

**SECOND ENGROSSMENT
with House Amendments**

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

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

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

14 **6-09-15. (Effective through July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota
15 may:

- 16 1. Make, purchase, guarantee, or hold loans:
- 17 a. To state or federally chartered lending agencies or institutions, or any other
18 financial institutions.
- 19 b. To holders of Bank of North Dakota certificates of deposit and savings
20 accounts up to ninety percent of the value of the certificates and savings
21 accounts offered as security.
- 22 c. To actual farmers who are residents of this state, if the loans are secured by
23 recorded mortgages giving the Bank of North Dakota a first lien on real estate

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

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

1 9. Perform all acts and do all things necessary, convenient, advisable, or desirable to
2 carry out the powers expressly granted or necessarily implied in this chapter
3 through or by means of its president, officers, agents, or employees or by contracts
4 with any person, firm, or corporation.

5 10. Purchase mortgage loans on residential real property originated by financial
6 institutions.

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

8 1. Make, purchase, or hold loans:

9 a. To state or federally chartered lending agencies or institutions, or any other
10 financial institutions.

11 b. To holders of Bank of North Dakota certificates of deposit and savings
12 accounts up to ninety percent of the value of the certificates and savings
13 accounts offered as security.

14 c. To actual farmers who are residents of this state, if the loans are secured by
15 recorded mortgages giving the Bank of North Dakota a first lien on real estate
16 in North Dakota in amounts not to exceed eighty percent of the value of the
17 security.

18 d. That are insured or guaranteed in whole or in part by the United States, its
19 agencies, or instrumentalities.

20 e. That are eligible to be guaranteed under chapter 15-62.1. Loans made
21 pursuant to this subdivision may provide for interest that remains unpaid at
22 the end of any period specified in the loan to be added to the principal amount
23 of the debt and thereafter accumulate interest.

24 f. To individuals or bank holding companies for the purpose of purchasing or
25 refinancing the purchase of bank stock of a bank located in the state.

26 g. To nonprofit organizations that are exempt from federal taxation under section
27 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of
28 the loans to be used for construction, reconstruction, repair, renovation,
29 maintenance, and associated costs on property under the control of the parks
30 and recreation department.

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

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

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

16 **10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08,
17 and 10-04-08.4 do not apply to any of the following securities:

- 18 1. Securities issued or guaranteed by the United States of America, or by any state,
19 territory, or insular possession thereof, or by any political subdivision of any such
20 state, territory, or insular possession, or by the District of Columbia, or by any
21 public agency or instrumentality of one or more of any of the foregoing, or payable
22 from assessments for improvements or revenues of publicly owned utilities therein;
23 or a certificate of deposit for any of the foregoing, but this exemption does not
24 include any security payable solely from revenues to be received from a
25 nongovernmental industrial or commercial enterprise unless the security is insured
26 or unconditionally guaranteed by, or the revenues are derived from, a person
27 whose securities are exempt from registration under this section.
- 28 2. Securities issued by and representing an interest in or a debt of, or guaranteed by,
29 a national bank or a national bank and trust company or bank or credit or loan or
30 savings association or savings and loan association or credit union organized
31 pursuant to an Act of Congress and supervised by the United States, or any

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

- 1 The approval is effective for a period of one year from the date of approval. At
2 least thirty days prior to the expiration date, there must be filed an application,
3 offering disclosure document, and a nonrefundable fee of one hundred dollars for
4 the renewal of the filing for additional periods of one year.
- 5 6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a
6 current transaction or the proceeds of which have been or are to be used for
7 current transactions, is not the subject of a public offering, is prime quality
8 negotiable commercial paper which has at the time of issuance a definite maturity
9 of not exceeding nine months, is payable in cash only, and is not convertible into
10 and does not carry an option or right to receive payment or any bonus in any other
11 security.
- 12 7. Securities, other than common stock, providing for a fixed return, which have been
13 outstanding and in the hands of the public for not less than five years and upon
14 which no default has occurred during the five years next preceding the date of
15 sale.
- 16 8. Securities, including patronage dividends or refunds, issued by any cooperative
17 organized under the statutes of this state.
- 18 9. Any equipment security based on a chattel mortgage, lease, or agreement for the
19 conditional sale of cars, motive power, or other rolling stock mortgaged, leased,
20 sold to, or furnished for the use of a railroad or other public service utility
21 corporation or limited liability company, and any equipment security when the
22 ownership of or title to such equipment is pledged or retained in accordance with
23 the provisions of the laws of the United States or of any state thereof, or of the
24 Dominion of Canada, to secure the payments of such equipment security whether
25 it be an equipment trust certificate, bond, or note.
- 26 10. Any bond, note, or other evidence of debt issued by a holding corporation or
27 limited liability company and secured by collateral consisting of any of the
28 securities described in subsections 4 and 9, if the collateral securities equal in fair
29 value at least one hundred twenty-five percent of the par value of the bonds, notes,
30 or other evidences of debts secured thereby.

