

Sixty-first
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2018

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 exemptions; to provide for an audit; to provide for transfers; to authorize
3 the department of commerce to borrow funds from the Bank of North Dakota; to provide a
4 continuing appropriation; to provide for legislative council studies; to create and enact a new
5 section to chapter 15-69 and a new section to chapter 54-60 of the North Dakota Century
6 Code, relating to the establishment of a centers of excellence fund to and the division of
7 workforce development's strategic plan and the North Dakota workforce development council;
8 to amend and reenact subsection 2 of section 15-69-04 and section 15-69-05 of the North
9 Dakota Century Code, relating to centers of excellence; and to declare an 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 the
15 department of commerce, for the biennium beginning July 1, 2009, and ending June 30, 2011,
16 as follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
18 Salaries and wages	\$8,826,879	\$1,359,088	\$10,185,967
20 Operating expenses	14,308,688	719,584	15,028,272
21 Capital assets	25,000	0	25,000
22 Grants	48,774,748	32,661,310	81,436,058
23 Discretionary funds	1,450,127	(522,044)	928,083
24 Economic development initiatives	1,296,846	(1,110,000)	186,846

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1	Agricultural products utilization	3,008,193	(471,563)	2,536,630
2	North Dakota trade office	1,500,000	664,000	2,164,000
3	Partner programs	<u>50,000</u>	<u>1,972,044</u>	<u>2,022,044</u>
4	Total all funds	\$79,240,481	\$35,272,419	\$114,512,900
5	Less special funds	<u>55,758,516</u>	<u>12,950,345</u>	<u>68,708,861</u>
6	Total general fund	\$23,481,965	\$22,322,074	\$45,804,039
7	Full-time equivalent positions	66.00	2.00	68.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-SECOND LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixtieth legislative assembly for the 2007-09 biennium and the 2009-11 one-time funding items included in the appropriations in section 1 and section 11 of this Act:

13	<u>One-Time Funding Description</u>	<u>2007-09</u>	<u>2009-11</u>
14	Transfer to development fund	\$3,000,000	\$0
15	Tax expenditure and business incentive reports	100,000	0
16	Transfer to workforce enhancement fund	0	2,000,000
17	Ethanol/biodiesel blender pumps	0	2,000,000
18	and alternative energy		
19	Grants to establish or expand child care	0	2,000,000
20	Base realignment grant program	0	5,000,000
21	Promotion and marketing of U.S.S.	0	100,000
22	North Dakota		
23	Total general fund	<u>\$3,100,000</u>	<u>\$11,100,000</u>

The 2009-11 one-time funding amounts are not a part of the entity's base budget for the 2011-13 biennium. The department of commerce shall report to the appropriations committees of the sixty-second legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. AGRICULTURE FUEL TAX REFUNDS. The estimated income line item in section 1 of this Act includes \$575,000 from refunds of tax for fuel used for agricultural purposes, to be used by the agricultural products utilization commission, for the biennium beginning July 1, 2009, and ending June 30, 2011.

1 **SECTION 4. EXEMPTION.** The amount appropriated for the agricultural products
2 utilization commission in section 3 of chapter 18 of the 2007 Session Laws is not subject to
3 section 54-44.1-11 and any unexpended funds from this line item for grants are available for
4 grants during the biennium beginning July 1, 2009, and ending June 30, 2011.

5 **SECTION 5. EXEMPTION.** The amount appropriated for the discretionary funds line
6 item in section 3 of chapter 18 of the 2007 Session Laws is not subject to section 54-44.1-11
7 and any unexpended funds from this line item are available during the biennium beginning
8 July 1, 2009, and ending June 30, 2011.

9 **SECTION 6. EXEMPTION.** The amount appropriated for internships contained in the
10 economic development initiative line item in section 3 of chapter 18 of the 2007 Session Laws
11 is not subject to section 54-44.1-11 and any unexpended funds from this line item are available
12 during the biennium beginning July 1, 2009, and ending June 30, 2011.

13 **SECTION 7. TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION**
14 **INCENTIVE PROGRAM.** The tax commissioner shall conduct an audit of the ethanol
15 production incentive program during the biennium beginning July 1, 2009, and ending June 30,
16 2011.

