

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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, to the Bank of North Dakota for economic development,  
3 and to the agricultural products utilization commission for grants; to provide for transfers of  
4 funds; to provide for the reallocation of funds; and to amend and reenact sections 4-01-19,  
5 4-14.1-04, subsection 4 of section 10-30.5-02, and section 10-30.5-05 of the North Dakota  
6 Century Code, relating to the pride of Dakota program, the agricultural products utilization  
7 commission, and administration and management of the North Dakota development fund.

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

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

15 Salaries and wages	\$ 1,634,811
16 Operating expenses	1,591,673
17 Equipment	34,000
18 Grants	1,233,641
19 General allocation grants	725,690
20 Technology transfer, incorporated	1,410,380
21 Agricultural products utilization	5,598,107
22 Pride of Dakota	<u>150,000</u>
23 Total all funds	\$12,378,302

1	Less estimated income	<u>4,812,671</u>
2	Total general fund appropriation	\$7,565,631

3           **SECTION 2. APPROPRIATION.** The funds provided in this section, or so much of the  
4 funds as may be necessary, are hereby appropriated from special funds derived from Bank of  
5 North Dakota earnings to the Bank of North Dakota for the purpose of economic development  
6 funding, for the biennium beginning July 1, 1997, and ending June 30, 1999, as follows:

7	Salaries and wages	\$ 490,577
8	North Dakota development fund	1,909,875
9	Grants	<u>79,500</u>
10	Total appropriation from Bank of North Dakota earnings	\$2,479,952

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

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

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

20 **INCENTIVES.** The estimated income line item in section 1 of this Act includes \$3,007,000, or  
21 so much of the amount as may be necessary, from the highway tax distribution fund for the  
22 ethanol production incentive program. Of this amount, \$3,000,000 is for the purpose of  
23 providing production incentives to North Dakota ethanol plants and \$7,000 is for audits of the  
24 use of these funds for the biennium beginning July 1, 1997, and ending June 30, 1999.

25 Distribution from the appropriation in section 1 of this Act to the producers of agriculturally  
26 derived fuel must be at the rate of forty cents for each gallon of agriculturally derived fuel  
27 produced in the state which is marketed by the producing plant to a distributor or wholesaler for  
28 sale within North Dakota. For purposes of this section, "gallon of agriculturally derived fuel"  
29 means a gallon of fuel that qualifies for the alcohol credit under 26 U.S.C. 40, specifically  
30 including fuel to which a denaturant has been added. Payment to the producing plant must be  
31 approved by the agricultural products utilization commission upon presentation by the plant of

1 an affidavit to the effect that the ethanol sold from the plant and for which the producer's credit  
2 is being sought is to be sold at retail to consumers in North Dakota. The affidavit of the  
3 producer of the ethanol must be accompanied by an affidavit from the wholesaler or retailer to  
4 the same effect. Within ninety days after the end of each fiscal year of the ethanol plant  
5 beginning after December 31, 1992, any North Dakota ethanol plant receiving production  
6 incentives from the state shall file with the budget section of the legislative council a statement,  
7 certified by a certified public accountant, as to whether the plant produced a profit from its  
8 operation in the preceding fiscal year, after deducting the payments received from this incentive  
9 program.

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

15 **SECTION 7. TRANSFERS - ECONOMIC DEVELOPMENT FUNDS.** Of the general  
16 fund amount appropriated in section 1 of this Act, \$1,410,380 must be transferred to the  
17 technology transfer fund. The transfers must be in amounts and at such times as requested by  
18 the director of the office of management and budget.

