

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 create and enact section 54-45.5-10 and two new sections to chapter 54-65 of
3 the North Dakota Century Code, relating to the energy conservation fund and the research
4 North Dakota program; to amend and reenact sections 4-14.1-02, 4-14.1-03, 4-44-03, 17-02-05,
5 54-18-21, 57-43.1-03, 57-43.1-03.1, 57-43.1-03.3, and 57-43.1-08 of the North Dakota Century
6 Code, relating to the agricultural fuel tax fund, ethanol production incentive fund, and the
7 agricultural research fund; to provide exemptions; to provide for transfers; to provide a
8 continuing appropriation; and to declare an emergency.

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
11 as may be necessary, are appropriated out of any moneys in the general fund in the state
12 treasury, not otherwise appropriated, and from special funds derived from federal funds and
13 other income, to the department of commerce for the purpose of defraying the expenses of the
14 department of commerce, for the biennium beginning July 1, 2013, and ending June 30, 2015,
15 as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
18 Salaries and wages	\$10,858,251	\$1,538,719	\$12,396,970
19 Operating expenses	13,876,650	2,557,951	16,434,601
20 Capital assets	70,018	(60,018)	10,000
21 Grants	59,977,994	(830,044)	59,147,950
22 Discretionary funds	928,082	0	928,082
23 Workforce enhancement fund	0	2,000,000	2,000,000
24 Economic development initiatives	186,846	0	186,846

Sixty-third
Legislative Assembly

1	Flood impact grants/loans	0	11,782,866	11,782,866
2	Agricultural products utilization commission	2,739,767	506,769	3,246,536
3	Research North Dakota	0	12,000,000	12,000,000
4	North Dakota trade office	2,613,400	0	2,613,400
5	Partner programs	2,022,044	0	2,022,044
6	Federal fiscal stimulus funds	0	796,770	796,770
7	North Dakota planning initiative	<u>0</u>	<u>1,000,000</u>	<u>1,000,000</u>
8	Total all funds	\$93,273,052	\$31,293,013	\$124,566,065
9	Less estimated income	<u>69,666,470</u>	<u>(1,425,436)</u>	<u>68,241,034</u>
10	Total general fund	\$23,606,582	\$32,718,449	\$56,325,031
11	Full-time equivalent positions	68.25	1.00	69.25

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

SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

16	<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
17	Workforce enhancement fund	\$375,000	\$2,000,000
18	Electronic portfolio pilot project	150,000	0
19	2020 and beyond	50,000	0
20	American Indian business office	50,000	0
21	Flood impact grants/loans	235,000,000	11,782,866
22	Centers of research excellence	12,000,000	0
23	Research North Dakota	0	12,000,000
24	Unmanned aircraft system	0	5,000,000
25	Base retention grants	0	1,500,000
26	Tourism large infrastructure grants	0	1,325,000
27	Child care facility grants	0	5,000,000
28	Transportation study	0	350,000
29	North Dakota planning initiative	0	1,000,000
30	Federal fiscal stimulus	<u>24,496,750</u>	<u>796,770</u>
31	Total all funds	\$272,121,750	\$40,754,636

1	Less estimated income	<u>259,496,750</u>	<u>16,579,636</u>
2	Total general fund	\$12,625,000	\$24,175,000

3 The 2013-15 one-time funding amounts are not a part of the entity's base budget for the
4 2015-17 biennium. The department of commerce shall report to the appropriations committees
5 of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium
6 beginning July 1, 2013, and ending June 30, 2015.

7 **SECTION 3. AMENDMENT.** Section 4-14.1-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4-14.1-02. Agricultural ~~fuel tax~~products utilization fund - Purposes - Continuing**
10 **appropriation.**

11 There is created in the state treasury a fund known as the agricultural ~~fuel tax~~products
12 utilization fund which must be used to fund programs for the enhancement of agricultural
13 research, development, processing, technology, and marketing. ~~The fund must be used to~~
14 ~~defray~~All moneys in the fund are appropriated to the department of commerce on a continuing
15 basis for the purpose of defraying the expenses of the North Dakota agricultural products
16 utilization commission necessary to implement the purposes of this chapter. Interest earned on
17 moneys in the fund must be credited to the fund.