17 **SECTION 8. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The total North
18 Dakota trade office special line and the general fund appropriation in section 1 of this Act
19 include \$2,000,000 of funding relating to the North Dakota trade office. The department of
20 commerce may spend fifty percent of this amount without requiring any matching funds from
21 the trade office. Any additional amounts may be spent only to the extent that the North Dakota
22 trade office provides one dollar of matching funds from private or other public sources for each
23 one dollar provided by the department for the biennium beginning July 1, 2009, and ending
24 June 30, 2011. Matching funds may include money spent by businesses or organizations to
25 pay salaries to export assistants, provide training to export assistants, or buy computer
26 equipment as part of the North Dakota trade office's export assistance program.

27 **SECTION 9. APPROPRIATION - TRANSFER - WORKFORCE ENHANCEMENT**
28 **FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not
29 otherwise appropriated, the sum of \$2,000,000, which the office of management and budget
30 shall transfer to the workforce enhancement fund for the purpose of assisting two-year colleges

1 to respond to business and industry workforce training for the biennium beginning July 1, 2009,
2 and ending June 30, 2011.

3 **SECTION 10. APPROPRIATION - TRANSFER - CENTERS OF EXCELLENCE.**

4 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
5 appropriated, the sum of \$20,000,000, which the office of management and budget shall
6 transfer to the centers of excellence fund for the purpose of providing funding to centers of
7 excellence, for the biennium beginning July 1, 2009, and ending June 30, 2011.

8 **SECTION 11. STUDENT-BASED TECHNOLOGY GRANTS.** The grants line item in
9 section 1 of this Act includes the sum of \$200,000 from the general fund for providing
10 student-based technology grants, for the biennium beginning July 1, 2009, and ending June 30,
11 2011. The department of commerce may award grants of up to \$25,000 each to the extent
12 matching funds are available from an angel fund on a dollar-for-dollar basis. The department of
13 commerce may not award more than four grants to the same higher education institution during
14 the 2009-11 biennium.

15 **SECTION 12. REGIONAL TECHNICAL ASSISTANCE GRANTS.** The grants line item
16 in section 1 of this Act includes the sum of \$1,000,000 from the general fund for providing
17 regional technical assistance grants, for the biennium beginning July 1, 2009, and ending
18 June 30, 2011. The department of commerce shall equally distribute funding among the four
19 workforce training quadrants in the state. The department may award grants of up to \$250,000
20 each to the extent matching funds are available from nonstate sources on a dollar-for-dollar
21 basis. The department of commerce may not award more than one grant to each higher
22 education institution during the 2009-11 biennium.

23 **SECTION 13. YOUTH ENTREPRENEURSHIP GRANTS.** The grants line item in
24 section 1 of this Act includes the sum of \$400,000 from the general fund for providing youth
25 entrepreneurship grants, for the biennium beginning July 1, 2009, and ending June 30, 2011.
26 The department of commerce shall distribute funding equally among the four workforce training
27 quadrants in the state. The department may award grants of up to \$100,000 each to the extent
28 matching funds are available from nonstate sources on a dollar-for-dollar basis. The
29 department of commerce may not award more than one grant to each higher education
30 institution during the 2009-11 biennium.

1 **SECTION 14. GRANTS - UNIVERSITY PATENT OFFICES.** The grants line item in
2 section 1 of this Act includes the sum of \$200,000 from the general fund for providing grants to
3 the university of North Dakota and North Dakota state university patent offices for the biennium
4 beginning July 1, 2009, and ending June 30, 2011. The department of commerce may award a
5 grant of up to \$100,000 to each university for support of the patent offices to the extent
6 matching funds are available from nonstate sources on a dollar-for-dollar basis.

7 **SECTION 15. GRANTS - COMMERCIAL BUSINESS DISTRICT IMPROVEMENT**
8 **PROJECTS.** The grants line item in section 1 of this Act includes the sum of \$200,000 from
9 the general fund for providing grants of up to \$10,000 each to cities in the state with a
10 population of fewer than eight thousand for commercial business district improvement projects,
11 for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of
12 commerce shall require a city receiving a grant to provide \$1 of matching funds for each \$1 of
13 state funds provided for the project. Grant funds and required city matching funds may be used
14 only for the purpose of defraying the cost of materials associated with the project.

15 **SECTION 16. GRANT - GREAT PLAINS APPLIED ENERGY RESEARCH CENTER -**
16 **MATCHING REQUIREMENT.** The grants line item in section 1 of this Act includes the sum of
17 \$5,000,000 from the general fund for providing a grant for construction of a great plains applied
18 energy research center on the Bismarck state college campus, for the biennium beginning
19 July 1, 2009, and ending June 30, 2011. The department of commerce may spend funds
20 appropriated from the general fund only to the extent other nonstate matching funds of \$3 for
21 each \$1 of grants funds are available for all costs of the center.

