

Sixtieth
Legislative Assembly
of North Dakota

REENGROSSED 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 54-34.3, a new section to
2 chapter 54-34.4, two new sections to chapter 54-60, section 57-38-01.24, and a new
3 subsection to section 57-38-30.3 of the North Dakota Century Code, relating to international
4 business, visitor information centers, department of commerce division of workforce
5 development programs and duties, and tax credits for internships and research and
6 experimental expenditures; to amend and reenact sections 15-69-02, 15-69-03, 15-69-04, and
7 15-69-05, subsections 4 and 6 of section 54-17-07.3, and sections 54-60-02, 54-60-09,
8 54-60-12, 57-38-30.5, 57-38.5-05, and 57-38.6-01 of the North Dakota Century Code and
9 section 17 of chapter 151 of the 2005 Session Laws, relating to the centers of excellence
10 program, housing finance agency programs, updating department of commerce law,
11 department of commerce division of workforce development duties, the North Dakota image
12 information program, tax forms, research and experimental expenditures tax credits, seed
13 capital investment tax credits, agricultural business investment tax credits, and a legislative
14 council study; to repeal sections 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the North
15 Dakota Century Code, relating to beginning entrepreneur income tax incentives; to provide for
16 state agency studies, a tax expenditure report pilot project and a state business incentive
17 expenditure report pilot project and reports on the pilot projects, reports to the legislative
18 council, and legislative council studies; to provide effective dates; and to declare an
19 emergency.

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

21 **SECTION 1. AMENDMENT.** Section 15-69-02 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **15-69-02. (Effective through July 31, 2011) Centers of excellence.**

- 1 1. The board shall establish a centers of excellence program relating to economic
2 development. The program must distinguish among center designations for
3 awards designated to address commercialization, workforce, and infrastructure
4 needs. Through the program the commission shall make funding award
5 recommendations for commission-approved applications to the board, the
6 foundation, and the budget section of the legislative council. A center must be an
7 institution of higher education under the control of the board or a nonprofit
8 university-related or college-related foundation of an institution of higher education
9 under the control of the board. In order to be considered for center designation,
10 the institution of higher education or nonprofit foundation must be working in
11 partnership with the private sector. In addition to any center designated under this
12 chapter, the North Dakota state university center for technology enterprise and the
13 university of North Dakota center for innovation are centers.
- 14 2. A commission funding award recommendation must be for a specified amount.
15 Designation of a center occurs upon board, foundation, and budget section
16 approval of a commission funding award recommendation. In considering whether
17 to designate a center, the board, foundation, and budget section may not modify
18 the commission recommendation. The budget section may not make a
19 determination of whether to approve or reject a commission funding award
20 recommendation until the emergency commission reviews the commission
21 recommendation and makes a recommendation to the budget section.
- 22 3. A center that receives funds distributed under this chapter is not qualified to
23 receive subsequent designations as a center until the biennium following the
24 center's most recent designation.
- 25 4. The board rules adopted under subsection 9 of section 15-10-17, relating to
26 ownership of intellectual property, inventions, and discoveries, must address
27 activities and issues unique to centers.
- 28 5. Unless otherwise provided through the appropriation process, the commission's
29 funding awards to address workforce needs may not exceed ten percent and the
30 commission's funding awards to address infrastructure needs may not exceed ten
31 percent of the funds appropriated for funding centers during the biennium.

1 **SECTION 2. AMENDMENT.** Section 15-69-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15-69-03. (Effective through July 31, 2011) Centers of excellence commission.**

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

21 **SECTION 3. AMENDMENT.** Section 15-69-04 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **15-69-04. (Effective through July 31, 2011) Application - Eligibility requirements.**

- 24 1. The ~~board~~ department of commerce shall provide center application forms, accept
25 applications, review applications for completeness and compliance with board and
26 commission policy, ~~and~~ forward complete applications to the commission in
27 accordance with guidelines established by the commission, and assist with
28 preaward reviews and postaward monitoring as may be requested by the
29 commission.
- 30 2. The commission shall meet as necessary to review all complete applications;
31 consider the potential need for independent, expert review of complete

1 applications; approve or disapprove complete applications; make funding award
2 recommendations for commission-approved proposed centers; direct the office of
3 management and budget to distribute funds to the centers; monitor centers for
4 compliance with award requirements; ~~and~~ review changes in assertions made in
5 center applications; and conduct postaward monitoring of centers.

