

**SECOND ENGROSSMENT
with Conference Committee Amendments**

Fifty-fifth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2019

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide appropriations for defraying the expenses of the department of
2 economic development and finance and to the agricultural products utilization commission for
3 grants; to provide for transfers of funds; to provide for the reallocation of funds; to provide for a
4 legislative council study; to amend and reenact sections 4-14.1-03.1, 4-14.1-04, 54-34.3-08,
5 and 57-43.1-03.1 of the North Dakota Century Code, relating to the agricultural products
6 utilization commission, patent and royalty rights of the department of economic development
7 and finance, and tax refunds for fuel used for agricultural purposes; to provide for application; to
8 repeal chapter 10-30.4 and section 54-34.3-07 of the North Dakota Century Code, relating to
9 technology transfer, incorporated; and to provide an effective date.

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 hereby appropriated out of any moneys in the general fund in
13 the state treasury, not otherwise appropriated, and from special funds derived from federal
14 funds and other income, to the department of economic development and finance for the
15 purpose of defraying its expenses, for the biennium beginning July 1, 1997, and ending
16 June 30, 1999, as follows:

17 Salaries and wages	\$ 2,421,849
18 Operating expenses	1,481,995
19 Equipment	34,000
20 Grants	1,313,141
21 General allocation grants	725,690
22 Technology transfer, incorporated	500,000
23 Agricultural products utilization	4,097,462
24 North Dakota development fund	<u>1,909,875</u>

1	Total all funds	\$12,484,012
2	Less estimated income	<u>3,312,026</u>
3	Total general fund appropriation	\$ 9,171,986

4 **SECTION 2. APPROPRIATION.** All income received in excess of the amounts
5 appropriated in section 1 of this Act relating to agricultural products utilization commission
6 activities is hereby appropriated to the agricultural products utilization commission for research,
7 marketing, and utilization grants for the biennium beginning July 1, 1997, and ending June 30,
8 1999. Any funds received require the approval of the emergency commission before they may
9 be expended.

10 **SECTION 3. AGRICULTURAL FUEL TAX FUND.** The estimated income line item in
11 section 1 of this Act includes \$1,007,243 from the agricultural fuel tax fund for the biennium
12 beginning July 1, 1997, and ending June 30, 1999.

13 **SECTION 4. HIGHWAY TAX DISTRIBUTION FUND - ETHANOL PRODUCTION**

14 **INCENTIVES - CONTINGENT TRANSFER.** The estimated income line item in section 1 of this
15 Act includes \$1,507,000, or so much of the amount as may be necessary, from the highway tax
16 distribution fund for the ethanol production incentive program. Of this amount, \$1,500,000 is for
17 the purpose of providing production incentives to the Grafton, North Dakota, ethanol plant and
18 \$7,000 is for audits of the use of these funds for the biennium beginning July 1, 1997, and
19 ending June 30, 1999. Distribution from the appropriation in section 1 of this Act to the
20 producers of agriculturally derived fuel must be at the rate of forty cents for each gallon of
21 agriculturally derived fuel produced in the state which is marketed by the producing plant to a
22 distributor or wholesaler for sale within North Dakota. For purposes of this section, "gallon of
23 agriculturally derived fuel" means a gallon of fuel that qualifies for the alcohol credit under 26
24 U.S.C. 40, specifically including fuel to which a denaturant has been added. Payment to the
25 producing plant must be approved by the agricultural products utilization commission upon
26 presentation by the plant of an affidavit to the effect that the ethanol sold from the plant and for
27 which the producer's credit is being sought is to be sold at retail to consumers in North Dakota.
28 The affidavit of the producer of the ethanol must be accompanied by an affidavit from the
29 wholesaler or retailer to the same effect. Within ninety days after the end of each fiscal year of
30 the ethanol plant beginning after December 31, 1992, any North Dakota ethanol plant receiving
31 production incentives from the state shall file with the budget section of the legislative council a

1 statement, certified by a certified public accountant, as to whether the plant produced a profit
2 from its operation in the preceding fiscal year, after deducting the payments received from this
3 incentive program. If, at the end of each fiscal year, funding appropriated for ethanol incentive
4 payments is not spent, the director of the office of management and budget shall transfer from
5 the highway tax distribution fund the amount of unspent funds deposited into the fund pursuant
6 to provisions of section 57-43.1-03.1 to the agricultural fuel tax fund for the agricultural products
7 utilization commission for the purpose of providing grants as provided by law.

8 **SECTION 5. EXEMPTION.** The funds appropriated in the agricultural products
9 utilization line item in section 1 of this Act are not subject to section 54-44.1-11 and any
10 unexpended funds from this line item relating to grants awarded may be available for continued
11 payment of grants awarded but not paid during the biennium beginning July 1, 1997, and
12 ending June 30, 1999.

