

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 an exemption; to provide a continuing appropriation for the centers of  
3 excellence; and to amend and reenact section 15-10-41 of the North Dakota Century Code,  
4 relating to centers of excellence.

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

6 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this  
7 section represent the base level funding component appropriated to the department of  
8 commerce in section 3 of this Act as follows:

9	Salaries and wages	\$6,713,340
10	Operating expenses	8,237,247
11	Grants	46,585,026
12	North Dakota development fund	1,550,000
13	Agricultural products utilization	2,983,179
14	Discretionary grants	1,447,127
15	Lewis and Clark bicentennial	<u>3,851,911</u>
16	Total all funds - Base level	\$71,367,830
17	Less estimated income - Base level	<u>52,353,107</u>
18	Total general fund - Base level	\$19,014,723

19 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The  
20 amounts identified in this section represent the funding adjustments or enhancements to the  
21 base funding level for the department of commerce which are included in the appropriation in  
22 section 3 of this Act as follows:

23	Salaries and wages	\$455,981
24	Operating expenses	484,881

Fifty-ninth  
Legislative Assembly

1	Capital assets	25,000
2	Grants	2,894,722
3	Centers of excellence	5,000,000
4	North Dakota development fund	(1,550,000)
5	Agricultural products utilization	(191,055)
6	Discretionary funds	(7,000)
7	Lewis and Clark bicentennial	<u>81,301</u>
8	Total all funds - Adjustments/enhancements	\$7,193,830
9	Less estimated income - Adjustments/enhancements	<u>3,079,389</u>
10	Total general fund - Adjustments/enhancements	\$4,114,441

11           **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the  
12 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
13 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
14 other income, to the department of commerce for the purpose of defraying the expenses of its  
15 various divisions for the biennium beginning July 1, 2005, and ending June 30, 2007, as  
16 follows:

17	Salaries and wages	\$7,169,321
18	Operating expenses	8,722,128
19	Capital assets	25,000
20	Grants	49,479,748
21	Centers of excellence	5,000,000
22	Agricultural products utilization	2,792,124
23	Discretionary funds	1,440,127
24	Lewis and Clark bicentennial	<u>3,933,212</u>
25	Total all funds	\$78,561,660
26	Less estimated income	<u>55,432,496</u>
27	Total general fund appropriation	\$23,129,164

28           **SECTION 4. AGRICULTURE FUEL TAX REFUNDS.** The less estimated income line  
29 item in section 3 of this Act includes \$575,000 from refunds of tax for fuel used for agricultural  
30 purposes, to be used by the agricultural products utilization commission, for the biennium  
31 beginning July 1, 2005, and ending June 30, 2007.

1           **SECTION 5. EXEMPTION.** The funds appropriated in the agricultural products  
2 utilization line item in section 3 of this Act are not subject to section 54-44.1-11 and any  
3 unexpended funds from this line item for grants are available for grants during the biennium  
4 beginning July 1, 2007, and ending June 30, 2009.

5           **SECTION 6. CENTERS OF EXCELLENCE - BUDGET SECTION APPROVAL.** The  
6 centers of excellence line item of \$5,000,000 from the general fund appropriated in section 3 of  
7 this Act is made available for cash investments or debt service payments for centers of  
8 excellence approved in accordance with guidelines in this Act. Funds may be provided only  
9 after a program has been approved by the centers of excellence commission, state board of  
10 higher education, economic development foundation, and the budget section.

11           **SECTION 7. CONTINUING APPROPRIATION - CENTERS OF EXCELLENCE.** To  
12 the extent that the funds in the centers of excellence line item in section 3 have been expended,  
13 and financing is required for centers of excellence projects meeting all criteria for approval, the  
14 department of commerce on behalf of the centers of excellence commission, may request  
15 additional funds of up to \$50,000,000 from the Bank of North Dakota, as financing to be repaid  
16 in whole or in part by subsequent department of commerce biennial appropriations as provided  
17 by the legislative assembly. The amount of \$50,000,000, or so much of this amount as may be  
18 necessary, is appropriated to the department of commerce on a continuing basis for the  
19 purpose of financing approved centers of excellence in accordance with this Act.

20           **SECTION 8. EXEMPTION.** The funds appropriated in the centers of excellence line  
21 item in section 3 of this Act are not subject to section 54-44.1-11 and any unexpended funds  
22 from this line item are available for debt service during the biennium beginning July 1, 2007,  
23 and ending June 30, 2009.

24           **SECTION 9. AMENDMENT.** Section 15-10-41 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **15-10-41. Centers of excellence - Centers of excellence commission - Budget**  
27 **section approval.**

28           1. The state board of higher education shall establish a centers of excellence  
29 program relating to economic development ~~consistent with the purpose under~~  
30 ~~subsection 2-~~ through which the centers of excellence commission awards funds to

1           research universities, university-related foundations, and public institutions that are  
2           located in the state.

