

Fifty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1475**

Introduced by

Representatives Boucher, Kerzman, Wilkie

Senators Heitkamp, Mutch, Wogsland

1 A BILL for an Act to create and enact five new sections to chapter 6-09 of the North Dakota  
2 Century Code, relating to the transfer of functions of the department of economic development  
3 and finance to the Bank of North Dakota; to amend and reenact sections 4-14.1-03, 10-24-40,  
4 subsection 6 of section 10-30-04, sections 10-30.4-01, 10-30.4-02, 10-30.4-03, 10-30.4-05,  
5 subsection 4 of section 10-30.5-02, sections 10-30.5-05, 21-11-02, 21-11-03, 21-11-04,  
6 21-11-05, 21-11-06, 24-02-37.1, 25-04-20, subsection 1 of section 28-32-01, sections  
7 40-57.1-04, 49-10.1-17, 50-06-01.8, 52-01-03, 52-02.1-01, 52-02.1-02, subsection 2 of section  
8 52-02.1-03, sections 52-02.1-04, 52-02.1-05, subsection 1 of section 54-06-04, sections  
9 54-34-06.1, 54-34-12, 54-34-15, 54-53-02, 55-06-01, 55-08-02.1, 57-38.5-01, 57-38.5-02,  
10 57-38.5-07, and 57-38.5-08 of the North Dakota Century Code, relating to the transfer of  
11 functions of the department of economic development and finance to the Bank of North Dakota;  
12 to repeal chapter 54-34.3 of the North Dakota Century Code, relating to the department of  
13 economic development and finance; and to provide an appropriation.

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

15 **SECTION 1. AMENDMENT.** Section 4-14.1-03 of the 1995 Supplement to the North  
16 Dakota Century Code is amended and reenacted as follows:

17 **4-14.1-03. Agricultural products utilization commission - Composition -**

18 **Appointment.** The agricultural fuel tax fund must be administered by the agricultural products  
19 utilization commission. The commission consists of nine members, five of whom must be  
20 appointed by the governor for terms of two years each, arranged so that two terms expire in  
21 odd-numbered years and three terms expire in even-numbered years. Three members  
22 appointed by the governor must be actively engaged in farming in this state and two members  
23 appointed by the governor must be actively engaged in business in this state. The  
24 commissioner of agriculture shall appoint one member for a term of two years which expires in

1 odd-numbered years. The member appointed by the commissioner must be actively engaged  
2 in farming in this state. Commission members may be reappointed to the commission. Terms  
3 of commissioners shall run from the first day of July. The ~~director~~ president of the ~~department~~  
4 Bank of economic development and finance North Dakota, the president of North Dakota state  
5 university, and the commissioner of agriculture, or their designees, are members of the  
6 commission. The commission shall elect one of its members as chairman.

7 **SECTION 2.** A new section to chapter 6-09 of the North Dakota Century Code is  
8 created and enacted as follows:

9 **Bank of North Dakota to administer economic development programs.** The Bank  
10 of North Dakota shall assume the functions, powers, and duties of the department of economic  
11 development and finance with respect to programs and other efforts intended to enhance the  
12 economic development of the state. The mission of the Bank is to develop strategies and  
13 programs to:

- 14 1. Facilitate the growth, diversification, and expansion of existing enterprises and the  
15 attraction and creation of new wealth-generating enterprises in the state.
- 16 2. Promote economic diversification and innovation within the basic industries and  
17 economic sectors of this state, including strategies and programs designed to  
18 specialize and focus the state's economy on advanced agriculture and food  
19 processing, energy byproduct development, export services and tourism, and  
20 advanced manufacturing.
- 21 3. Promote increased productivity and value added products, processes, and services  
22 in the state, and the export of those goods and services by North Dakota  
23 enterprises to the nation and to the world.
- 24 4. Maintain and revitalize economically depressed rural areas by working in close  
25 collaboration with local communities and by encouraging communities to enter into  
26 cooperative relationships for more efficient and effective education, health care,  
27 government service, and infrastructure maintenance.
- 28 5. Forge a supportive partnership with the board of higher education and the state's  
29 institutions of higher education, regional planning councils, local development  
30 organizations and authorities, the Myron G. Nelson Fund, Incorporated, the state's

1           nonprofit development corporations, and other appropriate private and public  
2           sector organizations in achieving the economic goals of the state.

3           6. Identify those statutes, administrative rules, and policies that impede the attraction,  
4           creation, and expansion of businesses and job creation in this state.

5           7. Assume central responsibility to develop, implement, and coordinate within state  
6           government a comprehensive program of economic development consistent with  
7           the mission of the Bank.

8           8. Coordinate that program of economic development with all other appropriate state  
9           and local government departments, agencies, institutions, and organizations that  
10          perform research, develop and administer programs, gather statistics, or perform  
11          other functions relating to economic development, and those government entities  
12          shall advise, cooperate, and provide reasonable assistance to the Bank.

13          9. Advise, and cooperate with, departments and agencies of the federal government  
14          and of other states, private business and agricultural organizations and  
15          associations, research institutions, and any individual or other private or public  
16          entity, and call upon those entities or individuals for consultation and assistance in  
17          their respective fields of endeavor or interest in order that the Bank and the state  
18          may benefit from up-to-date technical advice, information, and assistance.

19          10. Cooperate with individuals and both public and private entities, including the state's  
20          congressional delegation, in identifying and pursuing potential sources of funding  
21          and to receive those funds to be expended for economic development purposes.

22          11. Report at least annually to an interim committee designated by the legislative  
23          council on loan performance and performance of the Bank with respect to  
24          economic development. A report must include a comparison of dollars spent to the  
25          jobs created of all programs administered or supervised by the Bank and a review  
26          of the timeliness of the loan processing practices including a log of activities from  
27          application to final determination.

28           **SECTION 3.** A new section to chapter 6-09 of the North Dakota Century Code is  
29   created and enacted as follows:

1       **Economic development divisions.** The president of the Bank of North Dakota shall  
2       organize and establish divisions necessary to carry out most efficiently and effectively the  
3       economic development mission and duties of the Bank, except that the Bank must contain:

- 4           1. A science and technology division.
- 5           2. An office of North Dakota American Indian business development to assist North  
6           Dakota tribal and individual economic development representatives and North  
7           Dakota American Indian entrepreneurs with access to state and federal programs  
8           designed to assist them.
- 9           3. An office of North Dakota women's business development to develop and  
10          administer the North Dakota women's business program, to establish and fund the  
11          women's business leadership council, certify women-owned businesses for federal  
12          or state contracting and to recruit, train, and assist women entrepreneurs to  
13          develop and diversify their businesses. The office must have an administrator and  
14          staff sufficient to implement its programs.

