

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2110
(Industry, Business and Labor Committee)
(At the request of the Department of Commerce)

AN ACT to create and enact two new sections to chapter 54-60 of the North Dakota Century Code, relating to the rural development office and the North Dakota rural development council; to amend and reenact sections 10-30.5-04, 54-34.3-01, 54-34.3-03, and 54-34.3-04, subsection 2 of section 54-34.3-13, sections 54-34.3-15, 54-34.4-01, and 54-34.4-02, subsection 1 of section 54-34.4-03, section 54-60-03, subsection 3 of section 54-60-04, and sections 54-60-06 and 54-60-17 of the North Dakota Century Code, relating to the powers of the North Dakota Development Fund, Incorporated, the department of commerce division of economic development and finance, the department of commerce division of tourism, the state tourism policy, the commissioner of commerce, the North Dakota economic development foundation, the North Dakota commerce cabinet, and the department of commerce division of workforce development; and to repeal sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North Dakota Century Code, relating to the finance office, the motion picture development office, and target industries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

SECTION 2. AMENDMENT. Section 54-34.3-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Facilitate the growth, diversification, and expansion of existing enterprises and the attraction and creation of new wealth-generating enterprises in the state;
2. Promote economic diversification and innovation within the basic industries and economic sectors of this state, including strategies and programs designed to specialize and focus the state's economy on ~~advanced agriculture and food processing, energy byproduct development, export services and tourism, and advanced manufacturing~~ identified target industries;
3. Promote increased productivity and value-added products, processes, and services in the state, and the export of those goods and services by North Dakota enterprises to the nation and to the world;
4. Maintain and revitalize economically depressed rural areas by working in close collaboration with local communities and by encouraging communities to enter into cooperative relationships for more efficient and effective education, health care, government service, and infrastructure maintenance;
5. Forge a supportive partnership with the Bank of North Dakota, the board of higher education and the state's institutions of higher education, regional planning councils, local development organizations and authorities, the ~~Myron G. Nelson Fund, Incorporated~~, the state's nonprofit development corporations, and other appropriate private and public sector organizations in achieving the economic goals of the state; and
6. Identify those statutes, administrative rules, and policies that impede the attraction, creation, and expansion of businesses and job creation in this state.

SECTION 3. AMENDMENT. Section 54-34.3-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~A finance office;~~
2. ~~An international business and trade office;~~
3. ~~Offices established by statute; and~~
4. 2. Offices the director organizes and establishes as necessary to carry out most efficiently and effectively the mission and duties of the division.

SECTION 4. AMENDMENT. Section 54-34.3-04 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-04. Director - Compensation - Duties. A director shall supervise and control the division. The director shall:

1. Manage the internal operations of the division and establish policies that promote the orderly and efficient administration of the division;
2. Appoint personnel as may be determined necessary to carry out this chapter and fix their compensation within the limits of legislative appropriations;
3. Assume central responsibility to develop, implement, and coordinate within state government a comprehensive program of economic development consistent with the mission of the division;
4. Coordinate that program of economic development with all other appropriate state and local government departments, agencies, institutions, and organizations that perform

research, develop and administer programs, gather statistics, or perform other functions relating to economic development, and those government entities shall advise, cooperate, and provide reasonable assistance to the director in carrying out this chapter;

5. Advise, and cooperate with, departments and agencies of the federal government and of other states, private business and agricultural organizations and associations, research institutions, and any individual or other private or public entity, and call upon those entities or individuals for consultation and assistance in their respective fields of endeavor or interest in order that the division and the state may benefit from up-to-date technical advice, information, and assistance;
6. Cooperate with individuals and both public and private entities, including the state's congressional delegation, in identifying and pursuing potential sources of funding and to receive those funds to be expended for purposes consistent with this chapter;
7. Have authority to enter into contracts upon terms and conditions as determined by the director to be reasonable and to effectuate the purposes of this chapter; ~~and~~
8. Identify and coordinate sources of capital and financial assistance, including lending programs of the Bank of North Dakota, and administer programs of financial assistance placed under the administration of the division, to business and industry, local governments, and other entities and individuals in the state consistent with the mission of the division; and
9. Have authority to do any and all other things necessary and proper to carry out this chapter.

