

APPROPRIATIONS

CHAPTER 1

HOUSE BILL NO. 1001

(Appropriations Committee)
(At the request of the Governor)

GOVERNOR

AN ACT to provide an appropriation for defraying the expenses of the office of the governor; to provide a continuing appropriation; and to amend and reenact sections 54-07-04 and 54-08-03 of the North Dakota Century Code, relating to the salaries of the governor and lieutenant governor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the office of the governor in section 3 of this Act as follows:

Salaries and wages	\$2,009,850
Operating expenses	265,736
Grants	760,000
Contingencies	10,000
Roughrider awards	10,800
Presidential electors	500
Governor's transition in	15,000
Governor's transition out	<u>40,000</u>
Total all funds - Base level	\$3,111,886
Less estimated income - Base level	<u>780,000</u>
Total general fund - Base level	\$2,331,886

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the office of the governor which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$256,471
Operating expenses	86,633
Grants	1,740,000
Presidential electors	(500)
Governor's transition in	(15,000)
Governor's transition out	<u>(40,000)</u>
Total all funds - Adjustments/enhancements	\$2,027,604
Less estimated income - Adjustments/enhancements	<u>1,780,000</u>
Total general fund - Adjustments/enhancements	\$247,604

SECTION 3. 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 the governor for the purpose of defraying the expenses of the office of the governor, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$2,266,321
Operating expenses	352,369
Grants	2,500,000
Contingencies	10,000
Roughrider awards	<u>10,800</u>
Total all funds	\$5,139,490
Less estimated income	<u>2,560,000</u>
Total general fund appropriation	\$2,579,490

SECTION 4. APPROPRIATION - AUTHORIZATION - GOVERNOR'S OFFICE. In addition to the amount appropriated to the governor's office in section 3 of this Act, there is appropriated any additional income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. AMENDMENT. Section 54-07-04 of the North Dakota Century Code is amended and reenacted as follows:

54-07-04. Salary of governor. The annual salary of the governor is ~~eighty-five thousand five hundred six dollars through June 30, 2002, and eighty-seven thousand eight hundred two nine hundred sixteen~~ eighty-eight thousand two hundred sixteen ~~twenty-six~~ twenty-six dollars through June 30, 2006, and ninety-two thousand four hundred eighty-three ~~dollars~~ thereafter.

SECTION 6. AMENDMENT. Section 54-08-03 of the North Dakota Century Code is amended and reenacted as follows:

54-08-03. Salary of lieutenant governor. The annual salary of the lieutenant governor is ~~sixty-six thousand three hundred eighty dollars through June 30, 2002, and sixty-seven thousand six hundred seven hundred eight~~ sixty-seven thousand six hundred eighty ~~thirty-five~~ thirty-five dollars through June 30, 2006, and seventy-one thousand seven hundred ninety-seven ~~dollars~~ thereafter.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 2

HOUSE BILL NO. 1002

(Appropriations Committee)
(At the request of the Governor)

SECRETARY OF STATE

AN ACT to provide an appropriation for defraying the expenses of the office of the secretary of state and public printing; to provide an exemption; to define matching requirements for the Help America Vote Act; to amend and reenact sections 54-09-05 and 54-09-08 of the North Dakota Century Code, relating to the salary of the secretary of state and the secretary of state's general services operating fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the secretary of state in section 3 of this Act as follows:

Subdivision 1.

SECRETARY OF STATE

Salaries and wages	\$2,153,618
Operating expenses	2,025,589
Petition review	8,000
Election reform	<u>9,500,000</u>
Total all funds - Base level	\$13,687,207
Less estimated income - Base level	<u>9,880,363</u>
Total general fund - Base level	\$3,806,844

Subdivision 2.

SECRETARY OF STATE - PUBLIC PRINTING

Operating expenses	\$336,000
Total general fund - Base level	\$336,000
Total general fund - Section 1	\$4,142,844
Total special funds - Section 1	\$9,880,363
Total all funds - Section 1	\$14,023,207

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the secretary of state which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

SECRETARY OF STATE

Salaries and wages	\$130,493
Operating expenses	50,472
Capital assets	15,000
Election reform	<u>79,728</u>
Total all funds - Adjustments/enhancements	\$275,693
Less estimated income - Adjustments/enhancements	<u>63,253</u>
Total general fund - Adjustments/enhancements	\$212,440

Subdivision 2.

SECRETARY OF STATE - PUBLIC PRINTING

Operating expenses	(\$9,000)
Total general fund - Adjustments/enhancements	(\$9,000)
Total general fund - Section 2	\$203,440
Total special funds - Section 2	\$63,253
Total all funds - Section 2	\$266,693

SECTION 3. 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 secretary of state for the purpose of defraying the expenses of the secretary of state and public printing, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

SECRETARY OF STATE

Salaries and wages	\$2,284,111
Operating expenses	2,076,061
Capital assets	15,000
Petition review	8,000
Election reform	9,579,728
Total all funds	<u>\$13,962,900</u>
Less estimated income	<u>9,943,616</u>
Total general fund appropriation	\$4,019,284

Subdivision 2.

SECRETARY OF STATE - PUBLIC PRINTING

Operating expenses	\$327,000
Total general fund appropriation	\$327,000
Grand total general fund appropriation - H.B. 1002	\$4,346,284
Grand total special funds appropriation - H.B. 1002	\$9,943,616
Grand total all funds appropriation - H.B. 1002	\$14,289,900

SECTION 4. COLLECTIONS FROM COUNTIES - GENERAL FUND REVENUE. The secretary of state shall collect \$76,100 from counties or make available \$76,100 from other sources, including savings from other areas within the secretary of state's budget to reimburse the general fund for a portion of the state matching requirement provided for federal election reform funds for the biennium beginning July 1, 2005, and ending June 30, 2007. All funds collected or made available by the secretary of state under this section must be deposited in the general fund or if made available from general fund budget savings of the secretary of state, be returned to the general fund as unspent general fund appropriation authority for the 2005-07 biennium.

SECTION 5. EXEMPTION. The appropriation contained in subdivision 1 of section 1 of chapter 2 of the 2001 Session Laws is not subject to the provisions of section 54-44.1-11 for an amount of up to \$105,000, and this amount may be used as state matching funds for federal election reform funding available to the state, for the biennium beginning July 1, 2005, and ending June 30, 2007.

¹ **SECTION 6. AMENDMENT.** Section 54-09-05 of the North Dakota Century Code is amended and reenacted as follows:

54-09-05. Salary of secretary of state. The annual salary of the secretary of state is ~~sixty-four thousand seven hundred forty-two dollars through December 31, 2001, sixty-six thousand seven hundred eighty-four dollars through June 30, 2002~~ sixty-six thousand seven hundred eighty-four dollars through December 31, 2001, sixty-six thousand seven hundred eighty-four dollars through June 30, 2002, and ~~sixty-eight thousand eight hundred sixty-one dollars thereafter.~~ sixty-eight thousand eight hundred sixty-one dollars thereafter.

SECTION 7. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund. The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and sections 54-09-10 and 54-09-11. At the close of each ~~fiscal year~~ biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

SECTION 8. EMERGENCY. The election reform line item in subdivision 1 of section 3 and section 5 of this Act are declared to be an emergency measure.

Approved April 25, 2005

Filed April 26, 2005

¹ Section 54-09-05 was also amended by section 18 of House Bill No. 1015, chapter 15.

CHAPTER 3

HOUSE BILL NO. 1003

(Appropriations Committee)
(At the request of the Governor)

ATTORNEY GENERAL

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to provide an appropriation for defraying the expenses of the racing commission; to provide an exemption; to provide for racing commission expenses; to provide a statement of legislative intent; to provide for duties of the attorney general; to provide for a salary equity review and recommendation; to amend and reenact subsection 1 of section 53-06.2-02 and section 54-12-11 of the North Dakota Century Code, relating to the membership of the racing commission and the salary of the attorney general; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the attorney general in section 3 of this Act as follows:

Salaries and wages	\$18,461,301
Operating expenses	7,995,471
Capital assets	1,830,250
Grants	5,891,560
Litigation fees	50,000
State school finance lawsuit	240,000
Arrest and return of fugitives	10,000
Gaming commission	<u>5,109</u>
Total all funds - Base level	\$34,483,691
Less estimated income - Base level	<u>17,429,474</u>
Total general fund - Base level	\$17,054,217

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the attorney general which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$926,395
Operating expenses	488,324
Capital assets	(44,200)
Grants	52,496
Gaming commission	<u>(70)</u>
Total all funds - Adjustments/enhancements	\$1,422,945
Less estimated income - Adjustments/enhancements	<u>(515,729)</u>
Total general fund - Adjustments/enhancements	\$1,938,674

SECTION 3. 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 attorney general for the purpose

of defraying the expenses of the attorney general, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$19,387,696
Operating expenses	8,483,795
Capital assets	1,786,050
Grants	5,944,056
Litigation fees	50,000
State school finance lawsuit	240,000
Arrest and return of fugitives	10,000
Gaming commission	5,039
Total all funds	\$35,906,636
Less estimated income	16,913,745
Total general fund appropriation	\$18,992,891

SECTION 4. APPROPRIATION - RACING COMMISSION. 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, to the racing commission for the purpose of defraying the expenses of the racing commission, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Racing commission	\$367,145
Total all funds	\$367,145
Less estimated income	249,666
Total general fund appropriation	\$117,479

SECTION 5. SCHOOL FINANCE LAWSUIT. The state school finance lawsuit line item in section 3 of this Act is for the purpose of defraying the expenses of defending the state's school finance system for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. ESTIMATED INCOME - GAMING AND EXCISE TAX ALLOCATION FUND - LOCAL GAMING ENFORCEMENT GRANTS. The grants line item in section 3 of this Act includes \$617,000 for local gaming enforcement grants.

SECTION 7. FIRE AND TORNADO FUND - FEES. The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the fire and tornado fund under chapter 26.1-22. Fees under this section may be collected in amounts of up to a total of \$310,000 for the biennium beginning July 1, 2005, and ending June 30, 2007. All fees collected under this section must be deposited in the attorney general's operating fund.

SECTION 8. PETROLEUM RELEASE COMPENSATION FUND - FEES. The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the petroleum release compensation fund under chapter 23-37. Fees under this section may be collected in amounts of up to a total of \$35,000 for the biennium beginning July 1, 2005, and ending June 30, 2007. All fees collected under this section must be deposited in the attorney general's operating fund.

SECTION 9. ESTIMATED INCOME - RACING PROMOTION, PURSE, AND BREEDERS' FUNDS. Notwithstanding section 53-06.2-11, the estimated income line item in section 4 of this Act includes \$73,889 from the racing promotion fund, \$73,889 from the purse fund, and \$73,888 from the breeders' fund for the purpose of

defraying the administrative and operating costs of the racing commission for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. FEDERAL FUNDS - REDUCTION IN GENERAL FUND EXPENDITURES. If the attorney general receives federal funds that may be used to replace the reduction in federal Byrne grant funds for drug enforcement activities during the 2005-07 biennium, the attorney general may seek emergency commission approval to receive and spend the federal funds but may not spend moneys from the general fund added by the legislative assembly to the extent of the federal funds received for this purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 11. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXCEPTION. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2005.

SECTION 12. LEGISLATIVE INTENT - FUNDING PRIORITY. It is the intent of the fifty-ninth legislative assembly that the attorney general prioritize the attorney general's funding appropriated by the legislative assembly for the biennium beginning July 1, 2005, and ending June 30, 2007, to continue, to the extent possible, the drug enforcement activities that were previously paid for from federal Byrne grant funds.

SECTION 13. MEDICARE AND MEDICAID FRAUD ABUSE. The attorney general shall consider, in consultation with the United States department of justice, the feasibility of naming the state of North Dakota as a plaintiff in medicare and medicaid fraud abuse cases being considered by the United States department of justice for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 14. SALARY REVIEW AND RECOMMENDATION. During the 2005-06 interim, the director of the office of management and budget shall conduct an equity review of the salaries of all attorneys and paralegals employed as full-time employees with all branches of government within the state of North Dakota, including attorneys and paralegals employed by the state board of higher education and workforce safety and insurance. The director shall provide to the governor for inclusion in the 2007-09 biennial executive budget recommendation the funding necessary to adjust the salaries of attorneys and paralegals in a manner that makes attorney and paralegal salaries comparable and equitable throughout state government. In determining comparable positions based upon years of experience and importance of position, the director shall consult with the attorney general.

² SECTION 15. AMENDMENT. Subsection 1 of section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services

² Section 53-06.2-02 was also amended by section 1 of Senate Bill No. 2340, chapter 467.

rendered to the racing commission. Payment for such services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the governor. Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves only for the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.

³ **SECTION 16. AMENDMENT.** Section 54-12-11 of the North Dakota Century Code is amended and reenacted as follows:

54-12-11. Salary of attorney general. The annual salary of the attorney general is ~~seventy-one thousand seventy-two dollars through December 31, 2001, seventy-three thousand seven hundred two dollars through June 30, 2002, and seventy-four thousand six hundred eighty-four dollars thereafter.~~ seventy-six thousand two hundred ninety-four dollars through June 30, 2006, and seventy-four thousand six hundred eighty-four dollars thereafter.

SECTION 17. EMERGENCY. Section 11 of this Act is declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005

³ Section 54-12-11 was also amended by section 21 of House Bill No. 1015, chapter 15.

CHAPTER 4

HOUSE BILL NO. 1004

(Appropriations Committee)
(At the request of the Governor)

STATE AUDITOR

AN ACT to provide an appropriation for defraying the expenses of the state auditor; and to amend and reenact section 54-10-10 of the North Dakota Century Code, relating to the salary of the state auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state auditor in section 3 of this Act as follows:

Salaries and wages	\$5,981,437
Operating expenses	<u>717,771</u>
Total all funds - Base level	\$6,699,208
Less estimated income - Base level	<u>2,117,976</u>
Total general fund - Base level	\$4,581,232

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state auditor which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$638,288
Operating expenses	158,524
Capital assets	<u>10,000</u>
Total all funds - Adjustments/enhancements	\$806,812
Less estimated income - Adjustments/enhancements	<u>299,791</u>
Total general fund - Adjustments/enhancements	\$507,021

SECTION 3. 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 state auditor for the purpose of defraying the expenses of the state auditor, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$6,619,725
Operating expenses	876,295
Capital assets	<u>10,000</u>
Total all funds	\$7,506,020
Less estimated income	<u>2,417,767</u>
Total general fund appropriation	\$5,088,253

SECTION 4. POLITICAL SUBDIVISION AUDIT FEES. Section 3 of this Act includes an appropriation of up to \$1,441,970 in funds generated by the state auditor from political subdivision audit service fees for the period beginning July 1, 2005, and ending June 30, 2007. Any amount in excess of \$1,441,970 must be deposited

in the state auditor operating account and made available for appropriation after June 30, 2007.

⁴ **SECTION 5. AMENDMENT.** Section 54-10-10 of the North Dakota Century Code is amended and reenacted as follows:

54-10-10. Salary of state auditor. The annual salary of the state auditor is ~~sixty-four~~ seventy thousand ~~seven hundred forty-two~~ fifty-nine dollars through ~~December 31, 2004~~ June 30, 2006, ~~sixty-six~~ and seventy-two thousand ~~six~~ eight hundred ~~eighty-four~~ sixty-one dollars through ~~June 30, 2002~~, and ~~sixty-eight thousand eighteen~~ dollars thereafter.

Approved April 25, 2005

Filed April 26, 2005

⁴ Section 54-10-10 was also amended by section 19 of House Bill No. 1015, chapter 15.

CHAPTER 5

HOUSE BILL NO. 1005

(Appropriations Committee)
(At the request of the Governor)

STATE TREASURER

AN ACT to provide an appropriation for defraying the expenses of the state treasurer; and to amend and reenact section 54-11-13 of the North Dakota Century Code, relating to the salary of the state treasurer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state treasurer in section 3 of this Act as follows:

Salaries and wages	\$593,830
Operating expenses	122,554
In lieu of tax payments	<u>1,910,000</u>
Total general fund - Base level	\$2,626,384

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state treasurer which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$45,647
Operating expenses	32,233
In lieu of tax payments	<u>(365,000)</u>
Total general fund - Adjustments/enhancements	(\$287,120)

SECTION 3. 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 state treasurer for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$639,477
Operating expenses	154,787
In lieu of tax payments	<u>1,545,000</u>
Total general fund appropriation	\$2,339,264

5 SECTION 4. AMENDMENT. Section 54-11-13 of the North Dakota Century Code is amended and reenacted as follows:

⁵ Section 54-11-13 was also amended by section 20 of House Bill No. 1015, chapter 15.

54-11-13. Salary of state treasurer. The annual salary of the state treasurer is ~~sixty-two thousand nine hundred seventy-four dollars through June 30, 2002, and sixty-four~~ sixty-six thousand two one hundred thirty-three ~~sixty~~ sixty dollars through June 30, 2006, and sixty-eight thousand eight hundred six dollars thereafter.

Approved April 8, 2005

Filed April 12, 2005

CHAPTER 6

HOUSE BILL NO. 1006

(Appropriations Committee)
(At the request of the Governor)

TAX COMMISSIONER

AN ACT to provide an appropriation for defraying the expenses of the office of the state tax commissioner and for payment of state reimbursement under the homestead tax credit; to provide for a transfer; to amend and reenact section 57-01-04 of the North Dakota Century Code, relating to the tax commissioner's salary; and to authorize the tax commissioner to enter into a financing agreement to establish an integrated tax system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state tax commissioner in section 3 of this Act as follows:

Salaries and wages	\$12,806,112
Operating expenses	4,438,627
Capital assets	25,000
Homestead tax credit	<u>4,000,000</u>
Total all funds	\$21,269,739
Less estimated income	<u>115,044</u>
Total general fund - Base level	\$21,154,695

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state tax commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$551,879
Operating expenses	<u>174,702</u>
Total all funds - Adjustments/enhancements	\$726,581
Less estimated income - Adjustments/enhancements	<u>4,956</u>
Total general fund - Adjustments/enhancements	\$721,625

SECTION 3. 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 state tax commissioner for the purpose of defraying the expenses of the state tax commissioner and paying the state reimbursement under the homestead tax credit, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$13,357,991
Operating expenses	4,613,329
Capital assets	25,000
Homestead tax credit	<u>4,000,000</u>
Total all funds	\$21,996,320

Less estimated income	120,000
Total general fund appropriation	\$21,876,320

SECTION 4. TRANSFER. There is transferred to the general fund in the state treasury, out of motor vehicle fuel tax revenue, collected pursuant to section 57-43.1-02, the sum of \$1,400,000 for the purpose of reimbursing the general fund for expenses incurred in the collection of the motor vehicle fuels and special fuels taxes and the administration of these taxes.

⁶ **SECTION 5. AMENDMENT.** Section 57-01-04 of the North Dakota Century Code is amended and reenacted as follows:

57-01-04. Salary. The annual salary of the state tax commissioner is ~~sixty-eight thousand two hundred seventy-seven dollars through December 31, 2004, seventy-two thousand seven hundred thirty-six dollars through June 30, 2002~~ seventy-six thousand three hundred seventy-four thirty-six dollars through June 30, 2006, and ~~seventy-three thousand eight hundred twenty-one~~ seventy-nine thousand eight hundred twenty-one seventy-seven dollars thereafter.

SECTION 6. FINANCING AGREEMENT AUTHORIZATION - APPROPRIATION. The state tax commissioner is authorized, with the advice of the chief information officer of the state, to purchase, finance the purchase, and lease equipment, software, and services, as may be determined necessary by the state tax commissioner, to establish an integrated tax processing system for use by the office of the state tax commissioner. The principal amount of any financing agreement entered into by the state tax commissioner may not exceed \$14,000,000 and the proceeds acquired from any financing agreement must be used for this stated purpose and are appropriated for the period beginning with the effective date of this Act and ending June 30, 2007. During the biennium beginning July 1, 2007, and ending June 30, 2009, the state tax commissioner shall commence repayment of any financing agreement entered into, and repayment amounts, including principal and interest, must be incorporated in the state tax commissioner's biennial budget requests to the legislative assembly.

Approved April 25, 2005

Filed April 26, 2005

⁶ Section 57-01-04 was also amended by section 24 of House Bill No. 1015, chapter 15.

CHAPTER 7

HOUSE BILL NO. 1007

(Appropriations Committee)
(At the request of the Governor)

LABOR COMMISSIONER

AN ACT to provide an appropriation for defraying the expenses of the labor commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the labor commissioner in section 3 of this Act as follows:

Salaries and wages	\$944,532
Operating expenses	<u>163,113</u>
Total all funds - Base level	\$1,107,645
Less estimated income - Base level	<u>229,698</u>
Total general fund - Base level	\$877,947

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the labor commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$182,031
Operating expenses	<u>161,230</u>
Total all funds - Adjustments/enhancements	\$343,261
Less estimated income - Adjustments/enhancements	<u>267,054</u>
Total general fund - Adjustments/enhancements	\$76,207

SECTION 3. 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 labor commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$1,126,563
Operating expenses	<u>324,343</u>
Total all funds	\$1,450,906
Less estimated income	<u>496,752</u>
Total general fund appropriation	\$954,154

Approved April 8, 2005

Filed April 12, 2005

CHAPTER 8

HOUSE BILL NO. 1008

(Appropriations Committee)
(At the request of the Governor)

PUBLIC SERVICE COMMISSION

AN ACT to provide an appropriation for defraying the expenses of the public service commission; to provide an appropriation for a rail rate complaint case; to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners; to provide for a legislative council study; to provide an exemption to section 54-44.1-11 relating to unexpended appropriations; to provide legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the public service commission in section 3 of this Act as follows:

Salaries and wages	\$4,771,497
Operating expenses	1,197,261
Capital assets	35,011
Grants	62,000
Abandoned mined lands contractual services	3,668,492
Rail rate complaint case	<u>250,000</u>
Total all funds - Base level	\$9,984,261
Less estimated income - Base level	<u>6,072,767</u>
Total general fund - Base level	<u>\$3,911,494</u>

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the public service commission which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$307,491
Operating expenses	210,892
Capital assets	53,500
Grants	(55,000)
Rail rate complaint case	<u>695,000</u>
Total all funds - Adjustments/enhancements	\$1,211,883
Less estimated income - Adjustments/enhancements	<u>848,753</u>
Total general fund - Adjustments/enhancements	<u>\$363,130</u>

SECTION 3. 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 public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$5,078,988
Operating expenses	1,408,153
Capital assets	88,511
Grants	7,000
Abandoned mined lands contractual services	3,668,492
Rail rate complaint case	<u>945,000</u>
Total all funds	\$11,196,144
Less estimated income	<u>6,921,520</u>
Total general fund appropriation	\$4,274,624

SECTION 4. ESTIMATED INCOME - RAIL RATE COMPLAINT CASE. The estimated income line item appropriation in section 3 of this Act includes the sum of \$945,000, or so much of the sum as may be necessary, consisting of \$800,000 from the beginning farmer revolving loan fund, \$20,000 of carryover authority from the state rail fund, and \$125,000 from other sources, including the shipper participating in the case, to pay for the costs associated with the rail rate complaint case. The commission must have written commitments for \$125,000 from other sources, including the shipper participating in the case, before spending any moneys from the beginning farmer revolving loan fund.

⁷ **SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners. The annual salary of a commissioner is ~~sixty-six thousand five hundred nine dollars through December 31, 2001, sixty-eight thousand seven hundred four dollars through June 30, 2002, 2006, and sixty-nine thousand eight hundred seventy-four dollars thereafter.~~ sixty-eight thousand seven hundred four dollars through June 30, 2002, 2006, and sixty-nine thousand eight hundred seventy-four dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

SECTION 6. EXEMPTION. The amount appropriated for the rail rate complaint case, as contained in section 1 of chapter 29 of the 2003 Session Laws, is not subject to the provision of section 54-44.1-11. Any unexpended funds from the rail rate complaint case line item are available for continued use for expenditures relating to the rail rate complaint case.

SECTION 7. LEGISLATIVE COUNCIL STUDY - PUBLIC SERVICE COMMISSION DUTIES AND RESPONSIBILITIES. The legislative council shall consider studying, during the 2005-06 interim, the changes in responsibilities and duties of the public service commission since its inception. The study should include an evaluation of what additional duties have been given to the commission and those duties no longer performed. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 8. REPAYMENT OF FUNDING. The public service commission shall reimburse the beginning farmer revolving loan fund for any amounts available

⁷ Section 49-01-05 was also amended by section 16 of House Bill No. 1015, chapter 15.

from damages or proceeds received net of legal fees from a successful outcome of the rail rate complaint case.

