

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1027**

Introduced by

Legislative Council

(Economic Development Committee)

1 A BILL for an Act to create and enact a new section to chapter 2-05, a new section to chapter  
2 15-20.1, a new section to chapter 54-34.3, a new section to chapter 54-34.4, two new sections  
3 to chapter 54-60, a new chapter to title 54, sections 57-38-01.24 and 57-38-01.25, and a new  
4 subsection to section 57-38-30.3 of the North Dakota Century Code, relating to a rural airport  
5 economic development fund, a department of career and technical education grant program, a  
6 business and tourism acceleration commission, international business, visitor information  
7 centers, department of commerce division of workforce development programs and duties, and  
8 tax credits for workforce recruitment and internships; to amend and reenact subsection 2 of  
9 section 6-09.17-01, sections 15-69-03, 15-69-04, and 15-69-05, subsections 4 and 6 of section  
10 54-17-07.3, sections 54-34.3-08, 54-60-02, 54-60-09, 54-60-12, 57-38-30.5, 57-38.5-05, and  
11 57-38.6-01 of the North Dakota Century Code and section 17 of chapter 151 of the 2005  
12 Session Laws, relating to the biodiesel partnership in assisting community expansion program,  
13 centers of excellence program, housing finance agency programs, a business and tourism  
14 acceleration commission, updating department of commerce law, department of commerce  
15 division of workforce development duties, the North Dakota image information program, tax  
16 forms, research and experimental expenditures tax credits, seed capital investment tax credits,  
17 agricultural business investment tax credits, and a legislative council study; to repeal sections  
18 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the North Dakota Century Code, relating to  
19 beginning entrepreneur income tax incentives; to provide for state agency studies, a tax  
20 expenditure report pilot project and a state business incentive expenditure report pilot project  
21 and reports on the pilot projects, reports to the legislative council, and legislative council  
22 studies; to provide appropriations and transfers; to provide effective dates; and to declare an  
23 emergency.

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

2 **SECTION 1.** A new section to chapter 2-05 of the North Dakota Century Code is  
3 created and enacted as follows:

4 **Rural airport economic development fund.**

5 1. The rural airport economic development fund is a special fund in the state treasury.  
6 Subject to legislative appropriation, the aeronautics commission may provide  
7 grants from the fund to a public airport owned or operated by a public entity or to  
8 an airport operated by an airport authority in this state for the purpose of providing  
9 financial assistance for:

- 10 a. Purchase, development, and operation of automated weather reporting  
11 facilities, computers and terminals to obtain weather information relating to  
12 flight plans, and other equipment to enhance flight operational safety.  
13 b. Obstruction removal within the runway protection zone of an airport to  
14 facilitate the new global positioning satellite all-weather instrument approach  
15 technology required to meet federal standards.  
16 c. Construction or rehabilitation of runways, taxiways, and apron areas,  
17 including the extension of runways that do not meet the federal guidelines for  
18 this construction or rehabilitation but have a demonstrated state or local need.  
19 d. Development of airport infrastructure and buildings that do not meet federal  
20 guidelines for this development but have a demonstrated state or local need.

21 2. To qualify for a grant under this section, an airport must provide matching funds of  
22 not less than ten percent and not more than fifty percent. The aeronautics  
23 commission shall set the match requirement in accordance with guidelines  
24 established by the commission by rule.

25 **SECTION 2. AMENDMENT.** Subsection 2 of section 6-09.17-01 of the North Dakota  
26 Century Code is amended and reenacted as follows:

- 27 2. "Biodiesel production facility" means a corporation, limited liability company,  
28 partnership, individual, or association involved in production of biodiesel fuel to be  
29 used as an additive to diesel fuel ~~containing at least five percent biodiesel meeting~~  
30 ~~the specifications adopted by the American society for testing and materials.~~

1           **SECTION 3.** A new section to chapter 15-20.1 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Grants for innovation.** The department shall design and implement a program to  
4 provide a dollar-for-dollar match to teachers or schools for the purpose of funding innovative  
5 science, technology, or innovation programs for students in kindergarten through grade twelve.  
6 The department shall award the grants on a competitive basis. A grant awarded under this  
7 section may not exceed seven thousand five hundred dollars. The matching funds of a grant  
8 recipient may come from a public source, a private source, or any combination of public and  
9 private sources. The department shall consult with the department of commerce in making  
10 award determinations.

11           **SECTION 4. AMENDMENT.** Section 15-69-03 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **15-69-03. (Effective through July 31, 2011) Centers of excellence commission.**

14 The centers of excellence commission consists of six members. The foundation shall appoint  
15 three of the foundation's members to serve on the commission and the board shall appoint  
16 three of the board's members to serve on the commission. The commission members shall  
17 designate a chairman and a vice chairman of the commission. Each member of the  
18 commission shall serve for a term of three years, beginning July first; may be reappointed for  
19 additional terms; and serves at the pleasure of the appointing entity. If a commission member  
20 ceases to serve as a member of the appointing entity, that member's membership on the  
21 commission ceases immediately and the appointing entity shall appoint a new member for the  
22 remainder of the term. Terms of ~~initial~~ commission members ~~begin on July 1, 2005, and~~ must  
23 be staggered. On a meeting-by-meeting basis, an appointing entity may substitute a member  
24 of that appointing entity to serve in place of one of the regular members appointed by that  
25 entity. If the commission chairman and vice chairman are not present at a meeting, the  
26 commission members present at that meeting shall select a commission member to serve as  
27 chairman for that meeting. A commission member may receive compensation and travel and  
28 expense reimbursement from the appointing entity. The ~~board~~ department of commerce shall  
29 provide the commission with appropriate staff services as may be requested by the  
30 commission.