15       **SECTION 4.** A new section to chapter 6-09 of the North Dakota Century Code is  
16       created and enacted as follows:

17       **Science and technology division - Duties.** An individual hired, or contracted for, by  
18       the board of directors of technology transfer, incorporated and reporting administratively to the  
19       president of the Bank, shall administer the science and technology division. The individual shall  
20       serve at the will of the board of directors and receive a salary set by the board within the limits  
21       of legislative appropriations. The purpose of the division is to support the development and  
22       implementation of policies and programs that respond to the scientific and technological needs  
23       and opportunities of business and industry in the state through basic and applied research and  
24       technology transfer, product commercialization, agricultural and industrial extension, and  
25       private sector research and development. The division shall perform such duties as assigned  
26       to it by the president.

27       **SECTION 5.** A new section to chapter 6-09 of the North Dakota Century Code is  
28       created and enacted as follows:

29       **Patents.** The Bank of North Dakota, technology transfer, incorporated, the North  
30       Dakota development fund, incorporated, and the North Dakota agricultural products utilization  
31       commission may hold or assign for remuneration all or a portion of their interest in patents or

1 royalty rights acquired in the course of their operation and performance of duties as provided by  
2 law.

3       **SECTION 6.** A new section to chapter 6-09 of the North Dakota Century Code is  
4 created and enacted as follows:

5       **Commission on the status of women - Appointment - Expenses - Duties.** There is  
6 established a commission on the status of women. The commission consists of five members.  
7 The governor shall appoint each member for a term of four years, staggered so that the term of  
8 at least one member expires July first of each year. A vacancy occurring other than by reason  
9 of the expiration of a term must be filled in the same manner as original appointments, except  
10 that the appointment may be made for only the remainder of the unexpired term. The members  
11 are entitled to be paid for mileage and actual expenses incurred in attending meetings and in  
12 performance of their official duties in amounts provided by law for other state officers and  
13 employees. The commission shall coordinate activities and serve as a clearinghouse and an  
14 advisory group to the Bank for information relating to economic development programs that  
15 focus on career development for women. The commission shall prepare for and perform  
16 followup duties in connection with state, regional, and national conferences, encourage interest,  
17 participation, and cooperation with state departments, agencies, and other organizations in  
18 developing needed services, facilities, and opportunities, and provide consultant help to local  
19 organizations created for the purpose of coordinating activities for the economic and career  
20 development of women.

21       **SECTION 7. AMENDMENT.** Section 10-24-40 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **10-24-40. Certification of nonprofit development corporations.** The secretary of  
24 state, after consultation with the ~~director~~ president of the ~~department~~ Bank of economic  
25 ~~development and finance~~ North Dakota, shall adopt rules establishing minimum requirements  
26 for certification of nonprofit development corporations. The rules must contain a requirement  
27 that at least a majority of funds of the corporation must be used for investment in primary sector  
28 business. A nonprofit development corporation may obtain certification from the secretary of  
29 state upon compliance with this section, the rules adopted by the secretary of state, and  
30 payment of a fee of ten dollars.

1           **SECTION 8. AMENDMENT.** Subsection 6 of section 10-30-04 of the North Dakota  
2 Century Code is amended and reenacted as follows:

- 3           6. Cooperate with and avail itself of the facilities of the ~~department~~ Bank of economic  
4 ~~development and finance~~ North Dakota and any other similar governmental  
5 agencies; to cooperate with and assist, and otherwise encourage, local  
6 organizations in the various communities of the state the purpose of which are the  
7 promotion, assistance, and development of the business prosperity and economic  
8 welfare of ~~such~~ the communities and of this state.

9           **SECTION 9. AMENDMENT.** Section 10-30.4-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **10-30.4-01. Definitions.** As used in this chapter, unless the context otherwise  
12 requires:

- 13           1. "Board of directors" means the board of directors of the corporation.  
14           2. "Corporation" means technology transfer, incorporated established under this  
15 chapter.  
16           3. ~~"Department" means the department of economic development and finance.~~  
17           4. "Primary sector business" means an individual, corporation, limited liability  
18 company, partnership, or association which through the employment of knowledge  
19 or labor, adds value to a product, process, or service that results in the creation of  
20 new wealth.

21           **SECTION 10. AMENDMENT.** Section 10-30.4-02 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **10-30.4-02. Purpose.** It is the purpose of this chapter to create a corporation that will  
24 provide a program and budgetary interface between the ~~department~~ Bank of economic  
25 ~~development and finance~~ North Dakota and the North Dakota university system. The primary  
26 objective of the interface is to focus the intellectual and technical resources of the university  
27 system on the discovery, development, and application of scientific and technological principles  
28 and concepts on North Dakota's primary sector business.

29           **SECTION 11. AMENDMENT.** Section 10-30.4-03 of the North Dakota Century Code is  
30 amended and reenacted as follows:

31           **10-30.4-03. Organization.**

- 1           1.    A board of directors shall manage the corporation. The board of directors shall
- 2                adopt articles of incorporation and bylaws consistent with the requirements of
- 3                section 10-30.4-02. The board of directors consists of:
- 4                a.    The president of the North Dakota state university of agriculture and applied
- 5                      science, or the president's designee, and the president of the state university
- 6                      of North Dakota, or the president's designee.
- 7                b.    The ~~director~~ president of the ~~department~~ Bank of ~~economic development and~~
- 8                      ~~finance~~ North Dakota.
- 9                c.    A representative of the North Dakota industrial development association, as
- 10                appointed by that association.
- 11               d.    Three members appointed by the governor, representing the primary sector
- 12                      industries of agriculture, energy, manufacturing, and export services.
- 13           2.    The members appointed under subdivisions c and d of subsection 1 must be
- 14                appointed in a manner that results in subsequent terms of three years staggered
- 15                so that the term of at least one member expires each year. Members may be
- 16                reappointed for additional terms.