SECTION 9. NORTH DAKOTA RAIL SYSTEM - LEGISLATIVE INTENT. It is the intent of the legislative assembly that a well-maintained, efficient, and fairly priced railroad transportation system in North Dakota is critical to the future of the North Dakota agriculture sector and the use of funds from the beginning farmer revolving loan fund for the rail rate complaint case will assist in achieving that objective.

SECTION 10. COMMISSION HEARING ROOM - LEGISLATIVE INTENT. It is the intent of the legislative assembly that the public service commission hearing room be available for use by other state agencies and by the legislative assembly during the regular session when not being used for commission business.

SECTION 11. EMERGENCY. The rail rate complaint case line item in section 3 of this Act is declared to be an emergency measure.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 9

HOUSE BILL NO. 1009

(Appropriations Committee)
(At the request of the Governor)

AGRICULTURE COMMISSIONER

AN ACT to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4-01-21, 4-22-22, 4-37-03, 4-37-04, and 19-18-04 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, compensation of supervisors of soil conservation districts, the agriculture in the classroom program, and pesticide registration fees; to provide a contingent appropriation; to provide for a legislative council study; and to provide for transfers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the agriculture commissioner in section 3 of this Act as follows:

Salaries and wages	\$4,494,970
Operating expenses	3,359,825
Capital assets	8,000
Grants	100,000
Board of animal health	869,464
State meat inspection	763,461
Pride of Dakota	180,948
Wildlife services	800,000
Safe send	308,870
Noxious weeds	1,596,836
Crop harmonization board	25,000
Agriculture in the classroom	<u>45,000</u>
Total all funds - Base level	\$12,552,374
Less estimated income - Base level	<u>8,318,849</u>
Total general fund - Base level	\$4,233,525

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the agriculture commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$1,243,463
Operating expenses	896,050
Capital assets	(3,000)
Grants	1,674,225
Board of animal health	1,309,224
Contingent appropriation - wildlife services	130,000
State meat inspection	(763,461)
Pride of Dakota	(180,948)
Wildlife services	(800,000)
Safe send	(308,870)

Noxious weeds	(1,596,836)
Agriculture in the classroom	(45,000)
Total all funds - Adjustments/enhancements	\$1,554,847
Less estimated income - Adjustments/enhancements	<u>1,294,916</u>
Total general fund - Adjustments/enhancements	\$259,931

SECTION 3. 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 agriculture commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$5,738,433
Operating expenses	4,255,875
Capital assets	5,000
Grants	1,774,225
Board of animal health	2,178,688
Contingent appropriation - wildlife services	130,000
Crop harmonization board	<u>25,000</u>
Total all funds	\$14,107,221
Less estimated income	<u>9,613,765</u>
Total general fund appropriation	\$4,493,456

SECTION 4. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item in section 3 of this Act includes the sum of \$2,855,077, or so much of the sum as may be available, from the environment and rangeland protection fund for the purpose of defraying the expenses of various agriculture department programs, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. ANHYDROUS AMMONIA STORAGE INSPECTION FUND. The estimated income line item in section 3 of this Act includes the sum of \$61,410, or so much of the sum as may be available, from the anhydrous ammonia storage inspection fund for the purpose of defraying the expenses of regulating anhydrous ammonia storage facilities, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. ESTIMATED INCOME - GAME AND FISH FUND. The estimated income line item in section 3 of this Act includes the sum of \$700,000, or so much of the sum as may be necessary, from the game and fish department operating fund for the purpose of defraying the expenses of various agriculture department programs for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. TRANSFER. The commissioner shall transfer \$200,000 from the environment and rangeland protection fund to the minor use pesticide fund.

⁸ **SECTION 8. AMENDMENT.** Section 4-01-21 of the North Dakota Century Code is amended and reenacted as follows:

⁸ Section 4-01-21 was also amended by section 10 of House Bill No. 1015, chapter 15.

4-01-21. Salary of agriculture commissioner. The annual salary of the agriculture commissioner is ~~sixty-six thousand five hundred nine dollars through December 31, 2001, sixty-eight thousand seven hundred one dollars through June 30, 2002~~ seventy-one thousand five hundred four ~~seventy~~ seventy-four thousand ~~eight hundred~~ forty-nine dollars thereafter.

SECTION 9. AMENDMENT. Section 4-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4-22-22. Supervisors - Terms of office - Vacancies - Removal - Compensation - Expenses. At the general election to be held in 1972, three district supervisors must be elected. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors must be elected at the first general election following the district's organization. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall return to the secretary of state before four p.m. on the tenth day following any general election a certified abstract of the votes cast in the county at the election for each candidate for district supervisor. The secretary of state shall canvass the returns and issue certificates of election under chapter 16.1-15.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers and physically living in the district. Candidates must be elected on a nonpartisan ballot. In case the office of any supervisor, for any reason, becomes vacant, the remaining members of the board of supervisors shall, with the advice and consent of the committee, fill the vacancy by appointment. If vacancies occur in the office of two supervisors, the remaining supervisor and the committee shall fill the vacancy; and in case the offices of all supervisors of a district become vacant, the committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy holds office until the next general election. A supervisor elected to fill a vacancy serves the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors must be appointed by a majority of the three elected supervisors and have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors must be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may, after notice given and hearing held in accordance with chapter 28-32, be removed from office by the committee.

The supervisors of soil conservation districts are entitled to receive, upon a majority vote of the supervisors, up to ~~twenty-five~~ sixty-two dollars and fifty cents for attending each regular or special meeting or for attending other meetings or events in the performance of their official duties as compensation for their services. Supervisors of soil conservation districts are entitled to receive travel and subsistence expenses necessarily incurred in attending district, state, or other meetings. The compensation and all other expenses including travel incurred by district supervisors while transacting district business must be paid from district funds.

SECTION 10. AMENDMENT. Section 4-37-03 of the North Dakota Century Code is amended and reenacted as follows:

4-37-03. Purpose - Powers and duties. The agriculture in the classroom council ~~shall may~~ provide grants and ~~contracts to individuals and organizations that conduct~~ contract with any person for the provision of an agriculture in the classroom program ~~to develop, the development of~~ agricultural curriculum activities and ~~train~~ applicable to students from kindergarten through grade twelve, and the training of teachers in ~~these~~ agricultural curriculum activities ~~for grades kindergarten through twelve in this state's public school system.~~ The council shall work with ~~all~~ educators, including teachers, the superintendent of public instruction, the department of career and technical education, the United States department of agriculture, and the state agriculture commissioner in accomplishing ~~its~~ this purpose. The council ~~shall render services consistent with this purpose which include~~ may:

1. ~~Consultations~~ Consult with the state superintendent of public instruction, the department of career and technical education, the state agriculture commissioner, and the United States department of agriculture.
2. ~~Preparation of~~ Prepare instructional, informational, and reference publications on the North Dakota agricultural economy and rural lifestyles.
3. Provide training programs for public school teachers in ~~developed~~ agricultural curriculum activities.
4. Encourage research on and identification of new instructional, informational, and reference publications relating to this state's agricultural economy and rural lifestyles.
5. Monitor the quality and condition of the agriculture in the classroom program.

SECTION 11. AMENDMENT. Section 4-37-04 of the North Dakota Century Code is amended and reenacted as follows:

4-37-04. Gifts and grants. ~~In order to carry out its duties under this chapter,~~ The agriculture in the classroom council may ~~contract for and accept and expend~~ private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources. ~~Additional income must be spent~~ The council shall expend any moneys received under this section for the designated purpose designated, if any, in if a purpose is included as a condition of the gift, grant, or donation. ~~The funds must be used to contract with individuals or organizations that conduct an agriculture in the classroom program~~ council may use all other moneys received under this section to carry out the purposes of this chapter.

SECTION 12. AMENDMENT. Section 19-18-04 of the North Dakota Century Code is amended and reenacted as follows:

19-18-04. (Effective through June 30, 2005 2007) Registration - Fees.

1. Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:
 - a. Give the name and address of each manufacturer or distributor.
 - b. Give the name and brand of each product to be registered.
 - c. Be accompanied by a current label of each product to be registered.
 - d. Be accompanied by a registration fee of three hundred fifty dollars for each product to be registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
 - e. Be accompanied by a material safety data sheet for each product to be registered.
2. The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product.
3. Each registration covers a designated two-year period beginning January first of each even-numbered year and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.
4. This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

(Effective July 1, 2005 2007) Registration - Fees. Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:

1. Give the name and address of each manufacturer or distributor.

2. Give the name and brand of each product to be registered.
3. Be accompanied by a current label of each product to be registered.
4. Be accompanied by a registration fee of three hundred dollars for each product to be registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
5. Be accompanied by a material safety data sheet for each product to be registered.

The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product.

Each registration covers a designated two-year period beginning January first of each even-numbered year and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.

This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

SECTION 13. CONTINGENT APPROPRIATION - WILDLIFE SERVICES.

The contingent appropriation - wildlife services contained in section 3 of this Act is a contingent appropriation out of any moneys in the game and fish fund, not otherwise appropriated, to the agriculture commissioner for the wildlife services program. This funding is in addition to the funding identified in section 6 of this Act. If the federal funding for the cooperative wildlife damage management program for North Dakota wildlife services for federal fiscal year 2006 is less than \$400,000, then \$65,000 of the appropriation is available for wildlife services programs and if the same federal funding is less than \$400,000 for federal fiscal year 2007, an additional \$65,000 of the appropriation is available for wildlife services programs.

SECTION 14. LEGISLATIVE COUNCIL STUDY - MEAT INSPECTION LICENSE FEES. The legislative council shall consider studying, during the 2005-06 interim, the feasibility and desirability of implementing a license fee for businesses receiving state meat inspection program services and whether the fee would impact the number of businesses that would use the federal meat inspection service rather than the state service. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 10

HOUSE BILL NO. 1010

(Appropriations Committee)
(At the request of the Governor)

INSURANCE COMMISSIONER

AN ACT to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for fund transfers; to provide for making payments of insurance premiums tax collections to fire departments; to provide for a legislative council study; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code, relating to the commissioner's salary.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the insurance commissioner in section 3 of this Act as follows:

Salaries and wages	\$4,698,378
Operating expenses	1,781,501
Capital assets	6,900
Pharmaceutical drug access program	100,000
Grants	<u>5,304,000</u>
Total all funds - Base level	\$11,890,779
Less estimated income - Base level	<u>11,790,779</u>
Total general fund - Base level	\$100,000

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the insurance commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$355,279
Operating expenses	381,876
Capital assets	(6,900)
Pharmaceutical drug access program	(100,000)
Grants	<u>1,116,000</u>
Total all funds - Adjustments/enhancements	\$1,746,255
Less estimated income - Adjustments/enhancements	<u>1,846,255</u>
Total general fund - Adjustments/enhancements	(\$100,000)

SECTION 3. 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 insurance commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$5,053,657
Operating expenses	2,163,377

Grants	<u>6,420,000</u>
Total special funds appropriation	\$13,637,034

SECTION 4. INSURANCE PREMIUMS TAX COLLECTIONS PAYMENTS.

Section 3 of this Act includes the sum of \$6,420,000, or so much of the sum as may be necessary to the insurance commissioner, of which \$6,200,000 is for the purpose of making payments of insurance premiums tax collections to fire departments, \$120,000 is for the purpose of making two equal payments to the North Dakota firefighter's association, and \$100,000 is for the purpose of providing a grant to the North Dakota association of oil and gas producing counties for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. BONDING FUND. Section 3 this Act includes the sum of \$35,000, or so much of the sum as may be necessary, from the state bonding fund to pay bonding fund administrative expenses for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. FIRE AND TORNADO FUND. Section 3 of this Act includes the sum of \$988,576, or so much of the sum as may be necessary, from the state fire and tornado fund to pay fire and tornado fund administrative expenses for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. UNSATISFIED JUDGMENT FUND. Section 3 of this Act includes the sum of \$35,000, or so much of the sum as may be necessary, from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative expenses for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. PETROLEUM TANK RELEASE COMPENSATION FUND. Section 3 of this Act includes the sum of \$120,000, or so much of the sum as may be necessary, from the petroleum tank release compensation fund to pay petroleum tank release compensation fund administrative expenses for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 9. ANHYDROUS AMMONIA STORAGE FACILITY INSPECTION FUND. Section 3 of this Act includes the sum of \$150,000, or so much of the sum as may be necessary, from the anhydrous ammonia storage facility inspection fund to pay for anhydrous ammonia tank inspection costs for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. CRITICAL METHAMPHETAMINE-USE ZONE ADDITION. Notwithstanding rules adopted by the commissioner identifying a critical methamphetamine-use zone, the commissioner shall designate the counties of Walsh, Cavalier, and Pembina as a critical methamphetamine-use zone subject to section 19-20.2-11 and rules adopted pursuant to that section. Section 3 of this Act includes the sum of \$50,000 from the insurance regulatory trust fund, or so much of the sum as is necessary, to implement security measures established by the commissioner, including the purchase and distribution of locking devices, in the counties of Walsh, Cavalier, and Pembina, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 11. LEGISLATIVE COUNCIL STUDY - HEALTH CARE AND HEALTH INSURANCE STUDY PROPOSAL. During the 2005-06 interim, the legislative council shall consider studying the desirability of proposing a comprehensive health care and health insurance study to be performed during the 2007-08 interim. The 2005-06 interim study must include consideration of whether there is a need for a comprehensive, long-range study of the state's current and

future health care needs in order to address issues such as the aging population of the state, the phenomenon of health care cost-shifting to the private sector, the trend of uncompensated health care services, shortages in the number of health care professionals, duplication of technology and facilities, and any other factors that might affect the health care system in North Dakota in the year 2020. If the study results in a proposal for a comprehensive health care and health insurance study, the proposal must address the parameters of the proposed study and how the proposed study will be designed in order to allow for significant consumer input. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 12. LEGISLATIVE COUNCIL STUDY - ACCIDENT AND HEALTH INSURANCE LOSS RATIOS. During the 2005-06 interim, the legislative council shall study the appropriate minimum standard of loss ratio for accident and health insurers and whether that loss ratio is more appropriately set by statute or by rule. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

⁹ **SECTION 13. AMENDMENT.** Section 26.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-09. Salary of commissioner. The annual salary of the commissioner is ~~sixty-four thousand seven hundred forty-two dollars through December 31, 2004, sixty-six thousand seven hundred eighty-four~~ sixty-six thousand seven hundred eighty-four ~~fifty-nine~~ fifty-nine dollars through June 30, ~~2002~~ 2006, and ~~sixty-eight thousand eight hundred eighty-eight~~ sixty-eight thousand eight hundred eighty-eight ~~eight hundred sixty-one~~ eight hundred sixty-one dollars thereafter.

Approved April 25, 2005
Filed April 26, 2005

⁹ Section 26.1-01-09 was also amended by section 13 of House Bill No. 1015, chapter 15.

CHAPTER 11

HOUSE BILL NO. 1011

(Appropriations Committee)
(At the request of the Governor)

SECURITIES COMMISSIONER

AN ACT to provide an appropriation for defraying the expenses of the securities commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the securities commissioner in section 3 of this Act as follows:

Salaries and wages	\$925,523
Operating expenses	<u>466,222</u>
Total all funds - Base level	\$1,391,745
Less estimated income - Base level	<u>311,580</u>
Total general fund - Base level	\$1,080,165

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the securities commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$170,635
Operating expenses	<u>104,633</u>
Total all funds - Adjustments/enhancements	\$275,268
Less estimated income - Adjustments/enhancements	<u>(94,381)</u>
Total general fund - Adjustments/enhancements	\$369,649

SECTION 3. 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 other income, to the securities commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$1,096,158
Operating expenses	<u>570,855</u>
Total all funds	\$1,667,013
Less estimated income	<u>217,199</u>
Total general fund appropriation	\$1,449,814

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 12

HOUSE BILL NO. 1012

(Appropriations Committee)
(At the request of the Governor)

HUMAN SERVICES

AN ACT to provide an appropriation for defraying the expenses of the department of human services; to provide an exception; to provide for a legislative council study; to provide an appropriation to the state department of health; to provide for a transfer to the general fund; to provide for the transfer of appropriation authority; to create and enact a new section to chapter 25-18 of the North Dakota Century Code, relating to providing services to medically fragile children; to amend and reenact subsection 10 of section 54-44.8-01 of the North Dakota Century Code, relating to telecommunications equipment; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Subdivision 1.

MANAGEMENT

Salaries and wages	\$11,016,285
Operating expenses	33,567,188
Capital assets	2,694
Developmentally disabled facility loan fund	<u>3,261,556</u>
Total all funds - Base level	\$47,847,723
Less estimated income - Base level	<u>34,130,107</u>
Total general fund - Base level	\$13,717,616

Subdivision 2.

PROGRAM AND POLICY

Salaries and wages	\$22,053,781
Operating expenses	37,381,409
Capital assets	39,672
Grants	288,687,725
Grants - Medical assistance	<u>921,677,174</u>
Total all funds - Base level	\$1,269,839,761
Less estimated income - Base level	<u>959,092,082</u>
Total general fund - Base level	\$310,747,679

Subdivision 3.

MENTAL HEALTH COMMUNITY SERVICES CONTINGENCY

Total general fund - Base level	\$250,000
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NORTHWEST HUMAN SERVICE CENTER

Total all funds - Base level	\$7,275,679
Less estimated income - Base level	<u>3,645,640</u>
Total general fund - Base level	\$3,630,039

NORTH CENTRAL HUMAN SERVICE CENTER	
Total all funds - Base level	\$14,564,870
Less estimated income - Base level	<u>6,723,674</u>
Total general fund - Base level	\$7,841,196
LAKE REGION HUMAN SERVICE CENTER	
Total all funds - Base level	\$8,420,933
Less estimated income - Base level	<u>3,782,973</u>
Total general fund - Base level	\$4,637,960
NORTHEAST HUMAN SERVICE CENTER	
Total all funds - Base level	\$19,441,183
Less estimated income - Base level	<u>11,444,820</u>
Total general fund - Base level	\$7,996,363
SOUTHEAST HUMAN SERVICE CENTER	
Total all funds - Base level	\$20,724,542
Less estimated income - Base level	<u>11,215,222</u>
Total general fund - Base level	\$9,509,320
SOUTH CENTRAL HUMAN SERVICE CENTER	
Total all funds - Base level	\$11,358,975
Less estimated income - Base level	<u>5,731,868</u>
Total general fund - Base level	\$5,627,107
WEST CENTRAL HUMAN SERVICE CENTER	
Total all funds - Base level	\$17,584,844
Less estimated income - Base level	<u>9,121,635</u>
Total general fund - Base level	\$8,463,209
BADLANDS HUMAN SERVICE CENTER	
Total all funds - Base level	\$8,924,627
Less estimated income - Base level	<u>4,558,723</u>
Total general fund - Base level	\$4,365,904
STATE HOSPITAL	
Total all funds - Base level	\$41,889,561
Less estimated income - Base level	<u>16,405,360</u>
Total general fund - Base level	\$25,484,201
DEVELOPMENTAL CENTER	
Total all funds - Base level	\$40,761,057
Less estimated income - Base level	<u>31,949,828</u>
Total general fund - Base level	\$8,811,229
Total all funds - Subdivision 3	\$191,196,271
Total estimated income - Subdivision 3	\$104,579,743
Total general fund appropriation - Subdivision 3	\$86,616,528
Total general fund - Section 1	\$411,081,823
Total special funds - Section 1	\$1,097,801,932
Total all funds - Section 1	\$1,508,883,755

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

Subdivision 1.

MANAGEMENT

Salaries and wages	(\$498,738)
Operating expenses	27,401,520
Capital assets	62
Developmentally disabled facility loan fund	<u>(3,261,556)</u>
Total all funds - Adjustments/enhancements	\$23,641,288
Less estimated income - Adjustments/enhancements	<u>17,895,373</u>
Total general fund - Adjustments/enhancements	<u>\$5,745,915</u>

Subdivision 2.

PROGRAM AND POLICY

Salaries and wages	\$670,847
Operating expenses	(104,195)
Capital assets	(5,808)
Grants	44,150,725
Grants - Medical assistance	<u>84,529,164</u>
Total all funds - Adjustments/enhancements	\$129,240,733
Less estimated income - Adjustments/enhancements	<u>74,019,612</u>
Total general fund - Adjustments/enhancements	<u>\$55,221,121</u>

Subdivision 3.

MENTAL HEALTH COMMUNITY SERVICES CONTINGENCY

Total general fund - Adjustments/enhancements	(\$250,000)
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NORTHWEST HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$37,052
Less estimated income - Adjustments/enhancements	<u>35,963</u>
Total general fund - Adjustments/enhancements	<u>\$1,089</u>

NORTH CENTRAL HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$698,351
Less estimated income - Adjustments/enhancements	<u>526,839</u>
Total general fund - Adjustments/enhancements	<u>\$171,512</u>

LAKE REGION HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$672,918
Less estimated income - Adjustments/enhancements	<u>427,285</u>
Total general fund - Adjustments/enhancements	<u>\$245,633</u>

NORTHEAST HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$1,037,049
Less estimated income - Adjustments/enhancements	<u>734,210</u>
Total general fund - Adjustments/enhancements	<u>\$302,839</u>

SOUTHEAST HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$2,779,416
Less estimated income - Adjustments/enhancements	<u>2,417,169</u>
Total general fund - Adjustments/enhancements	<u>\$362,247</u>

SOUTH CENTRAL HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$769,313
Less estimated income - Adjustments/enhancements	<u>572,445</u>
Total general fund - Adjustments/enhancements	<u>\$196,868</u>

WEST CENTRAL HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$905,199
Less estimated income - Adjustments/enhancements	<u>529,098</u>
Total general fund - Adjustments/enhancements	\$376,101

BADLANDS HUMAN SERVICE CENTER

Total all funds - Adjustments/enhancements	\$373,926
Less estimated income - Adjustments/enhancements	<u>245,520</u>
Total general fund - Adjustments/enhancements	\$128,406

STATE HOSPITAL

Traditional services	\$292,827
Secure services	<u>5,424,120</u>
Total all funds - Adjustments/enhancements	\$5,716,947
Less estimated income - Adjustments/enhancements	<u>(746,586)</u>
Total general fund - Adjustments/enhancements	\$6,463,533

DEVELOPMENTAL CENTER

Total all funds - Adjustments/enhancements	\$1,403,643
Less estimated income - Adjustments/enhancements	<u>(1,168,531)</u>
Total general fund - Adjustments/enhancements	\$2,572,174
Total all funds - Subdivision 3	\$14,143,814
Total estimated income - Subdivision 3	\$3,573,412
Total general fund appropriation - Subdivision 3	\$10,570,402
Total general fund - Section 2	\$71,537,438
Total special funds - Section 2	\$95,488,397
Total all funds - Section 2	\$167,025,835

SECTION 3. 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 department of human services for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

MANAGEMENT

Salaries and wages	\$10,517,547
Operating expenses	60,968,708
Capital assets	<u>2,756</u>
Total all funds	\$71,489,011
Less estimated income	<u>52,025,480</u>
Total general fund appropriation	\$19,463,531

Subdivision 2.

PROGRAM AND POLICY

Salaries and wages	\$22,724,628
Operating expenses	37,277,214
Capital assets	33,864
Grants	332,838,450
Grants - Medical assistance	<u>1,006,206,338</u>
Total all funds	\$1,399,080,494
Less estimated income	<u>1,033,111,694</u>
Total general fund appropriation	\$365,968,800

Subdivision 3.

