

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2032

Introduced by

Legislative Council

(Economic Development Committee)

1 A BILL for an Act to create and enact a new section to chapter 15-20.1, a new section to
2 chapter 54-34.3, a new section to chapter 54-44.4, and three new sections to chapter 54-60 of
3 the North Dakota Century Code, relating to a department of career and technical education
4 cooperative work experience program, a division of economic development and finance local
5 economic developer certification program, an office of management and budget procurement
6 information program, department of commerce target industry requirements, a department of
7 commerce state employee image training program, and a department of commerce business
8 hotline program; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, 15-10-41, and
9 54-34.3-03, subsection 1 of section 54-34.3-06, section 54-60-02, subsection 1 of section
10 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03,
11 and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North
12 Dakota to invest funds, cross-references affected by the repeal of the venture capital
13 corporation law, the centers of excellence program, organization of the department of
14 commerce and division of economic development and finance, duties of the North Dakota
15 American Indian business development office, and the seed capital investment tax credit; to
16 repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code,
17 relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the
18 centers of excellence program; to provide for state agency studies, reports to the legislative
19 council, and legislative council studies; to provide appropriations; to provide effective dates;
20 and to provide expiration dates.

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

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

1 **6-09-15. (Effective through July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota
2 may:

- 3 1. Make, purchase, guarantee, or hold loans:
 - 4 a. To state or federally chartered lending agencies or institutions, or any other
5 financial institutions.
 - 6 b. To holders of Bank of North Dakota certificates of deposit and savings
7 accounts up to ninety percent of the value of the certificates and savings
8 accounts offered as security.
 - 9 c. To actual farmers who are residents of this state, if the loans are secured by
10 recorded mortgages giving the Bank of North Dakota a first lien on real estate
11 in North Dakota in amounts not to exceed eighty percent of the value of the
12 security.
 - 13 d. That are insured or guaranteed in whole or in part by the United States, its
14 agencies, or instrumentalities.
 - 15 e. That are eligible to be guaranteed under chapter 15-62.1. Loans made
16 pursuant to this subdivision may provide for interest that remains unpaid at
17 the end of any period specified in the loan to be added to the principal amount
18 of the debt and thereafter accumulate interest.
 - 19 f. To individuals or bank holding companies for the purpose of purchasing or
20 refinancing the purchase of bank stock of a bank located in the state.
 - 21 g. To nonprofit organizations that are exempt from federal taxation under section
22 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of
23 the loans to be used for construction, reconstruction, repair, renovation,
24 maintenance, and associated costs on property under the control of the parks
25 and recreation department.
 - 26 h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as
27 amended through December 31, 1996, to nonprofit corporations for the
28 purpose of relending loan funds to rural businesses.
 - 29 i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,
30 subparts F and R; and part 1955, subparts A, B, and C, as amended through

December 31, 1996, to finance businesses and community development projects in rural areas.

j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.

k. To instrumentalities of this state.

l. As otherwise provided by this chapter or other statutes.

m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.

n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.

2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.

3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.

4. Invest its funds:

a. In conformity with policies of the industrial commission.

b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.

c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed ~~five~~ ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by

North Dakota development fund, incorporated, or a third party that is located
in the state and that has demonstrated fund management experience.

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

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

1. Make, purchase, or hold loans:
 - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
 - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
 - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
 - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
 - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at

- 1 the end of any period specified in the loan to be added to the principal amount
2 of the debt and thereafter accumulate interest.
- 3 f. To individuals or bank holding companies for the purpose of purchasing or
4 refinancing the purchase of bank stock of a bank located in the state.
- 5 g. To nonprofit organizations that are exempt from federal taxation under section
6 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of
7 the loans to be used for construction, reconstruction, repair, renovation,
8 maintenance, and associated costs on property under the control of the parks
9 and recreation department.
- 10 h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as
11 amended through December 31, 1996, to nonprofit corporations for the
12 purpose of relending loan funds to rural businesses.
- 13 i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,
14 subparts F and R; and part 1955, subparts A, B, and C, as amended through
15 December 31, 1996, to finance businesses and community development
16 projects in rural areas.
- 17 j. Obtained as security pledged for or originated in the restructuring of any other
18 loan properly originated or participated in by the Bank.
- 19 k. To instrumentalities of this state.
- 20 l. As otherwise provided by this chapter or other statutes.
- 21 m. If the Bank is participating in the loan and the Bank deems it is in the best
22 interests of the Bank to do so, it may purchase the remaining portion of the
23 loan from a participating lender that is closed by regulatory action, or from the
24 receiver of the participating lender's assets.
- 25 n. To an investment company created for completing a trust preferred securities
26 transaction for the benefit of a financial institution located in this state.
- 27 2. Make agricultural real estate loans in order to participate in the agricultural
28 mortgage secondary market program established pursuant to the Agricultural
29 Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as
30 amended through December 31, 1996.