SECTION 5. AMENDMENT. Subsection 2 of section 54-34.3-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The department shall designate an applicant city as a rural growth incentive city eligible for a loan if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the loan, ~~prepares an economic development strategic plan,~~ and meets any additional program requirements provided by rule. The source of city funds used for loan matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a loan under this section, subject to the availability of funds, the state shall make a loan to the city in an amount not less than twenty-five thousand dollars and not more than seventy-five thousand dollars. The department shall establish the amount of the interest rate for loans provided to a city under this subsection. The funding source of the state loan is the North Dakota development fund. The city shall distribute the city and state funds to qualifying new or expanded primary sector businesses in the city. A qualifying business in the city includes a business that provides essential services to the city. For purposes of this subsection, a business that provides essential services does not include a public utility. The governing body of the city determines whether a new or expanded primary sector business qualifies for funding, and the director of the department determines whether a business that provides essential services to the city qualifies for funding. The state shall distribute a loan to a rural growth incentive city once the city establishes the city has chosen a specified qualified business to receive funding.

SECTION 6. AMENDMENT. Section 54-34.3-15 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-15. Local economic developer certification ~~program~~ and education programs. The director ~~shall~~ may implement a certification ~~program~~ and education programs through which the division provides training to assist local economic developers and community leaders in meeting the needs of businesses. The director may contract with a third-party service provider to assist in

implementing the program. The director may set and charge a fee for the receipt of services under this program.

SECTION 7. AMENDMENT. Section 54-34.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-34.4-01. Division of tourism - Director. The division of tourism is established to foster and promote tourism to, and within, the state and the full development of the state's tourism resources and to serve as a planning and coordinating agency for tourism-related programs of the state and the state's ~~political subdivisions~~ tourism partners. The director shall supervise and control the division of tourism.

SECTION 8. AMENDMENT. Section 54-34.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-34.4-02. Duties of director. The director of the department of commerce division of tourism, within the limits of legislative appropriations, shall:

1. Implement the state's tourism policy;
2. Prepare and update annually a tourism ~~master~~ marketing plan for the ~~development~~ promotion and expansion of tourism in the state which identifies the state's tourism resources, estimates the impact of tourism on the state's economy, and proposes a ~~five-year plan~~ marketing strategy for activities of the division;
3. Work with industry groups to prepare a long-term strategic plan each biennium;
4. Measure and forecast visitor volume, receipts, and related social and economic impacts;
4. 5. Work with the private sector and local, state, and federal agencies to develop the state's tourism-related infrastructure, facilities, services, and attractions, including the state's highways ~~and~~, parks, ~~and~~ historic sites;
5. 6. Organize and coordinate programs designed to promote tourism to, and within, the state through various means. Those means may include:
 - a. ~~Display~~ Print advertising in magazines ~~and~~, newspapers, ~~and~~ direct mail;
 - b. Advertising on radio ~~and~~, on television, online, in displays, or using other advertising media;
 - c. Publishing pamphlets, brochures, and other graphic and pictorial materials; ~~and~~
 - d. Designing the tourism side of the state highway map;
 - e. Aiding and assisting representatives of the media to ensure greater coverage of the state's visitor attractions, events, and recreational opportunities; and
 - f. Other marketing activities and events aimed at increasing visitor volume;
6. ~~Participate in travel shows;~~
7. ~~Supervise and administer visitor information centers that receive funding from the state~~ Work with the department of transportation to improve visitor services along highways in the state and in state rest areas;
8. Develop opportunities for professional and technical education and training in the visitor industry;

9. Foster an understanding among the state's residents of the economic importance to the state of hospitality and tourism;
10. ~~Cooperate with local, state, and federal agencies and organizations and the private sector for the promotion and development of tourism to, and within, the state;~~
- ~~11.~~ Provide advice and technical assistance to local, public, and private tourism organizations in promoting and developing tourism; and
- ~~12.~~ 11. Monitor the policies and programs of state agencies that significantly affect the visitor industry, notify those agencies of the effects of their actions on travel to, and within the state, and if necessary recommend programs or policy changes to those agencies.

SECTION 9. AMENDMENT. Subsection 1 of section 54-34.4-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The legislative assembly declares that:
 - a. This state is endowed with scenic beauty, historical sites, cultural resources, local festivals, attractions, recreational facilities, and a population whose ethnic diversity and traditions are attractive to visitors;
 - b. These human and physical resources should be preserved and nurtured, not only because they are appreciated by other Americans and by visitors from other lands, but because they are valued by the state's residents;
 - c. Tourism contributes to economic well-being by creating job opportunities, generating revenues for local businesses, and creating new wealth in the economy;
 - d. Tourism is an educational and informational medium for personal growth which informs residents about their state's geography and history, their political institutions, their cultural resources, their environment, and about each other;
 - e. Tourism instills state pride and a sense of common interest among the state's residents;
 - f. Tourism enhances the quality of life and well-being of the state's residents by affording opportunities for recreation, new experiences, and relief from job stress;
 - g. Tourism advertising and marketing improves the image of North Dakota;
 - h. Tourism promotes international understanding and good will, and contributes to intercultural appreciation;
 - ~~h.~~ i. Tourism engenders appreciation of the state's cultural, architectural, technological, agricultural, and industrial achievements and is helpful in attracting new residents;
 - ~~i.~~ j. The development and promotion of tourism to and within the state is in the interest of the people of this state;
 - ~~j.~~ k. Tourism should develop in an orderly manner in order to provide the maximum benefit to the state and its residents;
 - ~~k.~~ l. The development of a strong and competitive state visitor industry depends upon the availability of trained personnel, necessary infrastructure, and a receptive climate for tourism investment; and
 - ~~l.~~ m. A comprehensive tourism policy is essential if tourism in the state is to grow in an orderly manner.