22 **SECTION 17. BASE REALIGNMENT GRANT PROGRAM - BUDGET SECTION**
23 **APPROVAL.** The grants line item in section 1 of this Act includes the sum of \$5,000,000 from
24 the general fund for providing one-time funding for a base realignment grant program to
25 enhance economic development and employment opportunities associated with the Grand
26 Forks air force base resulting from action by the federal defense base closure and realignment
27 commission, for the biennium beginning July 1, 2009, and ending June 30, 2011. Applications
28 for program funding may include requests for infrastructure and economic development
29 projects to accommodate growth in proximity to or at the Grand Forks air force base.
30 Applications for program funding must include dollar-for-dollar cash matching funds from the
31 city, county, or federal government, or private sector. Applications for program funding must be

1 approved by a local committee consisting of representatives of Grand Forks County, Grand
2 Forks, the university of North Dakota, and the regional economic development corporation.
3 Applications approved by this committee must be submitted to and approved by the board of
4 county commissioners before submission to the department of commerce for grant approval.
5 The commissioner of the department of commerce shall review each application and may
6 provide a grant award for each application approved by the commissioner.

7 **SECTION 18. GRANT - LEWIS AND CLARK FOUNDATION.** The grants line item in
8 section 1 of this Act includes the sum of \$1,500,000 from the general fund for providing a grant
9 to the Lewis and Clark foundation, for the biennium beginning July 1, 2009, and ending
10 June 30, 2011. The department of commerce may spend the funds appropriated from the
11 general fund only to the extent matching funds have been secured from nonstate sources on a
12 dollar-for-dollar basis.

13 **SECTION 19. GRANT - THEODORE ROOSEVELT MEDORA FOUNDATION.** The
14 grants line item in section 1 of this Act includes the sum of \$500,000 from the general fund for
15 providing a Wade Westin memorial grant to the Theodore Roosevelt Medora foundation, for the
16 biennium beginning July 1, 2009, and ending June 30, 2011. The department of commerce
17 may only spend the funds appropriated from the general fund to the extent matching funds of
18 \$12,000,000 from nonstate sources have been secured by the foundation.

19 **SECTION 20. NORTH DAKOTA TRADE OFFICE - EXPORT-RELATED**
20 **WORKFORCE RECRUITMENT STUDY.** The North Dakota trade office line item in section 1
21 of this Act includes the sum of \$50,000 from the general fund for conducting an export-related
22 workforce recruitment study, for the biennium beginning July 1, 2009, and ending June 30,
23 2011. If the results of the study are deemed favorable by the department of commerce, the
24 North Dakota trade office may submit a plan to the department for implementing an
25 export-related workforce recruitment program.

26 **SECTION 21. NORTH DAKOTA TRADE OFFICE - DEPARTMENT OF COMMERCE -**
27 **CONTINGENT BORROWING AUTHORITY - APPROPRIATION.** Based on approval by the
28 department of commerce of the North Dakota trade office plan for implementing an
29 export-related workforce recruitment program in accordance with section 20 of this Act, and
30 subject to emergency commission and budget section approval, the department of commerce
31 may borrow the sum of \$500,000, or so much of the sum as may be necessary, from the Bank

of North Dakota, which is appropriated for the purpose of providing a grant to the North Dakota trade office for implementing an export-related workforce recruitment program, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of commerce shall request funding from the sixty-second legislative assembly to repay any loan obtained pursuant to this section, including accrued interest.

SECTION 22. LEGISLATIVE COUNCIL STUDY - TECHNOLOGY-BASED ENTREPRENEURSHIP AND ECONOMIC DEVELOPMENT BEST PRACTICES. During the 2009-10 interim, the legislative council shall consider studying technology-based entrepreneurship and economic development best practices. The study should include a review of best practices implemented by the department of commerce and the effectiveness of the department of commerce foundation. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 23. LEGISLATIVE COUNCIL STUDY - WORKFORCE SYSTEM INITIATIVE. During the 2009-10 interim, the legislative council shall consider studying the state's system for addressing workforce needs through a workforce system initiative. The study should include a review of the alignment of taxpayer investment with programs, coordination of programs, and the North Dakota workforce strategic plan. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 24. LEGISLATIVE INTENT - ACCOUNTABILITY. It is the intent of the sixty-first legislative assembly that the department of commerce establish and implement appropriate accountability requirements relating to grants provided to the Dakota defense alliance, the Lewis and Clark foundation, and the Theodore Roosevelt Medora foundation, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 25. A new section to chapter 15-69 of the North Dakota Century Code is created and enacted as follows:

Centers of excellence fund - Continuing appropriation. The centers of excellence fund is a special fund in the state treasury. All moneys in the centers of excellence fund are appropriated to the department of commerce on a continuing basis for the purpose of

1 implementing and administering this chapter. Interest earned on moneys in the fund must be
2 credited to the fund.

