18045.0200

FIRST ENGROSSMENT

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2019

Introduced by

Appropriations Committee

(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the department of commerce; to provide for transfers of funds; to provide statements of legislative intent; to direct the state tax commissioner to audit the ethanol incentive program; to provide for legislative council studies; to create and enact a new section to chapter 54-34.4 of the North Dakota Century Code, relating to tourism copyrights and trademarks; to amend and reenact sections 4-14.1-07, 54-34.4-04, and 57-43.1-03.1 of the North Dakota Century Code, relating to ethanol plant production incentives, the motion picture development office advisory board, and tax refunds for fuel used for agricultural purposes; to provide an effective date; and to declare an emergency.

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 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 commerce for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2001, and ending June 30, 2003, as follows:

Subdivision 1.

ADMINISTRATION

Salaries and wages	$877,474
Operating expenses	187,516
Economic development foundation	100,000
Total line items	$1,164,990
Less estimated income	249,487
Total general fund appropriation	$915,503

Subdivision 2.

ECONOMIC DEVELOPMENT AND FINANCE

Salaries and wages	$2,388,822
Operating expenses	4,453,499
Equipment	111,058
Grants	1,723,292
North Dakota development fund	1,616,000
Agricultural products utilization	5,007,270
Total all funds	$15,299,941
Less estimated income	5,390,203
Total general fund appropriation	$9,909,738

Subdivision 3.

COMMUNITY SERVICES

Salaries and wages	$1,665,525
Operating expenses	2,539,380
Equipment	73,500
Grants	34,306,934
Total line items	$38,585,339
Less estimated income	37,503,285
Total general fund appropriation	$1,082,054

Subdivision 4.

TOURISM

Salaries and wages	$905,785
Operating expenses	3,300,437
Equipment	15,378
Grants	100,000
Lewis and Clark bicentennial	755,751
Total all funds	$5,077,351
Less estimated income	363,000
Total general fund appropriation	$4,714,351

Subdivision 5.

WORKFORCE DEVELOPMENT

Salaries and wages	$191,287
Operating expenses	50,000
Equipment	25,000
Grants	675,000
Total line items	$941,287
Less estimated income	60,584
Total general fund appropriation	$880,703
Grand total general fund appropriation S.B. 2019	$17,502,349
Grand total special funds appropriation S.B. 2019	$43,566,559
Grand total all funds S.B. 2019	$61,068,908

SECTION 2. APPROPRIATION. All income received in excess of the amounts appropriated in subdivision 2 of section 1 of this Act relating to agricultural products utilization commission activities is appropriated to the agricultural products utilization commission for research, marketing, and utilization grants for the biennium beginning July 1, 2001, and ending June 30, 2003. Any funds received require the approval of the emergency commission before they may be expended.

SECTION 3. AGRICULTURAL FUEL TAX REFUND FUND. The estimated income line item in subdivision 2 of section 1 of this Act includes $575,000 from the agricultural fuel tax fund for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 4. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION INCENTIVES - INFORMATION FILED WITH BUDGET SECTION - CONTINGENT TRANSFER. The estimated income line item in subdivision 2 of section 1 of this Act includes $2,500,000, or so much of the amount as may be necessary, from the highway tax distribution fund for the ethanol production incentive program. Distribution from the appropriation in subdivision 2 of 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. An ethanol plant shall notify the agricultural products utilization commission, in writing, by October 1, 2001, of its intent to request ethanol incentive payments for the biennium beginning July 1, 2001, and ending June 30, 2003, to be eligible to receive payments authorized by this section. 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 an ethanol plant has not notified the agricultural products utilization commission of its intent to request ethanol incentive payments for the biennium beginning July 1, 2001, and ending June 30, 2003, or if, at the end of each fiscal year, funding appropriated for the 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 funds certified by the agricultural products utilization commission as not needed for ethanol incentive payments or the 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 subdivision 2 of 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, 2001, and ending June 30, 2003.

