

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1015
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide an appropriation for defraying the expenses of the department of human services and the state auditor; to provide for various transfers and financial transactions; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to provide a statement of legislative intent relating to state employee compensation adjustments; to authorize transfer of various special funds to the general fund; to provide for mobile data terminals; to provide directives relating to 911 telephone services; to provide for program reductions if federal programs are terminated or reduced; to provide for a transfer from the North Dakota insurance reserve fund to the office of management and budget; to provide for a transfer from the information services division operating fund to the state general fund; to provide for legislative council studies of public employee health insurance benefits and telemedicine; to provide for a transfer from the budget stabilization fund to the Bank of North Dakota; to provide for transfers from the Bank of North Dakota to the state general fund; to provide for a transfer from the North Dakota mill and elevator association to the state general fund; to amend and reenact sections 26.1-23.1-05, 32-12.2-06, 54-27.2-02, and 54-40-01 of the North Dakota Century Code, relating to government self-insurance pool investments, the state risk management fund, the budget stabilization fund and the exercise of joint authority by North Dakota and South Dakota; to repeal section 5 of Senate Bill No. 2012 as approved by the 1997 legislative assembly, relating to street expenditures; to provide for application; to provide an expiration 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 hereby 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 various divisions under the supervision of the director of the office of management and budget for the purpose of defraying their expenses, for the biennium beginning July 1, 1997, and ending June 30, 1999, as follows:

Subdivision 1.

OFFICE OF MANAGEMENT AND BUDGET

Administration	\$ 3,366,327
Fiscal management	4,066,236
Facility management	8,340,852
Central personnel	1,126,728
Intergovernmental assistance	39,503,256
Risk management	1,094,360
Total all funds	<u>\$ 57,497,759</u>
Less estimated income	<u>42,246,762</u>
Total general fund appropriation	<u>\$ 15,250,997</u>

Subdivision 2.

INFORMATION SERVICES DIVISION

Information resource management	\$ 45,326,741
Total special funds appropriation	<u>\$ 45,326,741</u>

Subdivision 3.

CENTRAL SERVICES

Central services	\$ 4,638,793
Total all funds	\$ 4,638,793
Less estimated income	4,240,786
Total general fund appropriation	\$ 398,007

Subdivision 4.

STATE RADIO COMMUNICATIONS

Salaries and wages	\$ 2,347,426
Operating expenses	1,741,249
Equipment	613,201
Total all funds	\$ 4,701,876
Less estimated income	586,610
Total general fund appropriation	\$ 4,115,266
Grand total general fund appropriation	\$ 19,764,270
Grand total special funds appropriation	\$ 92,900,899
Grand total all funds appropriation	\$ 112,665,169

SECTION 2. DEPARTMENT OF HUMAN SERVICES PERFORMANCE AUDIT - APPROPRIATION. The department of human services shall include, in any plans submitted to implement the federal temporary assistance for needy families (TANF) program, a request for or for the use of federal funds to be used for a performance audit of the state's implementation of welfare reform. If the additional federal funds become available for this purpose, the department of human services shall contract with the state auditor for the completion of the performance audit. The state auditor may employ up to three additional auditors for this purpose or may contract with an independent audit firm for the completion of the performance audit. There is hereby appropriated to the department of human services up to \$250,000 of federal funds for the biennium beginning July 1, 1997, and ending June 30, 1999, to be used to contract with the state auditor for the completion of a performance audit. There is hereby appropriated to the state auditor's office up to \$250,000 of federal funds for the biennium beginning July 1, 1997, and ending June 30, 1999, to be received from the department of human services for the completion of a performance audit of the department.

SECTION 3. ADDITIONAL INCOME. All income in excess of estimated income in the budget appropriated by the legislative assembly to the office of management and budget for the biennium beginning July 1, 1997, and ending June 30, 1999, must be deposited in the appropriate operating funds in the state treasury and may only be expended with the authorization of the emergency commission. Income exceeding \$50,000 must be approved by the budget section.

