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Sixtieth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with Senate Amendments

ENGROSSED HOUSE BILL NO. 1018

Introduced by

Appropriations Committee

(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the department of commerce; to provide an appropriation to the department of career and technical education; to provide an appropriation to the office of management and budget; to authorize the office of management and budget to borrow funds from the Bank of North Dakota; to provide a continuing appropriation; to provide for reports to the sixty-first legislative assembly; to provide for reports to the legislative council; to provide for legislative council studies; to provide exemptions; to create and enact a new section to chapter 15-20.1, a new section to chapter 54-34.4, three new sections to chapter 54-60, 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 program to provide grants for innovation, visitor information centers, department of commerce division of workforce development programs and duties, tax credits for internships, workforce recruitment, research and experimental expenditures, and to create a beginning again North Dakota pilot program; to amend and reenact sections 15-69-02, 15-69-03, 15-69-04, and 15-69-05, subsections 4 and 6 of section 54-17-07.3, sections 54-60-02, 54-60-09, and 54-60-12, subdivision l of subsection 2 of section 54-60.1-01, and sections 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 centers of excellence program, housing finance agency programs, updating department of commerce law, department of commerce division of workforce development duties, the North Dakota image information program, the definition of business incentive, 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 effective dates; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

Salaries and wages	$855,807
Operating expenses	3,560,720
Grants	(1,328,122)
North Dakota development fund	4,000,000
Agricultural products utilization	(7,807)
Economic development initiatives	652,278
Economic development grants	(100,000)
Lewis and Clark bicentennial	(3,933,103)
North Dakota trade office	1,400,000
Total all funds - Adjustments/enhancements	$5,099,773

Less estimated income - Adjustments/enhancements	(2,072,990)
Total general fund - Adjustments/enhancements	$7,172,763

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

Salaries and wages	$8,617,235
Operating expenses	13,092,688
Capital assets	25,000
Grants	48,774,748
North Dakota development fund	4,000,000
Discretionary funds	1,450,127
Economic development initiatives	1,296,846
Agricultural products utilization	3,008,193
Economic development grants	50,000
North Dakota trade office	1,400,000
Total all funds	$81,714,837
Less estimated income	55,361,293
Total general fund appropriation	$26,353,544

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

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

SECTION 6. EXEMPTION. The amount appropriated for the discretionary funds line item in section 3 of chapter 46 of the 2005 Session Laws is not subject to section 54-44.1-11

and any unexpended funds from this line item are available during the biennium beginning July 1, 2007, and ending June 30, 2009.

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

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

SECTION 9. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes $4,000,000 for transfer to the development fund and $50,000 for tax expenditure and business incentive expenditure reports which are one-time funding items. These amounts are not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The department of commerce shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 10. TRADE OFFICE MATCHING FUNDS - BUDGET SECTION REPORT. The department of commerce shall report to the budget section, during the 2007-08 interim, on the status of matching funds raised by the North Dakota trade office and the percentage of the matching funds provided in-kind and the percentage provided in cash.

SECTION 11. INTERNSHIP PROGRAM - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The department of commerce shall report to the appropriations committees of the sixty-first legislative assembly regarding the internship program. The report must include

information on the program's activities, statistics, and accomplishments to date during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 12. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $70,000, 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 13. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - CENTERS OF EXCELLENCE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $20,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of providing funding to centers of excellence as directed by the centers of excellence commission, for the biennium beginning July 1, 2007, and ending June 30, 2009.

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

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

SECTION 16. LEGISLATIVE COUNCIL STUDY - NORTH DAKOTA WORKFORCE SYSTEM INITIATIVE.