17           **SECTION 12. AMENDMENT.** Section 10-30.4-05 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19           **10-30.4-05. Management.** The board of directors shall hire, or contract for, a chief  
20 executive officer to manage the corporation. This officer shall also serve as deputy ~~director~~  
21 administrator of the ~~division of science and technology division~~ of the ~~department~~ Bank of  
22 ~~economic development and finance~~ North Dakota. The board of directors shall determine  
23 minimum qualifications of all staff positions. All investments, contracts, partnerships, limited  
24 liability companies, and business transactions of the corporation are the responsibility of the  
25 board of directors. The board may provide that normal operating costs anticipated in an  
26 approved budget may be incurred and paid without prior board approval.

27           **SECTION 13. AMENDMENT.** Subsection 4 of section 10-30.5-02 of the North Dakota  
28 Century Code is amended and reenacted as follows:

- 29           4.    The ~~director~~ president of the ~~department~~ Bank of ~~economic development and~~
- 30                      ~~finance~~ North Dakota shall adopt rules, subject to the approval of the board of
- 31                directors, necessary to implement the administration of the fund. The rules to

1 implement the grant program must be developed to encourage local fundraising  
2 initiatives for developing locations for businesses financed by the corporation.

3 **SECTION 14. AMENDMENT.** Section 10-30.5-05 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **10-30.5-05. Management.** The ~~deputy director~~ president of the ~~finance division~~ Bank  
6 of ~~the department must be~~ North Dakota shall appoint the chief executive officer of the  
7 corporation. The board of directors shall determine minimum qualifications of all other staff  
8 positions.

9 All investments, contracts, partnerships, limited liability companies, and business  
10 transactions of the corporation are the responsibility of the ~~deputy director~~ chief executive  
11 officer and the board of directors. The board may provide that normal operating costs  
12 anticipated in an approved budget may be incurred and paid without prior board approval.

13 **SECTION 15. AMENDMENT.** Section 21-11-02 of the 1995 Supplement to the North  
14 Dakota Century Code is amended and reenacted as follows:

15 **21-11-02. Application for loan - Form - Contents - Preference of applications.** Any  
16 privately or cooperatively owned enterprise for the purpose of securing a loan from this state for  
17 purposes of planning, constructing, acquiring, equipping, improving, or extending facilities for  
18 the conversion of North Dakota's natural resources into low cost power and the generation and  
19 transmission of such power, and the acquisition of real and personal property and water and  
20 mineral rights needed for such facilities, or any of such purposes, may file an application with  
21 the ~~department~~ Bank of economic development and finance North Dakota. The application  
22 must be in the form required by the ~~department~~ Bank and must be accompanied by a complete  
23 and fully detailed outline and description of the applicant's plan of operation. In the  
24 consideration of applications the department shall consider the following factors:

- 25 1. Preference must be given to applicants with the following qualifications:
- 26 a. Applicants who are experienced in the generation or transmission of power,  
27 and who at the time of application have access to alternate markets for the  
28 sale of such power.
- 29 b. Applicants who are residents of North Dakota, or private or cooperative  
30 enterprises incorporated under the laws of North Dakota and having their  
31 headquarters in the state, whether or not a nonresident person, corporation,



or limited liability company owns part or all of the stock of the applicant or limited liability companies organized under the laws of North Dakota and having their headquarters in the state, whether or not a nonresident person, limited liability company, or corporation owns part or all of the membership interests of the applicant, or is engaged in a partnership or joint enterprise with the applicant.

2. ~~The provisions of subsection~~ Subsection 1 ~~do~~ does not prohibit the ~~department~~ Bank from approving loans to applicants not possessing the qualifications therein described, if in the judgment of the ~~department~~ such Bank approval would better carry out the objectives of this chapter as stated in section 21-11-01.
3. Each application ~~shall~~ must include information for the purpose of showing to the ~~department~~ Bank and may be approved only if the ~~department~~ Bank determines:
  - a. That the facilities proposed to be financed by the loan will result in significant additional industrial or other economic activity in North Dakota which would not occur in the absence of a state loan.
  - b. That the cost of power furnished by the facilities financed by the loan will be significantly lower than it would be without a loan made under this chapter.
  - c. That the facilities financed will furnish power at the lowest possible cost to stimulate industrial development, benefit the general public, and expand the use of North Dakota fuel resources.
4. In considering applications the ~~department~~ Bank may establish additional reasonable criteria with respect to the financial qualification of individuals and organizations requesting loans.

**SECTION 16. AMENDMENT.** Section 21-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**21-11-03. Processing of application - Fee - Purpose.** The ~~department~~ Bank of ~~economic development and finance~~ North Dakota shall process each application and if it determines the applicant is eligible for the loan and has complied with all requirements, it shall request an application fee of not more than fifty thousand dollars. The fee must be deposited in a special and separate fund in the state treasury and must be expended by the ~~department~~ Bank for purposes of investigating the applicant and evaluating the technical and economic

1 feasibility of the plans and specifications as submitted by the applicant. The ~~department~~ Bank  
2 may consult or contract with any person or private, state, or federal department, agency, or  
3 entity, for purposes of that investigation or evaluation. All departments, agencies, institutions,  
4 and officials of this state and its political subdivisions shall provide to the ~~department~~ Bank such  
5 aid, information, and assistance as it may request in regard to any matter relative to the  
6 applicant or ~~such~~ the applicant's plans and specifications. The ~~department~~ Bank may conduct  
7 any private or public hearing it may deem necessary in the course of that investigation or  
8 evaluation. Any unexpended portion of the funds received as an application fee must be  
9 refunded to the applicant after the payment of all costs of investigation and evaluation of the  
10 application. There is hereby appropriated from each application fee these funds as may be  
11 necessary to pay all costs of investigation and evaluation and pay refunds as provided in this  
12 section.

13 **SECTION 17. AMENDMENT.** Section 21-11-04 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **21-11-04. Approval or rejection of application.** Upon completion of all investigations  
16 and evaluations of any matter relative to the applicant or the submitted application and plan, the  
17 ~~department~~ Bank of ~~economic development and finance~~ North Dakota shall either reject the  
18 application as submitted, approve the application as submitted, or offer to approve the  
19 application if modified in accordance with any recommendation made by the ~~commission~~ Bank  
20 as a result of ~~any such~~ the investigation or evaluation. If the applicant fails or refuses to agree  
21 to those modifications, the application must be rejected.