SECTION 6. LEGISLATIVE INTENT - ETHANOL INCENTIVE PAYMENTS. It is the intent of the legislative assembly that of the appropriation of $2,500,000 contained in subdivision 2 of section 1 of this Act for ethanol incentives, a maximum of $1,250,000 may be paid annually to the producers of agriculturally derived fuel during the 2001-03 biennium. For purposes of this section "agriculturally derived fuel" means fuel that qualifies for the alcohol credit under 26 U.S.C. 40, specifically including fuel to which a denaturant has been added.

SECTION 7. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS. The $1,616,000 transferred to the North Dakota development fund for grants 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, 2001, and ending June 30, 2003. Of the amount available in the North Dakota development fund, $4,000,000 or the unobligated balance on July 1, 2001, 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 that 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 8. LEGISLATIVE INTENT - DEPARTMENT OF COMMERCE STRATEGIC PLAN. It is the intent of the legislative assembly that the department of commerce develop a strategic plan including the new economy initiative, with the assistance of the national association of state development agencies, three legislators appointed by the chairman of the legislative council, and one member of the economic development association of North Dakota, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 9. LEGISLATIVE COUNCIL STUDY - DEPARTMENT OF COMMERCE. The legislative council shall consider monitoring, during the 2001-02 interim, the establishment of the department of commerce.

SECTION 10. LEGISLATIVE INTENT - ECONOMIC DEVELOPMENT COOPERATIVE MARKETING. It is the intent of the legislative assembly that $250,000 of the operating expenses line item in subdivision 2 of section 1 of this Act be spent for cooperative marketing grants involving local economic development corporations, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 11. ECONOMIC DEVELOPMENT PROFESSIONAL TRAINING GRANTS. The department of commerce shall allocate $15,000 of the grants line item in subdivision 2 of section 1 of this Act for providing professional training grants to economic development professionals in communities with a population of less than ten thousand, for the biennium beginning July 1, 2001, and ending June 30, 2003. Each applicant may receive up to $750 per year for attending out-of-state professional training courses or national economic development conferences.

SECTION 12. LEGISLATIVE INTENT - GRANTS LINE ITEM - REMODELING OF ABANDONED PUBLIC SCHOOL BUILDINGS PILOT PROJECT. It is the intent of the legislative assembly that $50,000 of the grants line item in subdivision 2 of section 1 of this Act be used to establish a pilot project to provide grants to cities, school districts, or authorized job development authorities to assist in the remodeling of abandoned public school buildings to be used for the location or relocation of a new or expanding business. If the applicant provides matching funds of at least twenty percent for the proposed project, the department may award a grant of up to five thousand dollars for each new full-time job proposed to be created as a result of the project. The maximum amount of a grant under this section is fifty thousand dollars. The grant funds may be used only to remodel closed public school buildings in a city in which the closed school was the only school in the city. The department may establish additional guidelines for the awarding of grants under this section.

SECTION 13. LEGISLATIVE INTENT - GRANTS - CHAMPION COMMUNITIES. It is the intent of the legislative assembly that $75,000 of the grants line item in subdivision 5 of section 1 of this Act be allocated to provide matching funds on a dollar-for-dollar basis to the United States department of agriculture designated champion/REAP alliance communities to provide funding for an economic development coordinator employed by these communities to assist in economic development and to help stem outmigration, for the biennium beginning July 1, 2001, and ending June 30, 2003. Local matching funds may be cash or in-kind contributions.

SECTION 14. LEGISLATIVE INTENT - DEVELOPMENT FUND MISSION. It is the intent of the legislative assembly that the department of commerce continue the current mission of the development fund and not become involved in the new markets initiative, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 15. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION INCENTIVE PROGRAM. The state tax commissioner shall conduct an audit of the ethanol production incentive program during the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 16. LEGISLATIVE INTENT - TOURISM. It is the intent of the legislative assembly that for the purpose of preparing a budget request for the 2003-05 biennium, the base budget request for the tourism department not include the $100,000 appropriation provided by the fifty-seventh legislative assembly for additional marketing relating to the Lewis and Clark bicentennial.

