

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2032

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2032

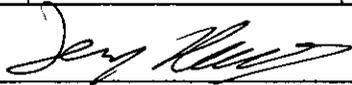
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2032

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 26, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-End
		<del>1-3460</del> X	1-3460
Committee Clerk Signature 			

Minutes:

**Chairman Mutch opened the hearing on Senate Bill 2032. All Senators were present.**

Senator Tony Grindberg introduced the bill. This bill relates to a department of career and technical education cooperative work experience program that can help enhance our state's economy. Some of the topics covered in this bill include image building, internal and external marketing, assistance for local economic development, international marketing, commercialization and tech transfer. There are two bills, the interim committee felt it was important to modify the Centers of Excellence language that was adopted two years ago. The Executive Branch chose to mirror that language in the Commerce budget. There is a group of House and Senate members who are working on proposed amendments along with the State Tax Department. He passed out a handout to committee members that gives a comparison on what

was adopted last session with Centers of Excellence and what was adopted in the interim committee.

**Senator Heitkamp:** Why are the legislative members nonvoting members on the Centers of Excellence Commission?

**Senator Grindberg-** The legislature should be represented, but the decision making should be left with the Board of Higher Education appointees and Commerce appointees.

**Jennifer Clark, Legislative Council** delivered a handout to committee members. See attached.

**Senator Krebsbach-** Didn't we repeal the Myron G. Nelson fund a couple sessions ago?

**Jennifer-** There was a transition, but the law wasn't repealed.

**Senator Krebsbach-** Would we be setting up a new division within the Department of Commerce for the International Trade Division and the targeted industry?

**Jennifer-** There would be a new division for international trade, targeted industries would be under the Department of Commerce.

**Senator Heitkamp-** Where in here would I find the new accountability measures?

**Jennifer-** This is not an accountability bill.

**Senator Heitkamp-** So, we are setting up new government with no accountability measures?

**Senator Mutch-** There are a lot of areas in here that relate to legislative studies on new ventures for the Department of Commerce to pursue and develop.

**Senator Klein-** I don't think we would be looking for accountability in all of the reports.

**Jennifer-** One of the reasons we have so many reports following the interim is to follow-up on the activities to determine if they were successful.

**Senator Heitkamp-** That would be under the review of the legislature, unless it is specifically defined.

**Representative Ole Aarsvold-** During the past year, some constituents were disqualified from the state capital investment tax credit, because it ran out 3 days after their application was accepted. We need to acknowledge the people who have made investments in the past, but did not get the investment credit available to them. An amendment to the bill would make the feature retroactive to investors who put forth significant amounts of money to improve the industrial capacity of the state.

**Senator Klein-** This is going against what you guys are saying about limits, the amount of money. Where is the accountability? Where do we draw the line, and how do we justify that?

**Rep. Aarsvold-** I am not suggesting an additional appropriation or limit. We need to maintain the limits we have acknowledge those investors retroactively.

**Lee Peterson, Commissioner of the North Dakota Department of Commerce** appeared in support of the bill. See attached testimony.

**Senator Heitkamp-** In the middle of the last biennium, there was an emphasis from the Governor's office and your office on economic accountability as we completely revamp what economic development does in ND. This bill has a huge price tag, why are we attaching accountability measures to it.

**Lee-** The only incentive is the investment tax credit.

**Senator Heitkamp-** You're spending a lot of money, there's incentives in there somewhere.

**Lee-** It is our understanding that there are several accountability bills in the legislature. We have in place at the Dept. of Commerce: community development block grants, ND development fund, and Ag products utilization commission. Each one has accountability measures that produces a report.

**Senator Heitkamp-** What you be adverse in putting into this bill the proposals that both you and governor forwarded in terms of the content?

**Lee-** Accountability measures may be attached to this bill, but they may need to be different than the accountability bills with financial incentives.

**Tax Commissioner Rick Clayburgh** addressed an issue regarding state capital tax credit. The Tax Department would be willing to discuss ideas with the committee on this bill and the Ag Credit bill.

**Mark Nesbit, Committee Chairman of the Centers of Excellence-** See handout.

**Senator Espgaard-** Tell us about the accountability measures you have in place.

**Mark-** We work on behalf of the citizens of this state and working to improve the economic climate of the state. The community has to be supportive and there has to be private sector involvement. The university system has to believe that this will be a viable center of excellence and will go back to individual committees and the joint committee.

**Senator Mutch-** Could you give an explanation on the compliment of the foundation you referred to?

**Mark-** The foundation is self financed and is a compliment to the Dept. of Commerce. We would like to develop some continuity, and involve private sector individuals.

**Senator Mutch-** Is this foundation totally privately funded?

**Mark-** Yes it is.

**Senator Espgaard-** There were no state funds, correct?

**Mark-** Correct. We are working at educating people on the benefits of living and working in ND.

**Robert Potts, Chancellor of the ND University System** proposed amendments to the bill. See attached testimony.

**Senator Espgaard-** Do any of the amendments take away the partnerships with the 1/3 private funding?

**Robert-** This would give the discretion for the match to be considered 2/3-1/3. 2/3 from the private sector, and 1/3 from state funding. We are suggesting the commission be given the authority to set the match requirement. One of the criteria is how large the match will be.

**Senator Espgaard-** We are creating jobs, but not work. Are you saying the wording is wrong?

**Robert-** That is correct. The proposal has to meet the criteria as amended with enough flexibility. Hopefully the proposals that receive funding will have the best potential for success.

**Senator Mutch-** I notice the Bank of ND may be lending 50 million dollars towards this.

**Lietenant Governor Jack Dalrymple** appeared in support of the bill. The bill is fine tuning on the issue of economic development that started 12 years ago with Vision 2000. The devices being created at the NDSU Research and Technology Park are a win-win situation: education and research takes place while jobs are being created. This is the direction that economic

development nationwide is heading, we should invest our money into this program. There is 5 million dollars in the Commerce Department budget to be used in the upcoming biennium.

When great economic opportunities arise in the state, there needs to be a sense of urgency. The commission is made up of people from the Economic Development Foundation Board, which is made up of experienced CEO's. The board will also include members of the State Board of Higher Education. There should be 3 members from the foundation board, and 3 members from the State Board of Higher Education. The members of the Senate and House Appropriations committees will place a final approval on every project. One main question is what source of funds can be used to pay for this down the road? We have suggested to the Senate

Appropriations Committee that they include an amendment which places the interest income from the student loan trust fund as a permanent source of funding for future years. The bill has a 2 for 1 funding requirement: \$2 from private, \$1 from the state. There may be situations where there is good reason to restructure that with the discretion of the commission. The language of "science and technology" needs to be made clear; it could perhaps become a limiting factor for the types of enterprises that could become Centers of Excellence.

**Senator Mutch-** Does the state take an equity position on the funding issue?

**Lt. Governor Dalrymple-**The investing would be similar to what we have today with an enterprise, there is a limited amount of ways it can be structured.

**Senator Nething-** Would you prefer that our committee to examine how the commission is made up?

**Lt. Governor Dalrymple-** The interim committee suggested the proposal on the composition of the commission. We've reached a point where people need to express their opinions on the details.

**Tex Hall, Chairman of the 3 Affiliated Tribes on the Fort Berthold Reservation,** who supports the bill for the most part. See attached testimony.

**Senator Heitkamp-** What amendments would you want to help achieve your goals?

**Tex-** I think a separate piece of legislation would be the most beneficial. One of the main concerns is access to capital. In our financial arrangements, we use binding rules of arbitration.

**Senator Mutch-** Do the amendments address your concern?

**Tex-** Yes.

**Wayne Kutzer, Director of the Department of Career and Technical Education-** See written testimony.

**Senator Klein-** Were you involved in the creation of this? Are the other entities aware of what is taking place?

**Wayne-** I did not participate in the language creation of the bill.

**Senator Klein-** So they overlooked the fact you needed this amount of money to make this work?

**Wayne-** I mentioned the cost to the interim committee meeting.

**Representative Dawn Charging-** Supports the bills. The bills enhance tribal relationships to the state economic development.

**Linda Belisle, Director of the Central Services Division of Office of Management of Budget-**

see attached testimony.

**Senator Klein-** This is informational and there is not a conflict?

**Linda-** No, there is not a conflict. We are comfortable with the amendments.

**Cheryl Kulas, Director of the Indian Affairs-** The main concern is the amendment in Section

4. She has had several conversations with tribal colleges and the proposal to be included with eligibility for the Centers of Excellence. She supports the creation of business development throughout the state.

**Senator Heitkamp-** Did you offer the amendments to the interim committee?

**Cheryl-** No, they just came about now.

**Tom Disselht, attorney with United Tribes Technical College-** We did not know about the text of this bill right away. The amendment would go a great ways in working with the tribes to make sure their economic development needs are met. The most need is on the reservations where the lack of training and the level of unemployment are high. In New Mexico, the governor proposed a new capital fund available to tribes in their state. This is an idea worth considering for our state for economic development opportunities.

**Carol Two Eagle** appeared in support of the bill as amended.

**Austin Gillette** represents the Tribal Council on issues that take place in the session. The intent of the bill is good, he would favor a Do Pass for the bill.

**Senator Heitkamp-** We've heard about a capital fund, what kind of dollars are talking about.

We need to figure out what we need to get amendments prepared for.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2032

Hearing Date January 26, 2005

**Austin-** It could be similar to the Magic Fund in Minot, where they review applications and have discretion.

The hearing was closed. No action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2032

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-01-05

Tape Number	Side A	Side B	Meter #
3	xxx		4800-5567
Committee Clerk Signature <i>Lisa Van Berkum</i>			

Minutes: **Chairman Mutch** opened the hearing on SB 2032. All Senators were present.

**SB 2032** relates to department of career and technical education cooperative work experience program.

**Senator Klein:** We had some amendments on this bill.

**Senator Espegard :** My thoughts on the amendments, was there was three amendments. One was taking out the legislators, the other was Mr. Potts, who said in smaller schools where they can't meet the two to one match, maybe the committee would allow them to go one to one. It wasn't a private investment. When we start including private and tribal colleges, I don't know that we have a precedent.

**Senator Heitkamp :** The reason that was in there was for discussion by the committee. I began it by getting the tribes to come in and ask to be included. If we do that, why would we limit ourselves? It seems to me that just by having enabling language doesn't mean that you get a center of excellence. It just means that you are not excluded from it.

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Senate Industry, Business and Labor Committee

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**Chairman Mutch** : Have we agreed on the amendments so we can place them on the bill? We need to get it to Appropriations.

**Senator Espegard** : It's enabling legislation and we want to get it moving.

**Senator Nething** : Did we put on the amendments?

**Chairman Mutch** : No.

**Senator Klein** moved to adopt the amendments.

**Senator Krebsbach** seconded.

**Roll Call Vote**: 7 yes. 0 no. 0 absent.

**Senator Espegard** moved a **DO PASS AS AMENDED**.

**Senator Klein** seconded.

**Roll Call Vote**: 7 yes. 0 no. 0 absent.

**Carrier**: **Senator Espegard** .

**FISCAL NOTE**  
 Requested by Legislative Council  
 04/08/2005

**REVISION**

Amendment to: Reengrossed  
 SB 2032

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	(\$250,000)		(\$3,000,000)	(\$1,667,000)		(\$1,667,000)
<b>Expenditures</b>			\$610,000		\$150,000	
<b>Appropriations</b>						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- Section 1: Venture Capital Investments. (Bank of North Dakota)
- Section 4: Centers of Excellence (Bd. of Higher Ed.)
- Section 6: Procurement Information Web Site. (OMB)
- Section 13: Seed Capital Investment Tax Credit(Tax Dept.)
- Section 14: Seed Capital Investment Tax Credit(Tax Dept.)
- Section 17: Business Climate Initiatives Study (Legislative Council)
- Section 21: Insurance and Liability Data Study (Insurance Dept.)
- Section 22: Technology Commercialization Study (Bd. of Higher Ed.)
- Section 23: Transportation Study (Bd. of Higher Ed.)
- Section 25: Tax Study (Tax Dept.)

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**Bank of North Dakota**

Section 1: This section permits the Bank of North Dakota to invest funds in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund not to exceed \$10,000,000 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds if the management is provided by the North Dakota Development Fund or a third party that is located in the state and that has demonstrated fund management experience.

Based on Bank of North Dakota's (BND) prior experience and on studies done on a national basis it is anticipated BND could incur losses up to 33% of the \$10,000,000 investment in alternative and venture capital investments and early-stage funds. The impact if the entire \$10,000,000 was invested and losses were experienced at the 33% level would be \$3,334,000 over a four-year period. BND shall request from the Industrial Commission a transfer from the

Student Loan Trust Fund (contingent on available monies in this fund) to reimburse the Bank for any losses incurred. Any gains from investments must first be applied to offset any losses reimbursed by the Student Loan Trust Fund. Once the Student Loan Trust Fund has been made whole, BND and the Trust Fund shall share any additional revenue on a mutually agreed formula as determined by the Industrial Commission. As currently contemplated there will be no fiscal impact for third party fund management services provided to BND.

Contact: Eric Hardmeyer 328-5674

Tax Department  
Sections 13&14

Sections 13 & 14: These sections incorporate the Seed Capital Tax Incentive provisions from SB 2018 into this bill. The following analysis by the Tax Dept. which was used for SB 2018 is therefore referenced:

The provisions relating to the Seed Capital Tax Incentive provisions are expected to decrease state general fund revenues by \$250,000 in FY 05, and \$3,000,000 in the 2005-07 biennium. This assumes the caps on the seed capital investment tax credit are reached. If the caps on the credit are not reached, the fiscal impact will be less.

Contact: Kathy Strombeck 328-3402

\*Please note that the aggregate amount of the seed capital investment tax credited is limited to \$2,500,000 per calendar year in the renengrossed bill. The fiscal effect described on page 1 incorporates a cap of \$3,000,000 per biennium which was incorporated in Senate Bill 2018.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota  
Section 19

Section 19: Venture Capital Investments report. No additional fiscal impact.

Contact: Eric Hardmeyer 328-5674

Board of Higher Education  
Sections 4, 16, 20, 22&23

Sections 4: Centers of Excellence. The NDUS will incur direct and indirect costs, beyond the general funds appropriated in the bill, related to the following activities in support of an Economic Development Centers of Excellence (COE) program, as mandated in the legislation:

- Establishment of COE program by SBHE
- Provide staff support to the new commission
- Coordinate the preparation of applications from the campuses
- Review of applications by the SBHE
- Preparation of annual reports to be presented to the Governor and foundation
- Campus administrative costs for managing center(s)

The costs to complete these activities, although significant both individually and collectively, will be absorbed by the campus and System within current or other externally generated resources. We will not be able to provide a good estimate of the total fiscal impact, until the number and types of projects have been identified.

Contact: Eddie Dunn, NDSU (701) 231-8494

Section 16: Repeals section 15-10-41 of the Century Code. No additional fiscal impact.

Section 20: Centers of Excellence report. No additional fiscal impact.

Section 22: SBHE Study Incentives for Stimulating Commercialization of New Technologies will require an additional appropriation of \$50,000 in state general funds to UND and NDSU to jointly coordinate and prepare the study. The additional costs reflect staffing costs and related operating costs. Possible consulting assistance may also be necessary.

Contact: Phil Boudjouk, NDSU (701) 231-6542 and Peter Alfonso, UND (701) 777-6736

Section 23: There is no expected alternative source of revenues for this project, thus it is anticipated that it would be funded by General Funds. The project can be separated into two distinct and separable efforts. Part 1 would cover highway and railroad improvements. Part 2 would cover airports which would require an additional \$125,000. Total cost, not including indirect costs, amount to \$360,000.

Contact: Gene Griffin, Upper Great Plains Transportation Institute (701) 231-8343

Department of Commerce  
Sections 3,9,10,&15

Section 3: The fiscal impact cannot be determined at this time. However, the impact would be contingent upon the Development Fund providing management services for the Bank of North Dakota's alternative and venture capital investments and early-stage capital funds. It should be pointed out that the Bank of North Dakota is not required to contract with the Development Fund, but if they did provide management services to BND, a contract would have to be negotiated and executed between the two parties. It would be expected that the contract would include some type of compensation such as commitment fees, interest rate participations and/or take-out provisions with equity investments.

Section 9: Amends section 57-38.5-01 of the Century Code. No additional fiscal impact.  
Section 10: Amends section 57-38.5-02 of the Century Code. No additional fiscal impact.  
Section 15: Repeals chapters 10-30.1 and 10-30.2 of the Century Code. No additional fiscal impact.

Contact: Paul Govig 328-4499

Insurance Department  
Section 21

Section 21: Insurance and Liability Data. It is understood the data has already been collected by the Department. No additional fiscal impact.

Contact: Chuck Johnson 328-4984

Emergency Commission  
Section 5

Section 5: Emergency Commission Membership. No additional fiscal impact.

Contact: Al Jaeger  
328-2992

Legislative Council  
Sections 17&18

Section 17: Business climate initiatives study. Fiscal impact is estimated to be \$50,000 for the Department of Commerce.

Section 18: Venture and Risk Capital study. No additional fiscal impact.

Office of Management and Budget

Sections 6&24

Section 6: Establish and amintain a procurement information web site. Fiscal impact is estimated to be \$150,000.  
Section 24: Procurement Assistance report. No additional fiscal impact.

Contact: Linda Belisle  
328-3494

Securities Department  
Section 2

Section 2: Amends section 10-04-05 of the Century Code. No additional fiscal impact.

Contact: Karen Tyler 328-2910

Tax Department  
Sections 7,8,11,12,25

Section 7: Amends subsection 1 of section 57-38-01.2 of the Century Code. No additional fiscal impact.

Section 8: Amends subsection 1 of section 57-38-71 of the Century Code. No additional fiscal impact.

Section 11: Seed Capital Investment Tax Credit. No additional fiscal impact.

Section 12: Seed Capital Investment Tax Year. No additional fiscal impact.

Section 25: Requires the Tax Commissioner to study corporate income taxes and authorizes the Department to contract with a third party to conduct the study. This will involve additional expenditures, the amount of which is currently unknown.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The second Engrossment with House Amendments of this bill contains no appropriations. However, the following appropriations related to this bill are contained within Senate Bill 2018:

Section 6: \$150,000-Procurement Information Web Site (OMB)  
Section 17: \$50,000-Business Climate Initiatives Study (Legislative Council)  
Section 22: \$50,000-Technology Commercialization Study (Bd. of Higher Ed.)  
Section 23: \$360,000-Transportation Study (Bd. of Higher Ed.)

\*The Insurance/Liability Data Study and the Tax Study received no appropriations.

<b>Name:</b>	Paul Govig	<b>Agency:</b>	Department of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	04/11/2005

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Tax Department  
Sections 7,8,11,12,25

Section 7: Amends subsection 1 of section 57-38-01.2 of the Century Code. No additional fiscal impact.

Section 8: Amends subsection 1 of section 57-38-71 of the Century Code. No additional fiscal impact.

Section 11: Seed Capital Investment Tax Credit. No additional fiscal impact.

Section 12: Seed Capital Investment Tax Year. No additional fiscal impact.

Section 25: Requires the Tax Commissioner to study corporate income taxes and authorizes the Department to contract with a third party to conduct the study. This will involve additional expenditures, the amount of which is currently unknown.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The second Engrossment with House Amendments of this bill contains no appropriations. However, the following appropriations related to this bill are contained within Senate Bill 2018:

Section 6: \$150,000-Procurement Information Web Site (OMB)  
Section 17: \$50,000-Business Climate Initiatives Study (Legislative Council)  
Section 22: \$50,000-Technology Commercialization Study (Bd. of Higher Ed.)  
Section 23: \$360,000-Transportation Study (Bd. of Higher Ed.)

\*The Insurance/Liability Data Study and the Tax Study received no appropriations.

<b>Name:</b>	Paul Govig	<b>Agency:</b>	Department of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	04/06/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/17/2005

Amendment to: Reengrossed  
SB 2032

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				(\$1,667,000)		(\$1,667,000)
<b>Expenditures</b>			\$708,022		\$629,272	
<b>Appropriations</b>			\$708,022		\$629,272	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- Section 1: Venture capital investments. (Bank of North Dakota)
- Section 5: Develop an American Indian business development office. (Department of Commerce)
- Section 6: Develop an Division of International Trade/Trade Promotion Authority. (Department of Commerce)
- Section 13: Complete a technology commercialization study. (Higher Education)
- Section 14: Complete an insurance and liability study. (Insurance Department)
- Section 15: Complete a transportation study. (Board of Higher Education)

Please note that the estimated expenditures for the 2007-2009 do not include any type of inflation adjustment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**Bank of North Dakota**

Section 1: This section permits the Bank of North Dakota to invest funds in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund not to exceed \$10,000,000 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds if the management is provided by the North Dakota Development Fund or a third party that is located in the state and that has demonstrated fund management experience.

Based on Bank of North Dakota's (BND) prior experience and on studies done on a national basis it is anticipated BND could incur losses up to 33% of the \$10,000,000 investment in alternative and venture capital investments and early-stage funds. The impact if the entire \$10,000,000 was invested and losses were experienced at the 33% level would be \$3,334,000 over a four-year period. BND shall request from the Industrial Commission a transfer from the Student Loan Trust Fund (contingent on available monies in this fund) to reimburse the Bank for any losses incurred. Any gains from investments must first be applied to offset any losses reimbursed by the Student Loan Trust Fund. Once the Student Loan Trust Fund has been made whole, BND and the Trust Fund shall share any additional

revenue on a mutually agreed formula as determined by the Industrial Commission. As currently contemplated there will be no fiscal impact for third party fund management services provided to BND.

Contact: Eric Hardmeyer 328-5674

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota  
Section 11

Section 11: No additional fiscal impact.

Contact: Eric Hardmeyer 328-5674

Board of Higher Education  
Sections 13 & 15

Section 13: SBHE Study Incentives for Stimulating Commercialization of New Technologies will require an additional appropriation of \$50,000 in state general funds to UND and NDSU to jointly coordinate and prepare the study. The additional costs reflect staffing costs and related operating costs. Possible consulting assistance may also be necessary.

Contact: Phil Boudjouk, NDSU (701) 231-6542 and Peter Alfonso, UND (701) 777-6736

Section 15: There is no expected alternative source of revenues for this project, thus it is anticipated that it would be funded by General Funds. The project can be separated into two distinct and separable efforts. Part 1 would cover highway and railroad improvements requiring resources of \$360,000. This would include the purchase of the REMI transportation model. Part 2 would cover airports which would require an additional \$125,000. Total cost, not including indirect costs, amount to \$485,000.

Contact: Gene Griffin, Upper Great Plains Transportation Institute (701) 231-8343

Department of Commerce  
Sections 3, 4, 5, 6, & 12

Section 3: The fiscal impact cannot be determined at this time. However, the impact would be contingent upon the Development Fund providing management services for the Bank of North Dakota's alternative and venture capital investments and early-stage capital funds. It should be pointed out that the Bank of North Dakota is not required to contract with the Development Fund, but if they did provide management services to BND, a contract would have to be negotiated and executed between the two parties. It would be expected that the contract would include some type of compensation such as commitment fees, interest rate participations and/or take-out provisions with equity investments.

Section 4: No additional fiscal impact.

Section 5: 2005-2007 & 2007-2009 American Indian Business Development Office

Salary and Fringe Benefits for 1 FTE:	\$105,432
Operating Expenses:	\$23,840
Total Cost Per Biennium	\$129,272

Section 6: 2005-2007 & 2007-2009

Currently funding for the Division of International Trade/Trade Promotion Authority in the 2005-2007 biennium is contained within the Governor's Executive Budget (SB 2018). The funding comes from \$500,000 in special funds (ND Development Fund).

The aforementioned costs represent the minimum amount required to operate a Division of International Trade/Trade Promotion Authority Office. It is estimated that the actual cost to run an effective program would be \$1,200,000 per year. Therefore, the \$500,000 of special fund dollars included in the Governor's Executive budget (SB 2018) will be used to leverage federal and private dollars for the additional amount needed.

Section 12: No additional fiscal impact.

Contact: Paul Govig 328-4499

Insurance Department  
Section 14

Section 14: If the Insurance and Liability Study was done by a consulting firm, the fiscal impact would be approximately \$41,250 plus \$2,500 for travel and miscellaneous costs.

If the study was completed in-house, it is estimated that it would require the equivalent of  $\frac{3}{4}$ -1 FTE for six months. Assuming an average blended cost for staff of \$30 per hour and estimating 800-1100 hours, the estimated in-house cost for the department would be \$24,000 to \$33,000. Expenses for travel and mailing etc. might be \$1,500 to \$2,500.

Contact: Chuck Johnson 328-4984

Legislative Council  
Section 10

Section 10: No additional fiscal impact.

Securities Department  
Section 2

Section 2: No additional fiscal impact.

Contact: Karen Tyler 328-2910

Tax Department  
Sections 7, 8, & 9

Section 7: No additional fiscal impact.  
Section 8: No additional fiscal impact.  
Section 9: No additional fiscal impact.

\*Some of the preceding sections could have a fiscal impact on the tax department but because they are difficult to accurately define at this point, they will be addressed in testimony to the committee or in amendments or both.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The reengrossed version of SB 2032 includes the following appropriations:

Section 16: \$129,272 - American Indian Business Development Office (Department of Commerce)

Section 17: \$50,000 - Technology Commercialization Study (Higher Education)

Section 18: \$485,000 - Transportation Study (Higher Education)

Section 19: \$43,750 - Insurance Liability Study (Insurance Department)

Total: \$708,022 General Funds

Note: The \$500,000 in special funds for the Division of International Trade/Trade Promotion Authority are not included in Table 1A for the 2005-2007 biennium since they are contained in the Governor's Executive Budget (SB 2018).

The following sections are assumed to be on-going programs that would require future appropriations in the 2007-2009 biennium;

Section 5: \$129,272 - American Indian Business Development Office (Department of Commerce)

Section 6: \$500,000 - Division of International Trade/Trade Promotion Authority \*\*(Department of Commerce)

Total: \$629,272 General Funds

\*\* Note: It is the intent to request a General Fund appropriation in the 2007-2009 biennium for the continuation of the Division of International Trade/Trade Promotion Authority.

<b>Name:</b>	Paul T. Govig	<b>Agency:</b>	ND Dept. of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	03/18/2005

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/22/2005

**REVISION**

Amendment to:           Engrossed  
                                   SB 2032

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				(\$1,667,000)		(\$1,667,000)
<b>Expenditures</b>			\$2,708,022		\$2,629,272	
<b>Appropriations</b>			\$2,708,022		\$2,629,272	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- Section 1: Venture capital investments. (Bank of North Dakota)
- Section 4: Develop a cooperative work experience program. (Career and Technical Education)
- Section 6: Develop an American Indian business development office. (Department of Commerce)
- Section 7: Develop an Trade Promotion Authority. (Department of Commerce)
- Section 15: Complete a technology commercialization study. (Higher Education)
- Section 16: Complete an insurance and liability study. (Insurance Department)
- Section 17: Complete a transportation study. (Higher Education)

Please note that the estimated expenditures for the 2007-2009 do not include any type of inflation adjustment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**Bank of North Dakota**

Section 1: This section permits the Bank of North Dakota to invest funds in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund not to exceed \$10,000,000 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds if the management is provided by the North Dakota Development Fund or a third party that is located in the state and that has demonstrated fund management experience.

Based on Bank of North Dakota's (BND) prior experience and on studies done on a national basis it is anticipated BND could incur losses up to 33% of the \$10,000,000 investment in alternative and venture capital investments and early-stage funds. The impact if the entire \$10,000,000 was invested and losses were experienced at the 33% level would be \$3,334,000 over a four-year period. BND shall request from the Industrial Commission a transfer from the

Student Loan Trust Fund (contingent on available monies in this fund) to reimburse the Bank for any losses incurred. Any gains from investments must first be applied to offset any losses reimbursed by the Student Loan Trust Fund. Once the Student Loan Trust Fund has been made whole, BND and the Trust Fund shall share any additional revenue on a mutually agreed formula as determined by the Industrial Commission. As currently contemplated there will be no fiscal impact for third party fund management services provided to BND.

Contact: Eric Hardmeyer 328-5674

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota  
Section 12

Section 12: No additional fiscal impact.

Contact: Eric Hardmeyer 328-5674

Board of Higher Education  
Sections 15 & 17

Section 15: SBHE Study Incentives for Stimulating Commercialization of New Technologies will require an additional appropriation of \$50,000 in state general funds to UND and NDSU to jointly coordinate and prepare the study. The additional costs reflect staffing costs and related operating costs. Possible consulting assistance may also be necessary.

Contact: Phil Boudjouk, NDSU (701) 231-6542 and Peter Alfonso, UND (701) 777-6736

Section 17: There is no expected alternative source of revenues for this project, thus it is anticipated that it would be funded by General Funds. The project can be separated into two distinct and separable efforts. Part 1 would cover highway and railroad improvements requiring resources of \$360,000. This would include the purchase of the REMI transportation model. Part 2 would cover airports which would require an additional \$125,000. Total cost, not including indirect costs, amount to \$485,000.

Contact: Gene Griffin, Upper Great Plains Transportation Institute (701) 231-8343

Department of Career and Technical Education  
Sections 4 & 13

Section 4: To implement the cooperative work experience program as delineated in this section, the program would be modeled after the school to work system. This would include 30 partnerships (school consortiums) across the state and \$30,000 per year to each partnership to fund a coordinators position to support the local effort. The total cost of the partnerships would then be \$900,000 per year in the grants line item. An additional \$100,000 per year would be needed by the Department to contract for statewide oversight and professional development for schools. The total cost to implement the program within the Department of Career and Technical Education would equal \$2,000,000 for the biennium.

Section 13: No additional fiscal impact.

Contact: Wayne Kutzer 328-2259

Department of Commerce  
Sections 3, 5, 6, 7, & 14

Section 3: The fiscal impact cannot be determined at this time. However, the impact would be contingent upon the Development Fund providing management services for the Bank of North Dakota's alternative and venture capital investments and early-stage capital funds. It should be pointed out that the Bank of North Dakota is not required to contract with the Development Fund, but if they did provide management services to BND, a contract would have to be negotiated and executed between the two parties. It would be expected that the contract would include some type of compensation such as commitment fees, interest rate participations and/or take-out provisions with equity investments.

Section 5: No additional fiscal impact.

Section 6: 2005-2007 & 2007-2009 American Indian Business Development Office

Salary and Fringe Benefits for 1 FTE:	\$105,432
Operating Expenses:	\$23,840
Total Cost Per Biennium	\$129,272

Section 7: 2005-2007 & 2007-2009

Currently funding for the Trade Promotion Authority in the 2005-2007 biennium is contained within the Governor's Executive Budget (SB 2018). The funding comes from \$500,000 in special funds (ND Development Fund).

The aforementioned costs represent the minimum amount required to operate a Trade Promotion Authority Office. It is estimated that the actual cost to run an effective program would be \$1,200,000 per year. Therefore, the \$500,000 of special fund dollars included in the Governor's Executive budget (SB 2018) will be used to leverage federal and private dollars for the additional amount needed.

Section 14: No additional fiscal impact.

Contact: Paul Govig 328-4499

Insurance Department  
Section 16

Section 16: If the Insurance and Liability Study was done by a consulting firm, the fiscal impact would be approximately \$41,250 plus \$2,500 for travel and miscellaneous costs.

If the study was completed in-house, it is estimated that it would require the equivalent of  $\frac{3}{4}$ -1 FTE for six months. Assuming an average blended cost for staff of \$30 per hour and estimating 800-1100 hours, the estimated in-house cost for the department would be \$24,000 to \$33,000. Expenses for travel and mailing etc. might be \$1,500 to \$2,500.

Contact: Chuck Johnson 328-4984

Legislative Council  
Section 11

Section 11: No additional fiscal impact.

Securities Department

Section 2

Section 2: No additional fiscal impact.

Contact: Karen Tyler 328-2910

Tax Department  
Sections 8, 9 & 10

Section 8: No additional fiscal impact.

Section 9: No additional fiscal impact.

Section 10: No additional fiscal impact.

\*Some of the preceding sections could have a fiscal impact on the tax department but because they are difficult to accurately define at this point, they will be addressed in testimony to the committee or in amendments or both.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

While there are no appropriations within the engrossed bill, it is estimated that the following additional appropriations will be needed for the implementation of each of the following sections:

Section 4: \$2,000,000 - Cooperative Work Experience Program(Career and Technical Education)

Section 6: \$129,272 - American Indian Business Development Office (Department of Commerce)

Section 15: \$50,000 - Technology Commercialization Study (Higher Education)

Section 16: \$43,750 - Insurance Liability Study (Insurance Department)

Section 17: \$485,000 - Transportation Study (Higher Education)

Total: \$2,708,022 General Funds

Note: The \$500,000 in special funds for the Trade Promotion Authority are not included in Table 1A for the 2005-2007 biennium since they are contained in the Governor's Executive Budget (SB 2018).

The following sections are assumed to be on-going programs that would require future appropriations in the 2007-2009 biennium;

Section 4: \$2,000,000 - Cooperative Work Experience Program(Career and Technical Education)

Section 6: \$129,272 - American Indian Business Development Office (Department of Commerce)

Section 7: \$500,000 - Trade Promotion Authority \*\*(Department of Commerce)

Total: \$2,629,272 General Funds

\*\* Note: It is the intent to request a General Fund appropriation in the 2007-2009 biennium for the continuation of the Trade Promotion Authority.

<b>Name:</b>	Paul Govig	<b>Agency:</b>	ND Dept. of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	02/22/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/17/2005

Amendment to:           Engrossed  
                                  SB 2032

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$1,667,000)		(\$1,667,000)	
<b>Expenditures</b>			\$2,708,022		\$2,629,272	
<b>Appropriations</b>			\$2,708,022		\$2,629,272	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- Section 1: Venture capital investments. (Bank of North Dakota)
- Section 4: Develop a cooperative work experience program. (Career and Technical Education)
- Section 6: Develop an American Indian business development office. (Department of Commerce)
- Section 7: Develop an Trade Promotion Authority. (Department of Commerce)
- Section 15: Complete a technology commercialization study. (Higher Education)
- Section 16: Complete an insurance and liability study. (Insurance Department)
- Section 17: Complete a transportation study. (Higher Education)

Please note that the estimated expenditures for the 2007-2009 do not include any type of inflation adjustment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Bank of North Dakota

Section 1: This section permits the Bank of North Dakota to invest funds in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund not to exceed \$10,000,000 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds if the management is provided by the North Dakota Development Fund or a third party that is located in the state and that has demonstrated fund management experience.

Based on Bank of North Dakota's (BND) prior experience and on studies done on a national basis it is anticipated BND could incur losses up to 33% of the \$10,000,000 investment in alternative and venture capital investments and early-stage funds. The impact if the entire \$10,000,000 was invested and losses were experienced at the 33% level would be \$3,334,000 over a four-year period. BND shall request from the Industrial Commission a transfer from the Student Loan Trust Fund (contingent on available monies in this fund) to reimburse the Bank for any losses incurred.

