

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2329

Introduced by

Senators Heitkamp, Thane

1 A BILL for an Act to amend and reenact sections 4-14.1-03, 4-14.1-04, subsection 6 of section  
2 10-30-04, subsection 4 of section 10-30.5-02, sections 10-30.5-03, 10-30.5-05, subsection 6 of  
3 section 10-30.6-04, sections 21-11-02, 21-11-03, 21-11-04, 21-11-05, 21-11-06, 25-04-20,  
4 subsection 4 of section 26.1-50-01, section 26.1-50-02, subsection 2 of section 28-32-01,  
5 sections 40-57.1-04, 49-10.1-17, subsection 4 of section 50-06-01.8, section 52-01-03,  
6 subsection 5 of section 52-02.1-01, section 52-02.1-02, subsection 2 of section 52-02.1-03,  
7 section 52-02.1-04, subdivision r of subsection 1 of section 54-06-04, sections 54-34-06.1,  
8 54-34-12, 54-34-15, 54-34.3-01, 54-34.3-02, 54-34.3-04, 54-34.3-06, 54-34.3-08, 54-34.3-09,  
9 54-34.3-10, 54-53-02, 55-06-01, and subsection 1 of section 57-38.5-01 of the North Dakota  
10 Century Code, relating to the transfer of functions of the department of economic development  
11 and finance to the Bank of North Dakota; to repeal sections 54-34.3-03 and 54-34.3-05 of the  
12 North Dakota Century Code, relating to the department of economic development and finance;  
13 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 1997 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 of the ~~department~~ division of  
4 economic development and finance, the president of North Dakota state university, and the  
5 commissioner of agriculture, or their designees, are members of the commission. The  
6 commission shall elect one of its members as chairman.

7 **SECTION 2. AMENDMENT.** Section 4-14.1-04 of the 1997 Supplement to the North  
8 Dakota Century Code is amended and reenacted as follows:

9 **4-14.1-04. Agricultural products utilization commission - Meetings - Personnel -**  
10 **Reports.** The agricultural products utilization commission, which is a division of the  
11 ~~department~~ Bank of economic development and finance North Dakota, shall meet as  
12 necessary and shall report to each session of the legislative assembly. The commission may  
13 secure office space, employ needed personnel for the performance of its duties, hire  
14 consultants, spend any funds appropriated to the commission, and contract with public entities  
15 or private parties for services.

16 **SECTION 3. AMENDMENT.** Subsection 6 of section 10-30-04 of the North Dakota  
17 Century Code is amended and reenacted as follows:

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

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

- 26 4. The director of the ~~department~~ division of economic development and finance shall  
27 adopt rules, subject to the approval of the board of directors, necessary to  
28 implement the administration of the fund. The rules to implement the grant  
29 program must be developed to encourage local fundraising initiatives for  
30 developing locations for businesses financed by the corporation.

1           **SECTION 5. AMENDMENT.** Section 10-30.5-03 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **10-30.5-03. Organization.** A board of directors shall manage the corporation. The  
4 board of directors shall adopt and amend articles of incorporation and bylaws consistent with  
5 the purposes detailed in this chapter. The board of directors consists of eight members who  
6 shall serve three-year terms. The terms must be staggered so that no more than three  
7 positions require reappointment in any one year. The governor shall appoint the members and  
8 shall only consider representatives who serve in executive capacities from the following areas  
9 in making the selections: private sector manufacturing, finance, exported services, including  
10 tourism, and industrial technology and research. There must be at least one member who is  
11 enrolled in a federally recognized North Dakota Indian tribe who need not serve in an executive  
12 capacity, the director of the division of economic development and finance, and one member  
13 from a rural area, on the board of directors. Members may be reappointed for additional terms.

14           **SECTION 6. AMENDMENT.** Section 10-30.5-05 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **10-30.5-05. Management.** The ~~deputy~~ director of the ~~finance~~ division of ~~the~~  
17 ~~department must be~~ economic development and finance shall serve as the chief executive  
18 officer of the corporation. The board of directors shall determine minimum qualifications of all  
19 other staff positions.

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

24           **SECTION 7. AMENDMENT.** Subsection 6 of section 10-30.6-04 of the 1997  
25 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 26           6.   Cooperate with and avail itself of the facilities of the ~~department~~ division of  
27               economic development and finance and any other similar governmental agencies;  
28               and cooperate with, assist, and otherwise encourage local organizations in the  
29               various communities of the state, the purpose of which ~~are~~ is the promotion,  
30               assistance, and development of the business prosperity and economic welfare of  
31               the communities and of this state.

