

FISCAL NOTE

Return in triplicate)

Bill/Resolution No.: SB 2491 Amendment to:

Requested by Legislative Council Date of Request: 1-26-93

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative: Costs for this bill are primarily for meetings of the Econ Dev Commission. Allows for ten meetings for the biennium for this Commission and 10 meetings (five for each committee) named by the E.D. Commisson. Costs for the E.D. Comm. report are \$500, and the referall system for entrepreneurs & investors cost is \$5,000. This would be offset by charging a fee to equal the cost.

Neither the Bank of North Dakota or the N.D. Agriculture Dept. see any fiscal impact on their agencies from this bill.

- 2. State fiscal effect in dollar amounts:

Table with 3 columns: 1991-93 Biennium, 1993-95 Biennium, 1995-97 Biennium. Rows for Revenues and Expenditures.

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1991-93 biennium: 0
b. For the 1993-95 biennium: 29,600 expend.; \$5,000 revenue.
c. For the 1995-97 biennium: Same as 93-95 if legislation stays the same

- 4. County and City fiscal effect in dollar amounts:

Table with 3 columns: 1991-93 Biennium, 1993-95 Biennium, 1995-97 Biennium. Rows for Counties and Cities.

If additional space is needed, attach a supplemental sheet.

Signed Kathleen Dwyer

Typed Name Kathleen Dwyer

Department Economic Dev. & Finance

Phone Number 221-5306

Date Prepared: 1-29-93

Please note, I have attached a copy of Chapter 130 of 1991 N.D. Session laws which is not new with this bill, but of which I felt you should be aware, along with correspondence relating to the funding.

CHAPTER 130

HOUSE BILL NO. 1046
(Legislative Council)
(Interim Jobs Development Commission)

SUNDAY BUSINESS OPENING

AN ACT to provide for the establishment of a North Dakota rural area development corporation to administer a rural development revolving loan fund; to create and enact a new section to chapter 12.1-30 and a new section to chapter 34-06 of the North Dakota Century Code, relating to business leases or agreements and an employee day of rest; to amend and reenact sections 12.1-30-01 and 12.1-30-02 of the North Dakota Century Code, relating to the conduct of business on Sundays; to provide a penalty; to provide a contingent appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 through 3 of this Act, unless the context otherwise requires:

1. "Board of directors" means the board of directors of the equity development corporation as established under chapter 10-30.3.
2. "Corporation" means the equity development corporation established under chapter 10-30.3.
3. "Primary sector business" means an individual, corporation, partnership, or association which through a process employing knowledge and labor adds value to a product or service produced for resale.
4. "Region" means the area delineated by executive order of the governor under section 54-40.1-02.
5. "Rural area" means any area in the state that is not within five miles [8.05 kilometers] of any city with a population of more than eight thousand.

SECTION 2. Economic development commission to act in advisory capacity. The economic development commission shall act in an advisory capacity to the board of directors of the equity development corporation for purposes of sections 1 through 3 of this Act, and shall:

1. Advise the board of directors regarding the regional rural revolving loan fund established by section 3 of this Act;
2. Establish guidelines for fund matching requirements, eligibility criteria, financing terms and conditions, solicitation and review

of applications for assistance, and determination of projects to be funded under section 3 of this Act;

3. Develop priorities for projects and activities relating to the development of rural areas; and
4. Coordinate the rural area development plans and programs of the various regions of the state and encourage the collocation of assistance programs for rural areas in each region.

SECTION 3. Regional rural development revolving loan fund - Appropriation. There is established in the Bank of North Dakota a regional rural development revolving loan fund to be administered by the board of directors. All moneys transferred to the regional rural development revolving loan fund, interest on moneys in the fund, and payments to the fund of principal and interest on loans made by the fund are hereby appropriated to the corporation for the purpose of providing technical assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanding primary sector businesses in rural areas. The funds available under this section must be allocated equally for the benefit of each region.

SECTION 4. AMENDMENT. Section 12.1-30-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-30-01. Business or labor on Sunday - Exemptions - Classification of offenses.

1. Except as otherwise provided in sections 12.1-30-02 and 12.1-30-03, it is a class B misdemeanor for any person between the hours of twelve midnight and twelve noon on Sunday to do any of the following activities:
 - a. Engage in or conduct business or labor for profit in the usual manner and location.
 - b. Operate a place of business open to the public.
 - c. Authorize or direct that person's employees or agents to take action prohibited under this section.
2. The prohibition in subsection 1 does not apply to a person who in good faith observes a day other than Sunday as the Sabbath, if that person refrains from engaging in or conducting business or labor for profit and closes the place of business to the public between the hours of twelve midnight and twelve noon on the day observed as the Sabbath.
3. The attorney general, a state's attorney, a mayor, a city manager, or a city attorney may petition a district court, for the district where a violation is occurring, to enjoin a violation of this section.