22 **SECTION 18. AMENDMENT.** Section 21-11-05 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **21-11-05. Approved application filed with industrial commission.** Upon approval of  
25 the application, ~~as submitted or modified,~~ the ~~department~~ Bank of ~~economic development and~~  
26 ~~finance~~ North Dakota shall file the application, along with its report and recommendations,  
27 received by it as a result of any investigation and evaluation, with the state industrial  
28 commission. The ~~department of economic development and finance~~ Bank shall prepare and  
29 submit any necessary legislation for the appropriation of additional funds or the authorization of  
30 the issuance of bonds at the following session of the legislative assembly, or at a special  
31 session ~~if called in accordance with the constitution.~~

1           **SECTION 19. AMENDMENT.** Section 21-11-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **21-11-06. Disbursements of loan - Inspection fee.** If the industrial commission finds  
4 that the approved loan application has been filed and processed as required by this chapter and  
5 the proposed loan agreement is in proper legal form and the amount to be disbursed  
6 ~~thereunder~~, with other previous disbursements, does not exceed the funds appropriated for that  
7 purpose, it shall authorize the execution of the loan agreement with the applicant by the ~~director~~  
8 president of the ~~department~~ Bank of ~~economic development and finance~~ North Dakota on  
9 behalf of the state. ~~Prior to the~~ Before disbursement of any funds pursuant to the loan  
10 agreement, the applicant shall deliver to the ~~director~~ Bank a supervision fee in ~~such~~ the amount  
11 ~~as may be~~ specified in the loan agreement, which fee must be deposited in a special fund in the  
12 state treasury. The fee must be expended by the ~~department of economic development and~~  
13 ~~finance~~ Bank for the purpose of periodic inspection of the construction of ~~such~~ the power  
14 generation or transmission facilities, and disbursements to the borrower under the loan  
15 agreement may be made only upon certification by the ~~director or a person appointed by the~~  
16 ~~director~~ Bank that the construction is being carried on in accordance with the loan agreement  
17 and that the loan funds are due the borrower under the agreement. Upon the completion of the  
18 construction of the facilities, any unexpended balance of the inspection fee must be refunded to  
19 the borrower. There is hereby appropriated from each inspection fee those funds as may be  
20 necessary to provide for the inspections and refunds as provided in this section.

21           **SECTION 20. AMENDMENT.** Section 24-02-37.1 of the 1995 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23           **24-02-37.1. Special road advisory committee.** The special road advisory committee  
24 consists of one member of the senate transportation committee and one member of the senate  
25 appropriations committee appointed by the chairman of the legislative council and one member  
26 of the house of representatives transportation committee and one member of the house of  
27 representatives appropriations committee appointed by the chairman of the legislative council  
28 and also the director of the game and fish department, the director of the parks and recreation  
29 department, the ~~director~~ president of the ~~department~~ Bank of ~~economic development and~~  
30 ~~finance~~ North Dakota, and the ~~commissioner~~ director. The committee shall meet at the call of  
31 the ~~commissioner~~ director, who is chairman of the committee, to review requests for funding

1 from the special road fund and to advise the ~~commissioner~~ director regarding funding  
2 requested projects. The ~~commissioner~~ director shall provide staff services to the committee.  
3 All final decisions regarding funding requested projects are in the sole discretion of the  
4 ~~commissioner~~ director. The members of the commission who are members of the legislative  
5 assembly must be compensated by the department, from moneys appropriated from the special  
6 road fund, for attendance at committee meetings at the rate provided in section 54-35-10 and  
7 are entitled to reimbursement for expenses incurred in attending the meetings in the amounts  
8 provided by law for other state officers.

9 **SECTION 21. AMENDMENT.** Section 25-04-20 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **25-04-20. Westwood park assets management committee.** The westwood park  
12 assets management committee consists of eleven members appointed by the governor as  
13 follows: three members of the senate, two from the majority faction and one from the minority  
14 faction, and three members of the house of representatives, two from the majority faction and  
15 one from the minority faction; a representative of the department of human services; a  
16 representative of the ~~department~~ Bank of economic development and finance North Dakota; a  
17 representative of the attorney general's office; the mayor of Grafton; and the governor or the  
18 governor's designee. The officers of the westwood park assets management committee must  
19 be elected annually. Any state agency may serve in an advisory capacity to the westwood park  
20 assets management committee at the discretion of the committee. The committee shall meet at  
21 least twice each year and at other times as the committee or its chairman may direct. The  
22 legislative members of the committee are entitled to receive the same compensation per day as  
23 provided in section 54-35-10 for members of the legislative council and the necessary mileage  
24 and travel expenses provided in sections 44-08-04 and 54-06-09 while attending committee  
25 meetings or in the performance of such special duties as the committee may direct. The  
26 compensation provided for in this section may not be paid to any member of the committee who  
27 received salary or other compensation as a regular employee of the state, or any of its political  
28 subdivisions, or any institution or industry operated by the state. The westwood park assets  
29 management committee shall act when the legislative assembly is not in session to sell, lease,  
30 and otherwise manage the property of westwood park, subject to prior budget section approval.  
31 The department of human services shall provide staff services for the westwood park assets

committee. Any conveyance made by the committee under this section is exempt from sections 54-01-05.2 and 54-01-05.5.

**SECTION 22. AMENDMENT.** Subsection 1 of section 28-32-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, or employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency shall be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
  - a. The office of management and budget except with respect to rules relating to the state building code as authorized or required under section 54-21.3-03, rules relating to the Model Energy Code as required under section 54-21.2-03, rules relating to the central personnel system as authorized under section 54-44.3-07, rules relating to state purchasing practices as required under section 54-44.4-04, rules relating to records management as authorized or required under chapter 54-46, and rules relating to the central microfilm unit as authorized under chapter 54-46.1.
  - b. The adjutant general with respect to the division of emergency management.
  - c. The council on the arts.
  - d. The state auditor.
  - e. ~~The department of economic development and finance.~~
  - f. The dairy promotion commission.
  - ~~g.~~ f. The education factfinding commission.
  - ~~h.~~ g. The educational telecommunications council.
  - ~~i.~~ h. The board of equalization.
  - ~~j.~~ i. The board of higher education.
  - ~~k.~~ j. The Indian affairs commission.

