

**FIRST ENGROSSMENT
with Conference Committee Amendments**

ENGROSSED HOUSE BILL NO. 1018

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 commerce; to provide an appropriation to the department of career and technical education; to
3 provide an appropriation to the office of management and budget; to authorize the office of
4 management and budget to borrow funds from the Bank of North Dakota; to provide for a
5 contingent loan from the Bank of North Dakota; to provide a contingent appropriation to the
6 secretary of state; to provide a continuing appropriation; to provide for reports to the sixty-first
7 legislative assembly; to provide for reports to the legislative council; to provide for legislative
8 council studies; to provide exemptions; to create and enact a new section to chapter 15-20.1,
9 four new sections to chapter 54-60, a new section to chapter 55-10, a new section to chapter
10 57-38, a new subdivision to subsection 1 of section 57-38-01.2, and sections 57-38-01.24 and
11 57-38-01.25 of the North Dakota Century Code, relating to a program to provide grants for
12 innovation, department of commerce division of workforce development programs and duties,
13 naming the missile silo historic site, angel fund investments, tax credits for internships, tax
14 exemptions for workforce recruitment, tax credits for research and experimental expenditures,
15 and to create a beginning again North Dakota pilot program; to amend and reenact sections
16 15-69-02, 15-69-03, 15-69-04, and 15-69-05, subsections 4 and 6 of section 54-17-07.3,
17 sections 54-60-02 and 54-60-09, subdivision I of subsection 2 of section 54-60.1-01, the new
18 section to chapter 57-06 as created by section 2 of House Bill No. 1072, and as amended by
19 section 2 of House Bill No. 1317, as approved by the sixtieth legislative assembly, and sections
20 57-38-30.3, 57-38-30.5, 57-38.5-05, and 57-38.6-01 of the North Dakota Century Code and
21 section 17 of chapter 151 of the 2005 Session Laws, relating to the centers of excellence
22 program, housing finance agency programs, updating department of commerce law,
23 department of commerce division of workforce development duties, the definition of business
24 incentive, tax forms, wind energy taxable valuation, tax credits for workforce recruitment,
25 research and experimental expenditures tax credits, seed capital investment tax credits,

1 agricultural business investment tax credits, and a legislative council study; to repeal sections
2 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the North Dakota Century Code, relating to
3 beginning entrepreneur income tax incentives; to provide effective dates; to provide an
4 expiration date; and to declare an emergency.

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

6 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this
7 section represent the base level funding component appropriated to the department of
8 commerce in section 3 of this Act as follows:

9 Salaries and wages	\$7,761,428
10 Operating expenses	9,531,968
11 Capital assets	25,000
12 Grants	50,102,870
13 Agricultural products utilization	3,016,000
14 Discretionary funds	1,450,127
15 Economic development initiatives	644,568
16 Lewis and Clark bicentennial	3,933,103
17 Economic development grants	<u>150,000</u>
18 Total all funds - Base level	\$76,615,064
19 Less estimated income - Base level	<u>57,434,283</u>
20 Total general fund - Base level	\$19,180,781

21 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The
22 amounts identified in this section represent the funding adjustments or enhancements to the
23 base funding level for the department of commerce which are included in the appropriation in
24 section 3 of this Act as follows:

25 Salaries and wages	\$1,075,807
26 Operating expenses	4,865,720
27 Grants	(1,628,122)
28 North Dakota development fund	3,000,000
29 Agricultural products utilization	(7,807)
30 Economic development initiatives	652,278

Sixtieth
Legislative Assembly

1	Economic development grants	(100,000)
2	Lewis and Clark bicentennial	(3,933,103)
3	North Dakota trade office	<u>1,500,000</u>
4	Total all funds - Adjustments/enhancements	\$5,424,773
5	Less estimated income - Adjustments/enhancements	<u>(1,672,990)</u>
6	Total general fund - Adjustments/enhancements	\$7,097,763

7 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the
8 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
9 treasury, not otherwise appropriated, and from special funds derived from federal funds and
10 other income, to the department of commerce for the purpose of defraying the expenses of its
11 various divisions, for the biennium beginning July 1, 2007, and ending June 30, 2009, as
12 follows:

13	Salaries and wages	\$8,837,235
14	Operating expenses	14,397,688
15	Capital assets	25,000
16	Grants	48,474,748
17	North Dakota development fund	3,000,000
18	Discretionary funds	1,450,127
19	Economic development initiatives	1,296,846
20	Agricultural products utilization	3,008,193
21	Economic development grants	50,000
22	North Dakota trade office	<u>1,500,000</u>
23	Total all funds	\$82,039,837
24	Less estimated income	<u>55,761,293</u>
25	Total general fund appropriation	\$26,278,544

26 **SECTION 4. AGRICULTURE FUEL TAX REFUNDS.** The estimated income line item
27 in section 3 of this Act includes \$575,000 from refunds of tax for fuel used for agricultural
28 purposes, to be used by the agricultural products utilization commission, for the biennium
29 beginning July 1, 2007, and ending June 30, 2009.

30 **SECTION 5. EXEMPTION.** The amount appropriated for the agricultural products
31 utilization commission in section 3 of chapter 46 of the 2005 Session Laws is not subject to

1 section 54-44.1-11 and any unexpended funds from this line item for grants are available for
2 grants during the biennium beginning July 1, 2007, and ending June 30, 2009.

3 **SECTION 6. EXEMPTION.** The amount appropriated for the discretionary funds line
4 item in section 3 of chapter 46 of the 2005 Session Laws is not subject to section 54-44.1-11
5 and any unexpended funds from this line item are available during the biennium beginning
6 July 1, 2007, and ending June 30, 2009.

7 **SECTION 7. TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION**
8 **INCENTIVE PROGRAM.** The tax commissioner shall conduct an audit of the ethanol
9 production incentive program during the biennium beginning July 1, 2007, and ending June 30,
10 2009.

11 **SECTION 8. EXEMPTION - STATE EMPLOYEE COMPENSATION ADJUSTMENT**
12 **GUIDELINES - REPORT.** Notwithstanding the provisions of Senate Bill No. 2189, as approved
13 by the sixtieth legislative assembly, the department of commerce shall develop and implement
14 a system for providing compensation adjustments to its employees for the biennium beginning
15 July 1, 2007, and ending June 30, 2009. The system must provide for the determination of
16 each employee's compensation adjustments to be based on performance, merit, and equity. Of
17 the funds appropriated in section 3 of this Act, the department may utilize up to \$428,542 for
18 these compensation adjustments. The department shall provide a report on its compensation
19 system to the human resource management services division of the office of management and
20 budget by December 31, 2007.

21 **SECTION 9. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
22 **SIXTY-FIRST LEGISLATIVE ASSEMBLY.** The total general fund appropriation line item in
23 section 3 of this Act includes \$3,000,000 for transfer to the development fund and \$100,000 for
24 tax expenditure and business incentive expenditure reports which are one-time funding items.
25 These amounts are not a part of the agency's base budget to be used in preparing the 2009-11
26 executive budget. The department of commerce shall report to the appropriations committees
27 of the sixty-first legislative assembly on the use of this one-time funding for the biennium
28 beginning July 1, 2007, and ending June 30, 2009.

29 **SECTION 10. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The total
30 general fund appropriation in section 3 of this Act includes \$1,500,000 of funding relating to the
31 North Dakota trade office. The department of commerce may spend fifty percent of this amount

1 without requiring any matching funds from the trade office. Any additional amounts may be
2 spent only to the extent that the North Dakota trade office provides one dollar of matching funds
3 from private or other public sources for each one dollar provided by the department for the
4 biennium beginning July 1, 2007, and ending June 30, 2009. Matching funds may include
5 money spent by businesses or organizations to pay salaries to export assistants, provide
6 training to export assistants, or buy computer equipment as part of the North Dakota trade
7 office's export assistance program.

8 **SECTION 11. TRANSFER AUTHORIZATION - PACE FUND TO DEVELOPMENT**

9 **FUND.** The state industrial commission, upon the request of the commissioner of commerce,
10 may transfer up to \$1,000,000 from the partnership in assisting community expansion fund to
11 the North Dakota development fund for the biennium beginning July 1, 2007, and ending
12 June 30, 2009.

