

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1019

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 a transfer to the general fund; to provide for a report to the budget
3 section; to provide statements of legislative intent; to direct the state tax commissioner to audit
4 the ethanol incentive program; to designate the department of commerce as the state's fiscal
5 agent for workforce development programs; to amend and reenact section 57-38.5-03 of the
6 North Dakota Century Code, relating to the seed capital investment tax credit; and to provide
7 an effective date.

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 appropriated out of any moneys in the general fund in the state
11 treasury, not otherwise appropriated, and from special funds derived from federal funds and
12 other income, to the department of commerce for the purpose of defraying the expenses of its
13 various divisions, for the biennium beginning July 1, 2003, and ending June 30, 2005, as
14 follows:

| | |
|--------------------------------------|-------------------|
| 15 Salaries and wages | \$6,718,913 |
| 16 Operating expenses | 8,442,124 |
| 17 Grants | 73,864,584 |
| 18 Agricultural products utilization | 5,483,385 |
| 19 Lewis and Clark bicentennial | <u>852,014</u> |
| 20 Total all funds | \$95,361,020 |
| 21 Less estimated income | <u>77,534,217</u> |
| 22 Total general fund appropriation | \$17,826,803 |

23 **SECTION 2. AGRICULTURE FUEL TAX REFUNDS.** The less estimated income line
24 item in section 1 of this Act includes \$575,000 from refunds of tax for fuel used for agricultural

1 purposes, to be used by the agricultural products utilization commission, for the biennium
2 beginning July 1, 2003, and ending June 30, 2005.

3 **SECTION 3. ETHANOL PRODUCTION INCENTIVE FUND.** The less estimated
4 income line item in section 1 of this Act includes \$2,500,000 from the ethanol production
5 incentive fund, to be used by the agricultural products utilization commission for ethanol
6 incentives, for the biennium beginning July 1, 2003, and ending June 30, 2005.

7 **SECTION 4. EXEMPTION.** The funds appropriated in the agricultural products
8 utilization line item in section 1 of this Act are not subject to section 54-44.1-11 and any
9 unexpended funds from this line item relating to grants awarded may be available for continued
10 payment of grants awarded but not paid during the biennium beginning July 1, 2003, and
11 ending June 30, 2005.

12 **SECTION 5. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION**
13 **INCENTIVE PROGRAM.** The state tax commissioner shall conduct an audit of the ethanol
14 production incentive program during the biennium beginning July 1, 2003, and ending June 30,
15 2005.

16 **SECTION 6. WORKFORCE DEVELOPMENT PROGRAMS.** The department of
17 commerce is the fiscal agent and administrator of all workforce development and workforce
18 training funds received by the state.

19 **SECTION 7. GENERAL FUND TRANSFER.** The industrial commission shall transfer
20 to the general fund the sum of \$1,000,000 from the North Dakota student loan trust. The
21 moneys must be transferred as requested by the director of the office of management and
22 budget during the biennium beginning July 1, 2003, and ending June 30, 2005, and upon
23 certification by the student loan trust trustee that sufficient moneys remain available to pay all
24 debt service on student loan trust bonds, all required rebate payments to the United States
25 treasury, and all program operating expenses.

26 **SECTION 8. LEGISLATIVE INTENT - SEED CAPITAL - EARLY STAGE FINANCING.**
27 It is the intent of the legislative assembly that the state's seed capital investment tax credit be
28 the primary focus to encourage the availability of seed capital or early stage financing for the
29 biennium beginning July 1, 2003, and ending June 30, 2005.

1 **SECTION 9. USE OF DEVELOPMENT FUND - ADMINISTRATIVE COSTS.** Moneys
2 in the development fund may be used for defraying the costs of administering the fund for the
3 biennium beginning July 1, 2003, and ending June 30, 2005.

4 **SECTION 10. ACCOUNTABILITY MEASURES - BUDGET SECTION REPORT.** The
5 commissioner of the department of commerce shall monitor and report annually to the budget
6 section of the legislative council during the 2003-04 interim regarding:

- 7 1. North Dakota's number of primary sector jobs, average annual income, and gross
8 state product reported as of December thirty-first of each year beginning in 2000.
- 9 2. The number of jobs created as a result of each of the department's economic
10 development and finance programs and the state's investment, the average salary
11 of the jobs created, private investment related to the jobs created, and the
12 estimated related economic impact to the state.
- 13 3. The number of individuals trained and the number who become employed as a
14 result of each of the department's workforce development and training programs,
15 including the state's investment, the areas of occupational training, the average
16 annual salary of those employed, and the amount of additional private investment
17 in the state.