6 3. In considering whether to approve or disapprove an application, the commission
7 shall determine whether the applicant has conducted the due diligence necessary
8 to put together a viable proposal and the commission shall consider whether the
9 center will:

- 10 a. Use university or college research to promote private sector job growth and
11 expansion of knowledge-based industries or use university or college
12 research to promote the development of new products, high-tech companies,
13 or skilled jobs in this state;
- 14 b. Create high-value private sector employment opportunities in this state;
- 15 c. Provide for public-private sector involvement and partnerships;
- 16 d. Leverage other funding;
- 17 e. Increase research and development activities that may involve federal funding
18 from the national science foundation experimental program to stimulate
19 competitive research;
- 20 f. Foster and practice entrepreneurship;
- 21 g. Promote the commercialization of new products and services in industry
22 clusters;
- 23 h. Become financially self-sustaining; and
- 24 i. Establish and meet a deadline for acquiring and expending all public and
25 private funds specified in the application.

26 4. In considering whether to approve an application, the commission may provide for
27 an independent, expert review of the application to determine whether the
28 proposed center is viable and whether the proposed center is likely to have the
29 desired economic impact. As necessary, the commission may contract for
30 additional technical review of applications. The commission may not approve an
31 application unless the commission determines the proposed center has a high

1 likelihood of viability and success in positively impacting economic development in
2 the state.

3 5. For no fewer than six years and no more than ten years following center
4 designation, the commission shall monitor the center's activities in order to
5 determine whether the center is having the desired economic impact.

6 **SECTION 4. AMENDMENT.** Section 15-69-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15-69-05. (Effective through July 31, 2011) Use of funds - Terms of funds -**
9 **Distribution of funds.**

10 1. A center shall use funds awarded under this chapter to enhance capacity; enhance
11 infrastructure; and leverage state, federal, and private sources of funding. If a
12 center's primary use of funds will be to enhance infrastructure, the commission
13 must have specifically designated the center as addressing infrastructure needs.

14 A center awarded funds under this chapter may not use the funds to supplant
15 funding for current operations or academic instructions or to pay indirect costs.

16 2. As a condition for receipt of funds under this chapter, a center shall agree to
17 provide the board, foundation, and budget section of the legislative council with
18 annual audits on all funds distributed to the center under this chapter. The annual
19 audits must be provided until the completion of ~~four years following the final~~
20 ~~distribution of funds under this chapter~~ the commission's postaward monitoring of
21 the center. As a condition for receipt of funds under this chapter, a center shall
22 agree to provide the commission with the information necessary to monitor the
23 postaward activities of the center.

24 3. Before the commission directs the office of management and budget to distribute
25 funds awarded under this chapter, the center shall provide the commission with
26 detailed documentation of private sector participation and the availability of two
27 dollars of matching funds for each dollar of state funds to be distributed under this
28 chapter. The commission may not direct distribution of funds if the private sector
29 participants cease to participate. The matching funds may include funds facilitated
30 through the collaboration of the private sector participants with other funding
31 entities. The matching funds may include a combination of cash and in-kind

1 assets with itemized value. Private sector participation may be established
2 through equity investments or through contracts for services with private sector
3 entities. In making funding recommendations and designation determinations, the
4 commission, board, foundation, and budget section shall give major consideration
5 to the portion of the matching funds provided in cash by the private sector.

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

10 5. The commission may use funds appropriated for the centers of excellence
11 program to pay for the commission's administrative expenses, which may include
12 contracting for independent, expert reviews of complete applications. The amount
13 of funds the commission uses each biennium for administrative expenses may not
14 exceed two and one-half percent of the funds appropriated for the program that
15 biennium.

16 **SECTION 5. AMENDMENT.** Subsections 4 and 6 of section 54-17-07.3 of the North
17 Dakota Century Code are amended and reenacted as follows:

18 4. Mortgage loan financing program. A program or programs to provide for the
19 purchase or guaranty of a temporary or permanent mortgage loans loan originated
20 by ~~lenders~~ a lender on residential real property or on land to be developed into
21 residential real property, in addition to ~~such a mortgage loans loan~~ acquired or to
22 be acquired under subsections 1 through 3. A program authorized under this
23 subsection may provide assistance in the development of low to moderate income
24 housing or to otherwise assist a developing community in the state address an
25 unmet housing need or alleviate a housing shortage.

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

1 **SECTION 6.** A new section to chapter 54-34.3 of the North Dakota Century Code is
2 created and enacted as follows:

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

6 **SECTION 7.** A new section to chapter 54-34.4 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Visitor information centers.** The division may develop and implement a visitor
9 information center assistance program. The program may include matching grant funds,
10 training assistance, and marketing assistance for visitor information centers and for rest stop
11 volunteers.

