

April 6, 2009

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2018

Page 1, line 2, after the first semicolon insert "to provide an appropriation to the office of management and budget; to provide an appropriation to the department of emergency services; to provide a contingent appropriation;"; remove "to provide for an audit;"; and remove "to authorize"

Page 1, remove line 3

Page 1, line 4, remove "continuing appropriation;";

Page 1, line 5, replace "15-69" with "54-18"

Page 1, line 6, replace "a centers of excellence fund to" with "an annual transfer from the state mill and elevator association"

Page 1, line 8, after "reenact" insert "subsections 1 and 4 of section 15-69-02,"; replace "2" with "3"; and after the second "and" insert "subsections 1 and 3 of"

Page 1, line 19, replace "1,359,088" with "1,182,461" and replace "10,185,967" with "10,009,340"

Page 1, line 20, replace "719,584" with "119,584" and replace "15,028,272" with "14,428,272"

Page 1, line 22, replace "32,661,310" with "18,111,310" and replace "81,436,058" with "66,886,058"

Page 2, line 2, replace "664,000" with "500,000" and replace "2,164,000" with "2,000,000"

Page 2, line 4, replace "35,272,419" with "19,781,792" and replace "114,512,900" with "99,022,273"

Page 2, line 5, replace "12,950,345" with "13,907,954" and replace "68,708,861" with "69,666,470"

Page 2, line 6, replace "22,322,074" with "5,873,838" and replace "45,804,039" with "29,355,803"

Page 2, after line 7, insert:

**"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the department of commerce, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Community development block grant program	\$1,300,000
Community services block grant	4,853,305
State energy program	24,585,000
Energy efficiency and conservation block grants	10,000,000

Weatherization assistance program	25,266,330
Emergency shelter grants	2,590,000
Total federal funds	\$68,594,635

The department of commerce may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 3. USE OF FEDERAL FISCAL STIMULUS FUNDS - ELECTRICAL GENERATORS.** The department of commerce shall use \$2,000,000 of the funding appropriated in section 2 of this Act for the purpose of establishing a grant program to assist in the purchase and installation of electrical generators that consume at least seventy-five percent of the gas from oil and gas well sites which would otherwise be flared or wasted, for the period beginning with the effective date of this Act and ending June 30, 2011. The funding is contingent upon approval from the United States department of energy of use of the funding for the grant program. Before making a grant from the program established by this section, the department of commerce shall obtain the recommendation of the oil and gas research program administered by the industrial commission regarding the application's technical accuracy and consistency with the oil and gas research program.

**SECTION 4. USE OF FEDERAL FISCAL STIMULUS FUNDS - BIOFUEL BLENDER PUMP INCENTIVE FUND.** The department of commerce shall transfer \$1,000,000 of the funding appropriated in section 2 of this Act to the biofuel blender pump incentive fund for the purposes provided for in Senate Bill No. 2228.

**SECTION 5. CONTINGENT GENERAL FUND APPROPRIATION - BUDGET SECTION APPROVAL.** If the federal funds appropriated under section 2 of this Act are not available to provide the sum of \$1,000,000 for transfer to the biofuel blender pump incentive fund, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the department of commerce for transfer to the biofuel blender pump incentive fund, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of commerce may only spend the general fund moneys subject to budget section approval and to the extent that federal funds are not available to provide the \$1,000,000 appropriated under sections 2 and 4 of this Act. This funding is one-time funding for the 2009-11 biennium.

**SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,594,567, or so much of the sum as may be necessary, to the department of emergency services for the purpose of providing grants to eligible political subdivisions for up to fifty percent of the costs incurred by the political subdivisions in meeting the local cost-share required by the federal emergency management agency for disaster, emergency response, and recovery costs, and for up to fifty percent of the costs incurred by the political subdivisions for disaster, emergency response, and recovery costs not covered by the federal emergency management agency, for the period beginning with the effective date of this Act and ending June 30, 2011. For the purposes of this section, an eligible political subdivision is one that experienced damage or destruction due to a tornado during the summer of 2007."

Page 2, line 16, replace "2,000,000" with "1,000,000"

Page 2, remove lines 17 through 20

Page 2, line 23, replace "11,100,000" with "1,100,000"

Page 3, remove lines 13 through 16

Page 3, line 20, replace "fifty" with "sixty-two and a half"

Page 3, line 29, replace "\$2,000,000" with "\$1,000,000"

Page 4, line 3, remove "TRANSFER -"

Page 4, line 5, replace "\$20,000,000, which" with "\$15,000,000, or so much of the sum as may be necessary, to" and remove "shall"

Page 4, line 6, remove "transfer to the centers of excellence fund"

Page 4, replace lines 8 through 30 with:

**"SECTION 15. EXEMPTION.** Any funding remaining at the end of the 2007-09 biennium of up to \$9,704,568 from the permanent oil tax trust fund appropriated to the office of management and budget in section 14 of chapter 18 of the 2007 Session Laws is not subject to section 54-44.1-11.

