

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

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 various divisions
2 under the supervision of the director of the office of management and budget; to provide for
3 various transfers and financial transactions; to provide an exemption from the provisions of
4 section 54-44.1-11 of the North Dakota Century Code; to create and enact two new sections to
5 chapter 54-59 of the North Dakota Century Code, relating to required information technology
6 services and duties of the information technology department; to amend and reenact sections
7 54-35-18, 54-35-18.1, and 54-35-18.2, subsection 2 of section 54-44.1-06, and sections
8 54-44.1-12, 54-59-05, 54-59-09, and 57-51.1-07.2 of the North Dakota Century Code, relating
9 to the electric industry competition committee, preparation of budget data, budget allotments,
10 powers and duties of the information technology department, information technology standards,
11 and payments into the permanent oil tax trust fund; to prohibit the payment of bonuses or
12 temporary salary adjustments for extra working hours because of the legislative session; to
13 provide legislative intent; to require an examination of mineral severance tax application to
14 federal lands and lands of quasi-federal entities; to require reports to the legislative assembly;
15 to provide an exception to section 54-44.1-06 of the North Dakota Century Code, relating to the
16 preparation of certain appropriation bills; to provide for reports to the budget section; to provide
17 for legislative council studies; to provide for the transfer of state agency information technology
18 positions; to provide for the transfer of higher education information technology functions; to
19 provide an appropriation; and to declare an emergency.

20 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

21 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
22 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
23 treasury, not otherwise appropriated, and from special funds derived from federal funds and
24 other income, to the various divisions under the supervision of the director of the office of

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1 management and budget for the purpose of defraying their expenses, for the biennium
2 beginning July 1, 2003, and ending June 30, 2005, as follows:

3 Salaries and wages	\$15,533,036
4 Operating expenses	10,573,616
5 Capital assets	733,000
6 Grants	179,000
7 Technology critical needs pool	<u>1,000,000</u>
8 Total all funds	\$28,018,652
9 Less estimated income	<u>7,915,492</u>
10 Total general fund appropriation	\$20,103,160

11 **SECTION 2. CAPITOL BUILDING FUND.** The amount of \$25,000, or so much of the
12 sum as is necessary, included in the estimated income line item in section 1 of this Act, is to be
13 spent by the administration division from the capitol building fund for capitol grounds planning
14 during the biennium beginning July 1, 2003, and ending June 30, 2005.

15 **SECTION 3. EXEMPTION.** The amount appropriated for the fiscal management
16 division, as contained in subdivision 1 of section 1 of chapter 15 of the 2001 Session Laws is
17 not subject to the provisions of section 54-44.1-11. Any unexpended funds from this
18 appropriation are available for continued development and operating costs of the accounting,
19 management, and payroll systems during the biennium beginning July 1, 2003, and ending
20 June 30, 2005.

21 **SECTION 4. INTENT.** Within the authority included in section 1 of this Act are the
22 following grants and special items:

23 Boys and girls clubwork	\$53,000
24 State contingencies	500,000
25 State memberships and related expenses	449,960
26 Firefighter's association	126,000
27 Unemployment insurance	1,500,000
28 Capitol grounds planning commission	25,000

29 **SECTION 5. TRANSFER.** During the biennium beginning July 1, 2003, and ending
30 June 30, 2005, the director of the office of management and budget is authorized to transfer
31 \$2,000,000 from the lands and minerals trust fund to the general fund.

1 **SECTION 6. TRANSFER.** During the biennium beginning July 1, 2003, and ending
2 June 30, 2005, the director of the office of management and budget is authorized to transfer
3 \$14,300,000 to the general fund from the permanent oil tax trust fund.

4 **SECTION 7. FIRE AND TORNADO FUND.** The amount of \$126,000, or so much of
5 the amount as is necessary, included in the estimated income line item in section 1 of this Act,
6 is from the fire and tornado fund.

7 **SECTION 8. BONDING FUND TRANSFER TO STATE GENERAL FUND.** The
8 insurance commissioner shall transfer to the general fund in the state treasury the sum of
9 \$2,000,000 from the state bonding fund. The moneys must be transferred in such amounts and
10 at such times as requested by the director of the office of management and budget during the
11 biennium beginning July 1, 2003, and ending June 30, 2005.

12 **SECTION 9. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL**
13 **FUND.** During the biennium ending June 30, 2005, the industrial commission shall transfer to
14 the state general fund up to \$60,000,000 from the current earnings and the accumulated
15 undivided profits of the Bank of North Dakota. No more than \$15,000,000 of the amount
16 transferred may come from accumulated undivided profits. The moneys must be transferred in
17 the amounts and at such times as requested by the director of the office of management and
18 budget.

19 **SECTION 10. BANK OF NORTH DAKOTA TRANSFERS - LIMITATIONS.** Any
20 transfer authorized by the fifty-eighth legislative assembly may only be made to the extent the
21 transfer does not reduce the Bank's capital structure below \$140,000,000.

22 **SECTION 11. STUDENT LOAN TRUST TRANSFER TO STATE GENERAL FUND.**
23 The industrial commission shall transfer to the general fund in the state treasury the sum of
24 \$9,000,000 from the North Dakota student loan trust. The moneys must be transferred in such
25 amounts and at such times as requested by the director of the office of management and
26 budget during the biennium beginning July 1, 2003, and ending June 30, 2005, and upon
27 certification by the student loan trust trustee that sufficient moneys remain available to pay all
28 debt service on student loan trust bonds, all required rebate payments to the United States
29 treasury, and all program operating expenses.

30 **SECTION 12. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **54-35-18. (Effective through August 1, 2003 2007) Electric industry competition -**
2 **Need for study.** The legislative council shall study the impact of competition on the
3 generation, transmission, and distribution of electric energy within this state. The legislative
4 assembly finds that the economy of this state depends on the availability of reliable, low cost,
5 electric energy. There is a national trend toward competition in the generation, transmission,
6 and distribution of electric energy and the legislative assembly acknowledges that this
7 competition has both potential benefits and adverse impacts on this state's electric suppliers as
8 well as on their shareholders and customers and the citizens of this state. The legislative
9 assembly determines that it is in the best interests of the citizens of this state to study the
10 effects of competition on the generation, transmission, and distribution of electric energy.

