FIRST ENGROSSMENT

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1027

Introduced by

Legislative Council

(Economic Development Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Rural airport economic development fund.

1. The rural airport economic development fund is a special fund in the state treasury. Subject to legislative appropriation, the aeronautics commission may provide grants from the fund to a public airport owned or operated by a public entity or to an airport operated by an airport authority in this state for the purpose of providing financial assistance for:
   a. Purchase, development, and operation of automated weather reporting facilities, computers and terminals to obtain weather information relating to flight plans, and other equipment to enhance flight operational safety.
   b. Obstruction removal within the runway protection zone of an airport to facilitate the new global positioning satellite all-weather instrument approach technology required to meet federal standards.
   c. Construction or rehabilitation of runways, taxiways, and apron areas, including the extension of runways that do not meet the federal guidelines for this construction or rehabilitation but have a demonstrated state or local need.
   d. Development of airport infrastructure and buildings that do not meet federal guidelines for this development but have a demonstrated state or local need.
2. To qualify for a grant under this section, an airport must provide matching funds of not less than ten percent and not more than fifty percent. The aeronautics commission shall set the match requirement in accordance with guidelines established by the commission by rule.

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

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

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

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

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

15-69-03. (Effective through July 31, 2011) Centers of excellence commission. The centers of excellence commission consists of six members. The foundation shall appoint three of the foundation's members to serve on the commission and the board shall appoint three of the board's members to serve on the commission. The commission members shall designate a chairman and a vice chairman of the commission. Each member of the commission shall serve for a term of three years, beginning July first; may be reappointed for additional terms; and serves at the pleasure of the appointing entity. If a commission member ceases to serve as a member of the appointing entity, that member's membership on the commission ceases immediately and the appointing entity shall appoint a new member for the remainder of the term. Terms of ~~initial~~ commission members ~~begin on July 1, 2005, and~~ must be staggered. On a meeting-by-meeting basis, an appointing entity may substitute a member of that appointing entity to serve in place of one of the regular members appointed by that entity. If the commission chairman and vice chairman are not present at a meeting, the commission members present at that meeting shall select a commission member to serve as chairman for that meeting. A commission member may receive compensation and travel and expense reimbursement from the appointing entity. The ~~board~~ department of commerce shall provide the commission with appropriate staff services as may be requested by the commission.

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

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

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

g. Promote the commercialization of new products and services in industry clusters;

h. Become financially self-sustaining; and

i. Establish and meet a deadline for acquiring and expending all public and private funds specified in the application.

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

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

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

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

1. A center shall use funds awarded under this chapter to enhance capacity; enhance infrastructure; and leverage state, federal, and private sources of funding. A center awarded funds under this chapter may not use the funds to supplant funding for current operations or academic instructions or to pay indirect costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The department must consist of:
   a. A division of community services;
   b. A division of economic development and finance;
   c. A division of tourism;
   d. A division of workforce development; and
   e. Any division the commissioner determines necessary to carry out this chapter.
2. The commissioner shall appoint the director of ~~any~~ each division ~~created by the commissioner under subsection 1. Effective August 1, 2003, the commissioner shall appoint the directors of the division of community services, division of economic development and finance, and division of workforce development. Effective August 1, 2005, the commissioner shall appoint the director of the division of tourism~~ of the department. Each director appointed by the commissioner serves at the pleasure of the commissioner and is entitled to receive a salary set by the commissioner within the limits of legislative appropriations. ~~Until August 1, 2003, the governor shall appoint the directors of the division of community services, division of economic development and finance, and division of workforce development and until August 1, 2005, the governor shall appoint the director of the division of tourism. The individuals appointed by the governor shall serve at the pleasure of the governor and are entitled to receive a salary set by the governor within the limits of legislative appropriations.~~

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

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

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

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

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

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

Division of workforce development - Higher education internships and work experience opportunities. The division of workforce development shall administer a program to increase use of higher education internships and work experience opportunities for higher education students. 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 and work experience opportunities.

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

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

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

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

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

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

Business and tourism acceleration commission - Composition - Appointment.

