

Fifty-seventh
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 an appropriation for defraying the expenses of the department of
2 commerce; to provide for transfers of funds; to provide statements of legislative intent; to direct
3 the state tax commissioner to audit the ethanol incentive program; to provide for legislative
4 council studies; to create and enact a new section to chapter 54-34.4 of the North Dakota
5 Century Code, relating to tourism copyrights and trademarks; to amend and reenact sections
6 4-14.1-07, 54-34.4-04, and 57-43.1-03.1 of the North Dakota Century Code, relating to ethanol
7 plant production incentives, the motion picture development office advisory board, and tax
8 refunds for fuel used for agricultural purposes; to provide an effective date; and to declare an
9 emergency.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
12 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
13 treasury, not otherwise appropriated, and from special funds derived from federal funds and
14 other income, to the department of commerce for the purpose of defraying the expenses of its
15 various divisions, for the biennium beginning July 1, 2001, and ending June 30, 2003, as
16 follows:

17 Subdivision 1.

18	ADMINISTRATION	
19	Salaries and wages	\$877,474
20	Operating expenses	187,516
21	Economic development foundation	<u>100,000</u>
22	Total line items	\$1,164,990
23	Less estimated income	<u>249,487</u>
24	Total general fund appropriation	\$915,503

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1 Subdivision 2.

2 ECONOMIC DEVELOPMENT AND FINANCE

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

12 Subdivision 3.

13 COMMUNITY SERVICES

14	Salaries and wages	\$1,665,525
15	Operating expenses	2,539,380
16	Equipment	73,500
17	Grants	<u>34,306,934</u>
18	Total line items	\$38,585,339
19	Less estimated income	<u>37,503,285</u>
20	Total general fund appropriation	\$1,082,054

21 Subdivision 4.

22 TOURISM

23	Salaries and wages	\$905,785
24	Operating expenses	3,300,437
25	Equipment	15,378
26	Grants	100,000
27	Lewis and Clark bicentennial	<u>755,751</u>
28	Total all funds	\$5,077,351
29	Less estimated income	<u>363,000</u>
30	Total general fund appropriation	\$4,714,351

31 Subdivision 5.

1	WORKFORCE DEVELOPMENT	
2	Salaries and wages	\$191,287
3	Operating expenses	50,000
4	Equipment	25,000
5	Grants	<u>675,000</u>
6	Total line items	\$941,287
7	Less estimated income	<u>60,584</u>
8	Total general fund appropriation	\$880,703
9	Grand total general fund appropriation S.B. 2019	\$17,502,349
10	Grand total special funds appropriation S.B. 2019	\$43,566,559
11	Grand total all funds S.B. 2019	\$61,068,908

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

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

21 **SECTION 4. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION**
22 **INCENTIVES - INFORMATION FILED WITH BUDGET SECTION - CONTINGENT**
23 **TRANSFER.** The estimated income line item in subdivision 2 of section 1 of this Act includes
24 \$2,500,000, or so much of the amount as may be necessary, from the highway tax distribution
25 fund for the ethanol production incentive program. Distribution from the appropriation in
26 subdivision 2 of section 1 of this Act to the producers of agriculturally derived fuel must be at
27 the rate of forty cents for each gallon of agriculturally derived fuel produced in the state which is
28 marketed by the producing plant to a distributor or wholesaler for sale within North Dakota. For
29 purposes of this section, "gallon of agriculturally derived fuel" means a gallon of fuel that
30 qualifies for the alcohol credit under 26 U.S.C. 40, specifically including fuel to which a
31 denaturant has been added. An ethanol plant shall notify the agricultural products utilization

1 commission, in writing, by October 1, 2001, of its intent to request ethanol incentive payments
2 for the biennium beginning July 1, 2001, and ending June 30, 2003, to be eligible to receive
3 payments authorized by this section. Payment to the producing plant must be approved by the
4 agricultural products utilization commission upon presentation by the plant of an affidavit to the
5 effect that the ethanol sold from the plant and for which the producer's credit is being sought is
6 to be sold at retail to consumers in North Dakota. The affidavit of the producer of the ethanol
7 must be accompanied by an affidavit from the wholesaler or retailer to the same effect. Within
8 ninety days after the end of each fiscal year of the ethanol plant beginning after December 31,
9 1992, any North Dakota ethanol plant receiving production incentives from the state shall file
10 with the budget section of the legislative council a statement, certified by a certified public
11 accountant, as to whether the plant produced a profit from its operation in the preceding fiscal
12 year, after deducting the payments received from this incentive program. If an ethanol plant
13 has not notified the agricultural products utilization commission of its intent to request ethanol
14 incentive payments for the biennium beginning July 1, 2001, and ending June 30, 2003, or if, at
15 the end of each fiscal year, funding appropriated for the ethanol incentive payments is not
16 spent, the director of the office of management and budget shall transfer from the highway tax
17 distribution fund the amount of funds certified by the agricultural products utilization commission
18 as not needed for ethanol incentive payments or the unspent funds deposited into the fund
19 pursuant to provisions of section 57-43.1-03.1 to the agricultural fuel tax fund for the agricultural
20 products utilization commission for the purpose of providing grants as provided by law.

21 **SECTION 5. EXEMPTION.** The funds appropriated in the agricultural products
22 utilization line item in subdivision 2 of section 1 of this Act are not subject to section 54-44.1-11
23 and any unexpended funds from this line item relating to grants awarded may be available for
24 continued payment of grants awarded but not paid during the biennium beginning July 1, 2001,
25 and ending June 30, 2003.