13 **SECTION 12. INTERNSHIP PROGRAM - REPORT TO SIXTY-FIRST LEGISLATIVE**

14 **ASSEMBLY.** The department of commerce shall report to the appropriations committees of
15 the sixty-first legislative assembly regarding the internship program. The report must include
16 information on the program's activities, statistics, and accomplishments to date during the
17 biennium beginning July 1, 2007, and ending June 30, 2009.

18 **SECTION 13. APPROPRIATION.** There is appropriated out of any moneys in the

19 general fund in the state treasury, not otherwise appropriated, the sum of \$70,000, or so much
20 of the sum as may be necessary, to the department of career and technical education for the
21 purpose of funding grants for innovation, for the biennium beginning July 1, 2007, and ending
22 June 30, 2009.

23 **SECTION 14. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET -**

24 **CENTERS OF EXCELLENCE.** There is appropriated out of any moneys in the permanent oil
25 tax trust fund in the state treasury, not otherwise appropriated, the sum of \$15,000,000, or so
26 much of the sum as may be necessary, to the office of management and budget for the
27 purpose of providing funding to centers of excellence as directed by the centers of excellence
28 commission, for the biennium beginning July 1, 2007, and ending June 30, 2009. Of this
29 amount, up to \$10,000,000 is available for budget section approval at its first meeting after
30 September 1, 2007, and up to \$5,000,000 and any unawarded funds remaining from the

1 \$10,000,000 allocation is available for budget section approval at its first meeting after
2 September 1, 2008.

3 **SECTION 15. CENTERS OF EXCELLENCE - OFFICE OF MANAGEMENT AND**
4 **BUDGET - CONTINGENT BORROWING AUTHORITY - APPROPRIATION.** As requested by
5 the centers of excellence commission and subject to emergency commission and budget
6 section approval, the office of management and budget shall borrow the sum of \$5,000,000, or
7 so much of the sum as may be necessary, from the Bank of North Dakota, which is
8 appropriated for the purpose of providing funding to centers of excellence as directed by the
9 centers of excellence commission, for the biennium beginning July 1, 2007, and ending
10 June 30, 2009. The office of management and budget shall request funding from the sixty-first
11 legislative assembly to repay any loan obtained pursuant to provisions of this section, including
12 accrued interest. The borrowing authority and appropriation provided for in this section are
13 available only if all other funding provided by the sixtieth legislative assembly for centers of
14 excellence has been obligated.

15 **SECTION 16. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET -**
16 **PRAIRIE PUBLIC BROADCASTING.** There is appropriated out of any moneys in the general
17 fund in the state treasury, not otherwise appropriated, the sum of \$2,023,138, or so much of the
18 sum as may be necessary, to the office of management and budget for the purpose of
19 providing funding to prairie public broadcasting, for the biennium beginning July 1, 2007, and
20 ending June 30, 2009.

21 **SECTION 17. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
22 **SIXTY-FIRST LEGISLATIVE ASSEMBLY.** The general fund appropriation in section 16 of this
23 Act includes \$686,000 for an analog to digital conversion project which is a one-time funding
24 item. These amounts are not a part of the office of management and budget's base budget to
25 be used in preparing the 2009-11 executive budget. The office of management and budget
26 shall report to the appropriations committees of the sixty-first legislative assembly on the use of
27 this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

28 **SECTION 18. SECRETARY OF STATE LOAN AUTHORIZATION - CONTINGENT**
29 **APPROPRIATION - BUDGET SECTION APPROVAL.** Subject to budget section approval, the
30 secretary of state may borrow up to \$2,920,000 from the Bank of North Dakota which is
31 appropriated to the secretary of state for the purpose of implementing the North Dakota

1 business development engine information technology project during the biennium beginning
2 July 1, 2007, and ending June 30, 2009. The secretary of state may request budget section
3 approval only if the revenues projected by the secretary of state and the office of management
4 and budget to be generated as a result of provisions of House Bill No. 1340 over the term of the
5 proposed loan based on the trend of actual corporate charters granted are anticipated to
6 exceed the revenues projected by the sixtieth legislative assembly relating to this bill by an
7 amount sufficient to repay the proposed loan, including interest over the term of the loan.

8 **SECTION 19. RENAISSANCE ZONE CONFERENCE - LEGISLATIVE COUNCIL**

9 **PARTICIPATION - REPORT TO LEGISLATIVE COUNCIL.** The department of commerce,
10 during the 2007-08 interim, shall organize, host, and facilitate a renaissance zone conference.
11 The department shall extend invitations to participate in the conference to representatives of
12 each of the state's renaissance zone communities, other community representatives interested
13 in this concept, and to legislators who are members of the legislative council interim committee
14 studying economic development-related issues. Legislators who are members of the interim
15 committee studying economic development-related issues shall attend the conference as part
16 of their interim committee responsibilities. The purpose of the conference is to provide a forum
17 at which the department, legislators, and renaissance zone and other community members
18 may review the list of projects in the state which have been undertaken under the renaissance
19 zone program, evaluate whether the projects have positively impacted the renaissance zone
20 communities, consider options for smaller communities to become involved in the renaissance
21 zone program or a similar program, and make recommendations regarding how the program
22 could be improved to further meet the needs of the state and local communities. Before July 1,
23 2008, the department of commerce shall report to the legislative council on the conference
24 activities and the department's legislative and administrative recommendations resulting from
25 the conference.

26 **SECTION 20. LEGISLATIVE COUNCIL STUDY - NORTH DAKOTA WORKFORCE**

27 **SYSTEM INITIATIVE.**

- 28 1. During the 2007-08 interim, the legislative council shall study the state's system for
29 addressing workforce needs through a workforce system initiative. The workforce
30 system initiative must include receipt of agency reports regarding implementation
31 of workforce legislation enacted during the 2007 legislative session, active

- 1 participation in focus groups across the state, and active participation in a
2 workforce congress.
- 3 2. The focus groups shall discuss ways to enhance the state's system for addressing
4 workforce needs, including consideration of workforce availability, skilled workforce
5 needs, future workforce needs, and alignment of the state's higher education
6 curriculum with the state's current and future workforce needs. The workforce
7 congress shall receive a report on the activities of the focus groups, identify
8 methods to enhance the state's workforce system in order to be well-positioned to
9 participate in a knowledge-driven economy and to be globally competitive, and
10 evaluate the impact and effectiveness of the state's existing workforce system.
- 11 3. The department of commerce shall organize the focus groups and the workforce
12 congress. Before the workforce congress, which must be held before June 1,
13 2008, the department shall convene a minimum of four focus groups. The
14 department shall consult with the legislative council in compiling focus group and
15 workforce congress participant invitation lists and drafting and distributing
16 invitations, establishing focus group and workforce congress dates and locations,
17 and preparing agendas for focus groups and the workforce congress. The focus
18 groups and the workforce congress schedules and activities must take into
19 consideration workforce study activities of the department.
- 20 4. The legislative council and the department of commerce shall enter a joint contract
21 with a third party to provide the legislative council and the department with
22 professional services to plan, facilitate, report on, and coordinate followup for the
23 focus groups and workforce congress. The legislative council shall report its
24 findings and recommendations, together with any legislation required to implement
25 the recommendations, to the sixty-first legislative assembly.

26 **SECTION 21. LEGISLATIVE COUNCIL STUDY - DEPARTMENT OF COMMERCE.**

- 27 1. The legislative council shall consider studying, during the 2007-08 interim, the
28 organization, powers, duties, and effectiveness of the department of commerce.
29 The study must include:

- 1 a. A review of the legislative history leading to the creation of the department of
2 commerce, including the 1999-2000 interim activities of the legislative
3 council's interim commerce and labor committee;
 - 4 b. A review of the legislative and executive branch expectations in the creation
5 of the department of commerce and whether those expectations are being
6 met;
 - 7 c. Evaluation of the effectiveness of the North Dakota economic development
8 foundation in providing a nonpartisan, private sector perspective to the
9 department's approach to the department's duties;
 - 10 d. Evaluation of the organizational structure of the department of commerce,
11 including whether the department should include a division of science and
12 technology; and
 - 13 e. Evaluation of the strategic planning process of the department of commerce
14 and its effectiveness.
- 15 2. The legislative council shall report its findings and recommendations, together with
16 any legislation required to implement the recommendations, to the sixty-first
17 legislative assembly.

