

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2018

That the House recede from its amendments as printed on pages 1358-1365 of the Senate Journal and pages 1395-1401 of the House Journal and that Reengrossed Senate Bill No. 2018 be amended as follows:

Page 1, line 2, after the first semicolon insert "to provide an appropriation to the office of management and budget; to provide a contingent appropriation;"; remove "to provide for an audit;"; and remove "to authorize"

Page 1, line 3, remove "the department of commerce to borrow funds from the Bank of North Dakota;"

Page 1, line 4, after the second "to" insert "provide reports to the budget section; to provide for the establishment of a centers of excellence fund; to" and after "new" insert "subsection to section 15-69-01, a new"

Page 1, line 5, replace "15-69" with "54-18, a new section to chapter 54-44.1,"

Page 1, line 6, replace "the establishment of a centers of excellence fund to" with "definitions relating to centers of excellence, an annual transfer from the state mill and elevator association, the establishment of a searchable database,"

Page 1, line 8, after "subsection" insert "1 of section 15-69-02, subsections 1," after "2" insert ", and 3", replace the second "and" with ", subsections 1, 3, 4, and 5 of", and after "15-69-05" insert ", subsection 2 of section 54-60-16, and section 54-60-17"

Page 1, line 9, after "excellence" insert ", the international business and trade office, and higher education internships and work experience opportunities; to provide an expiration date"

Page 1, line 19, replace "1,359,088" with "1,193,961" and replace "10,185,967" with "10,020,840"

Page 1, line 20, replace "719,584" with "169,584" and replace "15,028,272" with "14,478,272"

Page 1, line 22, replace "32,661,310" with "19,611,310" and replace "81,436,058" with "68,386,058"

Page 2, line 2, replace "664,000" with "564,000" and replace "2,164,000" with "2,064,000"

Page 2, line 4, replace "35,272,419" with "21,407,292" and replace "114,512,900" with "100,647,773"

Page 2, line 5, replace "12,950,345" with "13,907,954" and replace "68,708,861" with "69,666,470"

Page 2, line 6, replace "22,322,074" with "7,499,338" and replace "45,804,039" with "30,981,303"

Page 2, after line 7, insert:

"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the department of commerce, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

| | |
|---|------------------|
| Community development block grant program | \$1,300,000 |
| Community services block grant | 4,853,305 |
| State energy program | 24,585,000 |
| Energy efficiency and conservation block grants | 10,000,000 |
| Weatherization assistance program | 25,266,330 |
| Emergency shelter grants | <u>2,590,000</u> |
| Total federal funds | \$68,594,635 |

The department of commerce may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

The department of commerce may accept federal fiscal stimulus funding for programs that continue into the biennium beginning July 1, 2011, and ending June 30, 2013. Any federal fiscal stimulus funding received in the 2011-13 biennium is not a part of the agency's 2013-15 base budget.

SECTION 3. USE OF FEDERAL FISCAL STIMULUS FUNDS - ELECTRICAL GENERATORS. The department of commerce shall use \$2,000,000 of the funding appropriated in section 2 of this Act for the purpose of establishing a grant program to assist in the purchase and installation of electrical generators that consume at least seventy-five percent of the gas from oil and gas well sites which would otherwise be flared or wasted, for the period beginning with the effective date of this Act and ending June 30, 2011. The funding is contingent upon approval from the United States department of energy of use of the funding for the grant program. Before making a grant from the program established by this section, the department of commerce shall obtain the recommendation of the oil and gas research program administered by the industrial commission regarding the application's technical accuracy and consistency with the oil and gas research program.

SECTION 4. USE OF FEDERAL FISCAL STIMULUS FUNDS - BIOFUEL BLENDER PUMP GRANTS. The department of commerce shall use up to \$1,000,000 of the funding appropriated in section 2 of this Act for biofuel blender pump grants.

SECTION 5. APPROPRIATION - FEDERAL FISCAL STABILIZATION - OTHER GOVERNMENT SERVICES. There is appropriated from federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$400,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of establishing a searchable database of state expenditures as provided for in section 35 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget."