11 **SECTION 13. AMENDMENT.** Section 54-35-18.1 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-35-18.1. (Effective through August 1, 2003 2007) Electric industry competition**
14 **committee - Composition.**

- 15 1. The legislative council shall appoint a committee to study electric industry
16 competition.
- 17 2. The committee shall study the impact of competition on the generation,
18 transmission, and distribution of electric energy within this state and on the state's
19 electric suppliers.
- 20 3. As used in sections 54-35-18 through 54-35-18.2, "electric suppliers" means public
21 utilities regulated under title 49, rural electric cooperatives organized under chapter
22 10-13, municipal electric utilities organized under chapters 40-33 and 40-33.2, and
23 power marketers.
- 24 4. The committee consists of:
 - 25 a. ~~Three or four~~ Six members of the house of representatives, ~~no more than two~~
26 ~~of whom may be from the same political party~~ four of whom must be from the
27 majority political party and two of whom must be from the minority political
28 party.
 - 29 b. ~~Three or four~~ Six members of the senate, ~~no more than two of whom may be~~
30 ~~from the same political party~~ four of whom must be from the majority political
31 party and two of whom must be from the minority political party.

1 5. The chairman of the legislative council shall name one of the members as
2 chairman.

3 **SECTION 14. AMENDMENT.** Section 54-35-18.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-35-18.2. (Effective through August 1, ~~2003~~ 2007) Electric industry competition**
6 **committee - Study areas.** The electric industry competition committee shall study this state's
7 electric industry competition and electric suppliers and shall report to the legislative council in
8 the same manner as do other interim legislative council committees, concerning the following
9 issues:

10 1. Financial issues, including:

11 a. The interests of residential customers, including:

12 (1) Fairness of rates, terms, and conditions of service for services chosen.

13 (2) Affordability of rates, bills, and services.

14 (3) Stability and predictability of rates and bills.

15 (4) Reliability and quality of power supply.

16 (5) Assurance that rates, terms, and conditions are nondiscriminatory.

17 (6) Ability of customers to understand potential energy choices.

18 (7) Importance of a fair dispute resolution process.

19 (8) Potential for rates to reflect the customer's desired level of energy
20 reliability and availability.

21 b. The interests of small business customers, large business customers,
22 shareholders, and other stakeholders, including:

23 (1) Fairness of rates, terms, and conditions of service for the services
24 chosen by customers.

25 (2) Affordability of rates, bills, and services for customers.

26 (3) Stability and predictability of customers' rates and bills.

27 (4) Assurance that rates, terms, and conditions are nondiscriminatory for
28 all customers.

29 (5) Ability of customers to understand potential energy choices and the
30 implications of these choices.

31 (6) Importance of a fair dispute resolution process for customers.

- 1 (7) Potential for rates to reflect the customer's desired level of energy
- 2 reliability and availability.
- 3 c. Financial integrity of and cost of capital to electric power suppliers.
- 4 d. Taxes paid by electric suppliers, including franchise taxes, excise taxes,
- 5 income taxes, ad valorem taxes, in lieu taxes, and real and personal property
- 6 taxes.
- 7 e. Tax implications to local governments.
- 8 f. Quantification and recovery of stranded investments by electric power
- 9 suppliers, including those resulting from:
- 10 (1) Customers who have a legal obligation to bear certain costs, who find a
- 11 way to avoid those obligations, and who leave without paying costs
- 12 incurred on the customer's behalf; and
- 13 (2) The costs of investments that exceed their value in the competitive
- 14 market.
- 15 g. Pricing of transmission and distribution services.
- 16 h. Pricing and rate subsidies for all classes of customers.
- 17 i. Unbundling of costs of services.
- 18 2. Legal issues, including:
- 19 a. State, tribal, and federal jurisdiction.
- 20 b. State statutory and regulatory constraints and oversight of the electric
- 21 industry.
- 22 c. Those related to the federal energy regulatory commission.
- 23 d. Commerce clause constraints.
- 24 e. Review of existing state laws, rules, and constitutional provisions that affect
- 25 the generation, transmission, and distribution of electric energy, including the
- 26 need and appropriateness of regulatory reforms for services that will continue
- 27 to be provided by a regulated utility.
- 28 f. Interstate reciprocity and the regional nature of the industry.
- 29 g. Continuing obligations of an electric supplier to serve customers.
- 30 h. Use and protection of proprietary information in a competitive market.
- 31 3. Social issues, including:

- 1 a. Planning and operation of electric suppliers, including integrated resource
- 2 planning.
- 3 b. Efficiency and sufficiency of an aggregate supply of energy.
- 4 c. Environmental impacts.
- 5 d. Impact on the development and use of renewable resources.
- 6 e. Appropriate and proper method of recovery of the cost of social, low income,
- 7 and noneconomic renewable energy programs in order to ensure that costs
- 8 are fairly and equitably shared among all customers of electric energy.
- 9 4. Issues related to system planning, operation, and reliability, including:
- 10 a. Electric system reliability.
- 11 b. Provisions by which customers would be permitted to have a choice of
- 12 generation providers.
- 13 c. Applicability of regulatory reliability criteria to nonutility market participants.
- 14 d. Form and requirements of contracts for the sale and purchase of electric
- 15 energy.
- 16 e. Requirements for metering energy usage at the customer's location.
- 17 f. Designation and regulation of ancillary services.
- 18 5. Identification and review of potential market structures, including:
- 19 a. Possible market structures for a deregulated generation market and
- 20 transmission market and whether these structures should be mandated or
- 21 allowed to form voluntarily.
- 22 b. Formation of market segments in response to customer requirements.
- 23 c. Impact on the investment stability of the electric utility industry.
- 24 d. Impact on multipurpose entities.
- 25 e. Potential to improve economic efficiency.
- 26 f. Size of the market and the extent to which its size impacts the level of
- 27 benefits for customers or groups of customers.
- 28 g. Ability of participants with control over the electricity generation and
- 29 transmission system to exercise market power over pricing or the need for
- 30 controls to prevent the exercise of market power.