18 **SECTION 22. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION PROMISE**

19 **GRANT PROGRAM.** The legislative council shall consider studying, during the 2007-08
20 interim, the desirability and feasibility of implementing a grant program for North Dakota
21 students who are attending North Dakota institutions of higher education and who have
22 excelled academically. The study shall include consideration of desirable eligibility criteria for
23 students under such a grant program, funding options for such a grant program, and a
24 cost-benefit analysis of such a grant program. The legislative council shall report its findings
25 and recommendations, together with any legislation required to implement the
26 recommendations, to the sixty-first legislative assembly.

27 **SECTION 23. STATE BOARD OF HIGHER EDUCATION REPORT ON CCBENEFITS**

28 **- LEGISLATIVE COUNCIL REPORT.** During the 2007-08 interim, the state board of higher
29 education shall monitor the implementation of the services of ccbenefits, incorporated, by the
30 institutions under the control of the state board of higher education. Before July 1, 2008, the
31 state board of higher education shall report to the legislative council on the status of the

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

9 **SECTION 24. TAX EXPENDITURE REPORT PILOT PROJECT - REPORT.**

- 10 1. During the 2007-09 biennium, the commissioner of commerce, in consultation with
11 the tax commissioner, shall select three tax expenditures for the purposes of
12 conducting a tax expenditure report pilot project.
- 13 2. Before the tenth legislative day of the sixty-first legislative assembly, the
14 commissioner of commerce shall submit to the president pro tempore of the senate
15 and the speaker of the house a tax expenditure report. This report must be based
16 upon information available to the tax commissioner and information available to the
17 department of commerce, and must include an analysis of the selected tax
18 expenditures which includes a description of the annual state revenue losses and
19 benefits and a cyclical analysis of these losses and benefits.
- 20 3. The tax commissioner shall compile tax expenditure data and provide this data to
21 the department of commerce. Notwithstanding section 57-38-57 and other
22 confidentiality statutes, the tax commissioner shall provide the department of
23 commerce the information necessary to accomplish and effectuate the intent of
24 this section. The tax commissioner may request the assistance of the office of
25 management and budget as necessary to compile this tax expenditure data.
- 26 4. The tax commissioner may establish the procedure by which the tax commissioner
27 will compile the tax expenditure data and the format in which the tax commissioner
28 will provide this data to the department of commerce. The department of
29 commerce may establish the manner in which the tax expenditure data will be
30 analyzed, organized, and presented in the report.

- 1 5. Confidential tax information the department of commerce receives from the tax
2 commissioner may not be divulged by the department of commerce unless the
3 information is in the aggregate and in a manner that will not divulge information
4 specific to any taxpayer.
- 5 6. For purposes of this section, the term tax expenditure means a provision in the
6 state tax laws, including an exclusion, a deduction, a tax preference, a credit, and
7 a deferral designed to encourage certain activities or to aid a taxpayer in special
8 circumstances.

9 **SECTION 25. STATE BUSINESS INCENTIVE EXPENDITURE REPORT PILOT**

10 **PROJECT - REPORT.**

- 11 1. During the 2007-09 biennium, the commissioner of commerce shall select a state
12 business incentive for the purposes of conducting a state business incentive
13 expenditure report pilot project.
- 14 2. Before the tenth legislative day of the sixty-first legislative assembly, the
15 commissioner of commerce shall submit to the president pro tem of the senate and
16 the speaker of the house a state business incentive expenditure report. This
17 report must be based upon information available to the department and must
18 include an analysis of the selected state business incentive which includes a
19 description of the annual state revenue losses and benefits and a cyclical analysis
20 of these losses and benefits.
- 21 3. The administering agency for the selected state business incentive shall compile
22 state business incentive expenditure data and provide this data to the department.
23 The department shall determine the data appropriate to measure the losses and
24 benefits for the selected state business incentive and shall inform the
25 administering agency of the specific data required and the format in which the
26 administering agency shall provide this data to the department.
- 27 4. For purposes of this section, the term business incentive does not include a tax
28 expenditure as defined under section 20 of this Act.

29 **SECTION 26. TAX CREDIT TRANSFER STUDY - REPORT.** During the 2007-09
30 biennium the tax commissioner shall monitor the implementation and use of transferable tax
31 credits. Before the tenth legislative day of the sixty-first legislative assembly, the tax

1 commissioner shall submit to the president pro tempore of the senate and the speaker of the
2 house a tax credit transfer report. This report must be based upon information available to the
3 tax commissioner and must include an analysis of the transferred tax credits, a description of
4 the annual state revenue losses and benefits, and the impact on the sellers and purchasers of
5 the tax credits.

6 **SECTION 27. LEGISLATIVE COUNCIL STUDY - HOUSING NEEDS.** During the
7 2007-08 interim, the legislative council shall consider studying the state's housing needs and
8 how unmet housing needs may affect economic development in the state. The legislative
9 council shall report its findings and recommendations, together with any legislation required to
10 implement the recommendations, to the sixty-first legislative assembly.

11 **SECTION 28. LEGISLATIVE COUNCIL STUDY - WIRELESS SERVICE**
12 **PROVIDERS.** During the 2007-08 interim, the legislative council shall consider studying issues
13 relating to wireless service providers in the state and how wireless service impacts the
14 business climate in the state. The legislative council shall report its findings and
15 recommendations, together with any legislation required to implement the recommendations, to
16 the sixty-first legislative assembly.

17 **SECTION 29.** A new section to chapter 15-20.1 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Grants for innovation.** The department shall design and implement a program to
20 provide a dollar-for-dollar match to elementary or secondary teachers or schools and to
21 institutions of higher education for the purpose of funding innovative science, technology, or
22 innovation programs for students in kindergarten through grade twelve. The department shall
23 award the grants on a competitive basis. A grant awarded under this section to an elementary
24 or secondary teacher or school may not exceed seven thousand five hundred dollars and a
25 grant awarded to an institution of higher education may not exceed twenty-five thousand
26 dollars. The matching funds of a grant recipient may come from a public source, a private
27 source, or any combination of public and private sources. The department shall consult with
28 the department of commerce in making award determinations.

29 **SECTION 30. AMENDMENT.** Section 15-69-02 of the North Dakota Century Code is
30 amended and reenacted as follows:

31 **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 and infrastructure needs.
4 Workforce may not be the primary need addressed by a center. Through the
5 program the commission shall make funding award recommendations for
6 commission-approved applications to the board, the foundation, the emergency
7 commission, and the budget section of the legislative council. A center must be an
8 institution of higher education under the control of the board or a nonprofit
9 university-related or college-related foundation of an institution of higher education
10 under the control of the board. In order to be considered for center designation,
11 the institution of higher education or nonprofit foundation must be working in
12 partnership with the private sector. For an application that includes infrastructure
13 to be considered for center designation, the application must provide detailed
14 information regarding how the future operational costs and maintenance costs
15 related to the infrastructure will be provided and how the costs will not be provided
16 from the general fund. In addition to any center designated under this chapter, the
17 North Dakota state university center for technology enterprise and the university of
18 North Dakota center for innovation are centers.
- 19 2. A commission funding award recommendation must be for a specified amount.
20 Designation of a center occurs upon board, foundation, and budget section
21 approval of a commission funding award recommendation. In considering whether
22 to designate a center, the board, foundation, and budget section may not modify
23 the commission recommendation. The budget section may not ~~make a~~
24 ~~determination of whether to approve or reject a~~ take action on an original
25 commission funding award recommendation until the emergency commission
26 reviews the commission recommendation and makes a recommendation to the
27 budget section. Upon receipt of a commission funding award recommendation,
28 the budget section shall approve the recommendation, reject the recommendation,
29 or rerefer the recommendation to the commission with recommended
30 modifications. If the commission receives a rereferred recommendation from the
31 budget section, the commission shall determine whether to modify the

- 1 recommendation or whether to retain the recommendation and provide additional
2 information with the recommendation.
- 3 a. If within thirty days of the budget section rereferring a recommendation the
4 commission makes a determination of whether to modify the recommendation
5 or to retain the recommendation and within the same thirty days the
6 emergency commission meets to review the modified recommendation or the
7 retained recommendation accompanied by additional information, the
8 emergency commission shall approve or reject the recommendation. If within
9 the thirty days following the budget section rereferral the emergency
10 commission acts under this subdivision, the determination of the emergency
11 commission is final and the recommendation is approved or rejected.
- 12 b. If thirty days expire following the budget section's rereferral and the process
13 under subdivision a is not completed timely, the commission shall submit to
14 the budget section the modified recommendation or the retained
15 recommendation. Upon receipt of the recommendation under this
16 subdivision, the budget section shall approve or reject the recommendation.
17 The budget section may not rerefer a recommendation received under this
18 subdivision.
- 19 3. A center that receives funds distributed under this chapter is not qualified to
20 receive subsequent designations as a center until the biennium following the
21 center's most recent designation.
- 22 4. The board rules adopted under subsection 9 of section 15-10-17, relating to
23 ownership of intellectual property, inventions, and discoveries, must address
24 activities and issues unique to centers.