12 **SECTION 8. AMENDMENT.** Section 54-60-02 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-60-02. Department of commerce - Divisions.** The North Dakota department of
15 commerce is created. All records, materials, supplies, and equipment used by the division of
16 community services, department of economic development and finance, and the department of
17 tourism are transferred to the department.

18 1. The department must consist of:

- 19 a. A division of community services;
20 b. A division of economic development and finance;
21 c. A division of tourism;
22 d. A division of workforce development; and
23 e. Any division the commissioner determines necessary to carry out this
24 chapter.

25 2. The commissioner shall appoint the director of ~~any each division created by the~~
26 ~~commissioner under subsection 1. Effective August 1, 2003, the commissioner~~
27 ~~shall appoint the directors of the division of community services, division of~~
28 ~~economic development and finance, and division of workforce development.~~
29 ~~Effective August 1, 2005, the commissioner shall appoint the director of the~~
30 ~~division of tourism of the department.~~ Each director appointed by the
31 commissioner serves at the pleasure of the commissioner and is entitled to receive

1 a salary set by the commissioner within the limits of legislative appropriations.
2 ~~Until August 1, 2003, the governor shall appoint the directors of the division of~~
3 ~~community services, division of economic development and finance, and division~~
4 ~~of workforce development and until August 1, 2005, the governor shall appoint the~~
5 ~~director of the division of tourism. The individuals appointed by the governor shall~~
6 ~~serve at the pleasure of the governor and are entitled to receive a salary set by the~~
7 ~~governor within the limits of legislative appropriations.~~

8 **SECTION 9. AMENDMENT.** Section 54-60-09 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-60-09. Division of workforce development - Duties.** The division of workforce
11 development shall ~~actively~~:

- 12 1. Actively monitor local, regional, and national private and public workforce
13 development initiatives.
- 14 2. Develop and implement the state's talent strategy.
- 15 3. Develop and implement a statewide intelligence coordination strategy.

16 **SECTION 10. AMENDMENT.** Section 54-60-12 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-60-12. North Dakota image information program.** The commissioner shall
19 implement a program for use by state agencies and the private sector to assist state agencies
20 ~~and~~, state agencies' employees, private businesses, and private businesses' employees to
21 present to the public a positive image of the state. ~~The commissioner may expand the program~~
22 ~~to include use of the program by the private sector.~~

23 **SECTION 11.** Two new sections to chapter 54-60 of the North Dakota Century Code
24 are created and enacted as follows:

25 **Division of workforce development - Higher education internships and work**
26 **experience opportunities.** The division of workforce development shall administer a program
27 to increase use of higher education internships and work experience opportunities for higher
28 education students. The primary focus of this program must be higher education internships in
29 target industries. This program shall provide services to employers, communities, and
30 business organizations to increase higher education internship and work experience
31 opportunities.

1 **Division of workforce development - Career specialist.** The division of workforce
2 development, in consultation with the department of career and technical education, job service
3 North Dakota, and the superintendent of public instruction, shall develop and implement a
4 program to assist public schools in promoting North Dakota career opportunities to students in
5 grades nine through twelve.

6 **SECTION 12.** Section 57-38-01.24 of the North Dakota Century Code is created and
7 enacted as follows:

8 **57-38-01.24. Internship employment tax credit.**

- 9 1. A taxpayer that is an employer within this state is entitled to a credit as determined
10 under this section against state income tax liability under section 57-38-29 or
11 57-38-30 for qualified compensation paid to a college intern employed by the
12 taxpayer. To qualify for the credit under this section, the internship program must
13 meet the following qualifications:
- 14 a. The intern must be an enrolled full-time student in an institution of higher
15 education who is engaged in a major field of study closely related to the work
16 experience performed for the taxpayer;
 - 17 b. The internship must be taken for academic credit; and
 - 18 c. The intern must be supervised and evaluated by the taxpayer.
- 19 2. The amount of the credit to which a taxpayer is entitled is ten percent of the
20 stipend or salary paid to a college intern employed by the taxpayer. A taxpayer
21 may not receive more than three thousand dollars in total credits under this section
22 for all taxable years combined.
- 23 a. The tax credit under this section applies to a stipend or salary for not more
24 than five interns employed at the same time.
 - 25 b. A partnership, subchapter S corporation, or limited liability company that for
26 tax purposes is treated like a partnership that is entitled to the credit under
27 this section must be considered to be the taxpayer for purposes of calculating
28 the credit. The amount of the allowable credit must be determined at the
29 passthrough entity level. The total credit determined at the entity level must
30 be passed through to the partners, shareholders, or members in proportion to
31 their respective interests in the passthrough entity.