Any gains from investments must first be applied to offset any losses reimbursed by the Student Loan Trust Fund. Once the Student Loan Trust Fund has been made whole, BND and the Trust Fund shall share any additional revenue on a mutually agreed formula as determined by the Industrial Commission. As currently contemplated there will be no fiscal impact for third party fund management services provided to BND.

Contact: Eric Hardmeyer 328-5674

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota  
Section 12

Section 12: No additional fiscal impact.

Contact: Eric Hardmeyer 328-5674

Board of Higher Education  
Sections 15 & 17

Section 15: SBHE Study Incentives for Stimulating Commercialization of New Technologies will require an additional appropriation of \$50,000 in state general funds to UND and NDSU to jointly coordinate and prepare the study. The additional costs reflect staffing costs and related operating costs. Possible consulting assistance may also be necessary.

Contact: Phil Boudjouk, NDSU (701) 231-6542 and Peter Alfonso, UND (701) 777-6736

Section 17: There is no expected alternative source of revenues for this project, thus it is anticipated that it would be funded by General Funds. The project can be separated into two distinct and separable efforts. Part 1 would cover highway and railroad improvements requiring resources of \$360,000. This would include the purchase of the REMI transportation model. Part 2 would cover airports which would require an additional \$125,000. Total cost, not including indirect costs, amount to \$485,000.

Contact: Gene Griffin, Upper Great Plains Transportation Institute (701) 231-8343

Department of Career and Technical Education  
Sections 4 & 13

Section 4: To implement the cooperative work experience program as delineated in this section, the program would be modeled after the school to work system. This would include 30 partnerships (school consortiums) across the state and \$30,000 per year to each partnership to fund a coordinators position to support the local effort. The total cost of the partnerships would then be \$900,000 per year in the grants line item. An additional \$100,000 per year would be needed by the Department to contract for statewide oversight and professional development for schools. The total cost to implement the program within the Department of Career and Technical Education would equal \$2,000,000 for the biennium.

Section 13: No additional fiscal impact.

Contact: Wayne Kutzer 328-2259

Department of Commerce  
Sections 3, 5, 6, 7, & 14

Section 3: The fiscal impact cannot be determined at this time. However, the impact would be contingent upon the Development Fund providing management services for the Bank of North Dakota's alternative and venture capital investments and early-stage capital funds. It should be pointed out that the Bank of North Dakota is not required to contract with the Development Fund, but if they did provide management services to BND, a contract would have to be negotiated and executed between the two parties. It would be expected that the contract would include some type of compensation such as commitment fees, interest rate participations and/or take-out provisions with equity investments.

Section 5: No additional fiscal impact.

Section 6: 2005-2007 & 2007-2009 American Indian Business Development Office

Salary and Fringe Benefits for 1 FTE:	\$105,432
Operating Expenses:	\$23,840
Total Cost Per Biennium	\$129,272

Section 7: 2005-2007 & 2007-2009

Currently funding for the Trade Promotion Authority in the 2005-2007 biennium is contained within the Governor's Executive Budget (SB 2018). The funding comes from \$500,000 in special funds (ND Development Fund).

The aforementioned costs represent the minimum amount required to operate a Trade Promotion Authority Office. It is estimated that the actual cost to run an effective program would be \$1,200,000 per year. Therefore, the \$500,000 of special fund dollars included in the Governor's Executive budget (SB 2018) will be used to leverage federal and private dollars for the additional amount needed.

Section 14: No additional fiscal impact.

Contact: Paul Govig 328-4499

Insurance Department  
Section 16

Section 16: If the Insurance and Liability Study was done by a consulting firm, the fiscal impact would be approximately \$41,250 plus \$2,500 for travel and miscellaneous costs.

If the study was completed in-house, it is estimated that it would require the equivalent of  $\frac{3}{4}$ -1 FTE for six months. Assuming an average blended cost for staff of \$30 per hour and estimating 800-1100 hours, the estimated in-house cost for the department would be \$24,000 to \$33,000. Expenses for travel and mailing etc. might be \$1,500 to \$2,500.

Contact: Chuck Johnson 328-4984

Legislative Council  
Section 11

Section 11: No additional fiscal impact.

Securities Department  
Section 2

Section 2: No additional fiscal impact.

Contact: Karen Tyler 328-2910

Tax Department  
Sections 8, 9 & 10

Section 8: No additional fiscal impact.

Section 9: No additional fiscal impact.

Section 10: No additional fiscal impact.

\*Some of the preceding sections could have a fiscal impact on the tax department but because they are difficult to accurately define at this point, they will be addressed in testimony to the committee or in amendments or both.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

While there are no appropriations within the engrossed bill, it is estimated that the following additional appropriations will be needed for the implementation of each of the following sections:

Section 4: \$2,000,000 - Cooperative Work Experience Program(Career and Technical Education)

Section 6: \$129,272 - American Indian Business Development Office (Department of Commerce)

Section 15: \$50,000 - Technology Commercialization Study (Higher Education)

Section 16: \$43,750 - Insurance Liability Study (Insurance Department)

Section 17: \$485,000 - Transportation Study (Higher Education)

Total: \$2,708,022 General Funds

Note: The \$500,000 in special funds for the Trade Promotion Authority are not included in Table 1A for the 2005-2007 biennium since they are contained in the Governor's Executive Budget (SB 2018).

The following sections are assumed to be on-going programs that would require future appropriations in the 2007-2009 biennium;

Section 4: \$2,000,000 - Cooperative Work Experience Program(Career and Technical Education)

Section 6: \$129,272 - American Indian Business Development Office (Department of Commerce)

Section 7: \$500,000 - Trade Promotion Authority \*\*(Department of Commerce)

Total: \$2,629,272 General Funds

\*\* Note: It is the intent to request a General Fund appropriation in the 2007-2009 biennium for the continuation of the Trade Promotion Authority.

<b>Name:</b>	Paul Govig	<b>Agency:</b>	ND Dept. of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	02/18/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/07/2005

Amendment to: SB 2032

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$6,667,000)		(\$6,667,000)	
<b>Expenditures</b>			\$3,847,825	\$5,100,000	\$2,964,075	\$5,100,000
<b>Appropriations</b>			\$1,088,103	\$5,100,000	\$2,964,075	\$5,100,000

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- Section 1: Venture capital investments. (Bank of North Dakota)
- Section 4: Establish a Commission for Centers of Excellence. (Higher Education) and Debt repayment for BND loan to the Dept. of Commerce for Centers of Excellence matching funds.
- Section 5: Develop a cooperative work experience program. (Career and Technical Education)
- Section 7: Develop an American Indian business development office. (Department of Commerce)
- Section 8: Develop an economic developer certification program. (Department of Commerce)
- Section 9: Develop a procurement information program. (Office of Management and Budget)
- Section 10: Develop an international trade office. (Department of Commerce)
- Section 11: Complete a targeted industries report. (Department of Commerce)
- Section 12: Implement an image information program. (Department of Commerce)
- Section 13: Implement a business hotline program. (Department of Commerce)
- Section 19: Seed capital investment tax credit. (Tax Department)
- Section 22: Complete a business climate initiative study. (Department of Commerce)
- Section 24: Implement the Dakota Manufacturing Initiative. (Department of Commerce)
- Section 33: Complete a technology commercialization study. (Higher Education)
- Section 34: Complete an insurance and liability study. (Insurance Department)

- Section 35: Complete a transportation study. (Higher Education)
- Section 36: Complete an intellectual property rights study.  
(Department of Commerce)
- Section 37: Complete a procurement assistance study. (Office of  
Management and Budget)
- Section 38: Complete an economic development incentives study.  
(Department of Commerce)
- Section 39: Complete a tax study. (Tax Department)

Please note that the estimated expenditures for the 2007-2009 do not include any type of inflation adjustment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Bank of North Dakota

Section 1: This section permits the Bank of North Dakota to invest funds in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund not to exceed \$10,000,000 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds if the management is provided by the North Dakota Development Fund or a third party that is located in the state and that has demonstrated fund management experience.

Based on Bank of North Dakota's (BND) prior experience and on studies done on a national basis it is anticipated BND could incur losses up to 33% of the \$10,000,000 investment in alternative and venture capital investments and early-stage funds. The impact if the entire \$10,000,000 was invested and losses were experienced at the 33% level would be \$3,334,000 over a four-year period. BND shall request from the Industrial Commission a transfer from the Student Loan Trust Fund (contingent on available monies in this fund) to reimburse the Bank for any losses incurred. Any gains from investments must first be applied to offset any losses reimbursed by the Student Loan Trust Fund. Once the Student Loan Trust Fund has been made whole, BND and the Trust Fund shall share any additional revenue on a mutually agreed formula as determined by the Industrial Commission. As currently contemplated there will be no fiscal impact for third party fund management services provided to BND.

Contact: Eric Hardmeyer 328-5674

Tax Department

Section 19: General fund revenues will be reduced by \$2,500,000 in each fiscal year of both bienniums.

Contact: Kathy Strombeck 328-3402

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota  
Section 26

Section 26: No additional fiscal impact.

Contact: Eric Hardmeyer 328-5674

Board of Higher Education

Sections 4, 27, 33 & 35

Sections 4 & 27: The NDUS will incur direct and indirect costs, beyond the general funds appropriated in the bill, related to the following activities in support of an Economic Development Centers of Excellence (COE) program, as mandated in the legislation:

- Establishment of COE program by SBHE
- Provide staff support to the new commission
- Coordinate the preparation of applications from the campuses
- Review of applications by the SBHE
- Preparation of reports to be presented to the Budget Section
- Preparation of annual reports to be presented to the Governor and foundation
- Generating significant local match requirements, now 2:1, totaling \$100 million
- Campus administrative costs for managing center(s)

The costs to complete these activities, although significant both individually and collectively, will be absorbed by the campus and System within current or other externally generated resources. We will not be able to provide a good estimate of the total fiscal impact, until the number and types of projects have been identified.

Contact: Eddie Dunn, NDSU (701) 231-8494

Section 33: SBHE Study Incentives for Stimulating Commercialization of New Technologies will require an additional appropriation of \$50,000 in state general funds to UND and NDSU to jointly coordinate and prepare the study. The additional costs reflect staffing costs and related operating costs. Possible consulting assistance may also be necessary.

Contact: Phil Boudjouk, NDSU (701) 231-6542 and Peter Alfonso, UND (701) 777-6736

Section 35: There is no expected alternative source of revenues for this project, thus it is anticipated that it would be funded by General Funds. The project can be separated into two distinct and separable efforts. Part 1 would cover highway and railroad improvements requiring resources of \$360,000. This would include the purchase of the REMI transportation model. Part 2 would cover airports which would require an additional \$125,000. Total cost, not including indirect costs, amount to \$485,000.

Contact: Gene Griffin, Upper Great Plains Transportation Institute (701) 231-8343

Department of Career and Technical Education  
Sections 5 & 28

Section 5: To implement the cooperative work experience program as delineated in this section, the program would be modeled after the school to work system. This would include 30 partnerships (school consortiums) across the state and \$30,000 per year to each partnership to fund a coordinators position to support the local effort. The total cost of the partnerships would then be \$900,000 per year in the grants line item. An additional \$100,000 per year would be needed by the Department to contract for statewide oversight and professional development for schools. The total cost to implement the program within the Department of Career and Technical Education would equal \$2,000,000 for the biennium.

Section 28: No additional fiscal impact.

Contact: Wayne Kutzer 328-2259

Department of Commerce  
Sections 3, 4, 6, 7, 8, 10-13, 22, 24, 25, 29-32, 36 & 38

Section 3: The fiscal impact cannot be determined at this time. However, the impact would be contingent upon the

Development Fund providing management services for the Bank of North Dakota's alternative and venture capital investments and early-stage capital funds. It should be pointed out that the Bank of North Dakota is not required to contract with the Development Fund, but if they did provide management services to BND, a contract would have to be negotiated and executed between the two parties. It would be expected that the contract would include some type of compensation such as commitment fees, interest rate participations and/or take-out provisions with equity investments.

Section 4: 2005-2007 & 2007-2009

\$5 million in special funds from the student loan trust fund.

Section 6: No additional fiscal impact.

Section 7: 2005-2007 & 2007-2009

Salary and Fringe Benefits for 1 FTE:	\$105,432
Operating Expenses:	\$23,840
Total Cost Per Biennium	\$129,272

Section 8: The fiscal impact would be \$150,000 per biennium. It is likely that the development and delivery of the program would be contracted out to a third party with experience certifying development professionals.

Section 10: 2005-2007 & 2007-2009

Salary and Fringe Benefits (1 Director & ½ Admin. Staff)	\$163,103
Operating Expenses	\$250,000
Total Cost Per Biennium	\$413,103

The aforementioned costs represent the minimum amount required to operate an International Trade Office. It is estimated that the actual cost to run an effective program would be \$1,200,000 per year. Therefore, \$413,103 of general fund dollars will be used to leverage federal and private dollars for the additional amount needed.

Section 11: The fiscal impact would be a contractual expense of \$50,000 per biennium.

Section 12: 2005-2007 & 2007-2009

Salary and Fringe Benefits \$81,183 (77% FTE)	
Operating Expenses	\$18,817
Total Cost Per Biennium	\$100,000

Section 13: Only 2005-2007

Salary and Fringe Benefits (23% FTE)	\$24,249
Operating Expenses	\$5,751
Total Cost Per Biennium	\$30,000

\*The image information program (Section 12) and the business hotline program (Section 13) are authorized, by this legislation, one full-time equivalent position to be shared between the programs.

Section 22: The fiscal impact would be a contractual expense of \$50,000 per biennium.

Section 24: The fiscal impact would be a \$165,000 contractual expense with the Dakota Manufacturing Extension Partnership per biennium.

Sections 25, 29, 30, 31, & 32: No additional fiscal impact.

Section 36: The fiscal impact would be a contractual expense of \$50,000 per biennium.

Section 38: The fiscal impact would be a contractual expense of \$30,000 per biennium.

Contact: Paul Govig 328-4499

Insurance Department  
Section 34

Section 34: If the study was done by a consulting firm, the fiscal impact would be approximately \$41,250 plus \$2,500 for travel and miscellaneous costs.

If the study was completed in-house, it is estimated that it would require the equivalent of  $\frac{1}{4}$ -1 FTE for six months. Assuming an average blended cost for staff of \$30 per hour and estimating 800-1100 hours, the estimated in-house cost for the department would be \$24,000 to \$33,000. Expenses for travel and mailing etc. might be \$1,500 to \$2,500.

Contact: Chuck Johnson 328-4984

Legislative Council  
Section 23

Section 23: No additional fiscal impact.

Office of Management and Budget  
Sections 9, 37 & 41

Sections 9 & 37: 2005-2007 Biennium-\$151,700  
2007-2009 Biennium-\$106,700

Costs associated with an additional FTE, related operating expenses and funds for a study are associated with Sections 9 and 37 of this fiscal note. An appropriation of \$150,000 to OMB is included in Section 41 of this bill.

Revenues-Section 9 and 37 of this bill would not affect state revenues.

Expenditures-Sections 9 and 37 of this bill would increase state expenditures. \$106,700 of the \$151,700 fiscal note would fund an additional FTE in OMB's State Procurement Office. The remaining \$45,000 would fund the development and maintenance of a website to post all state bidding opportunities and a study to determine the most effective manner in which to provide a one-stop procurement assistance center for North Dakota vendors.

Appropriations-A \$150,000 appropriation to OMB is provided in Section 41 of the bill. This \$150,000 is not included in the executive budget. The 2007-2009 appropriation amount is for continued funding for the FTE. Continued appropriation for succeeding bienniums is also needed to set up and operate a procurement assistance center, including maintenance of a website for on-line posting of all bidding opportunities. This amount will be determined pending the outcome of the procurement assistance center study that is conducted during the 2005-06 interim as required in Section 37 of this bill.

Contact: Linda Belisle 328-3494

Securities Department  
Section 2

Section 2: No additional fiscal impact.

Contact: Karen Tyler 328-2910

Tax Department

Sections 14,15,16,17,18,20,21 & 39

Section 14: No additional fiscal impact.

Section 15: No additional fiscal impact.

Section 16: No additional fiscal impact.

Section 17: No additional fiscal impact.

Section 18: No additional fiscal impact.

Section 20: No additional fiscal impact.

Section 21: No additional fiscal impact.

Section 39: \$50,000 of additional administrative costs to complete the study or contract it out.

\*Some of the preceding sections could have a fiscal impact on the tax department but because they are difficult to accurately define at this point, they will be addressed in testimony to the committee or in amendments or both.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The appropriations contained within the individual bill sections are as follows:

Section 8: \$50,000 General Funds, \$100,000 Special Funds  
(Department of Commerce)

Section 9: \$150,000 (Office of Management and Budget)

Section 10: \$413,103 (Department of Commerce)

Section 11: \$50,000 (Department of Commerce)

Section 12: \$100,000 (Department of Commerce)

Section 13: \$30,000 (Department of Commerce)

Section 22: \$50,000 (Department of Commerce)

Section 24: \$165,000 (Department of Commerce)

Section 36: \$50,000 (Department of Commerce)

Section 38: \$30,000 (Department of Commerce)

Total: \$1,088,103 General Funds \$100,000 Special Funds

For the sections that have not be given an appropriation in the bill, it is estimated that the following additional appropriations will be needed for the implementation of each section:

Section 4: \$5,000,000 in Special Funds from the student loan trust fund. (Dept. of Commerce)

Section 5: \$2,000,000 (Career and Technical Education)

Section 7: \$129,272 (Department of Commerce)

Section 9: \$1,700-Additional dollars above the \$150,000 appropriation. Pertains only to the 2005-2007 biennium (Office of Management and Budget)

Section 33: \$50,000 (Higher Education)

Section 34: \$43,750 (Insurance Department)

Section 35: \$485,000 (Higher Education)

Section 39: \$50,000 (Tax Department)

Total: \$2,759,722 General Funds

The following sections are assumed to be on-going programs that would require future appropriations:

- Section 5: \$2,000,000 (Career and Technical Education)
- Section 7: \$129,272 (Department of Commerce)
- Section 8: \$50,000 General Funds \$100,000 Special Funds  
(Department of Commerce)
- Section 9: \$106,700 (Office of Management and Budget)
- Section 10: \$413,103 (Department of Commerce)
- Section 12: \$100,000 (Department of Commerce)
- Section 24: \$165,000 (Department of Commerce)

Total: \$2,964,075 General Funds \$100,000 Special Funds

<b>Name:</b>	Paul T. Govig	<b>Agency:</b>	Dept. of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	02/08/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/20/2004

Bill/Resolution No.: SB 2032

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$6,667,000)		(\$6,667,000)	
<b>Expenditures</b>			\$3,847,825	\$100,000	\$2,964,075	\$100,000
<b>Appropriations</b>			\$1,088,103	\$100,000	\$2,964,075	\$100,000

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- Section 1: Venture capital investments. (Bank of North Dakota)
- Section 4: Establish a Commission for Centers of Excellence. (Higher Education)
- Section 5: Develop a cooperative work experience program. (Career and Technical Education)
- Section 7: Develop an American Indian business development office. (Department of Commerce)
- Section 8: Develop an economic developer certification program. (Department of Commerce)
- Section 9: Develop a procurement information program. (Office of Management and Budget)
- Section 10: Develop an international trade office. (Department of Commerce)
- Section 11: Complete a targeted industries report. (Department of Commerce)
- Section 12: Implement an image information program. (Department of Commerce)
- Section 13: Implement a business hotline program. (Department of Commerce)
- Section 19: Seed capital investment tax credit. (Tax Department)
- Section 22: Complete a business climate initiative study. (Department of Commerce)
- Section 24: Implement the Dakota Manufacturing Initiative. (Department of Commerce)
- Section 33: Complete a technology commercialization study. (Higher Education)
- Section 34: Complete an insurance and liability study. (Insurance Department)
- Section 35: Complete a transportation study. (Higher Education)

- Section 36: Complete an intellectual property rights study.  
(Department of Commerce)
- Section 37: Complete a procurement assistance study. (Office of  
Management and Budget)
- Section 38: Complete an economic development incentives study.  
(Department of Commerce)
- Section 39: Complete a tax study. (Tax Department)

Please note that the estimated expenditures for the 2007-2009 do not include any type of inflation adjustment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Bank of North Dakota

Section 1: This section permits the Bank of North Dakota to invest funds in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund not to exceed \$10,000,000 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds if the management is provided by the North Dakota Development Fund or a third party that is located in the state and that has demonstrated fund management experience.

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Contact: Eric Hardmeyer 328-5674

Tax Department

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Contact: Kathy Strombeck 328-3402

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota  
Section 26

Section 26: No additional fiscal impact.

Contact: Eric Hardmeyer 328-5674

Board of Higher Education  
Sections 4, 27, 33 & 35

Sections 4 & 27: The NDUS will incur direct and indirect costs, beyond the general funds appropriated in the bill, related to the following activities in support of an Economic Development Centers of Excellence (COE) program, as mandated in the legislation:

- Establishment of COE program by SBHE
- Provide staff support to the new commission
- Coordinate the preparation of applications from the campuses
- Review of applications by the SBHE
- Preparation of reports to be presented to the Budget Section
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- Generating significant local match requirements, now 2:1, totaling \$100 million
- Campus administrative costs for managing center(s)

The costs to complete these activities, although significant both individually and collectively, will be absorbed by the campus and System within current or other externally generated resources. We will not be able to provide a good estimate of the total fiscal impact, until the number and types of projects have been identified.

Contact: Eddie Dunn, NDSU (701) 231-8494

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Contact: Phil Boudjouk, NDSU (701) 231-6542 and Peter Alfonso, UND (701) 777-6736

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Contact: Gene Griffin, Upper Great Plains Transportation Institute (701) 231-8343

Department of Career and Technical Education  
Sections 5 & 28

Section 5: To implement the cooperative work experience program as delineated in this section, the program would be modeled after the school to work system. This would include 30 partnerships (school consortiums) across the state and \$30,000 per year to each partnership to fund a coordinators position to support the local effort. The total cost of the partnerships would then be \$900,000 per year in the grants line item. An additional \$100,000 per year would be needed by the Department to contract for statewide oversight and professional development for schools. The total cost to implement the program within the Department of Career and Technical Education would equal \$2,000,000 for the biennium.

Section 28: No additional fiscal impact.

Contact: Wayne Kutzer 328-2259

Department of Commerce  
Sections 3, 6, 7, 8, 10-13, 22, 24, 25, 29-32, 36 & 38

Section 3: The fiscal impact cannot be determined at this time. However, the impact would be contingent upon the Development Fund providing management services for the Bank of North Dakota's alternative and venture capital

investments and early-stage capital funds. It should be pointed out that the Bank of North Dakota is not required to contract with the Development Fund, but if they did provide management services to BND, a contract would have to be negotiated and executed between the two parties. It would be expected that the contract would include some type of compensation such as commitment fees, interest rate participations and/or take-out provisions with equity investments.

Section 6: No additional fiscal impact.

Section 7: 2005-2007 & 2007-2009

Salary and Fringe Benefits for 1 FTE:	\$105,432
Operating Expenses:	\$23,840
Total Cost Per Biennium	\$129,272

Section 8: The fiscal impact would be \$150,000 per biennium. It is likely that the development and delivery of the program would be contracted out to a third party with experience certifying development professionals.

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Salary and Fringe Benefits (1 Director & ½ Admin. Staff)	\$163,103
Operating Expenses	\$250,000
Total Cost Per Biennium	\$413,103

The aforementioned costs represent the minimum amount required to operate an International Trade Office. It is estimated that the actual cost to run an effective program would be \$1,200,000 per year. Therefore, \$413,103 of general fund dollars will be used to leverage federal and private dollars for the additional amount needed.

Section 11: The fiscal impact would be a contractual expense of \$50,000 per biennium.

Section 12: 2005-2007 & 2007-2009

Salary and Fringe Benefits (77% FTE)	\$81,183
Operating Expenses	\$18,817
Total Cost Per Biennium	\$100,000

Section 13: Only 2005-2007

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\*The image information program (Section 12) and the business hotline program (Section 13) are authorized, by this legislation, one full-time equivalent position to be shared between the programs.

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Section 24: The fiscal impact would be a \$165,000 contractual expense with the Dakota Manufacturing Extension Partnership per biennium.

Sections 25, 29, 30, 31, & 32: No additional fiscal impact.

Section 36: The fiscal impact would be a contractual expense of \$50,000 per biennium.

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Contact: Paul Govig 328-4499

Insurance Department  
Section 34

Section 34: If the study was done by a consulting firm, the fiscal impact would be approximately \$41,250 plus \$2,500 for travel and miscellaneous costs.

If the study was completed in-house, it is estimated that it would require the equivalent of  $\frac{1}{4}$ -1 FTE for six months. Assuming an average blended cost for staff of \$30 per hour and estimating 800-1100 hours, the estimated in-house cost for the department would be \$24,000 to \$33,000. Expenses for travel and mailing etc. might be \$1,500 to \$2,500.

Contact: Chuck Johnson 328-4984

Legislative Council  
Section 23

Section 23: No additional fiscal impact.

Office of Management and Budget  
Sections 9, 37 & 41

Sections 9 & 37: 2005-2007 Biennium-\$151,700  
2007-2009 Biennium-\$106,700

Costs associated with an additional FTE, related operating expenses and funds for a study are associated with Sections 9 and 37 of this fiscal note. An appropriation of \$150,000 to OMB is included in Section 41 of this bill.

Revenues-Section 9 and 37 of this bill would not affect state revenues.

Expenditures-Sections 9 and 37 of this bill would increase state expenditures. \$106,700 of the \$151,700 fiscal note would fund an additional FTE in OMB's State Procurement Office. The remaining \$45,000 would fund the development and maintenance of a website to post all state bidding opportunities and a study to determine the most effective manner in which to provide a one-stop procurement assistance center for North Dakota vendors.

Appropriations-A \$150,000 appropriation to OMB is provided in Section 41 of the bill. This \$150,000 is not included in the executive budget. The 2007-2009 appropriation amount is for continued funding for the FTE. Continued appropriation for succeeding bienniums is also needed to set up and operate a procurement assistance center, including maintenance of a website for on-line posting of all bidding opportunities. This amount will be determined pending the outcome of the procurement assistance center study that is conducted during the 2005-06 interim as required in Section 37 of this bill.

Contact: Linda Belisle 328-3494

Securities Department  
Section 2

Section 2: No additional fiscal impact.

Contact: Karen Tyler 328-2910

Tax Department  
Sections 14,15,16,17,18,20,21 & 39

Section 14: No additional fiscal impact.  
Section 15: No additional fiscal impact.  
Section 16: No additional fiscal impact.  
Section 17: No additional fiscal impact.  
Section 18: No additional fiscal impact.  
Section 20: No additional fiscal impact.  
Section 21: No additional fiscal impact.  
Section 39: \$50,000 of additional administrative costs to complete the study or contract it out.

\*Some of the preceding sections could have a fiscal impact on the tax department but because they are difficult to accurately define at this point, they will be addressed in testimony to the committee or in amendments or both.

Contact: Kathy Strombeck 328-3402

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The appropriations contained within the individual bill sections are as follows:

Section 8: \$50,000 General Funds, \$100,000 Special Funds  
(Department of Commerce)  
Section 9: \$150,000 (Office of Management and Budget)  
Section 10: \$413,103 (Department of Commerce)  
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Section 12: \$100,000 (Department of Commerce)  
Section 13: \$30,000 (Department of Commerce)  
Section 22: \$50,000 (Department of Commerce)  
Section 24: \$165,000 (Department of Commerce)  
Section 36: \$50,000 (Department of Commerce)  
Section 38: \$30,000 (Department of Commerce)

Total: \$1,088,103 General Funds \$100,000 Special Funds

For the sections that have not be given an appropriation in the bill, it is estimated that the following additional appropriations will be needed for the implementation of each section:

Section 5: \$2,000,000 (Career and Technical Education)  
Section 7: \$129,272 (Department of Commerce)  
Section 9: \$1,700-Additional dollars above the \$150,000  
appropriation. Pertains only to the 2005-2007  
biennium (Office of Management and Budget)  
Section 33: \$50,000 (Higher Education)  
Section 34: \$43,750 (Insurance Department)  
Section 35: \$485,000 (Higher Education)  
Section 39: \$50,000 (Tax Department)

Total: \$2,759,722 General Funds

The following sections are assumed to be on-going programs that would require future appropriations:

Section 5: \$2,000,000 (Career and Technical Education)  
Section 7: \$129,272 (Department of Commerce)  
Section 8: \$50,000 General Funds \$100,000 Special Funds

(Department of Commerce)

Section 9: \$106,700 (Office of Management and Budget)

Section 10: \$413,103 (Department of Commerce)

Section 12: \$100,000 (Department of Commerce)

Section 24: \$165,000 (Department of Commerce)

Total: \$2,964,075 General Funds \$100,000 Special Funds

<b>Name:</b>	Paul Govig (See individual sections for specific contact information)	<b>Agency:</b>	Department of Commerce
<b>Phone Number:</b>	328-4499	<b>Date Prepared:</b>	01/14/2004



Date: 2-1-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2032

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Espegard Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2032

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As Amended-rerefer to Approp.

Motion Made By Espegard Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2032: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2032 was placed on the Sixth order on the calendar.**

Page 11, line 26, replace "Budget" with "Certification to budget"

Page 11, line 27, remove "approval"

Page 11, line 30, replace "awards funds" with "makes funding award recommendations"

Page 12, replace line 1 with "institutions of higher education under control of the board, tribal colleges located in the state, private baccalaureate-granting institutions of higher education located in the state, and university-related foundations of public or private institutions of higher education"

Page 12, after line 3, insert:

"a. "Board" means the state board of higher education."

Page 12, line 4, replace "a." with "b."

Page 12, line 5, replace "b." with "c."

Page 12, line 6, replace "c." with "d."

Page 12, line 7, replace "d." with "e."

Page 12, line 16, replace "eight" with "six"

Page 12, line 17, replace "two" with "three" and replace the underscored comma with "and"

Page 12, line 18, remove ", and the legislative council shall appoint three"

Page 12, line 19, remove "members of the legislative assembly as nonvoting members of the commission"

Page 12, line 21, replace "two" with "three"

Page 12, line 23, replace "A member of the" with "Initial terms must be staggered"

Page 12, remove lines 24 through 28

Page 12, line 29, remove "officers"

Page 12, line 31, after "review" insert "all" and replace ", make designation" with "; approve, disapprove, or approve conditionally the applications."

Page 13, line 1, remove "determinations." and replace "awards of funds" with "funding award recommendations"

Page 13, line 4, replace "establish" with "provide"

Page 13, line 5, after "completeness" insert "and compliance with board policy"

Page 13, line 6, after the first "commission" insert "according to guidelines established by the commission", overstrike "The", and remove "commission and the legislative assembly each may"

Page 13, line 7, overstrike "designate", remove "a center", and overstrike the period

Page 13, line 10, overstrike "Centers of excellence relating to economic"

Page 13, overstrike lines 11 and 12

Page 13, line 23, replace "designation as a center" with "funding to an institution or an affiliated nonprofit foundation"

Page 13, line 24, remove "proposed"

Page 14, remove lines 8 through 11

Page 14, line 12, remove "(1) Strengthen" and overstrike "the leadership and support of the national science"

Page 14, overstrike lines 13 and 14

Page 14, line 15, overstrike "expanded efforts to stimulate economic growth in" and overstrike "industry"

Page 14, line 16, overstrike "clusters" and remove the underscored period

Page 14, line 17, remove "(2) Provide" and overstrike "leadership in science and technology policy at a regional, a"

Page 14, line 18, overstrike "national, and an international level" and remove the underscored period

Page 14, line 19, remove "(3) Create" and overstrike "employment opportunities for North Dakota university system"

Page 14, line 20, overstrike "graduates."

Page 14, after line 22, insert:

"6. In considering an application, the commission shall:

a. Make a determination that the requirements of subsection 5 have been established by the applicant.

b. Consider whether the center will:

(1) Promote job growth and expansion of knowledge-based industries or the development of new products, high-tech companies, or skilled jobs in this state;

(2) Create high-value private sector employment opportunities in this state;

(3) Provide for public-private sector involvement and partnerships;

(4) Leverage other funding;

- (5) Foster and practice entrepreneurship;
- (6) Link to targeted industry clusters; and
- (7) Include provisions for becoming self-sustaining."

Page 14, line 23, replace "In partnership with the board and the foundation, present" with "Following approval by the board, foundation, and commission, the board and commission shall report"

Page 14, line 24, remove "for approval"

Page 14, line 27, remove "In accordance with commission award determinations approved by the"

Page 14, line 28, remove "budget section, the", overstrike "board", and overstrike "shall allocate funds from"

Page 14, line 29, overstrike "appropriations for" and overstrike "centers"

Page 14, line 30, remove "for the purpose of funding"

Page 14, line 31, remove "centers."

Page 15, line 1, after "section" insert "annually", remove "the status of", and overstrike "such" and insert immediately thereafter "the status of"

Page 15, line 15, after "university-related" insert "or college-related"

Page 15, line 19, after the underscored period insert "However, the commission may reduce the matching funds requirement for applications from institutions other than research universities and the recipient shall provide the board with detailed documentation of the likely availability of the matching funds."

Page 15, line 21, after "university-related" insert "or college-related"

Page 15, after line 24, insert:

"10. The Bank of North Dakota may loan up to fifty million dollars to the department of commerce to provide matching funds to recipients of funds awarded under this section. The debt service due under the loan may not exceed five million dollars per biennium. The loan may be entered into upon terms, conditions, and payment provisions as the parties deem in the best interests of the state. Repayment of each loan by the department of commerce must be secured by a pledge of interest income from the student loan trust fund and repaid from that source and is contingent upon receipt of sufficient biennial appropriations by the legislative assembly for that purpose."

Renumber accordingly

2005 SENATE APPROPRIATIONS

SB 2032

2005 SENATE STANDING COMMITTEE MINUTES

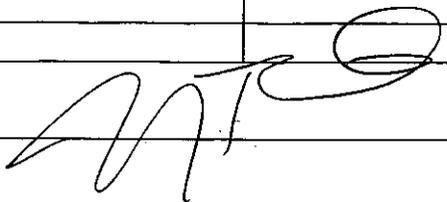
BILL/RESOLUTION NO. SB 2032

Senate Appropriations Committee

Conference Committee

Hearing Date February 15, 2005

*Feb 9, 2005*

Tape Number	Side A	Side B	Meter #
3	X		4,675-END
Committee Clerk Signature 			

Minutes:

**Chairman Holmberg called the meeting to order to discuss SB 2032.**

**Senator Grindberg -** The amendments removed a good portion of SB 2032.

Action taken:

**Senator Grindberg moved a Do Pass recommendation for the amendments (50180.0301) which was followed by a second. The amendments passed unanimously.**

**Senator Grindberg moved a Do Pass as Amended recommendation for SB 2032. Seconded by Senator Fischer.**

Upon **Senator Mathern's** request, **Senator Grindberg** went through what would be left in the bill, section by section after the amendments passed.