19 **SECTION 8. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS.** The  
20 \$1,909,875 transferred to the North Dakota development fund must be dedicated for projects  
21 as follows: forty percent businesses in rural areas, forty percent businesses in urban areas,  
22 and twenty percent North Dakota American Indian businesses. Any unused funds in any  
23 category may be transferred to another category during the second year of the biennium under  
24 rules adopted by the president of the Bank of North Dakota. The president of the Bank of North  
25 Dakota may reallocate up to twenty percent of any region's available remaining balance of  
26 regional rural development revolving loan funds to another region or regions for the biennium  
27 beginning July 1, 1997, and ending June 30, 1999. Of the amount available in the North  
28 Dakota development fund, \$4,000,000 or the unobligated balance on July 1, 1997, relating to  
29 the transfer of regional rural development revolving loan fund moneys, must continue to be  
30 dedicated for the purpose of providing financial assistance, research and development  
31 assistance, and loans or equity or debt financing on a matching basis to new or expanded

1 primary sector businesses in areas of the state which are not within five miles [8.05 kilometers]  
2 of any city with a population of more than eight thousand. These funds must be allocated for  
3 the benefit of each of the areas delineated as regions by executive order of the governor  
4 pursuant to section 54-40.1-02.

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

11 **SECTION 10. LEGISLATIVE INTENT - TECHNOLOGY TRANSFER, INC. -**  
12 **PROJECT FUNDS.** It is the intent of the legislative assembly that project funds be distributed  
13 by technology transfer, inc., consistent with the mission and policies established by the  
14 technology transfer, inc., board and that project funds be distributed, to the extent practical and  
15 efficient, directly to businesses and individuals receiving project funding approval. Funding  
16 recipients may use the project funds to purchase services, on a fee-for-service basis, from  
17 business and industry development centers located on the campuses of the institutions of  
18 higher education.

19 **SECTION 11. LEGISLATIVE INTENT - DEVELOPMENT SPECIALIST.** It is the intent  
20 of the fifty-fifth legislative assembly that the Bank of North Dakota employ a development  
21 specialist to administer the North Dakota development fund and promote economic  
22 development.

23 **SECTION 12. AMENDMENT.** Section 4-01-19 of the 1995 Supplement to the North  
24 Dakota Century Code is amended and reenacted as follows:

25 **4-01-19. Marketing bureau.** The commissioner of agriculture ~~of this state~~ shall  
26 establish and maintain a marketing bureau for the purpose of gathering and disseminating  
27 statistical information on agricultural marketing problems of the state and engaging in marketing  
28 services of agricultural products. ~~Any moneys received or generated by the pride of Dakota~~  
29 ~~program must be deposited in the general fund in the state treasury.~~

30 **SECTION 13. AMENDMENT.** Section 4-14.1-04 of the 1995 Supplement to the North  
31 Dakota Century Code is amended and reenacted as follows:

1           **4-14.1-04. Agricultural products utilization commission - Meetings - Personnel -**  
2 **Reports.** The agricultural products utilization commission, which is a division of the  
3 department of economic development and finance, shall meet as necessary and shall report to  
4 each session of the legislative assembly. The commission may secure office space ~~and,~~  
5 employ needed personnel for the performance of its duties, ~~may~~ hire consultants, spend any  
6 funds appropriated to the commission, and ~~may~~ contract with public entities or private parties  
7 for services.

8           **SECTION 14. AMENDMENT.** Subsection 4 of section 10-30.5-02 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10           4. The ~~director~~ president of the ~~department~~ Bank of ~~economic development and~~  
11 ~~finance~~ North Dakota shall adopt rules, subject to the approval of the board of  
12 directors, necessary to implement the administration of the fund. The rules to  
13 implement the grant program must be developed to encourage local fundraising  
14 initiatives for developing locations for businesses financed by the corporation.

15           **SECTION 15. AMENDMENT.** Section 10-30.5-05 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **10-30.5-05. Management.** The ~~deputy director~~ president of the ~~finance division~~ Bank  
18 ~~of the department must be~~ North Dakota shall appoint the chief executive officer of the  
19 corporation. The board of directors shall determine minimum qualifications of all other staff  
20 positions.

21           All investments, contracts, partnerships, limited liability companies, and business  
22 transactions of the corporation are the responsibility of the ~~deputy director~~ chief executive  
23 officer and the board of directors. The board may provide that normal operating costs  
24 anticipated in an approved budget may be incurred and paid without prior board approval.