3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
4. Invest its funds:
 - a. In conformity with policies of the industrial commission.
 - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

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

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

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable

1 from assessments for improvements or revenues of publicly owned utilities therein;
2 or a certificate of deposit for any of the foregoing, but this exemption does not
3 include any security payable solely from revenues to be received from a
4 nongovernmental industrial or commercial enterprise unless the security is insured
5 or unconditionally guaranteed by, or the revenues are derived from, a person
6 whose securities are exempt from registration under this section.

7 2. Securities issued by and representing an interest in or a debt of, or guaranteed by,
8 a national bank or a national bank and trust company or bank or credit or loan or
9 savings association or savings and loan association or credit union organized
10 pursuant to an Act of Congress and supervised by the United States, or any
11 agency thereof, or issued or guaranteed as to both principal and interest by an
12 international bank of which the United States is a member, or issued by and
13 representing an interest in or a debt of, or guaranteed by, a state bank, trust
14 company, savings bank, savings institution, or credit union organized and
15 supervised under the laws of any state, and securities of any person subject to
16 examination by the commissioner of financial institutions of North Dakota.

17 3. Securities issued by a building and loan association subject to supervision by an
18 agency of the state of North Dakota, or policy contracts, including variable annuity
19 contracts, of an insurance company subject to supervision by an agency of the
20 state of North Dakota.

21 4. Securities issued or guaranteed as to principal, interest, or dividends by a
22 corporation or limited liability company owning or operating a railroad or other
23 public service utility, if the corporation or limited liability company is subject to
24 regulation or supervision either as to its rates and charges or as to the issue of its
25 securities by a public service commission, or by a board, body, or official having
26 like powers, of the United States or of any state, territory, or insular possession
27 thereof, or of any municipality located therein, or of the District of Columbia, or of
28 the Dominion of Canada, or any province thereof.

29 5. Any security issued by any person organized and operated not for private profit but
30 exclusively for religious, educational, benevolent, fraternal, charitable, social, or

reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:

- a. Apply for and obtain the written approval of the commissioner.
- b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.
- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

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

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the

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

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

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

~~12. Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- ~~a. Apply for and obtain written approval by the commissioner.~~
- ~~b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- ~~c. File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- ~~d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~

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

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

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

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

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

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

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

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

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

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

~~15-~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

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

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

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

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

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

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

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

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

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

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

13 ~~Before January 1, 2004, the board, in consultation with the North Dakota~~
14 ~~economic development foundation and with private sector input, shall establish~~
15 ~~definitions and eligibility criteria for centers of excellence relating to economic~~
16 ~~development. The board shall present the definitions and eligibility criteria for the~~
17 ~~centers of excellence relating to economic development to an interim committee~~
18 ~~designated by the legislative council. The North Dakota economic development~~
19 ~~foundation may identify and recommend high priority centers of excellence relating~~
20 ~~to economic development for consideration by the state board of higher education~~
21 ~~for future budget requests.~~

22 2. ~~The purpose of the program is to develop~~

23 5. Before the commission may consider an application for funding to an institution or
24 an affiliated nonprofit foundation, the applicant shall establish in the application
25 how the center will:

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

31 b. Create employment opportunities for residents of this state.

- 1 c. Assist efforts to attract private and federal assistance for science and
2 technology research and development ~~and for commercialization in growth.~~
3 d. Assist efforts to commercialize industry clusters most likely to increase the
4 ~~gross state product; to increase.~~
5 e. Increase collaboration among state, federal, and private science and
6 technology research and development ~~and technology commercialization~~
7 organizations in the state; ~~to strengthen the leadership and support of the~~
8 ~~national science foundation experimental program to stimulate competitive~~
9 ~~research programs and to encourage partnerships with other state institutions~~
10 ~~for expanded efforts to stimulate economic growth in identified industry~~
11 ~~clusters; to provide leadership in science and technology policy at a regional,~~
12 ~~a national, and an international level; and to create employment opportunities~~
13 ~~for North Dakota university system graduates. Identified industry clusters~~
14 ~~include advanced manufacturing, aerospace, energy, information and~~
15 ~~technology, tourism, and value added agriculture.~~

16 6. In considering an application, the commission shall:

- 17 a. Make a determination that the requirements of subsection 5 have been
18 established by the applicant.
19 b. Consider whether the center will:
20 (1) Promote job growth and expansion of knowledge-based industries or
21 the development of new products, high-tech companies, or skilled jobs
22 in this state;
23 (2) Create high-value private sector employment opportunities in this state;
24 (3) Provide for public-private sector involvement and partnerships;
25 (4) Leverage other funding;
26 (5) Foster and practice entrepreneurship;
27 (6) Link to targeted industry clusters; and
28 (7) Include provisions for becoming self-sustaining.
29 c. Following approval by the board, foundation, and commission, the board and
30 commission shall report the details of a proposed designated center to the

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

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

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

9. Before funds awarded under this section are distributed to an institution of higher education under the control of the board of higher education or which is to a nonprofit university-related or college-related foundation, the recipient shall:

~~a. Provide~~ provide the board of higher education with detailed documentation of the availability of two dollars of matching funds for each dollar of funds awarded under this section as a condition of eligibility for receipt of funds under this section; and. However, the commission may reduce the matching funds requirement for applications from institutions other than research universities and the recipient shall provide the board with detailed documentation of the likely availability of the matching funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

Procurement information - Web site.