- 1 h. Controls or bans on corporate relationships between regulated utilities and
- 2 emerging competitive sectors.
- 3 i. Barriers to achieving nondiscriminatory competition among electric suppliers,
- 4 including review of federal and state tax issues, availability of federal
- 5 subsidies to certain energy suppliers, application of federal laws that impose
- 6 regulatory requirements on the electric utility industry, and jurisdiction of the
- 7 federal energy regulatory commission over competitors.
- 8 j. Viability of all customers to participate in and benefit from a competitive
- 9 electricity market, including:
 - 10 (1) Risks and responsibilities that customers or classes of customers incur
 - 11 by participating in a competitive market.
 - 12 (2) Costs of gathering, processing, and managing information on the price
 - 13 and quality of electricity.
 - 14 (3) Benefits to customers or classes of customers from participation in a
 - 15 competitive electricity market.
- 16 6. Whether and to what extent power produced by the Garrison dam should be taxed
- 17 by the state.
- 18 7. The source and cost of power supplied to the state's Indian reservations.
- 19 8. Other issues related to the generation, transmission, and distribution of electric
- 20 energy.

21 **SECTION 15. AMENDMENT.** Subsection 2 of section 54-44.1-06 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 2. Statements of actual revenue for the previous biennium, the first year of the
- 24 present biennium, and the estimated revenue of the current fiscal year and of the
- 25 next biennium, and a statement of unappropriated surplus expected to have
- 26 accrued in the state treasury at the beginning of the next fiscal year. The
- 27 statement of unappropriated surplus for the general fund must reflect any projected
- 28 deficiency appropriations relating to expenditures from the general fund for the
- 29 present biennium. The statements of revenue and estimated revenue must be
- 30 classified by sources and by budget unit collecting them. Existing sources of

1 revenue must be analyzed as to their equity, productivity, and need for revision,
2 and any proposed new sources of revenue must be explained.

3 **SECTION 16. AMENDMENT.** Section 54-44.1-12 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-44.1-12. Control over rate of expenditures.** The director of the budget shall
6 exercise continual control over the execution of the budget affecting the departments and
7 agencies of state government, with the exception of the legislative and judicial branches.
8 Execution means the analysis and approval of all commitments for conformity with the program
9 provided in the budget, frequent comparison of actual revenues and budget estimates, and on
10 the basis of these analyses and comparisons control the rate of expenditures through a system
11 of allotments. The allotment must be made by specific fund and all departments and agencies
12 that receive moneys from that fund must be allotted on a uniform percentage basis, except that
13 appropriations to the department of public instruction for foundation aid, transportation aid, and
14 special education aid may only be allotted to the extent that the allotment can be offset by
15 transfers from the foundation aid stabilization fund. Any allotment must be made to the extent
16 necessary to address any projected deficiency appropriations for agencies receiving moneys
17 from the fund. Before an allotment is made which will reduce the amount of funds which can be
18 disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure
19 is made, the director shall find one or more of the following circumstances to exist:

- 20 1. The moneys and estimated revenues in a specific fund from which the
21 appropriation is made are insufficient to meet all legislative appropriations from the
22 fund.
- 23 2. The payment or the obligation incurred is not authorized by law.
- 24 3. The expenditure or obligation is contrary to legislative intent as recorded in any
25 reliable legislative records, including:
- 26 a. Statements of legislative intent expressed in enacted appropriation measures
27 or other measures enacted by the legislative assembly; and
- 28 b. Statements of purpose of amendment explaining amendments to enacted
29 appropriation measures, as recorded in the journals of the legislative
30 assembly.

1 4. Circumstances or availability of facts not previously known or foreseen by the
2 legislative assembly which make possible the accomplishment of the purpose of
3 the appropriation at a lesser amount than that appropriated.

4 **SECTION 17.** Two new sections to chapter 54-59 of the North Dakota Century Code
5 are created and enacted as follows:

6 **Required use of electronic mail, file and print server administration, data base**
7 **administration, desktop personal computer support, and application server and hosting**
8 **services.** Each state agency and institution, excluding the institutions under the control of the
9 board of higher education, that desires electronic mail, file and print server administration, data
10 base administration, desktop personal computer support, disaster recovery, and application
11 server and hosting services shall obtain those services from the department. The chief
12 information officer may exempt from the application of this section any agency that
13 demonstrates its current services are more appropriate for the specific needs of that agency
14 than the services available from the department.

15 **Department shall establish certain standards for agencies - Advisory committee -**
16 **Exceptions.** The department shall appoint an advisory committee consisting of
17 representatives of state agencies for the purposes of prioritizing major computer software
18 projects and establishing policies, standards, and guidelines for executive branch state
19 agencies and agencies of the judicial and legislative branches with respect to the purchase of
20 computer software and computer systems. The chief information officer shall submit
21 recommendations of the advisory committee regarding major software projects to the
22 information technology committee for consideration by the committee and the drafting of
23 appropriate legislation to implement the recommendations. The chief information officer may
24 exempt an agency from the policies, standards, and guidelines established by the committee to
25 address situations unique to that agency. Before an executive branch state agency may
26 purchase or contract for computer software or computer systems associated with electronic
27 mail, file and print services hosting and support, desktop personal computers and desktop
28 support services, mainframe and distributed computing hosting services, or services for
29 disaster recovery of critical systems, the department shall review the proposed purchase and
30 approve of the purchase.

1 **SECTION 18. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-59-05. Powers and duties of department.** The department:

- 4 1. Shall provide, supervise, and regulate information technology of all executive
5 branch state entities, excluding the institutions under the control of the board of
6 higher education.
- 7 2. Shall provide network services in a way that ensures the network requirements of
8 a single entity do not adversely affect the functionality of the whole network,
9 facilitates open communications with the citizens of the state, minimizes the state's
10 investment in human resources, accommodates an ever-increasing amount of
11 traffic, supports rapid detection and resolution of problems, protects the network
12 infrastructure from damage and security breaches, provides for the aggregation of
13 data, voice, video, and multimedia into a statewide transport mechanism or
14 backbone, and provides for the network support for the entity to carry out its
15 mission.
- 16 3. May review and approve additional network services that are not provided by the
17 department.
- 18 4. May purchase, finance the purchase, or lease equipment or software or replace,
19 including by trade or resale, equipment or software as may be necessary to carry
20 out this chapter. An agreement to finance the purchase of software, equipment, or
21 implementation services may not exceed a period of three years. The department
22 shall submit any intended financing proposal for the purchase of software,
23 equipment, or implementation services under this subsection, which is in excess of
24 one million dollars, to the budget section of the legislative council before executing
25 a financing agreement. If the budget section does not approve the execution of a
26 financing agreement, the department may not proceed with the proposed financing
27 arrangement. The department may finance the purchase of software, equipment,
28 or implementation services only to the extent the purchase amount does not
29 exceed the amount appropriated to the department during that biennium for
30 equipment.