1. The business and tourism acceleration commission consists of seven members as follows:
   a. Three members appointed by the governor, for terms of two years, arranged so that one term expires in odd-numbered years and two terms expire in even-numbered years. One of these members must be from the private sector and actively engaged in businesses in this state, one must be from the private sector and actively engaged in a business in this state which participates in international trade, and one must be from the private sector and actively engaged in the tourism industry in this state.
   b. Four members appointed by the commissioner of commerce, for terms of two years, arranged so that two terms expire in odd-numbered years and two terms expire in even-numbered years. One of these members must represent business interests, one must represent international trade interests, one must represent tourism interests, and one must represent innovation interests. The commissioner may fill any of these positions with ex officio members.
2. Terms of commission members run from the first day of July. Commission members may be reappointed to the commission. The commission shall elect one of its members as chairman. If a member position becomes vacant, the appointing individual shall appoint a member to complete the remaining term. The terms of the initial commission members may run for a single year as may be necessary to initiate the cycle of two-year terms.

Authority - Accountability.

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

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

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

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

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

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

57-38-01.24. Workforce recruitment credit for hard-to-fill employment positions. A taxpayer that is an employer in this state is entitled to a credit as determined under this section against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3 for costs the taxpayer incurred during the tax year to recruit and hire employees for hard-to-fill employment positions within this state for which the annual salary for the position meets or exceeds the state average weekly wage.

1. The amount of the credit to which a taxpayer is entitled is five percent of the salary paid by the taxpayer during the taxable year to the employee for the hard-to-fill employment position. For purposes of this section:
   a. "Extraordinary recruitment methods" means using one or more of the following:
      (1) A person with the exclusive business purpose of recruiting employees and for which a fee is charged by that recruiter.
      (2) An advertisement in a professional trade journal, magazine, or other publication, the main emphasis of which is providing information to a particular trade or profession.
      (3) A web site, the sole purpose of which is to recruit employees and for which a fee is charged by the web site.
      (4) Participation in a job or career fair.
      (5) Payment for professional licensing or certification required for the position.
      (6) Payment of a signing bonus, moving expenses, or nontypical fringe benefits.
   b. "Hard-to-fill employment position" means a job that requires the employer to use extraordinary recruitment methods.
   c. "State average wage" means the state average wage published annually by job service North Dakota and which is in effect at the time the employee is hired.

2. Any amount of unused credit under this section may be carried forward for up to four taxable years after the taxable year in which the costs were incurred.

3. A partnership, subchapter S corporation, or limited liability company that for tax purposes is treated like a partnership that is entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the members in proportion to their respective interests in the passthrough entity.

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

57-38-01.25. Internship employment tax credit.

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

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

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

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

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

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

1. For purposes of this section:
   a. "Base period research expenses" means base period research expenses as defined in section 41(c) of the Internal Revenue Code [26 U.S.C. 41(c)], except it does not include research conducted outside the state of North Dakota.
   b. "Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code [26 U.S.C. 41(d)], except it does not include research conducted outside the state of North Dakota.
   c. "Qualified research expenses" means qualified research expenses as defined in section 41(b) of the Internal Revenue Code [26 U.S.C. 41(b)], except it does not include expenses incurred for basic research conducted outside the state of North Dakota.
2. The credit allowed under this section for the taxable year may not exceed the liability for tax under this chapter.

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

4. If the amount of the credit determined under this section for any taxable year exceeds the limitation under subsection 2, the excess may be used as a research credit carryback to each of the three preceding taxable years and a research credit carryover to each of the fifteen succeeding taxable years or the taxpayer may assign or transfer, for consideration, the excess to another taxpayer. ~~The~~ If the taxpayer elects to carry back or carry over the credit, the entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried~~. The~~ and the amount of the unused credit which may be added under this subsection may not exceed the taxpayer's liability for tax less the research credit for the taxable year.

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

   b. If the taxpayer elects to assign or transfer an excess credit under this subsection, the tax credit transferor and the tax credit purchaser jointly shall file with the tax commissioner a copy of the purchase agreement and a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, the gross proceeds received by the transferor, and the tax year or years for which the credit may be claimed. The taxpayer and the purchaser also shall file a document allowing the tax commissioner to disclose tax information to either party for the purpose of verifying the correctness of the transferred tax credit. The purchase agreement, supporting statement, and waiver must be filed within thirty days after the date the purchase agreement is fully executed.

c. The purchaser of the tax credit shall claim the credit beginning with the tax year in which the credit purchase agreement was fully executed by the parties. A purchaser of a tax credit under this section has only such rights to claim and use the credit under the terms that would have applied to the tax credit transferor, except the credit purchaser may not carry back the credit as otherwise provided in this section. This subsection does not limit the ability of the tax credit purchaser to reduce the tax liability of the purchaser, regardless of the actual tax liability of the tax credit transferor.

