

**FIRST ENGROSSMENT  
with House Amendments  
ENGROSSED SENATE BILL NO. 2015**

Introduced by

Appropriations Committee

A BILL for 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 create and enact a new section to chapter 21-10 of the North Dakota Century Code, relating to the recognition of legacy fund earnings; to amend and reenact sections 48-10-02 and 48-10-03, subsection 2 of section 54-06-24, and section 54-06-30 of the North Dakota Century Code, relating to the capitol grounds planning commission spending limits and authority to accept gifts, the state employee suggestion incentive program, and state employee performance bonuses; to repeal section 54-06-24 of the North Dakota Century Code, relating to the state employee suggestion incentive program; to provide compensation guidelines; to provide for a report to the legislative assembly; to provide a continuing appropriation; to provide for a transfer; to provide an exemption; and to provide an effective date.

**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 office of management and budget, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$21,596,832	\$306,984	\$21,903,816
Operating expenses	14,051,438	1,755,988	15,807,426
Emergency commission contingency fund	600,000	(100,000)	500,000
Capital assets	973,477	3,863,648	4,837,125
Grants	54,000	0	54,000

Sixty-sixth  
Legislative Assembly

1	Guardianship grants	1,328,600	221,400	1,550,000
2	Prairie public broadcasting	1,200,000	0	1,200,000
3	Community service supervision grants	350,000	0	350,000
4	Litigation funding pool	0	3,500,000	3,500,000
5	State student internship program	<u>0</u>	<u>250,000</u>	<u>250,000</u>
6	Total all funds	\$40,154,347	\$9,798,020	\$49,952,367
7	Less estimated income	<u>9,434,087</u>	<u>7,702,428</u>	<u>17,136,515</u>
8	Total general fund	\$30,720,260	\$2,095,592	\$32,815,852
9	Full-time equivalent positions	117.00	(5.00)	112.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE**

**SIXTY-SEVENTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the 2019-21 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Surplus property building	\$800,000	\$0
Theodore Roosevelt center grant	500,000	0
Cybersecurity remediation pool	1,000,000	0
Extraordinary repairs	0	1,900,000
Capitol south entrance project	0	2,000,000
Special assessments on capitol grounds	0	320,000
Litigation funding pool	0	3,500,000
Assessments of state lands and facilities	0	500,000
Risk management technology project	0	170,000
State student internship program	0	250,000
Electronic procurement study	<u>0</u>	<u>50,000</u>
Total all funds	\$2,300,000	\$8,690,000
Total special funds	<u>1,800,000</u>	<u>8,390,000</u>
Total general fund	\$500,000	\$300,000

The 2019-21 biennium one-time funding amounts are not a part of the entity's base budget for the 2021-23 biennium. The office of management and budget shall report to the

appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 3. TRANSFER - TAX RELIEF FUND TO HUMAN SERVICE FINANCE FUND.**

The office of management and budget shall transfer the sum of \$173,700,000 from the tax relief fund to the human service finance fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 4. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO PRELIMINARY PLANNING REVOLVING FUND.** The office of management and budget shall transfer the sum of \$100,000 from the strategic investment and improvements fund to the preliminary planning revolving fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 5. TRANSFER - STATE STUDENT INTERNSHIP PROGRAM TO STATE AGENCIES.** The office of management and budget shall transfer funds from the state student internship program line item appropriated in section 1 of this Act to eligible state agencies for student internships during the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 6. TRANSFER - LITIGATION POOL TO STATE AGENCIES.** The office of management and budget shall transfer funds from the litigation funding pool line item appropriated in section 1 of this Act to eligible state agencies for litigation expenses during the biennium beginning July 1, 2019, and ending June 30, 2021. The office of management and budget may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 7. GRANTS AND SPECIAL ITEMS.** Section 1 of this Act includes appropriation authority which may only be used for the following grants and special items:

Boys and girls club work	\$53,000
Unemployment insurance	\$2,000,000
Capitol grounds planning commission	\$25,000
Statewide memberships and related expenses	\$625,064

**SECTION 8. ESTIMATED INCOME - ONE-TIME FUNDING - CAPITOL BUILDING FUND.**

The estimated income line item in section 1 of this Act includes \$4,220,000 of one-time funding from the capitol building fund. Of the \$4,220,000, \$2,000,000 in the capital assets line item is for a capitol building south entrance project, \$1,900,000 in the capital assets line item is for extraordinary repairs, and \$320,000 in the operating expenses line item is for special

assessments associated with the capitol grounds. The funding for the capitol building south entrance project may be used to enclose the existing tunnel for a new public entrance with integrated security systems, to improve accessibility, and to address related exterior landscaping and elevation changes.