SECTION 17. LEGISLATIVE COUNCIL STUDY - WORKFORCE DEVELOPMENT. The legislative council shall consider studying, during the 2001-02 interim, workforce development programs in North Dakota, including efforts to recruit and retain North Dakota's workforce, underemployment and skills shortages, current workforce training efforts, the involvement of the new economy initiative goals and strategies, and the work force 2000 and new jobs training programs and the appropriate agency that should administer these two programs.

SECTION 18. LEGISLATIVE INTENT - WORKFORCE DEVELOPMENT GRANTS - TALENT RECRUITMENT INITIATIVE. It is the intent of the legislative assembly that $400,000 of the grants line item in subdivision 5 of section 1 of this Act be allocated for the development of a public/private partnership statewide talent recruitment initiative for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 19. LEGISLATIVE INTENT - WORKFORCE DEVELOPMENT GRANTS - LABOR AVAILABILITY AND WORKFORCE NEEDS. It is the intent of the legislative assembly that $200,000 of the grants line item in subdivision 5 of section 1 of this Act be allocated for grants to local communities or regions for labor availability research or for identification of employer workforce needs for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 20. AMENDMENT. Section 4-14.1-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-14.1-07. Duration and limitation of ethanol plant production incentives. Notwithstanding any other provision of law, an ethanol plant may not receive production incentives except as permitted under this section.

1. An ethanol plant that was in operation before July 1, 1995, may not receive production incentives in the form of direct payments from the state for more than ~~twelve~~ fourteen fiscal years of operation after June 30, 1995. An ethanol plant that begins operation after June 30, 1995, may not receive production incentives in the form of direct payments from the state for more than ~~twelve~~ fourteen fiscal years of operation. After December 31, 2009, the state may not provide production incentives in the form of direct payments to any ethanol plant.
2. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to ~~seven~~ eight hundred fifty thousand dollars in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which ~~has a production capacity of fifteen million gallons [56781000 liters] or more of ethanol per year is not eligible for production incentives from the state~~ produced fifteen million [56781000 liters] or more gallons in the previous fiscal year and an ethanol plant that begins operations after June 30, 1995, are each eligible to receive an equal share in up to four hundred thousand dollars in production incentives from the state in a fiscal year.

SECTION 21. AMENDMENT. Section 54-34.4-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-34.4-04. North Dakota motion picture development office - Advisory board. The North Dakota motion picture development office is a part of the tourism department. The office shall promote North Dakota as a location for shooting films, television shows, documentaries, and commercials, and shall provide technical expertise to persons desiring to use the state as a filming location. The director of the tourism department shall appoint staff necessary to fulfill the functions and duties of the office and ~~shall~~ may appoint an advisory board of no more than ten members to assist in advising the office and to provide technical expertise to offer prospective film companies seeking locations and advice. The board shall serve without compensation, except reimbursement for actual and necessary expenses at the same rate as allowed other state officers to be paid from funds available to the office within the limits of legislative appropriations.

SECTION 22. A new section to chapter 54-34.4 of the North Dakota Century Code is created and enacted as follows:

Copyright and trademark. The director of the tourism department may obtain copyright or trademark protection for anything that may be used to promote the policies listed in section 54-34.4-03. The director may license and charge a fee for photographs and logos and anything with copyright or trademark protection.

SECTION 23. AMENDMENT. Section 57-43.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. (Effective until December 31, ~~2001~~ 2003) Refund of tax for fuel used for agricultural purposes - Reductions. Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. The amount of the tax refund under this section must be reduced by 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 cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, 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.

(Effective January 1, ~~2002~~ 2004) Refund of tax for fuel used for agricultural purposes - Reductions. Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. The amount of the tax refund under this section must be reduced by 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 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 refund must be deposited in the agricultural research fund.

SECTION 24. EFFECTIVE DATE. Section 23 of this Act is effective for refund claims for motor vehicle fuel taxes paid after December 31, 2000.

SECTION 25. EMERGENCY. Section 22 of this Act is declared to be an emergency measure.