1           **SECTION 8. AMENDMENT.** Section 21-11-02 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **21-11-02. Application for loan - Form - Contents - Preference of applications.** Any  
4 privately or cooperatively owned enterprise for the purpose of securing a loan from this state for  
5 purposes of planning, constructing, acquiring, equipping, improving, or extending facilities for  
6 the conversion of North Dakota's natural resources into low cost power and the generation and  
7 transmission of such power, and the acquisition of real and personal property and water and  
8 mineral rights needed for such facilities, or any of such purposes, may file an application with  
9 the ~~department~~ Bank of ~~economic development and finance~~ North Dakota. The application  
10 must be in the form required by the ~~department~~ Bank and must be accompanied by a complete  
11 and fully detailed outline and description of the applicant's plan of operation. In the  
12 consideration of applications the department shall consider the following factors:

- 13           1. Preference must be given to applicants with the following qualifications:
  - 14           a. Applicants who are experienced in the generation or transmission of power,  
15           and who at the time of application have access to alternate markets for the  
16           sale of such power.
  - 17           b. Applicants who are residents of North Dakota, or private or cooperative  
18           enterprises incorporated under the laws of North Dakota and having their  
19           headquarters in the state, whether or not a nonresident person, corporation,  
20           or limited liability company owns part or all of the stock of the applicant or  
21           limited liability companies organized under the laws of North Dakota and  
22           having their headquarters in the state, whether or not a nonresident person,  
23           limited liability company, or corporation owns part or all of the membership  
24           interests of the applicant, or is engaged in a partnership or joint enterprise  
25           with the applicant.
- 26           2. ~~The provisions of subsection~~ Subsection 1 ~~do~~ does not prohibit the ~~department~~  
27           Bank from approving loans to applicants not possessing the qualifications therein  
28           described, if in the judgment of the ~~department~~ such Bank approval would better  
29           carry out the objectives of this chapter as stated in section 21-11-01.
- 30           3. Each application ~~shall~~ must include information for the purpose of showing to the  
31           ~~department~~ Bank and may be approved only if the ~~department~~ Bank determines:

1           a.    That the facilities proposed to be financed by the loan will result in significant  
2                   additional industrial or other economic activity in North Dakota which would  
3                   not occur in the absence of a state loan.

4           b.    That the cost of power furnished by the facilities financed by the loan will be  
5                   significantly lower than it would be without a loan made under this chapter.

6           c.    That the facilities financed will furnish power at the lowest possible cost to  
7                   stimulate industrial development, benefit the general public, and expand the  
8                   use of North Dakota fuel resources.

9           4.    In considering applications the ~~department~~ Bank may establish additional  
10               reasonable criteria with respect to the financial qualification of individuals and  
11               organizations requesting loans.

12           **SECTION 9. AMENDMENT.** Section 21-11-03 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **21-11-03. Processing of application - Fee - Purpose.** The ~~department~~ Bank of  
15 ~~economic development and finance~~ North Dakota shall process each application and if it  
16 determines the applicant is eligible for the loan and has complied with all requirements, it shall  
17 request an application fee of not more than fifty thousand dollars. The fee must be deposited in  
18 a special and separate fund in the state treasury and must be expended by the ~~department~~  
19 Bank for purposes of investigating the applicant and evaluating the technical and economic  
20 feasibility of the plans and specifications as submitted by the applicant. The ~~department~~ Bank  
21 may consult or contract with any person or private, state, or federal department, agency, or  
22 entity, for purposes of that investigation or evaluation. All departments, agencies, institutions,  
23 and officials of this state and its political subdivisions shall provide to the ~~department~~ Bank such  
24 aid, information, and assistance as it may request in regard to any matter relative to the  
25 applicant or ~~such~~ the applicant's plans and specifications. The ~~department~~ Bank may conduct  
26 any private or public hearing it may deem necessary in the course of that investigation or  
27 evaluation. Any unexpended portion of the funds received as an application fee must be  
28 refunded to the applicant after the payment of all costs of investigation and evaluation of the  
29 application. There is hereby appropriated from each application fee these funds as may be  
30 necessary to pay all costs of investigation and evaluation and pay refunds as provided in this  
31 section.