**SECTION 16. CENTERS OF EXCELLENCE STATE TAX REVENUE IMPACT STUDY - REPORT.**

1. During the 2009-11 biennium, the state auditor, in consultation with the tax commissioner and the department of commerce, shall conduct a study of the state tax revenue impact of the centers of excellence program and shall calculate the direct impact of the program on state tax revenues. The study must include an analysis for each center of excellence of the actual matching funds received by source; actual number of private sector jobs created, including information as to whether the jobs would have been created without the center; and new private sector facilities opened as the result of the center. The study must be based on information available to the tax commissioner and the state auditor.
2. During the organizational session of the sixty-second legislative assembly, the state auditor shall submit to the president pro tempore of the senate and the speaker of the house a report on the findings and results of the centers of excellence state tax revenue impact study.
3. The tax commissioner shall compile direct tax revenue and expenditure data and provide this data to the state auditor. Notwithstanding the confidentiality provisions contained in chapters 57-38 and 57-39.2, the tax commissioner shall provide the state auditor the information necessary to accomplish and effectuate the study required by this section. The tax commissioner may request the assistance of the department of commerce as necessary to compile this data.
4. The tax commissioner may establish the procedure and format by which the tax data will be provided to the state auditor. If additional information is needed by the state auditor to calculate the tax impact of the centers of

excellence program, the state auditor may contact those taxpayers determined necessary to effectuate the study required by this section.

5. Except as provided in subsection 6, the state auditor may establish the manner in which the centers of excellence impact data will be analyzed, organized, and presented in the report.
6. Confidential information the state auditor receives from the tax commissioner may not be divulged by the state auditor unless the information is in the aggregate and in a manner that will not divulge information specific to any taxpayer.

**SECTION 17. LARGE TOURISM INFRASTRUCTURE GRANTS.** The grants line item in section 1 of this Act includes the sum of \$500,000 from the general fund for providing large tourism infrastructure grants, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of commerce must use the funds for projects over \$25,000 and may award grants to the extent matching funds are available from nonstate sources on a dollar-for-dollar basis.

**SECTION 18. LEGISLATIVE INTENT - DIVISION OF TOURISM - LARGE TOURISM INFRASTRUCTURE GRANTS.** It is the intent of the sixty-first legislative assembly that the department of commerce division of tourism develop criteria for large tourism infrastructure grants and a method for setting funding priorities for such grants in future bienniums.

**SECTION 19. BASE REALIGNMENT PLAN - REPORT TO THE BUDGET SECTION.** The department of commerce, with assistance from local economic development organizations and national organizations specializing in developing alternative uses of former air force base properties, shall develop a plan for the utilization of commercial space available at the Grand Forks air force base, for the biennium beginning July 1, 2009, and ending June 30, 2011. The plan must identify the potential use of existing economic development programs, including the North Dakota development fund, incorporated, and Bank of North Dakota programs. The department of commerce shall provide reports to the budget section on the status of development of the plan."

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 6

Page 6, line 15, remove "Wade Westin memorial"

Page 6, remove lines 19 through 31

Page 7, remove lines 1 through 5

Page 7, line 23, remove "the Dakota defense"

Page 7, line 24, remove "alliance," and remove the second comma

Page 7, remove lines 26 through 30

**"SECTION 25. AMENDMENT.** Subsections 1 and 4 of section 15-69-02 of the North Dakota Century Code are amended and reenacted as follows:

1. The board shall establish a centers of excellence program relating to economic development. ~~The program must distinguish among center designations for awards designated to address commercialization and infrastructure needs.~~ Workforce may not be the primary need addressed by a center. Through the program the commission shall make funding award recommendations for commission-approved applications to the board, the foundation, the emergency commission, 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. ~~For an application that includes infrastructure to be considered for center designation, the application must provide detailed information regarding how the future operational costs and maintenance costs related to the infrastructure will be provided and how the costs will not be provided from the general fund.~~ 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.
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. The rules must provide that in the case of an agreement or other contract for private-public sharing of royalties or other compensation from intellectual property resulting from center activities, the terms must provide the private sector partner must receive the first royalties or other compensation equal to four times the private sector partner's initial investment and thereafter as agreed by the parties.

**SECTION 26. AMENDMENT.** Subsection 3 of section 15-69-04 of the North Dakota Century Code is amended and reenacted as follows:

3. In considering whether to approve or disapprove an application, the commission shall determine whether the applicant has conducted the due diligence necessary to put together a viable proposal, the commission shall determine whether the applicant has provided information in the application which clearly outlines how the matching fund requirement will be met, and the commission shall consider whether the center will:
  - a. Use university or college research to promote private sector job growth and expansion of knowledge-based industries or use university or college research to promote the development of new products, high-tech companies, or skilled jobs in this state;
  - b. Create high-value private sector employment opportunities in this state;
  - c. Provide for public-private sector involvement and partnerships;
  - d. Leverage other funding, including cash from the private sector;

- 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.

**SECTION 27. AMENDMENT.** Subsections 1 and 3 of section 15-69-05 of the North Dakota Century Code are amended and reenacted as follows:

- 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 enhance or construct infrastructure, to supplant funding for current operations or academic instructions, or to pay indirect costs.
- 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, of which one dollar must be cash from the private sector, 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 ~~noncash~~ 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.

**SECTION 28.** A new section to chapter 54-18 of the North Dakota Century Code is created and enacted as follows:

**Annual transfer.** Within thirty days after the conclusion of each fiscal year, the state industrial commission shall transfer five percent of the net income earned by the state mill and elevator association during that fiscal year to the agricultural fuel tax fund."

Page 9, remove lines 1 through 25

Page 10, line 13, replace "is" with "and sections 2 and 6 of this Act are"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98037.0430 FN 15**

**A copy of the statement of purpose of amendment is attached.**