18 **SECTION 11. LEGISLATIVE INTENT - PARTNERSHIPS WITH INDIAN TRIBES.** It is
19 the intent of the legislative assembly that the department of commerce assist in the creation of
20 business partnerships with North Dakota Indian tribes in order to increase primary sector
21 business growth on Indian reservations and other areas of the state for the biennium beginning
22 July 1, 2003, and ending June 30, 2005.

23 **SECTION 12. LEGISLATIVE INTENT - TOURISM LEARNING VACATIONS.** It is the
24 intent of the legislative assembly that the tourism division of the department of commerce
25 establish, coordinate, and promote learning vacations in North Dakota for the biennium
26 beginning July 1, 2003, and ending June 30, 2005.

27 **SECTION 13. LEWIS AND CLARK INTERPRETIVE CENTER GRANT.** The grants
28 line item in section 1 of this Act includes \$100,000 from the general fund for the tourism division
29 for the purpose of providing a grant to the North Dakota Lewis and Clark Bicentennial
30 Foundation for costs associated with the Lewis and Clark interpretive center near Washburn for
31 the biennium beginning July 1, 2003, and ending June 30, 2005.

1 **SECTION 14. VISITOR RESCUE GRANTS.** The grants line item in section 1 of this
2 Act includes \$25,000 from the general fund for the tourism division for the purpose of
3 reimbursing political subdivisions for extraordinary costs incurred in rescues of visitors to North
4 Dakota tourist attractions for the biennium beginning July 1, 2003, and ending June 30, 2005.

5 **SECTION 15. DEPARTMENT OF COMMERCE - NEW ECONOMY INITIATIVE**
6 **RESTRICTION.** The department of commerce may not spend any funds from any source in
7 support of the new economy initiative during the biennium beginning July 1, 2003, and ending
8 June 30, 2005.

9 **SECTION 16. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified
12 investment in a qualified business, the taxpayer is entitled to a credit against state income tax
13 liability under section 57-38-29 or 57-38-30.3. The amount of the credit to which a taxpayer is
14 entitled is ~~thirty~~ forty-five percent of the amount invested by the taxpayer in qualified
15 businesses during the taxable year, subject to the following:

- 16 1. The aggregate annual investment for which a taxpayer may obtain a tax credit
17 under this section is not less than five thousand dollars and not more than ~~fifty~~ one
18 hundred thousand dollars. This subsection may not be interpreted to limit
19 additional investment by a taxpayer for which that taxpayer is not applying for a
20 credit.
- 21 2. In any taxable year, a taxpayer may claim no more than ~~fifty percent~~ one-third of
22 the credit under this section which is attributable to investments in a single taxable
23 year.
- 24 3. Any amount of credit under this section not allowed because of the limitations in
25 this section may be carried forward for up to four taxable years after the taxable
26 year in which the investment was made.
- 27 4. A partnership that invests in a qualified business must be considered to be the
28 taxpayer for purposes of the investment limitations in this section and the amount
29 of the credit allowed with respect to a partnership's investment in a qualified
30 business must be determined at the partnership level. The amount of the total
31 credit determined at the partnership level must be allowed to the partners, limited

- 1 to individuals, estates, and trusts, in proportion to their respective interests in the
2 partnership.
- 3 5. The investment must be at risk in the business. An investment for which a credit is
4 received under this section must remain in the business for at least three years.
- 5 6. Tax credits for investments in one qualified business may not exceed two hundred
6 fifty thousand dollars.
- 7 7. The entire amount of an investment for which a credit is claimed under this section
8 must be expended by the qualified business for plant, equipment, research and
9 development, marketing and sales activity, or working capital for the qualified
10 business.
- 11 8. A taxpayer who owns a controlling interest in the qualified business or whose
12 full-time professional activity is the operation of the business is not entitled to a
13 credit under this section. A member of the immediate family of a taxpayer
14 disqualified by this subsection is not entitled to the credit under this section. For
15 purposes of this subsection, "immediate family" means the taxpayer's spouse,
16 parent, sibling, or child or the spouse of any such person.
- 17 9. The tax commissioner may disallow any credit otherwise allowed under this
18 section if any representation by a business in the application for certification as a
19 qualified business proves to be false or if the taxpayer or qualified business fails to
20 satisfy any conditions under this section or any conditions consistent with this
21 section otherwise determined by the tax commissioner. The amount of any credit
22 disallowed by the tax commissioner that reduced the taxpayer's income tax liability
23 for any or all applicable tax years, plus penalty and interest as provided under
24 section 57-38-45, must be paid by the taxpayer.

25 **SECTION 17. EFFECTIVE DATE.** Section 16 of this Act is effective for taxable years
26 beginning after December 31, 2003.