- 1           k.     The industrial commission with respect to the activities of the Bank of North  
2                     Dakota, the North Dakota housing finance agency, the North Dakota  
3                     municipal bond bank, and the North Dakota mill and elevator association.
- 4           l.     The department of corrections and rehabilitation except with respect to the  
5                     activities of the division of adult services under chapter 54-23.4.
- 6           m.     The board of pardons.
- 7           n.     The parks and recreation department.
- 8           o.     The parole board.
- 9           p.     The superintendent of public instruction, except with respect to rules  
10                    prescribed under section 15-21-07 and rules implementing chapter 15-22.
- 11          q.     The state fair association.
- 12          r.     The state department of health with respect to the state toxicologist.
- 13          s.     The board of university and school lands except with respect to activities  
14                    under chapter 47-30.1.
- 15          t.     The administrative committee on veterans' affairs except with respect to rules  
16                    relating to the supervision and government of the veterans' home and the  
17                    implementation of programs or services provided by the veterans' home.
- 18          u.     The industrial commission with respect to the lignite research fund except as  
19                    required under section 57-61-01.5.
- 20          v.     The secretary of state with respect to rules adopted for the presidential  
21                    preference contest under section 16.1-11-02.2.

22           **SECTION 23. AMENDMENT.** Section 40-57.1-04 of the 1995 Supplement to the North  
23   Dakota Century Code is amended and reenacted as follows:

24           **40-57.1-04. Exemption from income tax - Notice to competitors - Limitations.**

25   Upon application by a project operator to the state board of equalization, the net income of a  
26   project may be exempt from state income tax for a period not exceeding five years from  
27   commencement of project operations. The application for the exemption must be reviewed as  
28   to the eligibility of the project by the ~~department~~ Bank of ~~economic development and finance~~  
29   North Dakota and its recommendations forwarded to the state board of equalization. The  
30   project operator shall provide notice to competitors in the manner prescribed by the state board  
31   of equalization. The board shall determine whether the granting of the exemption is in the best

1 interest of the people of North Dakota and, if it so determines, approve the exemption. The  
2 board shall, after making its determination, certify the findings back to the applicant and to the  
3 tax commissioner. Nothing contained herein ~~shall have the effect of exempting~~ exempts the  
4 project from filing an annual income tax return.

5 **SECTION 24. AMENDMENT.** Section 49-10.1-17 of the 1995 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **49-10.1-17. Agreements to restore Amtrak service.** The governor or the director of  
8 the department of transportation may make agreements in accordance with applicable federal  
9 law with the state of Montana and relevant federal agencies for the renewal of service on the  
10 Amtrak north coast Hiawatha route from Fargo to Spokane, Washington. The governor, or the  
11 director of the department of transportation, ~~or the director of the department of economic~~  
12 ~~development and finance~~ may enter agreements with any political subdivision, state, and  
13 federal agency for the restoration of daily service on the Amtrak Empire Builder route.

14 **SECTION 25. AMENDMENT.** Section 50-06-01.8 of the 1995 Supplement to the North  
15 Dakota Century Code is amended and reenacted as follows:

16 **50-06-01.8. Department to seek waiver to establish welfare reform demonstration**  
17 **project - Interim rulemaking.** The department of human services shall seek, from appropriate  
18 federal officials, authorization to establish a demonstration project to combine the benefits  
19 provided under the state's aid to families with dependent children, fuel assistance, and food  
20 stamp programs, pursuant to title IV-A of the Social Security Act [42 U.S.C. 601 et seq.], the  
21 low-income home energy assistance program [42 U.S.C. 8621-8629], and the Food Stamp Act  
22 [7 U.S.C. 2011-2027]. The demonstration project established under this section must provide  
23 for uniform and consistent treatment of income and assets in determining eligibility; provide for  
24 the creation of a uniform method of budgeting and computing benefits, a consistent certification  
25 period for the receipt of benefits, and uniform reporting requirements; provide for necessary  
26 child care to allow a participant to meet educational and employment goals; and provide for  
27 universal employment and training to assist individuals in becoming self-sufficient. The project  
28 may be administered notwithstanding the requirements of subsections 4 and 5 of section  
29 50-01-09, section 50-03-07, subsections 17 and 19 of section 50-06-05.1, chapter 50-09, and  
30 section 50-11.1-11.1, relating to the administration of the aid to families with dependent  
31 children, fuel assistance, and food stamp programs, except that a county shall reimburse the

1 state for expenditures for the aid to families with dependent children program in that county as  
2 required by section 50-09-21. The demonstration project may require any participant to  
3 cooperate with child support enforcement efforts. The ~~department~~ Bank of economic  
4 ~~development and finance~~ North Dakota, job service North Dakota, county social service boards,  
5 and any other state agency determined appropriate, shall cooperate with the department to  
6 ensure the success of the project. Local government agencies within the demonstration project  
7 counties are encouraged to cooperate with the department. Rules adopted to implement the  
8 demonstration project may be adopted as interim final rules without a finding that emergency  
9 rulemaking is necessary, and the interim final rules may take effect on a date no earlier than the  
10 date of filing with the legislative council of the notice of proposed adoption of a rule required by  
11 subsection 4 of section 28-32-02.

12 **SECTION 26. AMENDMENT.** Section 52-01-03 of the 1995 Supplement to the North  
13 Dakota Century Code is amended and reenacted as follows:

14 **52-01-03. Disclosure of information.** Except as otherwise provided in this section,  
15 information obtained from any employing unit or individual pursuant to the administration of the  
16 North Dakota Unemployment Compensation Law and determinations as to the benefit rights of  
17 any individual must be held confidential and may not be disclosed or be open to public  
18 inspection in any manner revealing the individual's or employing unit's identity. Any claimant or  
19 claimant's legal representative must be supplied with information from the records of the job  
20 insurance division, to the extent necessary for the proper presentation of the claimant's claim in  
21 any proceeding under the North Dakota Unemployment Compensation Law with respect to the  
22 claim. Subject to restrictions as the bureau by rule may prescribe, the information may be  
23 made available to any agency of this or any other state, or any federal agency, charged with the  
24 administration of any unemployment compensation law or the maintenance of a system of  
25 public employment offices, or the bureau of internal revenue of the United States department of  
26 the treasury, and information obtained in connection with the administration of the employment  
27 service may be made available to persons or agencies for purposes appropriate to the  
28 operation of a public employment service. Upon a request, the bureau shall furnish to any  
29 agency of the United States charged with the administration of public works or assistance  
30 through public employment, and may furnish to any state agency similarly charged, the name,  
31 address, ordinary occupation, and employment status of each recipient of benefits and the



1 recipient's rights to further benefits under the North Dakota Unemployment Compensation Law.  
2 The bureau may request the comptroller of the currency of the United States to cause an  
3 examination of the correctness of any return or report of any national banking association,  
4 rendered pursuant to the North Dakota Unemployment Compensation Law, and in connection  
5 with the request, may transmit any report or return to the comptroller of the currency of the  
6 United States as provided in subsection c of section 3305 of the federal Internal Revenue Code.  
7 The bureau shall request and exchange information for purposes of income and eligibility  
8 verification to meet the requirements of section 1137 of the Social Security Act.