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

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

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

30 13. Any security issued or guaranteed by Canada, any Canadian province, any
31 political subdivision of any such province, or any agency or corporate or other

1 instrumentality of one or more of the foregoing, or any other foreign government
2 with which the United States currently maintains diplomatic relations, if the security
3 is recognized as a valid obligation by the issuer or guarantor. This exemption does
4 not include any security payable solely from revenues to be received from a
5 nongovernmental industrial or commercial enterprise.

6 ~~44.~~ 13. a. Any security, other than a security that is a federal covered security pursuant
7 to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to
8 any filing or registration requirements under this chapter, listed or designated,
9 or approved for listing or designation upon notice of issuance on:

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

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

21 c. Any security called for by subscription rights or warrants so listed or
22 approved; or

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

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

27 ~~45.~~ 14. Securities issued by the North Dakota education association dues credit trust to
28 members of the North Dakota education association.

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

1 **10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must
2 be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the
3 corporation may:

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

12 **(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a
13 nonprofit corporation. In addition to the powers in chapter 10-33, the 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 **SECTION 4. AMENDMENT.** Section 54-34.3-03 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-34.3-03. Division structure.** The division consists of:

- 20 ~~1. A a finance office;~~
- 21 ~~2. An international trade office; and~~
- 22 ~~3. Other, offices established by statute, and~~ offices that the director organizes and
23 establishes as necessary to carry out most efficiently and effectively the mission
24 and duties of the division.

25 **SECTION 5. AMENDMENT.** Subsection 1 of section 54-34.3-06 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 1. A North Dakota American Indian business development office to assist North
28 Dakota American Indian tribal and individual economic development
29 representatives, businesses, and ~~North Dakota American Indian~~ entrepreneurs
30 with access to state and federal programs designed to assist ~~them~~ these business

1 interests. The office shall provide services to assist in the formation of
2 partnerships between American Indian and non-American Indian businesses.

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

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

9 1. The department must consist of:

- 10 a. A division of community services;
- 11 b. A division of economic development and finance;
- 12 c. A division of tourism;
- 13 d. A division of workforce development; ~~and~~
- 14 e. A division of international trade; and
- 15 f. Any division the commissioner determines necessary to carry out this
16 chapter.

17 2. The commissioner shall appoint the director of any division ~~created by the~~
18 ~~commissioner under subsection 1. Effective August 1, 2003, the commissioner~~
19 ~~shall appoint the directors of the division of community services, division of~~
20 ~~economic development and finance, and division of workforce development.~~
21 ~~Effective August 1, 2005, the commissioner shall appoint the director of the~~
22 ~~division of tourism. Each director appointed by the commissioner serves at the~~
23 ~~pleasure of the commissioner and is entitled to receive a salary set by the~~
24 ~~commissioner within the limits of legislative appropriations. Until August 1, 2003,~~
25 ~~the governor shall appoint the directors of the division of community services,~~
26 ~~division of economic development and finance, and division of workforce~~
27 ~~development and until August 1, 2005, the governor shall appoint the director of~~
28 ~~the division of tourism. The individuals appointed by the governor shall serve at~~
29 ~~the pleasure of the governor and are entitled to receive a salary set by the~~
30 ~~governor within the limits of legislative appropriations. The commissioner may~~

1 contract with a third party for the provision of services for the division of
2 international trade.

3 **SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota
4 Century Code is amended and reenacted as follows:

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

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

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

14 c. Reduced by the amount of federal income tax liability, but not social security
15 and self-employment taxes, as computed under chapter 1 of the Internal
16 Revenue Code of 1954, as amended, for the same taxable year for which the
17 North Dakota return is being filed, to the extent that such taxes are computed
18 upon income which becomes a part of the North Dakota taxable income.

19 Provided, that no adjustment to federal income taxes, paid or accrued, is
20 required because of allowable deductions to federal taxable income made
21 under the cost recovery provisions of subdivision b of subsection 5 of section
22 57-38-01. However, such federal income tax liability must be reduced by all
23 credits thereon except credits for federal income tax withholding payments,
24 estimates of federal income tax, and income taxes of foreign countries.