1           **SECTION 5. AMENDMENT.** Section 15-69-04 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **15-69-04. (Effective through July 31, 2011) Application - Eligibility requirements.**

- 4           1. The ~~board~~ department of commerce shall provide center application forms, accept  
5 applications, review applications for completeness and compliance with board and  
6 commission policy, ~~and~~ forward complete applications to the commission in  
7 accordance with guidelines established by the commission, and assist with  
8 preaward reviews and postaward monitoring as may be requested by the  
9 commission.
- 10          2. The commission shall meet as necessary to review all complete applications;  
11 consider the potential need for independent, expert review of complete  
12 applications; approve or disapprove complete applications; make funding award  
13 recommendations for commission-approved proposed centers; direct the office of  
14 management and budget to distribute funds to the centers; monitor centers for  
15 compliance with award requirements; ~~and~~ review changes in assertions made in  
16 center applications; and conduct postaward monitoring of centers.
- 17          3. In considering whether to approve or disapprove an application, the commission  
18 shall determine whether the applicant has conducted the due diligence necessary  
19 to put together a viable proposal and the commission shall consider whether the  
20 center will:
- 21           a. Use university or college research to promote private sector job growth and  
22 expansion of knowledge-based industries or use university or college  
23 research to promote the development of new products, high-tech companies,  
24 or skilled jobs in this state;
- 25           b. Create high-value private sector employment opportunities in this state;
- 26           c. Provide for public-private sector involvement and partnerships;
- 27           d. Leverage other funding;
- 28           e. Increase research and development activities that may involve federal funding  
29 from the national science foundation experimental program to stimulate  
30 competitive research;
- 31           f. Foster and practice entrepreneurship;

- 1 g. Promote the commercialization of new products and services in industry  
2 clusters;
- 3 h. Become financially self-sustaining; and
- 4 i. Establish and meet a deadline for acquiring and expending all public and  
5 private funds specified in the application.
- 6 4. In considering whether to approve an application, the commission may provide for  
7 an independent, expert review of the application to determine whether the  
8 proposed center is viable and whether the proposed center is likely to have the  
9 desired economic impact. As necessary, the commission may contract for  
10 additional technical review of applications. The commission may not approve an  
11 application unless the commission determines the proposed center has a high  
12 likelihood of viability and success in positively impacting economic development in  
13 the state.
- 14 5. For no fewer than six years and no more than ten years following center  
15 designation, the commission shall monitor the center's activities in order to  
16 determine whether the center is having the desired economic impact.

17 **SECTION 6. AMENDMENT.** Section 15-69-05 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **15-69-05. (Effective through July 31, 2011) Use of funds - Terms of funds -**  
20 **Distribution of funds.**

- 21 1. A center shall use funds awarded under this chapter to enhance capacity; enhance  
22 infrastructure; and leverage state, federal, and private sources of funding. A  
23 center awarded funds under this chapter may not use the funds to supplant  
24 funding for current operations or academic instructions or to pay indirect costs.
- 25 2. As a condition for receipt of funds under this chapter, a center shall agree to  
26 provide the board, foundation, and budget section of the legislative council with  
27 annual audits on all funds distributed to the center under this chapter. The annual  
28 audits must be provided until the completion of ~~four years following the final~~  
29 ~~distribution of funds under this chapter~~ the commission's postaward monitoring of  
30 the center. As a condition for receipt of funds under this chapter, a center shall

1           agree to provide the commission with the information necessary to monitor the  
2           postaward activities of the center.

3           3. Before the commission directs the office of management and budget to distribute  
4           funds awarded under this chapter, the center shall provide the commission with  
5           detailed documentation of private sector participation and the availability of two  
6           dollars of matching funds for each dollar of state funds to be distributed under this  
7           chapter. The matching funds may include funds facilitated through the  
8           collaboration of the private sector participants with other funding entities. The  
9           matching funds may include a combination of cash and in-kind assets with  
10          itemized value. Private sector participation may be established through equity  
11          investments or through contracts for services with private sector entities. In  
12          making funding recommendations and designation determinations, the  
13          commission, board, foundation, and budget section shall give major consideration  
14          to the portion of the matching funds provided in cash by the private sector.

15          4. If, before funds are distributed by the office of management and budget, a center  
16          undergoes a change in the terms of or assertions made in its application, the  
17          commission may direct that the office of management and budget withhold all or a  
18          portion of any undistributed funds pending commission review of the changes.

19          5. The commission may use funds appropriated for the centers of excellence  
20          program to pay for the commission's administrative expenses, which may include  
21          contracting for independent, expert reviews of complete applications. The amount  
22          of funds the commission uses each biennium for administrative expenses may not  
23          exceed two and one-half percent of the funds appropriated for the program that  
24          biennium.

25          **SECTION 7. AMENDMENT.** Subsections 4 and 6 of section 54-17-07.3 of the North  
26          Dakota Century Code are amended and reenacted as follows:

27          4. Mortgage loan financing program. A program or programs to provide for the  
28          purchase or guaranty of a temporary or permanent mortgage loans loan originated  
29          by ~~lenders~~ a lender on residential real property or on land to be developed into  
30          residential real property, in addition to ~~such a mortgage loans loan~~ acquired or to  
31          be acquired under subsections 1 through 3. A program authorized under this

1            subsection may provide assistance in the development of low to moderate income  
2            housing or to otherwise assist a developing community in the state address an  
3            unmet housing need or alleviate a housing shortage.

4            6. Housing grant program. A program or programs to provide ~~grants~~ a grant other  
5            than those authorized by section 54-17-07.6 to encourage and promote housing  
6            availability for persons of low or moderate income or to otherwise assist a  
7            developing community in this state address an unmet housing need or alleviate a  
8            housing shortage.