SECTION 4. LINE ITEM TRANSFERS. Upon approval of the emergency commission, the director of the office of management and budget may transfer between various line items in subdivisions 1, 2, and 3 of section 1 of this Act appropriation authority of up to ten percent of a given line item to adjust for changing circumstances in meeting established performance measures. Any further transfers must be approved by the budget section.

SECTION 5. CAPITOL BUILDING FUND. The amount of \$605,850, or so much of the sum as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is to be spent by the facility management division from the capitol building fund during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 6. EXEMPTION. The fiscal management appropriation contained in subdivision 1 of section 1 of chapter 37 of the 1995 Session Laws is not subject to the provisions of section 54-44.1-11 for up to an amount of \$800,000 and any unexpended funds from this appropriation are available for continued development and operating costs of the accounting, management, and payroll systems during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 7. INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES. It is the intent of the fifty-fifth legislative assembly that 1997-99 compensation adjustments for permanent state employees are to be increases providing an average of three percent with a minimum of \$30 per month, beginning with the month of July 1997, to be paid in August 1997, and providing an average of three percent with a minimum of \$30 per month, beginning with the month

of July 1998, to be paid in August 1998. Any increases greater than \$30 per month must be based on merit and equity.

Probationary employees and employees whose documented performance levels do not meet standards are not eligible for the general or additional increases.

During the biennium, no salary increase other than the \$30 per month in July 1997 and the \$30 per month in July 1998 may be given to an employee whose salary exceeds or would exceed the salary range maximum.

It is the intent of the fifty-fifth legislative assembly that the workers compensation bureau receive its 1997-99 employee compensation adjustment in a lump sum amount of \$508,406 to provide pay raises based on merit and performance throughout the 1997-99 biennium.

SECTION 8. INTENT. Within the authority included in subdivision 1 of section 1 of this Act, are the following grants and special items:

Boys and girls clubworks	\$ 53,000
State contingencies	500,000
State memberships and related expenses	307,500
Firemen's association	63,000
Unemployment insurance	2,000,000
Capitol grounds planning commission	25,000

SECTION 9. TRANSFER. During the biennium beginning July 1, 1997, and ending June 30, 1999, the director of the office of management and budget is authorized to transfer special funds to the general fund as follows:

Lands and minerals trust fund	\$ 5,500,000
State aid distribution fund	29,594,725

SECTION 10. FIRE AND TORNADO FUND. The amount of \$63,000, or so much of the amount as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is from the fire and tornado fund.

SECTION 11. MOBILE DATA TERMINALS. Of the amounts included in the operating and equipment line items in subdivision 4 of section 1 of this Act, \$266,180 and \$573,201, respectively, provide for radio tower upgrades for mobile data terminals. These funds may not be expended prior to the completion of the mobile data communications plan provided for in the highway patrol appropriation.

SECTION 12. STATE RADIO - 911 SERVICES. As required by section 18 of 1995 Senate Bill No. 2015, the fifty-fifth legislative assembly specifically provides state radio communications with the authority to expand its 911 services beyond the twenty-county limit set by the fifty-fourth legislative assembly. The authority to add Golden Valley and Divide counties to its 911 service begins with the effective date of this Act and ends on June 30, 1999. State radio communications is then limited to providing 911 services to the counties being served as of June 30, 1999.

SECTION 13. FEDERAL PROGRAM TERMINATIONS - BLOCK GRANT - FUNDING REDUCTIONS - RELATED PROGRAM REDUCTIONS - REPORTS TO THE BUDGET SECTION. If the federal government during the 1997-99 biennium terminates funding for any program administered by an agency, department, or institution of the state of North Dakota, the agency, department, or institution, subject to budget section approval, may terminate the program and not replace the reduction in federal funds with state funds, notwithstanding any other provision of law. If the federal government combines funding for separate programs in a block grant resulting in a reduction of total federal funds available for those programs, the administering agency, department, or institution may, subject to budget section approval, prioritize or reprioritize programs as necessary in making programmatic reductions. The agency, department, or institution may administer funds available under a new federal block grant or similar measure, consistent with the terms of that measure, notwithstanding any other provisions of law intended to conform to or implement the provisions of the repealed federal Act, and

shall report any program terminations, reductions, or changes resulting from this section to the budget section of the legislative council for its approval.