Page 2, line 16, replace "2,000,000" with "1,000,000"

Page 2, line 17, replace "2,000,000" with "1,000,000"

Page 2, remove lines 19 and 20

Page 2, line 23, replace "11,100,000" with "2,100,000"

Page 3, remove lines 13 through 16

Page 3, line 20, replace "fifty" with "sixty-two and one-half"

Page 3, line 29, replace "\$2,000,000" with "\$1,000,000"

Page 4, replace lines 3 through 30 with:

"SECTION 13. TECHNOLOGY-BASED ENTREPRENEURSHIP GRANT PROGRAM - REPORT TO THE BUDGET SECTION. The grants line item in section 1 of this Act includes the sum of \$1,000,000 from the general fund for a technology-based entrepreneurship grant program to be developed by the department of commerce, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of commerce shall report to the budget section in the third quarter of 2010 on the status of the technology-based entrepreneurship grant program, including an overview of the program and program expenditures.

SECTION 14. TAX-EXEMPT PROPERTY - REPORT TO THE BUDGET SECTION. During the 2009-10 interim, the department of commerce shall compile information identifying tax-exempt property by school district, including information on the related value of the property based on soil survey, insured value, or other means, and a categorization of the property by whether or not it produces revenue based on its use. The department of commerce shall report the information compiled to the budget section during the third quarter of 2010.

SECTION 15. LEGISLATIVE INTENT - DIVISION OF TOURISM - LARGE TOURISM INFRASTRUCTURE GRANTS. It is the intent of the sixty-first legislative assembly that the department of commerce division of tourism develop criteria for large tourism infrastructure grants and a method for setting funding priorities for such grants in future bienniums."

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 6

Page 6, line 12, after the period insert "The funds may be used only for construction costs."

Page 6, line 15, remove "Wade Westin memorial"

Page 6, line 18, after the period insert "The funds may be used only for construction costs."

Page 6, remove lines 19 through 31

"SECTION 21. APPROPRIATION - TRANSFER - CENTERS OF EXCELLENCE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000,000, which the office of management and budget shall transfer to the centers of excellence fund for the purpose of providing funding to centers of excellence, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 22. CONTINGENT APPROPRIATION - TRANSFER - CENTERS OF EXCELLENCE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, which the office of management and budget shall transfer to the centers of excellence fund for the purpose of providing additional centers of excellence funding, for the biennium beginning July 1, 2009, and ending June 30, 2011. The office of management and budget may transfer this funding only if actual general fund revenues for the period from July 1, 2009, through December 1, 2009, exceed estimated general fund revenues for that period by at least \$5,000,000, as determined by the office of management and budget, based on the legislative estimates made at the close of the 2009 legislative session.

SECTION 23. CENTERS OF EXCELLENCE ENHANCEMENT GRANTS. The department of commerce shall use \$10,000,000 of the funds transferred to the centers of excellence fund in section 21 of this Act for centers of excellence enhancement grants during the biennium beginning July 1, 2009, and ending June 30, 2011. The centers of excellence enhancement grants may be made available to research universities under the control of the state board of higher education or nonprofit university-related foundations for use in infrastructure or enhancement of economic development and employment opportunities. Appropriate use of funds include a base realignment grant to enhance economic development and employment opportunities associated with the Grand Forks air force base resulting from action by the federal defense base closure and realignment commission; infrastructure and economic development projects or programs to accommodate growth in proximity to or at the Grand Forks air force base; and infrastructure and economic development projects or programs to enhance the capacity of a research university to interface and collaborate with private industry on research, development, demonstration, and commercialization of technology. The commissioner of commerce shall develop application criteria, including local support criteria for requests relating to the Grand Forks air force base; review submitted applications; and recommend applications for approval to the centers of excellence commission. Centers of excellence enhancement grants made under this section are exempt from section 15-69-02, subsections 3 and 4 of section 15-69-04, and subsections 1, 3, and 4 of section 15-69-05.

SECTION 24. CENTERS OF EXCELLENCE STATE TAX REVENUE IMPACT STUDY - REPORT.

1. During the 2009-11 biennium, the state auditor, in consultation with the tax commissioner and the department of commerce, shall conduct a study of the state tax revenue impact of the centers of excellence program and shall calculate the direct and indirect impact of the program on state tax revenues. The study must include an analysis for each center of excellence of the actual matching funds received by source, actual number of private sector jobs created, and new private sector facilities opened as the result of the center. The study must be based on information available to the tax commissioner and the state auditor.
2. By August 1, 2010, the state auditor shall submit to the legislative council a report on the findings and results of the centers of excellence state tax revenue impact study.