NORTHWEST HUMAN SERVICE CENTER		
Total all funds		\$7,312,731
Less estimated income		<u>3,681,603</u>
Total general fund appropriation		\$3,631,128
NORTH CENTRAL HUMAN SERVICE CENTER		
Total all funds		\$15,263,221
Less estimated income		<u>7,250,513</u>
Total general fund appropriation		\$8,012,708
LAKE REGION HUMAN SERVICE CENTER		
Total all funds		\$9,093,851
Less estimated income		<u>4,210,258</u>
Total general fund appropriation		\$4,883,593
NORTHEAST HUMAN SERVICE CENTER		
Total all funds		\$20,478,232
Less estimated income		<u>12,179,030</u>
Total general fund appropriation		\$8,299,202
SOUTHEAST HUMAN SERVICE CENTER		
Total all funds		\$23,503,958
Less estimated income		<u>13,632,391</u>
Total general fund appropriation		\$9,871,567
SOUTH CENTRAL HUMAN SERVICE CENTER		
Total all funds		\$12,128,288
Less estimated income		<u>6,304,313</u>
Total general fund appropriation		\$5,823,975
WEST CENTRAL HUMAN SERVICE CENTER		
Total all funds		\$18,490,043
Less estimated income		<u>9,650,733</u>
Total general fund appropriation		\$8,839,310
BADLANDS HUMAN SERVICE CENTER		
Total all funds		\$9,298,553
Less estimated income		<u>4,804,243</u>
Total general fund appropriation		\$4,494,310
STATE HOSPITAL		
Traditional services		\$42,182,388
Secure services		<u>5,424,120</u>
Total all funds		\$47,606,508
Less estimated income		<u>15,658,774</u>
Total general fund appropriation		\$31,947,734
DEVELOPMENTAL CENTER		
Total all funds		\$42,164,700
Less estimated income		<u>30,781,297</u>
Total general fund appropriation		\$11,383,403
Total all funds - Subdivision 3		\$205,340,085
Total estimated income - Subdivision 3		\$108,153,155
Total general fund appropriation - Subdivision 3		\$97,186,930
Grand total general fund appropriation - H.B. 1012		\$482,619,261

Grand total special funds appropriation - H.B. 1012	\$1,193,290,329
Grand total all funds appropriation - H.B. 1012	\$1,675,909,590

SECTION 4. FULL-TIME EQUIVALENT EMPLOYEES - MEDICAID - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL. Subject to emergency commission and budget section approval, the department of human services may hire additional full-time equivalent positions for medicaid program review of eligibility and payments in addition to those authorized by the legislative assembly when it is cost-effective to hire additional positions in lieu of contracts or if no acceptable contract proposal is received within the funding constraints.

SECTION 5. MEDICAID ELIGIBILITY REVIEWS - CONTINGENT FUNDING. The appropriation in subdivision 2 of section 3 of this Act includes \$615,000 from the general fund and \$615,000 of federal funds for payment error rate measurement eligibility reviews for the medical assistance program. If the department of human services is not required by the federal government to conduct these reviews, the department may not spend these funds for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, the department of human services may transfer appropriation authority between line items within each subdivision of section 3 of this Act and between subdivisions within section 3 of this Act for the biennium beginning July 1, 2005, and ending June 30, 2007. The department shall notify the office of management and budget of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2006, any transfers made in excess of \$50,000 and to the appropriations committees of the sixtieth legislative assembly regarding any transfers made pursuant to this section.

SECTION 7. ESTIMATED INCOME - LIMIT - COMMUNITY HEALTH TRUST FUND. The estimated income line item in subdivision 2 of section 3 of this Act includes \$254,356 from the community health trust fund. The department of human services expenditures from this fund may not exceed this amount for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. ESTIMATED INCOME - LIMIT - PERMANENT OIL TAX TRUST FUND. Notwithstanding section 57-51.1-07.2, the estimated income line item in subdivision 1 of section 3 of this Act includes \$3,667,820 from the permanent oil tax trust fund. The department of human services expenditures from this fund may not exceed this amount for the period beginning with the effective date of this Act, and ending June 30, 2007.

SECTION 9. COMPULSIVE GAMBLING PREVENTION AND TREATMENT FUND - TRANSFER TO THE GENERAL FUND. On July 1, 2005, the director of the office of management and budget and the state treasurer shall transfer \$100,000 from the compulsive gambling prevention and treatment fund to the general fund.

SECTION 10. FUNDING FOR CORPORATE GUARDIANSHIP PETITIONING COSTS. The department of human services may spend up to \$30,000 of the funds appropriated in the operating expenses line item in subdivision 2 of section 3 of this Act for paying petitioning costs for indigent individuals with developmental disabilities who have been referred for corporate guardianship for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 11. FEDERAL MEDICAL ASSISTANCE PERCENTAGE CHANGES - DEPARTMENT OF HUMAN SERVICES PROGRAM REVIEW -

LEGISLATIVE COUNCIL REPORT. During the 2005-06 interim, the department of human services shall determine the fiscal effect of anticipated changes in the federal medical assistance percentage for North Dakota for federal fiscal years 2007 and 2008. The department, with input from service providers, shall review its budget and programs and services to determine the extent to which the department can provide for additional general fund requirements resulting from federal matching changes without affecting the level of services provided by the department. If the department determines that programs and services will be affected, the department, with input from service providers, shall identify programs and services to reduce or discontinue to maintain its general fund budget within the funding level approved by the 2005 legislative assembly. By July 1, 2006, the department shall report to the legislative council regarding its budget and program review and its suggestions for programs and services to reduce or discontinue, including any legislation necessary to make the suggested changes. The legislative council shall receive the department's report and report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 12. LEGISLATIVE COUNCIL STUDY - QUALIFIED SERVICE PROVIDER PAYMENT SYSTEM. The legislative council shall consider studying, during the 2005-06 interim, the department of human services system of paying qualified service providers. The study must include a review of the appropriateness of payment levels to various providers. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 13. APPROPRIATION - STATE DEPARTMENT OF HEALTH. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$30,000, or so much of the sum as may be necessary, to the state department of health for the purpose of providing a grant for suicide prevention programs on the Standing Rock Indian Reservation for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 14. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE. During the 2005-06 interim, the legislative council shall consider studying, with input from representatives of the department of human services and the long-term care industry, methods of improving the sustainability of funding long-term care services in the state, including a review of case mix and rate equalization, consideration of additional support for facilities providing additional restorative care services, and consideration of options for reducing the number of required reports of facilities providing high-quality care or for seeking waivers to change the survey process. The study, if conducted, must also include, with input from representatives of the department of human services, the long-term care industry, and the federal centers for medicare and medicaid services, the possibility of accessing additional federal funding through the intergovernmental transfer process. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 15. LEGISLATIVE COUNCIL STUDY - RESIDENTIAL TREATMENT CENTER AND RESIDENTIAL CHILD CARE FACILITY PAYMENT SYSTEMS. The legislative council shall consider studying, during the 2005-06 interim, the services provided by residential treatment centers and residential child care facilities and the appropriateness of the payments provided by the state for these services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 16. PLAN TO TRANSFER APPROPRIATE DEVELOPMENTAL CENTER RESIDENTS TO COMMUNITIES - LEGISLATIVE COUNCIL REPORT.

The department of human services, with input from developmental disabilities services providers, shall develop, during the 2005-06 interim, a plan to transfer appropriate individuals from the developmental center to community placements and begin the transfers during the 2005-07 biennium. The department shall report to the legislative council on its plan and on the anticipated number of individuals that will be transferred during the 2005-07 biennium.

SECTION 17. DEPARTMENT OF HUMAN SERVICES AND INDIAN AFFAIRS COMMISSION - CHILD SUPPORT - STATE AND TRIBAL COURT COORDINATION.

The department of human services and the indian affairs commission shall collaborate to facilitate the coordination of state and tribal court activities to increase the amount of child support collected for noncustodial parents for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 18. A new section to chapter 25-18 of the North Dakota Century Code is created and enacted as follows:

Payment for services to medically fragile children. The department may consider the unique level of care, the additional cost required to provide services to medically fragile clients under twenty-one years of age, and the actual and reasonable cost of providing services to developmentally disabled individuals when reimbursing an intermediate care facility for the mentally retarded.

SECTION 19. AMENDMENT. Subsection 10 of section 54-44.8-01 of the North Dakota Century Code is amended and reenacted as follows:

10. "Specialized telecommunications equipment" means a dedicated telecommunications device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing the telephone network. The term may include telecommunications devices for the deaf, amplifiers, and signaling devices. Specialized telecommunications equipment provided under this chapter to an individual may not exceed two thousand dollars in total cost per device.

SECTION 20. EMERGENCY. The appropriation of \$29,188,859 included in subdivision 1 of section 3 of this Act for the medicaid management information system replacement project and section 19 of this Act are declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005

CHAPTER 13

HOUSE BILL NO. 1013

(Appropriations Committee)
(At the request of the Governor)

PUBLIC INSTRUCTION

AN ACT to provide an appropriation for defraying the expenses of the department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library; to provide an appropriation to the division of independent study; to provide for the distribution of special education payments; to provide for a legislative council study; to provide a statement of legislative intent; to amend and reenact section 15.1-02-02 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library in section 3 of this Act as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

Salaries and wages	\$9,277,686
Operating expenses	13,057,823
Capital assets	15,000
Grants - State school aid	489,379,990
Grants - Tuition apportionment	69,495,371
Grants - Special education	49,898,695
Grants - Revenue supplement	5,000,000
Grants - Teacher compensation	51,854,000
Grants - Other grants	182,255,244
Reorganization bonuses	500,000
Data envelopment analysis	50,000
Total all funds - Base level	\$870,783,809
Less estimated income - Base level	266,058,803
Total general fund - Base level	\$604,725,006

Subdivision 2.

STATE LIBRARY

Salaries and wages	\$2,078,571
Operating expenses	1,181,647
Grants	1,396,807
Total all funds - Base level	\$4,657,025
Less estimated income - Base level	1,629,979
Total general fund - Base level	\$3,027,046

Subdivision 3.

SCHOOL FOR THE DEAF

Salaries and wages	\$4,809,808
Operating expenses	1,102,160

Capital assets	<u>32,723</u>
Total all funds - Base level	\$5,944,691
Less estimated income - Base level	<u>871,449</u>
Total general fund - Base level	\$5,073,242

Subdivision 4.

VISION SERVICES - SCHOOL FOR THE BLIND

Salaries and wages	\$2,540,292
Operating expenses	698,683
Capital assets	<u>18,233</u>
Total all funds - Base level	\$3,257,208
Less estimated income - Base level	<u>1,167,383</u>
Total general fund - Base level	<u>\$2,089,825</u>
Total general fund - Section 1	\$614,915,119
Total special funds - Section 1	\$269,727,614
Total all funds - Section 1	\$884,642,733

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS

INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

Salaries and wages	\$696,239
Operating expenses	1,834,485
Capital assets	(15,000)
Grants - State school aid	27,473,769
Grants - Tuition apportionment	2,104,629
Grants - Special education	2,601,305
Grants - Teacher compensation	(941,880)
Grants - Other grants	25,743,839
Reorganization bonuses	(500,000)
Data envelopment analysis	(50,000)
National board certification	<u>40,000</u>
Total all funds - Adjustments/enhancements	\$58,927,386
Less estimated income - Adjustments/enhancements	<u>29,784,889</u>
Total general fund - Adjustments/enhancements	\$29,202,497

Subdivision 2.

STATE LIBRARY

Salaries and wages	\$135,555
Operating expenses	200,125
Grants	<u>155,693</u>
Total all funds - Adjustments/enhancements	\$491,373
Less estimated income - Adjustments/enhancements	<u>27,194</u>
Total general fund - Adjustments/enhancements	\$464,179

Subdivision 3.

SCHOOL FOR THE DEAF

Salaries and wages	\$201,314
Operating expenses	275,105
Capital assets	<u>246,772</u>
Total all funds - Adjustments/enhancements	\$723,191

Less estimated income - Adjustments/enhancements	454,220
Total general fund - Adjustments/enhancements	<u>268,971</u>

Subdivision 4.

VISION SERVICES - SCHOOL FOR THE BLIND

Salaries and wages	\$125,411
Operating expenses	(91,377)
Capital assets	49,237
Total all funds - Adjustments/enhancements	<u>83,271</u>
Less estimated income - Adjustments/enhancements	(323,935)
Total general fund - Adjustments/enhancements	<u>407,206</u>
Total general fund - Section 2	\$30,342,853
Total special funds - Section 2	\$29,942,368
Total all funds - Section 2	<u>\$60,285,221</u>

SECTION 3. 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 department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library for the purpose of defraying the expenses of those agencies, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

Salaries and wages	\$9,973,925
Operating expenses	14,892,308
Grants - State school aid	516,853,759
Grants - Tuition apportionment	71,600,000
Grants - Special education	52,500,000
Grants - Revenue supplement	5,000,000
Grants - Teacher compensation	50,912,120
Grants - Other grants	207,999,083
National board certification	<u>40,000</u>
Total all funds	\$929,771,195
Less estimated income	<u>295,843,692</u>
Total general fund appropriation	<u>\$633,927,503</u>

Subdivision 2.

STATE LIBRARY

Salaries and wages	\$2,214,126
Operating expenses	1,381,772
Grants	1,552,500
Total all funds	<u>\$5,148,398</u>
Less estimated income	<u>1,657,173</u>
Total general fund appropriation	<u>\$3,491,225</u>

Subdivision 3.

SCHOOL FOR THE DEAF

Salaries and wages	\$5,011,122
Operating expenses	1,377,265
Capital assets	<u>279,495</u>
Total all funds	\$6,667,882
Less estimated income	<u>1,325,669</u>
Total general fund appropriation	<u>\$5,342,213</u>

Subdivision 4.

VISION SERVICES - SCHOOL FOR THE BLIND

Salaries and wages	\$2,665,703
Operating expenses	607,306
Capital assets	67,470
Total all funds	\$3,340,479
Less estimated income	843,448
Total general fund appropriation	\$2,497,031

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$148,800, or so much of the sum as may be necessary, to the division of independent study for the purpose of developing, publishing, and distributing a North Dakota studies textbook and workbook including civic education for both grades four and eight, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the division of independent study for the purpose of revitalizing civic education, for the biennium beginning July 1, 2005, and ending June 30, 2007.

Grand total general fund appropriation - H.B. 1013	\$645,456,772
Grand total special funds appropriation - H.B. 1013	\$299,669,982
Grand total all funds appropriation - H.B. 1013	\$945,126,754

SECTION 6. APPROPRIATION. There is appropriated from special funds derived from federal funds and other income the sum of \$30,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing grants for the period beginning with the effective date of this Act and ending June 30, 2005.

SECTION 7. APPROPRIATION - TUITION APPORTIONMENT. The sum of \$71,600,000, included in the grants - tuition apportionment line item in subdivision 1 of section 3 of this Act, is from the state tuition fund in the state treasury. Any additional amount in the state tuition fund that becomes available for distribution to public schools is appropriated to the department of public instruction for that purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. STATE SCHOOL AID AND SPECIAL EDUCATION EXPENDITURE AUTHORITY. The superintendent of public instruction may expend funds included in the grants - state school aid and grants - special education line items in subdivision 1 of section 3 of this Act in payment of grants for educational services that were due in the 2003-05 biennium but which were not filed, claimed, or properly supported by the education provider until after June 30, 2005.

SECTION 9. DISTRIBUTION OF SPECIAL EDUCATION AID. The sum of \$52,500,000, included in the grants - special education line item in subdivision 1 of section 3 of this Act, must be distributed as follows:

1. Fifteen million five hundred thousand dollars to reimburse school districts or special education units for excess costs incurred relating to contracts for students with disabilities.
2. Four hundred thousand dollars to reimburse school districts or special education units for gifted and talented programs upon the submission of

an application that is approved in accordance with guidelines adopted by the superintendent of public instruction. The superintendent of public instruction shall encourage cooperative efforts for gifted and talented programs among school districts and special education units.

3. Any amount remaining in the line item must be distributed on a per student basis as required by section 15.1-27-10, excluding reimbursements for student contracts and gifted and talented programs. State special education payments distributed as required by section 15.1-27-10 must be reduced by the amount of matching funds required to be paid by school districts or special education units for students participating in the medicaid program. Special education funds equal to the amount of the matching funds required to be paid by the school district or special education unit must be paid by the superintendent of public instruction to the department of human services on behalf of the school district or unit.

SECTION 10. PAYMENTS FOR LIMITED ENGLISH PROFICIENT STUDENTS. Payments to school districts educating limited English proficient students, as provided in section 15.1-27-12, must be made by the superintendent of public instruction during the biennium beginning July 1, 2005, and ending June 30, 2007, using up to \$650,000 of the amount included in the grants - state school aid line item in subdivision 1 of section 3 of this Act.

SECTION 11. INDIRECT COST ALLOCATION. Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account.

SECTION 12. DISPLACED HOMEMAKER FUND. The sum of \$253,646, included in the estimated income line item in subdivision 1 of section 3 of this Act, is from the displaced homemaker fund and must be used by the superintendent of public instruction for the purpose of providing services for displaced homemakers, as provided in chapter 14-06.1, during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 13. STATE AID TO PUBLIC LIBRARIES. The line item entitled grants in subdivision 2 of section 3 of this Act includes \$1,000,000 for aid to public libraries, of which no more than one-half is to be expended during the fiscal year ending June 30, 2006.

SECTION 14. FEES DEPOSITED IN VISION SERVICES - SCHOOL FOR THE BLIND OPERATING FUND. Any moneys included in the estimated income line item in subdivision 4 of section 3 of this Act, collected for subscription fees or braille fees, must be deposited in the North Dakota vision services - school for the blind operating fund in the state treasury and may be spent subject to appropriation by the legislative assembly.

SECTION 15. LEGISLATIVE COUNCIL STUDY - SCHOOL FOR THE DEAF AND VISION SERVICES - SCHOOL FOR THE BLIND. The legislative council shall consider studying, during the 2005-06 interim, the potential for cooperative field service delivery between vision services - school for the blind and the school for the deaf. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 16. LEGISLATIVE COUNCIL STUDY - REPORT. The legislative council shall study, during the 2005-06 interim, the state's elementary and secondary education system, including key measurements of student progress, programs that address the state's competitiveness with other states, costs incurred by the state relating to implementing the No Child Left Behind Act, and the most effective means of using taxpayer dollars at the state and local levels to ensure the best possible education for the children of this state. The legislative council also shall evaluate effective programs; opportunities for achievement; and statutory, regulatory, and political barriers to success. The legislative council shall receive input from teachers; administrators; parents; students; local business and community leaders; representatives of higher education; and may use technology, curricular, and programmatic consultants, among others. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 17. LEGISLATIVE INTENT. It is the intent of the fifty-ninth legislative assembly that the department of public instruction not charge school districts for testing relating to the English language learner program.

¹⁰ **SECTION 18. AMENDMENT.** Section 15.1-02-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-02. Salary. The annual salary of the superintendent of public instruction is ~~sixty-nine~~ seventy-nine thousand ~~six~~ seven hundred ~~forty-eight~~ fifty-seven dollars through ~~December 31, 2004~~ June 30, 2006, ~~seventy-five and eighty-two~~ thousand nine hundred ~~sixteen~~ forty-seven dollars through ~~June 30, 2002~~, and ~~seventy-seven thousand four hundred thirty-four~~ dollars thereafter.

SECTION 19. EMERGENCY. Section 6 of this Act is declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005

¹⁰ Section 15.1-02-02 was also amended by section 11 of House Bill No. 1015, chapter 15.

CHAPTER 14

HOUSE BILL NO. 1014

(Appropriations Committee)
(At the request of the Governor)

COMMITTEE ON PROTECTION AND ADVOCACY

AN ACT to provide an appropriation for defraying the expenses of the committee on protection and advocacy; and to provide a statement of legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the committee on protection and advocacy in section 3 of this Act as follows:

Total all funds - Base level	\$3,226,255
Less estimated income - Base level	<u>2,443,532</u>
Total general fund - Base level	\$782,723

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the committee on protection and advocacy which are included in the appropriation in section 3 of this Act as follows:

Total all funds - Adjustments/enhancements	\$473,314
Less estimated income - Adjustments/enhancements	448,810
Total general fund - Adjustments/enhancements	\$24,504

SECTION 3. 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 committee on protection and advocacy for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Total all funds	\$3,699,569
Less estimated income	<u>2,892,342</u>
Total general fund appropriation	\$807,227

SECTION 4. LEGISLATIVE INTENT - FEDERAL FUNDS REDUCTION - ELIMINATION OF FULL-TIME EQUIVALENT POSITION. It is the intent of the legislative assembly that if the protection and advocacy project receives less federal funds during the 2005-07 biennium than anticipated, then the protection and advocacy project shall eliminate the new full-time equivalent position for a disabilities advocate for the Turtle Mountain Indian Reservation or eliminate a different full-time equivalent position rather than reduce other services to make up for the reduction of funding to the agency.

Approved April 8, 2005
Filed April 12, 2005

CHAPTER 15

HOUSE BILL NO. 1015

(Appropriations Committee)
(At the request of the Governor)

OFFICE OF MANAGEMENT AND BUDGET

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 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 create and enact two new sections to House Bill No. 1286, as approved by the fifty-ninth legislative assembly, and a new section to Senate Bill No. 2012, as approved by the fifty-ninth legislative assembly, relating to open records requests and to interpretation of provisions relating to refunds of certain fuels taxes paid by native Americans; to amend and reenact sections 4-01-21, 15.1-02-02, 15.1-06-06, 26.1-01-09, 27-02-02, 27-05-03, 49-01-05, 54-03-20, 54-09-05, 54-10-10, 54-11-13, 54-12-11, 54-44.1-06, 54-44.1-06.1, 57-01-04, and 57-40.6-02 of the North Dakota Century Code and section 5 of House Bill No. 1518, section 12 of Senate Bill No. 2015, and section 20 of House Bill No. 1043, as approved by the fifty-ninth legislative assembly, relating to salaries of elected officials, school calendars, lodging reimbursement for members of the legislative assembly, preparation of the budget data, voter approval of imposition of fees for emergency services communication systems, the state wheat commission levy, a legislative council study of the department of corrections and rehabilitation, and the effective date of streamlined sales tax agreement complying amendments; to repeal section 9 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, relating to composite schedules for teacher salaries; to provide for a legislative council study; to provide legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the office of management and budget in section 3 of this Act as follows:

Salaries and wages	\$15,388,231
Operating expenses	11,328,756
Capital assets	733,000
Grants	179,000
Total all funds - Base level	\$27,628,987
Less estimated income - Base level	7,888,476
Total general fund - Base level	\$19,740,511

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the office of management and budget which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	(\$1,892,438)
Operating expenses	(12,350)

Capital assets	111,000
Grants	210,000
Prairie public broadcasting	<u>1,337,138</u>
Total all funds - Adjustments/enhancements	<u>(\$221,950)</u>
Less estimated income - Adjustments/enhancements	<u>(410,608)</u>
Total general fund - Adjustments/enhancements	\$188,658

SECTION 3. 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 purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$13,495,793
Operating expenses	11,341,106
Capital assets	844,000
Grants	389,000
Prairie public broadcasting	<u>1,337,138</u>
Total all funds	\$27,407,037
Less estimated income	<u>7,477,868</u>
Total general fund appropriation	\$19,929,169

SECTION 4. CAPITOL BUILDING FUND. The amount of \$25,000, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act, is to be spent by the administration division from the capitol building fund for capitol grounds planning, during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. EXEMPTION. The amount appropriated for the fiscal management division, as contained in section 1 of chapter 36 of the 2003 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 accounting, management, and payroll systems, during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. INTENT. Within the authority included in section 3 of this Act are the following grants and special items:

Boys and girls clubwork	\$53,000
State contingencies	500,000
State memberships and related expenses	477,860
Firefighter's association	126,000
Unemployment insurance	1,500,000
Capitol grounds planning commission	25,000
State consultant	120,000

SECTION 7. TRANSFER. During the biennium beginning July 1, 2005, and ending June 30, 2007, the director of the office of management and budget is authorized to transfer special funds from the lands and minerals trust fund to the general fund in the amount of \$6,800,000.

SECTION 8. FIRE AND TORNADO FUND. The amount of \$126,000, or so much of the amount as is necessary, included in the estimated income line item in section 3 of this Act, is from the fire and tornado fund.

SECTION 9. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND. During the biennium ending June 30, 2007, the industrial commission shall transfer to the state general fund up to \$60,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota. The moneys shall be transferred in the amounts and at such times as requested by the director of the office of management and budget. Any transfer authorized may only be made to the extent the transfer does not reduce the Bank's capital structure below \$150,000,000.

11 SECTION 10. AMENDMENT. Section 4-01-21 of the North Dakota Century Code, as amended by House Bill No. 1009, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

4-01-21. Salary of agriculture commissioner. The annual salary of the agriculture commissioner is ~~seventy-one~~ seventy-two thousand ~~nine~~ six hundred ~~seventy~~ sixty-nine dollars through June 30, 2006, and ~~seventy-four~~ seventy-five thousand ~~eight~~ five hundred ~~forty-nine~~ seventy-six dollars thereafter.

12 SECTION 11. AMENDMENT. Section 15.1-02-02 of the North Dakota Century Code, as amended by House Bill No. 1013, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

15.1-02-02. Salary. The annual salary of the superintendent of public instruction is ~~seventy-nine~~ eighty thousand ~~seven~~ five hundred ~~fifty-seven~~ thirty-one dollars through June 30, 2006, ~~eighty-two~~ and eighty-three thousand ~~nine~~ seven hundred ~~forty-seven~~ fifty-three dollars thereafter.