**The bill as amended passed unanimously. Senator Grindberg is the carrier of the bill.**

Chairman Holmberg closed the meeting on SB 2032.

Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2032

Hearing Date 02/09/05

looks to the Department of Career and Technical Education to administer CWE program, what it does not do it provide funding, we ask that you please do so.

**Linda Belisle, Director of Central Services Division of OMB** appeared to provide information on Sections 9, 37, and 41 of SB 2032. Written testimony was provided see appendix V.

**Lee Peterson, Commissioner, Department of Commerce** appeared in support of SB 2032.

Mr. Peterson spoke on the 10 million venter capital image and information program and asked to provide the appropriation.

**Sen. Tallackson (1915)** Is this in the Governors budget?

**Mr. Peterson:** The Governor has agreed, but the source of money was not identified.

**Chairman Holmberg** closed the hearing on SB 2032.

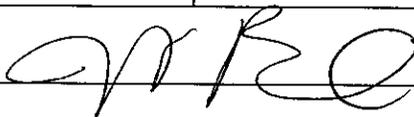
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2032

Senate Appropriations Committee

Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
2	x		0-2195
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened hearing on SB 2032.

**Jennifer Clark, Legislative Council**, appeared to provide an overview of SB 2032. Mr. Clark provided the committee with two documents. Appendix I highlights the 18 sections in the bill. Ms. Clark read all of them and again provided an overview of them. Appendix II was risk capitol studies and repeal, prepared at the request of Sen. Grindberg.

**Sen. Grindberg (800)** made a comment that the members of the interim committee were proud of this because of the good things they have heard out of the business community.

**Robert Potts, Chancellor of ND University System** appeared in support of SB 2032. Written testimony was provided see appendix III. Mr. Potts' comments were regarding sections 4,33, and 35 of SB 2032.

**Wayne Kutzer, Director of the Department of Career and Technical Education**, appeared in support of SB 2032. Written testimony was provided see appendix IV. Section 5 of SB 2032,

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2032

- Page 1, line 1, remove ", a new section to"
- Page 1, line 2, remove "chapter 54-34.3, a new section to chapter 54-44.4, and three new sections to chapter 54-60"
- Page 1, line 4, remove ", a division of economic development and finance local"
- Page 1, remove lines 5 through 7
- Page 1, line 8, remove "hotline program" and remove "15-10-41,"
- Page 1, line 10, after the first comma insert "and" and remove ", and sections 57-38.5-01, 57-38.5-02, 57-38.5-03,"
- Page 1, line 11, remove "and 57-38.5-05"
- Page 1, line 13, remove "the centers of excellence program,"
- Page 1, line 14, after the comma insert "and"
- Page 1, line 15, remove ", and the seed capital investment tax credit"
- Page 1, line 16, remove "and section 15-10-41"
- Page 1, line 17, replace the first comma with "and" and remove ", and the"
- Page 1, line 18, remove "centers of excellence program"
- Page 1, line 19, after "and" insert "a" and replace "studies" with "study"
- Page 1, line 20, after "provide" insert "an" and replace "dates" with "date"
- Page 11, remove lines 27 through 30
- Page 12, remove lines 1 through 31
- Page 13, remove lines 1 through 31
- Page 14, remove lines 1 through 30
- Page 15, remove lines 1 through 30

Page 16, remove lines 1 through 11

Page 17, remove lines 7 through 31

Page 18, remove lines 1 through 5

Page 19, line 2, after "~~appropriations~~" insert "The commissioner may contract with a third party for the provision of services for the division of international trade" and remove the overstrike over the overstruck period

Page 19, remove lines 3 through 31

Page 20, remove lines 1 through 4

Page 27, remove lines 27 through 30

Page 28, remove lines 1 through 31

Page 29, remove lines 1 through 30

Page 30, remove lines 1 through 31

Page 31, remove lines 1 through 10

Page 31, remove lines 13 through 31

Page 32, remove lines 1 through 8

Page 32, remove lines 24 through 31

Page 33, remove lines 1 through 13

Page 33, remove lines 22 through 27

Page 33, line 31, replace "5" with "4"

Page 34, remove lines 12 through 31

Page 35, remove lines 1 through 8

Page 36, remove lines 21 through 31

Page 37, remove lines 1 through 30

Page 38, remove lines 1 through 31

Page 39, line 1, remove "Sections 16, 17, 18, and 19 of this Act are effective"

Page 39, line 2, remove "for taxable years beginning after December 31, 2004." and replace  
"20" with "10"

Page 39, line 3, replace "14" with "8" and replace "15" with "9"

Page 39, line 4, remove "Section 21 of this Act becomes effective August 1, 2009."

Page 39, line 5, remove "Section 13 of this Act is effective through July 31,"

Page 39, line 6, replace "2007, and after that date is ineffective. Sections 5 and 12" with  
"Section 4" and replace "are" with "is"

Page 39, line 7, replace "are" with "is"

Renumber accordingly

Date 2-15-05  
 Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2032**

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended <sup>50180.</sup> .0301

Motion Made By G Seconded By Fisch

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes) 15 No 0

Absent \_\_\_\_\_

Floor Assignment Grundberg

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

SB 2032, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2032 was placed on the Sixth order on the calendar.

Page 1, line 1, remove ", a new section to"

Page 1, line 2, remove "chapter 54-34.3, a new section to chapter 54-44.4, and three new sections to chapter 54-60"

Page 1, line 4, remove ", a division of economic development and finance local"

Page 1, remove lines 5 through 7

Page 1, line 8, remove "hotline program" and remove "15-10-41,"

Page 1, line 10, after the first comma insert "and" and remove ", and sections 57-38.5-01, 57-38.5-02, 57-38.5-03,"

Page 1, line 11, remove "and 57-38.5-05"

Page 1, line 13, remove "the centers of excellence program,"

Page 1, line 14, after the comma insert "and"

Page 1, line 15, remove ", and the seed capital investment tax credit"

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Page 1, line 17, replace the first comma with "and" and remove ", and the"

Page 1, line 18, remove "centers of excellence program"

Page 1, line 19, after "and" insert "a" and replace "studies" with "study"

Page 1, line 20, after "provide" insert "an" and replace "dates" with "date"

Page 11, remove lines 27 through 30

Page 12, remove lines 1 through 31

Page 13, remove lines 1 through 31

Page 14, remove lines 1 through 30

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Page 16, remove lines 1 through 11

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Page 28, remove lines 1 through 31

Page 29, remove lines 1 through 30

Page 30, remove lines 1 through 31

Page 31, remove lines 1 through 10

Page 31, remove lines 13 through 31

Page 32, remove lines 1 through 8

Page 32, remove lines 24 through 31

Page 33, remove lines 1 through 13

Page 33, remove lines 22 through 27

Page 33, line 31, replace "5" with "4"

Page 34, remove lines 12 through 31

Page 35, remove lines 1 through 8

Page 36, remove lines 21 through 31

Page 37, remove lines 1 through 30

Page 38, remove lines 1 through 31

Page 39, line 1, remove "Sections 16, 17, 18, and 19 of this Act are effective"

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Page 39, line 6, replace "2007, and after that date is ineffective. Sections 5 and 12" with "Section 4" and replace "are" with "is"

Page 39, line 7, replace "are" with "is"

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2032

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2032

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-14-05

Tape Number	Side A	Side B	Meter #
1	x		0-34.4
1		x	41.2-end
2	x		0-end
Committee Clerk Signature <i>Jodye Rinke</i>			

Minutes:

**Chairman Keiser:** Opened the hearing on SB 2032.

**Lee Peterson, Commissioner, ND Department of Commerce:** Appeared in support of SB 2032 and provided a written statement (**SEE ATTACHED TESTIMONY**).

**Representative Kasper:** How much money is going to be put in to the Richardton Plant, and how many employees will be working there once it is up and running?

**Lee Peterson:** The amount would be 3.2 million dollars including a \$150,000.00 from APOC which assisted the company in getting itself started up, the remainder of the money is in a preferred stock or equity, and they will have about 36 employees hired, that is the number we got from the company.

**Representative Amerman:** You mention the Centers of Excellence, it sounds

like you said that the money was amended out?

**Lee Peterson:** In the Senate, there was initially 5 million in the department of commerce budget for Centers of Excellence, the intention of that 5 million was a repayment of a 50 million chunk of money, the senate side amended out 2.5 million of that and took away any mention of the 50 million dollars Centers of Excellence.

**Representative Kasper:** Just on your budget, about how many biennial dollars are there?

**Lee Peterson:** It is close to 8 million dollars.

**Jennifer Clark, Legislative Council Interim Economic Development**

**Committee ND:** Appeared in support of the initial bill, there are 7 main topic areas in this bill, the first one is venture and risk capital (Bank of ND), the second one venture and risk capital in General, the third is the cooperative experience program, the fourth one is international trade and the North Dakota American Indian business development office, the fifth is technology commercialization the sixth, is insurance and liability, and the seventh item is transportation.

**Representative Amerman:** Is the funding for Section 4 still intact?

**Jennifer Clark:** No, now I will address the portions that you do not see, that were in the original bill and have been amended out. The Centers of Excellence Programs, a local economic developer certification program, a state procurement program, a target industry program, an image program, a business hot line, the provisions of the bill relating to the seed capital investment tax credit, the

business climate initiatives, that on going LC studies, the Dakota Manufacturing initiatives as well as study and report to LC on intellectual property and economic development, so now you have 7 of the initial 18 major topic areas.

**Gene Griffin, Director of Upper Great Plains Institute, North Dakota State**

**University:** Appeared in support of the bill, and want to briefly emphasis the importance of Section 17, we think transportation logistics are very fundamental for North Dakotas business climate and its economic development opportunities without it we wouldn't have companies, like Bobcat, we wouldn't have farmers marketing to foreign customers, that said what we would plan to do if we tried to do the study is include directing the benefits of lower transportation costs for highway travelers and crate shippers as a result of infrastructure and investment regional economic benefits and jobs are a result of reduced transportation costs improve mobility in the state in three long term benefits we have a number of specifics that we have developed that we have shared with the state board of higher ed when they requested a fiscal note from us, that we would be glad to share with you later if you would like to look at them, I would like to say that without any funding we would not be able to conduct this study and if we were required to do it with limited funding, we could probably do it, but I wouldn't ask you to trust the results of the study.

**Eddie Dunn, Vice Chancellor for Strategic Planning of North Dakota**

**University System:** Appeared on SB 2032 bill and provided a written statement

**(SEE ATTACHED TESTIMONY).**

**Chuck Fleming, Marketing Coordinator, Department of Agriculture:** I am against unfunded mandates, as stated in the amended version of SB 2032. On page 13 it says in language starting on lines 14, that the commissioner may contract with a third party for the provision of services for the division of international trade, we are not opposed to that, but I think we should approach with a little degree of caution and believe that the plan is in fact for the department of commerce to contract and the intentions of probably to contract with a current, private, non profit, corporation.

**Carol Two Eagle:** Appeared in support of SB 2032, and I'm going to ask you to look for funding and the reason being is regarding to Indian Business Development. Most of the Indians in this state do not want to be on welfare, there is a serious problem here and it causes more ramifications then 60% of the welfare dollars that are consumed by the Indian People.

**Representative Froseth:** Is it possible to get a section by section summary?

**Representative Dosch:** I will have some amendments prepared from LC.

Hearing adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2032

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-15-05

Tape Number	Side A	Side B	Meter #
2	x		49.1-end
2		x	0-34.2
Committee Clerk Signature <i>Jay Renke</i>			

Minutes:

**Chairman Keiser:** Reconvened on SB 2032.

**Jennifer Clark, Legislative Council:** Appeared and explained the changes to SB 2032 (**SEE ATTACHED TESTIMONY**). What this document reflects is the 18 subject or issue areas that have been changed and what they were changed from. The first column is the subject matter, in the second column, is what was included in the initial SB 2032. In the second column, you will notice if it remains in 2032 each of those 18 areas or whether it was move to the department of commerce appropriation bill so for every one of those 18, they will either remain in 2032 or 2018. In the third column is the appropriation and the introduction, that is the column that reflects whether there was an appropriation measure in 2032 as it was introduced or as it came out of the interim, in the final column, is what appropriation exists now in each one of the those 18 subject issues.

**Representative Kasper:** I MOVE to AMEND out SECTION 4.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2032

Hearing Date 3-15-05

**Representative Froseth:** I SECOND the motion to AMEND out SECTION 4.

Motion carried voice vote.

**Representative Froseth:** I MOVE TO ADOPT Section 15, 16, 17.

**Representative Ekstrom:** I SECOND the motion to ADOPT the section.

Motion carried voice vote.

**Representative Thorpe:** I Move to further ADOPT Sect. American Indian.

**Representative Ekstrom:** I SECOND the motion to further adopt amendment

Motion carried voice vote.

**Representative Ekstrom:** I MOVE A DO PASS as AMENDED and RE-REFER to

APPROPRIATIONS

**Representative Thorpe:** I SECOND the DO PASS AS AMENDED MOTION and Re-Refer

Motion carried. VOTE: 13-YES 1-NO 0-Absent.

**Representative Dosch will carry the bill on the floor.**

Date: 3-15-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendment Sect. 4

Motion Made By Rep. Kasper Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

Total (Yes) 14 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-15-05

Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House

INDUSTRY, BUSINESS AND LABOR

Committee

Check here for Conference Committee

Legislative Council Amendment Number

50180.0401 -0500

Action Taken

Amend in Sect. 15, 16, 17

Motion Made By

Rep. Froseth

Seconded By

Rep Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

Total

(Yes)

13

No

1 (Johnson)

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 3 Date: 3-15-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Se. American Indus 149,000

Motion Made By Rep. Thorpe Kasper Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent Passed

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-15-05

Roll Call Vote #: 4

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number 50180.0401 .0500

Action Taken Do Pass As Amended & refer to Approps

Motion Made By Rep. Ekstrom Seconded By Rep. Thorpe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigasaa	X				

Total (Yes) 13 No 1

Absent (0)

Floor Assignment Rep. Dosch

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

SB 2032, as reengrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Reengrossed SB 2032 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 15-20.1 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove "experience program; to"

Page 1, line 12, replace "appropriations" with "an appropriation", after the second semicolon insert "and", after the second "provide" insert "an", and replace "dates; and to provide an" with "date."

Page 1, remove line 13

Page 11, remove lines 21 through 30

Page 22, remove lines 4 through 10

Page 23, after line 29, insert:

**"SECTION 16. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$129,272, or so much of the sum as may be necessary, to the department of commerce for the purpose of funding the North Dakota American Indian business development office, for the biennium beginning July 1, 2005, and ending June 30, 2007. The department of commerce is authorized one full-time equivalent position.

**SECTION 17. 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 state board of higher education for the purpose of performing the technology commercialization study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 18. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$485,000, or so much of the sum as may be necessary, to the upper great plains transportation institute for the purpose of performing the transportation study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 19. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$43,750, or so much of the sum as may be necessary, to the insurance commissioner for the purpose of performing the insurance and liability study, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Page 24, line 1, replace "10" with "9"

Page 24, line 2, replace "8" with "7" and replace "9" with "8"

Page 24, remove lines 4 and 5

**REPORT OF STANDING COMMITTEE (410)**  
**March 16, 2005 8:22 a.m.**

**Module No: HR-48-5102**  
**Carrier: Dosch**  
**Insert LC: 50180.0401 Title: .0500**

Renumber accordingly

2005 HOUSE APPROPRIATIONS

SB 2032

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2032

House Government Performance Division

Conference Committee

Hearing Date March 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-End
		X	1-355
Committee Clerk Signature <i>Stephanie N Thomas</i>			

Minutes: **Chair Carlson** opened hearing on SB 2032, relating to venture capital corporations and the Myron G. Nelson Fund, Incorporated; to provide for state agency studies, reports to the legislative council, and a legislative council study; to provide an appropriation; and to provide an effective date.

**Jennifer Clark, Legislative Council:** Overview of sections. (SEE SB 2032)

**Rep. Skarphol:** Do you recall any conversations that took place with regard to how the 5 million that we put in last time has been used, whether it's all been utilized, and what the prospects are for that?

**Jennifer:** I can't give you any detailed information, but my recollection is during interim, the committee heard testimony that the 5 million dollars had been invested.

**Rep. Skarphol:** Did you hear where?

**Jennifer:** I don't recall where they've invested that.

**Rep. Glassheim:** Is there money tied up in either of those funds?

**Jennifer:** Not that I'm aware of. I don't believe that there's any funds. The little I do know about the Myron G. Nelson Fund is that it had been a state investment program, and it had privatized, so I think any transfers related to that have already taken place.

**Rep. Skarphol:** In section 6 with regard to the Office of International Trade, it says the Commissioner shall appoint the director of any division, but then it must give him some latitude to say that the Commissioner may contract with a 3rd party. Does that imply that he does not need to have a director of that division?

**Jennifer:** I would assume that there would need to be a director of the division.

**Rep. Skarphol:** Is there an appropriation for a new FTE in the Commerce Department budget, that you're aware of?

**Jennifer:** I believe that there is an appropriation attached to this that's in 2018. I believe there is a provision in 2018 addressing Trade.

**Rep. Glassheim:** Is there an appropriation for the Division of International Trade in here?

**Jennifer:** It looks like for International Trade my notes indicate that SB 2018 under section 19 addresses the Trade program. It does not include any funding for the Native American Office. The bill before you with the House IB&L appropriation also provides an appropriation for the Native American Office, and one FTE.

**Chair Carlson:** Was any of this funding in the Governor's budget?

**Sandy, OMB:** We put 500,000 dollars from the Development Fund to fund International Trade, not just this particular office, but the International Trade Authority.

**Chair Carlson:** Why did they want to go out for 4 years?

**Jennifer:** I can't speak to what their thinking was on that.

**Rep. Monson:** I read in the fiscal note that it had no fiscal effect. How can that be?

**Jennifer:** My understanding is that comes from a loan from the ND Development Fund, and in theory, I would assume that there would be a return on the investment.

**Rep. Skarphol:** Last session, there was some language put into this particular piece of legislation that establishes a 5 million dollar fund that required that any profits occurring because of investments in these must go back into the Bank of ND Student Loan Fund. I'm not sure what the net result has been.

**Karlene Fine:** When you established the 5 million dollar venture fund last year, you indicated that if there were any shortfalls that the Bank of ND could go to the Industrial Commission to seek reimbursement from the Student Loan Trust. Then there was some amendments that allowed that if there was profits, they would first pay back the Student Loan Trust, and then the profits would be shared between the Student Loan Trust and the Bank of ND. The Bank of ND has now allocated that first 5 million dollars to a number of projects, and at this time we have not had any losses. We've not really had enough time to see how successful those investments are, and this bill will increase the amount to 10 million dollars.

**Rep. Skarphol:** It will have the same provisions with regard to the Student Loan Trust Fund?

**Karlene:** Exactly.

**Rep. Skarphol:** What is the balance in the Student Loan Trust Fund? Is it less than 10 million?

**Karlene:** No. In the 1979 resolution the balance is about 25.9 million dollars, and within the 1996 resolution about 20 million dollars.

**Rep. Skarphol:** If there were the need to go to the Student Loan Trust, which resolution is going to get tapped first?

**Karlene:** It would be this 1979 resolution, because there are fewer bonds outstanding against that resolution. The 1996 resolution there is approximately 122 million bonds outstanding.

**Rep. Skarphol:** In the event there is a supposition that we can take 9 million dollars out of the Student Loan fund next biennium to transfer to the general fund, but in the event of a default, that number may be reduced because of the implications to that particular resolution.

**Karlene:** That is correct.

**Rep. Monson:** Let's assume that some of these venture loans do go south, and they have to tap into that. We've been tapping into that Student Loan Trust Fund for some other things. Are you aware of how much is actually available if things went bad on us here?

**Karlene:** Right now the balance is 25.9 million dollars. The 1152, which you passed out of here, has a transfer of general fund dollars of 9 million dollars that would come out. That would leave a balance of about 17 million dollars still available for if there was a shortfall because of the venture fund.

**Chair Carlson:** What is the reason for the language on page 3, "if they find a 3rd party administrator." Why do they want to do that?

**Jennifer:** There was some testimony from the President of the bank that there's a perceived conflict of interest by the bank both having an ownership position, and managing the funds. That was an attempt to address that concern.

**Rep. Skarphol:** On the top of page 11, can you explain section 3 to me?

**Jennifer:** I can't give you an example of a nonprofit. I think the likely assumption is that they would contract with the ND Development Fund. This Cooperation is the ND Development Fund, so that's existing.

**Rep. Skarphol:** They wouldn't be subject to section 3 on page 11 then?

**Jennifer:** Page 11, lines 1-16 pertains specifically to the ND Development Fund.

**Chair Carlson:** Why does the Develop Fund need to change?

**Jennifer:** My understanding is that you have 2 changes here. You've got the amount of funds that the Bank of ND may borrow form the Development Fund, and then the changes on lines 10-11 authorize the ND Development Fund to contract with the Bank of ND to provide management services.

**Rep. Monson:** Does this mean that the person that he appoints or contracts would be the division chair?

**Jennifer:** You raised a good question that hadn't been discussed during the interim. My reading is that the Commissioner needs to appoint a director.

**Rep. Monson:** It looks like we're taking out, in reference to the maximum amount of money that someone would be able to access, through venture capital.

**Jennifer:** The repeal of these two chapters happened pretty quickly during the interim, and one reason why we're having that 2 year delay in the effective date is if there are any outstanding benefits to having these references in law. If we repeal that chapter of law, this language will have to either be deleted entirely or modified substantially.

**Chair Carlson:** How can they stay out of law, when they are in part of the bill?

**Jennifer:** They'll go in session law, but they won't go into the Century Code.

**Chair Carlson:** So, these studies really are requests for legislative council, or are they mandates to study?

**Jennifer:** The first one on page 20, line 28 would be a required study, and that's a legislative council study. The study on section 11, page 21 would be the Bank of ND studying and reporting to an interim committee. The same thing with section 12. That is a required study of the Commissioner of Commerce, and will report to the legislative council, and the same with section 13, the State Board of Education shall conduct and study and report. Section 14 is the Insurance Commissioner shall conduct a study and report.

**Rep. Monson:** What does the Insurance Commissioner have to do with this?

**Jennifer:** One of the focuses on this study on section 14, is the special focus on the Travel and Tourism Industry.

**Rep. Skarphol:** Section 18, you have to help me understand how it can take 485,000 dollars to do another study on transportation after we've done as many as we've done? What's left to be studied?

**Jennifer:** I don't know if I can address what's left to be studied, but as I recall part of what went into creating that fiscal note was purchasing of a Remmy software system, which would assist in the study. That should be reflected in the fiscal note of this bill.

**Rep. Glasshiem:** Did the Senate take anything out for any other studies, or all of those studies either fully funded, or in legislative council so they are funded automatically through the legislative appropriation?

**Jennifer:** I believe as this bill comes to you, I think they funded anything that had a fiscal note. I think that's what House IB&L intended to do is either take it out or attach a pricetag.

**Austin Gillette:** Testimony of Tex Hall. (SEE WRITTEN TESTIMONY)

**Chair Carlson:** Is there actually someone employed in that area in you department right now?

**Cory Fong:** No. The intent of the legislation would be to provide us with the resources to be able to bring that expertise into our Economic Development Office. So that we can interface more with Native American businesses as well as the Indian Affairs Office, and the Reservations and Tribes to cultivate opportunities for Native American Business.

**Chair Carlson:** There already was a division, or something in your office already that says the ND American Indian Business Development Office. So, you already had in code in ED&F that was one of your duties, correct?

**Cory:** I understand that it was under the office, however there were not the resources to fulfill those needs. Therefore, this would establish the office, and also provide the resources.

**Rep. Skarphol:** That would probably be to implement the bill that we passed today on the House floor?

**Karlene:** 1526 is the guarantee reserve board that's going to be established under the Industrial Commission through the bank of ND, where the Bank of ND will assure that payments are made on outstanding bills.

**Cory Fong:** Testimony of Lee Peterson, and overview of spreadsheet. **(SEE WRITTEN TESTIMONY)**

**Rep. Skarphol:** In column 2, if I go down and add them up there's 5 FTE's listed there. Based on the original plan, there would have been 5 new FTE's authorized, is that correct?

**Cory:** There was discussion about FTE for the Trade Office. In the original version of 2032, there was 1.5 FTE's that were authorized. That was removed when all of it was changed at the Senate.

**Rep. Monson:** That Upper Great Plains Transportation Institute, so they have their own budget within NDSU?

**Eddy Dunn:** It's in Higher Ed's budget.

**Eddy Dunn, Vice Chancellor for the University System:** (SEE WRITTEN TESTIMONY)

**Rep. Skarphol:** Can you comment on the 485,000 dollar figure for the Transportation study?

**Eddy:** It would be for the purchase of Remmy, that they don't have right now. If they were to do that, it does take that specialized software that would be used for it. That would be the intent of it.

Closed Hearing on SB 2032.

*Govt Performance  
2032*

### General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 24, 2005			
Tape Number	Side A	B Side	Meter #
1		X	3445-End
2	X		1-2340
Committee Clerk Signature <i>Stephanie N Thomas</i>			

Minutes: **Chair Carlson** opened general discussion on SB 2032, relating to venture capital corporations and the Myron G. Nelson Fund, Incorporated; to provide for state agency studies, reports to the legislative council, and a legislative council study; to provide an appropriation; and to provide an effective date.

Overview of SB 2032. (SEE SB 2032)

**Lt. Governor Jack Dalrymple:** Clearly, the question of how to handle the ND Trade Office has everything to do with whether it's going to be a division or not a division. It's all part of the same question, your right.

**Chair Carlson:** It's called a division, but then it says it's going to be contracted.

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**Lt. Governor:** You can do both. You can have a division, and then you can still call for contracting the services, so they are not incompatible.

**Chair Carlson:** Do we need a director, or not?

**Lt. Governor:** Probably would be an existing person in Commerce, unless you decided otherwise.

**Rep. Skarphol:** What's going to be their role?

**Lt. Governor:** Overseeing the activity of the Trade Office and the board, and I presume acting as some kind of contact person in the department.

**Chair Carlson:** How do you envision the money, the transfer on a contract basis?

**Lt. Governor:** As I understand it, you're having a problem with this RFP concept, because you don't see that as a very competitive situation. In that case, an option would be to simply let the money flow to the board of the Trade Office, and let them outsource the services to Export ND.

**Rep. Skarphol:** If you say that it's going to be an existing employee, that's fine, but it has to be an employee different, because it creates a new division. Is that what's intended?

**Jennifer Clark, Legislative Council:** I don't recall the committee having a detailed discussion. This wasn't one of the detailed points discussed, however, there's nothing here that says one person can't be the Director of Community Services and Tourism.

**Chair Carlson:** If I'm reading the bill right, there's a half a million dollars taken from the Trade Fund to fund the Trade Office.

**Lt. Governor:** Structurally, I think you need a couple of things. If your going to have a division, fine, but then the money that you're appropriating goes to the division. Then I think you need to make it clear that the oversight of the funds, or the use of the funds, is directed by a

2032

board known as the ND Trade Office. They in turn are authorized to obtain services, contract with a 3rd party for services necessary to carry out the mission of the Division of Export Trade, and the ND Trade Office.

**Chair Carlson:** We could just plain make it the responsibility of the director that he contract for such and such duties in regard to International Trade to.

**Jennifer:** Academically, the Commissioner has authority to create this office. He can create any division he wants.

**Lt. Governor:** I think you could send the money to the Division of Economic Development and Finance/Department of International Trade, line item. The responsible person is the Director of Economic Development and Finance, and the funds are dedicated to the International Trade Activity. The funds are under the supervision of the ND Trade Office, which is governed by a board. The board has the authority to contract for International Trade Services with a 3rd party.

**Rep. Monson:** I'm fine with us putting money into ED&F for International Trade, but I don't know if we want to bring in the board and the bidding. I'd like to somehow get language in there that the RFP that was let out before, it can somehow be extended for the next biennium, so we don't have to go through that. I don't know if this board is actually even necessary. If we make ED&F responsible for this money, I would hope she would be getting feedback from people on the board.

**Lt. Governor:** I think this committee last time created the ND Trade Office as the place for the \$75,000 to go.

**Chair Carlson:** So, in other words, your Trade Office is history?

**Lt. Governor:** I suppose technically, it is.

**Rep. Monson:** Do you really need a board that votes as officially appointed by the Governor, if you've got ED&F in charge of this?

**Lt. Governor:** I think that's exactly what happened, now that you mention it. I think Linda just created an advisory board of her own to tell her what to do with the \$75,000.

Closed General Discussion Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2032

House Government Performance Division

Conference Committee

Hearing Date Monday, March 28, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-4520
Committee Clerk Signature <i>Theresa W. Trembly for Steph.</i>			

Minutes:

**Chairman Carlson** opened discussion on SB 2032. **Ms. Jennifer Clark, Legislative Council**, was present to assist the Committee. They began with section 1 which covers pp. 1-6 of the bill with regard to the Bank of North Dakota's venture capital investments. With regard to the change in date from 2007 to 2009, Ms. Clark said the investments take quite a long time to mature, so that may be why it was extended. **Chairman Carlson** asked where the \$10 million funding comes from and **Rep. Skarphol** said that last time they made sure it was guaranteed out of the student loan trust. **Rep. Monson** said that on Line 14, p. 1, "The Bank of North Dakota may..." **Chairman Carlson** asked **Director Karlene Fine, Industrial Commission**, where that money originated. **Dir. Fine** said the money comes from the investments of the Bank of North Dakota. **Chairman Carlson** added the undivided assets and **Dir. Fine** confirmed as well as the fact that if there's a loss, the Bank can go to the Industrial Commission to seek reimbursement from the Student Loan Trust Fund. **Rep. Skarphol** added that if there's a profit, the money is turned back

to the student loan trust first. **Dir. Fine** said that after that the BND and the trust fund share in any profits. **Chairman Carlson** asked how much has been used so far. **Rep. Skarphol** said \$4.6 out of the \$5 million. **Chairman Carlson** asked if this is a new \$10 million or \$5 million on top of the \$4.6 million used up. **Dir. Fine** said this is an additional \$5 million for a total of \$10 million that the Bank could invest. **Chairman Carlson** asked why they want a third party administrator. **Rep. Skarphol** said that's due to the conflict of interest that's created by the Bank doing both the venture capital and potentially underwriting the loan. **Dir. Fine** explained this would happen if the bank were approached to invest as an equity investor, but it also had to make a loan. When you become an equity investor, you make determinations regarding a loan that might be different. The third party could be the development fund within the Dept. of Commerce or it could be some other N.D. managed company that meets qualifications spelled out in statute. **Chairman Carlson** asked if this is done case by case or whether it's third party management. So far, this hasn't applied, but it provides the flexibility when needed.

**Chairman Carlson** asked if this is the only program where the legislature is tapping into those undivided assets. **Dir. Fine** said this is the only program where the Bank is directed to use their assets to invest in specific programs.

**Chairman Carlson** asked for confirmation regarding Ms. Clark's response about the date change and **Dir. Fine** confirmed.

**Chairman Carlisle** asked **Ms. Clark** if the language is pretty much the same from pp. 1-6. **Ms. Clark** said corresponding to section 1 is section 3, which begins on p. 10 and concerns the N.D. Development Fund. This section authorized the Development Fund to be a third party and makes the change from \$5 to \$10 million. **Chairman Carlson** asked if by including the \$10 million in

two places, it's actually authorizing \$20 million. **Ms. Clark** said one mirrors the other. **Rep.**

**Monson** asked about the reference to "the corporation" on p. 11. **Ms. Clark** said "the

corporation" is the N.D. Development Fund. **Rep. Skarphol** asked how this will read in the final analysis--which sentence will be first, that on p. 3 or p. 11. They're both from the same section of

law. **Ms. Clark** said section 1 is Bank of North Dakota, chapter 609. On p. 11 it refers to the

corporation's title 10. **Rep. Monson** asked why it refers to "third party management" when it

really means "development fund." **Ms. Clark** said they're both permissive. The BND may

contract for the third party; if they chose not to, there's no need to go further. If they choose to

have a third party manager for one or all of their investments, they then would choose who does

it, whether the development fund or somebody else. If they do choose the development fund,

there needs to be an authorization. **Chairman Carlson** summarized that this gives the

development fund authority to borrow up to \$10 million which comes through the Bank and they

could manage the services. **Ms. Clark** confirmed.

**Chairman Carlson** referred the Committee to Section 2. **Rep. Skarphol** asked first about

section 11 and whether or not that was germane to venture capital. **Ms. Clark** said yes. It's the

study provision. **Chairman Carlson** asked why section 1, 3, and 11 aren't in the beginning of

the bill. **Ms. Clark** said that when they amend sections of law, they are done in order that they

would occur in the Century Code. Title six comes before ten. They also go from lowest to

highest.

**Rep. Skarphol** asked if sections 2, 7, 8, 9, 11 & 20 all dealt with seed capital. (Meter #1170)

**Ms. Clark** said 2, 7, 8, 9, 10 & 20 relate to the repeal of the venture and risk capital and Myron

Jean Nelson funds. **Rep. Skarphol** asked her to repeat and she said those sections relate to the

venture and risk capital chapter of law and the venture capital corporations chapter of law. They are all responsive to the repeal provision under section 9 of the bill (See p. 20). She noted that two sections of law are to be repealed, effective 2007. As soon as those sections of law are repealed, any time those sections are mentioned, they have to be changed throughout the Code.

**Rep. Skarphol** said that's what's happening in section 2, subsection 12, on p. 9 and **Ms. Clark** confirmed. **Chairman Carlson** asked why that language is being taken out. **Ms. Clark** referred to line 11 and "organized under ....chapter 10-30.1" and said since it doesn't exist, it's deleted. There can't be a venture capital corporation or any organization under 10-30.1 because it's repealed. **Rep. Skarphol** asked why and **Ms. Clark** said according to testimony, those two chapters of law haven't been used for years. **Rep. Monson** said this is cleaning up the Code. **Ms. Clark** said there may some value to retaining these sections and there's a corresponding study to allow for input on any changes that might make this section valuable. **Rep. Monson** said that's the reason for the 2009 date and **Ms. Clark** confirmed. **Rep. Skarphol** asked if it doesn't also differentiate between seed capital and others. **Ms. Clark** said there's a seed capital investment tax credit, and that body of law is located in 2018.