3           2. In this section, unless the context otherwise requires:

4           a. "Center" means a center of excellence relating to economic development.

5           b. "Commission" means the centers of excellence commission.

6           c. "Foundation" means the North Dakota economic development foundation.

7           d. "Industry cluster" means one of the following industries:

8                 (1) Advanced manufacturing;

9                 (2) Energy;

10                (3) Information and technology;

11                (4) Tourism;

12                (5) Value-added agriculture; or

13                (6) An industry, including the aerospace industry, specifically identified by  
14                   the department of commerce as an industry that will contribute to the  
15                   gross state product.

16           3. The centers of excellence commission consists of eight members. The foundation  
17           shall appoint two members of the commission, the board shall appoint three  
18           members of the commission, and the legislative council shall appoint three  
19           members of the legislative assembly as nonvoting members of the commission.

20           The commission members shall designate a chairman and a vice chairman of the  
21           commission. Each member of the commission shall serve for a term of two years,  
22           beginning July first of each odd-numbered year, may be reappointed for additional  
23           terms, and serves at the pleasure of the appointing entity. A member of the  
24           commission who is appointed by the legislative council is entitled to receive  
25           compensation per day for each day spent in attendance at commission meetings in  
26           the same amount as provided for members of the legislative council and  
27           reimbursement for travel and other necessary expenses incurred in the  
28           performance of official duties in the amounts provided by law for other state  
29           officers. A commission member appointed by the board or foundation may receive  
30           compensation and travel and expense reimbursement from the appointing entity.

31           The commission shall meet as necessary to review applications, make designation

1           determinations, and make awards of funds. The board shall provide the  
2           commission with appropriate staff services as may be requested by the  
3           commission.  
4           4. The board shall establish application forms, accept applications, review  
5           applications for completeness, and forward completed applications to the  
6           commission. The board shall commission and the legislative assembly each may  
7           ~~designate centers of excellence. A designation by the board of a center of~~  
8           ~~excellence within the economic development category does not preclude the board~~  
9           ~~or a higher education institution from designating a center of excellence in an~~  
10           ~~academic or service area~~ a center. Centers of excellence relating to economic  
11           development include the North Dakota state university center for technology  
12           enterprise and the university of North Dakota center for innovation.

13                 ~~Before January 1, 2004, the board, in consultation with the North Dakota~~  
14                 ~~economic development foundation and with private sector input, shall establish~~  
15                 ~~definitions and eligibility criteria for centers of excellence relating to economic~~  
16                 ~~development. The board shall present the definitions and eligibility criteria for the~~  
17                 ~~centers of excellence relating to economic development to an interim committee~~  
18                 ~~designated by the legislative council. The North Dakota economic development~~  
19                 ~~foundation may identify and recommend high priority centers of excellence relating~~  
20                 ~~to economic development for consideration by the state board of higher education~~  
21                 ~~for future budget requests.~~

22           2. ~~The purpose of the program is to develop~~

23           5. Before the commission may consider an application for designation as a center,  
24           the applicant shall establish in the application how the proposed center will:

25           a. Develop and engage strategies for science and technology research and  
26           development, commercialization, entrepreneurship, infrastructure, utilization  
27           to assist the growth and expansion of knowledge-based industries, and other  
28           activities in the state to develop innovative approaches that expand the gross  
29           state product; ~~to assist.~~

30           b. Create employment opportunities for residents of this state.

- 1           c. Assist efforts to attract private and federal assistance for science and  
2           technology research and development ~~and for commercialization in growth.~~
- 3           d. Assist efforts to commercialize industry clusters most likely to increase the  
4           gross state product; to increase.
- 5           e. Increase collaboration among state, federal, and private science and  
6           technology research and development ~~and technology commercialization~~  
7           organizations in the state; ~~to strengthen.~~
- 8        6. In designating a center, the commission shall:
- 9           a. Make a determination that the requirements of subsection 5 have been  
10          established by the applicant.
- 11          b. Consider whether the proposed center will:
- 12               (1) Strengthen the leadership and support of the national science  
13               foundation experimental program to stimulate competitive research  
14               programs and to encourage partnerships with other state institutions for  
15               expanded efforts to stimulate economic growth in ~~identified~~ industry  
16               clusters; ~~to provide.~~
- 17               (2) Provide leadership in science and technology policy at a regional, a  
18               national, and an international level; ~~and to create.~~
- 19               (3) Create employment opportunities for North Dakota university system  
20               graduates. ~~Identified industry clusters include advanced~~  
21               ~~manufacturing, aerospace, energy, information and technology,~~  
22               ~~tourism, and value added agriculture.~~
- 23          c. In partnership with the board and the foundation, present the details of a  
24          proposed designated center to the budget section for approval. An approved  
25          award determination must include details regarding the terms under which the  
26          board will distribute allocated funds.
- 27        3. 7. ~~The state~~ In accordance with commission award determinations approved by the  
28          budget section, the board of higher education shall allocate funds from  
29          appropriations for ~~undesignated~~ centers of excellence ~~relating to economic~~  
30          ~~development based on the criteria established and for the purpose of funding~~  
31          centers. The board, in partnership with the commission and foundation, shall

