

## INTERNATIONAL MARKETING - BACKGROUND MEMORANDUM

### INTRODUCTION

Section 17 of Senate Bill No. 2019 (2001), a copy of which is attached as an appendix, provides for a Legislative Council study of the feasibility and desirability of expanding the state's economic development marketing efforts to include international markets and establishing a global marketing division within the Department of Commerce.

### PREVIOUS STUDIES

**House Bill No. 1019 (1999-2000)** - Study the economic development efforts in the state, including the provision of economic development services statewide and the related effectiveness, the potential for the privatization of the Department of Economic Development and Finance, and the appropriate location of the North Dakota Development Fund, Inc., including the potential transfer of the fund to the Bank of North Dakota (Legislative Council's interim Commerce and Labor Committee).

**Senate Bill No. 2356 (1999-2000)** - Study the feasibility and desirability of forming a multistate agricultural marketing commission for the purpose of marketing agricultural products on behalf of agricultural producers (Legislative Council's interim Agriculture Committee).

**Senate Bill No. 2019 (1997-98)** - Study the economic development functions in this state, including the Bank of North Dakota programs, Technology Transfer, Inc., the North Dakota Development Fund, Inc., the Department of Economic Development and Finance, and other related state agencies (Legislative Council's interim Commerce and Agriculture Committee).

**Senate Bill No. 2021 (1993-94)** - Study the methods to initiate and sustain new economic development in this state (Legislative Council's interim Jobs Development Commission).

### LEGISLATION

**Senate Bill No. 2032 (2001)** consolidated the Department of Economic Development and Finance, Department of Tourism, and the Division of Community Services to create a Department of Commerce, headed by the Commissioner of Commerce; created the North Dakota Economic Development Foundation; and created the North Dakota Commerce Cabinet. This bill was recommended by the Legislative Council's interim Commerce and Labor Committee. As introduced, the bill would have required that the Department of Commerce include a division of international trade; however, this provision was removed from the bill during the legislative session.

**Senate Bill No. 2021 (1993)** removed the requirement that the Department of Economic Development and Finance include a division of marketing and technical assistance.

### STATE'S EXPORTS AND MARKETING EFFORTS

Exported goods from the state in 1999 were valued at approximately \$746 million. Approximately 50 percent of these exports were shipped to Canada, and the second largest export destination was Europe. The state's four largest export products, which comprise almost 85 percent of the state's exports, are:

- Machinery - North Dakota exported \$300 million worth of machinery in 1999.
- Export crops - North Dakota exported at least \$131 million worth of crops in 1999.
- Food and kindred products - North Dakota exported \$99 million worth of food and kindred products in 1999.
- Transportation equipment - North Dakota exported \$93 million worth of transportation equipment in 1999.

According to the Massachusetts Institute for Social and Economic Research, between 1992 and 1999, the state's exports nearly doubled, which is consistent with the United States average export growth during this same period. North Dakota accounts for approximately 0.1 percent of the total United States exports.

During the 1999-2000 interim, the Legislative Council's Commerce and Labor Committee compiled a list of economic development functions provided by the state. The list classified economic development functions, including international trade and investment. The only responding agencies that listed functions in the international trade and investment classification were the Department of Agriculture and the North Dakota Wheat Commission.

Although neither the Department of Commerce nor the Department of Commerce Division of Economic Development and Finance are statutorily required to include an international marketing component, under its existing structure, the Department of Commerce Division of Economic Development and Finance does appear to offer some basic international trade services. The division's web page indicates the international trade program provides export education, export counseling, international market research, international market planning, trade promotion, trade finance, and referrals. Additionally, the Commissioner of Commerce is authorized to create any division the commissioner determines is necessary, and the director of the Division of Economic

Development and Finance is authorized to create any office the director determines is necessary.

### **STUDY APPROACH**

A possible approach to the study of international marketing is:

- Receiving testimony from the Department of Commerce regarding international marketing services provided by the department and regarding the international marketing service needs of the state.

- Receiving testimony from businesses, the Greater North Dakota Association, North Dakota Economic Development Association, and commodity boards regarding international marketing efforts and needs.
- Receiving information regarding international marketing efforts of other states from national organizations such as the National Association of State Development Agencies.