SECTION 14. RISK MANAGEMENT. The North Dakota insurance reserve fund shall transfer \$2,100,000 of surplus on July 1, 1997, and \$2,100,000 on July 1, 1998, to the office of management and budget. This transfer represents final settlement with the North Dakota insurance reserve fund for any claim by the state to any funds held by the North Dakota insurance reserve fund, except for contractual obligations pursuant to the terms of any memorandum of coverage issued by the North Dakota insurance reserve fund to a state agency.

The recovery of the \$4,200,000, together with current reserves in the risk management fund and the contributions required from agencies or other governmental units not receiving a specific appropriation and boards and commissions, are considered sufficient reserves for claims anticipated in the 1997-99 biennium.

SECTION 15. TRANSFER. The director of the office of management and budget shall transfer \$150,000, or an amount equal to the 1997-99 biennium costs relating to the information technology management division of the legislative council, whichever is less, from the information services operating fund to the general fund during the biennium beginning July 1, 1997, and ending June 30, 1999. The transfer is to reimburse the general fund for costs relating to information technology research, planning, monitoring, reviewing, and auditing and for assistance provided to agencies by the information technology management division of the legislative council.

SECTION 16. SALE OF HIGHWAY PATROL AIRPLANE. Notwithstanding any other provision of law, the North Dakota highway patrol may use within the limits of legislative appropriation the proceeds from the sale of one of its airplanes for the comprehensive public communications plan.

SECTION 17. LEGISLATIVE INTENT - STATE EMPLOYEE SALARY REPORT. It is the intent of the fifty-fifth legislative assembly that during the 1997-98 interim the office of management and budget report to an interim legislative council committee on state employee compensation issues. The report should focus on compression problems, market comparisons, and other compensation issues to include the effects of all benefits, including health insurance, on the employment relationship. The report is to include detailed information on the impact of salary compression and estimates of the dollar amount to correct salary compression problems. In addition, the office of management and budget is also to develop and present a plan to compensate state employees in a fair and adequate manner.

SECTION 18. LEGISLATIVE INTENT - STATE EMPLOYEE BENEFIT SALARY REPORT. It is the intent of the fifty-fifth legislative assembly that during the 1997-98 interim the office of management and budget and the public employees retirement system report to the legislative interim employee benefits programs committee on pension portability. The report should focus on issues of pension portability and how to balance the needs of long- and short-term employees within defined benefit or defined contribution plan concepts.

SECTION 19. LEGISLATIVE COUNCIL INTERIM STUDY OF PUBLIC EMPLOYEE HEALTH INSURANCE BENEFITS. The legislative council shall consider studying public employee health insurance benefits during the 1997-98 interim. If conducted, the study must include a comparison of the cost of participating in exclusive provider organizations and preferred provider organizations as compared to participating in the standard indemnity plan; the extent to which members of the uniform group insurance program are now participating in exclusive provider organizations and preferred provider organizations; the number of public employees who are unable to participate in a preferred provider organization or exclusive provider organization because of geographical considerations; an analysis of any cost savings if up to all participants exercise the exclusive provider organization or preferred provider organization option; and methods by which the public employees retirement system board could encourage members of the public employees retirement system uniform group insurance program to participate in exclusive provider organizations and preferred provider organizations. The study must include an analysis of general fund savings that may be realized if an additional copayment is required of all members not participating in an exclusive provider organization or preferred provider organization and an analysis of general fund savings that may be realized if members of the uniform group insurance program were permitted to participate in health maintenance organizations where such organizations are available. The legislative council shall report its findings and recommendations,

together with any legislation required to implement the recommendations, to the fifty-sixth legislative assembly.