**SECTION 9. ESTIMATED INCOME - ONE-TIME FUNDING - RISK MANAGEMENT FUND.**

The capital assets line item and the estimated income line item in section 1 of this Act includes \$170,000 of one-time funding from the risk management fund for an information technology project.

**SECTION 10. ESTIMATED INCOME - ONE-TIME FUNDING - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.**

The estimated income line item in section 1 of this Act includes \$4,000,000 of one-time funding from the strategic investment and improvements fund. Of the \$4,000,000, \$500,000 in the operating expenses line item is for an assessment of state lands and facilities, and \$3,500,000 in the litigation funding pool line item is for a litigation funding pool.

**SECTION 11. PRAIRIE PUBLIC BROADCASTING GRANT - MATCHING FUNDS.** The prairie public broadcasting line item and the general fund appropriation in section 1 of this Act includes \$200,000 for a grant of up to \$200,000 to prairie public broadcasting for essential equipment needs. The \$200,000 may be awarded only to the extent prairie public broadcasting provides one dollar of matching funds from nonstate sources for each dollar provided by the office of management and budget.

**SECTION 12. EXEMPTION - FISCAL MANAGEMENT.** The amount appropriated for the fiscal management division, as contained in section 1 of chapter 14 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for continued development and operating costs of the statewide systems, including accounting, management, and payroll, during the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 13. STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES.**

1. The 2019-21 biennium compensation adjustments for permanent state employees are to average 2 percent with a minimum of \$120 per month and a maximum of \$200 per month per eligible employee for the first year of the biennium and are to average 2.5 percent for the second year. The increases for the first year of the biennium are to

be given beginning with the month of July 2019, to be paid in August 2019, and for the second year of the biennium are to be given beginning with the month of July 2020, to be paid in August 2020. Except for minimum and maximum amounts, increases for eligible state employees are to be based on documented performance and are not to be the same percentage increase for each employee.

2. Agencies may use salaries and wages funding available due to vacant positions and employee turnover to provide additional salary increases for selected employees to address salary compression issues or to enhance merit-based increases for employees essential to the effective operations of the agency. The biennial cost of any additional salary increases must be within the agency's current salaries and wages funding level. An agency may not request any additional funding for the 2021-23 biennium to continue the additional salary increases.

3. The office of management and budget shall develop guidelines for use by state agencies for providing compensation adjustments for classified state employees. The guidelines must follow the compensation philosophy statement under section 54-44.3-01.2.

4. Probationary employees are not entitled to the increases. However, at the discretion of the appointing authority, probationary employees may be given all or a portion of the increases effective in July, paid in August, or upon completion of probation. Employees whose overall documented performance level does not meet standards are not eligible for any salary increase.

**SECTION 14.** A new section to chapter 21-10 of the North Dakota Century Code is created and enacted as follows:

**Recognition of legacy fund earnings for budget purposes.**

For purposes of the development of the state budget, the legislative assembly shall recognize legacy fund earnings transferred to the general fund at the end of each biennium in accordance with section 26 of article X of the Constitution of North Dakota as part of the general fund beginning balance for the subsequent biennium rather than as revenue of the biennium in which the transfer is made at the end of the biennium.

**SECTION 15. AMENDMENT.** Section 48-10-02 of the North Dakota Century Code is amended and reenacted as follows:

**48-10-02. Capitol building fund to be administered by the capitol grounds planning commission - Continuing appropriation - Procedure for expenditure of certain funds.**

The capitol grounds planning commission shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund and shall account to the commission concerning these funds at the commission's request.

Provided further, all moneys and other property in the capitol building fund, except as otherwise appropriated, are hereby dedicated and reserved to the exclusive purpose of the construction of an addition to the legislative wing of the state capitol building, and the capitol grounds planning commission shall take necessary steps to accumulate and conserve the money and property in the capitol building fund for such purpose.

The commission may, during any biennium, expend from the interest and income fund of the capitol building fund a sum not to exceed fifty percent of the unencumbered balance on the first day of any biennium, and such amount is hereby appropriated to the capitol grounds planning commission. The expenditure may be made, after consideration of the capitol grounds master plan, for projects or planning but may not exceed ~~one hundred seventy-five thousand~~two hundred fifty thousand dollars per biennium. The expenditure may only be made upon approval by two-thirds of the total membership of the commission. The expenditure must be made upon a voucher, or vouchers, prepared by the office of management and budget at the direction of the commission.