9            **SECTION 8. AMENDMENT.** Section 54-34.3-08 of the North Dakota Century Code is  
10          amended and reenacted as follows:

11           **54-34.3-08. Patents.** The division of economic development and finance, the North  
12          Dakota development fund, incorporated, the business and tourism acceleration commission,  
13          and the North Dakota agricultural products utilization commission may hold or assign for  
14          remuneration all or a portion of their interest in patents or royalty rights acquired in the course  
15          of their operation and performance of duties as provided by law.

16           **SECTION 9.** A new section to chapter 54-34.3 of the North Dakota Century Code is  
17          created and enacted as follows:

18           **International business and trade office - Higher education.** The international  
19          business and trade office shall work with the state board of higher education to implement  
20          strategies to expand international business expertise of students of higher education.

21           **SECTION 10.** A new section to chapter 54-34.4 of the North Dakota Century Code is  
22          created and enacted as follows:

23           **Visitor information centers.** The division may develop and implement a visitor  
24          information center assistance program. The program may include matching grant funds,  
25          training assistance, and marketing assistance for visitor information centers and for rest stop  
26          volunteers.

27           **SECTION 11. AMENDMENT.** Section 54-60-02 of the North Dakota Century Code is  
28          amended and reenacted as follows:

29           **54-60-02. Department of commerce - Divisions.** The North Dakota department of  
30          commerce is created. All records, materials, supplies, and equipment used by the division of

1 community services, department of economic development and finance, and the department of  
2 tourism are transferred to the department.

- 3 1. The department must consist of:
- 4 a. A division of community services;
  - 5 b. A division of economic development and finance;
  - 6 c. A division of tourism;
  - 7 d. A division of workforce development; and
  - 8 e. Any division the commissioner determines necessary to carry out this  
9 chapter.
- 10 2. The commissioner shall appoint the director of ~~any each division created by the~~  
11 ~~commissioner under subsection 1. Effective August 1, 2003, the commissioner~~  
12 ~~shall appoint the directors of the division of community services, division of~~  
13 ~~economic development and finance, and division of workforce development.~~  
14 ~~Effective August 1, 2005, the commissioner shall appoint the director of the~~  
15 ~~division of tourism of the department.~~ Each director appointed by the  
16 commissioner serves at the pleasure of the commissioner and is entitled to receive  
17 a salary set by the commissioner within the limits of legislative appropriations.  
18 ~~Until August 1, 2003, the governor shall appoint the directors of the division of~~  
19 ~~community services, division of economic development and finance, and division~~  
20 ~~of workforce development and until August 1, 2005, the governor shall appoint the~~  
21 ~~director of the division of tourism. The individuals appointed by the governor shall~~  
22 ~~serve at the pleasure of the governor and are entitled to receive a salary set by the~~  
23 ~~governor within the limits of legislative appropriations.~~

24 **SECTION 12. AMENDMENT.** Section 54-60-09 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **54-60-09. Division of workforce development - Duties.** The division of workforce  
27 development shall ~~actively~~:

- 28 1. Actively monitor local, regional, and national private and public workforce  
29 development initiatives.
- 30 2. Develop and implement the state's talent strategy.
- 31 3. Develop and implement a statewide intelligence coordination strategy.

1           **SECTION 13. AMENDMENT.** Section 54-60-12 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-60-12. North Dakota image information program.** The commissioner shall  
4 implement a program for use by state agencies and the private sector to assist state agencies  
5 ~~and~~, state agencies' employees, private businesses, and private businesses' employees to  
6 present to the public a positive image of the state. ~~The commissioner may expand the program~~  
7 ~~to include use of the program by the private sector.~~

8           **SECTION 14.** Two new sections to chapter 54-60 of the North Dakota Century Code  
9 are created and enacted as follows:

10           **Division of workforce development - Higher education internships and work**  
11 **experience opportunities.** The division of workforce development shall administer a program  
12 to increase use of higher education internships and work experience opportunities for higher  
13 education students. The primary focus of this program must be higher education internships in  
14 target industries. This program shall provide services to employers, communities, and  
15 business organizations to increase higher education internship and work experience  
16 opportunities.

17           **Division of workforce development - Career specialist.** The division of workforce  
18 development, in consultation with the department of career and technical education, job service  
19 North Dakota, and the superintendent of public instruction, shall develop and implement a  
20 program to assist public schools in promoting North Dakota career opportunities to students in  
21 grades nine through twelve. Under this section, the division shall administer a program through  
22 which funds are provided to support at least one career specialist for each educational  
23 association governed by a joint powers agreement.

24           **SECTION 15.** A new chapter to title 54 of the North Dakota Century Code is created  
25 and enacted as follows:

26           **Definitions.** In this chapter, unless the context otherwise requires:

- 27           1. "Commission" means the business and tourism acceleration commission.  
28           2. "Department" means the department of commerce.

29           **Policy of state - Responsibility of commission.** It is the public policy of this state to  
30 protect and foster the prosperity and general welfare of its people by improving the business  
31 economy of the state. In furtherance of this policy, the commission shall provide necessary

1 assistance for the research, development, technology, and marketing needs of businesses and  
2 entrepreneurs in the state to aid in innovation for new or existing businesses, expansion of  
3 existing and development of new tourism-based businesses, and growth of international  
4 business through trade.

5 **Business and tourism acceleration commission - Composition - Appointment.**

6 1. The business and tourism acceleration commission consists of seven members as  
7 follows:

8 a. Three members appointed by the governor, for terms of two years, arranged  
9 so that one term expires in odd-numbered years and two terms expire in  
10 even-numbered years. One of these members must be from the private  
11 sector and actively engaged in businesses in this state, one must be from the  
12 private sector and actively engaged in a business in this state which  
13 participates in international trade, and one must be from the private sector  
14 and actively engaged in the tourism industry in this state.

