To an investment company created for completing a trust preferred securities
19 transaction for the benefit of a financial institution located in this state.
- 20 2. Make agricultural real estate loans in order to participate in the agricultural
21 mortgage secondary market program established pursuant to the Agricultural
22 Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as
23 amended through December 31, 1996.
- 24 3. Purchase participation interests in loans made or held by banks, bank holding
25 companies, state or federally chartered lending agencies or institutions, any other
26 financial institutions, or any other entity that provides financial services and that
27 meets underwriting standards that are generally accepted by state or federal
28 financial regulatory agencies.
- 29 4. Invest its funds:
- 30 a. In conformity with policies of the industrial commission.

- 1 b. In a public venture capital corporation organized and doing business in this
- 2 state through the purchase of shares of stock.
- 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 **SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08,
20 and 10-04-08.4 do not apply to any of the following securities:

- 21 1. Securities issued or guaranteed by the United States of America, or by any state,
- 22 territory, or insular possession thereof, or by any political subdivision of any such
- 23 state, territory, or insular possession, or by the District of Columbia, or by any
- 24 public agency or instrumentality of one or more of any of the foregoing, or payable
- 25 from assessments for improvements or revenues of publicly owned utilities therein;
- 26 or a certificate of deposit for any of the foregoing, but this exemption does not
- 27 include any security payable solely from revenues to be received from a
- 28 nongovernmental industrial or commercial enterprise unless the security is insured
- 29 or unconditionally guaranteed by, or the revenues are derived from, a person
- 30 whose securities are exempt from registration under this section.

- 1 2. Securities issued by and representing an interest in or a debt of, or guaranteed by,
2 a national bank or a national bank and trust company or bank or credit or loan or
3 savings association or savings and loan association or credit union organized
4 pursuant to an Act of Congress and supervised by the United States, or any
5 agency thereof, or issued or guaranteed as to both principal and interest by an
6 international bank of which the United States is a member, or issued by and
7 representing an interest in or a debt of, or guaranteed by, a state bank, trust
8 company, savings bank, savings institution, or credit union organized and
9 supervised under the laws of any state, and securities of any person subject to
10 examination by the commissioner of financial institutions of North Dakota.
- 11 3. Securities issued by a building and loan association subject to supervision by an
12 agency of the state of North Dakota, or policy contracts, including variable annuity
13 contracts, of an insurance company subject to supervision by an agency of the
14 state of North Dakota.
- 15 4. Securities issued or guaranteed as to principal, interest, or dividends by a
16 corporation or limited liability company owning or operating a railroad or other
17 public service utility, if the corporation or limited liability company is subject to
18 regulation or supervision either as to its rates and charges or as to the issue of its
19 securities by a public service commission, or by a board, body, or official having
20 like powers, of the United States or of any state, territory, or insular possession
21 thereof, or of any municipality located therein, or of the District of Columbia, or of
22 the Dominion of Canada, or any province thereof.
- 23 5. Any security issued by any person organized and operated not for private profit but
24 exclusively for religious, educational, benevolent, fraternal, charitable, social, or
25 reformatory purposes; provided that prior to any offer of such security each person
26 must meet the following conditions:
 - 27 a. Apply for and obtain the written approval of the commissioner.
 - 28 b. File an application, offering disclosure document, and pay a nonrefundable
29 filing fee of one hundred fifty dollars, which document and fee must
30 accompany the application.

1 c. File a notice identifying the basis of its qualification under this exemption with
2 such additional information as the commissioner may require.

3 d. Provide a copy of the offering disclosure document to each person to whom
4 an offer to sell or sale is made.

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

9 6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a
10 current transaction or the proceeds of which have been or are to be used for
11 current transactions, is not the subject of a public offering, is prime quality
12 negotiable commercial paper which has at the time of issuance a definite maturity
13 of not exceeding nine months, is payable in cash only, and is not convertible into
14 and does not carry an option or right to receive payment or any bonus in any other
15 security.

16 7. Securities, other than common stock, providing for a fixed return, which have been
17 outstanding and in the hands of the public for not less than five years and upon
18 which no default has occurred during the five years next preceding the date of
19 sale.

20 8. Securities, including patronage dividends or refunds, issued by any cooperative
21 organized under the statutes of this state.

22 9. Any equipment security based on a chattel mortgage, lease, or agreement for the
23 conditional sale of cars, motive power, or other rolling stock mortgaged, leased,
24 sold to, or furnished for the use of a railroad or other public service utility
25 corporation or limited liability company, and any equipment security when the
26 ownership of or title to such equipment is pledged or retained in accordance with
27 the provisions of the laws of the United States or of any state thereof, or of the
28 Dominion of Canada, to secure the payments of such equipment security whether
29 it be an equipment trust certificate, bond, or note.

30 10. Any bond, note, or other evidence of debt issued by a holding corporation or
31 limited liability company and secured by collateral consisting of any of the

1 securities described in subsections 4 and 9, if the collateral securities equal in fair
2 value at least one hundred twenty-five percent of the par value of the bonds, notes,
3 or other evidences of debts secured thereby.