1           **SECTION 10. AMENDMENT.** Section 21-11-04 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **21-11-04. Approval or rejection of application.** Upon completion of all investigations  
4 and evaluations of any matter relative to the applicant or the submitted application and plan, the  
5 ~~department~~ Bank of economic development and finance North Dakota shall either reject the  
6 application as submitted, approve the application as submitted, or offer to approve the  
7 application if modified in accordance with any recommendation made by the ~~commission~~ Bank  
8 as a result of ~~any such~~ the investigation or evaluation. If the applicant fails or refuses to agree  
9 to those modifications, the application must be rejected.

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

12          **21-11-05. Approved application filed with industrial commission.** Upon approval  
13 of the application, ~~as submitted or modified,~~ the ~~department~~ Bank of economic development  
14 ~~and finance North Dakota~~ shall file the application, along with its report and recommendations,  
15 received by it as a result of any investigation and evaluation, with the state industrial  
16 commission. The ~~department of economic development and finance~~ Bank shall prepare and  
17 submit any necessary legislation for the appropriation of additional funds or the authorization of  
18 the issuance of bonds at the following session of the legislative assembly, or at a special  
19 session ~~if called in accordance with the constitution.~~

20          **SECTION 12. AMENDMENT.** Section 21-11-06 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22          **21-11-06. Disbursements of loan - Inspection fee.** If the industrial commission finds  
23 that the approved loan application has been filed and processed as required by this chapter  
24 and the proposed loan agreement is in proper legal form and the amount to be disbursed  
25 ~~thereunder,~~ with other previous disbursements, does not exceed the funds appropriated for that  
26 purpose, it shall authorize the execution of the loan agreement with the applicant by the  
27 ~~director~~ president of the ~~department~~ Bank of economic development and finance North Dakota  
28 on behalf of the state. ~~Prior to the~~ Before disbursement of any funds pursuant to the loan  
29 agreement, the applicant shall deliver to the ~~director~~ Bank a supervision fee in ~~such the~~ the amount  
30 ~~as may be~~ specified in the loan agreement, which fee must be deposited in a special fund in the  
31 state treasury. The fee must be expended by the ~~department of economic development and~~

1 ~~finance~~ Bank for the purpose of periodic inspection of the construction of ~~such~~ the power  
2 generation or transmission facilities, and disbursements to the borrower under the loan  
3 agreement may be made only upon certification by the ~~director or a person appointed by the~~  
4 ~~director~~ Bank that the construction is being carried on in accordance with the loan agreement  
5 and that the loan funds are due the borrower under the agreement. Upon the completion of the  
6 construction of the facilities, any unexpended balance of the inspection fee must be refunded to  
7 the borrower. There is hereby appropriated from each inspection fee those funds as may be  
8 necessary to provide for the inspections and refunds as provided in this section.

9 **SECTION 13. AMENDMENT.** Section 25-04-20 of the 1997 Supplement to the North  
10 Dakota Century Code is 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~~ division of economic development and finance; a  
17 representative of the attorney general's office; the mayor of Grafton; and the governor or the  
18 governor's designee. The governor shall appoint a chairman. Any state agency may serve in  
19 an advisory capacity to the westwood park assets management committee at the discretion of  
20 the committee. The committee shall meet at such times as the committee or its chairman may  
21 direct. The legislative members of the committee are entitled to receive the same  
22 compensation per day as established for members of the legislative assembly for attendance at  
23 interim committee meetings and the necessary mileage and travel expenses provided in  
24 sections 44-08-04 and 54-06-09 while attending committee meetings or in the performance of  
25 such special duties as the committee may direct. The compensation provided for in this section  
26 may not be paid to any member of the committee who received salary or other compensation  
27 as a regular employee of the state, or any of its political subdivisions, or any institution or  
28 industry operated by the state. The westwood park assets management committee shall act  
29 when the legislative assembly is not in session to sell the property of westwood park, subject to  
30 prior budget section approval. 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 14. AMENDMENT.** Subsection 4 of section 26.1-50-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Primary sector business" means an individual, corporation, limited liability company, partnership, or association that through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth. Qualification as a primary sector business under this subsection must be determined by the ~~department~~ division of economic development and finance.