**Ms. Clark** said sections 4, 5, and 6 are all related to the organization of EDF and the Department of Commerce and the Tribal and Trade Office. **Chairman Carlson** asked if there were any comparable sections in the appropriations bill. **Ms. Clark** said they have the appropriation for the international. She informed the Committee that she had prepared the amendment as directed which would pull this subject area out and put it in 2018. **Chairman Carlson** asked if the three sections could be tied into the other bill. **Ms. Clark** said that would be appropriate because it's directly related to the Department of Commerce. **Rep. Skarphol** asked if those were 4, 5, and 6

and **Ms. Clark** said yes. She said it would also pull out 12 which is the report and 16 of the appropriation. She referred to the amendment .0205 dated March 24. She said that if they pulled this out of the bill, this is what it would like in 2018. She hasn't prepared the corresponding amendments to 2032. **Chairman Carlson** said they would consider this later, but the Committee will assume that sections 4, 5, 6, 12, and 16 could come out of this and go into Commerce where it belongs. He thanked Ms. Clark for doing this work.

**Chairman Carlson** referred the Committee to section 7 and **Ms. Clark** explained that this is a cross reference to the repeal of those two chapters (See pp. 18-19). She went on to point out that section 8 on p. 20 is the same thing. Lines 10-11 are changing a cross reference.

**Chairman Carlson** asked about section 10 and **Ms. Clark** said it's related to section 9. That is a legislative council study attached to that repeal. When something is repealed, this is to make sure no one's adversely affected or whether modifications could be made which make it valuable to keep.

**Chairman Carlson** noted that sections 11, 13, and 14 are studies. Section 15 is an appropriation and a transportation study. **Ms. Clark** said there are appropriations; for 13 the appropriation is in 17; for 14, the appropriation is in 19; for 15, the appropriation is in 18. **Chairman Carlson** said \$50,000 for higher education technology commercialization; \$485,000 for the transportation study; \$43,750 for the insurance and liability study; and the other part is the effective date of that repealer.

**Chairman Carlson** left to testify on another bill. (Meter #2150) **Rep. Monson** asked if all of these studies are really needed. He said he understood about section 10. **Ms. Clark** said the repeal is 2007 and the N.D. Development Fund and BND program expires in 2009. **Rep.**

**Skarphol** said that repeal doesn't take place until the study's done. **Ms. Clark** said the study on section 11 is directly related to the BND and ND Development Fund. **Rep. Skarphol** said the report from the President of the BND regards the status of the investments and whether the investment program should continue and whether there are potential changes that could improve it.

**Rep. Monson** asked about section 14 regarding the state's liability insurance marketplace. **Ms. Clark** asked the Committee if knew what the interim economic development committee did. It's was Rep. Berg's primary sector business congress. The Committee met four times in each quadrant of the state where they invited local businesses and economic developers to discuss their needs. They also hired a consultant. They developed a list of 20 issues that kept coming up, such as barriers in our business climate, and the Committee reviewed the list to determine what changes could be made in the law. They acknowledged how important the insurance climate is to promote business, but since they didn't know what to do, the study directs the insurance commissioner to gather the necessary information. Some issues were delayed. The transportation study came from the problem of how to get product to market, especially in rural areas. **Rep. Skarphol** asked why there's a \$485,000 appropriation to do a study the Upper Great Plains thtransportation Institute should be doing with their regular appropriation. He asked if this is to hire a consultant. **Ms. Clark** said she thought they are the consultant that's being hired. She added that the interim committee probably didn't see this figure. **Rep. Skarphol** said he still didn't understand why this was in addition to the regular appropriation or why priorities couldn't be shifted to handle this as well. **Ms. Clark** said this is a policy decision and to further questions, she deferred to someone more informed. **Rep. Glassheim** asked how many general fund dollars

they receive. **Ms. Clark** said it's about \$500,000. **Rep. Skarphol** asked the source of the rest of their money. **Ms. Clark** said she wasn't sure. **Rep. Skarphol** said it's a budget of \$15 million.

**Rep. Glassheim** suggested much of that must be grant money to do studies. **Ms. Clark** said House IBL would have written testimony that would clarify these questions. **Rep. Skarphol** suggested they study further on this issue. He noted that in Full Committee they discussed \$300,000 for the Upper Great Plains Institute in one of the other budgets. **Ms. Clark** said their appropriation is in 2020, which is the Ag Research bill.

**Rep. Skarphol** asked about the amendment and **Ms. Clark** said the amendment to 2032 hasn't been drafted. She was waiting to see if there was anything else that would be taken out. **Rep. Skarphol** asked **Ms. Sandy Paulson, OMB**, when the insurance commissioner study took place. **Ms. Paulson** said she just spoke with Commissioner Poolman and he told her there was no need for this study. He can provide this information now as a result of background work they've already done. **Ms. Clark** said that when IBL put that \$43,750 in, they took it off the fiscal note for the Insurance Commissioner's Office. The fiscal note hasn't been changed since then.

**Chairman Carlson** returned to the Committee.

**Rep. Skarphol** asked what REMI meant and **Chairman Carlson** suggested is meant Regional Economic Measurement Indicators. Another suggested it means Regional Economic Models, Inc.

**Rep. Skarphol** said the Commerce Department has the REMI system; he wasn't sure why Upper Great Plains needed one, too. **Chairman Carlson** said he read the Upper Great Plains manual and what they're doing here is what they're supposed to do. Their mission is to study infrastructure, road to market, etc. That's why they get federal money. **Rep. Glassheim** asked if someone could come and speak to them regarding all this.

**Chairman Carlson** asked if there was anything in 2018 that should come back to be in with the venture and seed capital. **Ms. Clark** said there were some things in 2018 that are not specifically Department of Commerce. One is the OMB state purchasing. Arguably, centers of excellence is a Department of Commerce program. It started there last session from an appropriation bill. She noted that the Department of Commerce must qualify a business in order to come under the seed capital investment tax credit. This could be moved over to the Tax Department. She also mentioned an intellectual properties study in 2018 that's being conducted by Higher Ed.

**Rep. Monson** asked if the Committee was finished with 2032 and **Chairman Carlson** asked if there were any more questions. Since there weren't, he closed discussion on 2032.

(Meter #4520)

*Govt Performance  
2032*

### General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 31, 2005			
Tape Number	Side A	B Side	Meter #
1	X		1-End
		X	1-5725
Committee Clerk Signature <i>Stephanie Thomas</i>			

Minutes: **Chair Carlson** opened general discussion hearing on SB 2032, relating to venture capital corporations and the Myron G. Nelson Fund, Incorporated; to provide for state agency studies, reports to the legislative council, and a legislative council study; to provide an appropriation; and to provide and effective date.

**Jennifer Clark:** Overview of amendment. (SEE AMENDMENT 50180.0406)

**Rep. Skarphol:** If you got private sector putting \$2.00 up for every \$1.00 we give them, who owns it?

**Lt. Governor Dalrymple:** I think the Designation Center of Excellence relates to it's presence on a campus, and that is what we're talking about here is the Designation Center of Excellence. I

2032

know that sounds contrary to the notion that the private sector partner is the key to the deal, but as far as the state is concerned, that's where we participate.

**Rep. Skarphol:** How many private sector people are going to go for a deal that says a center must be an institution of Higher Education under the control of the board, or a nonprofit. I'm having difficulty figuring out whose going to do this.

**Lt. Governor:** If you were going to have a Center of Excellence of weather modification at NDSU. The private company could put in 100 million dollars if they want, but what we're doing is creating a Center of Excellence by bringing students, faculty, and other resources to it. So, our law needs to talk about what we consider to be the Center of Excellence, and how we put money into it.

**Rep. Glassheim:** Is a Center of Excellence necessarily a building, or is it an entity? If that's the case, does the building have to be on a campus?

**Lt. Governor:** It is a center of activity, much of it economic activity. There is a School of Architecture in downtown Fargo. If something is happening in the vicinity of the School of Architecture, yes that could be a Center of Excellence. Conceptually, it would almost have to be at least in the vicinity, otherwise it's hard to imagine faculty students participating. Your right, the Center of Excellence is where the activity takes place, wherever that may be.

**Rep. Skarphol:** You need to help me understand what it is your getting at, because I'm still having difficulty not understanding why we can't define center in a more adequate matter than what is defined here.

**Jennifer:** When I use the word center, I mean someone the board has designated.

**Rep. Skarphol:** I move amendment 50180.0406 with changes.

General Discussion

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House Government Performance

March 31, 2005

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**Rep. Monson:** Second.

Voice vote, amendment passes.

**Rep. Skarphol:** Do pass, as amended.

**Rep. Glassheim:** Second.

Roll Call vote. SB 2032 is a do pass, as amended.

*Govt Performance  
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### General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date April 1, 2005			
Tape Number	Side A	B Side	Meter #
1	X		1-End
		X	1-End
2	X	X	!-1175/4315-6166
Committee Clerk Signature <i>Stephanie Thomas</i>			

Minutes: **Chair Carlson** opened general discussion on SB 2032, relating to venture capital corporations and the Myron G. Nelson Fund, Incorporated; to provide for state agency studies, reports to the legislative council, and a legislative council study; to provide an appropriation; and to provide an effective date.

Overview of amendment. (SEE AMENDMENT 50180.0407)

**Chair Carlson:** If this were to pass, it would basically take another 2 ½ million dollars out of the Treasury, because it will probably get used.

**Dennita Wald:** The credit is figured by the fact that you can only take 1/3 of it per year. So, it's really only 833,000 dollars per year that can actually be paid.

**Chair Carlson:** How does it get so you can only use 1/3 of that, because you have to spread it out over 3 years? Why wouldn't there just be more people in the pool that would get to the 2 1/2 million, and they each take it over 3 years?

**Rep. Skarphol:** You can only take 1/3 of it per year, so once you get to the 2 1/2 million you can only take 833,000 like she said. The next year, you can carry forward 833,000. So, it will take us 3 years to get to a full 2 1/2 million, if it's fully utilized.

**Rep. Glassheim:** What would be the affect for next biennium under current law?

**Dennita:** We're out. There would be no credit anymore.

**Rep. Skarphol:** How long does it take for one of these credits to expire?

**Jennifer:** 5 years, then it would be done.

**Rep. Monson:** Does this retroactivity fall under any total limit, as far as 2 1/2 million? Does that go back and fall under the limits in section 12, or is there no limit really on this other than what we have put in here in 1-4?

**Dennita:** It really is already limited by the fact that it wasit was firm investments made in 2004. We know who those individuals are, and we know how much that is. We have estimated that to be 250,000 for the current biennium, and then 500,000 decrease in 2005/07.

**Chair Carlson:** I need to know the ramifications of what he wants to do. How you would do it, and how would it affect what we just talked about.

**Dennita:** I would advise to put in the affective date clause that section 9 of this act is affective for any business certified by the director after December 31, 2004.

**Rep. Glassheim:** With these measures, what's the estimate of the cost to the Treasury for all off these measures, as opposed to not enacting them?

**Chair Carlson:** There's going to be a new fiscal note, and that will be coming.

**Rep. Monson:** Where do we address ownership, because if it was a partnership they would own it together?

**Jennifer:** The note I had made is to insert some language that would cross reference the intellectual property in this section.

**Chair Carlson:** Where does the Commission actually sit in this whole approval process?

**Lt. Governor:** In the front.

**Rep. Skarphol:** I talked about the possibility of changing our laws in regard to incorporating in the state. Is there anything being done on that over the interim?

**Jennifer:** As a bit of background, there's been some discussion on whether our incorporation laws, our constitutional provisions, and our judicial system, whether it provides a beneficial location for corporations to incorporate there. There had been a study requirement for the Secretary of State to look at our laws and figure out what could be improved, and that didn't go anywhere. I believe the State Fire Association had been working with attorney's to review the Constitution. I'm not aware of anything else going on.

Recessed until after floor session.

Reconvened on SB 2032.

Overview of amendment. (SEE AMENDMENT 50180.0409)

**Rep. Monson:** In your definition of the Center of Excellence, what is the Center of Excellence?

**Jennifer:** Through this chapter when we refer to a center, we're talking about one that has been designated, so it has gone through everything. Now when you talk about who can be designated, it's going to be one of our institutions or foundation non profit related to one of our institutions,

under the control of the State Board of Higher Education. So, it's one of our University system campuses. They are working in partnership in order to come to the table and submit an application. They have to have some type of partnering arrangement with the private sector.

**Rep. Swedjen:** Was your intent the one time funding only, one time per biennium?

**Chair Carlson:** Yes.

**Rep. Skarphol:** Move do pass on 0409 to SB 2032.

**Rep. Monson:** Second.

Roll call vote, amendment passes.

**Rep. Skarphol:** Move do pass, as amended on SB 2032.

**Rep. Monson:** Second.

Roll call vote on a do pass on SB 2032 as amended by 0406.

SB 2032 is a do pass, as amended.

Reopened general discussion hearing. Overview of amendment.

(SEE AMENDMENT 50180.0408)

**Rep. Glassheim:** I move to reconsider our action on SB 2032

**Rep. Skarphol:** Second.

Voice vote.

**Rep. Skarphol:** I move to further amend as per 0408, except for #3 on page 9.

**Rep. Monson:** Second.

Voice vote, amendment passes.

**Rep. Skarphol:** I move SB 2032, as amended.

**Rep. Monson:** Second.

General Discussion  
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Roll call vote. SB 2032 is a do pass, as amended.

Closed General Discussion Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2032  
Career and Technical Education

House Appropriations Full Committee

Conference Committee

Hearing Date April 4, 2005

Tape Number	Side A	Side B	Meter #
1	X		#28.8 - # end
1		X	#0 - #20.5
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the discussion on SB2032.

**Rep. Al Carlson** moved amendment #0411 to SB2032

**Rep. Bob Skarphol** seconded

**Rep. Al Carlson** explained that this bill was changed in the Senate and IBL in the house and from our own committee. We moved all funding from this bill over to the bill SB2018.

**Ms Jennifer Clark** of legislative council explained the 9 major topic areas of the bill. The first topic area is Venture and Risk Capital effecting sections 1,3 and 19 of the amendment.

**Rep. Jeff Delzer** asked if this is the only place in all the bills that we changed that \$5 million in venture capital to \$10 million, is this money coming from the bank's profits, and of the \$5 million we had in there for this biennium, how much was spent.

**Ms Jennifer Clark** answered that these were the only two instances that she was aware of that the venture capital was changed. She was unable to answer where the moneys came from.

**Rep. Bob Skarphol** answered that \$4.6 million of the \$5 million is committed. Most of it to Alien Technologies in Fargo and the balance to small projects primarily in the east.

**Rep. Jeff Delzer** asked if this other \$5 million is already committed.

**Rep. Bob Skarphol** answered that there was no discussion about this money being committed anywhere. The discussion was just that they needed this extra \$5 million to be there in case they needed it. In answer to the earlier question regarding where the money comes from, it does come from the Bank of North Dakota but it is guaranteed by the Student Loan Trust Fund.

**Rep. Jeff Delzer** asked when any repayments would begin on the committed portion of these funds.

**Rep. Bob Skarphol** answered that as venture capital it is highest risk but it is not anticipated to be lost. These are good solid projects.

**Rep. Jeff Delzer** asked when the repayment would begin or would this be a rotating fund.

**Rep. Bob Skarphol** answered that if there are any repayments, the funds would be returned to the sources from which the came.

**Rep. Al Carlson** commented that there was an earnings estimate of loans paid back of \$4.250 million and the beginning balance of July 1, 2005 will be \$3.281 in the fund and it is a revolving fund. The default rate is low. (meter Tape #1, side A, #37.6)

**Rep. David Monson** explained that Rep Carlson was explaining the development fund and not the venture capital fund. Rep Monson explained that the venture capital fund has not started paying anything back yet and there are no set deadlines for when any repayment, if any, would begin.

**Rep. Jeff Delzer** asked if there were any required audit reports in the amendments or are the audited strictly with the Bank of North Dakota.

**Ms Jennifer Clark** answered that section 19 of the bill on page 21 is the corresponding report to legislative council from the President of the Bank of North Dakota. It is not a required audit but is a report on the status of the program and the investments.

**Rep. Eliot Glassheim** commented that this would be a regular Bank of North Dakota audit since this is regular loan money even though it is a higher risk.

**Rep. Jeff Delzer** answered that Bank of North Dakota audits are hard to follow but that he would follow this up on his own.

**Ms Jennifer Clark** explained that the second major topic in this bill is in the area of the repeal of 2 chapters of century code and all related cross references relating to venture capital corporations (section 16, page 20) The third major topic contains the Centers of Excellence which effects section 4 on pages 8-11 of the amendment. This area is substantially different then how they came over from the Senate.

**Rep. Ken Svedjan, Chairman** clarified that none of the reviewing bodies can change or alter the application. The program has to stand on its own merits as initially applied for

**Rep. Mike Timm, Vice Chairman** asked about the Industry Cluster and the 6 categories listed. Is there anything that would not qualify If not, why would you limit this

**Rep. Bob Skarphol** answered that when he had asked a similar question in committee the answer given to him was that the strategic plan for the Commerce Department had 5 targeted industries and the strategic plan recommended that these targeted industries should be the focus of the Centers of Excellence because these are the primary areas of focus for the state of North

Dakota. Virtually anything that could be thought of could be incorporated into these things so there is no prohibition of ideas or industry.

**Rep. Ken Svedjan, Chairman** another way to ask this is could an idea that has applied but not technically categorized in any of these 6 categories still be eligible to be a Center of Excellence and still be funded.

**Rep. Bob Skarphol** commented that there was nothing in the list on page 10 that limits what could be considered.

**Rep. Mike Timm, Vice Chairman** asked, for example, if a University comes with an idea and applies at the Board of Higher Education, but they don't fit into one of these 6 clusters then they would they be denied.

**Rep. Ken Svedjan, Chairman** explained that these 6 categories are targets or the most likely areas, but if something new came into the picture it could still be considered for funding under this. (meter Tape #1, side A, #53.5)

**Ms Jennifer Clark** explained that the list under section 3 included everything that must be met to qualify. It is not based on the 6 categories but on this list.

**Rep. Al Carlson** commented that this is not just an expansion of the colleges This is economic development, not growth in higher education

**Rep. David Monson** explained how they arrived at the 6 categories and said that this is a catch all for everything.

**Ms Jennifer Clark** explained that section 5 on page 11 also related to the Centers of Excellence. This section changes the membership of the Emergency Commission. The report Provisions are

found in section 20 and the repeal date for this new chapter of law would be 2011 as found in section 26.

**Rep. Bob Skarphol** commented that it would be helpful to include all the rejected applications in the report on the Centers of Excellence so we can get an idea of what the trend is for acceptance as a center.

**Ms Jennifer Clark** explained that the next major topic relates to state procurement and purchase opportunities in section 6 of the bill, pages 11-12..

**Rep. Bob Skarphol** commented that procurement reports that the current status is that 1/3 is from North Dakota and out of state is 2/3. With this web site, this report would be reversed

**Ms Jennifer Clark** explained that OMB will do a study on the most effective manner in which to provide for procurement assistance for North Dakota's private businesses. (section 24, page 22)

**Rep. Bob Martinson** asked about the Majority Leader change topic in the Emergency Commission section.

**Ms Jennifer Clark** answered that if the Majority Leader was unable to attend then they could ask their assistant to attend.

**Rep. Bob Martinson** asked what "another capacity" meant.

**Ms Jennifer Clark** answered the only situation where the Majority Leader would already be on the committee in a second capacity would be if they were also the Appropriations Chair. (meter Tape #1, side B, #6.4)

**Ms Jennifer Clark** explained that the next major topic area relates to the Seed Capital Investment Tax Credit in sections 9-14 on pages 17-20 of the amendments.

**Rep. Al Carlson** commented that this deals with corporate tax law. We have a limit of how many credits can be given by statute, up to \$2.5 million. When this is reached, it's over. This changes that limit to \$2.5 million per year. This is an enticement to put capital into risky ventures. This also allows companies of the past who did not ever get their credits to now get their credits since there is enough money in the program now.

**Rep. Ole Aarsvold** asked if the language at the top of page 20 allows these folks to get the full investment credit.

**Rep. Al Carlson** answered that you could only take  $\frac{1}{4}$  of the credit per year so it spreads this out over multiple tax years.

**Rep. Ole Aarsvold** asked if the reference to the 45% on page 20 was in fact the understanding of the investor at the time of application that it would be 45% of the investment.

**Rep. Al Carlson** answered that this was his understanding of this.

**Rep. Bob Skarphol** commented that there were also provisions in here that explain that this is not for Ag commodity processing facilities. This also provides another criteria for what a qualified business is to be eligible for these tax credits.

**Rep. Al Carlson** commented that this also liberalizes the definition of a pass through entity.

**Ms Jennifer Clark** commented that this broadens who a tax payer is and who can invest in these qualified businesses.

**Rep. Al Carlson** commented that this would involve more people in investing in venture capital.

**Ms Jennifer Clark** explained that the 6th major topic area relates to the Business Climate Initiative in section 17 on page 20. The next major topic relates to Technology

Commercialization on page 21 section 22. Another major topic is the Insurance Liability Study in section 21 on page 21. The final topic is the Transportation Study done by the Upper Great Plains Transportation Institute in section 23 on page 22.

**Rep. Ole Aarsvold** commented that he was not quite comfortable with the retro activity of the Seed Capital Investment part. Why are the Ag commodity processing facilities excluded from this when they were considered qualified businesses before. (meter Tape #1, side B, #14.9)

**Rep. Bob Skarphol** answered that these facilities are covered in SB2281. There were only a limited number of companies that had been qualified businesses that would be eligible for the retro active aspect of this for a total of \$500,000 tax credit.

**Ms Dinita Wald** legal counsel with the tax department, answered that SB2281 has a retro active feature that addresses these facilities.

**Rep. Francis J. Wald** asked what drove section 21 in discussion.

**Rep. Ken Svedjan, Chairman** answered that it was a matter that came from the Business Congress in the last interim because people couldn't get insurance for things like horseback riding.

**Rep. David Monson** explained that \$43,000 was for the Insurance Commission to do a study but we found that this study is now complete so now there is just the report for no cost.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to adopt amendment #0411 to SB2032. Motion carried.

**Rep. Al Carlson** moved a Do Pass As Amended motion for SB2032

**Rep. David Monson** seconded

**Rep. Ken Svedjan, Chairman** commended the subcommittee for their work on this budget

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House Appropriations Committee

Bill/Resolution Number SB2032

Hearing Date April 4, 2005

**Rep. Al Carlson** thanked Ms Jennifer Clark for her assistance.

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion for SB2032. Motion carried with a vote of 21 yeas, 1 neas and 1 absence. Rep Carlson will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed the discussion on SB2032.

March 29, 2005

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2032

In lieu of the amendments adopted by the House as printed on pages 1139 and 1140 of the House Journal, Reengrossed Senate Bill No. 2032 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-44.4 and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to an office of management and budget procurement information program and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, and 10-30.5-04, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 of the North Dakota Century Code, relating to venture capital corporations and the Myron G. Nelson Fund, Incorporated; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an appropriation; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested

under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.

- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

- 6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
- 7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
- 8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
- 9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
- 10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
- 11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
- 12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-20.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- a. ~~Apply for and obtain written approval by the commissioner.~~
- b. ~~File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- c. ~~File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- d. ~~Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
- e. ~~Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
- f. ~~File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

- ~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.

- ~~14.~~ 13.
  - a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
    - (1) The New York stock exchange;
    - (2) The American stock exchange;
    - (3) The national association of securities dealers automated quotation national market system;
    - (4) Tier I of the Philadelphia stock exchange;
    - (5) Tier I of the Pacific stock exchange;
    - (6) Chicago board options exchange; or
    - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
  - b. Any other security of the same issuer which is of senior or substantially equal rank;
  - c. Any security called for by subscription rights or warrants so listed or approved; or

d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

**Procurement information - Web site.**

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:
  - a. Commodities and services exempted under section 54-44.4-02:

- b. Public improvements under title 48;
- c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
- d. Concessions under chapter 48-09.

**SECTION 5. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.
  - d.
    - (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
    - (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.
    - (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual

findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.

- (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
  - (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
  - f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
  - g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
  - h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
  - i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
  - j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

~~k.~~ j. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.

~~l.~~ k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

~~m.~~ l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
- (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.

- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

~~f~~ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ~~m~~ l. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~m~~ l, means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
- (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.

~~e~~ n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

~~p~~ Repealed by S.L. 1999, ch. 487, § 3.

~~e~~ Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital

~~corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~

- ~~f.~~ o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision ~~l~~ k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- ~~g.~~ p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
- ~~h.~~ q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~i.~~ r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision ~~k~~ j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 6. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~ l of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.
  - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially

commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.

- c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
- d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 7. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the department of commerce division of economic development and finance.
2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an ethanol production facility.
4. 5. "Qualified business" means a business other than a real estate investment trust which is:
  - a. A primary sector business that:
    - (1) Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
    - (2) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
    - (3) Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; and
    - (4) Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or

has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; or

b. An organization that:

- (1) ~~Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
- (2) ~~Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a is a primary sector business as described in subdivision a which is operated in partnership with a research university, university-related foundation, or public institution eligible to receive funding under section 15-10-41.~~

5. 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 8. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 9. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, ~~57-38-30,~~ or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not ~~less than five thousand dollars and not more than two hundred fifty thousand dollars.~~ This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.

4. A partnership passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a partnership's passthrough entity's investment in a qualified business must be determined at the partnership passthrough entity level. The amount of the total credit determined at the partnership passthrough entity level must be allowed to the ~~partners, limited to individuals, estates, and trusts,~~ members in proportion to their respective interests in the partnership passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 10. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration~~ for the investment in the qualified business was received by the qualified business.

**SECTION 11. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 12.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

Credit for investments made before 2005. An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an ethanol production facility.

**SECTION 13. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 14. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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, 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 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 15. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs

adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 16. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 17. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 18. INSURANCE AND LIABILITY STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall conduct a study of the state's liability insurance marketplace. The study must include consideration of issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include consideration of successful actions taken by other states to improve the availability and affordability of liability insurance. The insurance commissioner may contract with a third party in performing this study. Before July 1, 2006, the insurance commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 19. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the

phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 20. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 4 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 21. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 22. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of establishing and maintaining procurement information on the internet and for performing the procurement assistance study, for the biennium beginning July 1, 2005, and ending June 30, 2007. The office of management and budget is authorized one full-time equivalent position.

**SECTION 23. 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 state board of higher education for the purpose of performing the technology commercialization study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 24. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$485,000, or so much of the sum as may be necessary, to the upper great plains transportation institute for the purpose of performing the transportation study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 25. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$43,750, or so much of the sum as may be necessary, to the insurance commissioner for the purpose of performing the insurance and liability study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 26. EFFECTIVE DATE - EXPIRATION DATE.** Sections 7 through 11 of this Act are effective for taxable years beginning after December 31, 2004.

Section 13 of this Act becomes effective on August 1, 2007. Sections 2, 5, and 6 of this Act are effective for taxable years beginning after December 31, 2008. Section 12 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 11 of this Act."

Renumber accordingly

March 31, 2005

**PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2032**

In lieu of the amendments adopted by the House as printed on pages 1139 and 1140 of the House Journal, Reengrossed Senate Bill No. 2032 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, and 10-30.5-04, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an appropriation; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested

under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.

- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10 30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- a. ~~Apply for and obtain written approval by the commissioner.~~
- b. ~~File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- e. ~~File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- d. ~~Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
- e. ~~Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
- f. ~~File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

- ~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.
- ~~14.~~ 13.
  - a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
    - (1) The New York stock exchange;
    - (2) The American stock exchange;
    - (3) The national association of securities dealers automated quotation national market system;
    - (4) Tier I of the Philadelphia stock exchange;
    - (5) Tier I of the Pacific stock exchange;
    - (6) Chicago board options exchange; or
    - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
  - b. Any other security of the same issuer which is of senior or substantially equal rank;
  - c. Any security called for by subscription rights or warrants so listed or approved; or

d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;

- e. Value-added agriculture; or
- f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

**Centers of excellence.** The board shall establish a centers of excellence program relating to economic development. 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 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. Designation of a center occurs upon board, foundation, and budget section approval of a commission funding award recommendation.

**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 of each odd-numbered year; may be reappointed for additional terms; and serves at the pleasure of the appointing entity. Terms of initial commission members 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 shall provide the commission with appropriate staff services as may be requested by the commission.

**Application - Eligibility requirements.**

1. The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance to guidelines established by the commission.
2. The commission shall meet as necessary to review all complete applications; approve, disapprove, or conditionally approve complete applications; and make funding award recommendations for commission-approved proposed centers.
3. In considering whether to approve, disapprove, or conditionally approve an application, 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.

**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 reports.
- 3. Before the board distributes funds awarded under this chapter, the center shall provide the board 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. 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.
- 4. If, before funds are distributed by the board, a center undergoes a change in the terms of or assertions made in its application, the board may withhold all or a portion of any undistributed funds pending commission review of the changes.

**SECTION 5.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

**Procurement information - Web site.**

- 1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and

manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.

2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:

- a. Commodities and services exempted under section 54-44.4-02;
- b. Public improvements under title 48;
- c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
- d. Concessions under chapter 48-09.

**SECTION 6. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

- 1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.
  - d. (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this

subdivision. This subdivision shall not be applicable to estates or trusts.

- (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.
  - (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
  - (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
  - (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
  - f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
  - g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
  - h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.

- i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- k. l. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.
- l. k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- m. l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:
- (1) A resident of this state.
  - (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.

- (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
- (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.
- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

**m.** m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision **l.** The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision **l.**, means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
- (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.

**n.** n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any

organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

- ~~p.~~ ~~Repealed by S.L. 1999, ch. 487, § 3.~~
- ~~q.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~
- f. o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision ~~l~~ k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- ~~g.~~ p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
- ~~h.~~ q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~i.~~ r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision ~~k~~ j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~ l of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.
  - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
  - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
  - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 8. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the department of commerce division of economic development and finance.
2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
- ~~4.~~ 5. "Qualified business" means a business other than a real estate investment trust which is:
  - a. A primary sector business that:
    - (1) Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;

- (2) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
- (3) Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; ~~and~~
- (4) Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~ and
- (5) Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability;  
or

b. An organization that:

- ~~(1) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
- ~~(2) Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a is a primary sector business as described in subdivision a which is operated in partnership with a research university, university-related foundation, or public institution eligible to receive funding under section 15-10-41.~~

~~5-~~ 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 9. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 10. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, ~~57-38-30,~~ or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

- 1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is ~~not less than five thousand dollars and not more~~

than two hundred fifty thousand dollars. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.
4. A partnership passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a partnership's passthrough entity's investment in a qualified business must be determined at the partnership passthrough entity level. The amount of the total credit determined at the partnership passthrough entity level must be allowed to the partners, limited to individuals, estates, and trusts, members in proportion to their respective interests in the partnership passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 11. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration for~~ the investment in the qualified business was received by the qualified business.

**SECTION 12. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 13.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

**Credit for investments made before 2005.** An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 14. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 15. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 16. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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, 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 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 17. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 18. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 19. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 20. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 21. INSURANCE AND LIABILITY STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall conduct a study of the state's liability insurance marketplace. The study must include consideration of issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include consideration of successful actions taken by other states to improve the availability and affordability of liability insurance. The insurance commissioner may contract with a third party in performing this study. Before July 1, 2006, the insurance commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 22. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 23. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 5 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 24. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 25. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the office of management and budget

for the purpose of establishing and maintaining procurement information on the internet and for performing the procurement assistance study, for the biennium beginning July 1, 2005, and ending June 30, 2007. The office of management and budget is authorized one full-time equivalent position.

**SECTION 26. 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 state board of higher education for the purpose of performing the technology commercialization study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 27. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$485,000, or so much of the sum as may be necessary, to the upper great plains transportation institute for the purpose of performing the transportation study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 28. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$43,750, or so much of the sum as may be necessary, to the insurance commissioner for the purpose of performing the insurance and liability study, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 29. EFFECTIVE DATE - EXPIRATION DATE.** Sections 8 through 12 of this Act are effective for taxable years beginning after December 31, 2004. Section 14 of this Act becomes effective on August 1, 2007. Sections 2, 6, and 7 of this Act are effective for taxable years beginning after December 31, 2008. Section 13 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 12 of this Act. Section 4 of this Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

Date: March 31, 2005  
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House Government Performance Committee

Check here for Conference Committee

Legislative Council Amendment Number 50180.0406<sup>0407</sup> with changes

Action Taken DO Pass, AS Amended

Motion Made By Rep Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Chairman Carlson

If the vote is on an amendment, briefly indicate intent:

Changes to Amendment

*✓sum*

April 1, 2005

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2032

In lieu of the amendments adopted by the House as printed on pages 1139 and 1140 of the House Journal, Reengrossed Senate Bill No. 2032 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, and 10-30.5-04, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested

under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.

- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- ~~a. Apply for and obtain written approval by the commissioner.~~
- ~~b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- ~~e. File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- ~~d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
- ~~e. Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
- ~~f. File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

- ~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.

- 14. 13.
  - a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
    - (1) The New York stock exchange;
    - (2) The American stock exchange;
    - (3) The national association of securities dealers automated quotation national market system;
    - (4) Tier I of the Philadelphia stock exchange;
    - (5) Tier I of the Pacific stock exchange;
    - (6) Chicago board options exchange; or
    - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
  - b. Any other security of the same issuer which is of senior or substantially equal rank;
  - c. Any security called for by subscription rights or warrants so listed or approved; or

d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

45. 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated or named under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;

- e. Value-added agriculture; or
- f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

**Centers of excellence.** The board shall establish a centers of excellence program relating to economic development. 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. A center 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. 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.

**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 the effective date of this Act 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 shall provide the commission with appropriate staff services as may be requested by the commission.

**Application - Eligibility requirements.**

1. The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance to guidelines established by the commission.
2. The commission shall meet as necessary to review all complete applications; approve, disapprove, or conditionally approve complete applications; make funding award recommendations for commission-approved proposed centers; distribute funds to the centers; monitor centers for compliance with award requirements; and review changes in assertions made in center applications.
3. In considering whether to approve, disapprove, or conditionally approve an application, 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.

**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 reports on the use of all funds distributed to the center under this chapter. The annual reports must be provided until the completion of four years following the final distribution of funds under this chapter.
3. Before the commission distributes 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 commission, a center undergoes a change in the terms of or assertions made in its application, the commission may withhold all or a portion of any undistributed funds pending commission review of the changes.

**SECTION 5.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

**Procurement information - Web site.**

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
  
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:
  - a. Commodities and services exempted under section 54-44.4-02;
  - b. Public improvements under title 48;
  - c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
  - d. Concessions under chapter 48-09.

**SECTION 6. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the

taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.

- d. (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
- (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.
- (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
- (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
- (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
- g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions

exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.

- h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- ~~j.~~ Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- ~~k.~~ i. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.
- ~~l.~~ k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- ~~m.~~ l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments,

clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
- (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.
- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

~~¶~~ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ~~¶~~ l. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~¶~~ l., means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.