15 b. Four members appointed by the commissioner of commerce, for terms of two  
16 years, arranged so that two terms expire in odd-numbered years and two  
17 terms expire in even-numbered years. One of these members must  
18 represent business interests, one must represent international trade interests,  
19 one must represent tourism interests, and one must represent innovation  
20 interests. The commissioner may fill any of these positions with ex officio  
21 members.

22 2. Terms of commission members run from the first day of July. Commission  
23 members may be reappointed to the commission. The commission shall elect one  
24 of its members as chairman. If a member position becomes vacant, the appointing  
25 individual shall appoint a member to complete the remaining term. The terms of  
26 the initial commission members may run for a single year as may be necessary to  
27 initiate the cycle of two-year terms.

28 **Authority - Accountability.**

29 1. The commission may apply for, accept, and expend any appropriation, grant, gift,  
30 or service made available from public or private sources consistent with the  
31 purpose of this chapter.

- 1           2. The commission may administer grant programs consistent with the purpose of  
2           this chapter, including:  
3           a. An innovation grant program;  
4           b. A tourism grant program; and  
5           c. An international trade grant program.  
6           3. The department may adopt rules to implement this chapter, including establishing  
7           qualification requirements for any of the grant programs administered under this  
8           chapter.  
9           4. The commission shall create application forms and shall accept completed  
10          applications.

11           **Commission meetings - Personnel - Reports.** The commission is an office of the  
12 department of commerce. The commission shall meet as necessary and shall report to each  
13 regular session of the legislative assembly. The commission may secure office space, hire  
14 consultants, spend any funds appropriated to the commission, and contract with public entities  
15 or private parties for services. The commission shall determine necessary qualifications of  
16 personnel.

17           **Commission member reimbursement and compensation.** Members of the  
18 commission are entitled to reimbursement for mileage and expenses incurred in the  
19 performance of their duties in the same manner as provided for state officers. If not otherwise  
20 employed by the state of North Dakota, members of the commission are entitled to receive as  
21 per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending  
22 meetings and performing other duties relating to official business of the commission. The  
23 commission chairman, if not otherwise employed by the state of North Dakota, may receive an  
24 additional one hundred dollars for each day of a regular meeting attended as payment for  
25 reviewing and evaluating grant proposals.

26           **Commission - Administrative expenses.** Administrative expenses of the  
27 commission, including expenses of members of the commission, employment of needed  
28 personnel, hiring of consultants, and contracting with public or private entities for services may  
29 not exceed ten percent of the funds provided to the commission each biennium, excluding  
30 federal funds.

1           **SECTION 16.** Section 57-38-01.24 of the North Dakota Century Code is created and  
2 enacted as follows:

3           **57-38-01.24. Workforce recruitment credit for hard-to-fill employment positions.**

4 A taxpayer that is an employer in this state is entitled to a credit as determined under this  
5 section against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3 for  
6 costs the taxpayer incurred during the tax year to recruit and hire employees for hard-to-fill  
7 employment positions within this state for which the annual salary for the position meets or  
8 exceeds the state average weekly wage.

9           1. The amount of the credit to which a taxpayer is entitled is five percent of the salary  
10 paid by the taxpayer during the taxable year to the employee for the hard-to-fill  
11 employment position. For purposes of this section:

12           a. "Extraordinary recruitment methods" means using one or more of the  
13 following:

14                   (1) A person with the exclusive business purpose of recruiting employees  
15 and for which a fee is charged by that recruiter.

16                   (2) An advertisement in a professional trade journal, magazine, or other  
17 publication, the main emphasis of which is providing information to a  
18 particular trade or profession.

19                   (3) A web site, the sole purpose of which is to recruit employees and for  
20 which a fee is charged by the web site.

21                   (4) Participation in a job or career fair.

22                   (5) Payment for professional licensing or certification required for the  
23 position.

24                   (6) Payment of a signing bonus, moving expenses, or nontypical fringe  
25 benefits.

26           b. "Hard-to-fill employment position" means a job that requires the employer to  
27 use extraordinary recruitment methods.

28           c. "State average wage" means the state average wage published annually by  
29 job service North Dakota and which is in effect at the time the employee is  
30 hired.

- 1           2. Any amount of unused credit under this section may be carried forward for up to  
2           four taxable years after the taxable year in which the costs were incurred.
- 3           3. A partnership, subchapter S corporation, or limited liability company that for tax  
4           purposes is treated like a partnership that is entitled to the credit under this section  
5           must be considered to be the taxpayer for purposes of this section and the amount  
6           of the credit allowed must be determined at the passthrough entity level. The  
7           amount of the total credit determined at the passthrough entity level must be  
8           allowed to the members in proportion to their respective interests in the  
9           passthrough entity.

10           **SECTION 17.** Section 57-38-01.25 of the North Dakota Century Code is created and  
11 enacted as follows:

12           **57-38-01.25. Internship employment tax credit.**

- 13           1. A taxpayer that is an employer within this state is entitled to a credit as determined  
14           under this section against state income tax liability under section 57-38-29,  
15           57-38-30, or 57-38-30.3 for qualified compensation paid to a college intern  
16           employed by the taxpayer. To qualify for the credit under this section, the  
17           internship program must meet the following qualifications:
- 18           a. The intern must be an enrolled full-time student in an institution of higher  
19           education who is engaged in a major field of study closely related to the work  
20           experience performed for the taxpayer;
- 21           b. The internship must be taken for academic credit; and
- 22           c. The intern must be supervised and evaluated by the taxpayer.
- 23           2. The amount of the credit to which a taxpayer is entitled is ten percent of the  
24           stipend or salary paid to a college intern employed by the taxpayer. A taxpayer  
25           may not receive more than three thousand dollars in total credits under this section  
26           for all taxable years combined.
- 27           a. The tax credit under this section applies to a stipend or salary for not more  
28           than five interns employed at the same time.
- 29           b. A partnership, subchapter S corporation, or limited liability company that for  
30           tax purposes is treated like a partnership that is entitled to the credit under  
31           this section must be considered to be the taxpayer for purposes of calculating

1                   the credit. The amount of the allowable credit must be determined at the  
2                   passthrough entity level. The total credit determined at the entity level must  
3                   be passed through to the partners, shareholders, or members in proportion to  
4                   their respective interests in the passthrough entity.