- 1 5. Each executive branch agency or institution, ~~except~~ excluding the institutions
2 under the control of the board of higher education with respect to academic and
3 research uses of information technology, shall submit to the department, in
4 accordance with guidelines established by the department, a written request for
5 the lease, purchase, or other contractual acquisition of information technology.
6 The department shall review requests for conformance with the requesting entity's
7 information technology plan and compliance with statewide policies and standards.
8 If the request is not in conformance or compliance, the department may
9 disapprove the request or require justification for the departure from the plan or
10 statewide policy or standard.
- 11 ~~5.~~ 6. Shall provide information technology, including assistance and advisory service, to
12 the executive, legislative, and judicial branches. If the department is unable to
13 fulfill a request for service from the legislative or judicial branch, the information
14 technology may be procured by the legislative or judicial branch within the limits of
15 legislative appropriations.
- 16 ~~6.~~ 7. May request information on or review information technology, applications, system
17 development projects, and application development projects of executive branch
18 agencies.
- 19 ~~7.~~ 8. Shall study emerging technology and evaluate its impact on the state's system of
20 information technology.
- 21 ~~8.~~ 9. Shall develop guidelines for reports to be provided by each executive branch
22 agency, institution, or department, the institutions under the control of the board of
23 higher education, and agencies of the judicial and legislative branches on
24 information technology in those entities.
- 25 ~~9.~~ 10. Shall review the information technology management of executive branch
26 agencies or institutions, ~~including institutions under the control of the board of~~
27 ~~higher education as provided in section 54-59-13.~~
- 28 ~~10.~~ 11. Shall perform all other duties necessary to carry out this chapter.

29 **SECTION 19. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **54-59-09. Information technology standards.** Based on information from state
2 agencies and institutions, the department shall develop statewide information technology
3 policies, standards, and guidelines. The policies, standards, and guidelines must recognize the
4 uniqueness of certain agencies and state which agencies are included or exempted from the
5 policies, standards, and guidelines. The policies, standards, and guidelines must be approved
6 by the state information technology advisory committee. Unless an exemption is granted by the
7 ~~department~~ chief information officer, each executive branch state agency and institution,
8 excluding the institutions under the control of the board of higher education with respect to
9 academic and research uses of information technology, shall comply with the policies and
10 standards developed by the department. Unless an exemption is granted by the ~~department~~
11 chief information officer, each entity receiving wide area network services provided by the
12 department shall comply with the policies and standards developed by the department with
13 respect to access to or use of wide area network services.

14 **SECTION 20. TRANSFER OF STATE AGENCY INFORMATION TECHNOLOGY**

15 **EMPLOYEE POSITIONS - CONSOLIDATION OF INFORMATION TECHNOLOGY**

16 **FUNCTIONS.** On November 1, 2003, the following number of authorized full-time equivalent
17 employee positions relating to information technology services, including electronic mail, file
18 and print server administration, data base administration, desktop personal computer support,
19 disaster recovery, and application server and hosting services must be transferred from the
20 named agencies to the information technology department, unless reduced by the chief
21 information officer:

22 AGENCY	FULL-TIME EQUIVALENT
23	EMPLOYEE POSITIONS
24 Secretary of state	1
25 Office of management and budget	2
26 State auditor's office	1
27 Attorney general	3
28 Tax department	4
29 Legislative branch	3
30 Judicial branch	3
31 Retirement and investment office	1
32 Public employees retirement system	2

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1	Department of public instruction	2
2	Land department	1
3	School for the deaf	1
4	Vision services - school for the blind	1
5	State board for vocational and technical education	1
6	State department of health	3
7	Veterans' home	1
8	Department of human services	31
9	Job service North Dakota	11
10	Industrial commission	3
11	Public service commission	1
12	Bank of North Dakota	7
13	Housing finance agency	2
14	Mill and elevator	1
15	Workers compensation bureau	5
16	Highway patrol	3
17	Department of corrections and rehabilitation	3
18	Department of commerce	1
19	Game and fish department	2
20	Parks and recreation department	1
21	State water commission	2
22	Department of transportation	7
23	The agencies shall retain funding relating to the transferred employee positions and	
24	related costs, which is contained in the agencies' respective appropriations bill. Each of the	
25	agencies shall establish an information technology services line item consisting of funding	
26	related to the salaries and wages for the transferred employee positions and related funding for	
27	equipment, training, office rent, travel, contracted services, or other related costs for electronic	
28	mail, file and print server administration, data base administration, desktop personal computer	
29	support, disaster recovery, and application server and hosting services. Agencies shall	
30	develop documentation supporting the related funding transferred to the information technology	
31	services line item. Any line item transfer must be reported to the office of management and	

1 budget. Each of the agencies shall use the funding contained in the information technology
2 services line item to purchase information technology services from the information technology
3 department. Each of the agencies shall make arrangements with the information technology
4 department for the transfer of equipment and material related to the transferred employee
5 positions and services from the respective agency to the department. The information
6 technology department may receive any funding relating to the purchase of information
7 technology services under this section, which is hereby appropriated. Each agency is entitled
8 to receive from the information technology department the equivalent in services that would
9 have been performed by employees in the transferred positions at a cost not exceeding the
10 amounts transferred to the agency's information technology services line item.

11 The information technology department shall determine the number of full-time
12 equivalent positions necessary to provide the related information technology functions to state
13 agencies. The department may employ the number of necessary employees and require all
14 persons interested in filling the employee positions to apply with the department. In filling the
15 employee positions, the department shall give preference to current state employees working in
16 information technology. The department may make arrangements with the agency from which
17 an employee was transferred to transfer any leave accrued by that employee.