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:

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

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

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

1. The department must consist of:

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

2. The commissioner shall appoint the director of any division ~~created by the commissioner under subsection 1. Effective August 1, 2003, the commissioner shall appoint the directors of the division of community services, division of economic development and finance, and division of workforce development. Effective August 1, 2005, the commissioner shall appoint the director of the division of tourism.~~ Each director appointed by the commissioner serves at the pleasure of the commissioner and is entitled to receive a salary set by the commissioner within the limits of legislative appropriations. ~~Until August 1, 2003, the governor shall appoint the directors of the division of community services, division of economic development and finance, and division of workforce development and until August 1, 2005, the governor shall appoint the director of the division of tourism. The individuals appointed by the governor shall serve at~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Federal income taxes for prior periods assessed against the taxpayer by
28 reason of audit or other adjustment by the internal revenue service, or
29 voluntary disclosure by the taxpayer, are not deductible except in the period
30 in which income so taxed was reported or reportable or in which an
31 adjustment was required but only after an adjustment is made by or with the

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

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

1 the adoptive parent for federal income tax purposes. The reduction
2 may be claimed by only one spouse, for spouses filing separately under
3 this chapter. The reduction provided by this paragraph may be claimed
4 for the taxable year in which the adoption becomes final and any
5 unused portion of the reduction may be carried forward by the taxpayer
6 for up to five taxable years. The reduction does not apply to the
7 adoption of children of the taxpayer's spouse.

8 e. Reduced by the actual amount of the medical expenses that were incurred
9 but not allowed on the federal return by reason of the federal medical
10 deduction limitation.

11 f. Increased by the amount of any income taxes, or franchise or privilege taxes
12 measured by income, to the extent that such taxes were deducted to
13 determine federal taxable income.

14 g. Increased by the amount of any interest and dividends from foreign securities
15 and from securities of state and their political subdivisions exempt from
16 federal income tax; provided, that interest upon obligations of the state of
17 North Dakota or any of its political subdivisions shall not be included.

18 h. Except for residents, reduced by the amount of net income not allocated and
19 apportioned to this state under the provisions of chapter 57-38.1, but only to
20 the extent that the amount of net income not allocated and apportioned to this
21 state under the provisions of that chapter is not included in any adjustment
22 made pursuant to the preceding subdivisions.

23 i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~

24 j. Reduced by any amount, up to a maximum of five thousand dollars, received
25 pursuant to the firefighters relief associations authorized by chapters 18-05
26 and 18-11, policemen's pension funds authorized by chapter 40-45, or the
27 highway patrolmen's retirement system authorized by chapter 39-03.1;
28 provided, however, that the adjustment provided in this subdivision shall be
29 reduced by any amount received pursuant to the federal Social Security Act.

30 k. j. Reduced by any amount, up to a maximum of one thousand dollars, received
31 by any person as payment for services performed while on active duty in the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (2) Attracts investments to build and own a value-added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a.

~~5- 6.~~ "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity.

SECTION 17. AMENDMENT. Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses. The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection ~~4 5~~ of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. The maximum aggregate amount of qualified investments a qualified business may receive is limited to two million five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

SECTION 18. AMENDMENT. Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

57-38.5-03. Seed capital investment tax credit. If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, ~~57-38-30~~, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not ~~less than five thousand dollars and not~~ more than two hundred fifty thousand dollars. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.

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

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

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

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

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

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

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

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

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

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

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

SECTION 25. DAKOTA MANUFACTURING INITIATIVE - REPORT TO

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

SECTION 26. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS -

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

SECTION 27. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.

During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 15-10-41. The report must include information regarding funding, private sector participation, and accomplishments of each center of excellence and whether there are potential changes that could be made to improve the centers of excellence program.

SECTION 28. COOPERATIVE WORK EXPERIENCE PROGRAM - REPORT TO

LEGISLATIVE COUNCIL. During the 2005-06 and 2007-08 interims, the director of the department of career and technical education shall report to the legislative council on the status of the cooperative work experience program under section 5 of this Act. The director shall

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

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

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

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

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

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

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

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

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

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

SECTION 35. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.

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

SECTION 36. INTELLECTUAL PROPERTY RIGHTS STUDY - REPORT TO

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

SECTION 37. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE

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

SECTION 38. ECONOMIC DEVELOPMENT INCENTIVES STUDY - REPORT TO

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

SECTION 39. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.

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

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

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

	GENERAL	SPECIAL
PURPOSE	FUND	FUNDS
Target industry identification and report	\$50,000	
Image information program	100,000	
Business hotline program	30,000	
Division of international trade	413,103	
Local economic developer certification and training program	50,000	\$100,000
Dakota manufacturing initiative	165,000	
Intellectual property rights study and report	50,000	
Economic development incentives study and report	30,000	
Business climate initiative study	<u>50,000</u>	<u> </u>
Total	\$938,103	\$100,000

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

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

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

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