1. During the 2007-08 interim, the legislative council shall study the state's system for addressing workforce needs through a workforce system initiative. The workforce system initiative must include receipt of agency reports regarding implementation of workforce legislation enacted during the 2007 legislative session, active participation in focus groups across the state, and active participation in a workforce congress.
2. The focus groups shall discuss ways to enhance the state's system for addressing workforce needs, including consideration of workforce availability, skilled workforce needs, future workforce needs, and alignment of the state's higher education curriculum with the state's current and future workforce needs. The workforce congress shall receive a report on the activities of the focus groups, identify methods to enhance the state's workforce system in order to be well-positioned to participate in a knowledge-driven economy and to be globally competitive, and evaluate the impact and effectiveness of the state's existing workforce system.
3. The department of commerce shall organize the focus groups and the workforce congress. Before the workforce congress, which must be held before June 1, 2008, the department shall convene a minimum of four focus groups. The department shall consult with the legislative council in compiling focus group and workforce congress participant invitation lists and drafting and distributing invitations, establishing focus group and workforce congress dates and locations, and preparing agendas for focus groups and the workforce congress. The focus groups and the workforce congress schedules and activities must take into consideration workforce study activities of the department.
4. The legislative council and the department of commerce shall enter a joint contract with a third party to provide the legislative council and the department with professional services to plan, facilitate, report on, and coordinate followup for the focus groups and workforce congress. 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 17. LEGISLATIVE COUNCIL STUDY - DEPARTMENT OF COMMERCE.

1. The legislative council shall consider studying, during the 2007-08 interim, the organization, powers, duties, and effectiveness of the department of commerce. The study must include:
   a. A review of the legislative history leading to the creation of the department of commerce, including the 1999-2000 interim activities of the legislative council's interim commerce and labor committee;
   b. A review of the legislative and executive branch expectations in the creation of the department of commerce and whether those expectations are being met;
   c. Evaluation of the effectiveness of the North Dakota economic development foundation in providing a nonpartisan, private sector perspective to the department's approach to the department's duties; and
   d. Evaluation of the organizational structure of the department of commerce, including whether the department should include a division of science and technology.
2. 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 18. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION PROMISE GRANT PROGRAM. The legislative council shall consider studying, during the 2007-08 interim, the desirability and feasibility of implementing a grant program for North Dakota students who are attending North Dakota institutions of higher education and who have excelled academically. The study shall include consideration of desirable eligibility criteria for students under such a grant program, funding options for such a grant program, and a cost-benefit analysis of such a grant program. 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 19. 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 20. TAX EXPENDITURE REPORT PILOT PROJECT - REPORT.

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 21. STATE BUSINESS INCENTIVE EXPENDITURE REPORT PILOT PROJECT - REPORT.

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 20 of this Act.

SECTION 22. 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 23. 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 24. 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 elementary or secondary teachers or schools and to institutions of higher education 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 to an elementary or secondary teacher or school may not exceed seven thousand five hundred dollars and a grant awarded to an institution of higher education may not exceed twenty-five thousand 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 25. AMENDMENT. Section 15-69-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The board shall establish a centers of excellence program relating to economic development. The program must distinguish among center designations for awards designated to address commercialization and infrastructure needs. Workforce may not be the primary need addressed by a center. Through the program the commission shall make funding award recommendations for

commission-approved applications to the board, the foundation, and the budget section of the legislative council. A center must be an institution of higher education under the control of the board or a nonprofit university-related or college-related foundation of an institution of higher education under the control of the board. In order to be considered for center designation, the institution of higher education or nonprofit foundation must be working in partnership with the private sector. In addition to any center designated under this chapter, the North Dakota state university center for technology enterprise and the university of North Dakota center for innovation are centers.

2. A commission funding award recommendation must be for a specified amount. Designation of a center occurs upon board, foundation, and budget section approval of a commission funding award recommendation. In considering whether to designate a center, the board, foundation, and budget section may not modify the commission recommendation. The budget section may not make a determination of whether to approve or reject a commission funding award recommendation until the emergency commission reviews the commission recommendation and makes a recommendation to the budget section.

3. A center that receives funds distributed under this chapter is not qualified to receive subsequent designations as a center until the biennium following the center's most recent designation.

4. The board rules adopted under subsection 9 of section 15-10-17, relating to ownership of intellectual property, inventions, and discoveries, must address activities and issues unique to centers.

SECTION 26. 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 27. 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 28. 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 29. 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 30. 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 31. 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 32. 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 33. 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 34. 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.

SECTION 35. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

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

1. The department shall implement and administer a beginning again North Dakota pilot program. The purpose of the program is to develop a data base of skills and other assets of communities and residents to be used to advance the internal and external attitude and image of this state and the communities in this state. The department shall implement this program in one city with a population of not more

than one thousand five hundred and one city with a population of more than one thousand five hundred but not more than three thousand five hundred.