**SECTION 15. AMENDMENT.** Section 26.1-50-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**26.1-50-02. Establishment - Organization.** Any insurer or group of insurers may establish a corporation or limited liability company to own and operate the North Dakota low-risk incentive fund. Except as provided in this chapter, all authority regarding the articles of incorporation or articles of organization is the province of the governing board, which must include a representative of the Bank of North Dakota ~~and the director of the department of economic development and finance~~. The Bank of North Dakota shall administer the fund; however, the governing board is responsible for adopting fund policies and procedures. The governing board may not distribute more than seventy-five percent of the net profit of the fund in any of the first five years of operation.

**SECTION 16. AMENDMENT.** Subsection 2 of section 28-32-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "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 conduct on the capitol grounds and in buildings located on the capitol grounds

1 under section 54-21-18, rules relating to the state building code as authorized  
2 or required under section 54-21.3-03, rules relating to the Model Energy Code  
3 as required under section 54-21.2-03, rules relating to the central personnel  
4 system as authorized under section 54-44.3-07, rules relating to state  
5 purchasing practices as required under section 54-44.4-04, rules relating to  
6 records management as authorized or required under chapter 54-46, and  
7 rules relating to the central microfilm unit as authorized under chapter  
8 54-46.1.

9 b. The adjutant general with respect to the division of emergency management.

10 c. The council on the arts.

11 d. The state auditor.

12 e. The ~~department~~ division of economic development and finance.

13 f. The dairy promotion commission.

14 g. The education factfinding commission.

15 h. The educational telecommunications council.

16 i. The board of equalization.

17 j. The board of higher education.

18 k. The Indian affairs commission.

19 l. The industrial commission with respect to the activities of the Bank of North  
20 Dakota, the North Dakota housing finance agency, the North Dakota  
21 municipal bond bank, the North Dakota mill and elevator association, and the  
22 North Dakota farm finance agency.

23 m. The department of corrections and rehabilitation except with respect to the  
24 activities of the division of adult services under chapter 54-23.4.

25 n. The pardon advisory board.

26 o. The parks and recreation department.

27 p. The parole board.

28 q. The state fair association.

29 r. The state department of health with respect to the state toxicologist.

30 s. The board of university and school lands except with respect to activities  
31 under chapter 47-30.1.

- 1           t.    The administrative committee on veterans' affairs except with respect to rules  
2               relating to the supervision and government of the veterans' home and the  
3               implementation of programs or services provided by the veterans' home.  
4           u.    The industrial commission with respect to the lignite research fund except as  
5               required under section 57-61-01.5.  
6           v.    The secretary of state with respect to rules adopted for the presidential  
7               preference contest under section 16.1-11-02.2.

8           **SECTION 17. AMENDMENT.** Section 40-57.1-04 of the 1997 Supplement to the North  
9   Dakota Century Code is amended and reenacted as follows:

10           **40-57.1-04. Exemption from income tax - Notice to competitors - Limitations.**

11   Upon application by a project operator to the state board of equalization, the net income of a  
12   project may be exempt from state income tax for a period not exceeding five years from  
13   commencement of project operations. The application for the exemption must be reviewed as  
14   to the eligibility of the project by the ~~department~~ division of economic development and finance  
15   and its recommendations forwarded to the state board of equalization. The project operator  
16   shall provide notice to competitors in the manner prescribed by the state board of equalization.  
17   The board shall determine whether the granting of the exemption is in the best interest of the  
18   people of North Dakota and, if it so determines, approve the exemption. The board shall, after  
19   making its determination, certify the findings back to the applicant and to the tax commissioner.  
20   Nothing contained herein ~~shall have the effect of exempting~~ exempts the project from filing an  
21   annual income tax return.

22           **SECTION 18. AMENDMENT.** Section 49-10.1-17 of the 1997 Supplement to the North  
23   Dakota Century Code is amended and reenacted as follows:

24           **49-10.1-17. Agreements to restore Amtrak service.** The governor or the director of  
25   the department of transportation may make agreements in accordance with applicable federal  
26   law with the state of Montana and relevant federal agencies for the renewal of service on the  
27   Amtrak north coast Hiawatha route from Fargo to Spokane, Washington. The governor, or the  
28   director of the department of transportation, or the director of the ~~department~~ division of  
29   economic development and finance may enter agreements with any political subdivision, state,  
30   and federal agency for the restoration of daily service on the Amtrak Empire Builder route.