SECTION 20. LEGISLATIVE COUNCIL STUDY OF TELEMEDICINE. The legislative council shall consider studying, during the 1997-98 interim, the utilization of telemedicine in this and other states, and the desirability of adopting any amendments to the professional licensing laws and other laws that will facilitate the development of telemedicine while preserving the quality of health care. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-sixth legislative assembly.

SECTION 21. BUDGET STABILIZATION FUND TRANSFER TO BANK OF NORTH DAKOTA. The director of the office of management and budget shall transfer any amounts in or to be transferred as of July 1, 1997, to the budget stabilization fund, to the Bank of North Dakota. Any amount transferred to the Bank shall become a part of the Bank's undivided profits.

SECTION 22. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND. During the biennium ending June 30, 1999, the industrial commission shall transfer to the state general fund up to \$29,600,000 from the current earnings of the Bank of North Dakota. The moneys shall be transferred in amounts and at such times as requested by the director of the office of management and budget.

No transfers may be made which would reduce the Bank's capital structure below \$100,000,000.

SECTION 23. CONTINGENT BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND. If, during the biennium ending June 30, 1999, the director of the office of management and budget determines via revised projections that general fund revenue collections will not meet the revenues as forecast in the March 1997 legislative forecast, then the industrial commission shall transfer to the state general fund an additional amount, as determined by the director of the office of management and budget and as approved by the budget section, from the earnings and accumulated and undivided profits of the Bank of North Dakota. The moneys must be transferred in amounts and at such times as requested by the director of the office of management and budget. The additional amount transferred may not exceed the lesser of \$23,000,000 or the revenue shortfall of actual collections compared to the March 1997 legislative forecast.

No transfers may be made which would reduce the Bank's capital structure below \$100,000,000.

SECTION 24. LEGISLATIVE INTENT - ADDITIONAL STATE AGENCY TURNBACK. It is the intent of the fifty-fifth legislative assembly that the 1995-97 and 1997-99 biennium revenue forecasts as adopted by the budget section on March 12, 1997, be adjusted to include additional funds resulting from unspent 1995-97 appropriation authority of \$1,700,000 as follows: department of human services \$1,500,000; health department \$100,000; and department of economic development and finance \$100,000.

SECTION 25. UNIVERSITY SYSTEM SALARY INITIATIVE. Funding of \$3,200,000 appropriated for the university system salary initiative in the salaries and wages line item in subdivision 1 of section 1 of Senate Bill No. 2003, as approved by the fifty-fifth legislative assembly, must be used by the North Dakota university system for the benefit of the institutions and entities under the jurisdiction of the North Dakota university system, including its institutions of higher learning, the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, and the entities of the North Dakota agricultural experiment station.

SECTION 26. HIGHER EDUCATION INTERNAL SERVICE FUND TRANSFERS - BUDGET SECTION APPROVAL. All institutions under the authority of the board of higher education must receive approval from the budget section to expend or transfer amounts greater than \$50,000 from the accumulated moneys in internal service funds except for (1) mandatory transfers for servicing related debt; and (2) routine operating expenditures associated with the funds.

SECTION 27. TRANSFER. In addition to the \$2,000,000 transfer provided for in section 9 of Senate Bill No. 2015, as passed by the fifty-fifth legislative assembly, the industrial commission shall transfer to the general fund in the state treasury the sum of \$1,000,000 from the North Dakota mill and elevator association. The moneys must be transferred in amounts and at such times as requested by the director of the office of management and budget during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 28. TRIBAL COMMUNITY COLLEGE IVN GRANTS - VIRTUAL UNIVERSITY. The state board of higher education shall use the moneys appropriated in the tribal community college IVN grants line item in subdivision 2 of section 1 of Senate Bill No. 2003, as passed by the fifty-fifth legislative assembly, for a grant for the western governors' association virtual university project.

SECTION 29. LEGISLATIVE INTENT - ADDITIONAL OIL AND GAS PRODUCTION TAX REVENUE. It is the intent of the fifty-fifth legislative assembly that the 1997-99 biennium revenue forecast as adopted by the budget section on March 12, 1997, be adjusted to include additional oil and gas production tax revenues of \$1,416,730.