2. The department shall assemble state and local asset data from a broad range of sources. The sources for data may include the department, Bank of North Dakota, game and fish department, state historical society, Indian affairs commission, job service North Dakota, parks and recreation department, superintendent of public instruction, North Dakota university system, workforce safety and insurance, and state and local public and private entities. The nature of the data regarding skills and other assets may cover a broad range of information that may be valuable to advance the attitude or image of the state and communities in the state. The data may include natural resources, real estate, educational resources, cultural resources, vocational resources, financial resources, and infrastructure resources.

3. The department shall use the information assembled in the data base to assist in strategic plans for development. Additionally, the department may use the information in the data base to assist local developers in strategic plans for development.

4. The department may contract with a public or private third party to provide any or all of the services necessary to implement and administer the program. The department may solicit support and contributions from public and private sources for the purpose of furthering the program. The department may charge a fee for the services provided to the community. The department shall deposit in a special account in the state treasury all funds collected under this subsection. All funds deposited under this section are appropriated to the department on a continuing basis for the purpose of furthering the program.

5. The two cities shall be willing to participate and provide significant financial resources to provide for the costs of the pilot program.

6. During the 2007-08 interim, the commissioner shall provide a report to the legislative council regarding the implementation of the program, successes and failures of the program, and whether the program should be continued or be continued and expanded to additional communities.

SECTION 36. AMENDMENT. Subdivision l of subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 37. Section 57-38-01.24 of the North Dakota Century Code is created and enacted as follows:

57-38-01.24. 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 an intern employed in this state 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 student in an institution of higher education or vocational technical education program who is seeking a degree or a certification of completion 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 or count toward the completion of a vocational technical education program;
   c. The intern must be supervised and evaluated by the taxpayer; and
   d. The internship position must be located in this state.
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 38. Section 57-38-01.25 of the North Dakota Century Code is created and enacted as follows:

57-38-01.25. 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 wage.

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

2. For purposes of this section:

   a. "Extraordinary recruitment methods" means using three 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 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.

3. The taxpayer may claim the credit in the first tax year beginning after the employee hired for the hard-to-fill position has completed the employee's first twelve consecutive months of employment in the hard-to-fill position with the taxpayer.

4. The credit under this section may not exceed a taxpayer's liability for the taxable year as determined under this chapter. Any amount of unused credit may be carried forward for up to four taxable years after the taxable year in which the credit could initially be claimed.

5. 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 39. 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, 57-38-01.25, and 57-38-30.5.

SECTION 40. AMENDMENT. Section 57-38-30.5 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30.5. ~~Corporate income~~ Income tax credit for research and experimental expenditures. ~~Any corporation~~ A taxpayer is allowed a credit against the tax imposed under ~~this chapter~~ section 57-38-29, 57-38-30, or 57-38-30.3 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~~ taxpayer 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~~ taxpayer's interest in the trade, business, or entity equal to the amount of tax attributable to that portion of the ~~corporation's~~ taxpayer's taxable income which is allocable or apportionable to the ~~corporation's~~ taxpayer'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 41. 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 42. 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 43. AMENDMENT. Section 17 of chapter 151 of the 2005 Session Laws is amended and reenacted as follows:

SECTION 17. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY. During the 2005-06 ~~and 2007-08 interims~~ interim, 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 a biennial business ~~congresses~~ congress. 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~~ The 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~~ congress. Before ~~each~~ the 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 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 the business ~~congresses~~ congress. 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~~ congress. 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~~ assembly.

SECTION 44. REPEAL. Sections 57-38-71, 57-38-72, 57-38-73, and 57-38-74 of the North Dakota Century Code are repealed.

SECTION 45. EFFECTIVE DATE. Sections 37, 38, 39, 40, 41, 42, and 44 of this Act are effective for taxable years beginning after December 31, 2006. Section 40 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 46. EXPIRATION DATE. Section 35 of this Act is effective through June 30, 2009, and after that date is ineffective.

SECTION 47. EMERGENCY. Section 29 of this Act is declared to be an emergency measure.