1           **SECTION 19. AMENDMENT.** Subsection 4 of section 50-06-01.8 of the 1997  
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 3           4.   The ~~department~~ division of economic development and finance, job service North  
4               Dakota, county social service boards, and any other state agency determined  
5               appropriate, shall cooperate with the department to ensure the success of the  
6               program. Local government agencies are encouraged to cooperate with the  
7               department.

8           **SECTION 20. AMENDMENT.** Section 52-01-03 of the 1997 Supplement to the North  
9 Dakota Century Code is amended and reenacted as follows:

10          **52-01-03. Disclosure of information.** Except as otherwise provided in this section,  
11 information obtained from any employing unit or individual pursuant to the administration of the  
12 North Dakota Unemployment Compensation Law and determinations as to the benefit rights of  
13 any individual must be held confidential and may not be disclosed or be open to public  
14 inspection in any manner revealing the individual's or employing unit's identity. Any claimant or  
15 claimant's legal representative must be supplied with information from the records of the job  
16 insurance division, to the extent necessary for the proper presentation of the claimant's claim in  
17 any proceeding under the North Dakota Unemployment Compensation Law with respect to the  
18 claim. Subject to restrictions as the bureau by rule may prescribe, the information may be  
19 made available to any agency of this or any other state, or any federal agency, charged with  
20 the administration of any unemployment compensation law or the maintenance of a system of  
21 public employment offices, or the bureau of internal revenue of the United States department of  
22 the treasury, and information obtained in connection with the administration of the employment  
23 service may be made available to persons or agencies for purposes appropriate to the  
24 operation of a public employment service. Upon a request, the bureau shall furnish to any  
25 agency of the United States charged with the administration of public works or assistance  
26 through public employment, and may furnish to any state agency similarly charged, the name,  
27 address, ordinary occupation, and employment status of each recipient of benefits and the  
28 recipient's rights to further benefits under the North Dakota Unemployment Compensation Law.  
29 The bureau may request the comptroller of the currency of the United States to cause an  
30 examination of the correctness of any return or report of any national banking association,  
31 rendered pursuant to the North Dakota Unemployment Compensation Law, and in connection

1 with the request, may transmit any report or return to the comptroller of the currency of the  
2 United States as provided in subsection c of section 3305 of the federal Internal Revenue  
3 Code. The bureau shall request and exchange information for purposes of income and  
4 eligibility verification to meet the requirements of section 1137 of the Social Security Act.

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

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

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

26 **SECTION 21. AMENDMENT.** Subsection 5 of section 52-02.1-01 of the 1997  
27 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28 5. "~~Department~~ Division" means the ~~department~~ division of economic development  
29 and finance.

30 **SECTION 22. AMENDMENT.** Section 52-02.1-02 of the 1997 Supplement to the North  
31 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~~ division or a community may not be approved,  
23 and an agreement may not be executed by job service North Dakota, until notification from the  
24 ~~department~~ division 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 23. AMENDMENT.** Subsection 2 of section 52-02.1-03 of the 1997  
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~~ division, 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 24. AMENDMENT.** Section 52-02.1-04 of the 1997 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~~ division from the North Dakota ~~future~~ development fund, a community, or the ~~department~~ division 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~~ division or community. The receipts must be pledged to the payment of principal of and interest on the loan.
2. The ~~department~~ division may adopt rules to implement this chapter.

**SECTION 25. AMENDMENT.** Subdivision r of subsection 1 of section 54-06-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- r. ~~Department~~ Division of economic development and finance.

**SECTION 26. AMENDMENT.** Section 54-34-06.1 of the 1997 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~~ division of economic development and finance 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 27. AMENDMENT.** Section 54-34-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34-12. ~~Department~~ Division of economic development and finance to establish venture capital network - ~~Duties and functions~~ Functions.** The ~~department~~ division of economic development and finance may establish, from funds appropriated to or otherwise available to the ~~department~~ division, the venture capital network as a clearinghouse for information on informal risk capital investment opportunities in the state. The ~~department~~ division 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 28. AMENDMENT.** Section 54-34-15 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 29. AMENDMENT.** Section 54-34.3-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-01. ~~Department~~ Division of economic development and finance established - Mission.** The ~~North Dakota department~~ division of economic development and finance is established ~~to assume the functions, powers, and duties of the economic development commission with respect to programs and other efforts intended within the Bank of North Dakota~~ to enhance the economic development of the state. The mission of the ~~department~~ division is to develop strategies and programs to:

1. Facilitate the growth, diversification, and expansion of existing enterprises and the attraction and creation of new wealth-generating enterprises in the state;
2. Promote economic diversification and innovation within the basic industries and economic sectors of this state, including strategies and programs designed to specialize and focus the state's economy on advanced agriculture and food processing, energy byproduct development, export services and tourism, and advanced manufacturing;
3. Promote increased productivity and value added products, processes, and services in the state, and the export of those goods and services by North Dakota enterprises to the nation and to the world;
4. Maintain and revitalize economically depressed rural areas by working in close collaboration with local communities and by encouraging communities to enter into

cooperative relationships for more efficient and effective education, health care, government service, and infrastructure maintenance;

5. Forge a supportive partnership with the ~~Bank of North Dakota~~, the board of higher education and the state's institutions of higher education, regional planning councils, local development organizations and authorities, the ~~Myron G. Nelson Fund, Incorporated~~, the state's nonprofit development corporations, and other appropriate private and public sector organizations in achieving the economic goals of the state; and
6. Identify those statutes, administrative rules, and policies that impede the attraction, creation, and expansion of businesses and job creation in this state.

**SECTION 30. AMENDMENT.** Section 54-34.3-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-02. Definitions.** As used in ~~sections 54-34.3-01 through 54-34.3-08~~ this chapter:

1. "~~Department~~ Division" means the ~~department~~ division of economic development and finance.
2. "Director" means the director of the ~~department~~ division.

**SECTION 31. AMENDMENT.** Section 54-34.3-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-04. ~~Department~~ Division director - Appointment - Compensation - Duties.**

A director shall supervise and control the ~~department~~ division. The ~~governor~~ industrial commission shall appoint as director a person who is qualified by training, knowledge, and experience that is necessary to ensure a high degree of professional competency in carrying out the duties of the director as enumerated in this section. The director shall serve at the will of the ~~governor~~ industrial commission and shall receive a salary set by the ~~governor~~ commission within the limits of legislative appropriations. The director shall:

1. Manage the internal operations of the ~~department~~ division and establish policies that promote the orderly and efficient administration of the ~~department~~ division;
2. Appoint personnel as may be determined necessary to carry out ~~sections 54-34.3-01 through 54-34.3-08~~ the duties of the division and fix their compensation within the limits of legislative appropriations;

- 1           3. Assume central responsibility to develop, implement, and coordinate within state  
2           government a comprehensive program of economic development consistent with  
3           the mission of the ~~department~~ division;
- 4           4. Coordinate that program of economic development with all other appropriate state  
5           and local government departments, agencies, institutions, and organizations that  
6           perform research, develop and administer programs, gather statistics, or perform  
7           other functions relating to economic development, and those government entities  
8           shall advise, cooperate, and provide reasonable assistance to the director in  
9           carrying out ~~sections 54-34.3-01 through 54-34.3-08~~ this chapter;
- 10          5. Advise, and cooperate with, departments and agencies of the federal government  
11          and of other states, private business and agricultural organizations and  
12          associations, research institutions, and any individual or other private or public  
13          entity, and call upon those entities or individuals for consultation and assistance in  
14          their respective fields of endeavor or interest in order that the ~~department~~ division  
15          and the state may benefit from up-to-date technical advice, information, and  
16          assistance;
- 17          6. Cooperate with individuals and both public and private entities, including the state's  
18          congressional delegation, in identifying and pursuing potential sources of funding  
19          and to receive those funds to be expended for purposes consistent with ~~sections~~  
20          ~~54-34.3-01 through 54-34.3-08~~ this chapter;
- 21          7. Have authority to enter into contracts upon terms and conditions as determined by  
22          the director to be reasonable and to effectuate the purposes of ~~sections~~  
23          ~~54-34.3-01 through 54-34.3-08~~ this chapter;
- 24          8. Report at least annually to an interim committee designated by the legislative  
25          council on loan performance and performance of the ~~department of economic~~  
26          ~~development and finance, including evaluations of the division of finance, the~~  
27          ~~division of marketing and technical assistance, and the division of science and~~  
28          ~~technology~~. A report must include a comparison of dollars spent to the jobs  
29          created of all programs administered or supervised by the director and a review of  
30          the timeliness of the loan processing practices including a log of activities from  
31          application to final determination; and

9. Have authority to do any and all other things necessary and proper to carry out sections ~~54-34.3-01 through 54-34.3-08~~ this chapter.