25 **SECTION 31. AMENDMENT.** Section 15-69-03 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **15-69-03. (Effective through July 31, 2011) Centers of excellence commission.**

28 The centers of excellence commission consists of six members. The foundation shall appoint
29 three of the foundation's members to serve on the commission and the board shall appoint
30 three of the board's members to serve on the commission. The commission members shall
31 designate a chairman and a vice chairman of the commission. Each member of the

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

14 **SECTION 32. AMENDMENT.** Section 15-69-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **15-69-04. (Effective through July 31, 2011) Application - Eligibility requirements.**

- 17 1. The ~~board~~ department of commerce shall provide center application forms, accept
18 applications, review applications for completeness and compliance with board and
19 commission policy, ~~and~~ forward complete applications to the commission in
20 accordance with guidelines established by the commission, and assist with
21 preaward reviews and postaward monitoring as may be requested by the
22 commission.
- 23 2. The commission shall meet as necessary to review all complete applications;
24 consider the potential need for independent, expert review of complete
25 applications; approve or disapprove complete applications; make funding award
26 recommendations for commission-approved proposed centers; direct the office of
27 management and budget to distribute funds to the centers; monitor centers for
28 compliance with award requirements; ~~and~~ review changes in assertions made in
29 center applications; and conduct postaward monitoring of centers.
- 30 3. In considering whether to approve or disapprove an application, the commission
31 shall determine whether the applicant has conducted the due diligence necessary

1 to put together a viable proposal, the commission shall determine whether the
2 applicant has provided information in the application which clearly outlines how the
3 matching fund requirement will be met, and the commission shall consider whether
4 the center will:

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

21 4. In considering whether to approve an application, the commission may provide for
22 an independent, expert review of the application to determine whether the
23 proposed center is viable and whether the proposed center is likely to have the
24 desired economic impact. As necessary, the commission may contract for
25 additional technical review of applications. The commission may not approve an
26 application unless the commission determines the proposed center has a high
27 likelihood of viability and success in positively impacting economic development in
28 the state.

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

1 **SECTION 33. AMENDMENT.** Section 15-69-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15-69-05. (Effective through July 31, 2011) Use of funds - Terms of funds -**
4 **Distribution of funds.**

- 5 1. A center shall use funds awarded under this chapter to enhance capacity; enhance
6 infrastructure; and leverage state, federal, and private sources of funding. A
7 center awarded funds under this chapter may not use the funds to supplant
8 funding for current operations or academic instructions or to pay indirect costs.
- 9 2. As a condition for receipt of funds under this chapter, a center shall agree to
10 provide the board, foundation, and budget section of the legislative council with
11 annual audits on all funds distributed to the center under this chapter. The annual
12 audits must be provided until the completion of ~~four years following the final~~
13 ~~distribution of funds under this chapter~~ the commission's postaward monitoring of
14 the center. As a condition for receipt of funds under this chapter, a center shall
15 agree to provide the commission with the information necessary to monitor the
16 postaward activities of the center.
- 17 3. Before the commission directs the office of management and budget to distribute
18 funds awarded under this chapter, the center shall provide the commission with
19 detailed documentation of private sector participation and the availability of two
20 dollars of matching funds for each dollar of state funds to be distributed under this
21 chapter. The matching funds may include funds facilitated through the
22 collaboration of the private sector participants with other funding entities. The
23 matching funds may include a combination of cash and in-kind assets with
24 itemized value. Private sector participation may be established through equity
25 investments or through contracts for services with private sector entities. In
26 making funding recommendations and designation determinations, the
27 commission, board, foundation, and budget section shall give major consideration
28 to the portion of the matching funds provided in cash by the private sector.
- 29 4. The commission shall direct the office of management and budget to distribute the
30 funds awarded under this chapter in disbursements consistent with the center's
31 budget and timeframe outlined in the approved award. The commission may not

1 direct distribution of funds under this chapter if there are no private sector partners
2 participating or if the statutorily required matching funds are not available.

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

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

13 **SECTION 34. AMENDMENT.** Subsections 4 and 6 of section 54-17-07.3 of the North
14 Dakota Century Code are amended and reenacted as follows:

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

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

28 **SECTION 35. AMENDMENT.** Section 54-60-02 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **54-60-02. Department of commerce - Divisions.** The North Dakota department of
31 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 36. 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 37.** Three new sections to chapter 54-60 of the North Dakota Century Code
2 are created and enacted as follows:

3 **Division of workforce development - Higher education internships and work**
4 **experience opportunities.** The division of workforce development shall administer a program
5 to increase use of higher education internships and work experience opportunities for higher
6 education students. The primary focus of this program must be higher education internships in
7 target industries. This program shall provide services to employers, communities, and
8 business organizations to increase higher education internship and work experience
9 opportunities.

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

15 **Division of workforce development - Talent strategy - Performance and**
16 **accountability.**

- 17 1. The division of workforce development, in developing and implementing the state's
18 talent strategy, shall:
- 19 a. Consult with partners in the state's system for workforce development,
20 workforce training, and talent attraction, including job service North Dakota,
21 the department of career and technical education, the superintendent of
22 public instruction, the state board of higher education, the department of
23 human services, and other divisions of the department of commerce.
- 24 b. Develop a comprehensive, consolidated biennial statewide strategic plan for
25 the state's system for workforce development, workforce training, and talent
26 attraction.
- 27 c. Continuously review, identify how to improve, and implement improvements
28 to the state's system for workforce development, workforce training, and
29 talent attraction.

- 1 d. Develop linkages between partners of the state's system for workforce
2 development, workforce training, and talent attraction, to assure coordination
3 and nonduplication of programs and services provided in the state.
- 4 2. The division of workforce development shall develop and implement a system of
5 performance and accountability measures for the state's system for workforce
6 development, workforce training, and talent attraction. Each partner of the state's
7 system for workforce development, workforce training, and talent attraction shall
8 cooperate in providing the division the data necessary to implement these
9 measures.

10 **SECTION 38.** A new section to chapter 54-60 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Beginning again North Dakota pilot program - Continuing appropriation - Report**
13 **to legislative council.**

- 14 1. The department shall implement and administer a beginning again North Dakota
15 pilot program. The purpose of the program is to develop a data base of skills and
16 other assets of communities and residents to be used to advance the internal and
17 external attitude and image of this state and the communities in this state. The
18 department shall implement this program in one city with a population of not more
19 than one thousand five hundred and one city with a population of more than one
20 thousand five hundred but not more than three thousand five hundred.
- 21 2. The department shall assemble state and local asset data from a broad range of
22 sources. The sources for data may include the department, Bank of North Dakota,
23 game and fish department, state historical society, Indian affairs commission, job
24 service North Dakota, parks and recreation department, superintendent of public
25 instruction, North Dakota university system, workforce safety and insurance, and
26 state and local public and private entities. The nature of the data regarding skills
27 and other assets may cover a broad range of information that may be valuable to
28 advance the attitude or image of the state and communities in the state. The data
29 may include natural resources, real estate, educational resources, cultural
30 resources, vocational resources, financial resources, and infrastructure resources.