13 SECTION 12. AMENDMENT. Section 15.1-06-06 of the North Dakota Century Code, as amended and reenacted by House Bill No. 1154, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

15.1-06-06. Approval of public and nonpublic schools. Each public and nonpublic school in this state offering elementary or secondary education to students must be approved by the superintendent of public instruction. Except as otherwise provided by law, the superintendent may not approve a school unless:

1. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 2 of House Bill No. 1076, as approved by the fifty-ninth legislative assembly;

¹¹ Section 4-01-21 was also amended by section 8 of House Bill No. 1009, chapter 9.

¹² Section 15.1-02-02 was also amended by section 18 of House Bill No. 1013, chapter 13.

¹³ Section 15.1-06-06 was also amended by section 1 of House Bill No. 1076, chapter 163, and section 2 of House Bill No. 1154, chapter 167.

3. The students are offered all subjects required by law; and
4. ~~The school is in compliance with the calendar requirements set forth in section 15.1-06-04; and~~
5. The school is in compliance with all local and state health, fire, and safety laws.

¹⁴ **SECTION 13. AMENDMENT.** Section 26.1-01-09 of the North Dakota Century Code, as amended by House Bill No. 1010, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

26.1-01-09. Salary of commissioner. The annual salary of the commissioner is seventy thousand ~~forty-nine~~ seventy-three thousand ~~three hundred thirty-nine~~ eight hundred dollars through June 30, 2006, and ~~seventy-two~~ sixty-one thousand ~~eight hundred~~ sixty-eight dollars thereafter.

¹⁵ **SECTION 14. AMENDMENT.** Section 27-02-02 of the North Dakota Century Code, as amended by Senate Bill No. 2002, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

27-02-02. Salaries of justices of supreme court. The annual salary of each justice of the supreme court is one hundred ~~two~~ one hundred thousand ~~three hundred~~ eighty-seven dollars through June 30, 2006, and one hundred ~~six~~ one hundred thousand ~~seven hundred~~ eighty dollars thereafter. The chief justice of the supreme court is entitled to receive an additional ~~two~~ one thousand ~~three hundred~~ two hundred ~~nine hundred~~ eighty dollars per annum through June 30, 2006, and three thousand ~~one hundred~~ five hundred ~~thirty-six~~ thirty-six dollars per annum thereafter.

¹⁶ **SECTION 15. AMENDMENT.** Section 27-05-03 of the North Dakota Century Code, as amended by Senate Bill No. 2002, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges. The annual salary of each district judge is ~~ninety-three~~ ninety-four thousand ~~three hundred~~ two hundred ~~ninety-one~~ ninety-eight dollars through June 30, 2006, and ~~ninety-seven~~ seventy thousand ~~one hundred~~ seventy dollars thereafter. Each district judge is entitled to travel expenses including mileage and subsistence while engaged in the discharge of official duties outside the city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional two thousand ~~seven hundred~~ seven hundred ~~forty-two~~ seventy-nine dollars per annum, through June 30, 2006, and two thousand ~~eight hundred~~ sixty-two ~~sixty-two~~ ninety dollars thereafter.

¹⁴ Section 26.1-01-09 was also amended by section 13 of House Bill No. 1010, chapter 10.

¹⁵ Section 27-02-02 was also amended by section 6 of Senate Bill No. 2002, chapter 30.

¹⁶ Section 27-05-03 was also amended by section 7 of Senate Bill No. 2002, chapter 30.

¹⁷ **SECTION 16. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code, as amended by House Bill No. 1008, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

49-01-05. Salary of commissioners. The annual salary of a commissioner is ~~seventy-one thousand two hundred~~ seventy-two thousand nine hundred ~~seventy~~ sixty-nine dollars through June 30, 2006, and ~~seventy-four thousand eight hundred~~ seventy-five thousand eight ~~forty-nine~~ seventy-six dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

¹⁸ **SECTION 17. AMENDMENT.** Section 54-03-20 of the North Dakota Century Code, as amended by section 1 of Senate Bill No. 2059 as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly.

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of one hundred twenty-five dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.
2.
 - a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of nine hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session.
 - b. Notwithstanding subdivision a:
 - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.
 - (2) The legislative council may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.

¹⁷ Section 49-01-05 was also amended by section 5 of House Bill No. 1008, chapter 8.

¹⁸ Section 54-03-20 was also amended by section 10 of Senate Bill No. 2001, chapter 29, and section 1 of Senate Bill No. 2059, chapter 472.

3. a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.
 - b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed nine hundred dollars per month.
4. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.
5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend.
6. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.
7. a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of two hundred fifty dollars a month, which is payable every six months or monthly, at the member's option.
 - b. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.
 - c. The majority and minority leaders of the house and senate and the chairman of the legislative council, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement

provided by law, the sum of two hundred fifty dollars per month during the biennium for their execution of public duties.

8. Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].

¹⁹ **SECTION 18. AMENDMENT.** Section 54-09-05 of the North Dakota Century Code, as amended by House Bill No. 1002, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

54-09-05. Salary of secretary of state. The annual salary of the secretary of state is seventy thousand ~~fifty-nine~~ seventy-three hundred ~~thirty-nine~~ eight dollars through June 30, 2006, and ~~seventy-two~~ seventy-three thousand ~~eight~~ five hundred ~~sixty-one~~ sixty-eight dollars thereafter.

²⁰ **SECTION 19. AMENDMENT.** Section 54-10-10 of the North Dakota Century Code, as amended by House Bill No. 1004, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

54-10-10. Salary of state auditor. The annual salary of the state auditor is seventy thousand ~~fifty-nine~~ seventy-three hundred ~~thirty-nine~~ eight dollars through June 30, 2006, and ~~seventy-two~~ seventy-three thousand ~~eight~~ five hundred ~~sixty-one~~ sixty-eight dollars thereafter.

²¹ **SECTION 20. AMENDMENT.** Section 54-11-13 of the North Dakota Century Code, as amended by House Bill No. 1005, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

54-11-13. Salary of state treasurer. The annual salary of the state treasurer is sixty-six thousand ~~one~~ eight hundred ~~sixty~~ two dollars through June 30, 2006, and ~~sixty-eight~~ sixty-nine thousand ~~eight~~ four hundred ~~six~~ seventy-four dollars thereafter.

²² **SECTION 21. AMENDMENT.** Section 54-12-11 of the North Dakota Century Code, as amended by House Bill No. 1003, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

¹⁹ Section 54-09-05 was also amended by section 6 of House Bill No. 1002, chapter 2.

²⁰ Section 54-10-10 was also amended by section 5 of House Bill No. 1004, chapter 4.

²¹ Section 54-11-13 was also amended by section 4 of House Bill No. 1005, chapter 5.

²² Section 54-12-11 was also amended by section 16 of House Bill No. 1003, chapter 3.

54-12-11. Salary of attorney general. The annual salary of the attorney general is ~~seventy-six~~ seventy-seven thousand ~~nine~~ six hundred ~~eight~~ fifty-five dollars through June 30, 2006, and ~~seventy-nine~~ eighty thousand ~~nine~~ seven hundred ~~eighty-four~~ sixty-one dollars thereafter.

SECTION 22. AMENDMENT. Section 54-44.1-06 of the North Dakota Century Code, as effective after June 30, 2005, is amended and reenacted as follows:

54-44.1-06. (Effective after June 30, 2005) Preparation of the budget data - Contents. The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
 - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
 - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed

classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed ~~general appropriations act and special appropriations acts for executive branch departments, agencies, and institutions, including institutions of higher education, providing the same funding as approved by the most recently adjourned special or regular session of the legislative assembly and amendments to the drafts of appropriations acts~~ embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. ~~The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act.~~
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. A financial plan for a prospective period of six years, including the executive budget recommendation for the next biennium, estimates of anticipated general fund and non-general fund revenues prepared for an additional period of four years, and estimates of the general fund and non-general fund appropriations required for each major program for an

additional period of four years. In preparing the financial plan, the office of management and budget may utilize estimates prepared by state agencies or such other information as may be deemed necessary.

10. Any other information as the director of the budget determines desirable or as is required by law.

²³ **SECTION 23. AMENDMENT.** Section 54-44.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-06.1. Contents of capital construction bill. The office of management and budget shall continue to prepare capital construction budgets and a capital construction bill. ~~All future~~ The capital construction bill may only include projects involving bonding. All other capital projects funded with general fund moneys or special funds must be included in draft amendments to the appropriate agency's appropriation bill.

²⁴ **SECTION 24. AMENDMENT.** Section 57-01-04 of the North Dakota Century Code, as amended by House Bill No. 1006, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

57-01-04. Salary. The annual salary of the state tax commissioner is seventy-six thousand ~~thirty-six~~ seventy-seven hundred seventy-four dollars through June 30, 2006, and seventy-nine thousand ~~seventy-seven~~ eight hundred forty-five dollars thereafter.

SECTION 25. AMENDMENT. Section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-02. Authority of counties or cities to impose fee on telephone exchange access service and on wireless service - Procedure. The governing body of a county or city may impose a fee on the use of telephone exchange access service and on the use of wireless service in accordance with the following requirements:

1. The governing body shall adopt a resolution that proposes the adoption of the fee permitted under this section. The resolution must specify an effective date for the fee which is no more than two years before the expected implementation date of the emergency services communication system to be funded by the fee. The resolution must include a provision for submitting the proposed fee to the electors of the county or city before the imposition of the fee is effective. The resolution must specify a fee that does not exceed one dollar per month per telephone access line and per wireless access line.
2. The question of the adoption of the fee must be submitted on a ballot on which the ballot title of the proposition includes the maximum monthly rate of the proposed fee authorized under subsection 1. The question of the adoption of the fee may be submitted to electors at a general,

²³ Section 23 was vetoed by the Governor, see chapter 616.

²⁴ Section 57-01-04 was also amended by section 5 of House Bill No. 1006, chapter 6.

primary, or special election or at a school district election if the boundaries of the school district are coterminous with the boundaries of the governing body adopting the resolution proposing the adoption of the fee. The fee is not effective unless it is approved by a majority of the electors voting on the proposition. The ballot must be worded so that a "yes" vote authorizes imposition of the fee for an initial six-year period.

3. If the electors have approved imposition of a fee under this section before July 1, 2005, and the governing body of the city or county has not implemented that fee by June 30, 2005, the approval by the electors remains valid until the fee is implemented and, upon implementation, the fee may be imposed for a six-year period and is subject to reimposition under subsection 4.
4. Any political subdivision that desires to increase the fee, subject to the limitations in subsection 1, before the end of the six-year term, must use the same ballot procedure originally used to authorize the fee. The new ballot question may apply to only the proposed increase and not to the original amount or the original term. If the increase is approved, the new amount may be collected for the balance of the original six-year term. If the fee authorized by this section is approved by the electors, the fee may be reimposed for six additional years without resubmitting the question to the electors.
4. 5. In any geographic area, only one political subdivision may impose the fee and imposition must be based on the subscriber service address.
- ~~5.~~ 6. In the interest of public safety, where the subscriber's telephone exchange access service boundary and the boundary of the political subdivision imposing the fee do not coincide, and where all of the political subdivisions within the subscriber's telephone exchange access service boundary have not complied with subsection 1, and where a majority of the E911 subscribers within the subscriber's telephone exchange access service boundary have voted for the fee, a telephone exchange access service subscriber whose subscriber service address is outside the political subdivision may receive E911 services by signing a contract agreement with the political subdivision providing the emergency services communications system. The telephone exchange access service provider may collect an additional fee, equal in amount to the basic fee on those subscribers within the exchange boundary. The additional fee amounts collected must be remitted as provided in this chapter.
- ~~6.~~ 7. A fee imposed under this section before August 1, 2001, may be extended to all wireless service at each subscriber service address within the area in which the fee is imposed only if that extension of the fee has been approved by a majority vote of the governing body of the city or county upon at least thirty days' prior notice in the official newspaper of the city or county that the governing body will consider the issue or by majority vote of the electors of the city or county voting on the question upon placement of the question on the ballot by the governing body of the city or county at a regular or special city or county election.

SECTION 26. AMENDMENT. Section 5 of House Bill No. 1518, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

SECTION 5. EFFECTIVE DATE. The increase in the levy imposed by section 2 of this Act applies to all sales occurring on and after ~~the day of the next calendar quarter occurring at least thirty days after the effective date of this Act~~ July 1, 2005.

SECTION 27. REPEAL. Section 9 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, is repealed.

SECTION 28. LEGISLATIVE COUNCIL - STATE EMPLOYEE COMPENSATION STUDY. The legislative council shall study, during the 2005-06 interim, issues related to state employee compensation. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly. The study must include the following issues, which do not limit the scope of the legislative council's study of the state employee compensation system:

1. Total state employee compensation, including wages and salaries, annual leave, pay grades, classification, disaster or emergency services volunteers' leave, employee assistance program benefits, family and medical leave, funeral leave, holidays, hours of work, jury and witness leave, leave without pay, the merit system, military leave, overtime compensation, retirement benefits, health insurance benefits, severance pay, sick leave, benefits for temporary employees, time off to vote, and veterans' preferences.
2. The human resources system, including the development and determination of pay grades, classifications, and the relevance and appropriateness of utilizing information from the central states compensation association and job service North Dakota, as opposed to intrastate private sector employers in determining appropriate compensation levels and job classifications.
3. Retirement benefits.
4. Health insurance benefits, including the availability of health savings accounts, self-insurance, healthy lifestyle incentives, and the appropriateness of current health insurance benefits.
5. The feasibility and desirability of implementing equity pay, merit pay, and pay for performance compensation systems.

SECTION 29. LEGISLATIVE COUNCIL STUDY - DEPARTMENT OF CORRECTIONS AND REHABILITATION EMPLOYEE SALARIES. The legislative council shall consider studying, during the 2005-06 interim, employee salaries of the department of corrections and rehabilitation. The study must include:

1. Input from the office of management and budget human resource management services division regarding a salary comparison of the department's employees to market, the impact on the salary comparison of the salary increases and equity adjustments authorized for the 2005-07 biennium, and a review of the same information from 1995 through 2005, including a comparison of the salaries for the department

of corrections and rehabilitation employees to market and any salary increases and equity adjustments provided during that time.

2. Input from the department of corrections and rehabilitation regarding employee salary increases provided by job classification from 1995 through 2005, employee turnover by job classification, salary equity funding requested and provided, and other relevant information.
3. A review by the legislative council of reasons relating to the divergence of salaries for the department of corrections and rehabilitation employees from market, including the related impact of demands on the department's budget due to growth in inmate populations, increase in contract housing of inmates, budget reductions, and agency turnback.

The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 30. LEGISLATIVE INTENT - RESTORATION OF PILLARS IN THE MEMORIAL HALL. It is the intent of the fifty-ninth legislative assembly that the office of management and budget restore the pillars in the memorial hall of the state capitol prior to December 1, 2006.

SECTION 31. HIGHWAY FUND TRANSFER TO SPECIAL ROAD FUND. The department of transportation shall transfer from the state highway fund to the special road fund the amount necessary to provide \$500,000 in the special road fund for projects, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 32. TRANSFER. During the biennium beginning July 1, 2005, and ending June 30, 2007, the director of the office of management and budget shall transfer \$55,300,000 from the permanent oil tax trust fund to the general fund.

SECTION 33. APPROPRIATION - JUDICIAL BRANCH. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$114,925, or so much of the sum as may be necessary, to the judicial branch for the purpose of providing additional compensation to elected judges and justices, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 34. APPROPRIATION - NORTH DAKOTA VISION SERVICES - SCHOOL FOR THE BLIND. There is appropriated out any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000, or so much of the sum as may be necessary, to the North Dakota vision services - school for the blind for the purpose of providing additional funding for temporary salaries, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 35. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, for the biennium beginning July 1, 2005, and ending June 30, 2007, such amounts as may be necessary, but not to exceed the additional general fund revenues that will become available pursuant to the sale of oil put options as provided for in section 1 of chapter 491 of the 2003 Session Laws, to the office of management and budget to purchase oil put options through the state investment board.

SECTION 36. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of

\$65,000, or so much of the sum as may be necessary, to the department of human services for providing additional incentive money to the Lake Region child support enforcement unit, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 37. APPROPRIATION - LEGISLATIVE ASSEMBLY. There is appropriated out of any moneys in the water development trust fund in the state treasury, not otherwise appropriated, the sum of \$20,000, or so much of the sum as may be necessary, to the legislative assembly for the purpose of paying North Dakota's contribution to the legislators' forum for Manitoba, Minnesota, North Dakota, and South Dakota, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 38. Two new sections to House Bill No. 1286, as approved by the fifty-ninth legislative assembly, are created and enacted as follows:

SECTION 13. EFFECTIVE DATE. Section 7 of this Act is effective for records requests made after December 31, 2004.

SECTION 14. EMERGENCY. This Act is declared to be an emergency measure.

SECTION 39. A new section to Senate Bill No. 2012, as approved by the fifty-ninth legislative assembly, is created and enacted as follows:

LEGISLATIVE INTENT REGARDING INTERPRETATION. Sections 13 and 16 of this Act may not be construed to preclude claims for motor vehicle and special fuel tax refunds by tribal members or tribal entities for taxes on purchases made before January 1, 2005.

SECTION 40. AMENDMENT. Section 20 of House Bill No. 1043, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

SECTION 20. EFFECTIVE DATE - EXPIRATION DATE. Section 13 of this Act is effective for taxable events occurring from ~~January 1, 2006~~ October 1, 2005, through June 30, 2007, and is thereafter ineffective. The remainder of this Act is effective for taxable events occurring after ~~December 31~~ September 30, 2005.

SECTION 41. AMENDMENT. Section 12 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

SECTION 12. LEGISLATIVE COUNCIL STUDY - STRATEGIC PLAN FOR DEPARTMENT OF CORRECTIONS AND REHABILITATION'S INCARCERATION AND CORRECTIONAL FACILITY NEEDS.

1. The legislative council shall appoint an interim committee, during the 2005-06 interim, to develop a legislative strategic plan, including site and facilities' plans, for the department of corrections and rehabilitation's incarceration and correctional facility needs.
2. ~~The legislative council shall appoint a minimum of ten members of the house of representatives and a minimum of five members of the senate. The legislative council shall appoint the chairman of~~

~~the appropriations committee of the house of representatives or the senate or the assistant majority leader of the house of representatives or the senate as the chairman of the committee.~~

~~3-~~ The committee shall:

- a. Receive information from the department of corrections and rehabilitation, regional authorities with regional corrections centers, counties with county jails, cities with city jails, corporations operating private correctional facilities, and others the committee considers necessary to develop a strategic plan for the state's incarceration and correctional facility needs for the next twenty years.
- b. Consider using existing facilities; other available state facilities; and county, local, or private facilities.
- c. Consider any cost and benefits of replacing all or parts of existing correctional facilities or other state property with a modern all-encompassing facility.
- d. Consider state-operated facilities compared to contract-operated state facilities.
- e. Consider contracting with a private entity to provide all or part of the state's correctional and rehabilitation needs.
- f. Consider the impact to the department of corrections and rehabilitation of changing sentencing guidelines, increasing fines as an alternative to incarceration for nonviolent or minor drug offenders, and utilizing alternatives to incarceration and treatment programs, including receiving information regarding the efficiency of treatment programs.
- g. Develop a strategic plan based on the information received by the committee.

~~4-~~ 3. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 42. DEPARTMENT OF HUMAN SERVICES - STATE HOSPITAL EMPLOYEE POSITIONS. The fifty-ninth Legislative Assembly authorizes up to twenty-one additional full-time equivalent employee positions at the state hospital relating to the provisions of Senate Bill No. 2373, subject to approval by the emergency commission and the budget section.

SECTION 43. LAKE REGION STATE COLLEGE NORTH HALL. Lake region state college is authorized to change the scope of the project approved by the 2003 legislative assembly to allow for the renovation of the north hall residence facility to include complete remodeling of the entire facility.

SECTION 44. UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES - PERFORMANCE AUDIT. Notwithstanding North Dakota Century Code section 54-10-01, the state auditor may not conduct a

performance audit during the 2005-07 biennium of the university of North Dakota school of medicine and health sciences until the completion of the school's accreditation process.

SECTION 45. EMERGENCY. Section 38 of this Act and section 8 of Senate Bill No. 2012, as approved by the fifty-ninth legislative assembly, are declared to be an emergency measure.

Approved May 4, 2005

Filed May 4, 2005

CHAPTER 16

HOUSE BILL NO. 1016

(Appropriations Committee)
(At the request of the Governor)

EMERGENCY SERVICES

AN ACT to provide an appropriation for defraying the expenses of the department of emergency services; to provide for a performance audit of the department of emergency services; to provide authorization for a loan from the Bank of North Dakota; to provide for a report to the legislative council; to provide a statement of legislative intent; to provide for a department of emergency services and an advisory committee; and to amend and reenact subdivision b of subsection 2 of section 28-32-01, subsection 3 of section 37-17.1-05, sections 37-17.1-06, 37-17.1-07, 37-17.1-07.1, 37-17.1-11, 37-17.1-13, 37-17.1-14, 37-17.1-14.1, 37-17.1-15, 37-17.1-22, and 37-17.1-23, subsection 2 of section 39-01-01, and sections 39-10-03.2, 54-23.2-01, 54-23.2-04.1, 54-23.2-09, 57-40.6-11, 57-40.6-12, 61-16.2-03, and 65-06-01 of the North Dakota Century Code, relating to the department of emergency services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the department of emergency services under the supervision of the adjutant general in section 3 of this Act as follows:

Salaries and wages	\$3,037,559
Operating expenses	1,637,032
Capital assets	12,000
Grants	33,899,585
Total all funds - Base level	\$38,586,176
Less estimated income - Base level	37,217,141
Total general fund - Base level	<u>\$1,369,035</u>

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the department of emergency services under the supervision of the adjutant general which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$3,540,596
Operating expenses	1,688,812
Capital assets	4,945,923
Grants	13,062,469
Salaries and wages pool	213,493
Total all funds - Adjustments/enhancements	\$23,451,293
Less estimated income - Adjustments/enhancements	19,730,151
Total general fund - Adjustments/enhancements	<u>\$3,721,142</u>

SECTION 3. 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 department of emergency services under the supervision of the adjutant general for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$6,578,155
Operating expenses	3,325,844
Capital assets	4,957,923
Grants	46,962,054
Salaries and wages pool	213,493
Total all funds	\$62,037,469
Less estimated income	<u>56,974,292</u>
Total general fund appropriation	<u>\$5,090,177</u>

SECTION 4. STATE HAZARDOUS CHEMICALS PREPAREDNESS AND RESPONSE FUND. The sum of \$225,553, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act, is from the state hazardous chemicals preparedness and response fund and may be spent by the department of emergency services for the purposes provided in section 37-17.1-07.1.

SECTION 5. PERFORMANCE AUDIT - DEPARTMENT OF EMERGENCY SERVICES. The state auditor shall conduct a performance audit of the department of emergency services, including a review of fees collected for 911 services and the utilization of the fees during the biennium beginning July 1, 2005, and ending June 30, 2007. If possible, the audit should include options for the appropriate method of funding costs incurred by the department for providing 911 services, including the costs incurred by the department for answering calls from counties not under contract with the division for 911 services. The state auditor must be granted access to all county and county consortium records pertaining to 911 information. The results of the audit must be presented to the legislative audit and fiscal review committee and filed with the appropriations committee of the sixtieth legislative assembly.

SECTION 6. STATE RADIO COMMUNICATIONS SYSTEM - LOAN AUTHORIZATION - BUDGET SECTION APPROVAL. Subject to the approval of the emergency commission and the budget section, the department of emergency services may borrow an amount not to exceed \$900,000 from the Bank of North Dakota for expenses associated with the migration of the state radio communications system from analog to digital during the biennium beginning July 1, 2005, and ending June 30, 2007. The loan, including interest, is to be repaid with federal funds made available from the United States department of homeland security. Any funds borrowed by the department under this section are hereby appropriated.

SECTION 7. HOMELAND SECURITY FUNDING ALLOCATION REVIEW PROCESS - REPORT TO THE LEGISLATIVE COUNCIL. The department of emergency services shall implement during the 2005-06 interim a review process relating to the department's allocation of federal homeland security funds to political subdivisions. The process must assure that all agencies and responders are involved in the distribution of the federal funds and that the priorities included in the local needs assessment are met. The department, as requested, shall provide the legislative council a report detailing the uses of federal homeland security funds at the state and local level and a report regarding any discrepancies relating to the needs assessments completed by the department and political subdivisions and purchases made with federal homeland security funds.

SECTION 8. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS SYSTEM MIGRATION PROJECT - POLITICAL SUBDIVISION FINANCIAL PARTICIPATION. It is the intent of the fifty-ninth legislative assembly that political subdivisions spend a portion of the federal homeland security funding allocations on costs associated with the migration of the state radio communications system from analog to digital.