**SECTION 32. AMENDMENT.** Section 54-34.3-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-06. Divisions Programs.** The director shall organize and establish ~~other divisions as~~ programs necessary to carry out most efficiently and effectively the mission and duties of the ~~department~~ division, except that the ~~department~~ division must contain:

1. An office of North Dakota American Indian business development to assist North Dakota tribal and individual economic development representatives and North Dakota American Indian entrepreneurs with access to state and federal programs designed to assist them.
2. An office of North Dakota women's business development to develop and administer the North Dakota women's business program, to establish and fund the women's business leadership council, certify women-owned businesses for federal or state contracting and to recruit, train, and assist women entrepreneurs to develop and diversify their businesses. The office must have an administrator and staff sufficient to implement its programs.

**SECTION 33. AMENDMENT.** Section 54-34.3-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-08. Patents.** The ~~department~~ division of economic development and finance, the North Dakota development fund, incorporated, and the North Dakota agricultural products utilization commission may hold or assign for remuneration all or a portion of their interest in patents or royalty rights acquired in the course of their operation and performance of duties as provided by law.

**SECTION 34. AMENDMENT.** Section 54-34.3-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-09. Cooperation with other agencies or private entities to jointly publish or mail publications.** The ~~department~~ division of economic development and finance may cooperate with other state agencies or with a private entity for the purpose of jointly publishing or distributing information or publications as provided in section 54-06-04.3.

**SECTION 35. AMENDMENT.** Section 54-34.3-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-10. Commission on the status of women - Appointment - Expenses - Duties.** There is established a commission on the status of women. The commission consists of five members. The governor shall appoint each member for a term of four years, staggered so that the term of at least one member expires July first of each year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. The commission shall coordinate activities and serve as a clearinghouse and an advisory group to the ~~department~~ division for information relating to economic development programs that focus on career development for women. The commission shall prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the economic and career development of women.

**SECTION 36. AMENDMENT.** Section 54-53-02 of the 1997 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.

- 1           7.    The ~~North Dakota department~~ division of economic development and finance.
- 2           8.    The North Dakota farmers grain dealers association.
- 3           9.    The North Dakota railway lines.
- 4           10.   The North Dakota motor carriers association.
- 5           11.   The North Dakota aeronautics commission.
- 6           12.   A traffic counsel selected by the members of the council appointed by the
- 7                above-named organizations.

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

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

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

17          **55-06-01. Yellowstone-Missouri-Fort Union commission.** There is a  
18 Yellowstone-Missouri-Fort Union commission, hereinafter referred to as the "commission",  
19 declared to be a governmental agency with the authority to exercise the powers specified  
20 herein, or which may be reasonably implied, composed of the governor as chairman, the  
21 president of the senate, the speaker of the house, the superintendent of the state historical  
22 board, the director of the ~~department~~ division of economic development and finance, all ex  
23 officio, and five citizens of the state to be appointed by the governor who shall serve without  
24 compensation for the purpose of investigating, in cooperation with the state of Montana and the  
25 national park service, the historical importance and significance of the area and for formulating  
26 and executing plans for the preservation of the historic sites illustrative of the history of the  
27 United States. The commission may expend its operating expenses and other funds provided  
28 by legislative appropriations, and public and private grants, for programs, improvements, and  
29 facilities to preserve and improve the Yellowstone-Missouri confluence area.

30          **SECTION 38. AMENDMENT.** Subsection 1 of section 57-38.5-01 of the 1997  
31 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1           1. "Director" means the director of the ~~department~~ division of economic development  
2           and finance.

3           **SECTION 39. REPEAL.** Sections 54-34.3-03 and 54-34.3-05 of the 1997 Supplement  
4           to the North Dakota Century Code are repealed.

5           **SECTION 40. APPROPRIATION - TRANSFER.** As of the effective date of this Act,  
6           the department of economic development and finance becomes a division of the Bank of North  
7           Dakota and any funds appropriated to the department by the fifty-fifth legislative assembly and  
8           the fifty-sixth legislative assembly are transferred to the Bank of North Dakota for economic  
9           development activities.