

**FIRST ENGROSSMENT  
with Senate Floor Amendments  
ENGROSSED HOUSE BILL NO. 1019**

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 for a transfer to the general fund; to provide an exemption; to provide  
3 statements of legislative intent; to direct the state tax commissioner to audit the ethanol  
4 incentive program; to create and enact two new sections to chapter 54-60 of the North Dakota  
5 Century Code, relating to a continuing appropriation and centers of excellence; to amend and  
6 reenact section 57-38.5-03 of the North Dakota Century Code, relating to the seed capital  
7 investment tax credit; and to provide an effective date.

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
10 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
11 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
12 other income, to the department of commerce for the purpose of defraying the expenses of its  
13 various divisions, for the biennium beginning July 1, 2003, and ending June 30, 2005, as  
14 follows:

15 Salaries and wages	\$6,713,340
16 Operating expenses	8,442,223
17 Grants	46,585,026
18 Discretionary grants	1,697,127
19 North Dakota development fund	2,000,000
20 Agricultural products utilization	2,983,179
21 Lewis and Clark bicentennial	<u>851,911</u>
22 Total all funds	\$69,272,806
23 Less estimated income	<u>51,954,482</u>
24 Total general fund appropriation	\$17,318,324

1           **SECTION 2. AGRICULTURE FUEL TAX REFUNDS.** The less estimated income line  
2 item in section 1 of this Act includes \$575,000 from refunds of tax for fuel used for agricultural  
3 purposes, to be used by the agricultural products utilization commission, for the biennium  
4 beginning July 1, 2003, and ending June 30, 2005.

5           **SECTION 3. EXEMPTION.** The funds appropriated in the discretionary grants line item  
6 in section 1 of this Act are not subject to section 54-44.1-11 and any unexpended funds from  
7 this line item may be spent during the biennium beginning July 1, 2005, and ending June 30,  
8 2007.

9           **SECTION 4. EXEMPTION.** The funds appropriated in the agricultural products  
10 utilization line item in section 1 of this Act are not subject to section 54-44.1-11 and any  
11 unexpended funds from this line item relating to grants awarded may be available for continued  
12 payment of grants awarded but not paid during the biennium beginning July 1, 2003, and  
13 ending June 30, 2005.

14           **SECTION 5. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION**  
15 **INCENTIVE PROGRAM.** The state tax commissioner shall conduct an audit of the ethanol  
16 production incentive program during the biennium beginning July 1, 2003, and ending June 30,  
17 2005.

18           **SECTION 6. GENERAL FUND TRANSFER.** The industrial commission shall transfer  
19 to the general fund the sum of \$1,000,000 from the North Dakota student loan trust. The  
20 moneys must be transferred as requested by the director of the office of management and  
21 budget during the biennium beginning July 1, 2003, and ending June 30, 2005, and upon  
22 certification by the student loan trust trustee that sufficient moneys remain available to pay all  
23 debt service on student loan trust bonds, all required rebate payments to the United States  
24 treasury, and all program operating expenses.

25           **SECTION 7. LEGISLATIVE INTENT - SEED CAPITAL - EARLY STAGE FINANCING.**  
26 It is the intent of the legislative assembly that the state's seed capital investment tax credit be  
27 the primary focus to encourage the availability of seed capital or early stage financing for the  
28 biennium beginning July 1, 2003, and ending June 30, 2005.

29           **SECTION 8. LEGISLATIVE INTENT - PARTNERSHIPS WITH INDIAN TRIBES.** It is  
30 the intent of the legislative assembly that the department of commerce assist in the creation of  
31 business partnerships with North Dakota Indian tribes in order to increase primary sector

1 business growth on Indian reservations and other areas of the state for the biennium beginning  
2 July 1, 2003, and ending June 30, 2005.

3 **SECTION 9. LEGISLATIVE INTENT - TOURISM LEARNING VACATIONS.** It is the  
4 intent of the legislative assembly that the tourism division of the department of commerce  
5 establish, coordinate, and promote learning vacations in North Dakota for the biennium  
6 beginning July 1, 2003, and ending June 30, 2005.