SECTION 9. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS SYSTEM MIGRATION PROJECT. It is the intent of the fifty-ninth legislative assembly that the office of management and budget address all remaining costs associated with the migration of the state radio communications system from analog to digital in the department's budget request for the 2007-09 biennium.

SECTION 10. SALARIES AND WAGES POOL - BUDGET SECTION APPROVAL. The department, in conjunction with the North Dakota human resource management services division of the office of management and budget, shall reevaluate job classifications impacted by the department's reorganization. The department shall report the positions affected by the department's reorganization and a detailed justification of any prior salary increases and a recommendation and analysis of any proposed salary increases or decreases to the budget section. The sum of \$213,493, or so much of the sum as may be necessary, included in the salaries and wages pool line item in section 3 of this Act, is available to the department for providing salary increases to positions affected by the reorganization subject to budget section approval.

²⁵ **SECTION 11. AMENDMENT.** Subdivision b of subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- b. The adjutant general with respect to the ~~division of emergency management~~ department of emergency services.

SECTION 12. Department of emergency services. The department of emergency services consists of a division of state radio and a division of homeland security. The adjutant general is the director of the department. The adjutant general shall provide for shared administration of both divisions. The division of homeland security consists of the state operations center section, the disaster recovery section, and the homeland security section. The adjutant general shall appoint a separate director of each division. A division director serves at the pleasure of the adjutant general. The adjutant general shall fix the compensation of a division director within limits of legislative appropriation.

SECTION 13. Advisory committee to department of emergency services. The adjutant general shall create one or more advisory committees to the department of emergency services. An advisory committee may consist of not more than eleven members representing local and state interests in the department. Members must be appointed to four-year staggered terms. An advisory committee shall advise the department regarding collaboration with political subdivisions, and each member of an advisory committee shall report to the local interest each

²⁵ Section 28-32-01 was also amended by section 13 of House Bill No. 1088, chapter 195, section 14 of House Bill No. 1169, chapter 406, section 6 of Senate Bill No. 2027, chapter 538, and section 29 of Senate Bill No. 2074, chapter 89.

member represents concerning recommendations approved by the committee. Each member of the advisory committee is entitled to be paid sixty-two dollars and fifty cents per day for time spent in attendance at meetings and is entitled to be reimbursed for the member's actual and necessary expenses at the rates and in the manner provided by law for other state officers. The compensation and expenses must be paid out of department appropriations.

SECTION 14. AMENDMENT. Subsection 3 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the division of emergency management department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

SECTION 15. AMENDMENT. Section 37-17.1-06 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-06. State division of emergency management homeland security.

1. ~~A The division of emergency management is hereby established in the office of the adjutant general. The division shall have a director appointed by, and to serve at the pleasure of, the adjutant general and the director's compensation must be fixed by the adjutant general within the legislative appropriations. The division shall homeland security, must have other professional, technical, secretarial, and clerical employees as necessary for the performance of its functions. The director of the division shall fix the compensation of the staff in conformity with state merit system regulations and may make such expenditures within the appropriations therefor, or from other funds made available to the director for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.~~
2. The division of ~~emergency management~~ homeland security shall prepare and maintain a state disaster plan and keep it current, which plan may include provisions for:
 - a. Averting or minimizing the injury and damage caused by disasters or emergencies.
 - b. Prompt and effective response to a disaster or emergency.

- c. Emergency relief.
 - d. Identification of areas particularly vulnerable to a disaster or emergency.
 - e. Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other mitigation and preparedness measures.
 - f. Assistance to local officials in developing and maintaining local emergency management systems.
 - g. Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from any disaster or emergency.
 - h. Preparation and distribution of emergency management assistance program guidance to the appropriate state and local officials.
 - i. Organization of manpower and chains of command.
 - j. Coordination of federal, state, and local emergency management activities.
 - k. Coordination of state disaster or emergency operations plans with the disaster or emergency plans of the federal government.
 - l. Other necessary matters.
3. The division of ~~emergency management~~ homeland security shall take an integral part in the development and revision of local disaster or emergency operations plans prepared under section 37-17.1-07. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to local emergency management organizations. These personnel shall consult with local emergency management organizations on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which particular local disaster or emergency plans are intended to apply and may suggest or require revisions.
 4. In preparing and revising state disaster or emergency plans, the division of ~~emergency management~~ homeland security shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local emergency management organizations, the division shall encourage them also to seek advice from these sources.
 5. State disaster or emergency plans or any parts thereof have the force of law upon implementation by the governor.
 6. The division of ~~emergency management~~ homeland security shall:
 - a. Coordinate the procurement and prepositioning of supplies, materials, and equipment for disaster or emergency operations.

- b. Provide guidance and standards for local disaster or emergency operational plans.
- c. Periodically review local disaster or emergency operational plans.
- d. Coordinate state or state and federal assistance to local emergency management organizations.
- e. Establish and operate or assist local emergency management organizations to establish and operate training programs and programs for emergency public information.
- f. Make surveys of industries, resources, and facilities, within the state, both public and private, as are necessary to carry out the purposes of this chapter. The use of sensitive and proprietary logistical data submitted to the state in confidence by individual industries and suppliers must be accorded full confidentiality and will be released only in aggregate form.
- g. Plan and make arrangements for the availability and use of any private facilities, services, and property, and, if necessary and if in fact used, coordinate payment for that use under terms and conditions agreed upon.
- h. Establish access to a register of persons with types of training and skills important in mitigation, preparedness, response, and recovery.
- i. Establish access to a register of equipment and facilities available for use in a disaster or emergency.
- j. Prepare, for issuance by the governor, executive orders, proclamations, and guidance as necessary or appropriate in managing a disaster or emergency.
- k. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery.
- l. Be the state search and rescue coordinating agency, establish access to a register of search and rescue equipment and personnel in the state, and plan for its effective utilization in carrying out the search for and rescue of persons when no violation of criminal laws exists.
- m. Do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 16. AMENDMENT. Section 37-17.1-07 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-07. Local emergency management organizations.

1. All areas of the state are within the jurisdiction of and must be served by the division of ~~emergency management~~ homeland security and by a local emergency management organization.
2. Each county shall maintain an emergency management organization which serves the entire county.
3. Each city shall provide an emergency management organization of its own, or it shall participate in the countywide emergency management organization. Each governing board of a city shall make its determination on the basis of the city's emergency management requirements, hazards, capabilities, and resources. The division of ~~emergency management~~ homeland security shall publish and keep current a list of cities desiring to have an emergency management organization of their own.
4. The mayor of a city or chairman of the board of county commissioners shall notify the division of ~~emergency management~~ homeland security of the manner in which the city or county is providing or securing emergency management activities, identify the person who will coordinate the activities of the local emergency management organization, and furnish additional information relating thereto as the division requires.
5. Each local emergency management organization shall prepare and keep current a local disaster or emergency operational plan for its area.
6. The local emergency management organization shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the disaster or emergency responsibilities of their local agencies and officials.

SECTION 17. AMENDMENT. Section 37-17.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-07.1. Hazardous chemicals preparedness and response program.

1. ~~Program components.~~
 - a. ~~State emergency response commission.~~ The governor shall appoint members of the state emergency response commission to carry out the commission's responsibilities as outlined in Public Law 99-499, 42 U.S.C. 11001, et seq., also referred to as SARA title III, and the responsibilities of the commission members as outlined in the North Dakota emergency operations plan.
 - b. ~~Program development.~~ In conjunction with the state emergency response commission, the local emergency planning committees, and the local emergency management organizations, the division of ~~emergency management~~ homeland security shall coordinate the development and maintenance of a state hazardous chemicals preparedness and response program.
 - c. ~~Chairperson.~~ The director of the division of ~~emergency management~~ homeland security shall serve as the ~~chairperson~~

chairman of the state emergency response commission. In the absence of the ~~chairperson~~ chairman, the designated vice ~~chairperson~~ chairman shall serve as ~~chairperson~~ chairman. The ~~chairperson~~ chairman shall recognize the assignment of representatives to the commission who are designated through a delegation of authority by a member. The ~~chairperson~~ chairman shall designate a commission secretary, solely for the purpose of documenting and distributing clerical proceedings, from the staff of the division of ~~emergency management~~ homeland security.

- d. ~~Facility reporting.~~ For the purpose of complying with the reporting requirements set forth in sections 302, 304, 311, 312, and 313 of Public Law 99-499, 42 U.S.C. 11001, et seq., also referred to as SARA title III, the owner and operator of any facility, as defined in SARA title III, shall submit those reports to the North Dakota division of ~~emergency management~~ homeland security as required by SARA title III, which shall establish and maintain the state repository for these reports.
2. ~~Establishment of funds.~~
 - a. ~~State hazardous chemicals preparedness and response fund.~~ There is created in the state treasury a nonlapsing restricted account to be known as a state hazardous chemicals preparedness and response fund. The fund consists of revenue collected from the state hazardous chemical fee system and funds appropriated by the general assembly. Moneys in the fund shall be appropriated biennially to the division of ~~emergency management~~ homeland security for carrying out the purposes, goals, and objectives of SARA title III, and the state hazardous chemicals preparedness and response program.
 - b. ~~County hazardous chemicals preparedness and response account.~~ The county treasurer of each county shall establish a nonlapsing restricted account, to be known as the county hazardous chemicals preparedness and response account. The county hazardous chemicals preparedness and response account consists of revenue from the state hazardous chemicals fee system, county, federal or state funds, grants, and any private donations provided to finance the county hazardous chemicals preparedness and response program.
 - c. ~~Facility fee system.~~ Each owner and operator of a facility, as defined in SARA title III, shall pay an annual hazardous chemicals fee to the division of ~~emergency management~~ homeland security by March first of each year. The fee is twenty-five dollars for each chemical within the meaning of 40 CFR 355.20 or its successor which is required under section 312 of SARA, title III, to be listed on the hazardous chemical inventory form (tier II) which the owner or operator must submit to the division. The federal requirements must be used for completing the tier II form, including the threshold amounts, as outlined in 40 CFR 370.20. The maximum fee for a facility under this section is one hundred fifty dollars. The division of ~~emergency management~~ homeland security shall transfer to the county hazardous chemicals preparedness and response account

one-half of the funds collected from the state's hazardous chemicals fee system.

- d. ~~Exemptions.~~ The owners or operators of family farm enterprises that are not engaged in the retail or wholesale of hazardous chemicals and facilities owned by the state or local governments are exempt from the fee under subdivision c. For purposes of this section, the terms "family farm" and "farmer" have the same meaning as set forth in section 6-09.11-01.
 - e. ~~Accept funding.~~ The state and county governments are authorized to accept and may deposit grants, gifts, and federal funds into the hazardous chemicals preparedness and response fund and accounts for the purpose of carrying out the hazardous chemicals preparedness and response program.
 - f. ~~Definition.~~ "Hazardous chemical" means as defined in 40 CFR 355.20 and 29 CFR 1910.1200.
 - g. ~~City fee system.~~ The state hazardous chemicals fee system does not supersede a city fee system for hazardous chemicals.
3. ~~Recovery of response costs.~~
- a. ~~General rule.~~ A person who causes a release, as defined in 40 CFR 355.20, of a hazardous chemical in excess of the reportable quantity of that chemical, as defined in 40 CFR 355.20, is liable for the response costs incurred by state or local hazardous chemical response personnel. The state agency, local agency, volunteer organization, or hazardous chemical response personnel, as identified in the state or local emergency operations plan, which undertakes a response action may recover those response costs in an action brought before a court of competent jurisdiction. If more than one jurisdiction, organization, or agency incurs response costs for the same hazardous chemical release or incident, those hazardous chemical response jurisdictions, agencies, organizations, or personnel may file a joint action and may designate one entity to represent the others in the action.
 - b. ~~Amount.~~ In the action to recover reasonable and necessary response costs, state agencies, local agencies, or volunteer organizations may include operational, administrative, personnel, and legal costs incurred from its initial response action up to the time that it recovers its cost. Reasonable and necessary costs are those additional costs incurred that are a result of the responsible party's failure or inability to implement or initiate the necessary actions to protect life, property, and the environment.
4. ~~Penalties and fines.~~
- a. ~~Civil fines.~~ A person who violates any of the reporting, planning, or notification requirements outlined in the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 [title III of Public Law 99-499, 42 U.S.C. 11001 et seq.], or fails to pay a state hazardous chemicals fee is subject to a civil fine of not more than fifteen thousand dollars for each separate offense. For

purposes of this subdivision, each day of continued violation constitutes a separate offense. All civil fines collected under this subdivision must be deposited in the state general fund. The state and its political subdivisions and employees of the state or a political subdivision acting within the scope of their employment are not subject to the civil fines established in this subdivision.

- b. ~~Criminal penalty.~~ Any person who knowingly falsifies information or who intentionally obstructs or impairs, by force, violence, physical interference, or obstacle, a representative of state or local government or state or local hazardous chemicals response personnel attempting to perform duties and functions in state or local emergency operations plans or complying with Public Law 99-499, SARA title III, is guilty of a class B misdemeanor. The state and its political subdivisions and employees of the state or a political subdivision acting within the scope of their employment are not subject to the penalty established in this subdivision.

5. ~~Enforcement.~~

- a. If the director of the division of ~~emergency management homeland security~~ determines that a violation of this chapter has occurred, the director shall make all evidence available to the attorney general for use in any remedial action the attorney general's office determines appropriate, including injunctive relief.
- b. Nothing in this section may be construed to deny use of the remedies authorized under chapter 32-40.

SECTION 18. AMENDMENT. Section 37-17.1-11 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-11. Disaster or emergency mitigation.

1. In addition to disaster or emergency mitigation measures as included in the state and local disaster or emergency operational plans, the governor shall consider, on a continuing basis, steps that could be taken to mitigate or reduce the harmful consequences of disasters or emergencies. At the governor's direction, and pursuant to any other authority and capability they have, state agencies charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of disaster or emergency mitigation-related matters. The governor, from time to time, shall make recommendations to the legislative assembly, local governments, and other appropriate public and private entities as may facilitate measures for mitigation or reduction of the harmful consequences of disasters or emergencies.
2. The North Dakota state engineer and the water commission, in conjunction with the division of ~~emergency management homeland security~~, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection must

concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences thereof.

3. If the division of emergency management homeland security determines, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning; existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster or emergency; and changes in zoning regulations, other land use regulations, or building requirements are needed in order to further the purposes of this section, it shall specify the essential changes to the governor. If the governor, upon review of the determination, finds after public hearing, that the changes are essential, the governor shall so recommend to the agencies or local governments with jurisdiction over that area and subject matter. If no action or insufficient action pursuant to the governor's recommendations is taken within the time specified by the governor, the governor shall so inform the legislative assembly and request legislative action appropriate to mitigate the impact of the disaster or emergency.
4. The governor, at the same time that the governor makes recommendations pursuant to subsection 3, may suspend the standard or control which the governor finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control remains in effect until rejected by concurrent resolution of both houses of the legislative assembly or amended by the governor. During the time it is in effect, the standard or control contained in the governor's regulation must be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The governor's action is subject to judicial review in accordance with chapter 28-32 but is not subject to temporary stay pending litigation.

SECTION 19. AMENDMENT. Section 37-17.1-13 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-13. Communications. The division of emergency management homeland security shall ascertain what means exist for rapid and efficient communications in times of a disaster or emergency. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system or network, including the military installations. In studying the character and feasibility of any system or its several parts, the division shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The division shall make recommendations to the governor as appropriate.

SECTION 20. AMENDMENT. Section 37-17.1-14 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14. Mutual aid.

1. Counties and cities must be encouraged and assisted by the division of emergency management homeland security to conclude suitable arrangements for furnishing mutual aid in emergency management.

The arrangements must include provision of aid by persons and units in public employ.

2. In review of local disaster or emergency plans, the division of ~~emergency management~~ homeland security shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

SECTION 21. AMENDMENT. Section 37-17.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14.1. Mutual aid - Cooperation.

1. The division of ~~emergency management~~ homeland security shall encourage and assist political subdivisions to enter mutual aid agreements with other public and private agencies within the state for reciprocal aid and assistance in responding to and recovering from actual and potential disasters or emergencies.
2. In reviewing emergency operations plans and programs of political subdivisions, the division of ~~emergency management~~ homeland security shall consider whether ~~they~~ the plans and programs contain adequate provisions for mutual aid.
3. Local emergency management organizations may assist in negotiation of mutual aid agreements between the governor and an adjoining state or province or a political subdivision of an adjoining state or province and shall carry out arrangements of any such agreements relating to the local political subdivision.

SECTION 22. AMENDMENT. Section 37-17.1-15 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-15. Weather modification. The division of ~~emergency management~~ homeland security shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the division determines that precipitation resulting from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, ~~it~~ the division shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. ~~Thereupon, no~~ No permits may be issued until the division informs the officer or agency that the danger has passed.

SECTION 23. AMENDMENT. Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-22. Disaster or emergency response and recovery costs. Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of ~~emergency management~~ homeland security shall determine and record the costs of the state response and recovery operations in accordance with an agreement with the federal government or in accordance with procedures established by the governor in the case of a state-declared disaster or emergency. Immediately following the response or recovery operations, or prior thereto if ~~deemed~~ determined necessary by the

governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and ~~such the~~ commission shall immediately shall grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.

SECTION 24. AMENDMENT. Section 37-17.1-23 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-23. Disaster or emergency recovery funding - Loan authorization.

1. When approved by the emergency commission, the division of ~~emergency management~~ homeland security is authorized to borrow from the Bank of North Dakota, to match federal funds under the Robert T. Stafford Disaster Emergency Assistance Act [Public Law 93-288, as amended]. In addition to the principal repayment, the Bank of North Dakota shall receive interest on the loan at a rate equal to other state agency borrowings. On behalf of the state, the division of ~~emergency management~~ homeland security shall administer the disaster or emergency recovery program according to state procedures based on federal laws or regulations. After a county or group of counties have been declared a major disaster or emergency area by the president, the division shall submit a request to the emergency commission for:
 - ~~4.~~ a. Approval to make an application for a loan from the Bank of North Dakota;
 - ~~2.~~ b. Approval for additional personnel required to perform the anticipated recovery activities; and
 - ~~3.~~ c. Authority to spend additional state and federal funds for the recovery program.
2. If the request is acceptable, the emergency commission shall approve the request and issue a notice of its action to the division, Bank of North Dakota, and the office of management and budget. The division shall keep the emergency commission apprised of the progress of the recovery operation and submit a final report upon completion of the project. The emergency commission is responsible to repay any loan, including accrued interest, from the Bank of North Dakota which is provided under this section. If at the end of the biennium a balance exists on the loan, the emergency commission shall request the legislative assembly for a deficiency appropriation to repay the loan.

²⁶ **SECTION 25. AMENDMENT.** Subsection 2 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Authorized emergency vehicles:
 - a. Class A authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
 - (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - b. Class B authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
 - c. Class C authorized emergency vehicles means:

²⁶ Section 39-01-01 was also amended by section 1 of House Bill No. 1342, chapter 344, and section 2 of Senate Bill No. 2208, chapter 340.

- (1) Vehicles authorized by the state and division of homeland security or local division of emergency management organizations.
- (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
- (3) Vehicles, other than ambulances, used by emergency medical services personnel.

SECTION 26. AMENDMENT. Section 39-10-03.2 of the North Dakota Century Code is amended and reenacted as follows:

39-10-03.2. Class C authorized emergency vehicles. All class B specifications apply to class C authorized emergency vehicles except that a rotating blue flashing light must be displayed in place of an amber light as provided in section 39-10-03.1. With respect to vehicles used by state and local disaster emergency services personnel, the division of ~~emergency management~~ homeland security is responsible for adopting rules for the use of flashing blue lights in accordance with chapter 28-32.

SECTION 27. AMENDMENT. Section 54-23.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-01. Definitions. ~~Wherever the word "director" is hereinafter used, it shall mean the director of the office of management and budget. The word "system" hereinafter used shall mean~~ As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the division of state radio.
2. "Division" means the division of state radio of the department of emergency services.
3. "System" means the state radio broadcasting system.

SECTION 28. AMENDMENT. Section 54-23.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-04.1. Lost or runaway children and missing persons. ~~The state radio department~~ division shall:

1. Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost or runaway children and missing persons. ~~The state radio department shall implement~~
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information ~~which that~~ can assist appropriate agencies in recovering lost or runaway children and missing persons.
2. 3. Establish contacts and exchange information regarding lost or runaway children and missing persons with the national crime information center.

- 3- 4. Notify all enforcement agencies that reports of lost or runaway children and missing persons ~~shall~~ must be entered as soon as the minimum level of data specified by the ~~state radio department division~~ is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the ~~state radio department~~ shall ~~division~~ immediately upon notification shall enter the information into the national crime information center file.
- 4- 5. Compile and retain information regarding lost or runaway children or missing persons in a separate file, in a manner that allows the information to be used by law enforcement and other agencies ~~deemed~~ considered appropriate by the ~~state radio department division~~, for investigative purposes. The enforcement agency is responsible for maintaining the disposition of the case and ~~shall~~ periodically shall review the case with the reporting party and the ~~state radio department~~ division to ensure all available information is included and to determine the current status of the case.
- 5- 6. Provide prompt confirmation of the receipt and entry of the lost or runaway children and missing persons report into the file system to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 6 7.
- 6- 7. Allow any parent, guardian, or identified family member to submit a missing persons report to the ~~state radio department~~ division which will be included in the ~~state radio department~~ division file system and transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
- 7- 8. Compile and maintain a historical data repository relating to missing persons for all of the following purposes:
- a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons.
 - b. To provide a factual and statistical base for research ~~that~~ which would address the problem of lost or runaway children and missing persons.

SECTION 29. AMENDMENT. Section 54-23.2-09 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-09. Mobile data terminal and 911 service fees. ~~State radio communications~~

1. The division shall establish and charge fees to provide mobile data terminal service to interested local law enforcement agencies. The fees must be based on actual costs incurred by ~~state radio communications~~ the division for providing the service.

~~State radio communications~~

2. The division may provide 911 services to a political subdivision with a population of fewer than twenty thousand and shall charge at least twenty cents per telephone access line and wireless access line for 911 services provided to political subdivisions. The fee for 911 wireless

services must be charged to and paid by the political subdivision receiving services from ~~state radio communications~~ the division under this section from and after the date of the agreement entered into by the political subdivision or its designee under section 57-40.6-05, whether the date of that agreement is before or after April 4, 2003. Each county currently receiving 911 services from ~~state radio communications~~ the division shall abide by the standards established by law.

SECTION 30. AMENDMENT. Section 57-40.6-11 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-11. Annual report to legislative council. ~~State radio~~ The division of state radio, in cooperation with entities affected by this section and section 57-40.6-10, shall facilitate the review of emergency 911 telephone system standards and guidelines and shall report annually to the legislative council on the operation of and any recommended changes in the standards and guidelines.

SECTION 31. AMENDMENT. Section 57-40.6-12 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-12. Reports of coordination of public safety answering points coverage. The governing body of a city or county, which adopted a fee on telephone exchange access service and wireless service under this chapter, shall make an annual report of the income, expenditures, and status of its emergency services communication system. The annual report must be submitted to the ~~state radio~~ division of state radio and to the public safety answering points coordinating committee. The committee is composed of three members, one appointed by the North Dakota 911 association, one appointed by the North Dakota association of counties, and one appointed by the ~~office of management and budget~~ adjutant general to represent the ~~state radio~~ division of state radio. The public safety answering points coordinating committee shall file its report with the legislative council by November first of each even-numbered year.

SECTION 32. AMENDMENT. Section 61-16.2-03 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-03. Duties of state engineer. The state engineer shall:

1. Collect and distribute information relating to flooding and floodplain management.
2. Coordinate local, state, and federal floodplain management activities to the greatest extent possible, and encourage appropriate federal agencies to make their flood control planning data available to communities and districts for planning purposes, in order to allow adequate local participation in the planning process and in the selection of desirable alternatives.
3. Assist communities and districts in their floodplain management activities within the limits of available appropriations and personnel in cooperation with the division of ~~emergency management~~ homeland security.
4. Do all other things, within lawful authority, which are necessary or desirable to manage the floodplains for uses compatible with the preservation of the capacity of the floodplain to carry and discharge the

base flood. In cooperation with communities and districts, the state engineer shall conduct, whenever possible, periodic inspections to determine the effectiveness of local floodplain management programs, including an evaluation of the enforcement of and compliance with local floodplain management ordinances.

SECTION 33. AMENDMENT. Section 65-06-01 of the North Dakota Century Code is amended and reenacted as follows:

65-06-01. Volunteer firefighter, emergency or disaster volunteer, community emergency response team member, in training defined. The term "volunteer firefighter" means any active member of an organized volunteer fire department of this state and any other individual performing services as a volunteer firefighter for a municipality at the request of the chief or other individual in command of the fire department of that municipality or of any other officer of that municipality having authority to demand service as a firefighter. Firefighters who are paid a regular wage or stipend by the municipality for serving as a firefighter, or whose entire time is devoted to service as a firefighter for the municipality, for the purpose of this chapter, are not volunteer firefighters.