- (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.
- e. n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.
  - f. ~~Repealed by S.L. 1999, ch. 487, § 3.~~
  - g. ~~Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax-exempt securities.~~
  - f. o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
  - e. p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
  - t. q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
  - tt. r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision k j for the time the individual was under federal orders for active duty and may not claim a reduction on

income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~ l of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.
  - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
  - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
  - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 8. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the department of commerce division of economic development and finance.
2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include

an agricultural commodity processing facility as defined under section 57-38.6-01.

4. 5. "Qualified business" means a business other than a real estate investment trust which is:

a. A primary sector business that:

- (1) Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
- (2) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
- (3) Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; ~~and~~
- (4) Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~ and
- (5) Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability;  
or

b. An organization that:

- ~~(1) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
- ~~(2) Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a is a primary sector business as described in subdivision a which is operated in partnership with a research university, university-related foundation, or public institution eligible to receive funding under section 15-10-41.~~

~~5.~~ 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 9. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this

chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 10. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not ~~less than five thousand dollars and not more than two hundred fifty thousand dollars~~. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.
4. A ~~partnership~~ passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a ~~partnership's~~ passthrough entity's investment in a qualified business must be determined at the ~~partnership~~ passthrough entity level. The amount of the total credit determined at the ~~partnership~~ passthrough entity level must be allowed to the ~~partners, limited to individuals, estates, and trusts,~~ members in proportion to their respective interests in the ~~partnership~~ passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all

applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 11. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration for~~ the investment in the qualified business was received by the qualified business.

**SECTION 12. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 13.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

**Credit for investments made before 2005.** An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 14. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 15. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 16. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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, 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 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 17. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 18. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 19. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 20. INSURANCE AND LIABILITY DATA - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall compile existing data regarding the state's liability insurance marketplace. The data must include information regarding issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include information regarding successful actions taken by other states to improve the availability and affordability of liability insurance. Before July 1, 2006, the insurance commissioner shall report to the legislative council the data compiled and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 21. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 22. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 23. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 5 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 24. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing

system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 25. EFFECTIVE DATE - EXPIRATION DATE.** Sections 8 through 12 of this Act are effective for taxable years beginning after December 31, 2004. Section 14 of this Act becomes effective on August 1, 2007. Sections 2, 6, and 7 of this Act are effective for taxable years beginning after December 31, 2008. Section 13 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 12 of this Act. Section 4 of this Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

April 1, 2005

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2032

In lieu of the amendments adopted by the House as printed on pages 1139 and 1140 of the House Journal, Reengrossed Senate Bill No. 2032 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, and 54-16-01, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, emergency commission membership, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested

under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.

- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- ~~a. Apply for and obtain written approval by the commissioner.~~
- ~~b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- ~~c. File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- ~~d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
- ~~e. Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
- ~~f. File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

- ~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.

- 14. 13.
  - a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
    - (1) The New York stock exchange;
    - (2) The American stock exchange;
    - (3) The national association of securities dealers automated quotation national market system;
    - (4) Tier I of the Philadelphia stock exchange;
    - (5) Tier I of the Pacific stock exchange;
    - (6) Chicago board options exchange; or
    - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
  - b. Any other security of the same issuer which is of senior or substantially equal rank;
  - c. Any security called for by subscription rights or warrants so listed or approved; or

d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated or named under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;

- e. Value-added agriculture; or
- f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

**Centers of excellence.**

1. The board shall establish a centers of excellence program relating to economic development. 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. A center 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.
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.

**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 the effective date of this Act 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 shall provide the commission with appropriate staff services as may be requested by the commission.

**Application - Eligibility requirements.**

1. The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance with guidelines established by the commission.
2. The commission shall meet as necessary to review all complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; distribute funds to the centers; monitor centers for compliance with award requirements; and review changes in assertions made in center applications.
3. In considering whether to approve or disapprove an application, 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.

**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 reports must be provided until the completion of four years following the final distribution of funds under this chapter.
3. Before the commission distributes 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 commission, a center undergoes a change in the terms of or assertions made in its application, the commission may withhold all or a portion of any undistributed funds pending commission review of the changes.

**SECTION 5. AMENDMENT.** Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.** The emergency commission consists of the governor, the ~~chairman~~ majority leaders of the senate and house of representatives of the legislative council assembly, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ If a majority leader ceases to be a member of the legislative assembly, the respective house's assistant majority leader succeeds to that position on the commission. A majority leader's assistant majority leader may serve as a member of the commission in the place of the chairman of the legislative council majority leader at the request of the chairman of the legislative council majority leader if that individual majority leader is serving on the commission in another capacity or is unable to attend a commission meeting. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman.

**SECTION 6.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

**Procurement information - Web site.**

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:

- a. Commodities and services exempted under section 54-44.4-02;
- b. Public improvements under title 48;
- c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
- d. Concessions under chapter 48-09.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.
  - d.
    - (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
    - (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.

- (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
  - (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
  - (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
  - f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
  - g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
  - h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
  - i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
  - j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment

provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

- ~~k.~~ i. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.
- ~~h.~~ k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- ~~m.~~ l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:
- (1) A resident of this state.
  - (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
  - (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
  - (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory

participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.

- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

~~h~~ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ~~h~~ j. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~h~~ j, means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
- (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.

~~e~~ n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

~~p~~ Repealed by S.L. 1999, ch. 487, § 3.

- ~~g.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~
- ~~f.~~ o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision ~~k~~ k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- ~~e.~~ p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
- ~~t.~~ q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~u.~~ r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision ~~k~~ j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 8. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~ l of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.

- b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
- c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
- d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 9. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

- 1. "Director" means the director of the department of commerce division of economic development and finance.
- 2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
- 3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
- 4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
- ~~4.~~ 5. "Qualified business" means:
  - a. A a business other than a real estate investment trust which is a primary sector business that:
    - (1) a. Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
    - (2) b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
    - (3) c. Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; and

- (4) d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~

b. ~~An organization that:~~

- (1) ~~Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
- (2) ~~Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a and~~

e. Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability.

5. 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 10. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 11. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not ~~less than five thousand dollars and not~~ more than two hundred fifty thousand dollars. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.

4. A ~~partnership~~ passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a ~~partnership's passthrough entity's~~ investment in a qualified business must be determined at the partnership passthrough entity level. The amount of the total credit determined at the partnership passthrough entity level must be allowed to the ~~partners, limited to individuals, estates, and trusts,~~ members in proportion to their respective interests in the partnership passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 12. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration for~~ the investment in the qualified business was received by the qualified business.

**SECTION 13. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 14.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

Credit for investments made before 2005. An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 15. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 16. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 17. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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 18. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to

venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 19. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 20. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 21. INSURANCE AND LIABILITY DATA - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall compile existing data regarding the state's liability insurance marketplace. The data must include information regarding issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include information regarding successful actions taken by other states to improve the availability and affordability of liability insurance. Before July 1, 2006, the insurance commissioner shall report to the legislative council the data compiled and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 22. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 23. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 24. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 6 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 25. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 26. EFFECTIVE DATE - EXPIRATION DATE.** Sections 9 through 13 of this Act are effective for taxable years beginning after December 31, 2004. Section 15 of this Act becomes effective on August 1, 2007. Sections 2, 7, and 8 of this Act are effective for taxable years beginning after December 31, 2008. Section 10 of this Act is effective for a business certified as a qualified business after December 31, 2004. Section 14 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 13 of this Act. Section 4 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

Date: April 1, 2005  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House Government Performance Committee

Check here for Conference Committee

Legislative Council Amendment Number 50180.0408 with changes

Action Taken DO PASS, AS Amended

Motion Made By Rep. Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Chairman Carlson

If the vote is on an amendment, briefly indicate intent:

April 1, 2005

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2032

In lieu of the amendments adopted by the House as printed on pages 1139 and 1140 of the House Journal, Reengrossed Senate Bill No. 2032 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, and 10-30.5-04, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested

under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.

- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- ~~a. Apply for and obtain written approval by the commissioner.~~
- ~~b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- ~~c. File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- ~~d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
- ~~e. Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
- ~~f. File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.

- ~~14.~~ 13.
- a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
    - (1) The New York stock exchange;
    - (2) The American stock exchange;
    - (3) The national association of securities dealers automated quotation national market system;
    - (4) Tier I of the Philadelphia stock exchange;
    - (5) Tier I of the Pacific stock exchange;
    - (6) Chicago board options exchange; or
    - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
  - b. Any other security of the same issuer which is of senior or substantially equal rank;
  - c. Any security called for by subscription rights or warrants so listed or approved; or

d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated or named under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;

- e. Value-added agriculture; or
- f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

#### **Centers of excellence.**

1. The board shall establish a centers of excellence program relating to economic development. 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. A center 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.
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.

**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 the effective date of this Act 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 shall provide the commission with appropriate staff services as may be requested by the commission.

#### **Application - Eligibility requirements.**

- 1: The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance with guidelines established by the commission.

2. The commission shall meet as necessary to review all complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; distribute funds to the centers; monitor centers for compliance with award requirements; and review changes in assertions made in center applications.
3. In considering whether to approve or disapprove an application, 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.

**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 reports prepared by a third party on the use of all funds distributed to the center under this chapter. The annual reports must be provided until the completion of four years following the final distribution of funds under this chapter.
3. Before the commission distributes 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 commission, a center undergoes a change in the terms of or assertions made in its application, the commission may withhold all or a portion of any undistributed funds pending commission review of the changes.

**SECTION 5.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

**Procurement information - Web site.**

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:
  - a. Commodities and services exempted under section 54-44.4-02;
  - b. Public improvements under title 48;
  - c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
  - d. Concessions under chapter 48-09.

**SECTION 6. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of

the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.

- d. (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
- (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.
- (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
- (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
- (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the

taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.

- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
- g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
- h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- ~~j.~~ Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- ~~k.~~ l. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.
- ~~l.~~ k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- ~~m.~~ l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by

the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
- (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.
- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

¶ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ¶ l. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this

subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~m~~ l, means any person who is:

- (1) A resident of this state.
  - (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
  - (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
  - (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.
- e- n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.
- ~~p- Repealed by S.L. 1999, ch. 487, § 3.~~
- ~~q- Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~
- f- o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision ~~l~~ k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- g- p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional

provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.

- † g. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- † l. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision k j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ¶ j of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.
  - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
  - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
  - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 8. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

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

2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
4. 5. "Qualified business" means:
  - a. A a business other than a real estate investment trust which is a primary sector business that:
    - (1) a. Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
    - (2) b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
    - (3) c. Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; ~~and~~
    - (4) d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~
  - b. ~~An organization that:~~
    - (1) ~~Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
    - (2) ~~Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a and~~
  - e. Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability.
5. 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 9. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 10. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not ~~less than five thousand dollars and not more than two hundred fifty thousand dollars~~. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.
4. A partnership passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a partnership's passthrough entity's investment in a qualified business must be determined at the partnership passthrough entity level. The amount of the total credit determined at the partnership passthrough entity level must be allowed to the partners, limited to individuals, estates, and trusts, members in proportion to their respective interests in the partnership passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.

8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 11. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration for~~ the investment in the qualified business was received by the qualified business.

**SECTION 12. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 13.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

**Credit for investments made before 2005.** An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 14. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 15. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 16. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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 17. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 18. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 19. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the

centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 20. INSURANCE AND LIABILITY DATA - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall compile existing data regarding the state's liability insurance marketplace. The data must include information regarding issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include information regarding successful actions taken by other states to improve the availability and affordability of liability insurance. Before July 1, 2006, the insurance commissioner shall report to the legislative council the data compiled and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 21. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 22. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 23. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 5 of this Act; perform a

study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 24. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 25. EFFECTIVE DATE - EXPIRATION DATE.** Sections 8 through 12 of this Act are effective for taxable years beginning after December 31, 2004. Section 14 of this Act becomes effective on August 1, 2007. Sections 2, 6, and 7 of this Act are effective for taxable years beginning after December 31, 2008. Section 9 of this Act is effective for a business certified as a qualified business after December 31, 2004. Section 13 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 12 of this Act. Section 4 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

Date: April 1, 2005  
Roll Call Vote #: ✓

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2032

House Government Performance Committee

Check here for Conference Committee

Legislative Council Amendment Number 50180.0409

Action Taken Do Pass, As Amended

Motion Made By Rep. Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Chairman Carlson

If the vote is on an amendment, briefly indicate intent:



Date: April 4, 2005  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2032**

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number 50180.0411

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Carlson** Seconded By **Rep Monson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	AB		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes 21 No 1

Absent 1

Floor Assignment **Rep Carlson**

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2032, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Reengrossed SB 2032 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 1139 and 1140 of the House Journal, Reengrossed Senate Bill No. 2032 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, and 54-16-01, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, emergency commission membership, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development

fund, incorporated, not to exceed ~~five~~ ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.

- g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.

7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located

therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.

5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.
  - c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
  - d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities

equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.

11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~
  - a. ~~Apply for and obtain written approval by the commissioner.~~
  - b. ~~File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
  - c. ~~File such additional information as the commissioner requires by rule or order or may subsequently request.~~
  - d. ~~Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
  - e. ~~Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
  - f. ~~File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

- ~~13.~~ 13. Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.
- ~~14.~~ 13. a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under

this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:

- (1) The New York stock exchange;
  - (2) The American stock exchange;
  - (3) The national association of securities dealers automated quotation national market system;
  - (4) Tier I of the Philadelphia stock exchange;
  - (5) Tier I of the Pacific stock exchange;
  - (6) Chicago board options exchange; or
  - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
- b. Any other security of the same issuer which is of senior or substantially equal rank;
- c. Any security called for by subscription rights or warrants so listed or approved; or
- d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15-~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, ~~2007~~2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, ~~2007~~ 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

1. Cooperate and contract with any private or public entity.

2. Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated or named under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;
  - e. Value-added agriculture; or
  - f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

Centers of excellence.

1. The board shall establish a centers of excellence program relating to economic development. 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.

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 the effective date of this Act 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 shall provide the commission with appropriate staff services as may be requested by the commission.

Application - Eligibility requirements.

1. The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance with guidelines established by the commission.
2. The commission shall meet as necessary to review all complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; distribute funds to the centers; monitor centers for compliance with award requirements; and review changes in assertions made in center applications.
3. In considering whether to approve or disapprove an application, 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.

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.
3. Before the commission distributes 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 commission, a center undergoes a change in the terms of or assertions made in its application, the commission may withhold all or a portion of any undistributed funds pending commission review of the changes.

**SECTION 5. AMENDMENT.** Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.** The emergency commission consists of the governor, the ~~chairman~~ majority leaders of the senate and house of representatives of the legislative ~~council~~ assembly, the secretary of state, and the chairmen of the senate and house of

representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ If a majority leader ceases to be a member of the legislative assembly, the respective house's assistant majority leader succeeds to that position on the commission. A majority leader's assistant majority leader may serve as a member of the commission in the place of the chairman of the legislative council majority leader at the request of the chairman of the legislative council majority leader if that individual majority leader is serving on the commission in another capacity or is unable to attend a commission meeting. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman.

**SECTION 6.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Procurement information - Web site.

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:
  - a. Commodities and services exempted under section 54-44.4-02;
  - b. Public improvements under title 48;
  - c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
  - d. Concessions under chapter 48-09.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:

- a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
- b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
- c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.
- d.
  - (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
  - (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.
  - (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
  - (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement.

Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.

- (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
- g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
- h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- k. l. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be

allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.

- f. k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- m. l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:
- (1) A resident of this state.
  - (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
  - (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
  - (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.
  - (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

~~m.~~ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ~~m.~~ l. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~m.~~ l., means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
- (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.

~~e.~~ n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

~~p.~~ Repealed by S.L. 1999, ch. 487, § 3.

~~q.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of~~

~~investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~

- ~~f.~~ o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- ~~s.~~ p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
- ~~t.~~ q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~u.~~ r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision k j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 8. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision m j of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.

- b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
- c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
- d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 9. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

- 1. "Director" means the director of the department of commerce division of economic development and finance.
- 2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
- 3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
- 4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
- 4- 5. "Qualified business" means:
  - a- A a business other than a real estate investment trust which is a primary sector business that:
    - (+) a. Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
    - (2) b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;

- ~~(3)~~ c. Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; ~~and~~
  - ~~(4)~~ d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~
  - ~~b.~~ ~~An organization that:~~
    - ~~(1)~~ ~~Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
    - ~~(2)~~ ~~Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a and~~
  - e. Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability.
- ~~5.~~ 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 10. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses -** Maximum investments in qualified businesses. The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 11. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, ~~57-38-30~~, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is ~~not less than five thousand dollars and not more than two hundred fifty thousand dollars.~~ This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.
4. A ~~partnership~~ passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a ~~partnership's~~ passthrough entity's investment in a qualified business must be determined at the ~~partnership~~ passthrough entity level. The amount of the total credit determined at the ~~partnership~~ passthrough entity level must be allowed to the ~~partners, limited to individuals, estates, and trusts,~~ members in proportion to their respective interests in the ~~partnership~~ passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 12. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration~~ for the investment in the qualified business was received by the qualified business.

**SECTION 13. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002 is limited to two 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 14.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

Credit for investments made before 2005. An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 15. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 16. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 17. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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 18. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 19. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 20. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 21. INSURANCE AND LIABILITY DATA - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall compile existing data regarding the state's liability insurance marketplace. The data must include information regarding issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus

on the travel and tourism industry, and must include information regarding successful actions taken by other states to improve the availability and affordability of liability insurance. Before July 1, 2006, the insurance commissioner shall report to the legislative council the data compiled and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 22. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 23. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 24. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 6 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 25. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other

states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 26. EFFECTIVE DATE - EXPIRATION DATE.** Sections 9 through 13 of this Act are effective for taxable years beginning after December 31, 2004. Section 15 of this Act becomes effective on August 1, 2007. Sections 2, 7, and 8 of this Act are effective for taxable years beginning after December 31, 2008. Section 10 of this Act is effective for a business certified as a qualified business after December 31, 2004. Section 14 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 13 of this Act. Section 4 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

2005 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2032

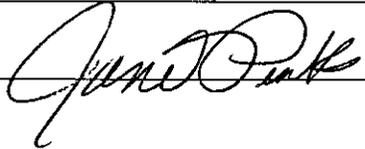
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2032

~~Senate Appropriations Committee~~

Conference Committee

Hearing Date April 8, 2005

Tape Number	Side A	Side B	Meter #
1	a		
Committee Clerk Signature 			

Minutes:

**Conference Committee members include Senators Grindberg, Holmberg, Robinson, Representatives Carlson, Skarphol and Glassheim.**

**Senator Grindberg** opened the conference committee discussion on SB 2032 with roll call.

**Representative Carlson** discussed SB 2032 indicating it was a business congress bill, the financial had been removed from this bill and sent to SB 2018. He reviewed the various sections of the bill discussing the venture capital which stayed the same as did the bill to page 8, Section 3 changed date, Section 4, the Centers of Excellence which was rewritten.

**Senator Grindberg** indicated he had the Council do a comparison of the House and Senate versions which he distributed. He asked Representative Carlson to touch the high points.

**Representative Carlson** indicated two sections were rolled into one, the Commission consists of six members; the Commerce Department foundation will appoint three members and the Board of Higher Education shall appoint three members of the board to serve on the commission.

Section two indicates the award must be for a specified amount dependent on board approval which may not be modified otherwise it is rejected and starts the process over. The budget section may not make a recommendation to approve or reject commission funding or board recommendation until the emergency commission reviews the recommendations and makes a recommendation to the budget section. He stated in order to be considered for a center designation, the institution of Higher Ed or the nonprofit foundation must be working in partnership with the private sector. There were also concerns about the money and who could apply or re apply or could all money go to one project. The language in section 3 indicates that once funds are approved they may not be qualified to received subsequent designations until the following biennium.

**Senator Holmberg** indicated when he read Section 3 he kept coming to the word designation and are you not really saying they are not going to receive subsequent funding as a Center. Does it preclude them from getting money the next time around? It precludes them from being designated another Center. Perhaps one of the legal people can look at that. The response is that you can't get a second round of grant money in the same biennium.

**Representative Carlson** indicted if someone is going to apply for a Center, they must get an application from the board of higher ed, complete it, return it for review for completeness, then it goes to the Centers of Excellence Commission; they meet and approve or reject it and make a funding recommendation and then have the authority to distribute funds to the Centers, they then monitor for compliance and review changes and assertions in the Centers applications. In considering wither to approve or disapprove the application, the commission shall consider the Center. They must use college research to promote private sector job growth and expansion of

knowledge based industries or use college research to promote the development of new products, high tech companies and skilled jobs in this state. They must provide for high sector employment opportunities, provide for public private sector involvement and partnerships and ability to leverage other funding, increase research and development activities that may involve federal funding from the national science (EPSCORE) money, stimulate competitive research, foster and practice entrepreneurship, promote commercialization of new products and services and industry clusters, become financially self sustaining and establish and meet deadlines for acquiring and expending all public and private funds specified in the application. As a condition of the funds, the Centers shall provide the board annual audits on all funds distributed under this chapter and must be provided until four years following the final distribution of funds.

**Senator Grindberg** reviewed page 9, subsection 4, for the Centers of Excellence, questioned the discussion about how this plays with the federal Bay-Dole act and current IP royalty with research going on.

**Representative Skarphol** indicated in discussing this with the Lt. Governor, the concern was where does the ownership lie. Is there ownership on the part of the University System if one of these Centers becomes extremely successful and there are significant profits. What is the connection. It was indicated a board policy has been established and council would have to address whether this has been properly established. Allen Knutson indicated there is federal law that typically the inventor gets 1/3, the University gets 1/3 and the Center gets 1/3.

**Representative Carlson** asked if there is any benefit to the state if anything comes of this and if that issue has been addressed.

**Senator Robinson** questioned page and 10 and 11 on the use and distribution of funds. The issue of incorporating a cap into the language. Without the cap, there is a concern we could be looking at one or two projects.

**Representative Carlson** indicated that had been discussed and Representative Glassheim is very familiar with what is going on at UND. We did not put the cap on, but are open to discuss that.

**Representative Glassheim** indicated that the committee hoped that the extensive structure of veto going from commission to board and finally from foundation to budget section would prevent the commission from giving funds to only one or two places. We felt it may be self-administering.

**Senator Holmberg** indicated if there is not a cap written in here, we need to be sure there is not a cap in our minds and the budget section all of a sudden says that is too much. We want to be clear to the entities that we don't have an internal cap. The record needs to clearly state there is no cap.

**Senator Robinson** indicated that is a good point and there is a bigger picture, we need to be very carefully what we do.

**Representative Skarphol** indicated he saw both sides of the issue. He had a conversation with his local college and explained that not everyone will get this at their university this biennium but this is the first biennium of two or three biennium. Those projects that have merit will get funded and if a project has really strong merit and needs a \$7-\$8 million dollar contribution to stay strong I would hope the support would be there.

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Senate Appropriations Committee  
Bill/Resolution Number 2032  
Hearing Date April 8, 2005

**Representative Carlson** indicated the procurement web site is in the bill and the seep cap of investment tax credits stayed the same with the addition of one amendment and the rest are studies.

**Senator Grindberg** closed the conference committee discussion on SB 2003.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2032

Senate Appropriations Committee

Conference Committee

Hearing Date April 18, 2005

Tape Number	Side A	Side B	Meter #
5	a		486 - 1173
Committee Clerk Signature <i>Janet Parks</i>			

Minutes:

**Senator Grindberg** opened the conference committee on SB 2032 with roll call. He distributed amendment .0413 which caps the Centers of Excellence at \$4 million. There was discussion on "in kind" on page 11 of .0411 and the process of being sure the in kind assets are appropriate. The next item was the clarification of intellectual property and whether the language would be reviewed. There was also discussion of the matching funds on page 10 and whether the "in kind" was private or public and that in kind be realistic value.

**Senator Grindberg** closed the conference committee on SB 2032.

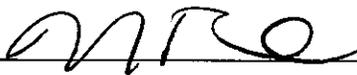
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2032

Senate Appropriations Committee

Conference Committee

Hearing Date **04-19-05**

Tape Number	Side A	Side B	Meter #
4	x		3341-5060
Committee Clerk Signature 			

Minutes: **Sen. Grindberg, (Conference Committee, Chair)** opened the meeting.

**Jennifer Clark, Legislative Council** appeared to provide information on section 4 of the 0600 version of SB 2032 relating to intellectual property. Ms. Clark spoke to a previous questions regarding what the ownership of intellectual property. Ms. Clark stated that her understanding of what that means is that the state board of higher education rule adopted regarding intellectual property needs to be revisited to specifically address how they may treat the centers of excellence the same or differently. So it would direct Higher Ed to revisit their policies responsive to center of excellence, I do not think it conflicts. A copy of the University system rules is attached with it is 15-10-17.

**Rep. Skarpol (4000):** Does it address private ownership?

**Ms. Clark:** Not specifically, you might need to revisit that.

**Rep. Skarpol:** My concern is that are we addressing potential profits?

**Ms. Clark:** The direction is to revisit your policies left to the University system not share profits. We haven't given them the directive.

**Sen. Grindberg:** Under federal law, they can't receive it all. It is generally a 1/3 to universities, 1/3 inventor 1/3 to the foundation.

**Rep. Carlson:** My concern is that same rules apply to research apply to university, we wanted to make sure we covered intellectual property. If there is more things that come into play we will need to address them.

**Sen. Grindberg:** It is extremely complex, my concern was to make sure that we didn't have something in state statute that created a situation where we couldn't come to an agreement on a center of excellence.

**Rep. Skarpol:** My concern is that it will not let the private sector profit.

**Sen. Grindberg (4725):** If an inventor comes to a public university saying they have an idea can we partner. He will retain the royalties and the rights and IP and negotiate with the university. Federally sponsored research is a whole different world, gets complex.

**Ms. Clark:** If you are looking for a conclusion here, this may not provide the outcome of how that property will be treated, make sure you address it in the front end so they know what they are getting into.

**Sen. Grindberg adjourned the meeting.**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2032

Senate Appropriations Committee

Conference Committee

Hearing Date April 20, 2005

Tape Number	Side A	Side B	Meter #
3	a		1863 - 2935
Committee Clerk Signature <i>Jane Smith</i>			

Minutes:

**Senator Grindberg** opened the conference committee on SB 2032 with roll call. He indicated we resolved the in kind private match issue, the IP issue, and emergency commission makeup change, leaving Section 25, the study for the corporate and business tax incentive issue, the \$4 million dollar cap on the Centers of Excellence and the technical issues by Mr. Fong on who makes designations and funding awards..

**Cory Fong, Department of Commerce**, followed up on conversation regarding the language in the Center of Excellence piece in SB 2032. Regarding subsection 3 page 9, the point was the Centers of excellence that receive funds under this chapter were not qualified subsequent designatio at the Center until the biennium following the most recent designation. It is not designations we are getting at it is funding. These could conceivably be applications for new centers within a biennium. He distributed amendments that would change that reference to designations to funding awards. The other piece was raised by Sandy Paulson at OMB during the

Page 2

Senate Appropriations Committee

Bill/Resolution Number 2032

Hearing Date April 20, 2005

House subcommittees work on the bill, they made it very clear that the Commission was going to authorize funds, but not distribute, OMB would draw the funds from the bank and they would pay and distribute. Those also need to be corrected, page 10, subsection 2, line 3 should be removed; on page 10, subsection 3, under use of funds, the sentence should include before the commission recommends.

There was discussion over the suggested changes and a few clarification questions.

**Senator Grindberg** indicated we would let this digest for now and reconfirm later. The conference committee closed.

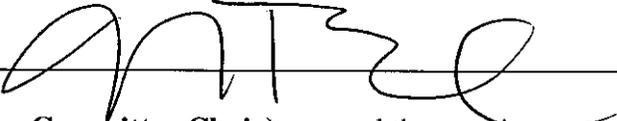
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2018** and **SB 2032**

Senate Appropriations Committee

Conference Committee

Hearing Date **04-21-05**

Tape Number	Side A	Side B	Meter #
3	x		2612-5310
Committee Clerk Signature 			

Minutes: **Sen. Grindberg, (Conference Committee Chair)** opened the meeting.

**PLEASE NOTE THAT SB 2018 AND SB 2032 WILL BE DONE SIDE BY SIDE.**

**Roll was taken, all members were present.**

**Sen. Grindberg:** I have 4 things noted, and then we will go through the things we have agreed too. I sense that we will complete our work here. First thing is to clarify some discussion with Mr. Fong on the technical word smithing.

**Rep. Carlson:** I think that should be in SB 2032.

**Sen. Grindberg:** Okay, lets move into SB 2032.

**PLEASE NOTE THAT THE COMMITTEE WILL BE GOING BACK AND FORTH BETWEEN SB 2018 AND 2032.**

**SENATE BILL 2032**

**Corey Fong, Commerce Depart:** What Sen. Grindberg is getting at are the amendments that I had suggested concerning the process in SB 2032 for designating centers or funding multiple

times during a biennium. I will take you to the latest amendment draft on SB 2032, number .0413. Please go to page 9 of that version, subsection 3.

Mr. Fong went on to explain subsection three, 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. I looked at the language again last night and have a new suggestion that would read as follows; "A center that receives funds designated and awarded funds distributed under this chapter is not qualified to receive subsequent designations as a center until the biennium following the center's most recent funding awards" Mr. Fong passed out his proposed amendments to clarify his statements, see attached.

**Rep. Skarpol (3127):** My prospective is that if, an entity is designated as a center and is extremely successful and wants to expand. It would ask for a subsequent designation, they will not be able to receive that until the following biennium.

**Rep. Glassheim (3234):** My understanding is that, I though what we were trying to do is... You are designated a center, you can't get any more money than what you were approved for in that biennium. Its going well, then in the next biennium, you come back for another funding award, but not for another designation as another center. You are already a center, you could get expansion money for that center based on a new application. That's how I understand that.

**Allen Knutson (3318):** It seems that that would be appropriate.

**Rep. Carlson:** In my opinion the original language is fine.

**Sen. Holmberg:** Why don't we have you state for the record exactly what the intention is.

**Rep. Skarpol:** What Rep. Glassheim said, sums up our feelings.

**Mr. Fong:** The next piece of this amendment would be to insure that OMB is distributing those funds reverses the commission. Page 13, line 31, section 2. OMB will based on the decision of the commission will distribute those fund. Page 15, line 1 “requests the office of management and budget to distribute” that again would insure that OMB is distributing funds and the recommendation or authorization of the commission.

**Sen. Grindberg:** Does that make everything copathatic?

**Mr. Knutson:** OMB is the one that distributes the funds, so it seems somewhat appropriate. Make sure that the commission is in control.

**Rep. Skarpol (3695):** I don't have a problem with that, there are two places that it says “distribute funds” so Allan make sure it gets taken care of.

**Mr. Fong:** The amendment you have for you is for the latest engrossment of the bill.

**Sen. Grindberg instructed the committee to go back to SB 2018.**

**SENATE BILL 2018**

**Sen. Grindberg:** We have 3 issues left to go over in SB 2018. One I would like to talk about is this work share program. I would like to propose the same amendments with 2 changes be made.

(1) Instead of “up to five pilots” to only one pilot (2) the \$40,000 fiscal request that \$20,000 come from the states general fund, and the other \$20,000 from the company who is selected for the pilot.

**Sen. Holmberg moved, seconded by Rep. Carlson.**

**Rep. Carlson:** I have had some concerns about the shared work since it came through. It would be job service's intention that if it would be a positive or negative employer that they would

request some funding from them to participate in the program. When you submitted your amendments I was OK.

**Rep. Skarpol:** Does that still remove wind and hydrogen?

**Sen. Grindberg:** That would be the intent.

**Voice vote was taken, motion passed.**

**Sen. Grindberg:** Next item, Rep. Carlson has an amendment on 5 million.

**Rep. Carlson,** proposed amendment number .0226.

Allan from LC explained the bill stating that with the current bill OMB has the authority to borrow up to \$15 million from the bank. This amendment allows them to borrow an additional \$5 million equaling \$20 million dollars available for centers of excellence grants for the next biennium. The additional \$5 million could only be borrowed upon the emergency commission budget section approval and only if all funding provided by the 59th legislative assembly has been obligated. OMB shall request funding from the 60th legislative assembly to repay any loans in this section.

**Rep. Carlson moved 0226, seconded by Sen. Holmberg.**

**Rep. Skarpol:** I support it as long as its not in addition for a cap.

**Sen. Grindberg:** That is my opinion.

**Rep. Glassheim:** Is this payback differently from the first \$15 million?

**Sen. Grindberg:** Yes.

**Voice Vote was taken, motion passed.**

**Rep. Skarpol,** proposed amendment stating that there is a minimum of \$50,000 grant from the funds appropriated development grants line item in section 3, the must be available to rule

development council for matching funds. [Rep. Skarpol read through extremely fast, please see attached for detail]. There is potential of federal dollars that would need a match. It provides funding in the even that there is USDA funding money available next biennium.

**Rep. Skarpol moved the amendment, seconded by Rep. Carlson.**

**Mr. Knutson:** I think there is a possible technical problem here, the economic development grant line item is \$125,000. That was to provide \$100,000 for life sciences and \$25,000 for wind hydrogen. You have taken out wind hydrogen so that leaves \$100,000 in.

**Rep. Skarpol:** we are adding \$50,000 back in.

**Rep. Glassheim:** what is the source of the \$50,000

**Sen. Grinberg:** We have removed the \$25,000 in Hydrogen, we added \$20,000 for work share, and \$50,000 so this number should be \$170,000 rather than \$175,000.

**Voice Vote taken, motion passed.**

**Mr. Knutson:** In the Industrial Commission conference committee there was \$200,000 added for to provide to the trade office for the mill and elevator, if that money is provided to the trade office we will have to appropriate to dispend those funds once it is received.

**Rep. Carlson:** That is only available if the get the match.

**SENATE BILL 2032**

**Sen. Grinberg:** The only other thing I have is to remove section 25, which is that study.

**Rep. Carlson:** We will make a hole new set.. We are still working off of 411 version?

**Sen. Grinberg adjourned the meeting.**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2032

Senate Appropriations Committee

Conference Committee

Hearing Date 4/22/05

Tape Number	Side A	Side B	Meter #
1	a		5,634 - 1882
Committee Clerk Signature			

Minutes:

**Senator Grindberg** opened the conference committee on SB 2032 with roll call and distribution of amendment .0414.

**Allen Knutson** discussed the changes that are noted in amendment .0414.

Senator Robinson moved to further amend .0414 by removing Section 10, Senator Glassheim seconded, a roll call vote was taken resulting in 2 yes, 4 no and the motion failed.

Discussion about other aspects of the bill and amendment.

Representative Glassheim moved that \$325,000 from the oil tax fund be put into the tourism budget, Representative Skarphol seconded. There was no further discussion. A roll call vote was taken resulting in 3 yes and 3 no. The motion failed.

Senator Robinson moved review and approval of Section 22, Representative Skarphol seconded.

A voice vote was taken ad the motion carried.

