Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

SENATE BILL NO. 2019
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide appropriations for defraying the expenses of the department of economic development and finance and to the agricultural products utilization commission for grants; to provide for transfers of funds; to provide for the reallocation of funds; to provide for a legislative council study; to amend and reenact sections 4-14.1-03.1, 4-14.1-04, 54-34.3-08, and 57-43.1-03.1 of the North Dakota Century Code, relating to the agricultural products utilization commission, patent and royalty rights of the department of economic development and finance, and tax refunds for fuel used for agricultural purposes; to provide for application; to repeal chapter 10-30.4 and section 54-34.3-07 of the North Dakota Century Code, relating to technology transfer, incorporated; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Salaries and wages	$ 2,421,849
Operating expenses	1,481,995
Equipment	34,000
Grants	1,313,141
General allocation grants	725,690
Technology transfer, incorporated	500,000
Agricultural products utilization	4,097,462
North Dakota development fund	1,909,875
Total all funds	$12,484,012
Less estimated income	3,312,026
Total general fund appropriation	$ 9,171,986

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

SECTION 3. AGRICULTURAL FUEL TAX FUND. The estimated income line item in section 1 of this Act includes $1,007,243 from the agricultural fuel tax fund for the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 4. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION INCENTIVES - CONTINGENT TRANSFER. The estimated income line item in section 1 of this Act includes $1,507,000, or so much of the amount as may be necessary, from the highway tax distribution fund for the ethanol production incentive program. Of this amount, $1,500,000 is for the purpose of providing production incentives to the Grafton, North Dakota, ethanol plant and $7,000 is for audits of the use of these funds for the biennium beginning July 1, 1997, and ending June 30, 1999. Distribution from the appropriation in section 1 of this Act to the producers of agriculturally derived fuel must be at the rate of forty cents for each gallon of agriculturally derived fuel produced in the state which is marketed by the producing plant to a distributor or wholesaler for sale within North Dakota. For

purposes of this section, "gallon of agriculturally 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. 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. If, at the end of each fiscal year, funding appropriated for ethanol incentive payments is not spent, the director of the office of management and budget shall transfer from the highway tax distribution fund the amount of unspent funds deposited into the fund pursuant to provisions of section 57-43.1-03.1 to the agricultural fuel tax fund for the agricultural products utilization commission for the purpose of providing grants as provided by law.

SECTION 5. 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 6. EXEMPTION - ETHANOL INCENTIVE APPROPRIATION. The funds provided in the ethanol incentive line item contained in chapter 48 of the 1995 Session Laws are not subject to the provisions of section 54-44.1-11 and any unexpended funds up to a maximum of $250,000 from this line item are available for ethanol incentive payments to the Grafton ethanol plant during the biennium beginning July 1, 1997, and ending June 30, 1999. Notwithstanding the appropriation limit in section 4 of this Act, these funds shall be distributed based on the distribution formula contained in that section.

SECTION 7. LEGISLATIVE INTENT - ETHANOL INCENTIVE PAYMENTS. It is the intent of the legislative assembly that the appropriation of $1,500,000 contained in section 1 of this Act for ethanol incentives and the $250,000 of estimated unspent ethanol incentive funds from the 1995-97 biennium, to be available as a result of the exemption provided in section 6 of this Act, provide a total of $1,750,000 for ethanol incentives for the Grafton ethanol plant during the biennium beginning July 1, 1997, and ending June 30, 1999. A maximum of $875,000 may be paid annually to the Grafton ethanol plant during the 1997-99 biennium.

SECTION 8. REALLOCATION OF ECONOMIC DEVELOPMENT FUNDS. The director of the department of economic development and finance may reallocate among the technology transfer, inc., fund and the North Dakota development fund for rural and nonrural development projects up to ten percent of the amounts appropriated for these purposes for the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 9. TRANSFERS - ECONOMIC DEVELOPMENT FUNDS. Of the general fund amount appropriated in section 1 of this Act, $500,000 must be transferred to the technology transfer fund and $1,909,875 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 10. 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 percent of any region's available remaining balance of regional rural development revolving loan funds to another region or regions for the biennium beginning July 1, 1997, and ending June 30, 1999. Of the amount available in the North Dakota development fund, $4,000,000 or the unobligated balance on July 1, 1997, relating to the transfer of regional rural development revolving loan fund moneys, must continue to be dedicated for the purpose of providing

financial assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanded primary sector businesses in areas of the state which are not within five miles [8.05 kilometers] of any city with a population of more than eight thousand. These funds must be allocated for the benefit of each of the areas delineated as regions by executive order of the governor pursuant to section 54-40.1-02.

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

SECTION 12. LEGISLATIVE COUNCIL STUDY - ECONOMIC DEVELOPMENT FUNCTIONS. The legislative council shall consider studying during the 1997-98 interim economic development functions in North Dakota including the Bank of North Dakota programs, technology transfer, incorporated, the North Dakota development fund, the department of economic development and finance, and other related state agencies. The study, if conducted, should include a review of the most appropriate, effective, and efficient method for the state to deliver economic development assistance in light of changing economic conditions and considerations.

SECTION 13. AMENDMENT. Section 4-14.1-03.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-14.1-03.1. Agricultural products utilization commission - Authority. The North Dakota agricultural products utilization commission may apply for, accept, and expend any appropriation, grant, gift, or service made available from public or private sources consistent with the purpose of this chapter. The commission may administer grant programs consistent with the purpose of this chapter including a basic and applied research grant program, utilization and marketing grant program, cooperative marketing grant program, farm diversification grant program, agricultural prototype development grant program, and a North American marketing grant program.

SECTION 14. AMENDMENT. Section 4-14.1-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-14.1-04. Agricultural products utilization commission - Meetings - Personnel - Reports. The agricultural products utilization commission, which is a division of the department of economic development and finance, shall meet as necessary and shall report to each session of the legislative assembly. The commission may secure office space ~~and~~, employ needed personnel for the performance of its duties, ~~may~~ hire consultants, spend any funds appropriated to the commission, and ~~may~~ contract with public entities or private parties for services.

SECTION 15. AMENDMENT. Section 54-34.3-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-34.3-08. Patents. The department of economic development and finance, ~~technology transfer, incorporated,~~ the North Dakota development fund, incorporated, and the North Dakota agricultural products utilization commission may hold or assign for remuneration all or a portion of their interest in patents or royalty rights acquired in the course of their operation and performance of duties as provided by law.

SECTION 16. AMENDMENT. Section 57-43.1-03.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. (Effective until December 31, 1999) 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 ~~four~~ seven 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 two cents~~, one cent per gallon [3.79 liters] withheld from the refund must be retained in the highway tax distribution fund, and four cents per gallon [3.79 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~~ seven cents per gallon [3.79 liters] by the dealer and the ~~four~~ seven 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 17. APPLICATION. Section 16 of this Act applies to refund claims for motor vehicle fuel taxes paid after December 31, 1996.

SECTION 18. TECHNOLOGY TRANSFER, INCORPORATED, TRANSFERS. Any moneys and any investment, contract, partnership, or any other business transaction of technology transfer, incorporated, are transferred to the North Dakota development fund and are deemed to be assets of the North Dakota development fund.

SECTION 19. REPEAL. Chapter 10-30.4 of the North Dakota Century Code and section 54-34.3-07 of the 1995 Supplement to the North Dakota Century Code are repealed.

SECTION 20. EFFECTIVE DATE. Sections 15, 18, and 19 are effective on July 1, 1999.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2019.

Senate Vote:	Yeas	37	Nays	11	Absent	1
House Vote:	Yeas	67	Nays	24	Absent	6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State