13 **SECTION 6. EXEMPTION - ETHANOL INCENTIVE APPROPRIATION.** The funds
14 provided in the ethanol incentive line item contained in chapter 48 of the 1995 Session Laws
15 are not subject to the provisions of section 54-44.1-11 and any unexpended funds up to a
16 maximum of \$250,000 from this line item are available for ethanol incentive payments to the
17 Grafton ethanol plant during the biennium beginning July 1, 1997, and ending June 30, 1999.
18 Notwithstanding the appropriation limit in section 4 of this Act, these funds shall be distributed
19 based on the distribution formula contained in that section.

20 **SECTION 7. LEGISLATIVE INTENT - ETHANOL INCENTIVE PAYMENTS.** It is the
21 intent of the legislative assembly that the appropriation of \$1,500,000 contained in section 1 of
22 this Act for ethanol incentives and the \$250,000 of estimated unspent ethanol incentive funds
23 from the 1995-97 biennium, to be available as a result of the exemption provided in section 6 of
24 this Act, provide a total of \$1,750,000 for ethanol incentives for the Grafton ethanol plant during
25 the biennium beginning July 1, 1997, and ending June 30, 1999. A maximum of \$875,000 may
26 be paid annually to the Grafton ethanol plant during the 1997-99 biennium.

27 **SECTION 8. REALLOCATION OF ECONOMIC DEVELOPMENT FUNDS.** The
28 director of the department of economic development and finance may reallocate among the
29 technology transfer, inc., fund and the North Dakota development fund for rural and nonrural
30 development projects up to ten percent of the amounts appropriated for these purposes for the
31 biennium beginning July 1, 1997, and ending June 30, 1999.

1 **SECTION 9. TRANSFERS - ECONOMIC DEVELOPMENT FUNDS.** Of the general
2 fund amount appropriated in section 1 of this Act, \$500,000 must be transferred to the
3 technology transfer fund and \$1,909,875 to the North Dakota development fund. The transfers
4 must be in amounts and at such times as requested by the director of the office of management
5 and budget.

6 **SECTION 10. NORTH DAKOTA DEVELOPMENT FUND ALLOCATIONS.** The
7 \$1,909,875 transferred to the North Dakota development fund must be dedicated for projects
8 as follows: forty percent businesses in rural areas, forty percent businesses in urban areas,
9 and twenty percent North Dakota American Indian businesses. Any unused funds in any
10 category may be transferred to another category during the second year of the biennium under
11 rules adopted by the director of the department of economic development and finance. The
12 director of the department of economic development and finance may reallocate up to twenty
13 percent of any region's available remaining balance of regional rural development revolving
14 loan funds to another region or regions for the biennium beginning July 1, 1997, and ending
15 June 30, 1999. Of the amount available in the North Dakota development fund, \$4,000,000 or
16 the unobligated balance on July 1, 1997, relating to the transfer of regional rural development
17 revolving loan fund moneys, must continue to be dedicated for the purpose of providing
18 financial assistance, research and development assistance, and loans or equity or debt
19 financing on a matching basis to new or expanded primary sector businesses in areas of the
20 state which are not within five miles [8.05 kilometers] of any city with a population of more than
21 eight thousand. These funds must be allocated for the benefit of each of the areas delineated
22 as regions by executive order of the governor pursuant to section 54-40.1-02.

23 **SECTION 11. ECONOMIC DEVELOPMENT FUNDS - WAGE REQUIREMENTS.** Any
24 political subdivision or economic development authority may adopt a minimum wage
25 requirement for any new business or business expansion in which a majority of the capital is
26 provided by the North Dakota development fund and its own local development funds. These
27 wage requirements may be imposed on all or any portion of the employees and may exceed
28 federal minimum wage requirements.

29 **SECTION 12. LEGISLATIVE COUNCIL STUDY - ECONOMIC DEVELOPMENT**
30 **FUNCTIONS.** The legislative council shall consider studying during the 1997-98 interim
31 economic development functions in North Dakota including the Bank of North Dakota

1 programs, technology transfer, incorporated, the North Dakota development fund, the
2 department of economic development and finance, and other related state agencies. The
3 study, if conducted, should include a review of the most appropriate, effective, and efficient
4 method for the state to deliver economic development assistance in light of changing economic
5 conditions and considerations.

6 **SECTION 13. AMENDMENT.** Section 4-14.1-03.1 of the 1995 Supplement to the
7 North Dakota Century Code is amended and reenacted as follows:

8 **4-14.1-03.1. Agricultural products utilization commission - Authority.** The North
9 Dakota agricultural products utilization commission may apply for, accept, and expend any
10 appropriation, grant, gift, or service made available from public or private sources consistent
11 with the purpose of this chapter. The commission may administer grant programs consistent
12 with the purpose of this chapter including a basic and applied research grant program,
13 utilization and marketing grant program, cooperative marketing grant program, farm
14 diversification grant program, agricultural prototype development grant program, and a North
15 American marketing grant program.