5                   **SECTION 18.** A new subsection to section 57-38-30.3 of the North Dakota Century  
6 Code is created and enacted as follows:

7                   A taxpayer filing a return under this section is entitled to the credits provided under  
8                   sections 57-38-01.24 and 57-38-01.25 and subsection 4 of section 57-38-30.5.

9                   **SECTION 19. AMENDMENT.** Section 57-38-30.5 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11                   **57-38-30.5. Corporate income tax credit for research and experimental**  
12 **expenditures.** ~~Any~~ A corporation is allowed a credit against the tax imposed under this  
13 chapter for the taxable year equal to ~~eight~~ twenty-five percent of the first one ~~and one-half~~  
14 ~~million~~ hundred thousand dollars of the qualified research expenses for the taxable year in  
15 excess of the base period research expenses and equal to ~~four~~ twenty percent of all qualified  
16 research expenses for the taxable year more than one ~~and one-half million~~ hundred thousand  
17 dollars in excess of the base period research expenses.

18                   1. For purposes of this section:

19                   a. "Base period research expenses" means base period research expenses as  
20 defined in section 41(c) of the Internal Revenue Code [26 U.S.C. 41(c)],  
21 except it does not include research conducted outside the state of North  
22 Dakota.

23                   b. "Qualified research" means qualified research as defined in section 41(d) of  
24 the Internal Revenue Code [26 U.S.C. 41(d)], except it does not include  
25 research conducted outside the state of North Dakota.

26                   c. "Qualified research expenses" means qualified research expenses as defined  
27 in section 41(b) of the Internal Revenue Code [26 U.S.C. 41(b)], except it  
28 does not include expenses incurred for basic research conducted outside the  
29 state of North Dakota.

30                   2. The credit allowed under this section for the taxable year may not exceed the  
31 liability for tax under this chapter.

- 1           3. In the case of a corporation ~~which~~ that is a partner in a partnership or a member in  
2           a limited liability company, the credit allowed for the taxable year may not exceed  
3           an amount separately computed with respect to the corporation's interest in the  
4           trade, business, or entity equal to the amount of tax attributable to that portion of  
5           the corporation's taxable income which is allocable or apportionable to the  
6           corporation's interest in the trade, business, or entity.
- 7           4. If the amount of the credit determined under this section for any taxable year  
8           exceeds the limitation under subsection 2, the excess may be used as a research  
9           credit carryback to each of the three preceding taxable years and a research credit  
10          carryover to each of the fifteen succeeding taxable years or the taxpayer may  
11          assign or transfer, for consideration, the excess to another taxpayer. ~~The~~ If the  
12          taxpayer elects to carry back or carry over the credit, the entire amount of the  
13          excess unused credit for the taxable year must be carried first to the earliest of the  
14          taxable years to which the credit may be carried and then to each successive year  
15          to which the credit may be carried. ~~The~~ and the amount of the unused credit which  
16          may be added under this subsection may not exceed the taxpayer's liability for tax  
17          less the research credit for the taxable year.
- 18          a. A taxpayer's total credit assignment under this section may not exceed one  
19          hundred thousand dollars over any combination of taxable years.
- 20          b. If the taxpayer elects to assign or transfer an excess credit under this  
21          subsection, the tax credit transferor and the tax credit purchaser jointly shall  
22          file with the tax commissioner a copy of the purchase agreement and a  
23          statement containing the names, addresses, and taxpayer identification  
24          numbers of the parties to the transfer, the amount of the credit being  
25          transferred, the gross proceeds received by the transferor, and the tax year or  
26          years for which the credit may be claimed. The taxpayer and the purchaser  
27          also shall file a document allowing the tax commissioner to disclose tax  
28          information to either party for the purpose of verifying the correctness of the  
29          transferred tax credit. The purchase agreement, supporting statement, and  
30          waiver must be filed within thirty days after the date the purchase agreement  
31          is fully executed.

- 1           c. The purchaser of the tax credit shall claim the credit beginning with the tax  
2           year in which the credit purchase agreement was fully executed by the  
3           parties. A purchaser of a tax credit under this section has only such rights to  
4           claim and use the credit under the terms that would have applied to the tax  
5           credit transferor, except the credit purchaser may not carry back the credit as  
6           otherwise provided in this section. This subsection does not limit the ability of  
7           the tax credit purchaser to reduce the tax liability of the purchaser, regardless  
8           of the actual tax liability of the tax credit transferor.
- 9           d. The original purchaser of the tax credit may not sell, assign, or otherwise  
10          transfer the credit purchased under this section.
- 11          e. If the amount of the credit available under this section is changed as a result  
12          of an amended return filed by the transferor, or as the result of an audit  
13          conducted by the internal revenue service or the tax commissioner, the  
14          transferor shall report to the purchaser the adjusted credit amount within thirty  
15          days of the amended return or within thirty days of the final determination  
16          made by the internal revenue service or the tax commissioner. The tax credit  
17          purchaser shall file amended returns reporting the additional tax due or  
18          claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax  
19          commissioner may audit these returns and assess or issue refunds, even  
20          though other time periods prescribed in these sections may have expired for  
21          the purchaser.
- 22          f. Gross proceeds received by the tax credit transferor must be assigned to  
23          North Dakota. The amount assigned under this subsection cannot be  
24          reduced by the taxpayer's income apportioned to North Dakota or any North  
25          Dakota net operating loss of the taxpayer.
- 26          g. The tax commissioner has four years after the date of the credit assignment  
27          to audit the returns of the credit transferor and the purchaser to verify the  
28          correctness of the amount of the transferred credit and if necessary assess  
29          the credit purchaser if additional tax is found due. This subdivision does not  
30          limit or restrict any other time period prescribed in this chapter for the  
31          assessment of tax.