SECTION 5. AMENDMENT. Section 12.1-30-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-30-02. Items prohibited from sale or rental on Sunday. Except for items sold at hobby shows, craft shows, fairs, exhibits, occasional rummage sales including garage sales or other sales for which a sales tax permit is not required, and tourist attractions that derive at least fifty percent of their annual gross sales from seasonal or tourist customers, the sale or rental of any of the following items between the hours of twelve midnight and twelve noon on Sunday is prohibited:

1. Clothing other than work gloves and infant supplies.
2. Clothing accessories.
3. Wearing apparel other than that sold to a transient traveler under emergency conditions.
4. Footwear.
5. Headwear.
6. Home, business, office, or outdoor furniture.
7. Kitchenware.
8. Kitchen utensils.
9. China.
10. Home appliances.
11. Stoves.
12. Refrigerators.
13. Air conditioners.
14. Electric fans.
15. Radios.
16. Television sets.
17. Washing machines.
18. Dryers.
19. Cameras.
20. Hardware other than emergency plumbing, heating, cooling, or electrical repair or replacement parts and equipment.
21. Tools other than manually driven hand tools.
22. Jewelry.
23. Precious or semiprecious stones.
24. Silverware.

25. Watches.
26. Clocks.
27. Luggage.
28. Motor vehicles other than the daily rental of vehicles by businesses whose sole activity is automobile rental.
29. Musical instruments.
30. The sale of aural or video recordings, records, or tapes. Rental of these items is permitted.
31. Toys other than those customarily sold as novelties or souvenirs.
32. Mattresses.
33. Bed coverings.
34. Household linens.
35. Floor coverings.
36. Lamps.
37. Draperies.
38. Blinds.
39. Curtains.
40. Mirrors.
41. Cloth piece goods.
42. Lawnmowers.
43. Sporting or recreational goods other than those sold or rented on the premises where sports or recreational activities are conducted.
44. Paint and building and lumber supplies.

SECTION 6. A new section to chapter 12.1-30 of the North Dakota Century Code is created and enacted as follows:

Retail business leases or agreements - Penalty. A retail business may not be required to be open on Sunday as a part of a lease agreement, franchise agreement, or any other contractual arrangement. A violation of this section is a class A misdemeanor.

SECTION 7. A new section to chapter 34-06 of the North Dakota Century Code is created and enacted as follows:

One day of rest in seven - Penalty.

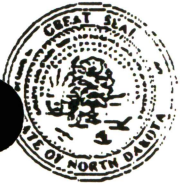
1. An employer may not require an employee to work seven consecutive days in a business that sells merchandise at retail. An employer may not deny an employee at least one period of twenty-four consecutive hours of time off for rest or worship in each seven-day period. The time off must be in addition to the regular periods of rest allowed during each day worked. An employer shall accommodate the religious beliefs and practices of an employee unless the employer can demonstrate that to do so would constitute an undue hardship on the conduct of the employer's business. However, if an employee requests time off to attend one regular worship service a week, an employer may not require the employee to work during that period unless:
 - a. Honoring the employee's request would cause the employer substantial economic burdens or would require the imposition of significant burdens on other employees required to work in place of the Sabbath observer; or
 - b. The employer has made a reasonable effort to accommodate the employee's request.
2. A violation of this section is a class B misdemeanor. It is an affirmative defense to prosecution under this section that the employee volunteered for work on the seventh consecutive day and the employee executed a written statement so stating. The statement must also contain a provision, signed by the employer or the employer's agent, that the employer did not require such work.

SECTION 8. APPROPRIATION. There is hereby appropriated, subject to the availability of state general fund revenues as provided in section 9 of this Act, out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$9,500,000 which shall be transferred by the state treasurer to the regional rural development revolving loan fund to carry out the purposes of sections 1 through 3 of this Act, for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 9. CONTINGENT APPROPRIATION. The amount appropriated in section 8 of this Act is available only upon determination by the director of the office of management and budget that estimated general fund revenues for the biennium ending June 30, 1993, are greater than the estimates that were made at the close of the fifty-second legislative assembly. The director of the office of management and budget shall make estimates every six months during the biennium on or before June thirtieth and December thirty-first of each year. The amount that is appropriated under section 8 of this Act is limited to the amount in excess of \$11,000,000 over the amount estimated by the fifty-second legislative assembly, up to a total of \$9,500,000. If the balance in the general fund at the end of the biennium ending June 30, 1993, is \$11,000,000 or more above the estimate made by the fifty-second legislative assembly, the amount in excess of \$11,000,000, up to a total of \$9,500,000, is appropriated for the purposes of section 8 of this Act. The provisions of section 54-44.1-11 do not apply to any appropriation that is based upon the actual ending balance. For purposes of this section, the estimate at the close of the fifty-second legislative assembly may not include the tax revenues generated as a result of this Act. The director of the office of management and budget shall inform the equity development corporation of the appropriation available to it under this Act.