3 **SECTION 26. AMENDMENT.** Subsection 2 of section 15-69-04 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 2. The commission shall meet as necessary to review all complete applications;
6 consider the potential need for independent, expert review of complete
7 applications; approve or disapprove complete applications; make funding award
8 recommendations for commission-approved proposed centers; direct the ~~office of~~
9 ~~management and budget~~ department of commerce to distribute funds to the
10 centers; monitor centers for compliance with award requirements; review changes
11 in assertions made in center applications; and conduct postaward monitoring of
12 centers.

13 **SECTION 27. AMENDMENT.** Section 15-69-05 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **15-69-05. (Effective through July 31, 2011) Use of funds - Terms of funds -**
16 **Distribution of funds.**

- 17 1. A center shall use funds awarded under this chapter to enhance capacity; enhance
18 infrastructure; and leverage state, federal, and private sources of funding. A
19 center awarded funds under this chapter may not use the funds to supplant
20 funding for current operations or academic instructions or to pay indirect costs.
- 21 2. As a condition for receipt of funds under this chapter, a center shall agree to
22 provide the board, foundation, and budget section of the legislative council with
23 annual audits on all funds distributed to the center under this chapter. The annual
24 audits must be provided until the completion of the commission's postaward
25 monitoring of the center. As a condition for receipt of funds under this chapter, a
26 center shall agree to provide the commission with the information necessary to
27 monitor the postaward activities of the center.
- 28 3. Before the commission directs the ~~office of management and budget~~ department
29 of commerce to distribute funds awarded under this chapter, the center shall
30 provide the commission with detailed documentation of private sector participation
31 and the availability of two dollars of matching funds for each dollar of state funds to

be distributed under this chapter. The matching funds may include funds facilitated through the collaboration of the private sector participants with other funding entities. The matching funds may include a combination of cash and in-kind assets with itemized value. Private sector participation may be established through equity investments or through contracts for services with private sector entities. In making funding recommendations and designation determinations, the commission, board, foundation, and budget section shall give major consideration to the portion of the matching funds provided in cash by the private sector.

4. The commission shall direct the ~~office of management and budget~~ department of commerce to distribute the funds awarded under this chapter in disbursements consistent with the center's budget and timeframe outlined in the approved award. The commission may not direct distribution of funds under this chapter if there are no private sector partners participating or if the statutorily required matching funds are not available.

5. If, before funds are distributed by the ~~office of management and budget~~ department of commerce, a center undergoes a change in the terms of or assertions made in its application, the commission may direct that the ~~office of management and budget~~ department of commerce withhold all or a portion of any undistributed funds pending commission review of the changes.

6. The commission may use funds ~~appropriated~~ for the centers of excellence program to pay for the commission's administrative expenses, which may include contracting for independent, expert reviews of complete applications and centers of excellence forums. The amount of funds the commission uses each biennium for administrative expenses may not exceed two and one-half percent of the ~~funds~~ appropriated for transfers to the program that biennium.

SECTION 28. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Division of workforce development - Annual reports - North Dakota workforce development council - Budget acceptance.

1. Annually, job service North Dakota, the department of career and technical education, the department, and the state board of higher education each shall

1 submit a report to the division of workforce development relating to the respective
2 agency's current workforce initiatives and activities and that agency's plan for
3 future workforce initiatives and activities. The division of workforce development
4 shall consider these reports in preparing the consolidated biennial statewide
5 strategic plan for the state's system for workforce development, workforce training,
6 and talent attraction required under section 54-60-19.

7 2. Before July first of each even-numbered year, job service North Dakota, the
8 department of career and technical education, the department, and the state board
9 of higher education each shall submit for acceptance the respective agency's
10 biennial budget request to the North Dakota workforce development council,
11 created by governor's executive order 1995-01, dated January 3, 1996.

12 **SECTION 29. EMERGENCY.** Funding of \$1,200,000 in the operating expenses line
13 item in section 1 of this Act relating to the operation intern program is declared to be an
14 emergency measure.