- 1 3. The department shall use the information assembled in the data base to assist in
2 strategic plans for development. Additionally, the department may use the
3 information in the data base to assist local developers in strategic plans for
4 development.
- 5 4. The department may contract with a public or private third party to provide any or
6 all of the services necessary to implement and administer the program. The
7 department may solicit support and contributions from public and private sources
8 for the purpose of furthering the program. The department may charge a fee for
9 the services provided to the community. The department shall deposit in a special
10 account in the state treasury all funds collected under this subsection. All funds
11 deposited under this section are appropriated to the department on a continuing
12 basis for the purpose of furthering the program.
- 13 5. The two cities shall be willing to participate and provide significant financial
14 resources to provide for the costs of the pilot program.
- 15 6. During the 2007-08 interim, the commissioner shall provide a report to the
16 legislative council regarding the implementation of the program, successes and
17 failures of the program, and whether the program should be continued or be
18 continued and expanded to additional communities.

19 **SECTION 39. AMENDMENT.** Subdivision l of subsection 2 of section 54-60.1-01 of
20 the North Dakota Century Code is amended and reenacted as follows:

- 21 l. ~~Except for a center of excellence award under chapter 15-69, assistance~~
22 Assistance for a collaboration between a North Dakota institution of higher
23 education and a business.

24 **SECTION 40.** A new section to chapter 55-10 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Ronald Reagan historic site.** If the state historical society acquires a missile silo
27 historic site, the site is named the Ronald Reagan historic site.

28 **SECTION 41. AMENDMENT.** The new section to chapter 57-06 of the North Dakota
29 Century Code as created by section 2 of House Bill No. 1072, and as amended by section 2 of
30 House Bill No. 1317, as approved by the sixtieth legislative assembly, is amended and
31 reenacted as follows:

1 **Taxable valuation of centrally assessed wind turbine electric generators.** A
2 centrally assessed wind turbine electric generation unit with a nameplate generation capacity of
3 one hundred kilowatts or more on which construction is completed before ~~July 1, 2007~~
4 January 1, 2011, must be valued at ~~the current~~ three percent of assessed value to determine
5 taxable valuation of the property. ~~A centrally assessed wind turbine electric generation unit~~
6 ~~with a nameplate generation capacity of one hundred kilowatts or more, on which construction~~
7 ~~is completed after June 30, 2007, and before January 1, 2011, must be valued at one and~~
8 ~~one-half percent of assessed value to determine taxable valuation of the property. However, a~~
9 ~~centrally assessed wind turbine electric generation unit with nameplate generation capacity of~~
10 ~~one hundred kilowatts or more, for which construction is begun after July 1, 2007, and before~~
11 ~~January 1, 2011, must be valued at one and one-half percent of assessed value to determine~~
12 ~~taxable valuation of the property.~~ except:

- 13 1. A centrally assessed wind turbine electric generation unit with a nameplate
14 generation capacity of one hundred kilowatts or more, for which a purchased
15 power agreement has been executed after April 30, 2005, and before January 1,
16 2006, and construction is completed after April 30, 2005, and before July 1, 2006,
17 must be valued at one and one-half percent of assessed value to determine
18 taxable valuation of the property for the duration of the initial purchased power
19 agreement for the generation unit; and
- 20 2. A centrally assessed wind turbine electric generation unit with a nameplate
21 generation capacity of one hundred kilowatts or more, on which construction is
22 completed after June 30, 2006, and before January 1, 2011, must be valued at one
23 and one-half percent of assessed value to determine taxable valuation of the
24 property.

25 **SECTION 42.** A new section to chapter 57-38 of the North Dakota Century Code is
26 created and enacted as follows:

27 **Angel fund investment tax credit.** A taxpayer is entitled to a credit against state
28 income tax liability under sections 57-38-29, 57-38-30, or 57-38-30.3 for an investment made in
29 an angel fund that is incorporated in this state. The angel fund must be in compliance with the
30 securities laws of this state for the investment to qualify for the tax credit under this section.
31 The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount

1 invested by the taxpayer in an angel fund during the taxable year. The aggregate annual credit
2 for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. To be
3 eligible for the credit, the investment must be at risk in the angel fund for at least three years.
4 Investments placed in escrow do not qualify for the credit. The credit must be claimed in the
5 taxable year in which the investment in the angel fund was received by the angel fund. The
6 credit allowed may not exceed the liability for tax under this chapter. If the amount of credit
7 determined under this section exceeds the liability for tax under this chapter, the excess may
8 be carried forward to each of the four succeeding taxable years. A taxpayer claiming a credit
9 under this section may not claim any credit available to the taxpayer as a result of an
10 investment made by the angel fund in a qualified business under chapter 57-38.5 or 57-38.6.

11 **SECTION 43.** A new subdivision to subsection 1 of section 57-38-01.2 of the North
12 Dakota Century Code is created and enacted as follows:

13 Reduced by the amount received by a taxpayer that was paid by an employer
14 under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to
15 hire the taxpayer for a hard-to-fill position under section 57-38-01.25, but only
16 to the extent the amount received by the taxpayer is included in federal
17 taxable income. The reduction applies only if the employer is entitled to the
18 tax credit under section 57-38-01.25. The taxpayer must attach a statement
19 from the employer certifying that the employer is entitled to the credit under
20 section 57-38-01.25 and identifying the type and the amount of the payment
21 to the employee.

22 **SECTION 44.** Section 57-38-01.24 of the North Dakota Century Code is created and
23 enacted as follows:

24 **57-38-01.24. Internship employment tax credit.**

25 1. A taxpayer that is an employer within this state is entitled to a credit as determined
26 under this section against state income tax liability under section 57-38-29,
27 57-38-30, or 57-38-30.3 for qualified compensation paid to an intern employed in
28 this state by the taxpayer. To qualify for the credit under this section, the
29 internship program must meet the following qualifications:
30 a. The intern must be an enrolled student in an institution of higher education or
31 vocational technical education program who is seeking a degree or a

- 1 certification of completion in a major field of study closely related to the work
2 experience performed for the taxpayer;
3 b. The internship must be taken for academic credit or count toward the
4 completion of a vocational technical education program;
5 c. The intern must be supervised and evaluated by the taxpayer; and
6 d. The internship position must be located in this state.
7 2. The amount of the credit to which a taxpayer is entitled is ten percent of the
8 stipend or salary paid to a college intern employed by the taxpayer. A taxpayer
9 may not receive more than three thousand dollars in total credits under this section
10 for all taxable years combined.
11 a. The tax credit under this section applies to a stipend or salary for not more
12 than five interns employed at the same time.
13 b. A partnership, subchapter S corporation, or limited liability company that for
14 tax purposes is treated like a partnership that is entitled to the credit under
15 this section must be considered to be the taxpayer for purposes of calculating
16 the credit. The amount of the allowable credit must be determined at the
17 passthrough entity level. The total credit determined at the entity level must
18 be passed through to the partners, shareholders, or members in proportion to
19 their respective interests in the passthrough entity.

20 **SECTION 45.** Section 57-38-01.25 of the North Dakota Century Code is created and
21 enacted as follows:

22 **57-38-01.25. Workforce recruitment credit for hard-to-fill employment positions.**

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

- 28 1. The amount of the credit to which a taxpayer is entitled is five percent of the salary
29 paid for the first twelve consecutive months to the employee hired for the
30 hard-to-fill employment position. To qualify for the credit under this section, the

- 1 employee must be employed by the taxpayer in the hard-to-fill employment
2 position for twelve consecutive months.
- 3 2. For purposes of this section:
- 4 a. "Extraordinary recruitment methods" means using all of the following:
- 5 (1) A person with the exclusive business purpose of recruiting employees
6 and for which a fee is charged by that recruiter.
- 7 (2) An advertisement in a professional trade journal, magazine, or other
8 publication, the main emphasis of which is providing information to a
9 particular trade or profession.
- 10 (3) A web site, the sole purpose of which is to recruit employees and for
11 which a fee is charged by the web site.
- 12 (4) Payment of a signing bonus, moving expenses, or nontypical fringe
13 benefits.
- 14 b. "Hard-to-fill employment position" means a job that requires the employer to
15 use extraordinary recruitment methods and for which the employer's
16 recruitment efforts for the specific position have been unsuccessful for six
17 consecutive calendar months.
- 18 c. "State average wage" means one hundred twenty-five percent of the state
19 average wage published annually by job service North Dakota and which is in
20 effect at the time the employee is hired.
- 21 3. The taxpayer may claim the credit in the first tax year beginning after the employee
22 hired for the hard-to-fill position has completed the employee's first twelve
23 consecutive months of employment in the hard-to-fill position with the taxpayer.
- 24 4. The credit under this section may not exceed a taxpayer's liability for the taxable
25 year as determined under this chapter. Any amount of unused credit may be
26 carried forward for up to four taxable years after the taxable year in which the
27 credit could initially be claimed.
- 28 5. A partnership, subchapter S corporation, or limited liability company that for tax
29 purposes is treated like a partnership that is entitled to the credit under this section
30 must be considered to be the taxpayer for purposes of this section and the amount
31 of the credit allowed must be determined at the passthrough entity level. The

1 amount of the total credit determined at the passthrough entity level must be
2 allowed to the members in proportion to their respective interests in the
3 passthrough entity.