9 The bureau may provide the workers compensation bureau, the state commissioner of  
10 labor, the ~~department~~ Bank of economic development and finance North Dakota, the state tax  
11 commissioner, and the North Dakota occupational information coordinating committee with  
12 information obtained pursuant to the administration of the North Dakota Unemployment  
13 Compensation Law. Any information so provided may be used only for the purpose of  
14 administering the duties of the workers compensation bureau, the state commissioner of labor,  
15 the ~~state department~~ Bank of economic development and finance North Dakota, the state tax  
16 commissioner, and the North Dakota occupational information coordinating committee. The  
17 bureau may provide any state agency or a private entity with the names and addresses of  
18 employing units for the purpose of jointly publishing or distributing publications or other  
19 information as provided in section 54-06-04.3. Any information so provided may only be used  
20 for the purpose of jointly publishing or distributing publications or other information as provided  
21 in section 54-06-04.3.

22 Whenever the bureau obtains information on the activities of a contractor doing  
23 business in this state of which officials of the secretary of state, workers compensation bureau,  
24 or the tax commissioner may be unaware and that may be relevant to duties of those officials,  
25 the bureau shall provide any relevant information to those officials for the purpose of  
26 administering their duties.

27 The bureau shall request and exchange information as required of the bureau under  
28 federal law with any specified governmental agencies. Any information so provided may be  
29 used only for the purpose of administering the duties of such governmental agencies.

30 **SECTION 27. AMENDMENT.** Section 52-02.1-01 of the 1995 Supplement to the North  
31 Dakota Century Code is amended and reenacted as follows:

1           **52-02.1-01. Definitions.** When used in this chapter, unless the context otherwise  
2 requires:

- 3           1. "Agreement" is the agreement between an employer and job service North Dakota  
4           concerning a project.
- 5           2. "Bank" means the Bank of North Dakota.
- 6           3. "Base employment level" means the number of full-time jobs an employer employs  
7           prior to the date of the commencement of the project.
- 8           ~~3.~~ 4. "Community" means the city or county in which an eligible primary sector business  
9           is or will be located, or a local development corporation, community organization,  
10          or any other group the interest of which is in the economic growth of the area.
- 11          ~~4.~~ 5. "Date of commencement of the project" means the date of the agreement.
- 12          ~~5.~~ ~~"Department" means the department of economic development and finance.~~
- 13          6. "Employee" means the individual employed in a new job.
- 14          7. "Employer" means the individual, corporation, partnership, or association providing  
15          new jobs and entering into an agreement.
- 16          8. "New job" means a job in a new or expanding primary sector business. The term  
17          does not include recalled workers returning to positions they previously held,  
18          replacement workers, including workers newly hired as a result of a labor dispute,  
19          or other jobs that formerly existed within the employment of the employer in the  
20          state.
- 21          9. "New jobs credit from withholding" means the credit as provided in section  
22          52-02.1-03.
- 23          10. "New jobs training program" or "program" means the project or projects established  
24          by job service North Dakota to provide workers with education and training  
25          required for jobs in new or expanding primary sector businesses in the state.
- 26          11. "Primary sector business" means an employer engaged in locating to or in this  
27          state which previously had no presence in this state, or in expanding its operations  
28          within this state, which through the employment of knowledge or labor, adds value  
29          to a product, process, or export service that results in the creation of new wealth,  
30          excluding production agriculture, if it meets the following eligibility criteria:

- a. An employer entering into an agreement, and increasing its base employment level by at least one employee, or in the case of an employer without an established base employment level in this state creating at least five employees, within the time set in the agreement, is entitled to the new jobs credit from withholding.
  - b. An employer must have an economically productive and socially desirable purpose within the state.
  - c. An employer must not be closing or reducing its operation in one area of the state and relocating substantially the same operation in another area.
12. "Program costs" means all necessary and incidental costs of providing program services. The term does not include the cost of purchase of equipment to be owned or utilized by the training or educational institution or service.
  13. "Program services" means training and education specifically directed to the new jobs, including the following:
    - a. All direct training costs, such as:
      - (1) Program promotion;
      - (2) Instructor wages, per diem, and travel;
      - (3) Curriculum development and training materials;
      - (4) Lease of training equipment and training space;
      - (5) Miscellaneous direct training costs;
      - (6) Administrative costs; and
      - (7) Assessment and testing.
    - b. In-house or on-the-job training.
    - c. Subcontracted services with institutions governed by the board of higher education, private colleges or universities, federal, state, or local agencies, or other private training or educational services.
  14. "Project" means a training arrangement that is the subject of an agreement entered into between job service North Dakota and an employer to provide program services.

**SECTION 28. AMENDMENT.** Section 52-02.1-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1           **52-02.1-02. Job service North Dakota - Agreements.** Program services developed  
2 and coordinated by job service North Dakota must be provided to primary sector businesses  
3 found eligible for loans or grants under this chapter. Job service North Dakota may enter into  
4 an agreement to establish a project with an employer which meets the following conditions:

- 5           1. Sets a date of commencement of the project.
- 6           2. Identifies program costs, including deferred costs, which are to be paid from  
7           available sources including new jobs credit from withholding to be received or  
8           derived from new jobs resulting from the project.
- 9           3. Provides for a guarantee by the employer of payment for program costs.
- 10          4. Provides that any deferral of program cost payments may not exceed ten years  
11          from the date of commencement of the project.
- 12          5. Provides that on-the-job training costs for employees may not exceed fifty percent  
13          of the annual gross payroll costs of the new jobs in the first full year after the date  
14          of commencement of the project. For purposes of this subsection, "gross payroll"  
15          is the gross wages and salaries for the new jobs.
- 16          6. Provides the maximum amount of new jobs credit from withholding or tuition and  
17          fee payments allowed for a project.
- 18          7. Provides that every employee participating in the new jobs training program must  
19          be paid an income of at least seven dollars and fifty cents per hour, plus benefits,  
20          by the end of the first year of employment under the project and for the remaining  
21          life of the loan.