25 Federal income taxes for prior periods assessed against the taxpayer by
26 reason of audit or other adjustment by the internal revenue service, or
27 voluntary disclosure by the taxpayer, are not deductible except in the period
28 in which income so taxed was reported or reportable or in which an
29 adjustment was required but only after an adjustment is made by or with the
30 office of the state tax commissioner. A refund of federal income tax must be

1 reported and included in North Dakota taxable income in the year in which the
2 tax was originally deducted.

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

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

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

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

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

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

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

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

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

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

28 ~~q.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any~~
29 ~~person or ten thousand dollars if a joint return is filed, of investment made~~
30 ~~after January 1, 1989, in a venture capital corporation organized pursuant to~~
31 ~~chapter 10-30.1. This deduction may only be taken in the tax year in which~~

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

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

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

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

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

1 a combat or hazardous duty zone. This subdivision does not apply to federal
2 service while attending annual training, basic military training, professional
3 military education, or active guard and reserve tours for which the member
4 has volunteered.

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

8 **SECTION 8. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota
9 Century Code is amended and reenacted as follows:

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

26 **SECTION 9. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century
27 Code are repealed.

28 **SECTION 10. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.**
29 During the 2005-06 interim, the legislative council shall study issues relating to venture and risk
30 capital and whether and how some of these issues may be negatively impacting business
31 development in the state. The study must address how to define venture and risk capital for

1 purposes of the study; real and perceived issues regarding gaps in the availability of venture
2 and risk capital in the state; whether state programs adequately address the venture and risk
3 capital needs of businesses in the state and whether these programs should be changed to
4 increase availability to venture and risk capital, including whether the partnership in assisting
5 community expansion program might be used as a model to address possible venture and risk
6 capital availability issues and whether the state could effectively play a role as facilitator in
7 improving access to venture and risk capital; how the state could assist in creating an
8 environment more conducive to attracting private venture and risk capital in the state; and how
9 other states have attempted to address venture and risk capital concerns of businesses. The
10 legislative council shall report its findings and recommendations, together with any legislation
11 required to implement the recommendations, to the sixtieth legislative assembly.

12 **SECTION 11. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS -**
13 **EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the
14 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council
15 on the status of the Bank's investments in alternative and venture capital investments and
16 early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president
17 shall inform the legislative council whether this investment program should continue and
18 whether there are potential changes that could be made to improve the state's venture capital
19 and early-stage capital investment structure.

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

28 **SECTION 13. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO**
29 **LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education
30 shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating
31 more efficient commercialization of new technologies. The study must include roundtable

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

8 **SECTION 14. INSURANCE AND LIABILITY STUDY - REPORT TO LEGISLATIVE**

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

19 **SECTION 15. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.**

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

1 and the associated costs and benefits; recommendations on how to enhance the state's
2 transportation infrastructure; whether it is feasible to identify and assist airports that are
3 specially situated in order to assist in economic development; and an analysis of the projected
4 economic development impacts associated with the recommended infrastructure
5 improvements. Before July 1, 2006, the upper great plains transportation institute shall report
6 to the legislative council the outcome of the study and identify proposed legislative changes
7 necessary to implement any recommended changes to the state's transportation infrastructure.

8 **SECTION 16. APPROPRIATION.** There is appropriated out of any moneys in the
9 general fund in the state treasury, not otherwise appropriated, the sum of \$129,272, or so much
10 of the sum as may be necessary, to the department of commerce for the purpose of funding the
11 North Dakota American Indian business development office, for the biennium beginning July 1,
12 2005, and ending June 30, 2007. The department of commerce is authorized one full-time
13 equivalent position.

14 **SECTION 17. APPROPRIATION.** There is appropriated out of any moneys in the
15 general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much
16 of the sum as may be necessary, to the state board of higher education for the purpose of
17 performing the technology commercialization study, for the biennium beginning July 1, 2005,
18 and ending June 30, 2007.

19 **SECTION 18. APPROPRIATION.** There is appropriated out of any moneys in the
20 general fund in the state treasury, not otherwise appropriated, the sum of \$485,000, or so much
21 of the sum as may be necessary, to the upper great plains transportation institute for the
22 purpose of performing the transportation study, for the biennium beginning July 1, 2005, and
23 ending June 30, 2007.

24 **SECTION 19. APPROPRIATION.** There is appropriated out of any moneys in the
25 general fund in the state treasury, not otherwise appropriated, the sum of \$43,750, or so much
26 of the sum as may be necessary, to the insurance commissioner for the purpose of performing
27 the insurance and liability study, for the biennium beginning July 1, 2005, and ending June 30,
28 2007.

29 **SECTION 20. EFFECTIVE DATE.** Section 9 of this Act becomes effective on
30 August 1, 2007. Sections 2, 7, and 8 of this Act are effective for taxable years beginning after
31 December 31, 2008.