3. The tax commissioner shall compile direct tax revenue and expenditure data and provide this data to the state auditor. Notwithstanding the confidentiality provisions contained in chapters 57-38 and 57-39.2, the tax commissioner shall provide the state auditor the information necessary to accomplish and effectuate the study required by this section. The tax commissioner may request the assistance of the department of commerce as necessary to compile this data.
4. The tax commissioner may establish the procedure and format by which the tax data will be provided to the state auditor. If additional information is needed by the state auditor to calculate the tax impact of the centers of excellence program, the state auditor may ask the department of commerce to contact those taxpayers determined necessary to effectuate the study required by this section.
5. Except as provided in subsection 6, the state auditor may establish the manner in which the centers of excellence impact data will be analyzed, organized, and presented in the report.
6. Confidential information the state auditor receives from the tax commissioner may not be divulged by the state auditor unless the information is in the aggregate and in a manner that will not divulge information specific to any taxpayer.

SECTION 25. CENTERS OF EXCELLENCE BEST PRACTICE REVIEW. The department of commerce and the centers of excellence commission shall conduct a best practice review of the centers of excellence program by contracting with an appropriate entity with broad-based expertise in programs similar to North Dakota's centers of excellence program.

SECTION 26. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of contracting with an entity to perform the review required in section 25 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 27. EXEMPTION - TRANSFER. The amount appropriated for centers of excellence contained in sections 14 and 15 of chapter 18 of the 2007 Session Laws is not subject to section 54-44.1-11. The office of management and budget shall transfer any unexpended funds from these appropriations to the centers of excellence fund at the end of the 2007-09 biennium.

SECTION 28. CENTERS OF EXCELLENCE - REPORTS. The department of commerce shall report on the status of the centers of excellence program and the status of the centers of excellence fund to the budget section during the third quarter of 2010 and to the appropriations committees of the sixty-second legislative assembly.

SECTION 29. 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 implementing and administering this chapter. Interest earned on moneys in the fund must be credited to the fund.

SECTION 30. A new subsection to section 15-69-01 of the North Dakota Century Code is created and enacted as follows:

"Infrastructure" means new building construction or major building renovation. The term does not include a purchase of equipment or remodel of an existing building.

SECTION 31. AMENDMENT. Subsection 1 of section 15-69-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a centers of excellence program relating to economic development. ~~The program must distinguish among center designations for awards designated to address commercialization and infrastructure needs.~~ Workforce may not be the primary need addressed by a center. Through the program the commission shall make funding award recommendations for commission-approved applications to the board, the foundation, the emergency commission, and the budget section of the legislative council. A center must be an institution of higher education under the control of the board or a nonprofit university-related or college-related foundation of an institution of higher education under the control of the board. In order to be considered for center designation, the institution of higher education or nonprofit foundation must be working in partnership with the private sector. ~~For an application that includes infrastructure to be considered for center designation, the application must provide detailed information regarding how the future operational costs and maintenance costs related to the infrastructure will be provided and how the costs will not be provided from the general fund.~~ In addition to any center designated under this chapter, the North Dakota state university center for technology enterprise and the university of North Dakota center for innovation are centers.

SECTION 32. AMENDMENT. Subsections 1, 2, and 3 of section 15-69-04 of the North Dakota Century Code are amended and reenacted as follows:

1. The department of commerce shall provide center application forms, accept applications, review applications for completeness and compliance with board and commission policy, forward complete applications to the commission in accordance with guidelines established by the commission, and assist with preaward reviews and postaward monitoring as may be requested by the commission. No more than two applications per campus of an institution of higher education under the control of the board may be submitted to the department of commerce for each round of center funding.
2. The commission shall meet as necessary to review all complete applications; consider the potential need for independent, expert review of complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; direct the ~~office of management and budget~~ department of commerce to distribute funds to the centers; monitor centers for compliance with award requirements; review changes in assertions made in center applications; and conduct postaward monitoring of centers.
3. In considering whether to approve or disapprove an application, the commission shall determine whether the applicant has conducted the due diligence necessary to put together a viable proposal, the commission shall determine whether the applicant has provided information in the application which clearly outlines how the matching fund requirement will be met, and the commission shall consider whether the center will:
 - a. Use university or college research to promote private sector job growth and expansion of knowledge-based industries or use university or college research to promote the development of new products, high-tech companies, or skilled jobs in this state;
 - b. Create high-value private sector employment opportunities in this state;

- c. Provide for public-private sector involvement and partnerships;
- d. Leverage other funding, including cash from the private sector;
- e. Increase research and development activities that may involve federal funding from the national science foundation experimental program to stimulate competitive research;
- f. Foster and practice entrepreneurship;
- g. Promote the commercialization of new products and services in industry clusters;
- h. Become financially self-sustaining; and
- i. Establish and meet a deadline for acquiring and expending all public and private funds specified in the application.