22 A project requiring a loan from the department or a community may not be approved, and an  
23 agreement may not be executed by job service North Dakota, until notification from the  
24 ~~department~~ Bank or community that the employer has qualified for a loan. Upon execution of  
25 the agreement, job service North Dakota shall notify the state tax commissioner of the  
26 agreement and the identity of the employer. Job service North Dakota may adopt rules to  
27 implement this chapter. Job service North Dakota shall prepare an annual report for the  
28 governor and the legislative assembly with respect to the new jobs training program.

29           **SECTION 29. AMENDMENT.** Subsection 2 of section 52-02.1-03 of the 1995  
30 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The North Dakota income tax withholding on wages paid by the employer to each new employee participating in a project must be credited from the withholding payments made by the employer pursuant to section 57-38-60. The tax commissioner shall transmit the equivalent credit payment amount to the state treasurer to be allocated to a special fund for payment to the ~~department~~ Bank, community, or both, as the case may be, of principal and interest on loans issued pursuant to section 52-02.1-04. All moneys deposited in the fund are hereby appropriated for the purposes of this section. When the principal and interest on the loans have been repaid, the employer credits must cease and any money received after the loans have been repaid must be remitted by the tax commissioner to the general fund of the state.

**SECTION 30. AMENDMENT.** Section 52-02.1-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**52-02.1-04. Fund - Administration.** Funding for programs must be through loans or grants as stated under this section. Loans may be made by the ~~department~~ Bank from the North Dakota future fund, a community, or the ~~department~~ Bank and a community cooperatively. A community may provide loans directly or through any financial institution currently qualified to participate in a loan with the Bank of North Dakota. The Bank of North Dakota may participate in loans under such credit standards and lending policies it determines are necessary and applicable. A community may alternatively fund a program through a grant without use of new jobs credit from withholding.

1. Loans must be secured and payable from a sufficient portion of the future receipts of payments authorized by the agreement, with such other security as the lender may determine is justified. The state treasurer shall transfer the moneys from the special fund created in section 52-02.1-03 to a special fund set up for this purpose by the ~~department~~ Bank or community. The receipts must be pledged to the payment of principal of and interest on the loan.
2. The ~~department~~ Bank may adopt rules to implement this chapter.

**SECTION 31. AMENDMENT.** Section 52-02.1-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1           **52-02.1-05. Reports to legislative council budget section.** The tax commissioner  
2 shall report to the budget section of the legislative council the allocations to the special fund  
3 under section 52-02.1-03, the executive director of job service North Dakota shall report to the  
4 budget section on the agreements entered under section 52-02.1-02, and the ~~director~~ president  
5 of the ~~department of economic development and finance~~ Bank shall report to the budget section  
6 on loans, grants, and new jobs qualified for program services. The tax commissioner, executive  
7 director of job service North Dakota, and the ~~director~~ president of the ~~department of economic~~  
8 ~~development and finance~~ Bank shall provide any other information relating to this chapter which  
9 the budget section requests. The reports must be presented at the times requested by the  
10 budget section, but not less than once in each calendar year.

11           **SECTION 32. AMENDMENT.** Subsection 1 of section 54-06-04 of the 1995  
12 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 13           1. The following executive and administrative officers and departments shall submit to  
14 the governor and the secretary of state reports covering their operations for the two  
15 preceding fiscal years, except as otherwise provided by law, not later than the first  
16 day of December each year after the regular session of the legislative assembly:
- 17           a. Secretary of state.
  - 18           b. State auditor.
  - 19           c. Commissioner of insurance.
  - 20           d. Attorney general.
  - 21           e. Commissioner of agriculture.
  - 22           f. Superintendent of public instruction.
  - 23           g. State tax commissioner.
  - 24           h. Public service commission.
  - 25           i. Department of corrections and rehabilitation.
  - 26           j. Department of transportation.
  - 27           k. State department of health.
  - 28           l. Department of human services.
  - 29           m. Workers compensation bureau.
  - 30           n. Office of management and budget.
  - 31           o. State treasurer.

- p. Commissioner of labor.
- q. Department of banking and financial institutions.
- r. ~~Department of economic development and finance.~~
- s. Game and fish department.
- t. s. Industrial commission.
- u. t. Job service North Dakota.
- v. u. Board of university and school lands.

**SECTION 33. AMENDMENT.** Section 54-34-06.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34-06.1. Certain architects and engineers to be provided product listing of in-state manufacturers.**

1. Each year the ~~director of the department Bank of economic development and finance~~ North Dakota immediately shall send a product listing of manufacturers located in this state to the registered architects or engineers, describing those manufacturers and their products in the following major industrial groups:
  - a. Lumber and wood products, except furniture;
  - b. Rubber and miscellaneous plastic products;
  - c. Stone, clay, glass, and concrete products;
  - d. Fabricated metal products, machinery, and transportation equipment; and
  - e. Any other major industrial groups that the director determines include manufactured products that may be used in the project.
2. An architect or engineer who receives a product listing under subsection 1, if possible, shall design the project with specifications that are met by listed products manufactured in this state.

**SECTION 34. AMENDMENT.** Section 54-34-12 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34-12. ~~Department Bank of economic development and finance to establish venture~~ North Dakota - Venture capital network - Duties and functions Functions.** The ~~department Bank of economic development and finance~~ North Dakota may establish, from funds appropriated to or otherwise available to the ~~department Bank~~, the venture capital

network as a clearinghouse for information on informal risk capital investment opportunities in the state. The ~~department~~ Bank may:

1. Enter into service contracts on a competitive bid basis with public and private agencies, institutions, organizations, and individuals for the purpose of establishing and operating the venture capital network.
2. Receive and approve contract proposals for the purpose of establishing the venture capital network.
3. Solicit the support and contributions of public and private agencies, organizations, institutions, and individuals.
4. Accept and administer contributions for the purpose of operating the venture capital network.
5. Advertise and promote the venture capital network.

**SECTION 35. AMENDMENT.** Section 54-34-15 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34-15. Private sponsor.** The ~~department~~ Bank of economic development and finance North Dakota may endeavor to locate a private sector sponsor or group of sponsors to assume administration of the venture capital network.

**SECTION 36. AMENDMENT.** Section 54-53-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-53-02. Advisory transportation council - Composition.** There is ~~hereby~~ established a transportation council ~~which shall~~ to serve in an advisory capacity to the upper great plains transportation institute. The director of the institute shall serve as the executive secretary of the council and it shall elect its own chairman. The council membership ~~shall~~ consist ~~consists~~ of one representative from and appointed by the following organizations:

1. The greater North Dakota association.
2. The public service commission.
3. The North Dakota farm bureau.
4. The North Dakota farmers union.
5. The livestock industry council.
6. The North Dakota wheat commission.
7. The Bank of North Dakota ~~department of economic development and finance~~.