1 **SECTION 13.** A new subsection to section 57-38-30.3 of the North Dakota Century
2 Code is created and enacted as follows:

3 A taxpayer filing a return under this section is entitled to the credits provided under
4 section 57-38-30.5.

5 **SECTION 14. AMENDMENT.** Section 57-38-30.5 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-30.5. ~~Corporate income~~ Income tax credit for research and experimental**
8 **expenditures.** ~~Any corporation~~ A taxpayer is allowed a credit against the tax imposed under
9 ~~this chapter~~ section 57-38-29, 57-38-30, or 57-38-30.3 for the taxable year equal to ~~eight~~
10 twenty-five percent of the first one and one-half million hundred thousand dollars of the
11 qualified research expenses for the taxable year in excess of the base period research
12 expenses and equal to ~~four~~ twenty percent of all qualified research expenses for the taxable
13 year more than one ~~and one-half million~~ hundred thousand dollars in excess of the base period
14 research expenses.

15 1. For purposes of this section:

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

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

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

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

29 3. In the case of a ~~corporation which~~ taxpayer that is a partner in a partnership or a
30 member in a limited liability company, the credit allowed for the taxable year may
31 not exceed an amount separately computed with respect to the ~~corporation's~~

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

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

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

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

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

15 **SECTION 15. AMENDMENT.** Section 57-38.5-05 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-38.5-05. Seed capital investment tax credit limits.** The aggregate amount of
18 seed capital investment tax credit allowed for investments under this chapter is limited to ~~two~~
19 five million five hundred thousand dollars for each calendar year. If investments in qualified
20 businesses reported to the commissioner under section 57-38.5-07 exceed the limits on tax
21 credits for investments imposed by this section, the credit must be allowed to taxpayers in the
22 chronological order of their investments in qualified businesses as determined from the forms
23 filed under section 57-38.5-07.

24 **SECTION 16. AMENDMENT.** Section 57-38.6-01 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **57-38.6-01. Definitions.** As used in this chapter, unless the context otherwise
27 requires:

28 1. "Agricultural commodity processing facility" means a:
29 a. A facility that through processing involving the employment of knowledge and
30 labor adds value to an agricultural commodity capable of being raised in this
31 state; or

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

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

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

31 **CLIMATE INITIATIVE.** During the 2005-06 and 2007-08 interims, the legislative council shall

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

26 **SECTION 18. REPEAL.** Sections 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the
27 North Dakota Century Code are repealed.

28 **SECTION 19. STATE BOARD OF HIGHER EDUCATION REPORT ON CCBENEFITS**
29 **- LEGISLATIVE COUNCIL REPORT.** During the 2007-08 interim, the state board of higher
30 education shall monitor the implementation of the services of ccbenefits, incorporated, by the
31 institutions under the control of the state board of higher education. Before July 1, 2008, the

1 state board of higher education shall report to the legislative council on the status of the
2 implementation of the ccbenefits, incorporated, services, including the status of the
3 implementation at each institution using the services, the level of utilization of the services at
4 the institutional level and at the system level, the feasibility and desirability of expanding the
5 use of the services from use by the community colleges to use by all institutions in order to
6 improve responsiveness of institutions and to improve forecasting efforts of institutions, and
7 recommendations relating to the use of the ccbenefits, incorporated, services. The legislative
8 council shall report its findings and recommendations, together with any legislation required to
9 implement the recommendations, to the sixty-first legislative assembly.

10 **SECTION 20. DEPARTMENT OF COMMERCE TARGET INDUSTRY CLUSTER**

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

23 **SECTION 21. TAX EXPENDITURE REPORT PILOT PROJECT.**

- 24 1. During the 2007-09 biennium, the commissioner of commerce, in consultation with
25 the tax commissioner, shall select a tax expenditure for the purposes of conducting
26 a tax 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 tax expenditure report. This report must be based upon
30 information available to the tax commissioner and information available to the
31 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 22. 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 21 of this Act.

11 **SECTION 23. 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 24. 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 25. EFFECTIVE DATE.** Sections 12, 13, 14, 15, 16, and 18 of this Act are
23 effective for taxable years beginning after December 31, 2006. Section 14 of this Act is
24 effective for tax credits earned and assigned after December 31, 2006. However, rentals under
25 a lease entered before January 1, 2007, and eligible for the exemption under section 57-38-73
26 when the lease was entered continue to be eligible for the exemption for taxable years after
27 2006 on the same terms and conditions for the duration of the lease.

28 **SECTION 26. EMERGENCY.** Section 5 of this Act is declared to be an emergency
29 measure.