SECTION 10. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 6, 1991
Filed February 6, 1991



ATTORNEY GENERAL

STATE OF NORTH DAKOTA
600 East Boulevard
State Capitol
Bismarck, North Dakota 58505-0040

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Nicholas J. Spaeth
ATTORNEY GENERAL

April 5, 1991

Capitol Tower Offices

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701-224-3404
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Toll Free in ND

Fire Marshal
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Gaming & Licensing
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800-472-2185
Toll Free in N.D.

Mr. R. L. Rayl
Director
Office of Management and Budget
600 E Boulevard
Fourth Floor
Bismarck, ND 58505-0400

Dear Mr. Rayl:

Thank you for your March 22, 1991, letter seeking clarification of section 9 of House Bill No. 1046 ("Act") as passed by the Fifty-second Legislative Assembly. You point to an apparent conflict between two sentences in section 9. The first sentence provides: "The amount appropriated in section 8 of this Act is available only upon determination by the director of the office of management and budget that estimated general fund revenues for the biennium ending June 30, 1993 are greater than the estimates that were made at the close of the Fifty-second Legislative Assembly." (emphasis supplied). The other sentence in question in section 9 provides: "For purposes of this section, the estimate at the close of the Fifty-second Legislative Assembly may not include the tax revenues generated as a result of this Act." (emphasis supplied).

The term revenue is defined as "all amounts that increase the net asset of a fund." Accounting for Governmental and Nonprofit Entities, page 50 (1985). It is therefore my opinion that when the term "revenues" is used in §§ 8 and 9 of House Bill 1046, the reference is only to those monies which actually accrue during the respective biennium. Revenues do not include the beginning balance, turnback or carryover. The Act is expected to raise total revenues of \$16.3 million. \$1.3 million of this amount is estimated to accrue during the 1989-91 biennium. The remaining \$15 million is estimated to accrue during the 1991-93 biennium.

Section 8 of the Act provides for an appropriation out of monies in the general fund. The appropriation, however, is contingent upon "the availability of state general fund revenues as provided in section 9 of this Act." H.B. No. 1046 § 8, 52nd N.D. Legs. The use of the phrase "state general fund revenues" in section 8 provides the


Mr. R. L. Rayl
April 5, 1991
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definition for the term estimate as used to determine the availability of funding based upon "estimates" referred to in section 9. Thus, in the first sentence of section 9 the Legislature's reference to "estimated general fund revenues" and "estimates" is a reference to estimated revenues during the 1991-93 biennium. To be consistent, in the second to the last sentence in section 9, the reference to the "estimate" made at the close of the Fifty-second Legislative Assembly, is to the revenues projected for the 1991-93 biennium.

It is therefore my opinion that the calculation of the amount available for the appropriation provided for in section 8 of the act, only requires subtraction of \$15 million from the estimated balance in the general fund at the end of the June 30, 1993, biennium. The \$1.3 million revenue increase which accrues during the 1989-91 biennium is not revenue during the 1991-93 biennium and therefore is not excluded from the estimate at the close of the Fifty-second Legislative Assembly and is available to fund rural development under House Bill 1046.

I trust this answers your question.

Sincerely,


Nicholas J. Spaeth

krb

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2. A violation of this section is a class B misdemeanor. It is an affirmative defense to prosecution under this section that the employee volunteered for work on the seventh consecutive day and the employee executed a written statement so stating. The statement must also contain a provision, signed by the employer or the employer's agent, that the employer did not require such work.

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SECTION 10. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 6, 1991
Filed February 6, 1991

SUNDAY I

ACT to create North Dakota Century Code chapter 34-06 of House Bill 1 assembly, relating and reenact sub-Dakota Century Sunday and days

IT ENACTED BY THE

SECTION 1. AME Supplement to the 1989 Supplement enacted as follows:

- 32. From April for the sale
- 33. From November tree stands.

SECTION 2. A Supplement to the North follows:

Credit apprc and, notwiths services.

SECTION 3. A new North Dakota Century Co approved by the fifty-follows:

This section merchandise a

SECTION 4. EMERG measure.

Approved April 2, Filed April 4, 1991