Page 2

Senate Appropriations Committee

Bill/Resolution Number 2032

Hearing Date April 22, 2005

**Senator Holmberg moved a do pass as amended to SB 2032. Representative Carlson seconded. No discussion was made. A roll call vote was taken resulting in 6 yes. The motion carried.**

**Senator Grindberg closed the conference committee on SB 2032.**

PROPOSED AMENDMENTS TO  
REENGROSSED SENATE BILL NO. 2032

Page 13, line 1, replace "receives" with "is designated and awarded" and remove "distributed"

Page 13, line 2, replace "designations as a center" with "funding awards"

Page 13, line 3, replace "designation" with "funding award"

Page 13, line 31, remove "distribute funds to"

Page 14, line 1, remove "the centers:"

Page 15, line 1, replace "distributes" with "requests the office of management and budget to distribute"

Re-number accordingly

*Cory Fong*

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2032

That the House recede from its amendments as printed on pages 1323-1341 of the Senate Journal and pages 1585-1603 of the House Journal that Reengrossed Senate Bill No. 2032 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, and 54-16-01, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, emergency commission membership, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested

under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2007 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.
  6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.

- c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
- d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 10-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~

- ~~a. Apply for and obtain written approval by the commissioner.~~
- ~~b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
- ~~c. File such additional information as the commissioner requires by rule or order or may subsequently request.~~
- ~~d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
- ~~e. Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
- ~~f. File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.

- ~~14.~~ 13.
- a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
    - (1) The New York stock exchange;
    - (2) The American stock exchange;
    - (3) The national association of securities dealers automated quotation national market system;
    - (4) Tier I of the Philadelphia stock exchange;
    - (5) Tier I of the Pacific stock exchange;
    - (6) Chicago board options exchange; or
    - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
  - b. Any other security of the same issuer which is of senior or substantially equal rank;
  - c. Any security called for by subscription rights or warrants so listed or approved; or

d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**(Effective after July 31, 2007 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated or named under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;

- e. Value-added agriculture; or
- f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

**Centers of excellence.**

1. The board shall establish a centers of excellence program relating to economic development. 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, not to exceed four million dollars. 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.

**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 the effective date of this Act 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 shall provide the commission with appropriate staff services as may be requested by the commission.

**Application - Eligibility requirements.**

1. The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance with guidelines established by the commission.
2. The commission shall meet as necessary to review all complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; distribute funds to the centers; monitor centers for compliance with award requirements; and review changes in assertions made in center applications.
3. In considering whether to approve or disapprove an application, 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.

**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.
3. Before the commission distributes 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 commission, a center undergoes a change in the terms of or assertions made in its application, the commission may withhold all or a portion of any undistributed funds pending commission review of the changes.

**SECTION 5. AMENDMENT.** Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.** The emergency commission consists of the governor, the ~~chairman~~ majority leaders of the senate and house of representatives of the legislative ~~council~~ assembly, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ If a majority leader ceases to be a member of the legislative assembly, the respective house's assistant majority leader succeeds to that position on the commission. A majority leader's assistant majority leader may serve as a member of the commission in the place of the chairman of the legislative council ~~majority leader~~ majority leader at the request of the ~~chairman of the legislative council~~ majority leader if that ~~individual~~ majority leader is serving on the commission in another capacity or is unable to attend a commission meeting. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman.

**SECTION 6.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

**Procurement information - Web site.**

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:

- a. Commodities and services exempted under section 54-44.4-02:
- b. Public improvements under title 48:
- c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
- d. Concessions under chapter 48-09.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.
  - d.
    - (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
    - (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.

- (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
  - (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
  - (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
  - f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
  - g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
  - h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
  - i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
  - j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment

provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

~~k.~~ j. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.

~~h.~~ k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

~~m.~~ l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
- (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory

participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.

- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.

~~h~~ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ~~h~~ j. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~h~~ j, means any person who is:

- (1) A resident of this state.
- (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
- (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.

~~e~~ n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

~~p~~ Repealed by S.L. 1999, ch. 487, § 3.

- ~~q.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~
- f. o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision ~~k~~; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- ~~g.~~ p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
- ~~t.~~ q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~u.~~ r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision ~~k~~ j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 8. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~ l of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.

- b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
- c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
- d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 9. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

- 1. "Director" means the director of the department of commerce division of economic development and finance.
- 2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
- 3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
- 4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
- 4. 5. "Qualified business" means:
  - a. A a business other than a real estate investment trust which is a primary sector business that:
    - (+) a. Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
    - (2) b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
    - (3) c. Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; and

- (4) d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~

~~b. An organization that:~~

~~(1) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~

~~(2) Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a and~~

e. Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability.

5. 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 10. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 11. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is ~~not less than five thousand dollars and not more than two hundred fifty thousand dollars.~~ This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.

4. A partnership passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a partnership's passthrough entity's investment in a qualified business must be determined at the partnership passthrough entity level. The amount of the total credit determined at the partnership passthrough entity level must be allowed to the partners, limited to individuals, estates, and trusts, members in proportion to their respective interests in the partnership passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 12. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration for~~ the investment in the qualified business was received by the qualified business.

**SECTION 13. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 14.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

**Credit for investments made before 2005.** An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 15. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 16. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 17. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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 18. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to

venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 19. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 20. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 21. INSURANCE AND LIABILITY DATA - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall compile existing data regarding the state's liability insurance marketplace. The data must include information regarding issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include information regarding successful actions taken by other states to improve the availability and affordability of liability insurance. Before July 1, 2006, the insurance commissioner shall report to the legislative council the data compiled and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 22. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 23. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 24. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 6 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 25. TAX STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the tax commissioner shall conduct a study of the corporate taxing system and tax incentives to stimulate business. The study must include consideration of gaps in tax incentives, include consideration of successful actions taken by other states to improve their tax environment for doing business, and focus on approaches that are specifically tailored to the state's unique circumstances. The tax commissioner may contract with a third party to conduct the study. Before July 1, 2006, the tax commissioner shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate the state's business climate.

**SECTION 26. EFFECTIVE DATE - EXPIRATION DATE.** Sections 9 through 13 of this Act are effective for taxable years beginning after December 31, 2004. Section 15 of this Act becomes effective on August 1, 2007. Sections 2, 7, and 8 of this Act are effective for taxable years beginning after December 31, 2008. Section 10 of this Act is effective for a business certified as a qualified business after December 31, 2004. Section 14 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 13 of this Act. Section 4 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE) - 420

07398

(Bill Number) 2032 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Grundberg / / Y  
Halmberg / / Y  
Robinson / / Y

For the House:

Carlson / / Y  
SKarphol / / Y  
Glassheim / / Y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724 725/726 S724/B726 S723/B725  
the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
\_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: 4/8/05

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2032, as reengrossed:** Your conference committee (Sens. Grindberg, Heitkamp, Robinson and Reps. Carlson, Skarphol, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1585-1603, adopt amendments as follows, and place SB 2032 on the Seventh order:

That the House recede from its amendments as printed on pages 1323-1341 of the Senate Journal and pages 1585-1603 of the House Journal and that Reengrossed Senate Bill No. 2032 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 15, a new section to chapter 54-44.4, and a new section to chapter 57-38.5 of the North Dakota Century Code, relating to a centers of excellence program, an office of management and budget procurement information program, and seed capital investment tax credit treatment of investments in excess of caps on credits; to amend and reenact sections 6-09-15, 10-04-05, 10-30.5-04, and 54-16-01, subsection 1 of section 57-38-01.2, subsection 1 of section 57-38-71, and sections 57-38.5-01, 57-38.5-02, 57-38.5-03, 57-38.5-04, and 57-38.5-05 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to invest funds, cross-references affected by the repeal of the venture capital corporation law, the authority of the North Dakota development fund to invest and manage funds, emergency commission membership, and the seed capital investment tax credit; to repeal chapters 10-30.1 and 10-30.2 and section 15-10-41 of the North Dakota Century Code, relating to venture capital corporations, the Myron G. Nelson Fund, Incorporated, and the centers of excellence program; to provide for state agency studies, reports to the legislative council, and legislative council studies; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (Effective through July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be

- added to the principal amount of the debt and thereafter accumulate interest.
- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.

- c. In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed ~~five~~ ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.
5. Buy and sell federal funds.
6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, ~~2007~~ 2009) Powers.** The Bank of North Dakota may:

1. Make, purchase, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  5. Buy and sell federal funds.

6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**10-04-05. Exempt securities.** Sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein; or a certificate of deposit for any of the foregoing, but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless the security is insured or unconditionally guaranteed by, or the revenues are derived from, a person whose securities are exempt from registration under this section.
2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an Act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner of financial institutions of North Dakota.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed as to principal, interest, or dividends by a corporation or limited liability company owning or operating a railroad or other public service utility, if the corporation or limited liability company is

subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof.

5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
  - a. Apply for and obtain the written approval of the commissioner.
  - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.
  - c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
  - d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to, or furnished for the use of a railroad or other public service utility corporation or limited liability company, and any equipment security when the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note.

10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered dealer provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.
12. ~~Any security issued by a venture capital corporation or limited liability company organized under and operating in compliance with chapter 40-30.1; provided that prior to any offer of such security, the issuer must meet the following conditions:~~
  - a. ~~Apply for and obtain written approval by the commissioner.~~
  - b. ~~File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars. The document and fee must accompany the application.~~
  - c. ~~File such additional information as the commissioner requires by rule or order or may subsequently request.~~
  - d. ~~Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.~~
  - e. ~~Not use public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, in connection with any offer or sale.~~
  - f. ~~File a report of all offers and sales made in this state within thirty days after the completion of the offering.~~

~~The approval is effective for a period of one year from the date of approval. There must be filed, at least thirty days prior to the expiration date, an application, disclosure document, and a nonrefundable fee of one hundred dollars for the renewal of the filing for additional periods of one year.~~

- ~~13.~~ Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, or any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor. This exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise.

- ~~14.~~ 13. a. Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any filing or registration requirements under this chapter, listed or designated, or approved for listing or designation upon notice of issuance on:
- (1) The New York stock exchange;
  - (2) The American stock exchange;
  - (3) The national association of securities dealers automated quotation national market system;
  - (4) Tier I of the Philadelphia stock exchange;
  - (5) Tier I of the Pacific stock exchange;
  - (6) Chicago board options exchange; or
  - (7) Any other stock exchange or automated quotation system which the commissioner approves by rule;
- b. Any other security of the same issuer which is of senior or substantially equal rank;
- c. Any security called for by subscription rights or warrants so listed or approved; or
- d. Any warrant or right to purchase or subscribe to any of the foregoing.

The commissioner may withdraw this exemption by order as to any exchange or system, or any particular security, if the commissioner determines that it would be in the public interest.

- ~~15.~~ 14. Securities issued by the North Dakota education association dues credit trust to members of the North Dakota education association.

**SECTION 3. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, ~~2007~~2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

(Effective after July 31, ~~2007~~ 2009) Powers. The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

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

**SECTION 4.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

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

1. "Board" means the state board of higher education.
2. "Center" means a center of excellence relating to economic development which has been designated or named under this chapter.
3. "Commission" means the centers of excellence commission.
4. "Foundation" means the North Dakota economic development foundation.
5. "Industry cluster" means one of the following industries:
  - a. Advanced manufacturing;
  - b. Energy;
  - c. Information and technology;
  - d. Tourism;
  - e. Value-added agriculture; or
  - f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.

Centers of excellence.

1. The board shall establish a centers of excellence program relating to economic development. 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.

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 the effective date of this Act 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 shall provide the commission with appropriate staff services as may be requested by the commission.

Application - Eligibility requirements.

1. The board shall provide center application forms, accept applications, review applications for completeness and compliance with board policy, and forward complete applications to the commission in accordance with guidelines established by the commission.
2. The commission shall meet as necessary to review all 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.
3. In considering whether to approve or disapprove an application, 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.

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.
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.

**SECTION 5. AMENDMENT.** Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.** The emergency commission consists of the governor, the ~~chairman~~ majority leaders of the senate and house of representatives of the legislative council assembly, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ If a majority leader ceases to be a member of the legislative assembly, the respective house's assistant majority leader succeeds to that position on the commission. A majority leader's assistant majority leader may serve as a member of the commission in the place of the chairman of the legislative council majority leader at the request of the chairman of the legislative council majority leader if that individual majority leader is serving on the commission in another capacity or is unable to attend a commission meeting. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman.

**SECTION 6.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Procurement information - Web site.

1. The office of management and budget shall establish and maintain a procurement information web site on the internet. This procurement information web site must provide current information regarding North Dakota government procurement opportunities in order to inform potential vendors of the commodities and services sought by state agencies and institutions. Notwithstanding section 54-44.4-09, for each purchase of services or commodities over the amount established for small purchases, the office of management and budget and every purchasing agency shall provide procurement information on the web site. The time period and manner of providing procurement information on the web site must be in accordance with rules adopted by the office of management and budget. The office of management and budget may contract with a third party to assist in providing or maintaining the procurement information web site.
2. A state agency or institution may elect to use the procurement information web site for the purchase of services and commodities that are not subject to the procurement requirements of this chapter, including:
  - a. Commodities and services exempted under section 54-44.4-02;
  - b. Public improvements under title 48;
  - c. Architect, engineer, construction management, and land surveying services under chapter 54-44.7; and
  - d. Concessions under chapter 48-09.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The taxable income of an individual, estate, or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:
  - a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
  - b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of North Dakota or the Constitution of the United States.
  - c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. Provided, that no adjustment to federal income taxes, paid or accrued, is required because of allowable deductions to federal taxable income made under the cost recovery provisions of subdivision b of subsection 5 of section 57-38-01. However, such federal income tax liability must be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax must be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.
  - d.
    - (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
    - (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended; provided, that the term "head of household" shall also include a "surviving spouse" as defined by said code.
    - (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.

- (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph 3.
- (5) Reduced by one thousand seven hundred fifty dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed for the taxable year in which the adoption becomes final and any unused portion of the reduction may be carried forward by the taxpayer for up to five taxable years. The reduction does not apply to the adoption of children of the taxpayer's spouse.
- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
- g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
- h. Except for residents, reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- i. ~~Repealed by S.L. 2003, ch. 529, § 3.~~
- j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- k. j. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a

member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.

- f. k. Reduced by any amount, up to a maximum of five thousand dollars, received by any person fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- m. l. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer stating that the buyer meets all requirements of the beginning farmer definition, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including the person's dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings may not be included. This statement must be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who is:
- (1) A resident of this state.
  - (2) Receiving more than one-half of that person's gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
  - (3) Intending to use any farmland to be purchased or rented for agricultural purposes.
  - (4) Except for contracts for deed entered into prior to July 1, 1985, having adequate training by education in the type of farming operation which the person wishes to begin through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner.

- (5) Having, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars.
- ~~¶~~ m. Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision ~~¶~~ l. The contract must extend for not less than ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision ~~¶~~ l., means any person who is:
- (1) A resident of this state.
  - (2) Receiving more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which an adjustment will be claimed under this subdivision.
  - (3) Intending to use any revenue-producing enterprise purchased or rented for business purposes.
  - (4) Adequately trained, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - (5) The owner of property with a net worth, including the net worth of property of that person's dependents and spouse, if any, of less than one hundred thousand dollars.
- ~~e:~~ n. Reduced by any amount, up to a maximum of three hundred dollars received by any person or six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

- ~~p.~~ Repealed by S.L. 1999, ch. 487, § 3.
- ~~q.~~ ~~Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in a venture capital corporation organized pursuant to chapter 10-30.1. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapter 10-30.1. However, a taxpayer that makes an investment in a venture capital corporation on or after July 1, 1989, is only entitled to a deduction if the venture capital corporation uses the funds it receives from the taxpayer to invest or provide financing to qualified entities, which entities do not include a business or an affiliate of a business that owns tax exempt securities.~~
- ~~r.~~ o. Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision ~~l~~ k; provided, however, that the adjustment provided in this subdivision must be reduced by any amount received pursuant to the federal Social Security Act.
- ~~s.~~ p. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions; provided the amount of the distribution excluded under this subdivision is included in federal taxable income.
- ~~t.~~ q. Reduced by an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~u.~~ r. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. An individual claiming the reduction under this subdivision may not also claim the reduction under subdivision ~~k~~ j for the time the individual was under federal orders for active duty and may not claim a reduction on income already excluded from federal taxation due to service in a combat or hazardous duty zone. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

**SECTION 8. AMENDMENT.** Subsection 1 of section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur", excluding beginning farmers as defined in subdivision ~~m~~ l of subsection 1 of section 57-38-01.2, means any person who:
  - a. Is a resident of this state.
  - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
  - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
  - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 9. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the department of commerce division of economic development and finance.
2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38.
4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
- 4- 5. "Qualified business" means:
  - a. A a business other than a real estate investment trust which is a primary sector business that:

- (1) a. Is incorporated or its satellite operation is incorporated as a for-profit corporation or is a partnership, limited partnership, limited liability company, limited liability partnership, or joint venture;
  - (2) b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
  - (3) c. Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation; ~~and~~
  - (4) d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; ~~or~~
    - b. An organization that:
      - (1) ~~Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and~~
      - (2) ~~Attracts investments to build and own a value added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a and~~
    - e. Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability.
- 5- 6. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough entity. The term does not include a real estate investment trust.

**SECTION 10. AMENDMENT.** Section 57-38.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-02. Certification - Investment reporting by qualified businesses - Maximum investments in qualified businesses.** The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01 and the certification must include the period of time the certification covers. The director shall establish the necessary forms and procedures for certifying qualified businesses. For investments made after December 31, 2004, the maximum aggregate amount of qualified investments a qualified business may receive is limited to five hundred thousand dollars under this chapter. The limitation on investments under this section may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.

**SECTION 11. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount

of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not ~~less than five thousand dollars and not more than two hundred fifty thousand dollars~~. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than one-third of the credit under this section which is attributable to investments in a single taxable year.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made.
4. A ~~partnership~~ passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a ~~partnership's passthrough entity's~~ investment in a qualified business must be determined at the ~~partnership~~ passthrough entity level. The amount of the total credit determined at the ~~partnership~~ passthrough entity level must be allowed to the ~~partners, limited to individuals, estates, and trusts,~~ members in proportion to their respective interests in the ~~partnership~~ passthrough entity.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
6. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
7. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
8. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 12. AMENDMENT.** Section 57-38.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-04. Taxable year for seed capital investment tax credit.** The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which ~~full consideration~~ for the investment in the qualified business was received by the qualified business.

**SECTION 13. 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 ~~through calendar year 2002 is limited to one million dollars and after calendar year 2002~~ is limited to two 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 14.** A new section to chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

Credit for investments made before 2005. An investment made before January 1, 2005, which did not qualify for the tax credit under this chapter because of the two million five hundred thousand dollar credit limitation in effect before the effective date of this Act is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of forty-five percent of the amount invested by the taxpayer in a qualified business subject to the following:

1. The aggregate investment for which a taxpayer may obtain a credit under this section is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
2. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this section which is attributable to investments made before January 1, 2005.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to five taxable years after the taxable year in which the investment was made.
4. This section does not apply to investments made in an agricultural processing facility as defined under section 57-38.6-01.

**SECTION 15. REPEAL.** Chapters 10-30.1 and 10-30.2 of the North Dakota Century Code are repealed.

**SECTION 16. REPEAL.** Section 15-10-41 of the North Dakota Century Code is repealed.

**SECTION 17. NORTH DAKOTA BUSINESS CLIMATE INITIATIVE - LEGISLATIVE COUNCIL STUDY.** 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 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 18. VENTURE AND RISK CAPITAL - LEGISLATIVE COUNCIL STUDY.** During the 2005-06 interim, the legislative council shall study issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. The study must address how to define venture and risk capital for purposes of the study; real and perceived issues regarding gaps in the availability of venture and risk capital in the state; whether state programs adequately address the venture and risk capital needs of businesses in the state and whether these programs should be changed to increase availability to venture and risk capital, including whether the partnership in assisting community expansion program might be used as a model to address possible venture and risk capital availability issues and whether the state could effectively play a role as facilitator in improving access to venture and risk capital; how the state could assist in creating an environment more conducive to attracting private venture and risk capital in the state; and how other states have attempted to address venture and risk capital concerns of businesses. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 19. ALTERNATIVE AND VENTURE CAPITAL INVESTMENTS - EARLY-STAGE CAPITAL FUNDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the president of the Bank of North Dakota shall report to the legislative council on the status of the Bank's investments in alternative and venture capital investments and early-stage capital funds under subdivision c of subsection 4 of section 6-09-15. The president shall inform the legislative council whether this investment program should continue and whether there are potential changes that could be made to improve the state's venture capital and early-stage capital investment structure.

**SECTION 20. CENTERS OF EXCELLENCE - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education and the centers of excellence commission shall report to the legislative council on the status of the centers of excellence program under section 4 of this Act. The report must include information regarding approved and rejected applications; funding; private sector participation; accomplishments of each center of excellence, including information regarding how each center of excellence is meeting, or will meet, the criteria under

section 4 of this Act; and whether there are potential changes that could be made to improve the centers of excellence program.

**SECTION 21. INSURANCE AND LIABILITY DATA - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the insurance commissioner shall compile existing data regarding the state's liability insurance marketplace. The data must include information regarding issues that may result in barriers for businesses seeking to obtain affordable liability insurance coverage, with specific focus on the travel and tourism industry, and must include information regarding successful actions taken by other states to improve the availability and affordability of liability insurance. Before July 1, 2006, the insurance commissioner shall report to the legislative council the data compiled and identify proposed legislative changes necessary to implement any recommendations to make the state's laws and availability of liability insurance more attractive to businesses in this state.

**SECTION 22. TECHNOLOGY COMMERCIALIZATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the state board of higher education shall conduct a study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study must include roundtable discussions; include consideration of leveraging research, capital, and entrepreneurs; include consideration of successful actions taken by other states to increase technology commercialization; and focus on approaches that are specifically tailored to the state's unique circumstances. The board may contract with a third party to conduct the study. Before July 1, 2006, the chancellor of the North Dakota university system shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to stimulate technology commercialization in this state.

**SECTION 23. TRANSPORTATION STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the upper great plains transportation institute shall conduct a study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development, with a focus on the potential to expand the sale of goods to markets outside the state by strengthening the state's transportation infrastructure. In conducting this study, the upper great plains transportation institute shall consult with the department of transportation and the department shall cooperate in the study. The study must include consideration of how to improve the load-carrying limits of the state's highways and associated costs and benefits; consideration of what enhancements must be made to the state's highways to allow load limits to be raised to more efficiently move goods to market and associated costs and benefits; exploration of the phenomenon of the decline of freight service by rail, including the prospects for offering incentives to rail providers to expand the availability of rail for transportation of goods to market and the associated costs and benefits; recommendations on how to enhance the state's transportation infrastructure; whether it is feasible to identify and assist airports that are specially situated in order to assist in economic development; and an analysis of the projected economic development impacts associated with the recommended infrastructure improvements. Before July 1, 2006, the upper great plains transportation institute shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's transportation infrastructure.

**SECTION 24. PROCUREMENT ASSISTANCE STUDY - REPORT TO LEGISLATIVE COUNCIL.** During the 2005-06 interim, the director of the office of management and budget shall report to the legislative council on the status of providing procurement information through the internet under section 6 of this Act; perform a study on the most effective manner in which to provide for a procurement assistance center; and report to the legislative council on the outcome of the procurement

assistance center study, including what services might be provided by such a center, how services might be provided by such a center, and what legislative changes would be required to implement such a center.

**SECTION 25. EFFECTIVE DATE - EXPIRATION DATE.** Sections 9 through 13 of this Act are effective for taxable years beginning after December 31, 2004. Section 15 of this Act becomes effective on August 1, 2007. Sections 2, 7, and 8 of this Act are effective for taxable years beginning after December 31, 2008. Section 10 of this Act is effective for a business certified as a qualified business after December 31, 2004. Section 14 of this Act is effective for taxable year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 13 of this Act. Section 4 of this Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

Reengrossed SB 2032 was placed on the Seventh order of business on the calendar.

**2005 TESTIMONY**

SB 2032

*Basic layout of this Bill*  
**SENATE BILL NO. 2032** *Jennifer Clark*

Subject Matter	Sections
Venture and risk capital - Bank of North Dakota alternative and venture capital investments and early-stage capital funds	Sections 1, 3 Section 26 (report to Legislative Council)
Venture and risk capital - Repeal Chapters 10-30.1 and 10-30.2, venture capital corporations and Myron G. Nelson Fund, Inc.	Section 2 (cross-reference) Section 14 (cross-reference) Section 15 (cross-reference) Section 20 (repeal) Section 23 (Legislative Council study) Section 42 (effective date of repeal)
Centers of excellence	Section 4 Section 21 (repeal) Section 27 (report to Legislative Council) Section 42 (effective date of repeal)
Cooperative work experience program	Section 5 Section 28 (report to Legislative Council) Section 43 (expire program - Section 5)
International Trade Division of Department of Commerce and North Dakota American Indian Business Development Office of Division of Economic Development and Finance	Sections 6, 7, 10 Section 29 (report to Legislative Council) Section 40 (appropriation)
Local economic developer certification	Section 8 Section 30 (report to Legislative Council) Section 40 (appropriation)
State procurement	Section 9 Section 37 (study and report to Legislative Council) Section 41 (appropriation)
Target industries	Section 11 Section 40 (appropriation)
Image program	Section 12 Section 31 (report to Legislative Council) Section 40 (appropriation) Section 43 (expire program - Section 12)
Business hotline	Section 13 Section 32 (report to Legislative Council) Section 40 (appropriation) Section 43 (expire program - Section 13)
Seed capital investment tax credit	Sections 16, 17, 18, and 19 Section 39 (study and report to Legislative Council) Section 42 (effective date)
Business climate initiative - Legislative Council study	Section 22 Section 40 (appropriation)
Dakota manufacturing initiative	Section 24 Section 25 (report to Legislative Council) Section 40 (appropriation)
Technology commercialization	Section 33 (study and report to Legislative Council)
Insurance and liability	Section 34 (study and report to Legislative Council)
Transportation	Section 35 (study and report to Legislative Council)
Intellectual property	Section 36 (study and report to Legislative Council) Section 40 (appropriation)
Economic development incentives	Section 38 (study and report to Legislative Council) Section 40 (appropriation)

Mar. 15, 2005

SENATE BILL NO. 2032 COMPARISON

Sect. 89, 118  
Study done in intern

Sec. 4, 13, 19

Sect. 5, 6, 7, 14  
clarifies duties of office

Subject Matter	Location at Second House	Appropriation at Introduction - SB 2032	Appropriation at Second House - Location
Venture and risk capital - Bank of North Dakota alternative and venture capital investments and early-stage capital funds	SB 2032	\$0	\$0
Venture and risk capital - Repeal Chapters 10-30.1 and 10-30.2, venture capital corporations and Myron G. Nelson Fund, Inc.	SB 2032	\$0	\$0
Centers of excellence	SB 2018 (Sections 21, 33, and 36)	\$0	\$2,500,000 general fund SB 2018 (Section 7)
Cooperative work experience program	SB 2032 <i>Amitt. needed</i>	\$0	\$0 <i>fiscal note not on initial bill</i>
International Trade Division of Department of Commerce and North Dakota American Indian Business Development Office of Division of Economic Development and Finance	SB 2032	**\$413,103 general fund	\$500,000 grant from North Dakota Development Fund SB 2018 (Section 19) (trade program only) <i>FTE 105,000</i> <i>\$129,000 American Indian Division</i>
Local economic developer certification	SB 2018 (Sections 22 and 37)	\$50,000 general fund \$100,000 special funds	\$50,000 general fund, discretionary SB 2018 (Section 10)
State procurement	SB 2018 (Sections 23 and 38)	\$150,000 general fund	\$50,000 general fund SB 2018 (Section 4)
Target industries	SB 2018 (Section 24)	\$50,000 general fund	\$25,000 general fund, discretionary SB 2018 (Section 10)
Image program	SB 2018 (Sections 25 and 39)	*\$100,000 general fund	\$50,000 general fund, discretionary SB 2018 (Section 10)
Business hotline	SB 2018 (Sections 26 and 40)	*\$30,000 general fund	\$30,000 general fund, discretionary SB 2018 (Section 10)
Seed capital investment tax credit	SB 2018 (Sections 27 through 32 and 41)	\$0	\$0
Business climate initiative - Legislative Council study	SB 2018 (Section 35)	\$50,000 general fund	\$50,000 general fund, discretionary SB 2018 (Section 10)
Dakota manufacturing initiative	SB 2018 (Sections 34 and 42)	\$165,000 general fund	\$100,000 general fund, discretionary SB 2018 (Section 10)
Technology commercialization <i>Study</i>	SB 2032 <i>Study Higher Ed.</i>	\$0 <i>Contract w 3rd party - m...</i>	\$0 <i>50,000</i>
Insurance and liability <i>Study</i>	SB 2032	\$0 <i>43 750,000</i>	\$0
Transportation <i>Study Doc</i>	SB 2032	\$0 <i>485,000</i>	\$0 <i>360,000 RE MI / Airport</i>
Intellectual property	SB 2018 (Section 43)	\$50,000 general fund	\$50,000 general fund, discretionary SB 2018 (Section 10)
Economic development incentives	***	\$30,000 general fund	\$30,000 general fund, discretionary SB 2018 (Section 10)

Sec. 15

Sec. 16

Sec. 17

125,000

\*The image information program and the business hotline program were authorized one full-time equivalent (FTE) position to be shared between the programs.

\*\*The Division of International Trade was authorized 1.5 FTE positions.

\*\*\*Error - Removed from SB 2032 to be placed in SB 2018, except failed to be placed in SB 2018.

2331

## CENTERS OF EXCELLENCE

The centers of excellence (COE) program was created by Section 23 of House Bill No. 1019 (2003), the Department of Commerce appropriations bill. North Dakota Century Code (NDCC) Section 15-10-41 provides the statutory framework for the COE program. During the 2003-04 interim, the Legislative Council Economic Development Committee received the State Board of Higher Education (SBHE) presentation of definitions and eligibility criteria for the COE program pursuant to Section 15-10-41(1). The Economic Development Committee recommended changes to the COE program are provided for in Section 4 of Senate Bill No. 2032, the committee's comprehensive business initiative bill. The Department of Commerce appropriations bill, Senate Bill No. 2018, includes a section amending Section 15-10-41, at Section 9 of the Act.

Senate Bill Nos. 2018 and 2032 amendments to NDCC Section 15-10-41 are identical, except for the

following new language in Senate Bill No. 2018 which is not included in Senate Bill No. 2032:

The Bank of North Dakota may loan up to fifty million dollars to the department of commerce to provide matching funds to recipients of funds awarded under this section. The debt service due under the loan must not exceed five million dollars per biennium. The loan may be entered into upon the terms, conditions, and payment provisions as the parties deem to be in the best interest of the state. Repayment of each loan by the department of commerce is contingent upon receipt of sufficient biennial appropriations by the legislative assembly for that purpose.