SECTION 33. AMENDMENT. Subsections 1, 3, 4, and 5 of section 15-69-05 of the North Dakota Century Code are amended and reenacted as follows:

- 1. A center shall use funds awarded under this chapter to enhance capacity; enhance infrastructure; and leverage state, federal, and private sources of funding. A center awarded funds under this chapter may not use the funds for infrastructure, to supplant funding for current operations or academic instructions, or to pay indirect costs.
- 3. Before the commission directs the ~~office of management and budget~~ department of commerce to distribute funds awarded under this chapter, the center shall provide the commission with detailed documentation of private sector participation and the availability of two dollars of matching funds for each dollar of state funds to be distributed under this chapter. Of the two dollars of matching funds, at least one dollar must be cash, of which at least fifty cents must be from the private sector. The matching funds may include funds facilitated through the collaboration of the private sector participants with other funding entities. The ~~noncash~~ 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~~ 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.

SECTION 34. A new section to chapter 54-18 of the North Dakota Century Code is created and enacted as follows:

Annual transfer. Within thirty days after the conclusion of each fiscal year, the industrial commission shall transfer five percent of the net income earned by the state mill and elevator association during that fiscal year to the agricultural fuel tax fund.

SECTION 35. A new section to chapter 54-44.1 of the North Dakota Century Code is created and enacted as follows:

Searchable database of expenditures.

1. By June 30, 2011, the director of the budget shall develop and make publicly available an aggregate and searchable budget database website that includes the following information for the biennium ending June 30, 2009:
 - a. Each budget unit making expenditures.
 - b. The amount of funds expended.
 - c. The source of the funds expended.
 - d. The budget program of the expenditure.
 - e. Any other information determined relevant by the director of the budget.
2. The director of the budget shall include the name and city of the recipient of each expenditure in the budget database website after the director has completed implementation of a business intelligence component to the state's financial reporting system.
3. The director of the budget may not include in the database any information that is confidential or exempt under state or federal law.
4. The director of the budget may update the budget database website as new data becomes available. Each state agency shall provide to the director of the budget any data required to be included in the budget database website no later than thirty days after the data becomes available to the agency.
5. By January first of each even-numbered year, the director of the budget shall add data for the previous biennium to the budget database website. The director of the budget shall ensure that all data added to the budget database website remains accessible to the public for a minimum of ten years.
6. The budget database website may not redirect users to any other government website, unless the website has information from all budget units and each category of information required can be searched electronically by field in a single search.

SECTION 36. AMENDMENT. Subsection 2 of section 54-60-16 of the North Dakota Century Code is amended and reenacted as follows:

2. The commissioner may designate a nonprofit corporation incorporated in this state that has the primary purpose of assisting North Dakota exporters or contract with a third party for the provision of services for the international business and trade office. If the commissioner designates a

nonprofit corporation or contracts with a third party under this subsection, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.

SECTION 37. AMENDMENT. Section 54-60-17 of the North Dakota Century Code is amended and reenacted as follows:

54-60-17. Division of workforce development - ~~Higher education~~ internships Internships, apprenticeships, and work experience opportunities.
The division of workforce development shall administer a program to increase use of ~~higher education~~ internships, apprenticeships, and work experience opportunities for higher education students and high school students enrolled in grade eleven or twelve. The primary focus of this program must be higher education internships in target industries. This program shall provide services to employers, communities, and business organizations to increase ~~higher education~~ internship, apprenticeship, and work experience opportunities. The department shall maintain records of the number of internship, apprenticeship, and work experience opportunities subsidized within each funding recipient which shall then constitute a base level for that funding recipient. The department in each subsequent biennium may only subsidize new or expanded internship, apprenticeship, and work experience opportunities above the base level for funding recipients."

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 25

Page 10, line 7, replace "July" with "November"

Page 10, line 9, replace "submit for acceptance" with "present"

Page 10, line 10, replace "biennial budget request" with "workforce-related budget initiatives for the upcoming biennium, including alignment of these initiatives with the consolidated biennial statewide strategic plan,"

Page 10, line 11, after the underscored period insert "The North Dakota workforce development council members shall consider potential areas for collaboration."

SECTION 39. EXPIRATION DATE. Section 36 of this Act is effective through June 30, 2011, and after that date is ineffective."

Page 10, line 12, replace "\$1,200,000" with "\$900,000"

Page 10, line 13, replace "is" with "and section 2 of this Act are"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98037.0442 FN 2

A copy of the statement of purpose of amendment is attached.