1            h. The tax commissioner may adopt rules to permit verification of the validity and  
2            timeliness of the transferred tax credit.

3            5. If a taxpayer acquires or disposes of the major portion of a trade or business or the  
4            major portion of a separate unit of a trade or business in a transaction with another  
5            taxpayer, the taxpayer's qualified research expenses and base period must be  
6            adjusted in the manner provided by section 41(f)(3) of the Internal Revenue Code  
7            [26 U.S.C. 41(f)(3)].

8            6. If a taxpayer entitled to the credit provided by this section is a member of a group  
9            of corporations filing a North Dakota consolidated tax return using the combined  
10           reporting method, the credit may be claimed against the aggregate North Dakota  
11           tax liability of all the corporations included in the North Dakota consolidated return.  
12           This section does not apply to tax credits received or purchased under  
13           subsection 5.

14           7. An individual, estate, or trust that purchases a credit under this section is entitled  
15           to claim the credit against state income tax liability under section 57-38-29 or  
16           57-38-30.3.

17           **SECTION 20. AMENDMENT.** Section 57-38.5-05 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19           **57-38.5-05. Seed capital investment tax credit limits.** The aggregate amount of  
20 seed capital investment tax credit allowed for investments under this chapter is limited to ~~two~~  
21 five million five hundred thousand dollars for each calendar year. If investments in qualified  
22 businesses reported to the commissioner under section 57-38.5-07 exceed the limits on tax  
23 credits for investments imposed by this section, the credit must be allowed to taxpayers in the  
24 chronological order of their investments in qualified businesses as determined from the forms  
25 filed under section 57-38.5-07.

26           **SECTION 21. AMENDMENT.** Section 57-38.6-01 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **57-38.6-01. Definitions.** As used in this chapter, unless the context otherwise  
29 requires:

30           1. "Agricultural commodity processing facility" means a :

- 1           a. A facility that through processing involving the employment of knowledge and  
2           labor adds value to an agricultural commodity capable of being raised in this  
3           state; or  
4           b. A livestock feeding, handling, milking, or holding operation that uses as part  
5           of its operation a byproduct produced at a biofuels production facility.
- 6           2. "Biofuels production facility" means a corporation, limited liability company,  
7           partnership, individual, or association in this state:
- 8           a. Involved in production of diesel fuel containing at least five percent biodiesel  
9           meeting the specifications adopted by the American society for testing and  
10           materials;
- 11           b. Involved in the production of corn-based ethanol or cellulose-based ethanol;  
12           or  
13           c. Involved in a soybean or canola crushing facility.
- 14           3. "Director" means the director of the department of commerce division of economic  
15           development and finance.
- 16           3- 4. "Qualified business" means a cooperative, corporation, partnership, or limited  
17           liability company that:
- 18           a. Is incorporated or organized in this state after December 31, 2000, for the  
19           primary purpose of ~~processing and marketing being an~~ agricultural  
20           ~~commodities capable of being raised in this state~~ commodity processing  
21           facility;
- 22           b. Has been certified by the securities commissioner to be in compliance under  
23           the securities laws of this state;
- 24           c. Has an agricultural commodity processing facility, or intends to locate one, in  
25           this state; and
- 26           d. Is among the first ten businesses that meets the requirements of this  
27           subsection, but not a business that was previously certified as a qualified  
28           business under chapter 57-38.5.
- 29           4- 5. "Taxpayer" means an individual, estate, trust, corporation, partnership, or limited  
30           liability company.

1           **SECTION 22. AMENDMENT.** Section 17 of chapter 151 of the 2005 Session Laws is  
2 amended and reenacted as follows:

3           **SECTION 17. LEGISLATIVE COUNCIL STUDY - NORTH DAKOTA BUSINESS**

4           **CLIMATE INITIATIVE.** During the 2005-06 and 2007-08 interims, the legislative council shall  
5 study the state's business climate through a business climate initiative. The business climate  
6 initiative must include receipt of agency reports regarding economic development legislation  
7 introduced by the legislative council during previous legislative sessions, active participation in  
8 business climate focus groups across the state, and active participation in biennial business  
9 congresses. The focus groups shall discuss ways to enhance the state's business climate to  
10 stimulate job growth and enhance economic prosperity for employers and employees by  
11 encouraging the growth of existing businesses in the state, creating new businesses in the  
12 state, and encouraging expansion or relocation of businesses to this state. Each business  
13 congress must receive a report on the activities of the focus group discussions, shall identify  
14 methods to enhance the state's business climate to stimulate job growth and enhance  
15 economic prosperity, shall identify methods to prepare the state for the high-growth and  
16 high-demand jobs of the future, and shall evaluate the impact of existing state economic  
17 development programs. The department of commerce shall organize the business climate  
18 focus groups and the business congresses. Before each business congress, which must be  
19 held before June 1, 2006, and before June 1, 2008, the department shall hold a minimum of six  
20 focus group discussions, ~~two of which specifically focus on local economic developers, young~~  
21 ~~professionals,~~ and ~~four of which specifically focus on~~ private business needs. The department  
22 shall consult with the legislative council in compiling focus group and business congress  
23 participant invitation lists and drafting and distributing invitations, establishing focus group and  
24 business congress dates and locations, and preparing agendas for focus groups and business  
25 congresses. The legislative council shall contract with a third party to provide professional  
26 services to plan, facilitate, report on, and coordinate followup for the focus groups and business  
27 congresses. The legislative council shall report its findings and recommendations, together  
28 with any legislation required to implement the recommendations, to the sixtieth and sixty-first  
29 legislative assemblies.