18 **SECTION 4. AMENDMENT.** Section 4-14.1-03 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **4-14.1-03. Agricultural products utilization commission - Composition - Appointment.**

21 The agricultural ~~fuel tax~~products utilization fund must be administered by the agricultural
22 products utilization commission. The commission consists of nine members, five of whom must
23 be appointed by the governor for terms of two years each, arranged so that two terms expire in
24 odd-numbered years and three terms expire in even-numbered years. Three members
25 appointed by the governor must be actively engaged in farming in this state and two members
26 appointed by the governor must be actively engaged in business in this state. The agriculture
27 commissioner shall appoint one member for a term of two years which expires in odd-numbered
28 years. The member appointed by the commissioner must be actively engaged in farming in this
29 state. Commission members may be reappointed to the commission. Terms of commissioners
30 shall run from the first day of July. The commissioner of commerce, the president of North

1 Dakota state university, and the agriculture commissioner, or their designees, are members of
2 the commission. The commission shall elect one of its members as chairman.

3 **SECTION 5. AMENDMENT.** Section 4-44-03 of the North Dakota Century Code is amended
4 and reenacted as follows:

5 **4-44-03. (Effective through June 30, 2015) Crop insurance development board -**
6 **Duties.**

- 7 1. The crop insurance development board shall assess the feasibility and desirability of
8 proposals submitted by individuals and by public and nonpublic entities pertaining to
9 the development and implementation of crop insurance instruments. The board may
10 authorize the awarding of grants to assist with future actuarial and development costs.
- 11 2. Grants may be awarded for up to seventy-five percent of the first fifty thousand dollars
12 and up to fifty percent of the costs thereafter.
- 13 3. The board shall establish conditions pertaining to the receipt of grants, including the
14 repayment of some or all of the grants with moneys received by the applicant from the
15 federal crop insurance corporation for continued development of the proposal. The
16 board shall forward any moneys received as repayments under this section to the
17 state treasurer for deposit in the agricultural ~~fuel tax~~ products utilization fund.

18 **SECTION 6. AMENDMENT.** Section 17-02-05 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **17-02-05. Ethanol production incentive fund - Continuing appropriation.**

21 There is created in the state treasury a special fund known as the ethanol production
22 incentive fund. The fund consists of transfers made in accordance with section 39-04-39 ~~and~~
23 ~~deposits made in accordance with section 57-43.1-03.1.~~ All moneys in the fund are appropriated
24 on a continuing basis to the office of renewable energy and energy efficiency for use in paying
25 ethanol production incentives under this chapter.

26 **SECTION 7. AMENDMENT.** Section 54-18-21 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **54-18-21. Annual transfer.**

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

1 **SECTION 8.** Section 54-45.5-10 of the North Dakota Century Code is created and enacted
2 as follows:

3 **54-44.5-10. Energy conservation grant fund - Continuing appropriation.**

4 The energy conservation grant fund is a special fund in the state treasury. All funds in the
5 energy conservation grant fund are appropriated to the department on a continuing basis for the
6 purpose of providing grants to political subdivisions for energy conservation projects in
7 nonfederal public buildings. Interest earned by the fund must be credited to the fund.

8 **SECTION 9.** A new section to chapter 54-65 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Research North Dakota grants.**

11 The department shall establish and administer a research North Dakota grant program to
12 provide grants to a research university for research, development, and commercialization
13 activities related to a private sector partner. The centers of excellence commission, established
14 under chapter 15-69, shall make grant award determinations under this section. The department
15 shall work with the centers of excellence commission in establishing guidelines to qualify for a
16 grant under this section. Before the commission directs the department to distribute funds
17 awarded under this section, the research university shall provide the commission with detailed
18 documentation of private sector participation and the availability of one dollar of matching funds
19 for each dollar of state funds to be distributed. Matching funds must be in the form of cash given
20 to the research university and may not include in-kind assets.