d. The original purchaser of the tax credit may not sell, assign, or otherwise transfer the credit purchased under this section.

e. If the amount of the credit available under this section is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the internal revenue service or the tax commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the internal revenue service or the tax commissioner. The tax credit purchaser shall file amended returns reporting the additional tax due or claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed in these sections may have expired for the purchaser.

f. Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned under this subsection cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.

g. The tax commissioner has four years after the date of the credit assignment to audit the returns of the credit transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due. This subdivision does not limit or restrict any other time period prescribed in this chapter for the assessment of tax.

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

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

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

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

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

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

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

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

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

a. A facility that through processing involving the employment of knowledge and labor adds value to an agricultural commodity capable of being raised in this state; or

b. A livestock feeding, handling, milking, or holding operation that uses as part of its operation a byproduct produced at a biofuels production facility.

2. "Biofuels production facility" means a corporation, limited liability company, partnership, individual, or association in this state:

a. Involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials;

b. Involved in the production of corn-based ethanol or cellulose-based ethanol; or

c. Involved in a soybean or canola crushing facility.

3. "Director" means the director of the department of commerce division of economic development and finance.

~~3.~~ 4. "Qualified business" means a cooperative, corporation, partnership, or limited liability company that:

a. Is incorporated or organized in this state after December 31, 2000, for the primary purpose of ~~processing and marketing~~ being an agricultural ~~commodities capable of being raised in this state~~ commodity processing facility;

b. Has been certified by the securities commissioner to be in compliance under the securities laws of this state;

c. Has an agricultural commodity processing facility, or intends to locate one, in this state; and

d. Is among the first ten businesses that meets the requirements of this subsection, but not a business that was previously certified as a qualified business under chapter 57-38.5.

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

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

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

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

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

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

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

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

SECTION 26. DEPARTMENT OF COMMERCE TARGET INDUSTRY CLUSTER INDUSTRIES STUDY - LEGISLATIVE COUNCIL REPORT. During the 2007-08 interim, the department of commerce target industries report to the legislative council required under North Dakota Century Code section 54-60-11 must include a study of the cluster industries related to the state's target industries. The study must include an inventory of innovation assets which may be relevant to the target industries and related cluster industries; how target industries and related cluster industries may be better aligned with state economic development activities and programs, such as centers of excellence, economic development incentives, and higher education; and how to stimulate development in the target industries and related cluster industries. The commissioner of commerce shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement the department of commerce's recommendations to stimulate development in the target industries and related cluster industries for each of these target industries.

SECTION 27. TAX EXPENDITURE REPORT PILOT PROJECT.

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

expenditure which includes a description of the annual state revenue losses and benefits and a cyclical analysis of these losses and benefits.

3. The tax commissioner shall compile tax expenditure data and provide this data to the department of commerce. Notwithstanding section 57-38-57 and other confidentiality statutes, the tax commissioner shall provide the department of commerce the information necessary to accomplish and effectuate the intent of this section. The tax commissioner may request the assistance of the office of management and budget as necessary to compile this tax expenditure data.

4. The tax commissioner may establish the procedure by which the tax commissioner will compile the tax expenditure data and the format in which the tax commissioner will provide this data to the department of commerce. The department of commerce may establish the manner in which the tax expenditure data will be analyzed, organized, and presented in the report.

5. Confidential tax information the department of commerce receives from the tax commissioner may not be divulged by the department of commerce unless the information is in the aggregate and in a manner that will not divulge information specific to any taxpayer.

6. For purposes of this section, the term tax expenditure means a provision in the state tax laws, including an exclusion, a deduction, a tax preference, a credit, and a deferral designed to encourage certain activities or to aid a taxpayer in special circumstances.

SECTION 28. STATE BUSINESS INCENTIVE EXPENDITURE REPORT PILOT PROJECT.

1. During the 2007-09 biennium, the commissioner of commerce shall select a state business incentive for the purposes of conducting a state business incentive expenditure report pilot project.

2. Before the tenth legislative day of the sixty-first legislative assembly, the commissioner of commerce shall submit to the president of the senate and the speaker of the house a state business incentive expenditure report. This report must be based upon information available to the department and must include an analysis of the selected state business incentive which includes a description of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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