

**SECOND ENGROSSMENT
with House Amendments (Minority)**

Fifty-fifth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2019

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide appropriations for defraying the expenses of the department of
2 economic development and finance and to the agricultural products utilization commission; to
3 provide for transfers of funds; to provide for the reallocation of funds; to amend and reenact
4 section 57-43.1-03.1 of the North Dakota Century Code, relating to tax refunds for fuel used for
5 agricultural purposes; and to provide for application.

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

7 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
8 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in
9 the state treasury, not otherwise appropriated, and from special funds derived from federal
10 funds and other income, to the department of economic development and finance for the
11 purpose of defraying its expenses, for the biennium beginning July 1, 1997, and ending
12 June 30, 1999, as follows:

13 Salaries and wages	\$2,421,849
14 Operating expenses	1,581,995
15 Equipment	34,000
16 Grants	1,313,141
17 General allocation grants	725,690
18 North Dakota development fund	<u>1,909,875</u>
19 Total all funds	\$7,986,550
20 Less estimated income	<u>298,428</u>
21 Total general fund appropriation	\$7,688,122

22 **SECTION 2. APPROPRIATION.** The funds provided in this section, or so much of the
23 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in
24 the state treasury, not otherwise appropriated, and from special funds derived from federal

1 funds and other income, to the agricultural products utilization commission for the purpose of
2 defraying the expenses of the agricultural products utilization commission, for the biennium
3 beginning July 1, 1997, and ending June 30, 1999, as follows:

4 Salaries and wages	\$ 150,575
5 Operating expenses	76,518
6 Equipment	3,350
7 Grants	2,425,571
8 Ethanol incentive	<u>1,500,000</u>
9 Total all funds	\$4,156,014
10 Less estimated income	<u>3,072,150</u>
11 Total general fund appropriation	\$1,083,864

12 **SECTION 3. APPROPRIATION.** All income received in excess of the amounts
13 appropriated in section 2 of this Act relating to agricultural products utilization commission
14 activities is hereby appropriated to the agricultural products utilization commission for research,
15 marketing, and utilization grants for the biennium beginning July 1, 1997, and ending June 30,
16 1999. Any funds received require the approval of the emergency commission before they may
17 be expended.

18 **SECTION 4. AGRICULTURAL FUEL TAX FUND.** The estimated income line item in
19 section 1 of this Act includes \$1,007,243 from the agricultural fuel tax fund for the biennium
20 beginning July 1, 1997, and ending June 30, 1999.

21 **SECTION 5. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION**

22 **INCENTIVES.** The estimated income line item in section 1 of this Act includes \$1,507,000, or
23 so much of the amount as may be necessary, from the highway tax distribution fund for the
24 ethanol production incentive program. Of this amount, \$1,500,000 is for the purpose of
25 providing production incentives to the Grafton, North Dakota, ethanol plant and \$7,000 is for
26 audits of the use of these funds for the biennium beginning July 1, 1997, and ending June 30,
27 1999. Distribution from the appropriation in section 1 of this Act to the producers of
28 agriculturally derived fuel must be at the rate of forty cents for each gallon of agriculturally
29 derived fuel produced in the state which is marketed by the producing plant to a distributor or
30 wholesaler for sale within North Dakota. For purposes of this section, "gallon of agriculturally
31 derived fuel" means a gallon of fuel that qualifies for the alcohol credit under 26 U.S.C. 40,

specifically including fuel to which a denaturant has been added. Payment to the producing plant must be approved by the agricultural products utilization commission upon presentation by the plant of an affidavit to the effect that the ethanol sold from the plant and for which the producer's credit is being sought is to be sold at retail to consumers in North Dakota. The affidavit of the producer of the ethanol must be accompanied by an affidavit from the wholesaler or retailer to the same effect. If any ethanol plant that did not receive production incentives during the fiscal year ending June 30, 1997, is eligible for production incentives on July 1, 1998, for the fiscal year ending June 30, 1999, incentive payments, only fifty percent of the authorized production incentives, up to a total of \$250,000, may be provided to an ethanol plant that produced fifteen million gallons or more of ethanol in the previous fiscal year. Within ninety days after the end of each fiscal year of the ethanol plant beginning after December 31, 1992, any North Dakota ethanol plant receiving production incentives from the state shall file with the budget section of the legislative council a statement, certified by a certified public accountant, as to whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received from this incentive program.