4 **SECTION 46. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-38-30.3. Simplified method of computing tax.**

7 1. A tax is hereby imposed for each taxable year upon income earned or received in
8 that taxable year by every resident and nonresident individual, estate, and trust. A
9 taxpayer computing the tax under this section is only eligible for those adjustments
10 or credits that are specifically provided for in this section. Provided, that for
11 purposes of this section, any person required to file a state income tax return
12 under this chapter, but who has not computed a federal taxable income figure,
13 shall compute a federal taxable income figure using a pro forma return in order to
14 determine a federal taxable income figure to be used as a starting point in
15 computing state income tax under this section. The tax for individuals is equal to
16 North Dakota taxable income multiplied by the rates in the applicable rate schedule
17 in subdivisions a through d corresponding to an individual's filing status used for
18 federal income tax purposes. For an estate or trust, the schedule in subdivision e
19 must be used for purposes of this subsection.

20 a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
21 Not over \$27,050	2.10%
22 Over \$27,050 but not over \$65,550	\$568.05 plus 3.92% of amount over \$27,050
23 Over \$65,550 but not over \$136,750	\$2,077.25 plus 4.34% of amount over \$65,550
24 Over \$136,750 but not over \$297,350	\$5,167.33 plus 5.04% of amount over \$136,750
25 Over \$297,350	\$13,261.57 plus 5.54% of amount over \$297,350

26 b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
27 Not over \$45,200	2.10%
28 Over \$45,200 but not over \$109,250	\$949.20 plus 3.92% of amount over \$45,200
29 Over \$109,250 but not over \$166,500	\$3,459.96 plus 4.34% of amount over \$109,250

Sixtieth
Legislative Assembly

1 Over \$166,500 but not over \$297,350 \$5,944.61 plus 5.04% of amount over \$166,500
2 Over \$297,350 \$12,539.45 plus 5.54% of amount over \$297,350

3 c. Married filing separately.

4 If North Dakota taxable income is: The tax is equal to:
5 Not over \$22,600 2.10%
6 Over \$22,600 but not over \$54,625 \$474.60 plus 3.92% of amount over \$22,600
7 Over \$54,625 but not over \$83,250 \$1,729.98 plus 4.34% of amount over \$54,625
8 Over \$83,250 but not over \$148,675 \$2,972.31 plus 5.04% of amount over \$83,250
9 Over \$148,675 \$6,269.73 plus 5.54% of amount over \$148,675

10 d. Head of household.

11 If North Dakota taxable income is: The tax is equal to:
12 Not over \$36,250 2.10%
13 Over \$36,250 but not over \$93,650 \$761.25 plus 3.92% of amount over \$36,250
14 Over \$93,650 but not over \$151,650 \$3,011.33 plus 4.34% of amount over \$93,650
15 Over \$151,650 but not over \$297,350 \$5,528.53 plus 5.04% of amount over \$151,650
16 Over \$297,350 \$12,871.81 plus 5.54% of amount over \$297,350

17 e. Estates and trusts.

18 If North Dakota taxable income is: The tax is equal to:
19 Not over \$1,800 2.10%
20 Over \$1,800 but not over \$4,250 \$37.80 plus 3.92% of amount over \$1,800
21 Over \$4,250 but not over \$6,500 \$133.84 plus 4.34% of amount over \$4,250
22 Over \$6,500 but not over \$8,900 \$231.49 plus 5.04% of amount over \$6,500
23 Over \$8,900 \$352.45 plus 5.54% of amount over \$8,900

24 f. For an individual who is not a resident of this state for the entire year, or for a
25 nonresident estate or trust, the tax is equal to the tax otherwise computed
26 under this subsection multiplied by a fraction in which:

- 27 (1) The numerator is the federal adjusted gross income allocable and
28 apportionable to this state; and
29 (2) The denominator is the federal adjusted gross income from all sources
30 reduced by the net income from the amounts specified in subdivisions a
31 and b of subsection 2.

1 In the case of married individuals filing a joint return, if one spouse is a
2 resident of this state for the entire year and the other spouse is a nonresident
3 for part or all of the tax year, the tax on the joint return must be computed
4 under this subdivision.

5 g. For taxable years beginning after December 31, 2001, the tax commissioner
6 shall prescribe new rate schedules that apply in lieu of the schedules set forth
7 in subdivisions a through e. The new schedules must be determined by
8 increasing the minimum and maximum dollar amounts for each income
9 bracket for which a tax is imposed by the cost-of-living adjustment for the
10 taxable year as determined by the secretary of the United States treasury for
11 purposes of section 1(f) of the United States Internal Revenue Code of 1954,
12 as amended. For this purpose, the rate applicable to each income bracket
13 may not be changed, and the manner of applying the cost-of-living adjustment
14 must be the same as that used for adjusting the income brackets for federal
15 income tax purposes.

16 2. For purposes of this section, "North Dakota taxable income" means the federal
17 taxable income of an individual, estate, or trust as computed under the Internal
18 Revenue Code of 1986, as amended, adjusted as follows:

19 a. Reduced by interest income from obligations of the United States and income
20 exempt from state income tax under federal statute or United States or North
21 Dakota constitutional provisions.

22 b. Reduced by the portion of a distribution from a qualified investment fund
23 described in section 57-38-01 which is attributable to investments by the
24 qualified investment fund in obligations of the United States, obligations of
25 North Dakota or its political subdivisions, and any other obligation the interest
26 from which is exempt from state income tax under federal statute or United
27 States or North Dakota constitutional provisions.

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

- 1 d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital
2 gain for the taxable year over the net short-term capital loss for that year, as
3 computed for purposes of the Internal Revenue Code of 1986, as amended.
4 The adjustment provided by this subdivision is allowed only to the extent the
5 net long-term capital gain is allocated to this state.
- 6 e. Increased by the amount of a lump sum distribution for which income
7 averaging was elected under section 402 of the Internal Revenue Code of
8 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the
9 taxpayer received the lump sum distribution while a nonresident of this state
10 and the distribution is exempt from taxation by this state under federal law.
- 11 f. Increased by an amount equal to the losses that are passed through to a
12 taxpayer in connection with an allocation and apportionment to North Dakota
13 under chapter 57-35.3.
- 14 g. Reduced by the amount received by the taxpayer as payment for services
15 performed when mobilized under title 10 United States Code federal service
16 as a member of the national guard or reserve member of the armed forces of
17 the United States. This subdivision does not apply to federal service while
18 attending annual training, basic military training, or professional military
19 education.
- 20 h. Reduced by income from a new and expanding business exempt from state
21 income tax under section 40-57.1-04.
- 22 i. Reduced by interest and income from bonds issued under chapter 11-37.
- 23 j. Reduced by up to ten thousand dollars of qualified expenses that are related
24 to a donation by a taxpayer or a taxpayer's dependent, while living, of one or
25 more human organs to another human being for human organ
26 transplantation. A taxpayer may claim the reduction in this subdivision only
27 once for each instance of organ donation during the taxable year in which the
28 human organ donation and the human organ transplantation occurs but if
29 qualified expenses are incurred in more than one taxable year, the reduction
30 for those expenses must be claimed in the year in which the expenses are
31 incurred. For purposes of this subdivision:

- 1 (1) "Human organ transplantation" means the medical procedure by which
2 transfer of a human organ is made from the body of one person to the
3 body of another person.
- 4 (2) "Organ" means all or part of an individual's liver, pancreas, kidney,
5 intestine, lung, or bone marrow.
- 6 (3) "Qualified expenses" means lost wages not compensated by sick pay
7 and unreimbursed medical expenses as defined for federal income tax
8 purposes, to the extent not deducted in computing federal taxable
9 income, whether or not the taxpayer itemizes federal income tax
10 deductions.
- 11 k. Increased by the amount of the contribution upon which the credit under
12 section 57-38-01.21 is computed, but only to the extent that the contribution
13 reduced federal taxable income.
- 14 l. Reduced by the amount of any payment received by a veteran or beneficiary
15 of a veteran under section 37-28-03 or 37-28-04.
- 16 m. Reduced by the amount received by a taxpayer that was paid by an employer
17 under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to
18 hire the taxpayer for a hard-to-fill position under section 57-38-01.25, but only
19 to the extent the amount received by the taxpayer is included in federal
20 taxable income. The reduction applies only if the employer is entitled to the
21 credit under section 57-38-01.25. The taxpayer must attach a statement from
22 the employer in which the employer certifies that the employer is entitled to
23 the credit under section 57-38-01.25 and which specifically identified the type
24 of payment and the amount of the exemption under this section.
- 25 3. Married individuals filing a joint federal income tax return shall file a joint state
26 income tax return if the return is filed under this section. If separate federal income
27 tax returns are filed, one spouse's state income tax return may be filed under this
28 section and the other spouse's income tax return may be filed under the other
29 provisions of this chapter.
- 30 4. a. A resident individual, estate, or trust must be allowed a credit against the tax
31 otherwise due under this section for the amount of any income tax imposed

- 1 on the taxpayer for the taxable year by another state or territory of the United
2 States or the District of Columbia on income derived from sources therein and
3 which is also subject to tax under this section.
- 4 b. The credit provided under this subsection may not exceed the proportion of
5 the tax otherwise due under this section that the amount of the taxpayer's
6 adjusted gross income derived from sources in the other taxing jurisdiction
7 bears to the taxpayer's federal adjusted gross income as reported on the
8 taxpayer's federal income tax return.
- 9 c. The tax commissioner may require written proof of the tax paid to another
10 state. The required proof must be provided in a form and manner as
11 determined by the tax commissioner.
- 12 5. Individuals, estates, or trusts that file an amended federal income tax return
13 changing their federal taxable income figure for a year for which an election to file
14 state income tax returns has been made under this section shall file an amended
15 state income tax return to reflect the changes on the federal income tax return.
- 16 6. The tax commissioner may prescribe procedures and guidelines to prevent
17 requiring income that had been previously taxed under this chapter from becoming
18 taxed again because of the provisions of this section and may prescribe
19 procedures and guidelines to prevent any income from becoming exempt from
20 taxation because of the provisions of this section if it would otherwise have been
21 subject to taxation under the provisions of this chapter.
- 22 7. A taxpayer filing a return under this section is entitled to the credit provided under
23 section 57-38-01.20.
- 24 8. A taxpayer filing a return under this section is entitled to the exemptions or credits
25 provided under sections 40-63-04, 40-63-06, and 40-63-07.
- 26 9. a. A taxpayer is entitled to a credit against the tax imposed by this section for
27 any unused federal credit for prior year minimum tax. "Unused federal credit
28 for prior year minimum tax" means the amount of the federal credit for prior
29 year minimum tax attributable to federal alternative minimum tax included in
30 the taxpayer's federal income tax liability for purposes of this section for
31 taxable years beginning before January 1, 2001, reduced by the total amount

- 1 of the federal credit for prior year minimum tax claimed on the taxpayer's
2 federal income tax return for all taxable years beginning after December 31,
3 2000.
- 4 b. The credit under this subsection is equal to fourteen percent of the portion of
5 the unused federal credit for prior year minimum tax claimed on the taxpayer's
6 federal income tax return and may not exceed the taxpayer's tax liability
7 under this section for the taxable year. For a nonresident taxpayer, the credit
8 determined under this subsection must be multiplied by the percentage that
9 the nonresident taxpayer's North Dakota adjusted gross income is of the
10 nonresident's federal adjusted gross income.
- 11 c. The credit under this subsection is not allowed for taxable years beginning
12 after December 31, 2004.
- 13 10. a. If an individual taxpayer engaged in a farming business elects to average
14 farm income under section 1301 of the Internal Revenue Code [26 U.S.C.
15 1301], the taxpayer may elect to compute tax under this subsection. If an
16 election to compute tax under this subsection is made, the tax imposed by
17 subsection 1 for the taxable year must be equal to the sum of the following:
- 18 (1) The tax computed under subsection 1 on North Dakota taxable income
19 reduced by elected farm income.
- 20 (2) The increase in tax imposed by subsection 1 which would result if North
21 Dakota taxable income for each of the three prior taxable years were
22 increased by an amount equal to one-third of the elected farm income.
23 However, if other provisions of this chapter other than this section were
24 used to compute the tax for any of the three prior years, the same
25 provisions in effect for that prior tax year must be used to compute the
26 increase in tax under this paragraph. For purposes of applying this
27 paragraph to taxable years beginning before January 1, 2001, the
28 increase in tax must be determined by recomputing the tax in the
29 manner prescribed by the tax commissioner.
- 30 b. For purposes of this subsection, "elected farm income" means that portion of
31 North Dakota taxable income for the taxable year which is elected farm

- 1 income as defined in section 1301 of the Internal Revenue Code of 1986
2 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion
3 claimed under subdivision d of subsection 2 that is attributable to a net
4 long-term capital gain included in elected farm income.
- 5 c. The reduction in North Dakota taxable income under this subsection must be
6 taken into account for purposes of making an election under this subsection
7 for any subsequent taxable year.
- 8 d. The tax commissioner may prescribe rules, procedures, or guidelines
9 necessary to administer this subsection.
- 10 11. The tax commissioner may prescribe tax tables, to be used in computing the tax
11 according to subsection 1, if the amounts of the tax tables are based on the tax
12 rates set forth in subsection 1. If prescribed by the tax commissioner, the tables
13 must be followed by every individual, estate, or trust determining a tax under this
14 section.
- 15 12. An individual, estate, or trust is entitled to a credit against the tax determined under
16 this section as calculated under section 57-38.6-03.
- 17 13. A taxpayer filing a return under this section is entitled to the credit provided under
18 section 57-38.5-03.
- 19 14. An individual taxpayer filing a return under this section is entitled to the credit
20 provided under section 57-38-01.21.
- 21 15. A taxpayer filing a return under this section is entitled to the credits provided under
22 sections 57-38-01.22 and 57-38-01.23.
- 23 16. A taxpayer filing a return under this section is entitled to the credits provided under
24 section 42 of this Act and sections 57-38-01.24, 57-38-01.25, and 57-38-30.5.

25 **SECTION 47. AMENDMENT.** Section 57-38-30.5 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **57-38-30.5. ~~Corporate income~~ Income tax credit for research and experimental**
28 **expenditures.** ~~Any corporation~~ A taxpayer is allowed a credit against the tax imposed under
29 ~~this chapter for the taxable year equal to eight percent of the first one and one-half million~~
30 ~~dollars of the qualified research expenses for the taxable year in excess of the base period~~
31 ~~research expenses and equal to four percent of all qualified research expenses for the taxable~~

1 ~~year more than one and one-half million dollars in excess of the base period research~~
2 ~~expenses section 57-38-29, 57-38-30, or 57-38-30.3 for conducting qualified research in this~~
3 ~~state.~~