The following is a brief comparison between the current COE program law and the proposed COE program law under Section 4 of Senate Bill No. 2032:

Centers of Excellence Program - NDCC Section 15-10-41	
Current	Proposed (SB 2032, Section 4)
<p>1</p> <ul style="list-style-type: none"> <li>• SBHE shall establish the COE program, consistent with the purpose of subsection 2</li> <li>• SBHE shall designate COEs</li> <li>• Legislatively designated COEs:                             <ul style="list-style-type: none"> <li>• North Dakota State University (NDSU) Center for Technology Enterprise</li> <li>• University of North Dakota (UND) Center for Innovation</li> </ul> </li> <li>• SBHE, with North Dakota Economic Development Foundation (foundation) and private sector, shall establish program definitions and eligibility criteria</li> <li>• SBHE shall report definitions and eligibility criteria to the Legislative Council (2003-04 Economic Development Committee)</li> <li>• Foundation may recommend to SBHE high-priority COEs</li> </ul> <p>2</p> <ul style="list-style-type: none"> <li>• COE program purpose:                             <ul style="list-style-type: none"> <li>• Develop and engage strategies for science and technology:                                     <ul style="list-style-type: none"> <li>• Research and development</li> <li>• Commercialization</li> <li>• Entrepreneurship</li> <li>• Infrastructure</li> <li>• Growth and expansion of knowledge-based industries</li> <li>• Activities to develop innovative approaches that expand the gross state product (GSP)</li> </ul> </li> <li>• Assist efforts to attract private and federal assistance for:                                     <ul style="list-style-type: none"> <li>• Science and technology research and development</li> <li>• Commercialization in growth clusters most likely to increase the GSP</li> </ul> </li> <li>• Increase collaboration among state, federal, and private research and development organizations and technology commercialization organizations</li> </ul> </li> </ul>	<p>1</p> <ul style="list-style-type: none"> <li>• SBHE shall establish the COE program</li> <li>• Program provides COE commission (commission) awards funds to:                             <ul style="list-style-type: none"> <li>• Research universities</li> <li>• University-related foundations</li> <li>• Public institutions</li> </ul> </li> </ul> <p>2</p> <ul style="list-style-type: none"> <li>• Defines "industry cluster" as:                             <ul style="list-style-type: none"> <li>• Advanced manufacturing</li> <li>• Energy</li> <li>• Information and technology</li> <li>• Tourism</li> <li>• Value-added agriculture</li> <li>• Aerospace and any other industry the Department of Commerce specifically identifies as contributing to the GSP</li> </ul> </li> </ul> <p>3</p> <ul style="list-style-type: none"> <li>• Creates eight-member commission:                             <ul style="list-style-type: none"> <li>• North Dakota Economic Development appoints two members</li> <li>• SBHE appoints three members</li> <li>• Legislative Assembly appoints three members (nonvoting)</li> </ul> </li> <li>• Commission duties:                             <ul style="list-style-type: none"> <li>• Review applications</li> <li>• Make designation determinations</li> <li>• Award funds</li> </ul> </li> <li>• SBHE shall provide staff for commission</li> </ul> <p>4</p> <ul style="list-style-type: none"> <li>• SBHE:                             <ul style="list-style-type: none"> <li>• Establish forms</li> <li>• Accept applications</li> <li>• Review applications for completeness</li> <li>• Forward applications to commission</li> </ul> </li> <li>• Commission may designate COEs</li> <li>• Legislative Assembly established COEs:                             <ul style="list-style-type: none"> <li>• NDSU Center for Technology Enterprise</li> <li>• UND Center for Innovation</li> </ul> </li> </ul>

Current	Proposed (SB 2032, Section 4)
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## CENTERS OF EXCELLENCE

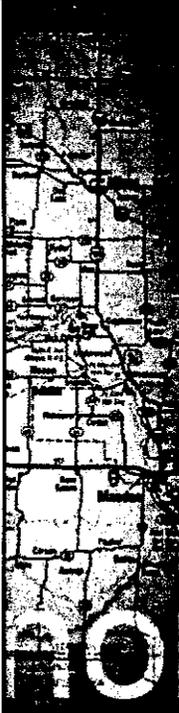
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SBHE</p> <p>3 • Creates six-member commission: <ul style="list-style-type: none"> <li>• Foundation appoints three members</li> <li>• SBHE appoints three members</li> </ul> <p>Commission duties:</p> <ul style="list-style-type: none"> <li>• Review all applications</li> <li>• Approve, disapprove, or approve conditionally applications</li> <li>• Recommend funding awards</li> </ul> <p>4 • SBHE: <ul style="list-style-type: none"> <li>• Provide forms</li> <li>• Accept applications</li> <li>• Review application for completeness and compliance with SBHE policy</li> <li>• Forward applications to commission</li> </ul> <p>5 • No substantive changes likely intended, but housekeeping may be desired to clarify changes</p> <p>6 • Commission shall do the following in considering an application: <ul style="list-style-type: none"> <li>• Ensure application was complete</li> <li>• Consider whether the COE will: <ul style="list-style-type: none"> <li>• Promote job growth and expansion of knowledge-based 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may not exceed \$5 million per biennium</li> <li>• DOC loan repayment must be secured by pledge of interest income from student loan trust fund repayment contingent upon sufficient appropriations</li> </ul>
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Centers of Excellence Program - NDCC Section 15-10-41

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Mark Nisbet

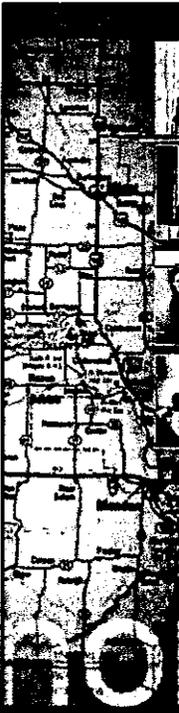


## Economic Development Centers of Excellence

**Mark Nisbet**  
Chairman, Joint Committee on Centers of Excellence  
Principal Manager, Xcel Energy - North Dakota



north dakota



## The Concept

A big, bold idea essential to North Dakota's future:

- Connects potential of colleges and universities across the state with private industry to generate higher-paying, skilled jobs, and career opportunities for the future.
- Will create and attract new businesses, and foster the expansion of existing businesses.
- Create centers that nurture our best and brightest minds to commercialize ideas into products, skills and services.

north dakota



## Creating Opportunity

Centers of Excellence (COE) will bring economic development in North Dakota to a new level:

- Encourages all campuses and surrounding communities to foster, find, and take advantage of opportunities.
- Gives all campuses access to financial resources to match private investments that will turn the opportunities into reality.
- Provides resources and a process that will allow us to maximize good ideas, regardless of where they originate.

north dake

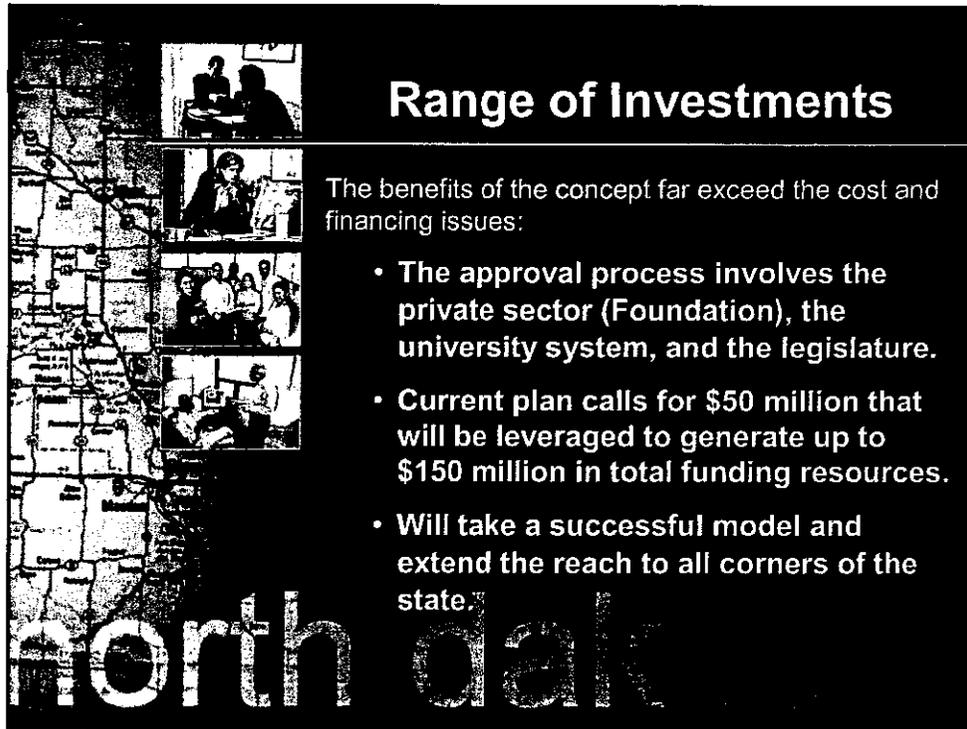


## A Successful Model

The Centers of Excellence concept has a proven track record of success:

- In North Dakota, at NDSU & UND:
  - NDSU – Research Park, Phoenix International and Alien Technology.
  - UND – Center for Aerospace Sciences, Center for Innovation and the Energy and Environmental Research Center.
- These are nationally recognized, much as the “research triangle” in North Carolina.

north dake

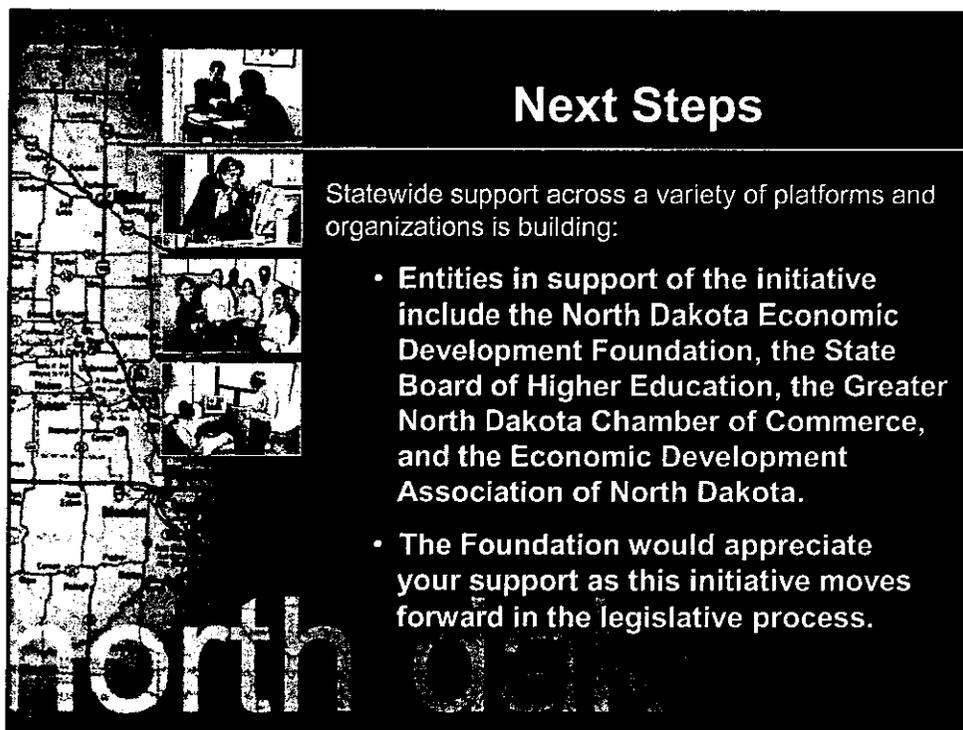


## Range of Investments

The benefits of the concept far exceed the cost and financing issues:

- The approval process involves the private sector (Foundation), the university system, and the legislature.
- Current plan calls for \$50 million that will be leveraged to generate up to \$150 million in total funding resources.
- Will take a successful model and extend the reach to all corners of the state.

north dakota



## Next Steps

Statewide support across a variety of platforms and organizations is building:

- Entities in support of the initiative include the North Dakota Economic Development Foundation, the State Board of Higher Education, the Greater North Dakota Chamber of Commerce, and the Economic Development Association of North Dakota.
- The Foundation would appreciate your support as this initiative moves forward in the legislative process.

north dakota

# North Dakota University System

## Testimony to Senate Industry, Business and Labor Committee on SB2032

*Robert L. Potts, Chancellor*

JANUARY 26, 2005

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Mr. Chairman, members of the Senate Industry, Business and Labor Committee, I am Robert Potts, Chancellor of the North Dakota University System. Thank you for the opportunity to appear before your committee to provide comments on SB-2032, the comprehensive economic development bill.

The North Dakota University System and the Department of Commerce are forging close and productive ties in working together to increase economic activity in the state. Since becoming Chancellor six months ago, I have had a number of invitations and opportunities to work with Lee Peterson, Linda Butts and other members of the staff at the Department of Commerce on economic development matters. These include activities to help attract businesses to North Dakota, promotion of international trade, and service on the Commerce Cabinet and the Workforce Development Council. Included in SB-2032 before you today are provisions regarding Centers of Excellence as well as several other program areas that will continue to build these strong ties between the University System and the Department of Commerce for the benefit of all of North Dakota.

I want to discuss with you for a few minutes the Centers of Excellence provisions in SB-2032 contained in Section 4 of the bill. The State Board of Higher Education, all of the 11 campuses within the University System, my staff and I are delighted and excited about the potential of the centers of excellence for expanding the economy of North Dakota and creating high value employment opportunities for our graduates. This proposal allows higher education to become an even stronger partner with the private and public sectors in expanding the economy of the state.

The SBHE also is strongly supportive of the centers of excellence concept. To be specific, the board, at its February 19, 2004, meeting passed a resolution stating: *"The State Board of Higher Education commends Governor Hoeven for his leadership in creating a stronger partnership for economic development in North Dakota and*

*declares its full support for the governor's proposed economic development centers of excellence initiative."*

The regional meetings with business and community leaders that Governor Hoeven held throughout the state this past year, in cooperation with all 11 campuses, have generated a considerable amount of enthusiasm for the creation of additional centers of excellence in all campus regions. Those meetings have also generated a number of great ideas for potential centers of excellence geared to the needs and opportunities of the various regions of the state. Hopefully, a number of these potential centers will become a reality as a result of the legislation you have before you and the new partnerships that can develop from this initiative.

There is no question that the bill in its present form has the potential to stimulate significant economic development in the state. But the bill in its present form also includes provisions that cause concern for the State Board of Higher Education and for the college and university presidents. We believe the bill can be significantly improved and receive broad and unanimous NDUS support if it is amended to include the following provisions:

- Wording that makes clear that all campuses in the NDUS are eligible to submit proposals for centers of excellence
- A section that makes clear that in the funding approval process for centers to be affiliated with University System campuses, the SBHE has final approval authority before any center proposal is submitted to the Budget Section for authorization of the release of the allocated funding.
- Wording in the criteria and requirements section of the bill that gives the Commission discretion, not only to approve (before forwarding to other approval entities) high quality proposals from research institutions and affiliated foundations, but also high quality proposals from non-research institutions and affiliated foundations that show great promise of stimulating economic growth, job creation, and self-sustainability, but with lower matching requirements, and less of a research and technology focus.

I have had conversations with Governor Hoeven, Lt. Gov. Dalrymple, Commissioner Peterson, Senator Grindberg and others about our concerns and believe we all agree that these items need to be addressed before SB-2032 leaves your committee. I have attached a set of amendments to my testimony which we in the

University System believe will address the issues I have listed and will also allow all regions of the state to benefit from the potential of the centers of excellence concept.

Enacting into law a solid and well-designed plan for centers of excellence is important to the future of North Dakota. The framework for that to happen is outlined in SB-2032. We look forward to working with the committee and the Governor's Office in refining this legislation so that it achieves its full potential.

There are two other sections of SB-2032 which I would like to comment on briefly. Section 25 of the bill requires the NDUS to engage in a study of the state's transportation infrastructure. Section 33 requires a study of incentives for stimulating commercialization of new technologies. You will note that the fiscal note points out the related costs and additional state resources needed to conduct these studies are \$485,000 for the transportation infrastructure study and \$50,000 for the commercialization of new technology study. We respectfully request that if these studies continue to be included in the legislation that the appropriate resources also be allocated to cover the costs or that amendments be added to the bill requesting the SBHE to consider conducting these studies within the overall budget and other priority needs of the University System.

Thank you again for the opportunity to provide comments. I will be pleased to respond to any questions you may have.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2032

Page 11, line 26, replace "Budget" with "Certification to budget section"

Page 11, line 27, remove "section approval"

Page 11, line 30, replace "awards funds" with "makes funding award recommendations"

Page 12, line 1, replace "research universities, university-related" with "universities and colleges, university- and college-related"

Page 12, after line 3, insert:

"a. "Board" means the North Dakota state board of higher education"

Page 12, line 16, replace "eight" with "six"

Page 12, line 17, replace "two" with "three"

Page 12, line 21, replace "two" with "three"

Page 12, line 23, after the period insert "Initial terms shall be staggered." and remove "A member of the"

Page 12, remove lines 24 through 28

Page 12, line 29, remove "officers."

Page 12, line 31, after "review" insert "all" and replace "make designation" with "and approve, disapprove, or approve conditionally"

Page 13, line 1, replace "determinations, and make awards of funds" with "and make funding award recommendations"

Page 13, line 4, replace "establish" with "provide"

Page 13, line 5, after "completeness" insert "and compliance with board policy"

Page 13, line 6, after "commission" insert ", according to guidelines established by the commission.", overstrike "The board shall", and remove "commission and the legislative assembly each may"

Page 13, line 7, overstrike "designate", remove "a center" and overstrike the period

Page 13, line 10, overstrike "Centers of excellence relating to economic"

Page 13, overstrike lines 11 and 12

Page 13, line 23, replace "designation as a center" with "funding to an institution or an affiliated non-profit foundation"

Page 13, line 24, remove "proposed"

Page 14, line 8, replace "designating a center" with "considering an application"

Page 14, line 11, remove "proposed"

Page 14, replace lines 12 through 22 with:

- "(1) Promote job growth and expansion of knowledge-based industries or the development of new products, high-tech companies and skilled jobs in North Dakota;
- (2) Create high-value private sector employment opportunities in North Dakota;
- (3) Provide for public-private sector involvement and partnerships;
- (4) Leverage other funding;
- (5) Foster and practice entrepreneurship;
- (6) Link to targeted industry clusters; and
- (7) Include provisions for becoming self-sustaining."

Page 14, line 23, replace "present" with "report"

Page 14, line 24, remove "for approval"

Page 14, line 27, remove "In accordance with commission award determinations approved by the"

Page 14, line 28, remove "budget section, the", overstrike "board" and overstrike "shall allocate funds from"

Page 14, line 29, overstrike "appropriations for" and overstrike "centers"

Page 14, line 30, remove "for the purpose of funding"

Page 14, line 31, remove "centers."

Page 15, line 1, after "section" insert "annually" and overstrike "such"

Page 15, line 15, after "university-" insert "or college-"

Page 15, line 19, after the period insert "However, the commission may in its discretion reduce the matching funds requirement for applications from institutions other than research universities and the recipient shall provide the board with detailed documentation of the likely availability of the matching funds."

Page 15, line 21, after "university-" insert "or college-"

Page 15, after line 24, insert:

"10. The bank of North Dakota may loan up to fifty million dollars to the department of commerce to provide matching funds to recipients of funds awarded under this section. The debt service due under the loan must not exceed five million dollars per biennium. The loan may be entered into upon terms, conditions and payment provisions as the parties deem in the best interests of the state. Repayment of each loan by the department of commerce shall be secured by a pledge of interest income from the student loan trust fund and repaid from that source, contingent upon receipt of sufficient biennial appropriations by the legislative assembly for that purpose."

Renumber accordingly

III

# North Dakota University System

## Testimony to Senate Appropriations Committee on SB2032

*Robert L. Potts, Chancellor*

FEBRUARY 9, 2005

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Mr. Chairman, members of the Senate Appropriations Committee, I am Robert Potts, Chancellor of the North Dakota University System. Thank you for the opportunity to appear before your committee to provide comments on SB-2032.

In the interest of time, I will confine my comments to three sections of the bill: Section 4 relating to centers of excellence and Sections 33 and 35 relating to studies to be conducted by the University System.

The State Board of Higher Education, all of the 11 campuses within the University System, my staff and I are excited about the potential of the centers of excellence for expanding the economy of North Dakota and creating high value employment opportunities for our graduates. This proposal allows higher education to become an even stronger partner with the private and public sectors in expanding the economy of the state.

I provided testimony in support of the centers of excellence concept when SB-2032 was heard before the Senate Business and Industry Committee. I also offered a set of amendments to the bill which were adopted by that committee and are included in the engrossed bill you have before you. In summary, the amendments included the following key provisions:

- Wording that makes clear that all campuses in the NDUS are eligible to submit proposals for centers of excellence
- A section that makes clear that in the funding approval process for centers to be affiliated with University System campuses, the SBHE has final approval authority before any center proposal is submitted to the Budget Section for authorization of the release of the allocated funding.

- Wording in the criteria and requirements section of the bill that gives the Commission discretion, not only to approve (before forwarding to other approval entities) high quality proposals from research institutions and affiliated foundations, but also high quality proposals from non-research institutions and affiliated foundations that show great promise of stimulating economic growth, job creation, and self-sustainability, but with lower matching requirements, and less of a research and science focus.

We believe the bill in its present form will allow all regions of the state to benefit from the potential of the centers of excellence concept. Enacting into law a solid and well-designed plan for centers of excellence is important to the future of North Dakota. The framework for that to happen is outlined in SB-2032.

There are two other sections of SB-2032 which I would like to comment on briefly. Section 33 of the bill requires the NDUS to engage in a study of the incentives for stimulating commercialization of new technologies. Section 35 requires a study of the state's transportation infrastructure. The estimated costs and additional state resources needed to conduct these studies are estimated to be \$50,000 for the commercialization of new technology study and \$485,000 for the study of the transportation infrastructure. We respectfully request that if these studies continue to be included in the legislation that the appropriate resources are also allocated to cover the costs or that amendments be added to the bill requesting the SBHE to consider these studies within the overall budget and other priority needs of the University System.

Thank you again for the opportunity to provide comments. I will be pleased to respond to any questions you may have.

# North Dakota University System

## Testimony to House Industry, Business and Labor Committee on SB-2032

*Eddie Dunn, Vice Chancellor for Strategic Planning*

MARCH 14, 2005

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Mr. Chairman, members of the House Industry, Business and Labor Committee, I am Eddie Dunn, Vice Chancellor for Strategic Planning for the North Dakota University System. Thank you for the opportunity to appear before your committee to provide comments on SB-2032, the comprehensive economic development bill.

There are two sections of SB-2032 which I will comment on briefly. Section 15 of the bill would require a study of incentives for stimulating commercialization of new technologies. Section 17 would require the Upper Great Plains Transportation Institute to conduct a study of the state's transportation infrastructure. The fiscal note for the commercialization of new technology study is \$50,000. The fiscal note for the transportation infrastructure study is \$485,000.

I contacted the three contact persons designated in the fiscal notes for the studies (Gene Griffin, Director of the Upper Great Plains Transportation Institute; Dr. Phil Boudjouk, Vice President for Research at NDSU; and Dr. Peter Alfonso, Vice President for Research at UND). Drs. Boudjouk and Alfonso reported they would not be able to conduct the study on technology commercialization unless funding is provided. Mr. Griffin reported the study on transportation is important but the quality of the study will be related to the level of funding provided.

Thank you again for the opportunity to provide comments. I will be pleased to respond to any questions you may have.

2032

**North Dakota University System  
Testimony to House Appropriations  
Government Performance Division Committee  
on SB-2032**

*Eddie Dunn, Vice Chancellor for Strategic Planning*

MARCH 18, 2005

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Mr. Chairman, members of the House Appropriations Government Performance Division Committee, I am Eddie Dunn, Vice Chancellor for Strategic Planning for the North Dakota University System. Thank you for the opportunity to appear before your committee to provide comments on SB-2032, the comprehensive economic development bill.

There are two sections of SB-2032 which I will comment on briefly. Section 17 of the bill would require a study of incentives for stimulating commercialization of new technologies. Section 18 would require the Upper Great Plains Transportation Institute to conduct a study of the state's transportation infrastructure. The fiscal note for the commercialization of new technology study is \$50,000. The fiscal note for the transportation infrastructure study is \$485,000.

We appreciate the House IBL committee recommending and the full House endorsing, additional funding for these two studies. It is our assumption and recommendation that the funding for these studies fall within the economic enhancement component of the university system's budget priorities; and, therefore the funding for these studies would not come from or be included in the suggested 21 percent allocated to the NDUS to address long-term finance plan goals of the university system in Engrossed SB2003.

Thank you again for the opportunity to provide comments. I will be pleased to respond to any questions you may have.

## CENTERS OF EXCELLENCE - COMPARISON OF PROPOSALS IN FIRST AND SECOND HOUSE (2005 SENATE BILL NOS. 2018 AND 2032)

### Engrossed Senate Bill No. 2018 (Centers of Excellence Proposed by Senate)

#### North Dakota Century Code Section 15-10-41

1. State Board of Higher Education (SBHE) shall establish the centers of excellence (COE) program. Program provides commission makes funding award recommendations for:
  - Institutions of higher education under control of SBHE.
  - Tribal colleges located in North Dakota.
  - Private baccalaureate-granting institutions of higher education located in North Dakota.
  - University-related or college-related foundations of public or private institutions of higher education located in North Dakota.
2. Definitions of terms
  - Board
  - Center
  - Commission
  - Foundation
  - Industry cluster
3. Creates six-member Centers of Excellence Commission (commission):
  - Foundation (North Dakota Economic Development Foundation) appoints three members.
  - State Board of Higher Education appoints three members.

Commission duties:

  - Review all complete applications.
  - Approve, disapprove, or approve conditionally complete applications.
  - Recommend funding awards.

State Board of Higher Education shall provide staff for commission.
4. State Board of Higher Education duties:
  - Provide forms.
  - Accept applications.
  - Review applications for completeness and compliance with SBHE policy.
  - Forward complete applications to commission.

Centers of excellence include North Dakota State University (NDSU) Center for Technology Enterprise and the University of North Dakota (UND) Center for Innovation.

Legislative Assembly may designate COEs.

Complete application must:

  - Develop and engage strategies for:
    - Science and technology research and development.
    - Commercialization.

### Reengrossed Senate Bill No. 2032, Second Engrossment With House Amendments (Centers of Excellence Proposed by House)

#### New Chapter to NDCC Title 15

#### Definitions

1. Board
2. Center (clarifies term include designated and statutorily named Centers of Excellence)
3. Commission
4. Foundation
5. Industry cluster

#### Centers of Excellence

1. State Board of Higher Education shall establish COE program.
  - Program provides commission makes funding award recommendations for commission-approved applications to SBHE, foundation, and Budget Section.
  - Centers of excellence must be an institution of higher education under the control of the SBHE or a nonprofit university-related or college-related foundation of such an institution.
  - Institution or foundation must be working in partnership with private sector.
  - North Dakota State University Center for Technology Enterprises and UND Center for Innovation are COEs.
2. Commission funding award recommendation must be for a specified amount.
  - Designation of a COE occurs upon SBHE, foundation, and Budget Section approval of commission funding award recommendation.
  - State Board of Higher Education, foundation, and Budget Section may not modify commission recommendation.
  - Emergency Commission shall review and make recommendation before Budget Section makes determination.
3. Each COE may only be designated once per biennium.
4. State Board of Higher Education rules regarding ownership of intellectual property, inventions, and discoveries must address COE activities.

#### Centers of Excellence Commission

##### Creates six-member commission:

Foundation appoints three members of the foundation's members.

State Board of Higher Education appoints three members of the SBHE's members.

Allow appointing entities to substitute members on a meeting-by-meeting basis.

State Board of Higher Education shall provide staff for commission.

**Engrossed Senate Bill No. 2018  
(Centers of Excellence Proposed by Senate)**

Entrepreneurship.

Infrastructure.

Utilization to assist the growth and expansion of knowledge-based industries.

Other activities in the state to develop innovative approaches to expand gross state product.

Create private sector employment opportunities for North Dakota residents.

Assist efforts to attract private and federal assistance for science and technology research and development.

Assist efforts to commercialize and expand industry clusters.

Increase collaboration among state, federal, and private science and technology research and development organizations in North Dakota.

6. Commission shall do the following in considering an application:

Ensure application was complete.

Consider whether the COE will:

Promote private sector job growth and expansion of knowledge-based industries or the development of new products, high-tech companies, or skilled jobs in North Dakota.

Create high-value private sector employment opportunities in ND.

Provide for public-private sector involvement and partnerships.

Leverage other funding.

Increase research and development activities that may involve federal funding from the National Science Foundation Experimental Program to Stimulate Competitive Research (EPSCoR).

Foster and practice entrepreneurship.

Link to targeted industry clusters.

Include provisions for becoming self-sustaining.

7. After approval by SBHE, foundation, and commission, SBHE reports proposed COE to Budget Section.

Approved award determination reported to Budget Section must include details of terms under which SBHE will distribute allocated funds.

State Board of Higher Education, with commission and foundation, reports to Budget Section annually regarding status of allocations of COE funds and actual COE fund distributions.

8. Centers of excellence shall use funds to:

Enhance capacity.

Enhance infrastructure.

Leverage state, federal, and private source funds.

Centers of excellence may not use funds to:

Supplant funding for current operations.

Supplant funding for current academic infrastructure.

**Reengrossed Senate Bill No. 2032, Second  
Engrossment With House Amendments  
(Centers of Excellence Proposed by House)**

**Application - Eligibility Requirements**

1. State Board of Higher Education duties:

Provide application forms.

Accept applications.

Review applications for completeness and compliance with SBHE policy.

Forward complete application to commission.

2. Commission duties:

Review all complete applications.

Approve or disapprove applications.

Make funding award designations.

Distribute funds to designated COEs.

Monitor COEs for compliance with award requirements.

Review changes in assertions of COE applications.

3. Commission consideration factors in making award recommendation:

Use university or college research to:

Promote private sector job growth and expansion of knowledge-based industries.

Promote development of new products, high-tech companies, or skilled jobs in North Dakota.

Create high-value private sector employment opportunities in North Dakota.

Provide for public-private sector involvement in partnerships.

Leverage other funding.

Increase research and development activities that may involve federal funding from the National Science Foundation EPSCoR.

Foster and practice entrepreneurship.

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

Become financially self-sustaining.

Establish and meet deadlines for acquiring and expending all public and private funds specified in the application.

**Use of Funds - Terms of Funds - Distribution of Funds**

1. Centers of excellence shall use funds to:

Enhance capacity.

Enhance infrastructure.

Leverage state, federal, and private source funds.

Centers of excellence may not use funds to:

Supplant funding for current operations.

Supplant funding for current academic infrastructure.

Pay indirect costs.

2. Centers of excellence shall provide SBHE, foundation, and Budget Section with annual audits on all funds distributed to COE (4 years following last receipt of funds).

**Engrossed Senate Bill No. 2018  
(Centers of Excellence Proposed by Senate)**

Pay indirect costs.

9. Recipient that is a state institution or nonprofit university-related foundation shall:  
Provide SBHE detailed documentation of proof of availability of \$2 matching funds for each \$1 COE funds before funds are actually distributed.  
First four years shall provide annual report to SBHE, Governor, and foundation.

**Reengrossed Senate Bill No. 2032, Second  
Engrossment With House Amendments  
(Centers of Excellence Proposed by House)**

3. Commission may not distribute funds to COE until COE provides commission with detailed documentation of:  
Private sector participation.  
Availability of \$2 matching for each \$1 COE funds.
- Matching funds may include:  
Funds facilitated through the collaboration of the private sector participants with other funding entities.  
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.
- Commission, SBHE, foundation, and Budget Section shall give major consideration to portion of matching funds provided in cash by the private sector.
- If COE undergoes change in terms of or assertions made in its application, commission may withhold all or portion of funds, pending commission review.

# Business Congress Initiatives Contained in SB 2018 (from SB 2032)

Prepared by Department of Commerce - 03/21/05

2032

1	2	3	4
Business Congress Initiative Originally Contained in SB 2032	Est. Fiscal Imp. w/ FTEs for 2005-07	Original Location and Level of Appropriation for Initiative at Introduction	Location and Level of Appropriation for Initiative at Second House (most current version)
Venture and risk capital - Bank of North Dakota alternative and venture capital investments and early-stage capital funds, and report to LC	<sup>2</sup> Revenues (\$1,667,000)	SB 2032 \$0	SB 2032 (Sections 1-through-3) (\$1,667,000) \$0 1,3,11
Repeal Chapters 10-30.1 and 10-30.2, venture capital corporations and Myron G. Nelson Fund, Inc.	\$0	SB 2032 \$0	SB 2032 (Sections 7-through-9) \$0 2,7,8,9,20
Venture and risk capital study by legislative council.	\$0	SB 2032 \$0	SB 2032 (Sections 10 and 11) \$0
Centers of Excellence	<sup>1</sup> Expenditures \$5,000,000 (See introduced version of SB 2018)	SB 2018 (Sections 3 and 6) \$5 million w/ \$50 million long term funding mechanism	SB 2018 (Sections 3, 7, 21, 33, and 36) \$2.5 million general fund
Cooperative Work experience program and report to legislative council	<sup>1</sup> Expenditures \$2,000,000 1 FTE	SB 2032 \$0	Eliminated from SB 2032
North Dakota American Indian Business Development Office of ED&F and report to legislative council	<sup>2</sup> Expenditures \$129,272 1 FTE	SB 2032 \$0	SB 2032 (Sections 5, 12, and 16) \$129,272 1FTE
Trade Promotion Authority as Division under DOC	<sup>2</sup> Expenditures \$1,200,000 1.5 FTE	SB 2032 \$413,103 general fund SB 2018 Funding for Trade Promotion Authority - \$500,000 from Development Fund	SB 2032 (Sections 4 and 6) <sup>4</sup> Appropriation in SB 2018 (Section 19) Funding for Trade Promotion Authority - \$500,000 from Development Fund
Local economic developer certification program and report to legislative council	<sup>1</sup> Expenditures \$50,000 Other \$100,000	SB 2032 \$50,000 general fund \$100,000 special funds	SB 2018 (Sections 10, 22, and 37) \$50,000 general fund, discretionary
State procurement web site and procurement assistance report	<sup>1</sup> Expenditures \$150,000 1 FTE	SB 2032 \$150,000 general fund	SB 2018 (Sections 4, 23, and 36) \$50,000 general fund to OMB
Targeted industries study and report to legislative council	<sup>1</sup> Expenditures \$50,000	SB 2032 \$50,000 general fund	SB 2018 (Sections 10 and 24) \$25,000 general fund, discretionary
Image Information program and report to legislative council	Expenditures \$100,000 .77 FTE	<sup>5</sup> SB 2032 \$100,000 general fund	<sup>5</sup> SB 2018 (Sections 10, 25, and 39) \$50,000 general fund, discretionary
Business hotline and report to legislative council	<sup>1</sup> Expenditures \$30,000 .23 FTE	<sup>5</sup> SB 2032 \$30,000 general fund	<sup>5</sup> SB 2018 (Sections 10, 26, and 40) \$30,000 general fund, discretionary
Seed capital investment tax credit and study	<sup>3</sup> Revenues (\$250,000 FY 05) (\$3,000,000 05-07)	SB 2032 \$0	SB 2018 (Sections 27 through 32 and 41) (\$250,000 FY 05) (\$3,000,000 05-07)
Business climate initiative and legislative council study	<sup>1</sup> Expenditures \$50,000	SB 2032 \$50,000 general fund	SB 2018 (Sections 10 and 35) \$50,000 general fund, discretionary
Dakota manufacturing initiative and report to legislative council	<sup>1</sup> Expenditures \$165,000	SB 2032 \$165,000 general fund	SB 2018 (Sections 10, 34, and 42) \$100,000 general fund, discretionary
Technology commercialization study by NDUS	<sup>2</sup> Expenditures \$50,000	SB 2032 \$0	SB 2032 (Sections 13 and 17) \$50,000
Insurance and liability study by ND Insurance Dept	<sup>2</sup> Expenditures \$43,750	SB 2032 \$0	SB 2032 (Sections 14 and 18) \$43,750
Transportation study by NDUS	<sup>2</sup> Expenditures \$485,000	SB 2032 \$0	SB 2032 (Sections 15 and 18) \$485,000
Intellectual property study and report to legislative council	<sup>1</sup> Expenditures \$50,000	SB 2032 \$50,000 general fund	SB 2018 (Sections 10 and 43) \$50,000 general fund, discretionary
Economic development incentives study and report to legislative council	<sup>1</sup> Expenditures \$30,000	SB 2032 \$30,000 general fund	<sup>6</sup> Appropriation in SB 2018 (Section 10) \$30,000 general fund, discretionary

<sup>1</sup> See 12/20/04 Fiscal Note for SB 2032  
<sup>2</sup> See 3/17/05 Fiscal Note for SB 2032  
<sup>3</sup> See 2/17/05 Fiscal Note for SB 2018  
<sup>4</sup> The Trade Promotion Authority was originally authorized 1.5 FTE positions in SB 2032. The 1.5 FTE are not included in the current versions of either SB 2018 or SB 2032.  
<sup>5</sup> The image information program and the business hotline program were originally authorized one full-time equivalent (FTE) position to be shared between the programs in SB 2032. The FTE is not included in the current versions of either SB 2018 or SB 2032.  
<sup>6</sup> ERROR - Authorizing language removed from SB 2032 to be placed into SB 2018, except authorizing language failed to be placed in SB 2018 even though funding was placed in SB 2018

**Inventory of Business Congress Initiatives in SB 2018**

Centers of Excellence	Sections 3, 7, 21, 33 and 38	\$2.5 million general fund
Trade Promotion Authority	Section 19	\$500,000 – Development Fund No FTEs
Local economic developer certification program and report	Sections 10, 22, and 37	\$50,000 – general fund, discretionary
State procurement web site and assistance report	Sections 4, 23, and 38	\$50,000 – general fund to OMB No FTE
Targeted industries study and report	Sections 10 and 24	\$25,000 – general fund, discretionary
Image information program and report	Sections 10, 25, and 39	\$50,000 – general fund, discretionary No FTE
Business hotline and report to legislative council	Sections 10, 26, and 40	\$30,000 – general fund, discretionary No FTE
Seed capital investment tax credit	Sections 27 through 32 and 41	Revenues (\$250,000 FY 05) (\$5,000,000 05-07)
Business climate initiative and study	Sections 10 and 35	\$50,000 – general fund, discretionary
Dakota manufacturing initiatives and report	Sections 10, 34, and 42)	\$100,000 – general fund, discretionary
Intellectual property study and report	Sections 10 and 43	\$50,000 – general fund, discretionary
Economic development incentives study and report	Sections 10 (funding only)	\$30,000 – general fund, discretionary

**Inventory of Business Congress Initiatives Remaining in SB 2032**

Venture and risk capital	Sections 1 through 3	\$0
Repeal of venture capital corporations and Myron G. Nelson funds	Sections 7 through 9	\$0
Venture and risk capital study	Sections 10 and 11	\$0
Cooperative work experience program and report	Eliminated from SB 2032	Eliminated from SB 2032
North Dakota American Indian business development office of ED&F and report	Sections 5, 12, and 16	\$129,272 1 FTE
Trade promotion authority	Sections 4 and 6	Funding in SB 2018 No FTEs
Technology commercialization study	Sections 13 and 17	\$50,000
Insurance and liability study	Sections 14 and 19	\$43,750
Transportation study	Sections 15 and 18	\$485,000

DEPARTMENT OF COMMERCE TESTIMONY ON SB 2032  
JANUARY 26, 2005, 8:30 A.M.  
SENATE INDUSTRY, BUSINESS, AND LABOR COMMITTEE  
ROOSEVELT PARK ROOM  
SENATOR DUANE MUTCH, CHAIRMAN

LEE PETERSON – COMMISSIONER, ND DEPARTMENT OF COMMERCE

Mr. Chairman and members of the committee, good morning. I am Lee Peterson, Commissioner of the North Dakota Department of Commerce and I am here before your committee today in support of Senate Bill 2032. This bill is a direct result of the Business Congress which was carried out by the Interim Economic Development Committee. A great deal of hard work and collaboration on a number of fronts went into the development of this important bill.