The term "emergency or disaster volunteer" means any individual serving without remuneration who is actively engaged in training to qualify as a disaster emergency worker or is responding to a hazard, emergency disaster, or enemy attack on this country, and who is registered with the disaster emergency organization of a municipality, which has been officially recognized by the director of the state division of ~~emergency management~~ homeland security.

The term "in training" means only those periods of time, during which an emergency or disaster volunteer is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a disaster emergency worker in the event of a hazard, emergency, disaster, or enemy attack on this country.

The term "community emergency response team member" means an individual registered as a community emergency response team member with the appropriate authority. For purposes of this chapter, a community emergency response team member is acting as a community emergency response team member only when the individual is receiving approved community emergency response team training or is acting as a member of a community emergency response team in an emergency or disaster.

Upon request of the organization, the disaster emergency organization of a municipality shall provide the organization with its roster of registered community emergency response team members.

The term "municipality" when used in reference to emergency or disaster volunteer means the state, cities, counties, municipalities, districts, or any other geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer firefighters.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 17

HOUSE BILL NO. 1017

(Appropriations Committee)
(At the request of the Governor)

ADJUTANT GENERAL

AN ACT to provide an appropriation for defraying the expenses of the adjutant general; to provide an exemption to section 54-44.1-11 of the North Dakota Century Code, relating to unexpended appropriations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the adjutant general's office in section 3 of this Act as follows:

Salaries and wages	\$3,568,516
Operating expenses	2,681,667
Capital assets	144,987
Grants	329,514
Civil air patrol	193,020
Tuition and enlistment compensation	1,007,500
Air guard contract	6,318,364
Army guard contract	15,370,985
Veterans' cemetery	275,146
Total all funds - Base level	\$29,889,699
Less estimated income - Base level	20,718,716
Total general fund - Base level	<u>\$9,170,983</u>

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the adjutant general's office which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$174,055
Operating expenses	531,861
Capital assets	725,013
Grants	5,000,000
Civil air patrol	(36,762)
Tuition and enlistment compensation	1,000,000
Air guard contract	827,137
Army guard contract	9,610,477
Veterans' cemetery	15,425
Total all funds - Adjustments/enhancements	\$17,847,206
Less estimated income - Adjustments/enhancements	10,612,621
Total general fund - Adjustments/enhancements	<u>\$7,234,585</u>

SECTION 3. 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 adjutant general's office for the

purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$3,742,571
Operating expenses	3,213,528
Capital assets	870,000
Grants	5,329,514
Civil air patrol	156,258
Tuition and enlistment compensation	2,007,500
Air guard contract	7,145,501
Army guard contract	24,981,462
Veterans' cemetery	<u>290,571</u>
Total all funds	\$47,736,905
Less estimated income	<u>31,331,337</u>
Total general fund appropriation	\$16,405,568

SECTION 4. VETERANS' CEMETERY MAINTENANCE FUND - APPROPRIATION. The veterans' cemetery line item in section 3 of this Act includes the sum of \$74,274 from the veterans' cemetery maintenance fund for the operation of the veterans' cemetery. Any additional funds received by the adjutant general and deposited in the veterans' cemetery maintenance fund pursuant to sections 37-03-14 and 39-04-10.10 for the operation of the North Dakota veterans' cemetery are appropriated to the adjutant general for that purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. LINE ITEM TRANSFER AUTHORITY - MAINTENANCE AND REPAIRS. The adjutant general may transfer to the operating expenses and capital assets line items contained in section 3 of this Act up to the sum of \$700,000 from the various other line items contained in section 3 of this Act, as determined necessary by the adjutant general to provide for the maintenance and repair of state-owned armories in this state during the biennium beginning July 1, 2005, and ending June 30, 2007. Any amounts transferred pursuant to this section must be reported to the director of the office of management and budget.

SECTION 6. EXEMPTION - TRANSFER. Any unexpended general fund appropriation authority relating to the \$5,000,000 appropriated in section 3 of this Act for the payment of adjusted compensation to veterans is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation must be transferred to the veterans' cemetery trust fund during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 7. APPROPRIATION. There is appropriated from special funds derived from federal funds the sum of \$4,000,000, or so much of the sum as may be necessary, to the adjutant general's office for the purpose of completing construction projects at federally supported facilities and roads, for the period beginning with the effective date of this Act and ending June 30, 2005.

SECTION 8. EMERGENCY. Section 7 of this Act is declared to be an emergency measure.

Approved April 25, 2005
 Filed April 26, 2005

CHAPTER 18

HOUSE BILL NO. 1018

(Appropriations Committee)
(At the request of the Governor)

GAME AND FISH DEPARTMENT

AN ACT to provide an appropriation for defraying the expenses of the game and fish department; to amend and reenact sections 20.1-02-16.1 and 20.1-04-15 of the North Dakota Century Code, relating to the game and fish fund and establishing a youth pheasant hunting season; to provide statements of legislative intent; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the game and fish department in section 3 of this Act as follows:

Salaries and wages	\$15,373,582
Operating expenses	9,491,219
Capital assets	2,259,944
Grants	3,602,050
Land habitat and deer depredation	10,181,415
Noxious weed control	300,000
Grants, gifts, and donations	150,000
Nongame wildlife conservation	120,000
Lonetree reservoir	1,337,553
Wildlife services	<u>550,000</u>
Total special funds - Base level	\$43,365,763

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the game and fish department which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$1,414,443
Operating expenses	245,216
Capital assets	701,172
Grants	2,562,072
Land habitat and deer depredation	46,564
Noxious weed control	50,000
Grants, gifts, and donations	550,000
Lonetree reservoir	190,854
Wildlife services	130,000
Ramp improvements and marina development	<u>800,000</u>
Total special funds - Adjustments/enhancements	\$6,690,321

SECTION 3. 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 game and fish fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the game and fish

department for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$16,788,025
Operating expenses	9,736,435
Capital assets	2,961,116
Grants	6,164,122
Land habitat and deer depredation	10,227,979
Noxious weed control	350,000
Grants, gifts, and donations	700,000
Nongame wildlife conservation	120,000
Lonetree reservoir	1,528,407
Wildlife services	680,000
Ramp improvements and marina development	800,000
Total special funds appropriation	\$50,056,084

SECTION 4. PRIVATE LAND HABITAT AND ACCESS IMPROVEMENT.

The sum of \$3,500,000, or so much of the sum as may be necessary, included in the land habitat and deer depredation line item in section 3 of this Act, is from the private land habitat and access improvement fund and must be used by the game and fish department for the private land habitat and access improvement program, as provided in section 20.1-02-05, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. NONGAME WILDLIFE. The sum of \$35,000, or so much of the sum as may be necessary, included in the nongame wildlife conservation line item in section 3 of this Act, is from the nongame wildlife fund and must be used by the game and fish department for the purposes provided in section 20.1-02-16.2, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. WILDLIFE SERVICES - AGRICULTURE COMMISSIONER.

The sum of \$680,000, or so much of the sum as may be necessary, included in the wildlife services line item in section 3 of this Act, is from the game and fish department operating fund and must be provided to the agriculture commissioner to pay for services provided by the United States department of agriculture wildlife services agency to alleviate wildlife depredation and damage in North Dakota. The director of the game and fish department must approve projects, contracts, and agreements relating to the expenditure of these moneys.

SECTION 7. LEGISLATIVE INTENT - GRANTS, GIFTS, AND DONATIONS LINE ITEM - UNDERDAHL GIFT. The grants, gifts, and donations line item in section 3 of this Act includes up to \$500,000 provided as a gift to the game and fish department from the estate of Rodney Underdahl. It is the intent of the fifty-ninth legislative assembly to approve the unrestricted receipt of this gift by the game and fish department.

SECTION 8. LEGISLATIVE INTENT - GRAHAMS ISLAND ROAD. It is the intent of the fifty-ninth legislative assembly that if the bids for the Grahams Island road construction project are less than the amount budgeted, then \$350,000 of the \$750,000 grant provided by the game and fish department for the road project must be returned to the game and fish fund.

²⁷ **SECTION 9. AMENDMENT.** Section 20.1-02-16.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-16.1. Game and fish fund - Use - Required balance - Budget section approval. All income of the state game and fish department deposited by the director with the state treasurer must be credited to the state game and fish fund and the fund may be used only by the department. All money derived from the investment of the fund or portions of the fund must be credited to the game and fish department private land habitat and access improvement fund. The department shall spend moneys in the game and fish fund within the limits of legislative appropriations, only to the extent the balance of the fund is not reduced below ~~ten~~ fifteen million dollars, unless otherwise authorized by the budget section.

SECTION 10. AMENDMENT. Section 20.1-04-15 of the North Dakota Century Code is amended and reenacted as follows:

20.1-04-15. Pheasant season - Opening. The open or lawful season on pheasant and the open or lawful season on duck may not commence on the same weekend. ~~The~~ Except as otherwise provided in this section for the opening of pheasant season for youth, the open or lawful season on pheasant may not open earlier than one-half hour before sunrise and the season may not commence earlier than the first Saturday of October of any given year. The governor, in the governor's proclamation, may provide a pheasant hunting season for youth ages twelve through sixteen on the Saturday and Sunday preceding the opening of the regular pheasant season.

SECTION 11. EXPIRATION DATE. Section 10 of this Act is effective through July 31, 2007, and after that date is ineffective.

SECTION 12. EMERGENCY. The ramp improvements and marina development line item contained in section 3 of this Act is declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005

²⁷ Section 20.1-02-16.1 was also amended by section 3 of House Bill No. 1138, chapter 207.

CHAPTER 19

HOUSE BILL NO. 1019

(Appropriations Committee)
(At the request of the Governor)

HISTORICAL SOCIETY

AN ACT to provide an appropriation for defraying the expenses of the state historical society; and to provide a contingent appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state historical society in section 3 of this Act as follows:

Salaries and wages	\$5,078,190
Operating expenses	1,270,004
Capital assets	2,849,544
Grants	1,300,000
Cultural heritage grants	75,000
Yellowstone-Missouri-Fort Union Commission	4,492
Lewis and Clark bicentennial	923,746
Veterans' oral history project	<u>150,000</u>
Total all funds - Base level	\$11,650,976
Less estimated income - Base level	<u>4,391,042</u>
Total general fund - Base level	\$7,259,934

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state historical society which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$511,640
Operating expenses	238,702
Capital assets	(1,867,225)
Cultural heritage grants	250,000
Lewis and Clark bicentennial	8,674
Veterans' oral history project	<u>(150,000)</u>
Total all funds - Adjustments/enhancements	(\$1,008,209)
Less estimated income - Adjustments/enhancements	<u>(1,768,704)</u>
Total general fund - Adjustments/enhancements	\$760,495

SECTION 3. 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 state historical society for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$5,589,830
Operating expenses	1,508,706
Capital assets	982,319

Grants	1,300,000
Cultural heritage grants	325,000
Yellowstone-Missouri-Fort Union Commission	4,492
Lewis and Clark bicentennial	<u>932,420</u>
Total all funds	\$10,642,767
Less estimated income	<u>2,622,338</u>
Total general fund appropriation	\$8,020,429

SECTION 4. REVOLVING FUND - APPROPRIATION. All fees collected by the state historical society and deposited in the revolving fund established pursuant to section 55-03-04 are appropriated to the state historical society for the purposes provided in chapter 55-03, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. GIFTS, GRANTS, AND BEQUESTS - APPROPRIATION. All gifts, grants, devises, bequests, donations, and assignments received by the state historical society and deposited with the state treasurer pursuant to section 55-01-04 are appropriated to the state historical society for the purposes provided in section 55-01-04, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. CONTINGENT APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$35,000, or so much of the sum as may be necessary, to the state historical society for the purpose of constructing a monument in Roosevelt park in Minot to honor recipients of the medal of honor, for the biennium beginning July 1, 2005, and ending June 30, 2007. These funds may be spent only if the state historical society receives matching funds from any source for the monument after consultation and cooperation with the Minot park board, veterans, veterans' groups, and other interested parties through an advisory committee appointed by the director of the state historical society.

Approved May 4, 2005

Filed May 4, 2005

CHAPTER 20

HOUSE BILL NO. 1020

(Appropriations Committee)
(At the request of the Governor)

PARKS AND RECREATION DEPARTMENT

AN ACT to provide an appropriation for defraying the expenses of the parks and recreation department and the International Peace Garden; to designate department of commerce tourism division Lewis and Clark bicentennial grants; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the parks and recreation department in section 3 of this Act as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

Salaries and wages	\$5,254,566
Operating expenses	4,606,788
Capital assets	2,517,794
Grants	4,336,000
Lewis and Clark bicentennial	760,618
Total all funds - Base level	<u>\$17,475,766</u>
Less estimated income - Base level	<u>10,772,107</u>
Total general fund - Base level	<u>\$6,703,659</u>

Subdivision 2.

INTERNATIONAL PEACE GARDEN

International Peace Garden	<u>\$352,854</u>
Total general fund - Base level	<u>\$352,854</u>
Total general fund - Section 1	\$7,056,513
Total special funds - Section 1	\$10,772,107
Total all funds - Section 1	<u>\$17,828,620</u>

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the parks and recreation department which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

Salaries and wages	\$523,038
Operating expenses	(307,255)
Capital assets	187,406
Grants	2,144,000
Lewis and Clark bicentennial	<u>(143,283)</u>
Total all funds - Adjustments/enhancements	<u>\$2,403,906</u>
Less estimated income - Adjustments/enhancements	<u>1,602,087</u>
Total general fund - Adjustments/enhancements	<u>\$801,819</u>

Subdivision 2.

INTERNATIONAL PEACE GARDEN

International Peace Garden	<u>\$250,000</u>
Total general fund - Adjustments/enhancements	<u>\$250,000</u>
Total general fund - Section 2	\$1,051,819
Total special funds - Section 2	\$1,602,087
Total all funds - Section 2	<u>\$2,653,906</u>

SECTION 3. 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 parks and recreation department for the purpose of defraying the expenses of the parks and recreation department and the International Peace Garden, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

Salaries and wages	\$5,777,604
Operating expenses	4,299,533
Capital assets	2,705,200
Grants	6,480,000
Lewis and Clark bicentennial	<u>617,335</u>
Total all funds	\$19,879,672
Less estimated income	<u>12,374,194</u>
Total general fund appropriation	<u>\$7,505,478</u>

Subdivision 2.

INTERNATIONAL PEACE GARDEN

International Peace Garden	<u>\$602,854</u>
Total general fund appropriation	<u>\$602,854</u>
Grand total general fund appropriation - H.B. 1020	\$8,108,332
Grand total special funds appropriation - H.B. 1020	\$12,374,194
Grand total all funds appropriation - H.B. 1020	<u>\$20,482,526</u>

SECTION 4. SNOWMOBILE FUND. The sum of \$907,262, or so much of the sum as may be necessary, included in the estimated income line item in subdivision 1 of section 3 of this Act, is from the snowmobile fund and must be used by the parks and recreation department pursuant to section 39-24-05 for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. TRAIL TAX TRANSFER FUND. The sum of \$128,004, or so much of the sum as may be necessary, included in the estimated income line item in subdivision 1 of section 3 of this Act, is from the trail tax transfer fund and must be used by the parks and recreation department pursuant to section 39-29-05 for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. STATE PARKS GIFT FUND. The sum of \$120,691, or so much of the sum as may be necessary, included in the estimated income line item in subdivision 1 of section 3 of this Act, is from the state parks gift fund and must be used by the parks and recreation department pursuant to section 55-08-07.2 for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. GAME AND FISH OPERATING FUND. The sum of \$122,000, or so much of the sum as may be necessary, included in the estimated income line item in subdivision 1 of section 3 of this Act, is from the game and fish operating

fund, or federal or other funds available to the game and fish department, and must be transferred to the parks and recreation department for maintenance, operating, and extraordinary repairs expenses relating to boat ramps at various state parks for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. TOURISM DIVISION OF DEPARTMENT OF COMMERCE - LEWIS AND CLARK BICENTENNIAL GRANTS. The Lewis and Clark bicentennial line item in section 3 of Senate Bill No. 2018, as approved by the fifty-ninth legislative assembly, includes \$325,000 from the general fund that the tourism division shall provide as grants in the following amounts to the entities listed below during the biennium beginning July 1, 2005, and ending June 30, 2007:

Fort Abraham Lincoln foundation	\$100,000
Lewis and Clark foundation	\$100,000
Three affiliated tribes Lewis and Clark bicentennial	\$50,000
Standing Rock tourism, Lewis and Clark	\$50,000
Cowboy hall of fame	\$25,000

SECTION 9. EMERGENCY. The amount of \$200,000 of federal funds for Lake Sakakawea boat ramp access included in the capital assets line item contained in subdivision 1 of section 3 of this Act is declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005

CHAPTER 21

HOUSE BILL NO. 1021

(Appropriations Committee)
(At the request of the Governor)

WATER COMMISSION

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to provide a line of credit and an appropriation for repayment; to amend and reenact section 61-02-23.3 of the North Dakota Century Code, relating to the operation of the Devils Lake outlet; to provide legislative intent; to provide water commission authority to issue bonds; to provide an exemption from payment of fees; and to authorize a cash advance from the general fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state water commission in section 3 of this Act as follows:

Administrative and support services	\$2,076,235
Water and atmospheric resources	<u>157,782,619</u>
Total all funds - Base level	\$159,858,854
Less estimated income - Base level	<u>150,473,458</u>
Total general fund - Base level	\$9,385,396

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state water commission which are included in the appropriation in section 3 of this Act as follows:

Administrative and support services	\$92,903
Water and atmospheric resources	<u>(33,963,759)</u>
Total all funds - Adjustments/enhancements	(\$33,870,856)
Less estimated income - Adjustments/enhancements	<u>(25,485,460)</u>
Total general fund - Adjustments/enhancements	(\$8,385,396)

SECTION 3. 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 state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Administrative and support services	\$2,169,138
Water and atmospheric resources	<u>123,818,860</u>
Total all funds	\$125,987,998
Less estimated income	<u>124,987,998</u>
Total general fund appropriation	\$1,000,000

SECTION 4. RESOURCES TRUST FUND - APPROPRIATION. The sum of \$54,013,116, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act is from the resources trust fund and must be used by the state water commission for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any additional amount in the resources trust fund that becomes available is appropriated to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. WATER DEVELOPMENT TRUST FUND - APPROPRIATION. The sum of \$29,963,873, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act is from the water development trust fund and must be used by the state water commission for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any additional amount in the water development trust fund that becomes available is appropriated to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. SALE AND PURCHASE OF LAND AND BUILDING - AUTHORITY - CONTINUING APPROPRIATION.

1. The state water commission, on behalf of the state of North Dakota, may sell in one or more parcels the land and building known as the "state water commission maintenance shop" located at 2603 East Broadway Avenue, Bismarck, North Dakota, and legally described as follows:

A tract of land lying in the Northwest Quarter (NW 1/4) of Section Two (2), Township One Hundred Thirty-Eight (138) North, Range Eighty (80) West of the Fifth (5) Principal Meridian, in the County of Burleigh and State of North Dakota, and described as follows:

Commencing at the northwest corner of said section two; thence traveling in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six-tenths feet (774.60); thence turning a right angle to the left in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet (47.00), which shall be called the true point of beginning; thence continuing due east along said line for a distance of eight hundred forty-two and nine-tenths feet (842.90); thence turning a deflection angle of ninety degrees and twenty-two minutes (90 degrees 22') to the right and traveling in a southerly direction to a point of intersection with the north fifty foot railroad right-of-way line; thence traveling in a westerly direction along said north fifty foot railroad right-of-way line to a point of intersection with the west boundary of said section two; thence traveling in a northerly direction along the west boundary of said section two for a distance of four hundred seventy-two and one-tenth feet (472.10); thence turning a right angle to the right in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet (47.00); thence traveling in a northerly direction along a line which is parallel to the west boundary of said section two for a distance of one hundred fifty feet (150.00) to the point of

beginning. Including all of the property bounded by the above described line, subject to existing rights-of-way and easements.

The above described tract of land contains 11.77 acres, more or less.

2. The conveyance authorized by this section is exempt from sections 54-01-05.2 and 54-01-05.5. The conveyance may only be made after the property has been appraised and the property must be sold at public auction unless no bid equals or exceeds the minimum appraised value. The appraisal must be dated no earlier than eighteen months before the auction. If at the public auction no bid equals or exceeds the minimum appraised value, the state water commission may negotiate a price for the land with a purchaser.
3. All proceeds from the sale or so much of the sale proceeds as may be necessary, not otherwise appropriated, are appropriated on a continuing basis to the state water commission for the purchase or lease of land and the construction of a building and associated appurtenances to be used as a new maintenance facility. The purchase authorized by this subsection may proceed only after completion of a certified appraisal of the property to be purchased and completion of a physical inspection of any building to be purchased demonstrating that the building is structurally sound and suitable for the state water commission's purposes.
4. The attorney general shall review and approve the form and legality of all legal documents required for the conveyance and purchase authorized by this section, including title opinions.

SECTION 7. BUILDING SALE PROCEEDS. Proceeds of the sale of the state water commission maintenance shop located in east Bismarck, as provided in section 6 of this Act, must be used to purchase or lease land and construct a new maintenance shop building. If the proceeds from the sale are less than \$977,100, the state water commission may use other funds appropriated to the state water commission for the purpose of purchasing or leasing land and constructing a new maintenance shop building. If the proceeds from the sale are not available at the time the state water commission needs to purchase or lease land and construct the new building and associated appurtenances, the state water commission may use other funds appropriated to the commission provided that, upon receipt of the proceeds of the sale, the state water commission shall transfer to the funds from which money was taken an amount equal to any funds utilized for the purchase or lease of land and construction of the new maintenance building. If the state water commission uses other funds appropriated to the commission because the funds from the sale of the land and building are insufficient, the state water commission need not make a transfer of sale proceeds. No more than a total of \$977,100 may be expended from the amounts appropriated under this Act to purchase land and construct the new maintenance building and associated appurtenances.

SECTION 8. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the water and atmospheric resources line item in section 3 of this Act. However, this exclusion is only in effect for two years after June 30, 2007. Any unexpended funds appropriated from the resources trust fund after that period has expired must be transferred to the resources trust fund and any

unexpended funds appropriated from the water development trust fund after that period has expired must be transferred to the water development trust fund.

SECTION 9. LINE OF CREDIT - CONTINGENT APPROPRIATION. If determined necessary by the state water commission, the Bank of North Dakota shall extend a line of credit, not to exceed \$25,000,000, which is appropriated to the state water commission, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. REPAYMENT OF LINE OF CREDIT - CONTINGENT APPROPRIATION. If the line of credit authorized in section 9 of this Act is extended to the state water commission by the Bank of North Dakota, there is appropriated out of any moneys in the water development trust fund, the resources trust fund, bond proceeds, or other sources, the sum of \$25,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of repaying the line of credit, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 11. AMENDMENT. Section 61-02-23.3 of the North Dakota Century Code is amended and reenacted as follows:

61-02-23.3. Construction and operation of the Devils Lake outlet - Authorization - Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors. The state engineer may employ full-time personnel and may employ such other personnel as are necessary for the operation and maintenance of the Devils Lake outlet within the limits of legislative appropriations for that purpose. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund and appropriated for the purposes of this section may be used for salaries, equipment, operations, and maintenance costs relating to the Devils Lake outlet.

SECTION 12. LEGISLATIVE INTENT - ADMINISTRATIVE EXPENSES. It is the intent of the fifty-ninth legislative assembly that the use of water development trust fund moneys as a source of funding for state water commission administrative expenses be reduced during the 2007-09 biennium and discontinued as a source thereafter.

SECTION 13. LEGISLATIVE INTENT - NELSON COUNTY INFRASTRUCTURE. It is the intent of the fifty-ninth legislative assembly that the state water commission provide up to \$500,000 for water-related damage to infrastructure in Nelson County.

SECTION 14. BONDING AUTHORITY - WATER PROJECTS. In addition to the \$60,000,000 of bonding authority authorized in section 61-02.1-02.1, the state water commission may issue an additional amount of bonds not to exceed \$7,000,000 plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves during the biennium beginning July 1, 2005, and ending June 30, 2007. The repayment provision of the additional \$7,000,000 bond issuance must be the same as the \$60,000,000 bond issuance as provided for in section 61-02.1-02.1.