**SECTION 16. AMENDMENT.** Section 48-10-03 of the North Dakota Century Code is amended and reenacted as follows:

**48-10-03. Powers and duties of the commission - Authority to accept gifts - Continuing appropriation.**

The capitol grounds planning commission shall confer with the state council on the arts with respect to the artistic value of monuments, memorials, or works of art to be constructed on the

capitol grounds and with qualified consultants retained by it to select sites for buildings, facilities, monuments, memorials, or works of art to be constructed on the capitol grounds. The commission shall develop and modify long-term plans for the development of the capitol grounds. The commission shall approve or disapprove the basic style and exterior construction of any building, facility, monument, memorial, or work of art constructed on the capitol grounds. Except as otherwise provided by this section, the commission has exclusive authority to accept or reject gifts of any type or class of property for exterior placement on the capitol grounds or for the improvement of the exterior construction of any building or facility on the capitol grounds, including landscaping and improvements to the capitol grounds. Any gifts of money accepted pursuant to this section must be deposited in the capitol building fund and are appropriated on a continuing basis to the commission for purposes consistent with this section. No construction or placement of an item on the capitol grounds may be undertaken without the approval of the commission, unless the construction or placement is authorized by the legislative assembly. If the legislative assembly by law or resolution authorizes the construction or placement of an item on the capitol grounds, the commission shall approve the site, basic style, and exterior construction of the item within a reasonable period of time.

The commission shall advise the director of the office of management and budget and the legislative council on matters relating to the physical and aesthetic features of the interior of all buildings on the capitol grounds. The commission must be called in and shall meet whenever major interior changes, including new construction, remodeling, or renovation of any kind, are proposed or considered for the buildings or facilities on the capitol grounds. The commission must be consulted before the purchase or installation of furniture or fixtures in public areas of the capitol and other buildings on the capitol grounds. The commission shall perform any other duties as may be prescribed by law.

**SECTION 17. AMENDMENT.** Subsection 2 of section 54-06-24 of the North Dakota Century Code is amended and reenacted as follows:

2. APrior to July 1, 2019, a state employee may submit a recommendation or proposal to reduce expenditures within the employee's agency to a suggestion incentive committee. The suggestion incentive committee shall administer the employee suggestion incentive program created under this section and review all recommendations or proposals for reduction of expenditures. The suggestion incentive

committee may consider whether the recommendation or proposal to reduce expenditures within the employee's agency applies to any other state agency. The suggestion incentive committee shall notify the office of management and budget of any recommendation that affects an agency other than the employing agency. The governor shall appoint five state agency heads to the suggestion incentive committee for four-year staggered terms to commence on August first in the year of appointment and to continue until the successors are appointed.

**SECTION 18. AMENDMENT.** Section 54-06-30 of the North Dakota Century Code is amended and reenacted as follows:

**54-06-30. State employee performance bonus program - Criteria - Limitations.**

State agencies may provide monetary performance bonuses to their employees under this section.

1. State agencies may pay bonuses under this section if:
  - a. The agency has had a written employee performance evaluation policy in place for more than one year before paying the bonus;
  - b. The written employee performance evaluation policy required in subdivision a must have at least three levels of performance criteria; and
  - c. The agency performance bonus program adopted under this section must be a written policy and must be communicated to each employee in the agency. Development of the written policy must include input from employees.
2. State employees are eligible to receive a bonus under this section only if:
  - a. The employee has held a position in state government for at least one year before a bonus is paid;
  - b. The employee's overall annual performance evaluation satisfies the agency's performance bonus program criteria for receiving a bonus; and
  - c. The employee is a full-time or part-time regular nonprobationary employee holding a regularly funded nontemporary position.
3. An employee may not receive more than one performance bonus per fiscal year and may not receive more than one thousand five hundred dollars in bonuses per fiscal year.



1       4.   ~~Except as provided in this subsection, agencies may pay bonuses under this section~~  
2       ~~during a fiscal year to not more than the number of employees equal to twenty-five~~  
3       ~~percent of the employees employed by the agency on July first at the beginning of~~  
4       ~~each state fiscal year. Upon a showing of special circumstances, North Dakota human~~  
5       ~~resource management services may approve pay bonuses above the twenty-five~~  
6       ~~percent limitation in this subsection. North Dakota human resource management~~  
7       ~~services shall report any exceptions granted under this subsection to the budget~~  
8       ~~section of the legislative management. Each agency must fund the performance bonus~~  
9       ~~program from within its agency budget for salaries and wages.~~

10      5.   Bonuses paid under this section may not be included in an employee's base salary for  
11      purposes of calculating any wage or salary increase.

12      6.   Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.

13      **SECTION 19. REPEAL.** Section 54-06-24 of the North Dakota Century Code is repealed.

14      **SECTION 20. EFFECTIVE DATE.** Section 19 of this Act becomes effective July 1, 2021.