21 **SECTION 10.** A new section to chapter 54-65 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Research North Dakota fund - Continuing appropriation.**

24 The research North Dakota fund is a special fund in the state treasury. All moneys in the
25 research North Dakota fund are appropriated to the department of commerce on a continuing
26 basis for the purpose of implementing and administering this chapter. Interest earned on
27 moneys in the fund must be credited to the fund.

28 **SECTION 11. AMENDMENT.** Section 57-43.1-03 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **57-43.1-03. Refund of tax for fuel used for an industrial purpose - Reduction for**
2 **agricultural fuel tax**~~products utilization~~ fund.

3 Any consumer who buys or uses any motor vehicle fuel for an industrial purpose on which
4 the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund
5 under this chapter. The amount of the tax refund provided for in this section must be reduced by
6 one-half cent per gallon [3.79 liters], except for those fuels used in aircraft or with respect to
7 refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from
8 the refund must be deposited in the agricultural fuel tax~~products utilization~~ fund.

9 **SECTION 12. AMENDMENT.** Section 57-43.1-03.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-43.1-03.1. Refund of tax for fuel used for agricultural purposes - Reductions.**

12 Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which
13 the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund
14 under this chapter. The amount of the tax refund under this section must be reduced by seven
15 cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds
16 claimed by aircraft fuel users. ~~Two cents per gallon [3.79 liters] withheld from the refund must be~~
17 ~~deposited in the agricultural fuel tax fund, one cent per gallon [3.79 liters] withheld from the~~
18 ~~refund must be deposited in the ethanol production incentive fund, and four cents~~The amount
19 per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research
20 fund.

21 **SECTION 13. AMENDMENT.** Section 57-43.1-03.3 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **57-43.1-03.3. Refund to emergency medical services operation.**

24 Upon application to the commissioner, the operator of an emergency medical services
25 operation licensed under chapter 23-27 is entitled to a refund of taxes paid under this chapter
26 for motor vehicle fuel purchased and used by the emergency medical services operation. The
27 refund provided for in this section is not subject to reduction for deposit in the agricultural fuel
28 tax~~products utilization~~ fund, ~~the ethanol production incentive fund,~~ or the agricultural research
29 fund.

30 **SECTION 14. AMENDMENT.** Section 57-43.1-08 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **57-43.1-08. Refund to state or political subdivision.**

2 When any construction, reconstruction, or maintenance of a public road, highway, street, or
3 airport is undertaken by the state or any political subdivision in the state and public funds of the
4 United States, state, or any political subdivision are directly used for the purchasing of motor
5 vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction, or
6 maintenance, such motor vehicle fuel is subject to a refund of the tax paid on the fuel as
7 provided for in this chapter and under the same terms and conditions. The refund provided for in
8 this section may not be reduced for deposit to the agricultural ~~fuel tax~~products utilization fund.

9 **SECTION 15. EXEMPTION.** The amount appropriated for the agricultural products
10 utilization commission in section 1 of chapter 50 of the 2011 Session Laws is not subject to
11 section 54-44.1-11 and any unexpended funds from this line item for grants are available for
12 grants during the biennium beginning July 1, 2013, and ending June 30, 2015.

13 **SECTION 16. EXEMPTION.** The amount appropriated for the discretionary funds line item
14 in section 1 of chapter 50 of the 2011 Session Laws is not subject to section 54-44.1-11 and any
15 unexpended funds from this line item are available during the biennium beginning July 1, 2013,
16 and ending June 30, 2015.

17 **SECTION 17. EXEMPTION.** The amount appropriated for the technology-based
18 entrepreneurship grant program contained in the grants line item in section 1 of chapter 50 of
19 the 2011 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this
20 line item are available during the biennium beginning July 1, 2013, and ending June 30, 2015.

21 **SECTION 18. EXEMPTION.** Any amount carried over pursuant to section 22 of chapter 50
22 of the 2011 Session Laws that is unexpended as of June 30, 2013, is not subject to section
23 54-44.1-11 and is available for promotion and marketing of the USS North Dakota during the
24 biennium beginning July 1, 2013, and ending June 30, 2015.