18 **SECTION 21. INFORMATION TECHNOLOGY FUNCTION CONSOLIDATION -**
19 **ACCUMULATED SAVINGS - TRANSFER TO THE GENERAL FUND.** The information
20 technology department shall achieve efficiencies during the biennium beginning July 1, 2003,
21 and ending June 30, 2005, relating to the required consolidation of information technology
22 functions, including electronic mail, file and print server administration, data base
23 administration, desktop personal computer support, disaster recovery, and application server
24 and hosting services. The information technology department through efficiencies resulting
25 from this consolidation shall achieve accumulated net savings totaling \$4,000,000 for the
26 2003-05 biennium. The director of the office of management and budget shall transfer the
27 savings accumulated as a result of these efficiencies in the amount of \$4,000,000 to the
28 general fund by June 30, 2005.

29 **SECTION 22. INFORMATION TECHNOLOGY SERVICE - REPORTS TO THE**
30 **INFORMATION TECHNOLOGY COMMITTEE AND THE BUDGET SECTION.** The information
31 technology department shall document information relating to the delivery of the consolidated

1 services to agencies, including service dependability, agency complaints, and information
2 technology department responsiveness, and shall report that information and the status of the
3 accumulated savings to the information technology committee and the budget section as
4 requested. Any agency receiving consolidated services may provide information to the
5 information technology committee with respect to service availability, service dependability,
6 complaints of the agency or of persons receiving services from the agency or the department,
7 department responsiveness, and any additional costs incurred by the agency as a result of the
8 consolidated services.

9 **SECTION 23. INFORMATION TECHNOLOGY LEGISLATIVE COUNCIL STUDY -**
10 **APPROPRIATION - REPORTS TO THE BUDGET SECTION.** There is appropriated out of any
11 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
12 \$350,000, or so much of the sum as may be necessary, to the legislative council for the
13 biennium beginning July 1, 2003, and ending June 30, 2005, for the purpose of contracting with
14 consultants to conduct an information technology consolidation and an information technology
15 management study and to provide assistance with the preparation of the request for proposals
16 and consultant oversight. The studies must be completed by October 1, 2003, and periodic
17 progress reports on the status of studies must be provided to the information technology
18 committee. A final report must be presented to the budget section upon completion of the
19 studies.

20 The information technology consolidation study must address the consolidation of
21 information technology functions, including a review and identification of:

- 22 1. The cost of providing electronic mail administration, file and print server
23 administration, seat management and desktop personal computer support,
24 mainframe and distributed computing hosting services, consolidated storage
25 management and disaster recovery, and software development.
- 26 2. The roles and responsibilities of agency personnel providing information
27 technology services and the positions to be consolidated.
- 28 3. The positions and competencies needed by the information technology department
29 to provide the information technology services on a centralized basis, including the
30 organizational changes required within the department to provide the centralized
31 services.

- 1 4. The human resource management issues, including change management,
2 training, and employee compensation, to be addressed for a successful
3 consolidation.
- 4 5. The adequacy and quality of the services as currently provided and proper
5 performance measures.
- 6 6. The comparison of current costs to industry data and data from other states.
- 7 7. The costs and benefits of providing the services on a centralized basis and the
8 cost of an agency providing the services on an individual basis.
- 9 8. Information technology services appropriate to be performed by individual
10 agencies.
- 11 9. A plan to consolidate the services identified, including the reorganization tasks,
12 personnel transfers, and the changes required for information technology
13 budgeting and cost allocation processes.

14 The information technology management study must include a review of:

- 15 1. The technology management processes of other states and private industry with
16 respect to prioritizing state agency information technology budget requests,
17 establishing information technology standards and policies, and overseeing
18 information technology expenditures.
- 19 2. The role of other states in providing information technology services to nonstate
20 government entities.
- 21 3. The level of information technology outsourcing in other state governments and the
22 private sector and the applicability to the state of North Dakota.
- 23 4. The trends that will impact technology deployment and spending in the next five to
24 ten years.
- 25 5. The level of coordination in the management of enterprise initiatives, such as the
26 state wide area network, the enterprise resource planning system initiative, the
27 geographic information systems initiative, and the criminal justice information
28 sharing initiative, compared to other states, including a recommendation regarding
29 the appropriate governance structure to provide the maximum benefits to the state.

30 **SECTION 24. TRANSFER OF APPROPRIATION AUTHORITY BETWEEN LINE**

31 **ITEMS.** Notwithstanding section 54-16-04, the director of the office of management and budget

1 and the state treasurer shall make transfers of funds between line items for state agencies,
2 departments, and institutions as may be requested to accommodate information technology
3 funding reductions made by the fifty-eighth legislative assembly. The office of management
4 and budget shall report to the budget section regularly on transfers made pursuant to this
5 section.

6 **SECTION 25. CONSOLIDATION OF HIGHER EDUCATION INFORMATION**

7 **TECHNOLOGY FUNCTIONS.** The North Dakota university system shall consolidate full-time
8 equivalent employee positions relating to information technology services, including electronic
9 mail, file and print server administration, data base administration, desktop personal computer
10 support, disaster recovery, and application server and hosting services.

11 The North Dakota university system shall determine the number of full-time equivalent
12 positions necessary to provide the related information technology functions to higher education
13 institutions. The university system may employ the number of necessary employees and
14 require all persons interested in filling the employee positions to apply with the system.

15 **SECTION 26. HIGHER EDUCATION INFORMATION TECHNOLOGY FUNCTION**

16 **CONSOLIDATION - ACCUMULATED SAVINGS - APPROPRIATION.** The North Dakota
17 university system shall achieve during the biennium beginning July 1, 2003, and ending
18 June 30, 2005, efficiencies relating to required consolidation of information technology services,
19 including electronic mail, file and print server administration, data base administration, desktop
20 personal computer support, disaster recovery, and application server and hosting services.

21 The North Dakota university system, through efficiencies resulting from this consolidation, shall
22 achieve accumulated savings totaling \$2,000,000 for the 2003-05 biennium. The director of the
23 office of management and budget shall transfer the savings accumulated as a result of these
24 efficiencies in the amount of \$2,000,000 to the general fund by June 30, 2005.