SECTION 15. EXEMPTION FROM PAYMENT OF FEES. For purposes of charging fees or requiring payment for services pursuant to sections 54-10-01, 54-12-08, and 54-44.1-15, the state auditor, attorney general, and the director of the

office of management and budget shall consider the funds appropriated to the state water commission from the water development trust fund in the same manner as if the funds were appropriated from the general fund for the 2005-07 biennium.

SECTION 16. STATE WATER COMMISSION - CASH ADVANCE FROM STATE GENERAL FUND. Notwithstanding any other provision of law, the state water commission may receive a cash advance of up to \$5,000,000 from the state general fund during the biennium beginning July 1, 2005, and ending June 30, 2007. The cash advance may be made available for the state water commission only to pay for administrative expenses if sufficient funding is not available in the water development trust fund for these expenses. The cash advance must be repaid upon the deposit of additional tobacco settlement collections in the water development trust fund. The state water commission shall inform the office of management and budget of any cash advance required pursuant to this section. Any cash advance under this section must be repaid to the state general fund by June 30, 2007.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 22**HOUSE BILL NO. 1022**

(Appropriations Committee)
(At the request of the Governor)

WORKFORCE SAFETY AND INSURANCE

AN ACT to provide an appropriation for defraying the expenses of workforce safety and insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amount identified in this section represents the base level funding component appropriated to workforce safety and insurance in section 3 of this Act as follows:

Total special funds - Base level \$32,397,631

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amount identified in this section represents the funding adjustments or enhancements to the base funding level for workforce safety and insurance which are included in the appropriation in section 3 of this Act as follows:

Total special funds - Adjustments/enhancements \$911,935

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from the workforce safety and insurance fund in the state treasury, not otherwise appropriated, to workforce safety and insurance, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Total special funds appropriation \$33,309,566

Approved April 8, 2005

Filed April 12, 2005

CHAPTER 23

HOUSE BILL NO. 1023

(Appropriations Committee)
(At the request of the Governor)

RETIREMENT AND INVESTMENT AGENCIES

AN ACT to provide an appropriation for defraying the expenses of various state retirement and investment agencies; and to amend and reenact sections 54-44.1-11 and 54-44.3-12.1 of the North Dakota Century Code, relating to the cancellation of unexpended appropriations and revisions to compensation plans under the central personnel system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the retirement and investment agencies in section 3 of this Act as follows:

Subdivision 1.

RETIREMENT AND INVESTMENT OFFICE

Salaries and wages	\$1,774,885
Operating expenses	986,444
Contingencies	82,000
Contracted services	<u>2,000,000</u>
Total special funds - Base level	\$4,843,329

Subdivision 2.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Salaries and wages	\$2,653,654
Operating expenses	1,487,504
Contingencies	250,000
Total special funds - Base level	\$4,391,158
Total special funds - Section 1	\$9,234,487

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the retirement and investment agencies which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

RETIREMENT AND INVESTMENT OFFICE

Salaries and wages	\$185,525
Operating expenses	(71,836)
Contracted services	<u>(2,000,000)</u>
Total special funds - Adjustments/enhancements	(\$1,886,311)

Subdivision 2.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Salaries and wages	\$208,378
Operating expenses	<u>77,207</u>

Total special funds - Adjustments/enhancements	\$285,585
Total special funds - Section 2	(\$1,600,726)

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income, to the retirement and investment agencies listed in this section for the purpose of defraying their expenses, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

RETIREMENT AND INVESTMENT OFFICE

Salaries and wages	\$1,960,410
Operating expenses	914,608
Contingencies	82,000
Total special funds appropriation	\$2,957,018

Subdivision 2.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Salaries and wages	\$2,862,032
Operating expenses	1,564,711
Contingencies	250,000
Total special funds appropriation	\$4,676,743
Grand total special funds appropriation H.B. 1023	\$7,633,761

SECTION 4. EXEMPTION. The amount appropriated for the retirement and investment office, as contained in subdivision 1 of section 1 of chapter 45 of the 2003 Session Laws is not subject to the provision of section 54-44.1-11. Any unexpended funds from the contracted services appropriation line are available for continued development and implementation of the pension software replacement project.

SECTION 5. APPROPRIATION LINE ITEM TRANSFERS. Upon approval of the respective boards, the retirement and investment office and the public employees retirement system may transfer from their respective contingencies line items in subdivisions 1 and 2 of section 3 of this Act to all other line items. The agencies shall notify the office of management and budget of each transfer made pursuant to this section.

²⁸ **SECTION 6. AMENDMENT.** Section 54-44.1-11 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-11. (Effective through June 30, 2005) Office of management and budget to cancel unexpended appropriations - When they may continue. Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative

²⁸ Section 54-44.1-11 was also amended by section 1 of House Bill No. 1177, chapter 540, section 1 of Senate Bill No. 2036, chapter 523, and section 1 of Senate Bill No. 2121, chapter 524.

assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.

(Effective after June 30, 2005) Office of management and budget to cancel unexpended appropriations - When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Authorized ongoing information technology projects.

SECTION 7. AMENDMENT. Section 54-44.3-12.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-12.1. Revisions to compensation plan. Revisions to the compensation plan may only be made on July first, following the close of a regular legislative session, except that new classifications may be added to the compensation plan during a biennium when deemed necessary by the director. Revisions to the compensation plan ~~do not become effective~~ for county employees covered by the plan ~~until~~ become effective on January first of the first full calendar year following the revision or on July first following the close of a regular legislative session, based on official action by the board of county commissioners. Revisions to the compensation plan may only be made to the extent the legislative assembly appropriates funds to implement such plans.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 24

HOUSE BILL NO. 1024

(Appropriations Committee)
(At the request of the Governor)

STATE DEPARTMENTS AND INSTITUTIONS

AN ACT making an appropriation for defraying the expenses of various state departments and institutions; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sums as hereinafter provided or so much of the sums as may be necessary. These sums increase the general fund authority enacted by the fifty-eighth legislative assembly to the stated departments and institutions of the state of North Dakota for the purpose of defraying their expenses, for the period beginning January 1, 2005, and ending June 30, 2005, as follows:

Subdivision 1.

INFORMATION TECHNOLOGY DEPARTMENT

Operating expenses	\$51,421
Division of independent study	89,592
Educational technology council	84,469
EduTech	270,316
Wide area network	359,878
Geographic information system	72,182
Prairie public broadcasting	<u>142,284</u>
Total general fund appropriation	\$1,070,142

Subdivision 2.

OFFICE OF THE ATTORNEY GENERAL

Operating expenses	\$105,000
Arrest and return of fugitives	<u>5,000</u>
Total general fund appropriation	\$110,000

Subdivision 3.

DIVISION OF EMERGENCY MANAGEMENT

2004 fire expenditures	\$151,369
Operating expenses	<u>7,472,145</u>
Total general fund appropriation	\$7,623,514

Subdivision 4.

NORTH DAKOTA VETERANS' HOME

Operating expenses	\$200,000
Total general fund appropriation	<u>\$200,000</u>

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

1997 flood expenditures	\$371,000
Total general fund appropriation	<u>\$371,000</u>

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

2000 flood expenditures	<u>\$1,500,000</u>
Total general fund appropriation	<u>\$1,500,000</u>

Subdivision 7.

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE

ConnectND expenses	<u>\$617,520</u>
Total general fund appropriation	<u>\$617,520</u>

Subdivision 8.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Prisons division	<u>\$1,732,168</u>
Total general fund appropriation	<u>\$1,732,168</u>
Grand total general fund appropriation H.B. 1024	<u>\$13,224,344</u>

SECTION 2. EXEMPTION. The appropriation contained in subdivision 3 of section 1 of this Act is not subject to the provisions of section 54-44.1-11 and any unexpended funds from this appropriation are available during the biennium beginning July 1, 2005, and ending June 30, 2007, for the purpose of providing state matching funds for public assistance and disaster hazard mitigation.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2005
 Filed April 12, 2005

CHAPTER 25

HOUSE BILL NO. 1050

(Representatives Carlisle, Martinson, Porter)
(Senators Stenehjem, Nething, Schobinger)

STATE EMPLOYEE COMPENSATION ADJUSTMENTS

AN ACT to provide a statement of legislative intent regarding state employee compensation adjustments; and to provide an appropriation for additional state employee compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES. It is the intent of the fifty-ninth legislative assembly that 2005-07 biennium compensation adjustments for permanent state employees are to be increases of four percent beginning with the month of July 2005, to be paid in August 2005, and of four percent beginning with the month of July 2006, to be paid in August 2006.

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

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

During the biennium, no salary increase other than the four percent in July 2005 and the four percent in July 2006 may be given to an employee whose salary exceeds or would exceed the salary range maximum.

Each agency appropriation for salaries and wages is increased by four percent the first year and four percent the second year of the 2005-07 biennium for these compensation adjustments.

SECTION 2. AGENCY SALARY INCREASE INFORMATION. State agencies shall report to the human resources management services division of the office of management and budget in the format developed by the division, information regarding the state employee salary increases provided pursuant to section 1 of this Act. The human resources management services division shall analyze the impact of the increases on the classified employee system and include this analysis in the division's presentation to the appropriations committees of the sixtieth legislative assembly.

SECTION 3. 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 agencies listed below for the purpose of providing additional compensation to state employees of the various agencies, for the biennium beginning July 1, 2005, and ending June 30, 2007:

	GENERAL FUND	SPECIAL FUNDS	TOTAL
Governor	\$18,647		\$18,647
Secretary of state	18,079	\$412	18,491
Office of management and budget	76,842	19,108	95,950
Information technology department	17,139	261,063	278,202
State auditor	37,752	17,374	55,126
State treasurer	5,283		5,283
Attorney general	119,265	42,774	162,039
Tax commissioner	108,832		108,832
Office of administrative hearings		8,792	8,792
Legislative council	38,169		38,169
Judicial branch	256,101	7,961	264,062
Retirement and investment office		16,207	16,207
Public employees retirement system		23,494	23,494
Department of public instruction	27,084	55,943	83,027
Land department		18,442	18,442
State library	15,857	2,099	17,956
School for the deaf	22,884	1,596	24,480
North Dakota vision services - school for the blind	7,578	2,999	10,577
Board for career and technical education	17,729	8,940	26,669
State department of health	96,462	175,470	271,932
Veterans' home	49,836		49,836
Indian affairs commission	2,832		2,832
Department of veterans' affairs	4,085		4,085
Department of human services	939,599	552,033	1,491,632
Protection and advocacy project	4,866	16,544	21,410
Job service	781	291,876	292,657
Insurance commissioner		42,621	42,621
Industrial commission	43,829	7,113	50,942
Labor commissioner	7,085	2,213	9,298
Public service commission	28,213	15,631	43,844
Aeronautics commission		5,797	5,797
Department of financial institutions		28,958	28,958
Securities department	9,430		9,430
Bank of North Dakota		149,018	149,018
Housing finance agency		36,355	36,355
Workforce safety and insurance		213,435	213,435
Highway patrol	168,909	5,461	174,370
Division of emergency management	25,495	22,988	48,483
Department of corrections and rehabilitation	438,759	38,484	477,243
Adjutant general	32,634	84,212	116,846
Department of commerce	43,228	19,289	62,517
Agriculture commissioner	29,656	22,767	52,423
Seed department		24,274	24,274
Upper great plains transportation institute	2,903	64,844	67,747
Branch research centers	58,568	18,264	76,832
NDSU extension service	153,847	107,685	261,532
Northern crops institute	5,663	4,071	9,734
Main research center	268,579	139,324	407,903
Agronomy seed farm		3,326	3,326
Historical society	38,629	4,827	43,456
Council on the arts	3,714		3,714
Game and fish department		143,043	143,043
Parks and recreation department	33,620	3,182	36,802
State water commission	11,220	69,208	80,428
Department of transportation		835,451	835,451
Total	\$3,289,683	\$3,634,968	\$6,924,651

Approved May 11, 2005
 Filed May 11, 2005

CHAPTER 26**HOUSE BILL NO. 1152**

(Appropriations Committee)

(At the request of the Office of Management and Budget)

STUDENT LOAN TRUST TRANSFER

AN ACT to provide for a transfer of earnings from the student loan trust to the general fund; and to amend and reenact section 54-17-25 of the North Dakota Century Code, relating to bonds of the student loan trust.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Student loan trust transfer to state general fund. The industrial commission shall transfer to the general fund in the state treasury the sum of nine million dollars of earnings from the North Dakota student loan trust. The moneys must be transferred in such amounts and at such times as requested by the director of the office of management and budget during the biennium beginning July 1, 2005, and ending June 30, 2007, and upon certification by the student loan trust trustee that sufficient moneys remain available to pay all debt service on student loan trust bonds, all required rebate payments to the United States treasury, and all program operating expenses.

SECTION 2. AMENDMENT. Section 54-17-25 of the North Dakota Century Code is amended and reenacted as follows:

54-17-25. Bonds authorized - Establishment of secondary market program. Whenever the industrial commission decides that it is in the public interest to diminish the investment of state funds in United States government guaranteed or reinsured or North Dakota guaranteed student loans, that it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public, that business conditions are favorable to a state-sponsored program to consolidate state-held student loans, and to enlarge private participation in such loans, or that the public will otherwise benefit, the commission may by plenary resolution duly adopted in accordance with the provisions hereof authorize preparation, sale, and issuance of revenue bonds of North Dakota in such amounts and at such times and in such form, which may include the issuance of bonds the interest income on which is subject to federal income taxes, as the commission shall determine to be for the public good. The industrial commission may issue subordinate or residual bonds in a total principal amount not to exceed twenty-three million dollars plus costs of issuance and any reasonably required reserve whenever the industrial commission determines that it is appropriate or expedient to do so and the bonds may contain such terms and provisions as the commission may determine. The commission may refund and refinance the bonds from time to time as often as it is advantageous and in the public interest to do so. The bonds shall be a charge upon a sufficient designated portion of the resources of the student loan trusts, subject only to necessary administrative expenses of the trusts duly appropriated out of the interest earning resources thereof. The bonds may bear such rate or rates of interest as the commission may provide. The bonds must have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds must be payable solely out of the separate resources generated respectively from collection of payments on and earnings and proceeds of United States government guaranteed or reinsured or North Dakota guaranteed student loans, and must respectively so recite. They are not indebtedness of the state of North Dakota or of any agency, board, department, or officer or agent thereof. Without limiting the foregoing, the commission may request the organization of a nonprofit corporation meeting the requirements of the Internal Revenue Code of 1954, as amended and redesignated as the Internal Revenue Code of 1986 [Pub. L. 99-54], and as it may be amended from time to time, and enter into one or more agreements with such corporation providing for the establishment of a secondary market program in the state of North Dakota for the acquisition by the corporation of such loans made pursuant to title IV, part B of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; 20 U.S.C. 1001 et seq.], as amended through December 31, 1996, as the commission shall, in its discretion, deem advisable.

Approved March 31, 2005

Filed March 31, 2005

CHAPTER 27

HOUSE BILL NO. 1408

(Representatives Grande, Devlin, Kreidt)
(Senators Andrist, Brown, Lyson)

SUBSTANCE ABUSE TREATMENT PILOT PROJECT

AN ACT to provide an appropriation to the department of corrections and rehabilitation for a pilot project for an alternative care program for adults with substance abuse issues; and to provide for a report to the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - PILOT PROJECT - REPORT TO SIXTIETH LEGISLATIVE ASSEMBLY. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation for the purpose of reimbursing a nonprofit, faith-based organization in North Dakota for room and board costs associated with an extended residential care program in northwestern North Dakota for indigent adults with alcohol or other substance abuse issues as a pilot project, for the biennium beginning July 1, 2005, and ending June 30, 2007. The recipient, selected by a competitive bid process, shall use the funding for room and board costs relating to the pilot project. The department shall establish criteria that meets standards and best practices of the American corrections association for the population to be served and for the residential care services to be provided. The department shall provide a report to the sixtieth legislative assembly on the pilot project. The report must include information on the results and outcomes of the pilot project, the department's recommendations regarding continuing or expanding funding for the program, and its recommendations regarding the development of a payment system for room and board costs for these residential care services providers.

Approved April 14, 2005
Filed April 18, 2005

CHAPTER 28**HOUSE BILL NO. 1445**

(Appropriations Committee)
(At the request of the Governor)

HEALTH CARE TRUST FUND TRANSFER

AN ACT to provide for a transfer from the health care trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TRANSFER. During the biennium beginning July 1, 2005, and ending June 30, 2007, the director of the office of management and budget shall transfer \$16,900,000 from the health care trust fund to the general fund.

Approved April 11, 2005

Filed April 12, 2005

CHAPTER 29

SENATE BILL NO. 2001

(Appropriations Committee)
(At the request of the Legislative Council)

LEGISLATIVE BRANCH

AN ACT providing an appropriation for defraying the expenses of the legislative branch of state government; to provide for governance of a legislative applications replacement system project; to provide for applications and transfers; to provide for a legislative council study; to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to compensation of members of the legislative assembly; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the legislative branch of state government in section 3 of this Act as follows:

Subdivision 1.

FIFTY-NINTH AND SIXTIETH LEGISLATIVE ASSEMBLIES AND BIENNIUM

Salaries and wages	\$5,482,878
Operating expenses	2,904,850
Capital assets	6,000
National conference of state legislatures	167,524
Total general fund - Base level	\$8,561,252

Subdivision 2.

LEGISLATIVE COUNCIL

Salaries and wages	\$4,916,029
Operating expenses	2,209,827
Capital assets	57,000
Information technology study	350,000
Total general fund - Base level	\$7,532,856
Total general fund - Section 1	\$16,094,108

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the legislative branch of state government which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

FIFTY-NINTH AND SIXTIETH LEGISLATIVE ASSEMBLIES AND BIENNIUM

Salaries and wages	\$601,739
Operating expenses	92,923
Capital assets	226,085
National conference of state legislatures	10,226
Total general fund - Adjustments/enhancements	\$930,973

Subdivision 2.

LEGISLATIVE COUNCIL

Salaries and wages	\$251,007
Operating expenses	157,909
Capital assets	(16,000)
Information technology study	(350,000)
Total general fund - Adjustments/enhancements	\$42,916
Total general fund - Section 2	\$973,889

SECTION 3. APPROPRIATION FOR THE LEGISLATIVE BRANCH OF STATE GOVERNMENT. 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, to the legislative branch of state government for the purpose of defraying the expenses of that branch, for the fiscal period beginning with the effective date of this Act and ending June 30, 2007, as follows:

Subdivision 1.

FIFTY-NINTH AND SIXTIETH LEGISLATIVE ASSEMBLIES AND BIENNIUM

Salaries and wages	\$6,084,617
Operating expenses	2,997,773
Capital assets	232,085
National conference of state legislatures	177,750
Total general fund appropriation	\$9,492,225

Subdivision 2.

LEGISLATIVE COUNCIL

Salaries and wages	\$5,167,036
Operating expenses	2,367,736
Capital assets	41,000
Total general fund appropriation	\$7,575,772
Grand total general fund appropriation S.B. 2001	\$17,067,997

SECTION 4. TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items of appropriations for the legislative council as may be requested by the chairman of the council or the chairman's designee upon the finding by the chairman or designee that the nature of studies and duties assigned to the council requires the transfers in properly carrying on the council's functions and duties. The director of the office of management and budget and the state treasurer shall similarly make transfers of funds between the line items for the fifty-ninth and sixtieth legislative assemblies, upon request by the chairman of the legislative council or the chairman's designee upon the finding by the chairman or designee that the transfers are required for the legislative assembly to carry on its functions and duties.

SECTION 5. LEGISLATIVE APPLICATIONS REPLACEMENT SYSTEM GOVERNANCE. The legislative council shall develop, during the 2005-06 interim, a design, an analysis, and a plan for implementation of a replacement system for legislative applications. The legislative council staff and the information technology department staff shall develop a project plan. The legislative council's interim legislative management committee shall review the project plan and may request revisions to the plan before adopting the plan. The legislative council chairman may appoint an executive steering group for the project which may consist of members from the legislative council staff, members from the information technology department staff, and legislators. The project plan must be developed in a phased approach and must include a process for soliciting suggestions from members of the

legislative assembly regarding system functions. After completion of a project phase, the legislative management committee shall review and approve the deliverables from the completed phase before any consideration may be made for a subsequent phase. The individual designated as the project manager shall provide reports regarding the project as required by chapters 54-35 and 54-59.

SECTION 6. LEGISLATIVE COUNCIL STUDY - PRINTING OF BILLS AND RESOLUTIONS. The legislative council, through its legislative management committee, shall study, during the 2005-06 interim, the feasibility and desirability of arranging for the printing of bills and resolutions for the sixtieth legislative assembly by using computers and high-speed printers rather than printing multiple copies of all bills and having copies available in the bill and journal room. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixtieth legislative assembly.

SECTION 7. LEGISLATIVE COUNCIL STUDY - LEGISLATIVE MEETING ROOMS. The legislative council, through its legislative management committee, shall study, during the 2005-06 interim, the need for additional legislative committee meeting rooms. The legislative council may expend any funds available for the remodeling of legislative meeting rooms if the study concludes that additional meeting rooms are needed. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixtieth legislative assembly.

SECTION 8. LEGISLATIVE COUNCIL STUDY - DIVISION CHAIRMEN PAY. The legislative council, through its legislative management committee, shall study, during the 2005-06 interim, the appropriateness of increasing the daily compensation for chairmen of substantive standing committee divisions established by rule of the house or senate. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixtieth legislative assembly.

SECTION 9. APPLICATION AND TRANSFER AUTHORITY. North Dakota Century Code sections 54-16-04 and 54-44.1-11 do not apply to chapter 1 of the 2003 Session Laws. Any unexpended funds from the appropriations in chapter 1 of the 2003 Session Laws may be used to assist in the cost of the legislative applications replacement project, including preplanning costs. The director of the office of management and budget and the state treasurer shall make transfers of funds between the line items and the agencies of the legislative branch within section 1 of that chapter as requested by the chairman of the legislative council or the chairman's designee.

²⁹ **SECTION 10. AMENDMENT.** Section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly.

1. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of one hundred

²⁹ Section 54-03-20 was also amended by section 17 of House Bill No. 1015, chapter 15, and section 1 of Senate Bill No. 2059, chapter 472.

twenty-five dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.

2. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred fifty dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session.
3.
 - a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.
 - b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed six hundred fifty dollars per month.
4. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.
5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend.
6. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.
7.
 - a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of ~~two~~ three hundred

fifty dollars a month, which is payable every six months or monthly, at the member's option.

- b. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.
- c. The majority and minority leaders of the house and senate and the chairman of the legislative council, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of two hundred fifty dollars per month during the biennium for their execution of public duties.
- 8. Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].

SECTION 11. EFFECTIVE DATE. Section 10 of this Act becomes effective on July 1, 2005.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 30

SENATE BILL NO. 2002 (Appropriations Committee) (At the request of the Supreme Court)

JUDICIAL BRANCH

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to salaries of supreme and district court judges; to provide an exemption to section 54-44.1-11 relating to unexpended appropriations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the judicial branch in section 3 of this Act as follows:

Subdivision 1.

SUPREME COURT

Salaries and wages	\$5,847,592
Operating expenses	1,665,382
Judges retirement	<u>132,288</u>
Total general fund - Base level	\$7,645,262

Subdivision 2.

DISTRICT COURTS

Salaries and wages	\$33,913,180
Operating expenses	14,032,376
Capital assets	74,500
Judges retirement	826,944
UND-central legal research	80,000
Alternative dispute resolution	<u>20,000</u>
Total all funds - Base level	\$48,947,000
Less estimated income - Base level	<u>1,762,735</u>
Total general fund - Base level	\$47,184,265

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

Judicial conduct commission and disciplinary board	<u>\$538,643</u>
Total all funds - Base level	\$538,643
Less estimated income - Base level	<u>280,801</u>
Total general fund - Base level	\$257,842
Total general fund - Section 1	\$55,087,369
Total other funds - Section 1	\$2,043,536
Total all funds - Section 1	\$57,130,905

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the judicial branch which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

SUPREME COURT

Salaries and wages	\$562,858
Operating expenses	261,879
Capital assets	8,000
Judges retirement	<u>1,327</u>
Total all funds - Adjustments/enhancements	\$834,064
Less estimated income - Adjustments/enhancements	<u>2,500</u>
Total general fund - Adjustments/enhancements	\$831,564

Subdivision 2.