16 **SECTION 14. AMENDMENT.** Section 4-14.1-04 of the 1995 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **4-14.1-04. Agricultural products utilization commission - Meetings - Personnel -**
19 **Reports.** The agricultural products utilization commission, which is a division of the
20 department of economic development and finance, shall meet as necessary and shall report to
21 each session of the legislative assembly. The commission may secure office space ~~and~~,
22 employ needed personnel for the performance of its duties, ~~may~~ hire consultants, spend any
23 funds appropriated to the commission, and ~~may~~ contract with public entities or private parties
24 for services.

25 **SECTION 15. AMENDMENT.** Section 54-34.3-08 of the 1995 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **54-34.3-08. Patents.** The department of economic development and finance,
28 ~~technology transfer, incorporated~~, the North Dakota development fund, incorporated, and the
29 North Dakota agricultural products utilization commission may hold or assign for remuneration
30 all or a portion of their interest in patents or royalty rights acquired in the course of their
31 operation and performance of duties as provided by law.

1 **SECTION 16. AMENDMENT.** Section 57-43.1-03.1 of the 1995 Supplement to the
2 North Dakota Century Code is amended and reenacted as follows:

3 **57-43.1-03.1. (Effective until December 31, 1999) Refund of tax for fuel used for**
4 **agricultural purposes - ~~Reduction for agricultural fuel tax fund~~ Reductions.** Any person
5 who buys or uses any motor vehicle fuel for agricultural purposes, except motor vehicle fuel
6 used in motor vehicles operated or intended to be operated in whole or in part upon any of the
7 public highways of this state on which the motor vehicle fuel tax has been paid, must be
8 reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon
9 the presentation to and the approval of the commissioner of a claim for refund. The amount of
10 the tax refund provided for in this section must be reduced by ~~four~~ seven cents per gallon [3.79
11 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel
12 users, ~~two~~. Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the
13 agricultural fuel tax fund ~~and two cents~~, one cent per gallon [3.79 liters] withheld from the
14 refund must be retained in the highway tax distribution fund, and four cents per gallon [3.79
15 liters] withheld from the refund must be deposited in the agricultural research fund. Those
16 persons who have a valid tax assignment permit issued by the commissioner under section
17 57-43.1-11 must be charged ~~four~~ seven cents per gallon [3.79 liters] by the dealer and the ~~four~~
18 seven cents charged must be remitted to the commissioner by the dealer when the dealer
19 submits the tax assigned invoices for credit.

20 **(Effective January 1, 2000) Refund of tax for fuel used for agricultural purposes -**
21 **~~Reduction for agricultural fuel tax fund~~ Reductions.** Any person who buys or uses any
22 motor vehicle fuel for agricultural purposes, except motor vehicle fuel used in motor vehicles
23 operated or intended to be operated in whole or in part upon any of the public highways of this
24 state on which the motor vehicle fuel tax has been paid, must be reimbursed or repaid within
25 the time provided in this chapter, the amount of the tax paid upon the presentation to and the
26 approval of the commissioner of a claim for refund. The amount of the tax refund provided for
27 in this section must be reduced by ~~two~~ six cents per gallon [3.79 liters] except for those fuels
28 used in aircraft or with respect to refunds claimed by aircraft fuel users, ~~two~~. Two cents per
29 gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund
30 and four cents per gallon [3.79 liters] withheld from the fund must be deposited in the
31 agricultural research fund. Those persons who have a valid tax assignment permit issued by

1 the commissioner under section 57-43.1-11 must be charged ~~two~~ six cents per gallon [3.79
2 liters] by the dealer and the ~~two~~ six cents charged must be remitted to the commissioner by the
3 dealer when the dealer submits the tax assigned invoices for credit.

4 **SECTION 17. APPLICATION.** Section 16 of this Act applies to refund claims for motor
5 vehicle fuel taxes paid after December 31, 1996.

6 **SECTION 18. TECHNOLOGY TRANSFER, INCORPORATED, TRANSFERS.** Any
7 moneys and any investment, contract, partnership, or any other business transaction of
8 technology transfer, incorporated, are transferred to the North Dakota development fund and
9 are deemed to be assets of the North Dakota development fund.

10 **SECTION 19. REPEAL.** Chapter 10-30.4 of the North Dakota Century Code and
11 section 54-34.3-07 of the 1995 Supplement to the North Dakota Century Code are repealed.

12 **SECTION 20. EFFECTIVE DATE.** Sections 15, 18, and 19 are effective on July 1,
13 1999.