25 **SECTION 27. HIGHER EDUCATION INFORMATION TECHNOLOGY SERVICE -**
26 **REPORTS TO THE INFORMATION TECHNOLOGY COMMITTEE AND THE BUDGET**

27 **SECTION.** The North Dakota university system shall document information relating to the
28 delivery of the consolidated services to higher education institutions, including service
29 dependability, higher education institution complaints, and university system responsiveness,
30 and shall report that information to the information technology committee. The North Dakota
31 university system shall also document information regarding the related savings from the

1 consolidation and report on the status of the accumulated net savings to the information
2 technology committee and the budget section as requested.

3 **SECTION 28. TECHNOLOGY CRITICAL NEEDS POOL - BUDGET SECTION**

4 **APPROVAL.** The information technology critical needs pool appropriation included in section 1
5 of this Act is for addressing state agencies, departments, and institutions critical information
6 technology needs. State agencies, departments, and institutions requesting critical needs
7 funding shall submit a written request detailing the purpose and need for the funding to the
8 chief information officer of the information technology department. Requests approved by the
9 information technology department must be forwarded to the office of management and budget
10 which shall transfer funding from the critical needs pool to agencies, departments, and
11 institutions upon approval of the request by the budget section.

12 **SECTION 29. AMENDMENT.** Section 57-51.1-07.2 of the North Dakota Century Code
13 is amended and reenacted as follows:

14 **57-51.1-07.2. Permanent oil tax trust fund - Deposits - Interest - Adjustment of**
15 **distribution formula.** At the end of any biennium beginning after June 30, 1997, all revenue
16 deposited in the general fund during that biennium and derived from taxes imposed on oil and
17 gas under chapters 57-51 and 57-51.1 which exceeds ~~sixty-two~~ sixty-six million six hundred
18 forty-one thousand dollars must be transferred by the state treasurer to a special fund in the
19 state treasury known as the permanent oil tax trust fund. ~~At the end of the 1995-97 biennium~~
20 ~~all revenue deposited in the general fund during that biennium and derived from taxes imposed~~
21 ~~on oil and gas under chapters 57-51 and 57-51.1 which exceeds fifty-six million three hundred~~
22 ~~thousand dollars must be transferred by the state treasurer to a special fund in the state~~
23 ~~treasury known as the permanent oil tax trust fund.~~ The state treasurer shall transfer interest
24 earnings of the permanent oil tax trust fund to the general fund at the end of each fiscal year.
25 The principal of the permanent oil tax trust fund may not be expended except upon a two-thirds
26 vote of the members elected to each house of the legislative assembly.

27 If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after
28 June 30, 1997, the director of the budget shall adjust the ~~sixty-two~~ sixty-six million six hundred
29 forty-one thousand dollar amount in this section by the same percentage increase or decrease
30 in the amount of revenue allocable to the general fund after the change in the allocation
31 formula, and transfers to the permanent oil tax trust fund shall thereafter be made using that

1 adjusted figure so that the dollar amount of the transfers to the permanent oil tax trust fund is
2 not increased or decreased merely because of changes in the distribution formulas.

3 Notwithstanding section 54-27.2-02, the state treasurer shall make the transfers
4 required by this section before calculating any general fund revenue balance available for
5 transfer to the budget stabilization fund under chapter 54-27.2. In this section, "at the end of
6 any biennium" has the same meaning as in section 54-27.2-02.

7 **SECTION 30. BONUSES OR TEMPORARY SALARY ADJUSTMENTS -**

8 **PROHIBITED.** No state official, agency, department, or institution may pay any employee
9 bonuses or temporary salary adjustments for extra working hours incurred as a result of the
10 legislative session.

11 **SECTION 31. LEGISLATIVE INTENT - SUPPORT OF TELECOMMUTING.** The
12 fifty-seventh legislative assembly enacted North Dakota Century Code section 54-06-24.1 to
13 encourage state agencies to implement telecommuting by locating state employees away from
14 central office settings. In furtherance of this action, it is the intent of the fifty-eighth legislative
15 assembly that the central personnel division incorporate language within every advertisement
16 the division publishes for a position within state government that the position may be filled
17 through telecommuting and any offer of filling the position by telecommuting will be considered.
18 It is also the intent of the fifty-eighth legislative assembly that the central personnel division
19 include in every employment advertisement a web site address that has complete details on
20 telecommuting.

21 **SECTION 32. APPROPRIATION.** There is appropriated out of any moneys in the
22 general fund in the state treasury, not otherwise appropriated, the sum of \$30,000, or so much
23 of the sum as may be necessary, to the legislative council for the biennium beginning July 1,
24 2003, and ending June 30, 2005, for the purpose of upgrading sound systems in the house and
25 senate chambers.

26 **SECTION 33. EXAMINATION OF MINERAL SEVERANCE TAX APPLICATION TO**
27 **FEDERAL LANDS - REPORT TO LEGISLATIVE COUNCIL.** During the 2003-04 interim, the
28 tax commissioner shall cause an examination to be made of all mineral production from lands
29 under the ownership or control of federal or quasi-federal entities, including farm credit services
30 or its predecessor federal land bank, to assure that taxes imposed by chapters 57-51, 57-51.1,
31 and 57-61 are being imposed, collected, and reported as required by law. The tax

1 commissioner shall also ascertain whether mineral severance taxes are being imposed on
2 these properties to the fullest extent allowed under section 5 of article X of the Constitution of
3 North Dakota and recommend any legislation necessary to accomplish that objective. Before
4 September 1, 2004, the tax commissioner shall report the findings and recommendations under
5 this section, together with any legislation necessary to implement the recommendations, to a
6 committee designated by the legislative council.

7 **SECTION 34. 2005-07 EXECUTIVE BUDGET - STUDENT LOAN TRUST FUND.** Any
8 proposal to transfer or spend moneys from the student loan trust fund included as part of the
9 2005-07 biennium executive budget must be included in a separate bill introduced for
10 consideration by the fifty-ninth legislative assembly.