- 4 1. The amount of the credit for taxpayers that earned or claimed a credit under this
5 section in taxable years beginning before January 1, 2007, is calculated as follows:
- 6 a. For the first taxable year beginning after December 31, 2006, the credit is
7 equal to twenty-five percent of the first one hundred thousand dollars of the
8 qualified research expenses for the taxable year in excess of the base period
9 research expenses and equal to seven and one-half percent of all qualified
10 research expenses for the taxable year more than one hundred thousand
11 dollars in excess of the base period research expenses.
- 12 b. For the second taxable year beginning after December 31, 2006, the credit is
13 equal to twenty-five percent of the first one hundred thousand dollars of the
14 qualified research expenses for the taxable year in excess of the base period
15 research expenses and equal to eleven percent of all qualified research
16 expenses for the taxable year more than one hundred thousand dollars in
17 excess of the base period research expenses.
- 18 c. For the third taxable year beginning after December 31, 2006, the credit is
19 equal to twenty-five percent of the first one hundred thousand dollars of the
20 qualified research expenses for the taxable year in excess of the base period
21 research expenses and equal to fourteen and one-half percent of all qualified
22 research expenses for the taxable year more than one hundred thousand
23 dollars in excess of the base period research expenses.
- 24 d. For the fourth through the tenth taxable years beginning after December 31,
25 2006, the credit is equal to twenty-five percent of the first one hundred
26 thousand dollars of the qualified research expenses for the taxable year in
27 excess of the base period research expenses and equal to eighteen percent
28 of all qualified research expenses for the taxable year more than one hundred
29 thousand dollars in excess of the base period research expenses.
- 30 e. For the eleventh taxable year beginning after December 31, 2006, and for
31 each subsequent taxable year in which the taxpayer conducts qualified

1 research in this state, the credit is equal to twenty-five percent of the first one
2 hundred thousand dollars of the qualified research expenses for the taxable
3 year in excess of the base period research expenses and equal to eight
4 percent of all qualified research expenses for the taxable year more than one
5 hundred thousand dollars in excess of the base period research expenses.

6 f. The maximum annual credit a taxpayer may obtain under this section is two
7 million dollars. Any credit amount earned in the taxable year in excess of two
8 million dollars may not be carried back or forward as provided in subsection 7.

9 2. For taxpayers that have not earned or claimed a credit under this section in taxable
10 years beginning before January 1, 2007, and which begin conducting qualified
11 research in North Dakota in any of the first four taxable years beginning after
12 December 31, 2006, the amount of the credit is equal to twenty-five percent of the
13 first one hundred thousand dollars of the qualified research expenses for the
14 taxable year in excess of the base period research expenses and equal to twenty
15 percent of all qualified research expenses for the taxable year more than one
16 hundred thousand dollars in excess of the base period research expenses.

17 a. This rate applies through the tenth taxable year beginning after December 31,
18 2006.

19 b. For the eleventh taxable year beginning after December 31, 2006, and for
20 each subsequent taxable year in which the taxpayer conducts qualified
21 research in this state, the credit is equal to twenty-five percent of the first one
22 hundred thousand dollars of the qualified research expenses for the taxable
23 year in excess of the base period research expenses and equal to eight
24 percent of all qualified research expenses for the taxable year more than one
25 hundred thousand dollars in excess of the base period research expenses.

26 3. For taxpayers that have not earned or claimed a credit under this section in taxable
27 years beginning before January 1, 2007, and which begin conducting qualified
28 research in North Dakota in any taxable year following the fourth taxable year
29 beginning after December 31, 2006, the amount of the credit is equal to twenty-five
30 percent of the first one hundred thousand dollars of the qualified research
31 expenses for the taxable year in excess of the base period research expenses and

1 equal to eight percent of all qualified research expenses for the taxable year more
2 than one hundred thousand dollars in excess of the base period research
3 expenses.

4 4. For purposes of this section:

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

9 b. "Director" means the director of the department of commerce division of
10 economic development and finance.

11 c. "Primary sector business" means a qualified business that through the
12 employment of knowledge or labor adds value to a product, process, or
13 service.

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

17 e- e. "Qualified research and development company" means a taxpayer that is a
18 primary sector business with annual gross revenues of less than seven
19 hundred fifty thousand dollars and which has not conducted new research
20 and development in North Dakota.

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

25 2- 5. The credit allowed under this section for the taxable year may not exceed the
26 liability for tax under this chapter.

27 3- 6. In the case of a ~~corporation which~~ taxpayer that is a partner in a partnership or a
28 member in a limited liability company, the credit allowed for the taxable year may
29 not exceed an amount separately computed with respect to the ~~corporation's~~
30 taxpayer's interest in the trade, business, or entity equal to the amount of tax
31 attributable to that portion of the ~~corporation's~~ taxpayer's taxable income which is

1 allocable or apportionable to the ~~corporation's~~ taxpayer's interest in the trade,
2 business, or entity.

3 ~~4.~~ 7. If Except as provided in subsection 1, if the amount of the credit determined under
4 this section for any taxable year exceeds the limitation under subsection 2 5, the
5 excess may be used as a research credit carryback to each of the three preceding
6 taxable years and a research credit carryover to each of the fifteen succeeding
7 taxable years. The entire amount of the excess unused credit for the taxable year
8 must be carried first to the earliest of the taxable years to which the credit may be
9 carried and then to each successive year to which the credit may be carried.~~The~~
10 and the amount of the unused credit which may be added under this subsection
11 may not exceed the taxpayer's liability for tax less the research credit for the
12 taxable year.

13 8. A taxpayer that is certified as a qualified research and development company by
14 the director may elect to sell, transfer, or assign all or part of the unused tax credit
15 earned under this section. The director shall certify whether a taxpayer that has
16 requested to become a qualified research and development company meets the
17 requirements of subsection 4. The director shall establish the necessary forms
18 and procedures for certifying qualifying research and development companies.
19 The director shall issue a certification letter to the taxpayer and the tax
20 commissioner. A tax credit can be sold, transferred, or assigned subject to the
21 following:

22 a. A taxpayer's total credit assignment under this section may not exceed one
23 hundred thousand dollars over any combination of taxable years.

24 b. If the taxpayer elects to assign or transfer an excess credit under this
25 subsection, the tax credit transferor and the tax credit purchaser jointly shall
26 file with the tax commissioner a copy of the purchase agreement and a
27 statement containing the names, addresses, and taxpayer identification
28 numbers of the parties to the transfer, the amount of the credit being
29 transferred, the gross proceeds received by the transferor, and the taxable
30 year or years for which the credit may be claimed. The taxpayer and the
31 purchaser also shall file a document allowing the tax commissioner to

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

1 correctness of the amount of the transferred credit and if necessary assess
2 the credit purchaser if additional tax is found due. This subdivision does not
3 limit or restrict any other time period prescribed in this chapter for the
4 assessment of tax.

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

7 5- 9. If a taxpayer acquires or disposes of the major portion of a trade or business or the
8 major portion of a separate unit of a trade or business in a transaction with another
9 taxpayer, the taxpayer's qualified research expenses and base period must be
10 adjusted in the manner provided by section 41(f)(3) of the Internal Revenue Code
11 [26 U.S.C. 41(f)(3)].

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

18 11. An individual, estate, or trust that purchases a credit under this section is entitled
19 to claim the credit against state income tax liability under section 57-38-29 or
20 57-38-30.3.

21 **SECTION 48. AMENDMENT.** Section 57-38.5-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

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

30 **SECTION 49. AMENDMENT.** Section 57-38.6-01 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **57-38.6-01. Definitions.** As used in this chapter, unless the context otherwise
2 requires:

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

1 4. 5. "Taxpayer" means an individual, estate, trust, corporation, partnership, or limited
2 liability company.

3 **SECTION 50. AMENDMENT.** Section 17 of chapter 151 of the 2005 Session Laws is
4 amended and reenacted as follows:

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

1 **SECTION 51. REPEAL.** Sections 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the
2 North Dakota Century Code are repealed.

3 **SECTION 52. EFFECTIVE DATE.** Sections 42, 43, 44, 45, 46, 47, 48, 49, 50, and 51
4 of this Act are effective for taxable years beginning after December 31, 2006. Section 47 of this
5 Act is effective for tax credits earned and assigned after December 31, 2006. However, rentals
6 under a lease entered before January 1, 2007, and eligible for the exemption under section
7 57-38-73 when the lease was entered continue to be eligible for the exemption for taxable
8 years after 2006 on the same terms and conditions for the duration of the lease.

9 **SECTION 53. EXPIRATION DATE.** Section 38 of this Act is effective through June 30,
10 2009, and after that date is ineffective.

11 **SECTION 54. EMERGENCY.** Section 34 of this Act is declared to be an emergency
12 measure.