

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

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 for
3 grants; to provide for transfers of funds; to provide for the reallocation of funds; to amend and
4 reenact sections 4-14.1-04 and 57-43.1-03.1 of the North Dakota Century Code, relating to the
5 agricultural products utilization commission and tax refunds for fuel used for agricultural
6 purposes; and to provide for application.

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

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

14 Salaries and wages	\$ 2,421,849
15 Operating expenses	1,581,995
16 Equipment	34,000
17 Grants	1,313,141
18 General allocation grants	725,690
19 Agricultural products utilization	4,097,462
20 North Dakota development fund	<u>1,909,875</u>
21 Total all funds	\$12,084,012
22 Less estimated income	<u>3,312,026</u>
23 Total general fund appropriation	\$ 8,771,986

1 **SECTION 2. APPROPRIATION.** All income received in excess of the amounts
2 appropriated in section 1 of this Act relating to agricultural products utilization commission
3 activities is hereby appropriated to the agricultural products utilization commission for research,
4 marketing, and utilization grants for the biennium beginning July 1, 1997, and ending June 30,
5 1999. Any funds received require the approval of the emergency commission before they may
6 be expended.

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

10 **SECTION 4. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION**
11 **INCENTIVES.** The estimated income line item in section 1 of this Act includes \$1,507,000, or
12 so much of the amount as may be necessary, from the highway tax distribution fund for the
13 ethanol production incentive program. Of this amount, \$1,500,000 is for the purpose of
14 providing production incentives to the Grafton, North Dakota, ethanol plant and \$7,000 is for
15 audits of the use of these funds for the biennium beginning July 1, 1997, and ending June 30,
16 1999. Distribution from the appropriation in section 1 of this Act to the producers of
17 agriculturally derived fuel must be at the rate of forty cents for each gallon of agriculturally
18 derived fuel produced in the state which is marketed by the producing plant to a distributor or
19 wholesaler for sale within North Dakota. For purposes of this section, "gallon of agriculturally
20 derived fuel" means a gallon of fuel that qualifies for the alcohol credit under 26 U.S.C. 40,
21 specifically including fuel to which a denaturant has been added. Payment to the producing
22 plant must be approved by the agricultural products utilization commission upon presentation
23 by the plant of an affidavit to the effect that the ethanol sold from the plant and for which the
24 producer's credit is being sought is to be sold at retail to consumers in North Dakota. The
25 affidavit of the producer of the ethanol must be accompanied by an affidavit from the
26 wholesaler or retailer to the same effect. If any ethanol plant that did not receive production
27 incentives during the fiscal year ending June 30, 1997, is eligible for production incentives on
28 July 1, 1998, for the fiscal year ending June 30, 1999, incentive payments, only fifty percent of
29 the authorized production incentives, up to a total of \$250,000, may be provided to an ethanol
30 plant that produced fifteen million gallons or more of ethanol in the previous fiscal year. Within
31 ninety days after the end of each fiscal year of the ethanol plant beginning after December 31,

1 1992, any North Dakota ethanol plant receiving production incentives from the state shall file
2 with the budget section of the legislative council a statement, certified by a certified public
3 accountant, as to whether the plant produced a profit from its operation in the preceding fiscal
4 year, after deducting the payments received from this incentive program.

5 **SECTION 5. EXEMPTION.** The funds appropriated in the agricultural products
6 utilization line item in section 1 of this Act are not subject to section 54-44.1-11 and any
7 unexpended funds from this line item relating to grants awarded may be available for continued
8 payment of grants awarded but not paid during the biennium beginning July 1, 1997, and
9 ending June 30, 1999.

10 **SECTION 6. TRANSFERS - ECONOMIC DEVELOPMENT FUNDS.** Of the general
11 fund amount appropriated in section 1 of this Act, \$1,909,875 must be transferred to the North
12 Dakota development fund. The transfers must be in amounts and at such times as requested
13 by the director of the office of management and budget.

14 **SECTION 7. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS.** The
15 \$1,909,875 transferred to the North Dakota development fund must be dedicated for projects
16 as follows: forty percent businesses in rural areas, forty percent businesses in urban areas,
17 and twenty percent North Dakota American Indian businesses. Any unused funds in any
18 category may be transferred to another category during the second year of the biennium under
19 rules adopted by the director of the department of economic development and finance. The
20 director of the department of economic development and finance may reallocate up to twenty
21 percent of any region's available remaining balance of regional rural development revolving
22 loan funds to another region or regions for the biennium beginning July 1, 1997, and ending
23 June 30, 1999. Of the amount available in the North Dakota development fund, \$4,000,000 or
24 the unobligated balance on July 1, 1997, relating to the transfer of regional rural development
25 revolving loan fund moneys, must continue to be dedicated for the purpose of providing
26 financial assistance, research and development assistance, and loans or equity or debt
27 financing on a matching basis to new or expanded primary sector businesses in areas of the
28 state which are not within five miles [8.05 kilometers] of any city with a population of more than
29 eight thousand. These funds must be allocated for the benefit of each of the areas delineated
30 as regions by executive order of the governor pursuant to section 54-40.1-02.

SECTION 8. 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 9. 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 10. 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

1 57-43.1-11 must be charged ~~four~~ eight cents per gallon [3.79 liters] by the dealer and the ~~four~~
2 eight cents charged must be remitted to the commissioner by the dealer when the dealer
3 submits the tax assigned invoices for credit.

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

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

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