11 **SECTION 35. STATE AGENCY CONTINUING APPROPRIATIONS - REPORTS TO**
12 **FIFTY-NINTH LEGISLATIVE ASSEMBLY.** The head of each executive branch agency,
13 institution, or department shall report during the budget presentation to the appropriations
14 committees of the fifty-ninth legislative assembly on statutory provisions authorizing the
15 agency, institution, or department to spend funds pursuant to a continuing appropriation. The
16 report must include justification for continuing the authority, and expenditures made pursuant to
17 the continuing appropriation and related revenues and fund balances for the 1999-2001
18 biennium, the 2001-03 biennium, the 2003-05 biennium to date, and projections for the 2005-07
19 biennium.

20 **SECTION 36. CERTAIN APPROPRIATION BILLS - EXECUTIVE BUDGET**
21 **RECOMMENDATION.** Notwithstanding North Dakota Century Code section 54-44.1-06, the
22 legislative council shall submit for introduction to the fifty-ninth legislative assembly the 2005-07
23 appropriation bills for the department of public instruction, department of corrections and
24 rehabilitation, state treasurer, and secretary of state based on the same funding amounts, line
25 items, and employee levels authorized by the fifty-eighth legislative assembly for the 2003-05
26 biennium. Any budget changes recommended by the office of the budget for these
27 departments for the 2005-07 biennium must be presented to the appropriations committees of
28 the fifty-ninth legislative assembly as a recommendation for amendment to the bill as
29 introduced.

30 **SECTION 37. STATE EMPLOYEE REDUCTIONS - BUDGET SECTION REPORT.**
31 The number of full-time equivalent state employees must be reduced by employee retirements,

1 employee turnover, and vacant employee positions during the biennium beginning July 1, 2003,
2 and ending June 30, 2005, as follows:

3 Executive branch agencies and	155
4 the office of the governor, excluding	
5 other offices of state elected officials	
6 and higher education	
7 State elected officials, excluding the governor	13
8 Judicial branch	8
9 Legislative branch	.6

10 One-half of this total reduction must be accomplished by December 31, 2003. The
11 additional reductions must be accomplished by December 31, 2004. Agencies shall report
12 employee positions eliminated to the office of management and budget. The office of
13 management and budget shall provide periodic reports on the employee positions eliminated by
14 agency to the budget section of the legislative council.

15 **SECTION 38. CONTINGENT APPROPRIATION - STATE EMPLOYEE**

16 **COMPENSATION - JANUARY 1, 2004.** The sums hereinafter listed, or so much thereof as
17 may be necessary, are appropriated from the general fund and from special funds or moneys
18 derived from federal funds or other income in the state treasury, not otherwise appropriated, as
19 indicated to the agencies and institutions of state government for the purpose of providing
20 compensation adjustments to employees of the various agencies and institutions in accordance
21 with section 40 of this Act for the period beginning January 1, 2004, and ending June 30, 2005.
22 These moneys may be spent only if the office of management and budget certifies to the
23 governor, legislative council, and supreme court that agencies have eliminated at least
24 eighty-eight full-time equivalent positions by December 31, 2003, as provided in section 37 of
25 this Act.

26	GENERAL	SPECIAL	
27 AGENCY OR INSTITUTION	FUND	FUNDS	TOTAL
28 Governor	\$13,572		\$13,572
29 Secretary of state	13,224		13,224
30 Office of management and budget	70,834	\$16,253	87,087
31 Information technology department	11,280	181,549	192,829

Fifty-eighth
Legislative Assembly

1	State auditor	25,958	11,890	37,848
2	State treasurer	3,899		3,899
3	Attorney general	103,892	12,083	115,975
4	Tax commissioner	81,319		81,319
5	Administrative hearings office		6,313	6,313
6	Legislative council	27,319		27,319
7	Judicial branch	185,145	1,492	186,637
8	Retirement and investment office		11,578	11,578
9	Public employees retirement system		16,439	16,439
10	Department of public instruction	21,665	39,170	60,835
11	University system office	21,712		21,712
12	Board of university and school lands		12,119	12,119
13	Forest service	10,904		10,904
14	State library	12,073	470	12,543
15	School for the deaf	29,682		29,682
16	Vision services - school for the blind	14,245	1,763	16,008
17	Board for career and technical education	18,854	424	19,278
18	State department of health	66,663	129,890	196,553
19	Veterans home	30,591	13,013	43,604
20	Indian affairs commission	2,098		2,098
21	Department of veterans' affairs	2,507	204	2,711
22	Children's services coordinating		357	357
23	committee			
24	Department of human services	778,884	347,569	1,126,453
25	Protection and advocacy project	6,600	8,499	15,099
26	Job service North Dakota	571	213,139	213,710
27	Insurance commissioner		31,107	31,107
28	Industrial commission	37,476	3,811	41,287
29	Labor commissioner	4,700	1,511	6,211
30	Public service commission	20,627	11,169	31,796
31	Aeronautics commission		4,256	4,256

Fifty-eighth
Legislative Assembly

1	Department of financial institutions		18,789	18,789
2	Securities commissioner	6,252		6,252
3	Bank of North Dakota		106,049	106,049
4	Housing finance agency		25,294	25,294
5	Workers compensation bureau		151,377	151,377
6	Highway patrol	86,856	37,777	124,633
7	Division of emergency management	4,702	7,206	11,908
8	Department of corrections	345,529	30,933	376,462
9	and rehabilitation			
10	Adjutant general	25,680	57,382	83,062
11	Department of commerce	34,170	11,300	45,470
12	Agriculture commissioner	19,545	16,281	35,826
13	Seed department		16,145	16,145
14	Upper great plains transportation	2,523	29,432	31,955
15	institute			
16	Branch research centers	44,713	9,356	54,069
17	NDSU extension service	112,216	70,775	182,991
18	Northern crops institute	3,830	3,051	6,881
19	Main research station	203,651	91,849	295,500
20	Agronomy seed farm		2,088	2,088
21	Historical society	31,843		31,843
22	Council on the arts	2,753		2,753
23	Game and fish department		99,070	99,070
24	Parks and recreation department	24,542	1,054	25,596
25	Water commission	58,829	1,107	59,936
26	Department of transportation		<u>617,865</u>	<u>617,865</u>
27	Total	\$2,623,928	\$2,480,248	\$5,104,176

SECTION 39. CONTINGENT APPROPRIATION - STATE EMPLOYEE

COMPENSATION - JANUARY 1, 2005. The sums hereinafter listed, or so much thereof as may be necessary, are appropriated from the general fund and from special funds or moneys derived from federal funds or other income in the state treasury, not otherwise appropriated, as

Fifty-eighth
Legislative Assembly

1 indicated to the agencies and institutions of state government for the purpose of providing
 2 compensation adjustments to employees of the various agencies and institutions in accordance
 3 with section 40 of this Act for the period beginning January 1, 2005, and ending June 30, 2005.
 4 These moneys may be spent only if the office of management and budget certifies to the
 5 governor, legislative council, and supreme court that agencies have eliminated at least one
 6 hundred seventy-six and six-tenths full-time equivalent positions by December 31, 2004, as
 7 provided in section 37 of this Act.