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

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

29 ~~The approval is effective for a period of one year from the date of approval. There~~
30 ~~must be filed, at least thirty days prior to the expiration date, an application,~~

1 ~~disclosure document, and a nonrefundable fee of one hundred dollars for the~~
2 ~~renewal of the filing for additional periods of one year.~~

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

10 ~~14.~~ 13. a. Any security, other than a security that is a federal covered security pursuant
11 to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to
12 any filing or registration requirements under this chapter, listed or designated,
13 or approved for listing or designation upon notice of issuance on:

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

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

25 c. Any security called for by subscription rights or warrants so listed or
26 approved; or

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

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

1 ~~45.~~ 14. Securities issued by the North Dakota education association dues credit trust to
2 members of the North Dakota education association.

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

5 **10-30.5-04. (Effective through July 31, ~~2007~~ 2009) Powers.** The corporation must
6 be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the
7 corporation may:

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

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

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

21 **SECTION 4.** A new section to chapter 15-20.1 of the North Dakota Century Code is
22 created and enacted as follows:

23 **Cooperative work experience program.** The department shall administer a
24 cooperative work experience grant program to provide funds to a school or a consortia of
25 schools for the purpose of supporting local work experience programs that provide innovative
26 strategies to enhance real world, on-the-job, cooperative work experiences for students in this
27 state. The department shall establish eligibility criteria for funds under this section. A recipient
28 of funds under this section may use the funds to fund a program coordinator position or to fund
29 the local program, which may include internships, on-the-job training, school-to-work activities,
30 and business programs.

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

3 **54-34.3-03. Division structure.** The division consists of:

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

9 **SECTION 6. AMENDMENT.** Subsection 1 of section 54-34.3-06 of the North Dakota
10 Century Code is amended and reenacted as follows:

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

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

19 **54-60-02. Department of commerce - Divisions.** The North Dakota department of
20 commerce is created. ~~All records, materials, supplies, and equipment used by the division of~~
21 ~~community services, department of economic development and finance, and the department of~~
22 ~~tourism are transferred to the department.~~

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

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

17 **SECTION 8. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota
18 Century Code is amended and reenacted as follows:

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

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

- 16 d. (1) Reduced by three hundred dollars if the return filed is a joint return by
17 husband and wife. If separate returns are filed by husband and wife,
18 no deduction can be taken under this subdivision. This subdivision
19 shall not be applicable to estates or trusts.
- 20 (2) Reduced by three hundred dollars if the return filed is the return of a
21 "head of household" as defined by the United States Internal Revenue
22 Code of 1954, as amended; provided, that the term "head of
23 household" shall also include a "surviving spouse" as defined by said
24 code.
- 25 (3) Reduced by seven hundred fifty dollars for each adopted child who is
26 under the age of twenty-one years and who is either irreversibly
27 mentally retarded or, on the basis of the annual findings of a licensed
28 physician, is blind or disabled as determined pursuant to the provisions
29 of title XVI of the United States Social Security Act, provided the return
30 filed is the return of the parent of an adopted child and such child

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SECTION 11. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.**

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

27 **SECTION 12. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS -**

28 **EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the
29 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council
30 on the status of the Bank's investments in alternative and venture capital investments and
31 early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president

1 shall inform the legislative council whether this investment program should continue and
2 whether there are potential changes that could be made to improve the state's venture capital
3 and early-stage capital investment structure.

4 **SECTION 13. COOPERATIVE WORK EXPERIENCE PROGRAM - REPORT TO**
5 **LEGISLATIVE COUNCIL.** During the 2005-06 and 2007-08 interims, the director of the
6 department of career and technical education shall report to the legislative council on the status
7 of the cooperative work experience program under section 4 of this Act. The director shall
8 inform the legislative council whether the program should continue and whether there are
9 potential changes that could be made to increase and improve the partnerships between
10 businesses and school districts.

11 **SECTION 14. NORTH DAKOTA AMERICAN INDIAN BUSINESS DEVELOPMENT**
12 **OFFICE - DIVISION OF INTERNATIONAL TRADE - REPORT TO LEGISLATIVE COUNCIL.**
13 During the 2005-06 interim, the commissioner of commerce shall report to the legislative
14 council on the status of the North Dakota American Indian business development office and the
15 status of the division of international trade, whether the North Dakota American Indian business
16 development office and the division of international trade should continue, and whether there
17 are potential changes that could be made to enhance the support of American Indian
18 businesses and to enhance the support of international trade by North Dakota businesses.

19 **SECTION 15. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO**
20 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education
21 shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating
22 more efficient commercialization of new technologies. The study must include roundtable
23 discussions; include consideration of leveraging research, capital, and entrepreneurs; include
24 consideration of successful actions taken by other states to increase technology
25 commercialization; and focus on approaches that are specifically tailored to the state's unique
26 circumstances. The board may contract with a third party to conduct the study. Before July 1,
27 2006, the chancellor of the North Dakota university system shall report to the legislative council
28 the outcome of the study and identify proposed legislative changes necessary to implement any
29 recommendations to stimulate technology commercialization in this state.

30 **SECTION 16. INSURANCE AND LIABILITY STUDY - REPORT TO LEGISLATIVE**
31 **COUNCIL.** During the 2005-06 interim, the insurance commissioner shall conduct a study of

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

10 **SECTION 17. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.**

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

1 **SECTION 18. EFFECTIVE DATE.** Section 10 of this Act becomes effective on
2 August 1, 2007. Sections 2, 8, and 9 of this Act are effective for taxable years beginning after
3 December 31, 2008.

4 **SECTION 19. EXPIRATION DATE.** Section 4 of this Act is effective through July 31,
5 2009, and after that date is ineffective.