30           **SECTION 23. REPEAL.** Sections 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the  
31 North Dakota Century Code are repealed.

1           **SECTION 24. STATE BOARD OF HIGHER EDUCATION REPORT ON CCBENEFITS**  
2 **- LEGISLATIVE COUNCIL REPORT.** During the 2007-08 interim, the state board of higher  
3 education shall monitor the implementation of the services of ccbenefits, incorporated, by the  
4 institutions under the control of the state board of higher education. Before July 1, 2008, the  
5 state board of higher education shall report to the legislative council on the status of the  
6 implementation of the ccbenefits, incorporated, services, including the status of the  
7 implementation at each institution using the services, the level of utilization of the services at  
8 the institutional level and at the system level, the feasibility and desirability of expanding the  
9 use of the services from use by the community colleges to use by all institutions in order to  
10 improve responsiveness of institutions and to improve forecasting efforts of institutions, and  
11 recommendations relating to the use of the ccbenefits, incorporated, services. The legislative  
12 council shall report its findings and recommendations, together with any legislation required to  
13 implement the recommendations, to the sixty-first legislative assembly.

14           **SECTION 25. JOB SERVICE NORTH DAKOTA CHRONIC UNEMPLOYMENT AND**  
15 **SOFT SKILLS TRAINING STUDY AND REPORT - LEGISLATIVE COUNCIL REPORT.**

- 16           1. During the 2007-08 interim, job service North Dakota shall study the issue of  
17 chronic unemployment and the issue of soft skills training for the chronically  
18 unemployed and as an element of workforce training. The study shall include:
- 19           a. Evaluation of the costs and effectiveness of the current unemployment,  
20 reemployment, and workforce training processes used by job service North  
21 Dakota, with consideration of the feasibility and desirability of increasing the  
22 use of soft skills training and with consideration of how these processes  
23 impact workforce needs in the state;
  - 24           b. A report on the progress of and results from the chronic unemployment  
25 demonstration project carried out by job service North Dakota during the  
26 2007-08 interim; and
  - 27           c. Consideration of the appropriate means of funding any additional costs that  
28 might be incurred as a result of implementation of the study's  
29 recommendations.

- 1           2.    Before July 1, 2008, job service North Dakota shall report to the legislative council  
2                   the outcome of the study, along with any recommendations and any legislative  
3                   language required to implement the recommendations.
- 4           3.    The legislative council shall receive the report of job service North Dakota and  
5                   consider whether to recommend any of the proposed recommendations of job  
6                   service North Dakota. The legislative council shall report its findings and  
7                   recommendations, together with any legislation required to implement the  
8                   recommendations, to the sixty-first legislative assembly.

9                   **SECTION 26. DEPARTMENT OF COMMERCE TARGET INDUSTRY CLUSTER**

10 **INDUSTRIES STUDY - LEGISLATIVE COUNCIL REPORT.** During the 2007-08 interim, the  
11 department of commerce target industries report to the legislative council required under North  
12 Dakota Century Code section 54-60-11 must include a study of the cluster industries related to  
13 the state's target industries. The study must include an inventory of innovation assets which  
14 may be relevant to the target industries and related cluster industries; how target industries and  
15 related cluster industries may be better aligned with state economic development activities and  
16 programs, such as centers of excellence, economic development incentives, and higher  
17 education; and how to stimulate development in the target industries and related cluster  
18 industries. The commissioner of commerce shall report to the legislative council the outcome  
19 of the study and identify proposed legislative changes necessary to implement the department  
20 of commerce's recommendations to stimulate development in the target industries and related  
21 cluster industries for each of these target industries.

22                   **SECTION 27. TAX EXPENDITURE REPORT PILOT PROJECT.**

- 23           1.    During the 2007-09 biennium, the commissioner of commerce, in consultation with  
24                   the tax commissioner, shall select a tax expenditure for the purposes of conducting  
25                   a tax expenditure report pilot project.
- 26           2.    Before the tenth legislative day of the sixty-first legislative assembly, the  
27                   commissioner of commerce shall submit to the president of the senate and the  
28                   speaker of the house a tax expenditure report. This report must be based upon  
29                   information available to the tax commissioner and information available to the  
30                   department of commerce, and must include an analysis of the selected tax

- 1 expenditure which includes a description of the annual state revenue losses and  
2 benefits and a cyclical analysis of these losses and benefits.
- 3 3. The tax commissioner shall compile tax expenditure data and provide this data to  
4 the department of commerce. Notwithstanding section 57-38-57 and other  
5 confidentiality statutes, the tax commissioner shall provide the department of  
6 commerce the information necessary to accomplish and effectuate the intent of  
7 this section. The tax commissioner may request the assistance of the office of  
8 management and budget as necessary to compile this tax expenditure data.
- 9 4. The tax commissioner may establish the procedure by which the tax commissioner  
10 will compile the tax expenditure data and the format in which the tax commissioner  
11 will provide this data to the department of commerce. The department of  
12 commerce may establish the manner in which the tax expenditure data will be  
13 analyzed, organized, and presented in the report.
- 14 5. Confidential tax information the department of commerce receives from the tax  
15 commissioner may not be divulged by the department of commerce unless the  
16 information is in the aggregate and in a manner that will not divulge information  
17 specific to any taxpayer.
- 18 6. For purposes of this section, the term tax expenditure means a provision in the  
19 state tax laws, including an exclusion, a deduction, a tax preference, a credit, and  
20 a deferral designed to encourage certain activities or to aid a taxpayer in special  
21 circumstances.