SECTION 6. EXEMPTION. The funds appropriated in the agricultural products utilization line item in section 1 of this Act are not subject to section 54-44.1-11 and any unexpended funds from this line item relating to grants awarded may be available for continued payment of grants awarded but not paid during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 7. TRANSFERS - ECONOMIC DEVELOPMENT FUNDS. Of the general fund amount appropriated in section 1 of this Act, \$1,909,875 must be transferred to the North Dakota development fund. The transfers must be in amounts and at such times as requested by the director of the office of management and budget.

SECTION 8. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS. The \$1,909,875 transferred to the North Dakota development fund must be dedicated for projects as follows: forty percent businesses in rural areas, forty percent businesses in urban areas, and twenty percent North Dakota American Indian businesses. Any unused funds in any category may be transferred to another category during the second year of the biennium under rules adopted by the director of the department of economic development and finance. The director of the department of economic development and finance may reallocate up to twenty

1 percent of any region's available remaining balance of regional rural development revolving
2 loan funds to another region or regions for the biennium beginning July 1, 1997, and ending
3 June 30, 1999. Of the amount available in the North Dakota development fund, \$4,000,000 or
4 the unobligated balance on July 1, 1997, relating to the transfer of regional rural development
5 revolving loan fund moneys, must continue to be dedicated for the purpose of providing
6 financial assistance, research and development assistance, and loans or equity or debt
7 financing on a matching basis to new or expanded primary sector businesses in areas of the
8 state which are not within five miles [8.05 kilometers] of any city with a population of more than
9 eight thousand. These funds must be allocated for the benefit of each of the areas delineated
10 as regions by executive order of the governor pursuant to section 54-40.1-02.

11 **SECTION 9. ECONOMIC DEVELOPMENT FUNDS - WAGE REQUIREMENTS.** Any
12 political subdivision or economic development authority may adopt a minimum wage
13 requirement for any new business or business expansion in which a majority of the capital is
14 provided by the North Dakota development fund and its own local development funds. These
15 wage requirements may be imposed on all or any portion of the employees and may exceed
16 federal minimum wage requirements.

17 **SECTION 10. AMENDMENT.** Section 57-43.1-03.1 of the 1995 Supplement to the
18 North Dakota Century Code is amended and reenacted as follows:

19 **57-43.1-03.1. (Effective until December 31, 1999) Refund of tax for fuel used for**
20 **agricultural purposes - ~~Reduction for agricultural fuel tax fund~~ Reductions.** Any person
21 who buys or uses any motor vehicle fuel for agricultural purposes, except motor vehicle fuel
22 used in motor vehicles operated or intended to be operated in whole or in part upon any of the
23 public highways of this state on which the motor vehicle fuel tax has been paid, must be
24 reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon
25 the presentation to and the approval of the commissioner of a claim for refund. The amount of
26 the tax refund provided for in this section must be reduced by ~~four~~ seven cents per gallon [3.79
27 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel
28 users, ~~two~~ Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the
29 agricultural fuel tax fund ~~and two cents, one cent~~ per gallon [3.79 liters] withheld from the
30 refund must be retained in the highway tax distribution fund, and four cents per gallon [3.79
31 liters] withheld from the refund must be deposited in the agricultural research fund. Those

persons who have a valid tax assignment permit issued by the commissioner under section 57-43.1-11 must be charged ~~four~~ eight cents per gallon [3.79 liters] by the dealer and the ~~four~~ eight cents charged must be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

(Effective January 1, 2000) Refund of tax for fuel used for agricultural purposes -

~~Reduction for agricultural fuel tax fund~~ Reductions. Any person who buys or uses any motor vehicle fuel for agricultural purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, must be reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section must be reduced by ~~two~~ six cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, ~~two~~. Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund and four cents per gallon [3.79 liters] withheld from the fund must be deposited in the agricultural research fund. Those persons who have a valid tax assignment permit issued by the commissioner under section 57-43.1-11 must be charged ~~two~~ six cents per gallon [3.79 liters] by the dealer and the ~~two~~ six cents charged must be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

SECTION 11. APPLICATION. Section 10 of this Act applies to refund claims for motor vehicle fuel taxes paid after December 31, 1996.