SECTION 30. AMENDMENT. Section 26.1-23.1-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-23.1-05. Investment of assets - Subsidiary insurance company coverage. A government self-insurance pool may only invest its funds and accumulations in those investments described in ~~section~~ sections 26.1-05-19 and 26.1-10-02. If a government self-insurance pool investment is made under section 26.1-10-02, a resulting subsidiary insurance company may not write insurance coverage for:

1. North Dakota governmental entities which competes with coverage offered by the fire and tornado fund under chapter 26.1-22 as that chapter existed on December 31, 1988;
2. Individuals;
3. For-profit organizations;
4. Nonprofit hospitals, clinics, nursing homes, churches, fraternal organizations, or organizations not performing quasi-governmental functions; or
5. Agricultural business cooperatives.

SECTION 31. AMENDMENT. Section 32-12.2-06 of the North Dakota Century Code is amended and reenacted as follows:

32-12.2-06. (~~Contingent expiration date — see Note~~) Liability insurance - Reinsurance. Upon approval of the director of the office of management and budget, an entity of the state may participate in a government self-insurance pool or may purchase insurance against liability of the entity and its employees for damages resulting from claims under this chapter. The director shall limit participation in government self-insurance pools and, except as provided in this section, the purchase of insurance to exposures determined to cause an excessive financial risk to the state risk management fund including exposures reasonably expected to deplete the fund and have a significant detrimental impact on the state's budget. The director shall develop a state self-retention program that provides as much coverage as possible of potential liability recognized by this chapter, but that includes insurance purchases in a manner that is determined appropriate by the director in consultation with the state risk manager. The insurance may be provided by an insurance company authorized to do business in this state which the commissioner of insurance has determined to be responsible and financially sound, considering the extent of the coverage required, or coverage may be provided by a government self-insurance pool. If a premium savings will result and the director of the office of management and budget approves, the insurance policy or memorandum of coverage may be in force from one through three years from the date of issue. The director may procure an excess loss reinsurance contract for the state.

SECTION 32. AMENDMENT. Section 54-27.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-02. ~~(Effective until June 30, 1997) Certain general fund revenues to be deposited in the budget stabilization fund.~~ Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of ~~seventy sixty-five~~ million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

~~(Effective June 30, 1997) Certain general fund revenues to be deposited in the budget stabilization fund.~~ Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of forty million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

SECTION 33. AMENDMENT. Section 54-40-01 of the North Dakota Century Code is amended and reenacted as follows:

54-40-01. Agreement - Exercise of joint powers - Bonds.

1. Two or more governmental units or municipal corporations having in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised for the purpose of acquiring, constructing, and maintaining any building for their joint use. The term "governmental unit" as used in this section includes and means every city, county, town, park district, school district, states and United States governments and departments of each thereof, and all other political subdivisions even though not specifically named or referred to herein.
2. Two or more counties or cities, or any combination of counties or cities, whether or not they have in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, for the purpose of acquiring equipment or constructing roads, bridges, and road and bridge improvements.
3. An agency, department, or institution of this state may enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. Any agreement entered under this subsection must be submitted to the legislative assembly or, if the legislative assembly is not in session, to the legislative council or a committee designated by the legislative council for approval or rejection and may not become effective until approved by the legislative assembly or the legislative council.
4. Counties or cities, or any combination of counties or cities, may jointly issue bonds in the same manner and for the purposes provided for in chapter 21-03.

SECTION 34. REPEAL. Section 5 of Senate Bill No. 2012 as approved by the 1997 Legislative Assembly is repealed.

SECTION 35. APPLICATION. North Dakota Century Code sections 54-16-04 and 54-44.1-11 do not apply to chapter 1 of the 1995 Session Laws.

SECTION 36. EXPIRATION DATE. Section 32 of this Act is effective through June 30, 1999, and after that date is ineffective.

SECTION 37. EMERGENCY. Section 32 of this Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1015 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 68 Nays 21 Absent 8

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 41 Nays 6 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State