ATTACH:1

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2019  
(Appropriations Committee)  
(At the request of the Governor)

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

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

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

Salaries and wages	\$6,103,893
Operating expenses	10,480,832
Equipment	199,936
Grants	36,330,226
North Dakota development fund	2,350,000
Agricultural products utilization	5,082,270
Lewis and Clark bicentennial	905,751
Transitional expenses	81,104
Total all funds	\$61,534,012
Less estimated income	43,653,725
Total general fund appropriation	\$17,880,287

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

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

**SECTION 4. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION INCENTIVES - INFORMATION FILED WITH BUDGET SECTION - CONTINGENT TRANSFER.** The estimated income line item in section 1 of this Act includes \$2,500,000, or so much of the amount as may be necessary, from the highway tax distribution fund for the ethanol production incentive program. Distribution from the appropriation in section 1 of this Act to the producers of agriculturally derived fuel must be at the rate of forty cents for each gallon of agriculturally derived fuel produced in the state which is marketed by the producing plant to a distributor or wholesaler for sale. For purposes of this section, "gallon of agriculturally derived fuel" means a gallon of fuel that qualifies for the alcohol credit

under 26 U.S.C. 40, specifically including fuel to which a denaturant has been added. An ethanol plant shall notify the agricultural products utilization commission, in writing, by October 1, 2001, of its intent to request ethanol incentive payments for the biennium beginning July 1, 2001, and ending June 30, 2003, to be eligible to receive payments authorized by this section. Payment to the producing plant must be approved by the agricultural products utilization commission upon presentation by the plant of an affidavit to the effect that the ethanol sold from the plant and for which the producer's credit is being sought is to be sold at retail to consumers. The affidavit of the producer of the ethanol must be accompanied by an affidavit from the wholesaler or retailer to the same effect. Within ninety days after the end of each fiscal year of the ethanol plant beginning after December 31, 1992, any North Dakota ethanol plant receiving production incentives from the state shall file with the budget section of the legislative council a statement, certified by a certified public accountant, as to whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received from this incentive program. If an ethanol plant has not notified the agricultural products utilization commission of its intent to request ethanol incentive payments for the biennium beginning July 1, 2001, and ending June 30, 2003, or if, at the end of each fiscal year, funding appropriated for the ethanol incentive payments is not spent, the director of the office of management and budget shall transfer from the highway tax distribution fund the amount of funds certified by the agricultural products utilization commission as not needed for ethanol incentive payments or the unspent funds deposited into the fund pursuant to provisions of section 57-43.1-03.1 to the agricultural fuel tax fund for the agricultural products utilization commission for the purpose of providing grants as provided by law.

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

**SECTION 6. LEGISLATIVE INTENT - TOURISM OPERATING EXPENSES.** It is the intent of the legislative assembly that the sum of \$3,300,437 included in the operating expenses line item in section 1 of this Act be allocated for tourism-related activities, including tourism-related administrative costs as approved by the tourism division director for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 7. DEPARTMENT OF COMMERCE - STATUS REPORTS - PERFORMANCE REPORT - BUDGET SECTION.** The commissioner of the department of commerce shall periodically report to the budget section on the status of the establishment of the department of commerce during the 2001-02 interim. The director shall establish performance measures and report to the budget section at the budget section's first meeting after June 30, 2002, on the department's progress in achieving its performance measures for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 8. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS.** The \$2,350,000 transferred to the North Dakota development fund for grants must be dedicated for projects as follows: forty percent businesses in rural areas, forty percent businesses in urban areas, and twenty percent North Dakota American Indian businesses. Any unused funds in any category may be transferred to another category during the second year of the biennium under rules adopted by the director of the department of economic development and finance. The director of the department of economic development and finance may reallocate up to twenty percent of any region's available remaining balance of regional rural development revolving loan funds to another region or regions for the biennium beginning July 1, 2001, and ending June 30, 2003. Of the amount available in the North Dakota development fund, \$4,000,000 or the unobligated balance on July 1, 2001, relating to the transfer of regional rural development revolving loan fund moneys, must continue to be dedicated for the purpose of providing financial assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanded primary sector businesses in areas of the state that are not within five miles [8.05 kilometers] of any city with a population of more than eight thousand. These funds must be allocated for the benefit of each of the areas delineated as regions by executive order of the governor pursuant to section 54-40.1-02.

**SECTION 9. LEGISLATIVE INTENT - DEPARTMENT OF COMMERCE STRATEGIC PLAN.**

It is the intent of the legislative assembly that the department of commerce, with the assistance of an economic development consultant, develop a strategic plan including the new economy initiative, with input from a task force including members of the economic development foundation, three legislators appointed by the chairman of the legislative council, and one member appointed by the economic development association of North Dakota, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 10. LEGISLATIVE INTENT - ECONOMIC DEVELOPMENT FOUNDATION AND STRATEGIC PLAN.**

It is the intent of the legislative assembly that up to \$100,000 of the grants line item in section 1 of this Act be allocated for expenses of the economic development foundation and for the development of a strategic plan for economic development in North Dakota for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 11. LEGISLATIVE INTENT - POLITICAL SUBDIVISION GRANTS - EXTRAORDINARY COSTS.**

It is the intent of the legislative assembly that \$150,000 of the Lewis and Clark bicentennial line item in section 1 of this Act be allocated for grants to reimburse political subdivisions for extraordinary costs incurred in river rescues directly related to Lewis and Clark bicentennial activities for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 12. LEGISLATIVE INTENT - GRANTS LINE ITEM - REMODELING OF ABANDONED PUBLIC SCHOOL BUILDINGS PILOT PROJECT.**