Four years ago, we began to fundamentally change the way North Dakota pursues economic development. You enacted legislation that created the Department of Commerce, with the intent to marshal all of our state's resources into one common effort and goal: Improving the lives of all North Dakotans.

Here at the Department of Commerce, we partner with the private sector and work closely with local and regional developers across the state. Our partners are many and varied, including local convention and visitors bureaus, private businesses, local community action agencies, city and county governments, volunteer and professional developers, and our colleges and universities.

Mr. Chairman and members of the committee, what we are doing here at the Department of Commerce is working – and it shows:

- According to the latest statistics from the State Data Center, **North Dakota's population is growing for the first time since 1996.** And we are growing in the 24 to 64-year-old age group, a demographic critical to our economic vitality. (State Data Center and U.S. Census Bureau)
- **We are stemming the flow of outmigration.** In fact, some of our native sons and daughters are returning home to North Dakota because of new and better opportunities here. (State Data Center)
- For 2003, the most recent year for which we have statistics, North Dakota led the nation in per capita personal income growth and was second in wage growth. In fact, **North Dakota was the only state in the nation in 2003 to show both an increase in personal income and a decrease in poverty.** (Bureau of Economic Analysis and US Census Bureau)
- **North Dakota gained jobs while most states, including other states in this region, lost jobs.** We added thousands of new jobs while the rest of the country struggled through a recession. In fact, Job Service North Dakota reported that North Dakota had an increase of more than 7,000 jobs in the second quarter of 2004 compared to the same quarter last year. (Job Service ND)
- **Our average annual wage increased from \$23,750 in 1999 to \$27,629 in 2003...an increase of 16%.** (Job Service ND)
- **North Dakota also gained more than 500 new businesses in 2003 alone.** (Job Service of ND)

These are just a few of the many measurements of the success we have seen, and they show the positive difference we are making on a variety of levels. Together with local developers and forward-thinking private sector participants, the North Dakota Department of Commerce can show that our efforts are paying off. North Dakotans are enjoying a better quality of life.

And our economic growth has provided the resources we need to invest in our future and take our economic development efforts to the next level. We are growing and the future is ripe with new possibilities. Senate Bill 2032 will help take us to that next level and lead us to those new possibilities.

Senate Bill 2032, developed by the Interim Economic Development Committee, through the Business Congress, and in close collaboration with the Department of Commerce, is designed to further enhance our economic development efforts. The bill combines a number of important initiatives including:

- Providing for \$10 million in much needed venture capital.
- Creating an image information program that will help to better communicate the great things that are happening in North Dakota.
- Establishing a "Business Hotline" that will provide prospective companies both in North Dakota and elsewhere with practical information about our state's outstanding business climate.
- Establishing a North Dakota American Indian Business Development Office to help develop more Native American enterprises, both on and off the reservations.
- Creating a professional development certification program for local economic developers to further support cities, counties, reservations and regional communities in their economic development efforts.
- Establishing a procurement information Web site, where potential vendors of products and services can find opportunities to secure state business.
- Providing for a business climate study to be conducted by the Legislative Council and the Department of Commerce, and requiring the department to identify target industries and report these targets to the Legislative Council.
- Revising the investment tax credits for small business to support the kinds of entrepreneurial activities that produce new wealth and new opportunities for our people.
- Enhancing the existing Centers of Excellence program that has been and continues to be successful.

Before I turn it over to others who are here today to discuss Centers of Excellence, let me first say a few words about why this initiative is so important to the future of our state. Centers of Excellence are partnerships between higher education, the State and private business to create engines of economic development on and around our university and college campuses – economic engines that will be the fuel to ignite our state's economy into the future and result in more career opportunities for us and our young people.

Centers of Excellence represent a significant force for future economic growth in North Dakota and they lay the foundation for the kind of business climate that will move our state and our people toward an even brighter future.

I ask each of you to help us achieve the goal of improving the quality of life for the people of North Dakota by committing to Centers of Excellence. We need to have resources in place so that great research and great ideas can realize their true potential and become great initiatives, great businesses, and great industries – here in North Dakota no matter where they originate across the state.

We have made great strides over the last four years, yet there is still more work to do. Our vision for the future is to provide a better quality of life for **everyone** who chooses to call North Dakota their home.

Now is the time to move North Dakota's economy forward and bring more opportunity to our citizens. The tools contained in Senate Bill 2032 afford us the chance to take our economic development efforts to a higher level. Together we can and will continue to succeed in advancing our state's economy and making North Dakota an even better place to live, work, play, be in business, and raise a family.

Thank you for your time and attention this morning and I once again urge your support of Senate Bill 2032. I will be glad to answer any questions you may have at this time.

DEPARTMENT OF COMMERCE TESTIMONY ON SB 2032  
MARCH 14, 2005, 8:00 A.M.  
HOUSE INDUSTRY, BUSINESS, AND LABOR COMMITTEE  
PEACE GARDEN ROOM  
REPRESENTATIVE GEORGE KEISER, CHAIRMAN

*Same given to  
House appropriations*

**LEE PETERSON – COMMISSIONER, ND DEPARTMENT OF COMMERCE**

Mr. Chairman and members of the committee, good morning. I am Lee Peterson, Commissioner of the North Dakota Department of Commerce and I am here before your committee today in support of what remains in SB 2032, the business initiative legislation that was developed through the hard work and collaboration of the Interim Economic Development Committee.

Four years ago, we began to fundamentally change the way North Dakota carries out economic development. You enacted legislation to create the Department of Commerce to marshal all of our state's resources into one common effort and goal.

We partner with the private sector and work closely with local and regional developers across North Dakota. Our partners are many and varied, including local convention and visitors bureaus, private businesses, local community action agencies, city and county governments, volunteer and professional developers and our colleges and universities.

What remains in Senate Bill 2032, developed by the Interim Economic Development Committee in close collaboration with the Department of Commerce, is designed to further enhance our economic development efforts. Before I address the specific initiatives contained in the bill, let me briefly trace the course of the legislation up to this point for you.

The original version of SB 2032 that was introduced contained additional initiatives specific to the Department of Commerce, including Centers of Excellence, which had funding attached to them. After SB 2032 was heard by the Senate IBL committee it was re-referred to Senate Appropriations and reviewed in tandem with our agency appropriation, SB 2018. It was during that time that a majority of the initiatives specific to the Department of Commerce, including Centers of Excellence, were removed from SB 2032 and amended into our agency appropriation, along with some of the associated funding. The initiatives amended into our agency appropriation include:

- Target industry identification and report
- Image information program
- Business hotline program
- Local economic developer certification and training program
- Dakota manufacturing initiative
- Intellectual property rights study and report
- Economic development incentives study and report

Senate Appropriations also included in our agency appropriation pass through funding for the Office of Management and Budget to create a state procurement web site.

The remaining initiatives left in current version of SB 2032 that impact the Department of Commerce are also very important and bring together a number of important business initiatives. They include:

- Providing for \$10 million in much needed venture capital.
- Establishing a North Dakota American Indian Business Development Office to help develop more Native American enterprises, both on and off the reservations.
- Establishing the Trade Promotion Authority as a division under the Department of Commerce while still allowing the department to contract outside the department for the services.

However, the current version of SB 2032 does not include the necessary funding or staffing to accomplish the initiatives contained in the bill. Although we support the initiatives that remain in SB 2032, our resources are limited. We can only be expected to do so much. If we are expected to establish the North Dakota American Indian Business Development Office within the Department of Commerce, we will need the funding and staffing to do it.

We have made great strides in the past four years and there is still more work to do. Our vision for the future is to provide a better quality of life for everyone who chooses to call North Dakota their home.

Now is the time to take advantage of the opportunities before us to move North Dakota's economy forward and bring more opportunity to our citizens. We have a golden opportunity to take our economic development efforts to a higher level through the tools contained in SB 2032. These are opportunities that may never come again. Together we can and will continue to succeed in advancing our state's economy and making North Dakota an even better place to live, go to school, to work, to play, to be in business, and to raise a family.

Thank you for your time and attention this morning and I once again urge your support of SB 2032, provided adequate funding and staffing is made available. I will be glad to answer any questions you may have at this time.

**DEPARTMENT OF COMMERCE TESTIMONY ON SB 2032**  
**MARCH 21, 2005, 2:00 P.M.**  
**HOUSE APPROPRIATIONS, GOVERNMENT PERFORMANCE SUB-COMMITTEE**  
**BRYNHILD HAUGLAND ROOM**  
**REPRESENTATIVE AL CARLSON, CHAIRMAN**

**LEE PETERSON – COMMISSIONER, ND DEPARTMENT OF COMMERCE**

The Department of Commerce supports what remains in SB 2032, the business initiative legislation that was developed through the hard work and collaboration of the Interim Economic Development Committee.

Four years ago, we began to fundamentally change the way North Dakota carries out economic development. You enacted legislation to create the Department of Commerce to marshal all of our state's resources into one common effort and goal.

We partner with the private sector and work closely with local and regional developers across North Dakota. Our partners are many and varied, including local convention and visitors bureaus, private businesses, local community action agencies, city and county governments, volunteer and professional developers and our colleges and universities.

What remains in Senate Bill 2032, developed by the Interim Economic Development Committee in close collaboration with the Department of Commerce, is designed to further enhance our economic development efforts. Before I address the specific initiatives contained in the bill, let me briefly trace the course of the legislation up to this point for you.

The original version of SB 2032 that was introduced contained additional initiatives specific to the Department of Commerce, including Centers of Excellence, which had funding attached to them. After SB 2032 was heard by the Senate IBL committee it was re-referred to Senate Appropriations and reviewed in tandem with our agency appropriation bill, SB 2018. It was during that time that a majority of the initiatives specific to the Department of Commerce, including Centers of Excellence, were removed from SB 2032 and amended into our agency appropriation, along with some of the associated funding. The initiatives amended into our agency appropriation include:

- Target industry identification and report
- Image information program
- Business hotline program
- Local economic developer certification and training program
- Dakota manufacturing initiative
- Intellectual property rights study and report
- Economic development incentives study and report

Senate Appropriations also included in our agency appropriation funding to the Office of Management and Budget for the creation of a state procurement web site and to study the state's procurement process.

The remaining initiatives left in the current version of SB 2032 that impact the Department of Commerce are also very important and bring together a number of important business initiatives. They include:

- Providing up to \$10 million in much needed venture capital.
- Establishing a North Dakota American Indian Business Development Office to help develop more Native American enterprises, both on and off the reservations.
- Establishing the Trade Promotion Authority as a division under the Department of Commerce while still allowing the department to contract outside the department for the services.

We have made great strides in the past four years and there is still more work to do. Our vision for the future is to provide a better quality of life for everyone who chooses to call North Dakota their home.

Now is the time to take advantage of the opportunities before us to move North Dakota's economy forward and bring more opportunity to our citizens. We have a golden opportunity to take our economic development efforts to a higher level through the tools contained in SB 2032. Together we can and will continue to succeed in advancing our state's economy and making North Dakota an even better place to live, go to school, to work, to play, to be in business, and to raise a family.

I once again urge your support of SB 2032, provided adequate funding and staffing is made available, as shown in by the second engrossment of SB 2032, with the amendments from the House.

**Testimony  
SB 2032**

Industry, Business, and Industry Committee  
Duane Mutch, Chairman  
January 26, 2005

Chairman Mutch and members of the Committee, my name is Linda Belisle. I am the director of the Central Services Division of OMB. I'm here to discuss Sections 9, 37, and 41 of this bill, which will be implemented and administered by the State Procurement Office of Central Services.

Section 9 allows for State bidding opportunities to be posted on an Internet website that is developed and maintained by OMB. We envision this website to be all-inclusive in that it would not be limited to only those procurements done by personnel in the State Procurement Office. It would include bidding opportunities for commodities and services by agencies that have delegated authority to do their own procurements as well as those commodities and services that are exempt from the requirements of the procurement chapter (NDCC 54-44.4). We further envision the link to the website would be on the State's home page, making it very easy for vendors to find those bidding opportunities.

Section 37 requires OMB to perform a study to determine the most effective manner in which a one-stop procurement assistance center could be established in North Dakota. Our vision for a center would be one place for vendors to get assistance in getting state contracts, including outreach efforts to locate vendors, assistance with the vendor registration process, and assistance with completing a response to a bid document. The study will research the best model for the State to adopt by coordinating our efforts with the Small Business Administration who currently operates several business development centers in the state and with the Procurement Technical Assistance Centers (PTACs) in other states. We would want to investigate sources of funding; for example, matching funds from the Department of Defense may be available.

Section 41 allows for an appropriation of \$150,000 to fund the study and for an additional FTE to be housed in the State Procurement Office.

This concludes my testimony. I would be happy to answer any questions you may have.

Testimony  
SB 2032

Senate Appropriations Committee  
Senator Ray Holmberg, Chairman  
February 9, 2005

Chairman Holmberg and members of the Committee, my name is Linda Belisle. I am the director of the Central Services Division of OMB. I'm here to discuss Sections 9, 37, and 41 of this bill, which will be implemented and administered by the State Procurement Office of Central Services.

Section 9 allows for State bidding opportunities to be posted on an Internet website that is developed and maintained by OMB. We envision this website to be all-inclusive in that it would not be limited to only those procurements done by personnel in the State Procurement Office. It would include bidding opportunities for commodities and services by agencies that have delegated authority to do their own procurements as well as those commodities and services that are exempt from the requirements of the procurement chapter (NDCC 54-44.4). We further envision the link to the website would be on the State's home page, making it very easy for vendors to find those bidding opportunities.

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Section 41 allows for an appropriation of \$150,000 to fund the study and for an additional FTE to be housed in the State Procurement Office. There are currently 5 full time employees in the State Procurement Office that have oversight of \$335 million of the State's spend on commodities and services as well as responsibility for managing and maintaining the PeopleSoft vendor database, which is shared by state agencies and the colleges and universities. This appropriation is necessary if the State Procurement Office is to accomplish the requirements of Sections 9 and 37 of the bill.

This concludes my testimony. I would be happy to answer any questions you may have.

Senate Industry Business and Labor Committee  
Testimony on SB 2032  
Sections 5 and 28  
Cooperative Work Experience Programs  
Wednesday, January 26, 2005

Mr. Chairman, my name is Wayne Kutzer, Director of the Department of Career and Technical Education. Providing students with real world work experiences – Cooperative Work Experiences (CWE) will best happen by making the business student connection at the local level. We currently have about 900 students in CWE programs across the state but the major hurdle in creating more opportunities for students is the time needed to coordinate those activities at the local level. Not included in this legislation is funding for the project. It would require substantial funding to fund positions at every school. In ND we have had success with partnerships or consortiums of schools working together.

A funding level of \$2 million for the biennium would enable 30 - \$30,000 yearly grants to schools to fund partial positions requiring the schools to also participate in the funding. Naturally more funding would enable larger grants or more grants. Schools could use the funding to free up teacher time during the day or hire a lay person, maybe in conjunction with a local chamber or business group.

When STW was operating in the state there were 29 partnerships or consortiums across the state with a funding level of \$3 to \$5 million per year. I think this could be a model in terms of program delivery.

A key to the entire process/program is statewide coordination which would mean a FTE to manage it. Funding for that position would be \$120,000 to \$150,000 per biennium.

With the network of CTE programs across the state and a CWE position available to a consortium of schools I think the project is very workable. The key is funding, which amounts to time that a teacher or coordinator would have to work with businesses to set up work experience for students.

**Senate Appropriations  
Testimony on SB 2032  
Sections 5 and 28  
"Cooperative Work Experience Programs"  
Wednesday, February 9, 2005**

Mr. Chairman and members of the committee, my name is Wayne Kutzer, Director of the Department of Career and Technical Education. Section 5 of this bill, though short, looks to our agency to administer a Cooperative Work Experience (CWE) program. What it doesn't do is provide for any funding to accomplish it.

Cooperative Work Experiences (CWE) is not a new concept. It provides students with real world work experiences that connect students and the education they are receiving to businesses in their local community. It is a planned activity between the instructor and the business person, with goals and learning objectives for the student. It was a major component in all of Career and Technical Education, but starting back in the 70's, as budgets became tighter, schools cut CWE coordinator positions, both full time and part-time. That doesn't mean that CWEs are a thing of the past, we currently have about 900 students enrolled in CWE programs across the state but the major hurdle in creating more opportunities for students is the time needed to coordinate those activities at the local level.

As I mentioned, this legislation does not include any funding for the project. It would require substantial funding to fund positions at every school, but in ND we have had success with partnerships or consortiums of schools working together.

The fiscal note that is attached to this bill indicates a funding level of \$2 million for the biennium which would provide 30 school partnerships - \$30,000 yearly grants to fund partial positions requiring the schools to also participate in the funding. This model of delivery was used when the School-to-Work program funding was available. When STW was operating in the state there were 29 partnerships or consortiums across the state with a funding level of \$3 to \$5 million per year. Schools could use the funding to free up teacher time during the day or hire a lay person, maybe in conjunction with a local chamber or business group.

Other delivery models that would have lower fiscal impact would be to align the grants with the Joint Powers Agreement partnerships that schools have formed bringing the cost to \$500,000 for the biennium. That would allow for a potential 8 JPA's at \$30,000 per year with some dollars for statewide coordination activities.

With the network of CTE programs across the state and a CWE position available to a consortium of schools, the project is very workable and will provide students with real world work experiences.

But the key is funding, if no funding is tied to this section of the bill I would ask that you reconsider section 5 and 28 of the bill.



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

## Student Loan Trust Summary

### Background

In 1971 the Legislature authorized the Industrial Commission to "acquire and hold in one or more trusts [1] all unpaid United States government guaranteed or reinsured student loans and [2] North Dakota guaranteed student loans, belong to the state of North Dakota or to any of its agencies . . ." (NDCC 54-17-24. See also NDCC 54-17-25). The creation of the North Dakota Student Loan Trust enabled the State of North Dakota to obtain low cost funds (through the sale of tax-exempt bonds) and use those funds for purchasing student loans originated or acquired by the Bank of North Dakota. Since 1971 the Industrial Commission has issued over \$900,000,000 in student loans bonds. The Student Loan Trust had just over \$148 million in bonds outstanding as of December 31, 2004.

### Structure of the Trust

The Student Loan Trust is composed of funds held under two General Bond Resolutions—the 1979 Resolution and the 1996 Resolution. These General Bond Resolutions determine the use and flow of funds within the Student Loan Trust and each Resolution must stand on its own. Because we have outstanding bonds in excess of \$122 million in the 1996 Resolution we are limited to the amount of dollars we can withdraw from the 1996 Resolution.

### Student Loan Trust Status and Future Earnings Potential

The Student Loan Trust Resolutions have a combined surplus of approximately \$45 million as of December 31, 2004

- \$26 million in the 1979 Resolution
- \$19 million in the 1996 Resolution

The Industrial Commission could access 100% of the surplus immediately by having the Bank repurchase all of the loans in the Trust and paying off or defeasing the remaining outstanding bonds. However, this is not recommended by the Trust as the Trust, under current federal law, has the ability to earn a 9.5% return for the State on over \$113 million of student loans.

Under current market conditions and federal laws and the passage of House Bill 1153 which includes a \$9 million transfer (transfer to take place at the end of the 05-07 biennium), the Trust can expect to earn approximately \$6.3 million for the 05-07 biennium\*

- \$4.1 million in the 1979 Resolution
- \$2.2 million in the 1996 Resolution

*\*The transfer of the \$9 million at the end of the 05-07 biennium and any future transfers will impact the Trust's earnings in future biennia.*

To access the earnings in the 1996 Resolution requires the consent of Ambac at the time of each withdrawal from the Trust. (Ambac is the insurer on the bonds held in the 1996 Resolution and in essence represents the bondholders.) Ambac will require current cash flows at the time of each withdrawal request. It is likely that Ambac would consent to a withdrawal each biennium equal to the net earnings for the prior two years, but Ambac will not make a commitment in advance.

There are several factors which could reduce the future earnings of the Trust:

- Congress could at anytime pass a law prohibiting the recycling of 9.5% loans which would greatly reduce future earnings of both of the Resolutions in the Trust.
- Anytime that the Industrial Commission withdraws more than an amount equal to biennial earnings of the Trust, the future earnings potential of the Trust is diminished
- Future earnings of the 1979 Resolution will be reduced as short term interest rates paid to the Bank on the residual bonds (Libor plus 70 basis points) rise. [Each 1% rise in Libor will reduce earnings in the Trust by approximately \$480,000 per biennium, up to a maximum reduction of \$1.2 million per biennium.]

Attached to this Summary is a five-year history of the income, transfers and balances for the Trust by Resolution.

If there are any questions regarding this summary, please feel free to contact either Karlene Fine, Authorized Officer for the Student Loan Trust, at 328-3722 or Edward Sather, Senior Vice President – Treasury Services, Bank of North Dakota, at 328-5604.

3/10/05

## SLT balances

**Student Loan Trust**

Fiscal Year	<u>1979 Resolution</u>				
	2004	2003	2002	2001	2000
Beginning Balance	\$ 54,248,000	\$ 52,186,000	\$ 60,078,000	\$ 60,450,000	\$ 57,645,000
Net Income	\$ 2,093,000	\$ 2,062,000	\$ 1,173,000	\$ 3,128,000	\$ 2,805,000
Transfers	\$ (30,359,000)	\$ 0	\$ (9,065,000)	\$ (3,500,000)	\$ 0
Ending Balance	\$ 25,982,000	\$ 54,248,000	\$ 52,186,000	\$ 60,078,000	\$ 60,450,000

Fiscal Year	<u>1996 Resolution</u>				
	2004	2003	2002	2001	2000
Beginning Balance	\$ 18,026,000	\$ 16,637,000	\$ 14,337,000	\$ 13,264,000	\$ 11,542,000
Net Income	\$ 2,211,000	\$ 1,389,000	\$ 2,300,000	\$ 1,073,000	\$ 1,722,000
Transfers					
Ending Balance	\$ 20,237,000	\$ 18,026,000	\$ 16,637,000	\$ 14,337,000	\$ 13,264,000

Total Net Income	\$4,304,000	\$3,451,000	\$3,473,000	\$4,201,000	\$4,527,000
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**MANDAN, HIDATSA & ARIKARA NATION**  
Three Affiliated Tribes • Ft. Berthold Reservation  
404 Frontage Road • New Town, ND 58763-9402

**59<sup>th</sup> LEGISLATIVE ASSEMBLY**  
**SENATE COMMITTEE ON INDUSTRY BUSINESS & LABOR**  
**HONORABLE DUANE MUTCH, CHAIRMAN & COMMITTEE**  
**MEMBERS**

**TESTIMONY OF TEX G. HALL, CHAIRMAN**  
**MANDAN, HIDATSA & ARIKARA NATION**  
**ON SENATE BILL 2032**

*Same testimony  
given to  
House*

Chairman Mutch and Committee Members, my name is Tex Hall and I am the Chairman of the Mandan, Hidatsa & Arikara Nation. Thank you for allowing me to testify before you today.

Senate Bill 2032 promotes economic development in the State of North Dakota – including economic development on North Dakota’s Indian Reservations. Section 7 of the Bill specifically amends Section 54-34.3-06 of the North Dakota Century Code to require the North Dakota American Indian Business Development Office to assist Tribal and Indian-owned businesses and to “provide services to assist in the formation of partnerships between American Indian and non-American Indian businesses.” The Mandan, Hidatsa and Arikara Nation supports Senate Bill 2032 and is especially supportive of the language in Section 7 which promotes partnerships between Indian and non-Indian businesses.

As all of you know, the unemployment rates on North Dakota’s Indian Reservation soars over the State’s unemployment rate. The assistance the State and the Tribes provide to the unemployed is a great burden to our governments. Thus, it would serve the interests of both the State and the North Dakota Tribes to explore and create opportunities for Indian and non-Indian businesses to partner together for their mutual benefit. In doing so, they will create jobs throughout the State and our unemployment rates should diminish.

The Mandan, Hidatsa, and Arikara Nation has seven corporations that are looking for ways to create business both on and off of our Reservation. Two of these companies have obtained 8(a) status from the United States Small Business Administration. These companies would jump at the opportunity to work with a North Dakota business in the SBA’s Mentor-Protégé Program. Senate Bill 2032 would allow the North Dakota American

Indian Business Development Office to explore and facilitate these types of partnership opportunities.

Again, developing these business relationships would be good for all of us. Thus, I urge this committee to recommend a DO PASS on SB 2032.

Although the Mandan, Hidatsa and Arikara Nation supports SB 2032, we do not believe that it goes far enough. We encourage the North Dakota to develop and pass legislation during the 59<sup>th</sup> Assembly that would further promote business relationships between Indian and non-Indian companies. It is time for North Dakota's legislature to pass laws that will enable Indian or tribally owned companies to access capital like any other corporation in the State of North Dakota. The North Dakota Tribes stand ready to work with you in developing laws that will address any concerns that lending institutions or non-Indian owned business may have when partnering with Indian or tribally owned companies.

Again, thank you for allowing me to testify.

## Testimony on SB 2032 and Proposed Amendment re Job-Mentoring Program

Hau Chairman Mutch and members of the Committee. For the record, my name is Carol Two Eagle, and I come before you today in favor of SB2032, but with an amendment regarding creation of a job-mentoring program for the North Dakota Youth Correctional Center that I and others believe would significantly reduce recidivism there.

As you know, I am a Sun Dancer, and so, a Pipe Carrier. This means I am a spiritual person of my People - and of all People. I am the woman who Dances The Four Winds, which is a prayer to heal the sacred hoop of the world. It was brought to me by Elders of 7 Nations. Only one woman Dances this prayer at any given time. It is no lark. If any part of the sacred hoop ever needed healing, it is the part that deals with rehabilitation of our youth in "correctional institutions" such as NDYCC.

I had hoped to bring you letters from the young people at the NDYCC, both males and females, containing their thoughts regarding education and career-oriented training that *they believe* would significantly reduce recidivism. Some of the young people in the NDYCC have told me they returned there as many as *6 times*. Not because the place is so much fun - it isn't - but because, they say, they have been so brow-beaten there, they felt they had no hope of a better life "on the outside". In people under the age of 21 years, I find this especially heart-breaking to hear. It shouts that the techniques currently used at the NDYCC do not do anything to rehabilitate and correct the attitudes of the young people who end up there - if anything, they make them worse. Every one of you knows the truth of the teaching, "Attitude is everything".

About noon yesterday, I got a voice mail from someone in the administration of the NDYCC who said, "we cannot allow unauthorized and unscreened letters from the inmates of the NDYCC *to go to anyone, including the Legislature* about conditions or happenings at NDYCC". *Why not!?*, I wonder. What is the administration of the NDYCC hiding, I wonder? I hope you join me in so wondering. One thing is certain, there is no productive orientation or job-mentoring program there now, and it is needed.

Moreover, there is the matter of violation of the Constitutional Rights of these youth - especially those 18 & over. I asked 2 good attorneys about this, and both said they believe I am right - that this action by the administration of NDYCC is Un-constitutional, it violates the Rights of the youth there. One of them pointed out that the youth in the NDYCC are not "inmates". They are not "imprisoned", under the law. They are there for correction of behavior such as drug use, but they have not committed crimes in the sense that adults have and they are not technically 'prisoners'.

I have hired and fired for over 25 years. I know and trust my own judgment regarding people and conditions when I see them. No one thinks for me, & I am no bleeding heart.

Here are some examples I have been told, or have seen to be true: (1) a member of the local oversight committee of the NDYCC told me that whoever from Ressler Chevrolet in Mandan is on the oversight committee told the teachers of auto mechanics and shop at

They had intercepted the letters on the path, &

K

NDYCC, "Don't teach those kids too much, or anything that will let them take any business away from us at Ressler or we'll see that you are fired".

Ressler Chevrolet is a large business; not a struggling one. This is outrageous! Instead of seeing those youth as a threat to Ressler's already considerable prosperity, they should have come up with a job-mentoring program so those young people would have constructive, productive jobs to go to when they get out. Such jobs are a major consideration in reducing recidivism. They promote pride of accomplishment; which always favors independence and not returning to "correctional institutions". You need to address this during this Session; change the law so that this kind of thinking and instruction stop hindering the youth & instead actively help them turn their lives around.

- (2) That several members of the staff intentionally confront the youth "often" and endeavor to put the youth in positions where they will break some rule, so the staffer can punish the youth. This is not good practice and it does not correct any previous attitude that caused the youth to enter the NDYCC. It certainly does nothing to reduce recidivism!
- (3) That it is common for staffers to tell the youth that they are "losers" and that they "can never be trusted again, because you have been in here". There is no justification for this kind of attitude or behavior on the part of staff, and the youth tell me that the administration is fully aware of it. I have also heard from some staff that the administration is fully aware of this.
- (4) Two staff told me that the staff *and the youth* were "disciplined" for a week by having coffee or juice taken away, because some staff used an 'unauthorized' topping on a snack and 'administration' found out about it. The youth had nothing to do with it - yet they were punished in this childish manner. For that matter, this shows that treatment of staff is not professional. If staff are treated so unprofessionally, the youth the Center is supposed to serve and help will not be treated better.
- (5) There are complaints of racist remarks and attitudes among some staff, and I have seen and heard evidence of this myself. If you want specifics, feel free to ask me, and I will tell you. Not all of them belong before this Committee from the perspective of this Bill, but all of them belong before this Session of the Legislature. There is a disproportionate number of Indian youth in the NDYCC compared to our percentage of the general population of North Dakota.

All of which underscore the huge need for major changes at NDYCC, including a job-mentoring program there. *HAVE YOU EVER SEEN ATTITUDE IMPROVE ~~BE~~ BECAUSE OF CONTINUOUS PUNISHMENT?*

One suggestion from the young people, for improving conditions that I find both wonderful in itself and stunning that it does not already exist is "We think there should be anger-management classes for everyone here - students and staff alike. There currently are none." One young man suggested that anger-management classes should also be in high schools, "because we teens have so much anger anyway, especially those of us who have been abused in any way".

Considering that most of the youth I have met in the NDYCC relate tales of abuse of one kind or another by parents or step-parents or 'significant others' of a parent, this suggestion has great merit.

Angry people do not do as much work, nor do they do as good quality work. Anger that interferes with everyday living is an evil, consuming thing that destroys lives. This Bill is about improving the lives of our youth, and so is this suggestion.

Another suggestion I think is excellent is that there should be a half-way house for the youth coming out of NDYCC, tied to a job-mentoring program, "so that we don't go through culture-shock so bad when we leave here". This young man said he went through culture shock when he entered the NDYCC, and again when he left, and he was not oriented to productive independent living while he was at NDYCC. "It was all about punishment", he said. He is on his second trip through. He believes this culture shock is greatly reducible, and so do I. Establishment of a half-way house would enable these young people to go from the rigidity of "inside" NDYCC to "regular life" in a step-wise manner, including going to and from jobs from a job-mentoring program. In the long run, it would be far more cost-effective than building more "correctional facilities". It would aid in producing productive citizens, instead of more fodder for the prison system. This is truly a win-win idea also.

While there are sometimes valid concerns about young people hurting themselves with sharp objects, and it is true that occasionally some of the youth in the NDYCC need to be watched to prevent injury, I have found that the majority of these young people "want reasons for what (they) are told to do, rather than being expected to jump on command, like trained animals", as several of them put it to me.

Virtually every young person who told me their concerns over the past 7 or 8 months has said, "The staff members all have a huge need for sensitivity training, and for training in the needs of us as human beings. We generally feel as if we are viewed as some kind of animals, and some of them tell us that is what we are. And we *need* job training!"

Senators, I find it outrageous that young people would see themselves as treated this way. Worse, I have heard it with my own ears and seen it with my own eyes. A massive change is needed in the way the young people in the NDYCC are treated, and viewed, by the administration and the staff of the Center. Incorporation of the suggestions of the young people that I have related here, and the proposed job-mentoring program outlined in my Amendment, would make great beginning strides toward effecting that change.

Thank you for hearing me in a good way now. Mitakuye oiasin (We are all related.)

#### Proposed Amendment(s) to SB 2032

Pg. 15, line 29, insert after 'schools', "including the North Dakota Youth Correctional Center";

Pg. 15, line 31, insert after 'section', "excepting the North Dakota Youth Correctional Center, which shall always be eligible for these funds and equipment"; A PROPORTIONAL SHARE OF

Pg. 16, line 3, insert after the word 'programs', "except for the North Dakota Youth Correctional Center, which shall use the funds it receives to do all of these things, in order to reduce recidivism at the NDYCC".

This section now reads (Pg. 15, Line 27 through Pg. 16, Line 6, after re-numbering) :

27 Cooperative work experience program. The department shall  
administer a  
28 Cooperative work experience grant program to provide funds to a  
school or a consortium of  
29 Schools, including the North Dakota Youth Correctional Center, for  
the purpose of supporting local  
30 work experience programs that provide innovative strategies to enhance  
real world, on-the-job, cooperative work  
31 experiences for students in this state. The department shall establish  
eligibility criteria for funds

Pg. 16, Line 1 under this section, excepting the North Dakota Youth Correctional  
Center, which shall always be  
2 eligible for a proportional share of these funds and equipment. A  
recipient of funds under this  
3 section may use the funds to fund a program coordinator position or to  
fund the local  
4 program, which may include internships, one-the-job training, school-  
to-work activities, business programs,  
5 and a job-mentoring program, except for the North Dakota Youth  
Correctional Center, which shall  
6 use the funds it receives to do all of these things, in order to reduce  
recidivism at the NDYCC.