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

1 **SECTION 7. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS.** The
2 \$1,616,000 transferred to the North Dakota development fund for grants must be dedicated for
3 projects as follows: forty percent businesses in rural areas, forty percent businesses in urban
4 areas, and twenty percent North Dakota American Indian businesses. Any unused funds in any
5 category may be transferred to another category during the second year of the biennium under
6 rules adopted by the director of the department of economic development and finance. The
7 director of the department of economic development and finance may reallocate up to twenty
8 percent of any region's available remaining balance of regional rural development revolving
9 loan funds to another region or regions for the biennium beginning July 1, 2001, and ending
10 June 30, 2003. Of the amount available in the North Dakota development fund, \$4,000,000 or
11 the unobligated balance on July 1, 2001, relating to the transfer of regional rural development
12 revolving loan fund moneys, must continue to be dedicated for the purpose of providing
13 financial assistance, research and development assistance, and loans or equity or debt
14 financing on a matching basis to new or expanded primary sector businesses in areas of the
15 state that are not within five miles [8.05 kilometers] of any city with a population of more than
16 eight thousand. These funds must be allocated for the benefit of each of the areas delineated
17 as regions by executive order of the governor pursuant to section 54-40.1-02.

18 **SECTION 8. LEGISLATIVE INTENT - DEPARTMENT OF COMMERCE STRATEGIC**
19 **PLAN.** It is the intent of the legislative assembly that the department of commerce develop a
20 strategic plan including the new economy initiative, with the assistance of the national
21 association of state development agencies, three legislators appointed by the chairman of the
22 legislative council, and one member of the economic development association of North Dakota,
23 for the biennium beginning July 1, 2001, and ending June 30, 2003.

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

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

1 **SECTION 11. ECONOMIC DEVELOPMENT PROFESSIONAL TRAINING GRANTS.**

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

8 **SECTION 12. LEGISLATIVE INTENT - GRANTS LINE ITEM - REMODELING OF**

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

20 **SECTION 13. LEGISLATIVE INTENT - GRANTS - CHAMPION COMMUNITIES.** It is

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

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

1 **SECTION 15. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION**
2 **INCENTIVE PROGRAM.** The state tax commissioner shall conduct an audit of the ethanol
3 production incentive program during the biennium beginning July 1, 2001, and ending June 30,
4 2003.

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

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

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

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

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

1 **4-14.1-07. Duration and limitation of ethanol plant production incentives.**

2 Notwithstanding any other provision of law, an ethanol plant may not receive production
3 incentives except as permitted under this section.

4 1. An ethanol plant that was in operation before July 1, 1995, may not receive
5 production incentives in the form of direct payments from the state for more than
6 ~~twelve~~ fourteen fiscal years of operation after June 30, 1995. An ethanol plant that
7 begins operation after June 30, 1995, may not receive production incentives in the
8 form of direct payments from the state for more than ~~twelve~~ fourteen fiscal years of
9 operation. After December 31, 2009, the state may not provide production
10 incentives in the form of direct payments to any ethanol plant.

11 2. An ethanol plant that was in operation before July 1, 1995, and which has a
12 production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol
13 may receive up to ~~seven~~ eight hundred fifty thousand dollars in production
14 incentives from the state for production in a fiscal year. An ethanol plant that was
15 in operation before July 1, 1995, and which ~~has a production capacity of fifteen~~
16 ~~million gallons [56781000 liters] or more of ethanol per year is not eligible for~~
17 ~~production incentives from the state~~ produced fifteen million [56781000 liters] or
18 more gallons in the previous fiscal year and an ethanol plant that begins
19 operations after June 30, 1995, are each eligible to receive an equal share in up to
20 four hundred thousand dollars in production incentives from the state in a fiscal
21 year.

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

24 **54-34.4-04. North Dakota motion picture development office - Advisory board.**

25 The North Dakota motion picture development office is a part of the tourism department. The
26 office shall promote North Dakota as a location for shooting films, television shows,
27 documentaries, and commercials, and shall provide technical expertise to persons desiring to
28 use the state as a filming location. The director of the tourism department shall appoint staff
29 necessary to fulfill the functions and duties of the office and ~~shall~~ may appoint an advisory
30 board of no more than ten members to assist in advising the office and to provide technical
31 expertise to offer prospective film companies seeking locations and advice. The board shall

1 serve without compensation, except reimbursement for actual and necessary expenses at the
2 same rate as allowed other state officers to be paid from funds available to the office within the
3 limits of legislative appropriations.

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

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

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

12 **57-43.1-03.1. (Effective until December 31, ~~2004~~ 2003) Refund of tax for fuel used**
13 **for agricultural purposes - Reductions.** Any consumer who buys or uses any motor vehicle
14 fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a
15 claim with the commissioner for a refund under this chapter. The amount of the tax refund
16 under this section must be reduced by seven cents per gallon [3.79 liters] except for those fuels
17 used in aircraft or with respect to refunds claimed by aircraft fuel users. Two cents per gallon
18 [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, one
19 cent per gallon [3.79 liters] withheld from the refund must be retained in the highway tax
20 distribution fund, and four cents per gallon [3.79 liters] withheld from the refund must be
21 deposited in the agricultural research fund.

22 **(Effective January 1, ~~2002~~ 2004) Refund of tax for fuel used for agricultural**
23 **purposes - Reductions.** Any consumer who buys or uses any motor vehicle fuel for an
24 agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the
25 commissioner for a refund under this chapter. The amount of the tax refund under this section
26 must be reduced by six cents per gallon [3.79 liters] except for those fuels used in aircraft or
27 with respect to refunds claimed by aircraft fuel users. Two cents per gallon [3.79 liters] withheld
28 from the refund must be deposited in the agricultural fuel tax fund and four cents per gallon
29 [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.

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

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