7 **SECTION 10. LEWIS AND CLARK INTERPRETIVE CENTER GRANT.** The  
8 discretionary grants line item in section 1 of this Act includes \$100,000 from the general fund  
9 for the tourism division for the purpose of providing a grant to the North Dakota Lewis and Clark  
10 Bicentennial Foundation for costs associated with the Lewis and Clark interpretive center near  
11 Washburn for the biennium beginning July 1, 2003, and ending June 30, 2005.

12 **SECTION 11. RED RIVER VALLEY RESEARCH CORRIDOR MARKETING.** The  
13 discretionary grants line item in section 1 of this Act includes \$200,000 from the general fund  
14 for the purpose of contracting with a private organization for conducting a marketing and  
15 image-building campaign for the red river valley research corridor during the second year of the  
16 biennium beginning July 1, 2003, and ending June 30, 2005.

17 **SECTION 12. FORT ABRAHAM LINCOLN GRANT.** The discretionary grants line  
18 item in section 1 of this Act includes \$100,000 from the general fund for the tourism division for  
19 the purpose of providing a grant to the Fort Abraham Lincoln foundation for costs associated  
20 with the national guard reconstruction of the seventh cavalry stable, interpretation of the stable,  
21 and maintenance and repairs of other fort buildings, for the biennium beginning July 1, 2003,  
22 and ending June 30, 2005.

23 **SECTION 13. DEVELOPMENT FUND - CENTERS OF EXCELLENCE GRANTS.**  
24 Notwithstanding chapter 10-30.5, the department of commerce shall provide a grant from the  
25 development fund of \$1,500,000 to the North Dakota state university center for technology  
26 enterprise and of \$1,000,000 to the university of North Dakota center for innovation. The  
27 department shall provide the grant on October 1, 2003.

28 **SECTION 14. LEGISLATIVE INTENT - INTERNSHIP PROGRAM.** It is the intent of  
29 the legislative assembly that the department of commerce workforce development division  
30 develop an internship program involving its internet web site and in conjunction with North  
31 Dakota university system programs.

1           **SECTION 15.** Two new sections to chapter 54-60 of the North Dakota Century Code  
2 are created and enacted as follows:

3           **Internet web site fee collections - Continuing appropriation.** Notwithstanding any  
4 other section of law, any moneys received by the department of commerce as subscriptions,  
5 commissions, fees, or other revenue from its career guidance and job opportunity services  
6 internet web site and deposited in its operating fund are hereby appropriated to the department  
7 on a continuing basis for payment of expenses related to administration of the web site.

8           **Centers of excellence.**

- 9           1. The department shall establish and administer a centers of excellence program.  
10           The centers of excellence include the North Dakota state university center for beef  
11           systems, the North Dakota state university center for nanoscale science and  
12           engineering, the North Dakota state university center for technology enterprise, the  
13           North Dakota state university center for high performance computing, the  
14           university of North Dakota center for innovation, and the university of North Dakota  
15           center for aerospace sciences. Before January 1, 2004, the foundation, in  
16           consultation with the state board of higher education, shall establish and shall  
17           provide the department with centers of excellence eligibility criteria. The  
18           department may designate additional centers of excellence based on the  
19           established eligibility criteria.
- 20           2. The purpose of the program is to develop and engage strategies for science and  
21           technology research and development, commercialization, entrepreneurship,  
22           infrastructure, and activities in the state to develop innovative approaches that  
23           expand the gross state product; to assist efforts to attract private and federal  
24           assistance for science and technology research and development and for  
25           commercialization in growth clusters most likely to increase the gross state  
26           product; to increase collaboration among state, federal, and private research and  
27           development and technology commercialization organizations in the state; to  
28           strengthen the leadership and support of the national science foundation  
29           experimental program to stimulate competitive research programs and to  
30           encourage partnerships with other state institutions for expanded efforts to  
31           stimulate economic growth in identified industry clusters; to provide leadership in