8. The North Dakota farmers grain dealers association.

9. The North Dakota railway lines.

10. The North Dakota motor carriers association.

11. The North Dakota aeronautics commission.

12. A traffic counsel selected by the members of the council appointed by the  
above-named organizations.

Members of the council shall serve without pay, but they may receive reimbursement for  
actual and necessary expenses incurred in the performance of their duties, if authorized by the  
director.

The council shall consult with the institute in matters of policy affecting the  
administration of this chapter and in the development of transportation in the state of North  
Dakota. The council shall meet at the call of the executive director or upon the written request  
of three or more members of the council.

**SECTION 37. AMENDMENT.** Section 55-06-01 of the North Dakota Century Code is  
amended and reenacted as follows:

**55-06-01. Yellowstone-Missouri-Fort Union commission.** There is a  
Yellowstone-Missouri-Fort Union commission, hereinafter referred to as the "commission",  
declared to be a governmental agency with the authority to exercise the powers specified  
herein, or which may be reasonably implied, composed of the governor as chairman, the  
president of the senate, the speaker of the house, the superintendent of the state historical  
board, the ~~director~~ president of the ~~department~~ Bank of economic development and finance  
North Dakota, all ex officio, and five citizens of the state to be appointed by the governor who  
shall serve without compensation for the purpose of investigating, in cooperation with the state  
of Montana and the national park service, the historical importance and significance of the area  
and for formulating and executing plans for the preservation of the historic sites illustrative of  
the history of the United States. The commission may expend its operating expenses and other  
funds provided by legislative appropriations, and public and private grants, for programs,  
improvements, and facilities to preserve and improve the Yellowstone-Missouri confluence  
area.

**SECTION 38. AMENDMENT.** Section 55-08-02.1 of the North Dakota Century Code is  
amended and reenacted as follows:

**55-08-02.1. Outdoor recreation interagency council - Composition - Functions.** A

state outdoor recreation interagency council is created and must be composed of the state engineer of the water commission, director of the game and fish department, superintendent of the state historical board, director of the department of transportation, executive secretary of the state soil conservation committee, the director of the parks and recreation department, chairman of the state water commission, state health officer, ~~director~~ president of the ~~department~~ Bank of economic development and finance North Dakota, state forester, and the commissioner of university and school lands. The governor or the governor's designee is council chairman.

The members of the council:

1. Shall deal with the distribution of state general fund appropriations that are to be matched with federal outdoor recreation grants-in-aid at the state level. Each member has one vote in those matters.
2. Shall meet periodically at the call of the chairman and shall keep minutes and other financial records dealing with the meetings.
3. Shall cooperate with the United States or any appropriate agency thereof, particularly in connection with the distribution and use of federal aid funds that the state may become eligible to receive.
4. Shall encourage cooperation among public, voluntary, and commercial agencies and organizations.
5. Subject to the approval of the governor, may adopt rules for the conduct of its affairs as may be deemed necessary, including the time, place, and notice of regular meetings, call and notice of special meetings, and number of members required for a quorum to transact business.

**SECTION 39. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. "~~Director~~" "Bank" means the ~~director~~ Bank of the ~~department of economic development and finance~~ North Dakota.

- 1           2. "New wealth" means revenues to a North Dakota business which are generated by  
2           sales of products or services to customers outside of the state. ~~"New wealth"~~ The  
3           term also includes revenues to a qualified business the customers of which  
4           previously were unable to acquire, or had limited availability of, the product or  
5           service from a North Dakota provider.
- 6           3. "Primary sector business" means a qualified business that through the employment  
7           of knowledge or labor adds value to a product, process, or service and which  
8           results in the creation of new wealth.
- 9           4. "Qualified business" means a primary sector business that:  
10          a. Is incorporated in North Dakota as a for-profit corporation or is a partnership,  
11          limited partnership, or joint venture;  
12          b. Is in compliance with the requirements for filings with the securities  
13          commissioner under the securities laws of this state;  
14          c. Has North Dakota residents as a majority of its employees;  
15          d. Has its principal office in this state and has the majority of its business activity  
16          performed in this state, except sales activity;  
17          e. Has a majority of its ownership interests owned by one or more individuals for  
18          whom operation of the business is their full-time professional activity; and  
19          f. Had gross sales receipts of less than two million dollars in its most recently  
20          ended taxable year.
- 21          5. "Taxpayer" means an individual, estate, or trust.

22           **SECTION 40. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24           **57-38.5-02. Certification - Investment reporting by qualified businesses.** The  
25 ~~director~~ Bank shall certify whether a business that has requested to become a qualified  
26 business meets the requirements of subsection 4 of section 57-38.5-01. The ~~director~~ Bank  
27 shall establish the necessary forms and procedures for certifying qualified businesses.

28           **SECTION 41. AMENDMENT.** Section 57-38.5-07 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30           **57-38.5-07. Investment reporting forms.** Within thirty days after the date on which an  
31 investment in a qualified business is purchased, the qualified business shall file with the tax

1 commissioner and the ~~director~~ Bank and provide to the investor completed forms prescribed by  
2 the tax commissioner which show as to each investment in the qualified business the following:

- 3 1. The name, address, and social security number of the taxpayer who made the  
4 investment.
- 5 2. The dollar amount paid for the investment by the taxpayer.
- 6 3. The date on which full consideration was received by the qualified business for the  
7 investment.

8 **SECTION 42. AMENDMENT.** Section 57-38.5-08 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **57-38.5-08. Rules and administration.** The tax commissioner is charged with  
11 administration of this chapter as it relates to an income tax credit and has the same powers as  
12 provided under section 57-38-56 for purposes of this chapter. The ~~director~~ Bank is charged  
13 with administration of this chapter as it relates to certification of qualified businesses and the  
14 ~~director~~ Bank may adopt rules for that purpose.

15 **SECTION 43. REPEAL.** Chapter 54-34.3 of the 1995 Supplement to the North Dakota  
16 Century Code is repealed.

17 **SECTION 44. APPROPRIATION - TRANSFER.** As of the effective date of this Act, the  
18 department of economic development and finance is abolished and any funds appropriated to  
19 the department by the fifty-fourth legislative assembly and the fifty-fifth legislative assembly are  
20 transferred to the Bank of North Dakota for economic development activities.