22 **SECTION 28. STATE BUSINESS INCENTIVE EXPENDITURE REPORT PILOT**

23 **PROJECT.**

- 24 1. During the 2007-09 biennium, the commissioner of commerce shall select a state  
25 business incentive for the purposes of conducting a state business incentive  
26 expenditure report pilot project.
- 27 2. Before the tenth legislative day of the sixty-first legislative assembly, the  
28 commissioner of commerce shall submit to the president of the senate and the  
29 speaker of the house a state business incentive expenditure report. This report  
30 must be based upon information available to the department and must include an  
31 analysis of the selected state business incentive which includes a description of

1 the annual state revenue losses and benefits and a cyclical analysis of these  
2 losses and benefits.

3 3. The administering agency for the selected state business incentive shall compile  
4 state business incentive expenditure data and provide this data to the department.  
5 The department shall determine the data appropriate to measure the losses and  
6 benefits for the selected state business incentive and shall inform the  
7 administering agency of the specific data required and the format in which the  
8 administering agency shall provide this data to the department.

9 4. For purposes of this section, the term business incentive does not include a tax  
10 expenditure as defined under section 27 of this Act.

11 **SECTION 29. LEGISLATIVE COUNCIL STUDY - HOUSING NEEDS.** During the  
12 2007-08 interim, the legislative council shall consider studying the state's housing needs and  
13 how unmet housing needs may affect economic development in the state. The legislative  
14 council shall report its findings and recommendations, together with any legislation required to  
15 implement the recommendations, to the sixty-first legislative assembly.

16 **SECTION 30. LEGISLATIVE COUNCIL STUDY - WIRELESS SERVICE**  
17 **PROVIDERS.** During the 2007-08 interim, the legislative council shall consider studying issues  
18 relating to wireless service providers in the state and how wireless service impacts the  
19 business climate in the state. The legislative council shall report its findings and  
20 recommendations, together with any legislation required to implement the recommendations, to  
21 the sixty-first legislative assembly.

22 **SECTION 31. TRANSFER.** During the biennium beginning July 1, 2007, and ending  
23 June 30, 2009, the director of the office of management and budget shall transfer \$2,500,000  
24 from the general fund to the rural airport economic development fund.

25 **SECTION 32. APPROPRIATION.** There is appropriated out of any moneys in the rural  
26 airport economic development fund in the state treasury, not otherwise appropriated, the sum  
27 of \$2,500,000, or so much of the sum as may be necessary, to the aeronautics commission for  
28 the purpose of the rural airport economic development fund, for the biennium beginning July 1,  
29 2007, and ending June 30, 2009.

30 **SECTION 33. APPROPRIATION.** There is appropriated out of any moneys in the  
31 general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so

1 much of the sum as may be necessary, to the Bank of North Dakota for the purpose of  
2 defraying the expenses of the biodiesel partnership in assisting community expansion fund, for  
3 the biennium beginning July 1, 2007, and ending June 30, 2009.

4 **SECTION 34. APPROPRIATION.** There is appropriated out of any moneys in the  
5 general fund in the state treasury, not otherwise appropriated, the sum of \$8,000,000, or so  
6 much of the sum as may be necessary, to the Bank of North Dakota for the purpose of  
7 defraying the expenses of the partnership in assisting community expansion fund, for the  
8 biennium beginning July 1, 2007, and ending June 30, 2009.

9 **SECTION 35. APPROPRIATION TRANSFER.** The Bank of North Dakota shall  
10 transfer the funds appropriated by sections 33 and 34 of this Act to the biodiesel partnership in  
11 assisting community expansion fund established by section 6-09.17-02 and the partnership in  
12 assisting community expansion fund established by section 6-09.14-02. The Bank of North  
13 Dakota may not be construed to be a general fund agency because of the appropriations made  
14 by sections 33 and 34 of this Act.

15 **SECTION 36. APPROPRIATION.** There is appropriated out of any moneys in the  
16 general fund in the state treasury, not otherwise appropriated, the sum of \$45,000, or so much  
17 of the sum as may be necessary, to the department of career and technical education for the  
18 purpose of funding grants for innovation, for the biennium beginning July 1, 2007, and ending  
19 June 30, 2009.

20 **SECTION 37. APPROPRIATION.** There is appropriated out of any moneys in the  
21 general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much  
22 of the sum as may be necessary, to the department of commerce for the purpose of performing  
23 the tax expenditure report and state business incentive expenditure report pilot projects, for the  
24 biennium beginning July 1, 2007, and ending June 30, 2009.

25 **SECTION 38. APPROPRIATION.** There is appropriated out of any moneys in the  
26 general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much  
27 of the sum as may be necessary, to the department of commerce for the business and tourism  
28 acceleration commission, for the biennium beginning July 1, 2007, and ending June 30, 2009.

29 **SECTION 39. APPROPRIATION.** There is appropriated out of any moneys in the  
30 general fund in the state treasury, not otherwise appropriated, the sum of \$600,000, or so much  
31 of the sum as may be necessary, to job service North Dakota, for the purpose of funding a web

1 site spider program to identify job listings available in North Dakota, for the biennium beginning  
2 July 1, 2007, and ending June 30, 2009. The funds appropriated under this section are  
3 intended to supplement any federal funds made available to fund this spider program.

4 **SECTION 40. EFFECTIVE DATE.** Sections 16, 17, 18, 19, 20, 21, and 23 of this Act  
5 are effective for taxable years beginning after December 31, 2006. Section 19 of this Act is  
6 effective for tax credits earned and assigned after December 31, 2006. However, rentals under  
7 a lease entered before January 1, 2007, and eligible for the exemption under section 57-38-73  
8 when the lease was entered continue to be eligible for the exemption for taxable years after  
9 2006 on the same terms and conditions for the duration of the lease.

10 **SECTION 41. EMERGENCY.** Sections 2, 7, 33, 34, and 35 of this Act are declared to  
11 be an emergency measure.