	GENERAL	SPECIAL	
9 AGENCY OR INSTITUTION	FUND	FUNDS	TOTAL
10 Governor	\$9,021		\$9,021
11 Secretary of state	8,757		8,757
12 Office of management and budget	46,955	\$10,763	57,718
13 Information technology department	7,471	120,273	127,744
14 State auditor	17,191	7,873	25,064
15 State treasurer	2,581		2,581
16 Attorney general	68,802	8,001	76,803
17 Tax commissioner	53,866		53,866
18 Administrative hearings office		4,181	4,181
19 Legislative council	18,199		18,199
20 Judicial branch	125,088	994	126,082
21 Retirement and investment office		7,712	7,712
22 Public employees retirement system		10,924	10,924
23 Department of public instruction	14,348	25,940	40,288
24 University system office	14,582		14,582
25 Board of university and school lands		8,025	8,025
26 Forest service	7,221		7,221
27 State library	7,996	311	8,307
28 School for the deaf	18,591		18,591
29 Vision services - school for the blind	9,434	1,168	10,602
30 Board for career and technical education	12,485	281	12,766
31 State department of health	44,223	86,044	130,267

Fifty-eighth
Legislative Assembly

1	Veterans home	20,264	8,617	28,881
2	Indian affairs commission	1,389		1,389
3	Department of veterans' affairs	1,660	135	1,795
4	Children's services coordinating		237	237
5	committee			
6	Department of human services	516,164	230,273	746,437
7	Protection and advocacy project	4,371	5,628	9,999
8	Job service North Dakota	378	141,153	141,531
9	Insurance commissioner		20,601	20,601
10	Industrial commission	24,855	2,524	27,379
11	Labor commissioner	3,112	1,001	4,113
12	Public service commission	13,660	7,396	21,056
13	Aeronautics commission		2,819	2,819
14	Department of financial institutions		12,538	12,538
15	Securities commissioner	4,140		4,140
16	Bank of North Dakota		70,314	70,314
17	Housing finance agency		17,231	17,231
18	Workers compensation bureau		100,358	100,358
19	Highway patrol	57,521	25,018	82,539
20	Division of emergency management	3,114	4,772	7,886
21	Department of corrections	228,828	20,485	249,313
22	and rehabilitation			
23	Adjutant general	17,093	38,001	55,094
24	Department of commerce	22,707	7,483	30,190
25	Agriculture commissioner	12,943	10,783	23,726
26	Seed department		12,023	12,023
27	Upper great plains transportation	1,718	19,554	21,272
28	institute			
29	Branch research centers	24,957	6,196	31,153
30	NDSU extension service	74,225	46,897	121,122
31	Northern crops institute	2,570	2,021	4,591

Fifty-eighth
Legislative Assembly

1	Main research station	110,489	60,566	171,055
2	Agronomy seed farm		1,383	1,383
3	Historical society	21,088		21,088
4	Council on the arts	1,824		1,824
5	Game and fish department		65,609	65,609
6	Parks and recreation department	16,254	699	16,953
7	Water commission	38,959	734	39,693
8	Department of transportation	<u> </u>	<u>409,288</u>	<u>409,288</u>
9	Total	\$1,711,094	\$1,644,827	\$3,355,921

10 **SECTION 40. LEGISLATIVE INTENT - CONTINGENT STATE EMPLOYEE**

11 **COMPENSATION ADJUSTMENTS - GUIDELINES.** It is the intent of the fifty-eighth legislative
12 assembly that 2003-05 compensation adjustments for permanent state employees are to be
13 increases of one percent, beginning with the month of January 2004, to be paid in February
14 2004, contingent on the elimination of at least eighty-eight full-time equivalent positions by
15 December 31, 2003, as provided in sections 37 and 38 of this Act and two percent, beginning
16 with the month of January 2005, to be paid in February 2005, contingent on the elimination of at
17 least one hundred seventy-six and six-tenths full-time equivalent positions by December 31,
18 2004, as provided in sections 37 and 39 of this Act.

19 Employees whose documented performance levels do not meet standards are not
20 eligible for the general increases.

21 Probationary employees are not entitled to the general increases. However,
22 probationary employees may be given all or a portion of the increases upon completion of
23 probation, at the discretion of the appointing authority.

24 During the biennium, no salary increase other than the one percent in January 2004
25 and the two percent in January 2005 may be given to an employee whose salary exceeds or
26 would exceed the salary range maximum.

27 **SECTION 41. LEGISLATIVE COUNCIL STUDY - PUBLIC EMPLOYEE HEALTH**

28 **INSURANCE BENEFITS.** The legislative council shall consider studying, during the 2003-05
29 interm, public employee health insurance benefits. If conducted, the study must include options
30 for providing health insurance for state employees, review of the availability of other health
31 insurance plans, single versus family coverage, employee contributions, and unitization of

1 premium rates for budgeting purposes. The legislative council shall report its findings and
2 recommendations, together with any legislation required to implement the recommendations, to
3 the fifty-ninth legislative assembly.

4 **SECTION 42. SPECIFIED EXEMPT COMMODITIES AND SERVICES - REPORT TO**
5 **THE BUDGET SECTION.** The director of the office of management and budget shall report to
6 the budget section in December of even-numbered years on specified commodities and
7 services exempted by written directive of the director from the procurement requirements of
8 chapter 54-44.4.

9 **SECTION 43. EMERGENCY.** Section 23 of this Act is declared to be an emergency
10 measure.