1 report to the budget section on the status of such allocations, ~~in partnership with~~  
2 ~~the North Dakota economic development foundation, to the budget section and~~  
3 ~~actual fund distributions.~~

4 8. A recipient of funds awarded under this section shall use the funds to enhance  
5 capacity, enhance infrastructure, and leverage state, federal, and private sources  
6 of funding. ~~Funds~~ A recipient of funds awarded under this section may not be  
7 ~~used~~ use the funds to supplant funding for current operations or academic  
8 instruction or to pay indirect costs. ~~The board may award funds under this section~~  
9 ~~to research universities, university-related foundations, and public institutions that~~  
10 ~~are located in the state which demonstrate the potential to deliver expertise and~~  
11 ~~service to industry clusters that will contribute to the gross state product. A~~  
12 ~~recipient of funds under this section which is~~

13 9. Before funds awarded under this section are distributed to an institution of higher  
14 education under the control of the board ~~of higher education~~ or ~~which is~~ to a  
15 nonprofit university-related foundation, the recipient shall:

16 a. ~~Provide~~ provide the board ~~of higher education~~ with detailed documentation of  
17 the availability of two dollars of matching funds for each dollar of funds  
18 awarded under this section ~~as a condition of eligibility for receipt of funds~~  
19 ~~under this section; and.~~

20 b. ~~Provide~~ An institution of higher education under the control of the board or a  
21 nonprofit university-related foundation that receives funds under this section  
22 shall provide the board ~~of higher education~~, governor, and ~~North Dakota~~  
23 ~~economic development~~ foundation with annual reports for four fiscal years  
24 following receipt of the funds.

25 10. The Bank of North Dakota may loan up to fifty million dollars to the department of  
26 commerce to provide matching funds to recipients of funds awarded under this  
27 section. The debt service due under the loan must not exceed five million dollars  
28 per biennium. The loan may be entered into upon the terms, conditions, and  
29 payment provisions as the parties deem to be in the best interest of the state.  
30 Repayment of each loan by the department of commerce is contingent upon

1                   receipt of sufficient biennial appropriations by the legislative assembly for that  
2                   purpose.

3                   **SECTION 10. LEWIS AND CLARK BICENTENNIAL - ADDITIONAL SALES TAX ON**  
4 **LODGING.** The Lewis and Clark bicentennial line item in section 3 of this Act includes  
5 \$3,041,511, or such lesser amount as is generated from the separate and additional tax  
6 imposed under section 57-39.2-03.8 of the North Dakota Century Code.

7                   **SECTION 11. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION**  
8 **INCENTIVE PROGRAM.** The state tax commissioner shall conduct an audit of the ethanol  
9 production incentive program during the biennium beginning July 1, 2005, and ending June 30,  
10 2007.

11                   **SECTION 12. RED RIVER VALLEY RESEARCH CORRIDOR MARKETING.** An  
12 amount up to \$400,000 from the general fund in section 3 of this Act must be made available  
13 through a grant to the Red River valley research corridor for the purpose of matching federal  
14 funds. The funds are available for the period beginning July 1, 2005, and ending June 30,  
15 2007.

16                   **SECTION 13. CENTER FOR TECHNOLOGY.** An amount up to \$50,000 from the  
17 general fund in section 3 of this Act must be made available through a grant to the North  
18 Dakota center for technology program.

19                   **SECTION 14. PARTNERS IN MARKETING.** An amount up to \$250,000 from the  
20 general fund in section 3 of this Act must be made available for grants in the partners in  
21 marketing grant program.

22                   **SECTION 15. DEVELOPMENT FUND - TRADE PROMOTION AUTHORITY.**  
23 Notwithstanding chapter 10-30.5, if the trade promotion authority has met matching and  
24 program requirements as established by the department of commerce, the development fund  
25 shall provide a grant of up to \$500,000 to the trade promotion authority.

26                   **SECTION 16. DAIRY INDUSTRY.** An amount up to \$50,000 must be made available  
27 from the general fund in section 3 of this Act, in accordance with program requirements  
28 established by the department of commerce, to supplement private funds used to recruit and  
29 retain dairy farmers in the state of North Dakota.



1           **SECTION 17. DEVELOPMENT FUND STAFF.** An additional 1.00 full-time equivalent  
2 position, funded by the development fund, is authorized to assist with the administration of the  
3 fund.