It is the intent of the legislative assembly that \$50,000 of the grants line item in section 1 of this Act be used to establish a pilot project to provide grants to cities, school districts, or authorized job development authorities to assist in the remodeling of abandoned public school buildings to be used for the location or relocation of a new or expanding business. The department may provide a grant only for an approved project. If the applicant provides matching funds of at least twenty percent for the approved project, the department may award a grant of up to five thousand dollars for each new full-time job to be created as a result of the project. The maximum amount of a grant under this section is fifty thousand dollars. The grant funds may be used only to remodel closed public school buildings in a city in which the closed school was the only school in the city. The department may establish additional guidelines for the awarding of grants under this section. Any funds not obligated under this section on October 1, 2002, may be used for other purposes as determined by the commissioner of the department of commerce.

**SECTION 13. LEGISLATIVE INTENT - GRANTS - CHAMPION COMMUNITIES.**

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

**SECTION 14. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION INCENTIVE PROGRAM.**

The state tax commissioner shall conduct an audit of the ethanol production incentive program during the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 15. WORKFORCE DEVELOPMENT GRANTS - TALENT RECRUITMENT INITIATIVE.**

The grants line item in section 1 of this Act includes \$250,000 for the development of a public/private partnership statewide talent recruitment initiative for the biennium beginning July 1, 2001, and ending June 30, 2003. The department of commerce and the workforce development council shall establish criteria for the distribution of grants under this section and may require a grant applicant to provide matching funds.

**SECTION 16. LEGISLATIVE COUNCIL STUDY - VENTURE CAPITAL.**

The legislative council shall consider studying, during the 2001-02 interim, the availability of venture capital, tax credits, and other financing and research and development programs for new or expanding businesses. If chosen, the study must include an inventory of the programs available, a review of the difference

between public and private venture capital programs, an assessment of the needs of business and industry, the research and development efforts of the North Dakota university system, and a review of the investments of the state investment board and the feasibility and desirability of investing a portion of these funds in North Dakota. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

**SECTION 17. LEGISLATIVE COUNCIL STUDY - GLOBAL MARKETS.** The legislative council shall consider studying, during the 2001-02 interim, the feasibility and desirability of expanding North Dakota's economic development marketing efforts to include international markets and establishing a global marketing division within the department of commerce. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

**SECTION 18. AMENDMENT.** Section 4-14.1-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-14.1-07. Duration and limitation of ethanol plant production incentives.** Notwithstanding any other provision of law, an ethanol plant may not receive production incentives except as permitted under this section.

1. An ethanol plant that was in operation before July 1, 1995, may not receive production incentives in the form of direct payments from the state for more than ~~twelve~~ fourteen fiscal years of operation after June 30, 1995. An ethanol plant that begins operation after June 30, 1995, may not receive production incentives in the form of direct payments from the state for more than ~~twelve~~ fourteen fiscal years of operation. After December 31, 2009, the state may not provide production incentives in the form of direct payments to any ethanol plant.
2. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to seven hundred fifty thousand dollars in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which ~~has a production capacity of fifteen million gallons [56781000 liters] or more of ethanol per year is not eligible for production incentives from the state~~ produced fifteen million [56781000 liters] or more gallons in the previous fiscal year and an ethanol plant that begins operations after June 30, 1995, are each eligible to receive an equal share in up to five hundred thousand dollars in production incentives from the state in a fiscal year.

**SECTION 19. AMENDMENT.** Section 54-34.4-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-34.4-04. North Dakota motion picture development office - Advisory board.** The North Dakota motion picture development office is a part of the tourism department. The office shall promote North Dakota as a location for shooting films, television shows, documentaries, and commercials, and shall provide technical expertise to persons desiring to use the state as a filming location. The director of the tourism department shall appoint staff necessary to fulfill the functions and duties of the office and ~~shall~~ may appoint an advisory board of no more than ten members to assist in advising the office and to provide technical expertise to offer prospective film companies seeking locations and advice. The board shall serve without compensation, except reimbursement for actual and necessary expenses at the same rate as allowed other state officers to be paid from funds available to the office within the limits of legislative appropriations.

**SECTION 20.** A new section to chapter 54-34.4 of the North Dakota Century Code is created and enacted as follows:

**Copyright and trademark.** The director of the tourism department may obtain copyright or trademark protection for anything that may be used to promote the policies listed in section 54-34.4-03.

The director may license and charge a fee for photographs and logos and anything with copyright or trademark protection.

**SECTION 21. AMENDMENT.** Section 57-43.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 22. EFFECTIVE DATE.** Section 21 of this Act is effective for refund claims for motor vehicle fuel taxes paid after December 31, 2000.

**SECTION 23. EMERGENCY.** Section 20 of this Act is declared to be an emergency measure.