25 **SECTION 19. EXEMPTION.** Any amount carried over pursuant to section 18 of chapter 50
26 of the 2011 Session Laws, relating to the antiballistic missile site acquisition grant and base
27 realignment grant, that is unexpended as of June 30, 2013, is not subject to section 54-44.1-11
28 and is available for a grant to assist in the acquisition of the antiballistic missile site at the
29 Stanley R. Mickelson safeguard complex in Nekoma and for a base realignment grant to
30 enhance economic development and employment opportunities associated with the Minot air

1 force base resulting from action by the federal defense base closure and realignment
2 commission during the biennium beginning July 1, 2013, and ending June 30, 2015.

3 **SECTION 20. TRANSFER - WORKFORCE ENHANCEMENT FUND.** The office of
4 management and budget shall transfer the amount appropriated in the workforce enhancement
5 fund line item in section 1 of this Act to the workforce enhancement fund for the purpose of
6 implementing and administering sections 54-60-21 and 54-60-22, for the biennium beginning
7 July 1, 2013, and ending June 30, 2015.

8 **SECTION 21. TRANSFER - INTERNSHIP FUND.** The office of management and budget
9 shall transfer \$1,500,000 of the amount appropriated in the operating expenses line item in
10 section 1 of this Act to the internship fund for the purpose of administering the operation intern
11 program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

12 **SECTION 22. TRANSFER - RESEARCH NORTH DAKOTA FUND.** The office of
13 management and budget shall transfer the amount appropriated in the research North Dakota
14 line item in section 1 of this Act to the research North Dakota fund for the purpose of
15 implementing and administering the research North Dakota program, for the biennium
16 beginning July 1, 2013, and ending June 30, 2015.

17 **SECTION 23. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The total North
18 Dakota trade office special line item and the general fund appropriation in section 1 of this Act
19 include \$2,613,400 of funding relating to the North Dakota trade office. The department of
20 commerce may spend seventy percent of this amount without requiring any matching funds
21 from the trade office. Any additional amounts may be spent only to the extent that the North
22 Dakota trade office provides one dollar of matching funds from private or other public sources
23 for each one dollar provided by the department for the biennium beginning July 1, 2013, and
24 ending June 30, 2015. Matching funds may include money spent by businesses or
25 organizations to pay salaries to export assistant, provide training to export assistants, or buy
26 computer equipment as part of the North Dakota trade office's export assistance program.

27 **SECTION 24. BASE RETENTION GRANT PROGRAM.** The grants line item in section 1 of
28 this Act includes the sum of \$1,500,000 from the general fund for a base retention grant
29 program to be developed by the department of commerce, for the biennium beginning July 1,
30 2013, and ending June 30, 2015. Grants are available to communities with air force bases only

1 to the extent matching funds have been secured from nonstate sources on a dollar-for-dollar
2 cash basis.

3 **SECTION 25. CHILD CARE FACILITY GRANT PROGRAM.** The grants line item in
4 section 1 of this Act includes the sum of \$5,000,000 from the general fund for a child care
5 facility grant program to be developed by the department of commerce, for the biennium
6 beginning July 1, 2013, and ending June 30, 2015. The department shall establish guidelines to
7 qualify for a grant under this section which must include a matching requirement of one dollar of
8 matching funds for every three dollars of grant funds and a maximum grant amount of
9 \$187,500.

10 **SECTION 26. UNMANNED AIRCRAFT SYSTEMS PROGRAM.** The grants line item in
11 section 1 of this Act includes the sum of \$1,000,000 from the general fund for costs related to
12 pursuing federal aviation administration designation as an unmanned aircraft systems test site.
13 The grants line item in section 1 of this Act includes the sum of \$4,000,000 from the strategic
14 investment and improvements fund for operations of the test site, contingent upon receiving
15 official designation by the federal aviation administration as a national test site.

16 **SECTION 27. EMERGENCY.** Funding of \$1,500,000 in the operating expenses line item in
17 section 1 of this Act, relating to the operation intern program, and sections 21 and 26 of this Act
18 are declared to be an emergency.