SECTION 10. AMENDMENT. Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

54-60-03. Commissioner of commerce - Duties. With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;
2. Shall serve as chairman of the cabinet;
3. ~~Shall prepare the cabinet's list identifying economic development moneys included in budget requests of cabinet agencies;~~
4. Shall appoint personnel as may be determined necessary to carry out the duties of the department;
5. ~~4.~~ Shall manage the operations of the department and oversee each of the divisions;
6. ~~5.~~ Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;
7. ~~6.~~ Shall coordinate the department's services with commerce-related services of other state agencies;
8. ~~7.~~ Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;
9. ~~8.~~ May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;
10. ~~9.~~ Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative council and shall report annually to the foundation:
 - a. On the department's goals and objectives since the last report;
 - b. On the department's goals and objectives for the period until the next report;
 - c. On the department's long-term goals and objectives;
 - d. On the department's activities and measurable results occurring since the last report; and
 - e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;
11. ~~10.~~ Shall adopt rules necessary to implement this chapter; and
12. ~~11.~~ May take any actions necessary and proper to implement this chapter.

SECTION 11. AMENDMENT. Subsection 3 of section 54-60-04 of the North Dakota Century Code is amended and reenacted as follows:

3. The foundation shall seek funding for administrative expenses from private sector sources and shall seek and distribute private sector funds for use in commerce-related activities in of the state.

SECTION 12. AMENDMENT. Section 54-60-06 of the North Dakota Century Code is amended and reenacted as follows:

54-60-06. Commerce cabinet. The North Dakota commerce cabinet is created. The cabinet is composed of the directors of each of the department divisions and of the executive heads, or other authorized representatives, of the state board for career and technical education, the state board of higher education, the Bank of North Dakota, the department of agriculture, workforce safety and insurance, the department of transportation, job service North Dakota, the game and fish department, and of any other state agency appointed by the commissioner. The commissioner is the chairman of the cabinet and shall determine which agencies are members of the cabinet. The cabinet shall:

1. Coordinate and communicate economic development and tourism efforts of the agencies represented.
2. Meet at times determined by the commissioner.
3. ~~Develop and make available before each regular session of the legislative assembly a list that identifies economic development moneys included in budget requests of cabinet agencies.~~

SECTION 13. AMENDMENT. Section 54-60-17 of the North Dakota Century Code is amended and reenacted as follows:

54-60-17. Division of workforce development - ~~Higher education internships~~ Internships, apprenticeships, and work experience opportunities. The division of workforce development shall administer a program to increase use of ~~higher education~~ internships, apprenticeships, and work experience opportunities for higher education students and high school students enrolled in grade eleven or twelve. The primary focus of this program must be higher education internships in target industries. This program shall provide services to employers, communities, and business organizations to increase ~~higher education~~ internship, apprenticeship, and work experience opportunities.

SECTION 14. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Rural development office.

1. The commissioner shall administer the rural development office. The purpose of the office is to assist in the development of rural North Dakota communities.
2. The commissioner may contract with a third party for the provision of services for the rural development office. If the commissioner contracts with a third party under this subsection, all data and databases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The department may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the rural development office.

SECTION 15. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

North Dakota rural development council - Composition. The North Dakota rural development council is created.

1. The North Dakota rural development council is composed of a minimum of nine and a maximum of seventeen members. The commissioner is an ex officio voting member of the council. The governor shall appoint council members for two-year terms, except the governor shall appoint approximately one-half of the initial council members to one-year terms in order to initiate a cycle of staggered terms. Appointment of the council members must ensure representation from eight regions designated by the commissioner. Members of the council serve at the pleasure of the governor.
2. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year.
3. The council shall have at least two meetings each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any four members. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.
4. The council, in cooperation with the rural development office, shall:
 - a. Facilitate collaboration among federal, state, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the state;
 - b. Monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the state; and
 - c. Facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of federal, state, local, and tribal governments.

SECTION 16. REPEAL. Sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2110.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State