1           science and technology policy at a regional, a national, and an international level;  
2           and to create employment opportunities for North Dakota university system  
3           graduates. Identified industry clusters include advanced manufacturing,  
4           aerospace, energy, information and technology, tourism, and value-added  
5           agriculture.  
6           3. An application for funds under the centers for excellence program must be  
7           received by the department before July first of the biennium during which the funds  
8           are awarded. A recipient of funds under this section shall use the funds to  
9           enhance capacity, enhance infrastructure, and leverage state, federal, and private  
10           sources of funding. Funds awarded under this section may not be used for  
11           operations or for academic instruction. The department may award funds under  
12           this section to research universities, university-related foundations, and public  
13           institutions that are located in the state which demonstrate the potential to deliver  
14           expertise and service to industry clusters that will contribute to the gross state  
15           product. A recipient of funds under this section which is an institution of higher  
16           education under the control of the board of higher education or which is a nonprofit  
17           university-related foundation shall provide the department with documentation of  
18           availability of two dollars of matching funds for each dollar of funds awarded under  
19           this section as a condition of eligibility for receipt of funds under this section; shall  
20           provide the department with annual reports for the four years following receipt of  
21           the funds; and may not use funds awarded under this section for indirect cost  
22           recovery.

23           **SECTION 16. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified  
26 investment in a qualified business, the taxpayer is entitled to a credit against state income tax  
27 liability under section 57-38-29 or 57-38-30.3. The amount of the credit to which a taxpayer is  
28 entitled is ~~thirty~~ forty-five percent of the amount invested by the taxpayer in qualified  
29 businesses during the taxable year, subject to the following:

30           1. The aggregate annual investment for which a taxpayer may obtain a tax credit  
31           under this section is not less than five thousand dollars and not more than two

- 1            hundred fifty thousand dollars. This subsection may not be interpreted to limit  
2            additional investment by a taxpayer for which that taxpayer is not applying for a  
3            credit.
- 4            2. In any taxable year, a taxpayer may claim no more than  ~~fifty percent~~ one-third of  
5            the credit under this section which is attributable to investments in a single taxable  
6            year.
- 7            3. Any amount of credit under this section not allowed because of the limitations in  
8            this section may be carried forward for up to four taxable years after the taxable  
9            year in which the investment was made.
- 10           4. A partnership that invests in a qualified business must be considered to be the  
11           taxpayer for purposes of the investment limitations in this section and the amount  
12           of the credit allowed with respect to a partnership's investment in a qualified  
13           business must be determined at the partnership level. The amount of the total  
14           credit determined at the partnership level must be allowed to the partners, limited  
15           to individuals, estates, and trusts, in proportion to their respective interests in the  
16           partnership.
- 17           5. The investment must be at risk in the business. An investment for which a credit is  
18           received under this section must remain in the business for at least three years.
- 19           ~~6. Tax credits for investments in one qualified business may not exceed two hundred~~  
20           ~~fifty thousand dollars.~~
- 21           ~~7.~~ 6. The entire amount of an investment for which a credit is claimed under this section  
22           must be expended by the qualified business for plant, equipment, research and  
23           development, marketing and sales activity, or working capital for the qualified  
24           business.
- 25           ~~8.~~ 7. A taxpayer who owns a controlling interest in the qualified business or whose  
26           full-time professional activity is the operation of the business is not entitled to a  
27           credit under this section. A member of the immediate family of a taxpayer  
28           disqualified by this subsection is not entitled to the credit under this section. For  
29           purposes of this subsection, "immediate family" means the taxpayer's spouse,  
30           parent, sibling, or child or the spouse of any such person.

1       ~~9-~~ 8.   The tax commissioner may disallow any credit otherwise allowed under this  
2                   section if any representation by a business in the application for certification as a  
3                   qualified business proves to be false or if the taxpayer or qualified business fails to  
4                   satisfy any conditions under this section or any conditions consistent with this  
5                   section otherwise determined by the tax commissioner. The amount of any credit  
6                   disallowed by the tax commissioner that reduced the taxpayer's income tax liability  
7                   for any or all applicable tax years, plus penalty and interest as provided under  
8                   section 57-38-45, must be paid by the taxpayer.

9                   **SECTION 17. EFFECTIVE DATE.** Section 16 of this Act is effective for taxable years  
10 beginning after December 31, 2002.