DISTRICT COURTS

Salaries and wages	\$2,781,752
Operating expenses	(3,337,596)
Capital assets	111,000
Indigent defense - July 1, 2005 - December 31, 2005	2,769,101
Indigent defense - January 1, 2006 - June 30, 2007	6,723,674
Judges retirement	(127,041)
UND-central legal research	0
Alternative dispute resolution	<u>0</u>
Total all funds - Adjustments/enhancements	\$8,920,890
Less estimated income - Adjustments/enhancements	<u>471,182</u>
Total general fund - Adjustments/enhancements	\$8,449,708

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

Judicial conduct commission and disciplinary board	\$64,757
Total all funds - Adjustments/enhancements	<u>\$64,757</u>
Less estimated income - Adjustments/enhancements	<u>4,799</u>
Total general fund - Adjustments/enhancements	\$59,958
Total general fund - Section 2	\$9,341,230
Total other funds - Section 2	\$478,481
Total all funds - Section 2	\$9,819,711

SECTION 3. 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 judicial branch for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

SUPREME COURT

Salaries and wages	\$6,410,450
Operating expenses	1,927,261
Capital assets	8,000
Judges retirement	<u>133,615</u>
Total all funds	\$8,479,326
Less estimated income	<u>2,500</u>
Total general fund appropriation	\$8,476,826

Subdivision 2.

DISTRICT COURTS

Salaries and wages	\$36,694,932
Operating expenses	10,694,780
Capital assets	185,500

Indigent defense - July 1, 2005 - December 31, 2005	2,769,101
Indigent defense - January 1, 2006 - June 30, 2007	6,723,674
Judges retirement	699,903
UND-central legal research	80,000
Alternative dispute resolution	<u>20,000</u>
Total all funds	\$57,867,890
Less estimated income	<u>2,233,917</u>
Total general fund appropriation	\$55,633,973

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

Judicial conduct commission and disciplinary board	\$603,400
Total all funds	\$603,400
Less estimated income	<u>285,600</u>
Total general fund appropriation	\$317,800
Grand total general fund appropriation - S.B. 2002	\$64,794,192
Grand total other funds appropriation - S.B. 2002	\$2,722,017
Grand total all funds appropriation - S.B. 2002	\$67,516,209

SECTION 4. APPROPRIATION. There are appropriated any funds received by the supreme court, district courts, and judicial conduct commission and disciplinary board, not otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the purpose as designated in the federal acts or private gifts, grants, and donations for the period beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. TRANSFERS. The director of the office of management and budget and the state treasurer shall make such transfers of funds between line items of appropriation for the judicial branch of government as may be requested by the supreme court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

³⁰ **SECTION 6. AMENDMENT.** Section 27-02-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of judges justices of supreme court. The annual salary of each ~~judge~~ justice of the supreme court is ~~ninety-two one hundred two thousand two hundred eighty-nine~~ ninety-six dollars through June 30, ~~2002~~ 2006, and ~~ninety-nine one hundred six thousand one hundred twenty-two~~ eighty dollars thereafter. The chief justice of the supreme court is entitled to receive an additional two thousand ~~five nine hundred sixty-nine~~ eighty-six dollars per annum through June 30, ~~2002~~ 2006, and ~~two three thousand eight one hundred ninety-nine~~ five dollars per annum thereafter.

³¹ **SECTION 7. AMENDMENT.** Section 27-05-03 of the North Dakota Century Code is amended and reenacted as follows:

³⁰ Section 27-02-02 was also amended by section 14 of House Bill No. 1015, chapter 15.

³¹ Section 27-05-03 was also amended by section 15 of House Bill No. 1015, chapter 15.

27-05-03. Salaries and expenses of district judges. The annual salary of each district judge is ~~eighty-four~~ ninety-three thousand ~~seven hundred~~ sixty-five ~~three hundred~~ ninety-one dollars through June 30, ~~2002~~ 2006, and ~~ninety~~ ninety-seven thousand ~~six hundred~~ seventy-one ~~one hundred~~ twenty-seven dollars thereafter. Each district judge is entitled to travel expenses including mileage and subsistence while engaged in the discharge of official duties outside the city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional ~~one~~ two thousand ~~nine~~ seven hundred ~~eighty-nine~~ fifty-two dollars per annum, through June 30, ~~2002~~ 2006, and two thousand ~~six~~ eight hundred ~~seventy-two~~ sixty-two dollars thereafter.

SECTION 8. EXEMPTION. The amount appropriated for the supreme court and the district courts, as contained in subdivisions 1 and 2 of section 1 of chapter 2 of the 2003 Session Laws, is not subject to the provisions of section 54-44.1-11 for an amount of up to \$250,078. Any available funds are to be used for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents established by 2005 Senate Bill No. 2027 during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 9. APPROPRIATION - TRANSFER. In addition to the \$250,078 of unexpended general fund moneys that the supreme court and district courts are allowed to carry over from the 2003-05 biennium pursuant to section 8 of this Act, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$365,593, or so much of the sum as may be necessary, and \$200,000 from the indigent defense administration fund, to the district courts for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any moneys not expended by the district courts for this purpose by December 31, 2005, are available to the commission on legal counsel for indigents and the appropriation must be transferred to the commission on January 1, 2006.

SECTION 10. EMERGENCY. Section 8 of this Act is declared to be an emergency measure.

Approved May 4, 2005
Filed May 4, 2005

CHAPTER 31

SENATE BILL NO. 2003

(Appropriations Committee)
(At the request of the Governor)

UNIVERSITY SYSTEM

AN ACT to provide an appropriation for defraying the expenses of the North Dakota university system; to authorize the state board of higher education to issue and sell bonds for capital projects; to provide statements of legislative intent; to provide for reports to the budget section; to provide for a legislative council study; to amend and reenact section 15-62.2-01 of the North Dakota Century Code, relating to student financial assistance grants; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the North Dakota university system office and to the various entities and institutions under the supervision of the board of higher education listed in section 3 of this Act as follows:

Subdivision 1.

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE

Capital assets	\$12,790,689
Competitive research	4,750,000
Centers for excellence	1,550,000
Board initiatives	485,306
System governance	4,472,850
Title II	695,600
Technology pool	25,089,639
Operations pool	578,417
Contingency and capital emergency	1,752,767
Professional liability insurance	1,850,000
Student financial assistance grants	2,930,215
Professional student exchange program	1,678,300
Scholars program	816,368
Native American scholarships	204,086
Education incentive programs	830,000
Total all funds - Base level	<u>\$60,474,237</u>
Less estimated income - Base level	<u>3,855,507</u>
Total general fund - Base level	\$56,618,730

Subdivision 2.

BISMARCK STATE COLLEGE

Operations	\$16,112,327
Capital assets	2,035,000
Total all funds - Base level	\$18,147,327
Less estimated income - Base level	<u>1,785,000</u>
Total general fund - Base level	<u>\$16,362,327</u>

Subdivision 3.

LAKE REGION STATE COLLEGE

Operations	\$5,032,682
Capital assets	<u>419,831</u>
Total all funds - Base level	\$5,452,513
Less estimated income - Base level	<u>375,000</u>
Total general fund - Base level	\$5,077,513

Subdivision 4.

WILLISTON STATE COLLEGE

Operations	\$5,387,371
Capital assets	<u>88,790</u>
Total general fund - Base level	\$5,476,161

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

Operations	\$84,558,126
Capital assets	<u>55,662,136</u>
Total all funds - Base level	\$140,220,262
Less estimated income - Base level	<u>53,300,000</u>
Total general fund - Base level	\$86,920,262

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

Operations	\$67,576,959
Capital assets	<u>27,737,531</u>
Total all funds - Base level	\$95,314,490
Less estimated income - Base level	<u>26,000,000</u>
Total general fund - Base level	\$69,314,490

Subdivision 7.

NORTH DAKOTA STATE COLLEGE OF SCIENCE

Operations	\$23,936,824
Capital assets	<u>4,442,420</u>
Total all funds - Base level	\$28,379,244
Less estimated income - Base level	<u>3,668,920</u>
Total general fund - Base level	\$24,710,324

Subdivision 8.

DICKINSON STATE UNIVERSITY

Operations	\$13,598,831
Capital assets	<u>11,276,009</u>
Total all funds - Base level	\$24,874,840
Less estimated income - Base level	<u>10,882,047</u>
Total general fund - Base level	\$13,992,793

Subdivision 9.

MAYVILLE STATE UNIVERSITY

Operations	\$8,602,335
Capital assets	<u>5,769,589</u>
Total all funds - Base level	\$14,371,924
Less estimated income - Base level	<u>5,505,000</u>
Total general fund - Base level	\$8,866,924

Subdivision 10.

MINOT STATE UNIVERSITY

Operations	\$25,769,578
Capital assets	<u>612,850</u>
Total general fund - Base level	\$26,382,428

Subdivision 11.

VALLEY CITY STATE UNIVERSITY

Operations	\$11,304,672
Capital assets	<u>4,350,634</u>
Total all funds - Base level	\$15,655,306
Less estimated income - Base level	<u>4,085,300</u>
Total general fund - Base level	\$11,570,006

Subdivision 12.

MINOT STATE UNIVERSITY - BOTTINEAU

Operations	\$4,102,856
Capital assets	<u>209,663</u>
Total general fund - Base level	\$4,312,519

Subdivision 13.

UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH
SCIENCES

Operations	<u>\$30,165,865</u>
Total general fund - Base level	\$30,165,865

Subdivision 14.

NORTH DAKOTA FOREST SERVICE

Operations	\$2,715,016
Capital assets	<u>146,061</u>
Total all funds - Base level	\$2,861,077
Less estimated income - Base level	<u>1,090,001</u>
General fund - Base level	\$1,771,076
Total general fund - Section 1	\$361,541,418
Total estimated income - Section 1	\$110,546,775
Total all funds - Section 1	\$472,088,193

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the North Dakota university system office and to the various entities and institutions under the supervision of the board of higher education which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE AND INSTITUTIONS

Capital assets	\$1,487,452
Competitive research program	440,000
Centers for excellence	(1,550,000)
Board initiatives	1,399,694
System governance	1,045,572
Common information services	(4,526,546)
Operations pool	(189,858)
Equity pool	2,000,000
Contingency and capital emergency	(1,315,844)
Professional liability insurance	(500,000)

Student financial assistance grants	574,187
Professional student exchange program	186,480
Scholars program	45,709
Native American scholarships	47,902
Education incentive programs	397,902
Total all funds - Adjustments/enhancements	<u>(\$457,350)</u>
Less estimated income - Adjustments/enhancements	<u>(1,518,231)</u>
Total general fund - Adjustments/enhancements	\$1,060,881

Subdivision 2.

BISMARCK STATE COLLEGE

Operations	\$753,221
Capital assets	<u>(1,288,719)</u>
Total all funds - Adjustments/enhancements	<u>(\$535,498)</u>
Less estimated income - Adjustments/enhancements	<u>(1,282,200)</u>
Total general fund - Adjustments/enhancements	\$746,702

Subdivision 3.

LAKE REGION STATE COLLEGE

Operations	\$357,307
Capital assets	<u>(32,294)</u>
Total all funds - Adjustments/enhancements	\$325,013
Less estimated income - Adjustments/enhancements	<u>(375,000)</u>
Total general fund - Adjustments/enhancements	\$700,013

Subdivision 4.

WILLISTON STATE COLLEGE

Operations	\$365,626
Capital assets	<u>8,047,685</u>
Total all funds - Adjustments/enhancements	\$8,413,311
Less estimated income - Adjustments/enhancements	<u>7,960,000</u>
Total general fund - Adjustments/enhancements	\$453,311

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

Operations	<u>\$7,993,476</u>
Capital assets	<u>1,038,409</u>
Total all funds - Adjustments/enhancements	\$9,031,885
Less estimated income - Adjustments/enhancements	<u>1,100,000</u>
Total general fund - Adjustments/enhancements	\$7,931,885

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

Operations	\$8,227,691
Capital assets	<u>(26,045,305)</u>
Total all funds - Adjustments/enhancements	<u>(\$17,817,614)</u>
Less estimated income - Adjustments/enhancements	<u>(26,000,000)</u>
Total general fund - Adjustments/enhancements	\$8,182,386

Subdivision 7.

NORTH DAKOTA STATE COLLEGE OF SCIENCE

Operations	\$1,050,004
Capital assets	<u>(1,620,168)</u>
Total all funds - Adjustments/enhancements	<u>(\$570,164)</u>
Less estimated income - Adjustments/enhancements	<u>(1,600,000)</u>
Total general fund - Adjustments/enhancements	\$1,029,836

Subdivision 8.

DICKINSON STATE UNIVERSITY

Operations	\$1,112,796
Capital assets	<u>(5,892,319)</u>
Total all funds - Adjustments/enhancements	<u>(\$4,779,523)</u>
Less estimated income - Adjustments/enhancements	<u>(5,882,047)</u>
Total general fund - Adjustments/enhancements	<u>\$1,102,524</u>

Subdivision 9.

MAYVILLE STATE UNIVERSITY

Operations	\$401,295
Capital assets	<u>(3,910,595)</u>
Total all funds - Adjustments/enhancements	<u>(\$3,509,300)</u>
Less estimated income - Adjustments/enhancements	<u>(4,005,000)</u>
Total general fund - Adjustments/enhancements	<u>\$495,700</u>

Subdivision 10.

MINOT STATE UNIVERSITY

Operations	\$1,446,271
Capital assets	<u>3,599,020</u>
Total all funds - Adjustments/enhancements	<u>\$5,045,291</u>
Less estimated income - Adjustments/enhancements	<u>3,535,000</u>
Total general fund - Adjustments/enhancements	<u>\$1,510,291</u>

Subdivision 11.

VALLEY CITY STATE UNIVERSITY

Operations	\$501,854
Capital assets	<u>(3,842,218)</u>
Total all funds - Adjustments/enhancements	<u>(\$3,340,364)</u>
Less estimated income - Adjustments/enhancements	<u>(4,085,300)</u>
Total general fund - Adjustments/enhancements	<u>\$744,936</u>

Subdivision 12.

MINOT STATE UNIVERSITY - BOTTINEAU

Operations	\$231,604
Capital assets	<u>3,400,062</u>
Total all funds - Adjustments/enhancements	<u>\$3,631,666</u>
Less estimate income - Adjustments/enhancements	<u>3,500,000</u>
Total general fund - Adjustments/enhancements	<u>\$131,666</u>

Subdivision 13.

UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH
SCIENCES

Operations	<u>\$1,195,137</u>
Total general fund - Adjustments/enhancements	<u>\$1,195,137</u>

Subdivision 14.

NORTH DAKOTA FOREST SERVICE

Capital assets	<u>(\$44,423)</u>
Operations	<u>210,630</u>
Total all funds - Adjustments/enhancements	<u>\$166,207</u>
Less estimated income - Adjustments/enhancements	<u>(115,000)</u>
Total general fund - Adjustments/enhancements	<u>\$281,207</u>
Total general fund - Section 2	<u>\$25,566,475</u>
Total estimated income - Section 2	<u>(\$28,767,778)</u>
Total all funds - Section 2	<u>(\$3,201,303)</u>

SECTION 3. 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 North Dakota university system office and the various entities and institutions under the supervision of the board of higher education for the purpose of defraying the expenses of those entities and institutions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE AND INSTITUTIONS

Capital assets	\$14,278,141
Competitive research program	5,190,000
Board initiatives	1,885,000
System governance	5,518,422
Title II	695,600
Common information services	20,563,093
Operations pool	388,559
Equity pool	2,000,000
Contingency and capital emergency	436,923
Professional liability insurance	1,350,000
Student financial assistance grants	3,504,402
Professional student exchange program	1,864,780
Scholars program	862,077
Native American scholarships	251,988
Education incentive programs	<u>1,227,902</u>
Total all funds	\$60,016,887
Less estimated income	<u>2,337,276</u>
Total general fund appropriation	\$57,679,611

Subdivision 2.

BISMARCK STATE COLLEGE

Operations	\$16,865,548
Capital assets	<u>746,281</u>
Total all funds	\$17,611,829
Less estimated income	<u>502,800</u>
Total general fund appropriation	\$17,109,029

Subdivision 3.

LAKE REGION STATE COLLEGE

Operations	\$5,389,989
Capital assets	<u>387,537</u>
Total general fund appropriation	\$5,777,526

Subdivision 4.

WILLISTON STATE COLLEGE

Operations	\$5,752,997
Capital assets	<u>8,136,475</u>
Total all funds	\$13,889,472
Less estimated income	<u>7,960,000</u>
Total general fund appropriation	\$5,929,472

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

Operations	\$92,551,602
Capital assets	<u>56,700,545</u>

Total all funds	\$149,252,147
Less estimated income	<u>54,400,000</u>
Total general fund appropriation	\$94,852,147

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

Operations	\$75,804,650
Capital assets	<u>1,692,226</u>
Total general fund appropriation	\$77,496,876

Subdivision 7.

NORTH DAKOTA STATE COLLEGE OF SCIENCE

Operations	\$24,986,828
Capital assets	<u>2,822,252</u>
Total all funds	\$27,809,080
Less estimated income	<u>2,068,920</u>
Total general fund appropriation	\$25,740,160

Subdivision 8.

DICKINSON STATE UNIVERSITY

Operations	\$14,711,627
Capital assets	<u>5,383,690</u>
Total all funds	\$20,095,317
Less estimated income	<u>5,000,000</u>
Total general fund appropriation	\$15,095,317

Subdivision 9.

MAYVILLE STATE UNIVERSITY

Operations	\$9,003,630
Capital assets	<u>1,858,994</u>
Total all funds	\$10,862,624
Less estimated income	<u>1,500,000</u>
Total general fund appropriation	\$9,362,624

Subdivision 10.

MINOT STATE UNIVERSITY

Operations	\$27,215,849
Capital assets	<u>4,211,870</u>
Total all funds	\$31,427,719
Less estimated income	<u>3,535,000</u>
Total general fund appropriation	\$27,892,719

Subdivision 11.

VALLEY CITY STATE UNIVERSITY

Operations	\$11,806,526
Capital assets	<u>508,416</u>
Total general fund appropriation	\$12,314,942

Subdivision 12.

MINOT STATE UNIVERSITY - BOTTINEAU

Operations	\$4,334,460
Capital assets	<u>3,609,725</u>
Total all funds	\$7,944,185
Less estimated income	<u>3,500,000</u>
Total general fund appropriation	\$4,444,185

Subdivision 13.
UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH
SCIENCES

Operations	<u>\$31,361,002</u>
Total general fund appropriation	<u>\$31,361,002</u>

Subdivision 14.

NORTH DAKOTA FOREST SERVICE

Capital assets	\$101,638
Operations	2,925,646
Total all funds	<u>\$3,027,284</u>
Less estimated income	975,001
Total general fund appropriation	<u>\$2,052,283</u>
Total general fund appropriation - Section 3	\$387,107,893
Total estimated income appropriation - Section 3	\$81,778,997
Total all funds appropriation - Section 3	\$468,886,890
Grand total general fund appropriation - S.B. 2003	\$387,282,893
Grand total estimated income appropriation - S.B. 2003	\$165,121,497
Grand total all funds appropriation - S.B. 2003	<u>\$552,404,390</u>

SECTION 4. BOARD INITIATIVES. The sum of \$200,000 of the funding, included in the board initiatives line item in subdivision 1 of section 3 of this Act, must be used for a grant to the space grant consortium to match federal funds and the remainder of the funding may be used to support university system and statewide goals linked to the state board of higher education strategic plan and the higher education roundtable report, as determined by the board. The board shall consider using a substantial amount of funding for an international student initiative.

SECTION 5. CAPITAL ASSETS. The sum of \$14,278,141, or so much of the sum as may be necessary, included in the capital assets line item in subdivision 1 of section 3 of this Act, must be used by the state board of higher education, to satisfy outstanding bond obligations.

SECTION 6. OPERATIONS POOL. The sum of \$388,559, or so much of the sum as may be necessary, included in the operations pool line item in subdivision 1 of section 3 of this Act, is to be allocated for system priorities as determined by the state board of higher education.

SECTION 7. COMMON INFORMATION SERVICES. The sum of \$20,563,093, or so much of the sum as may be necessary, included in the common information services line item in subdivision 1 of section 3 of this Act, must be used for the benefit of the institutions and entities under the control of the state board of higher education, as determined by the board. Funding allocations are to be made based on the North Dakota university system information technology plan and technology priorities. Funds allocated pursuant to this section must be used to support the higher education computer network, the interactive video network, the on-line Dakota information network, and other related technology initiatives as determined by the board.

SECTION 8. CONTINGENCY AND CAPITAL EMERGENCY. The sum of \$436,923, or so much of the sum as may be necessary, included in the contingency and capital emergency line item in subdivision 1 of section 3 of this Act, must be used to meet unforeseen operations or capital asset needs and opportunities, as determined by the state board of higher education.

SECTION 9. EQUITY POOL - REPORT TO THE BUDGET SECTION. The sum of \$2,000,000, or so much of the sum as may be necessary, included in the equity pool line item in subdivision 1 of section 3 of this Act, must be used to address equity at higher education institutions and other campus needs as determined by the state board of higher education. The state board of higher education may not select a formula for distributing the equity funding until January 1, 2006. A representative of the board shall provide a report to the budget section regarding the allocation of the equity pool. Equity or parity funding allocations must be considered in the campus equity position for budgeting purposes.

SECTION 10. EDUCATION INCENTIVE PROGRAMS. The funding appropriated for education incentive programs in subdivision 1 of section 3 of this Act, may be allocated to education incentive programs as determined by the state board of higher education, including the reduction or elimination of specific programs, and the state board of higher education may determine the appropriate number of years of program eligibility for each education incentive program. The board may allocate up to \$150,000 of the funding for providing doctoral incentives to students at private baccalaureate degree-granting institutions.

SECTION 11. FEDERAL, PRIVATE, AND OTHER FUNDS - APPROPRIATION. All funds, in addition to those appropriated in section 3 of this Act, from federal, private, and other sources, received by the institutions and entities under the control of the state board of higher education are appropriated to those institutions and entities, for the biennium beginning July 1, 2005, and ending June 30, 2007. All additional funds received under the North Dakota-Minnesota reciprocity agreement during the biennium beginning July 1, 2005, and ending June 30, 2007, are appropriated to the state board of higher education for reimbursement to institutions under the control of the board and for student financial assistance grants. Twenty-three and one-half percent of the additional funds must be used for student financial assistance grants for students at private baccalaureate degree-granting institutions.

SECTION 12. TRANSFER AUTHORITY. If, during the biennium beginning July 1, 2005, and ending June 30, 2007, the state board of higher education determines that funds allocated to campus operations in section 3 of this Act are needed for capital projects or extraordinary repairs, the board may transfer funds from operations to capital assets. The board shall report any transfer of funds under this section to the office of management and budget.

SECTION 13. FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. The state board of higher education is authorized to adjust full-time equivalent positions as needed, subject to the availability of funds, for institutions and entities under its control. The university system shall report any adjustments to the office of management and budget before the submission of the 2007-09 biennium budget request.

SECTION 14. BOND ISSUANCE AUTHORIZATION - PURPOSES - APPROPRIATION. The state board of higher education, in accordance with chapter 15-55, may arrange for the funding of the projects authorized in this section, declared to be in the public interest, through the issuance of self-liquidating, tax-exempt evidences of indebtedness under chapter 15-55, beginning with the effective date of this Act and ending June 30, 2007. Evidences of indebtedness issued pursuant to this section are not a general obligation of the state of North Dakota. Any unexpended balance resulting from the proceeds of the evidences of indebtedness must be placed in a sinking fund to be used for the retirement of the indebtedness. The evidences of indebtedness may be issued and the proceeds are

appropriated, for the biennium beginning July 1, 2005, and ending June 30, 2007, for the purpose of financing the following capital projects:

Bismarck state college - Residence hall	\$2,617,500
University of North Dakota - Dining center renovation	2,100,000
University of North Dakota - Parking ramp structure	19,000,000
University of North Dakota - University housing replacement	20,000,000
North Dakota state university - Wellness center addition	12,000,000
North Dakota state university - Memorial union renovation and addition	22,000,000
Minot state university - Crane hall renovation	<u>5,000,000</u>

Bismarck state college may obtain and utilize special funds to assist in the construction of a new residence hall. There is appropriated to Bismarck state college the sum of \$625,000, or so much of the sum as may be necessary, from any other funds that may become available for this project, for the biennium beginning July 1, 2005, and ending June 30, 2007.

Total special funds appropriation	\$83,342,500
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SECTION 15. NORTH DAKOTA STATE UNIVERSITY - COLLEGE OF BUSINESS BUILDING. The state board of higher education may enter into an agreement or agreements with the North Dakota state university foundation or other private entity and do all things necessary and proper to authorize construction by the foundation or other private entity of a college of business building on the North Dakota state university campus, using donations, gifts, or other private funds.

SECTION 16. MINOT STATE UNIVERSITY - CRANE HALL RENOVATION. The state board of higher education may enter into an agreement or agreements with a private vendor and do all things necessary and proper to authorize renovation and operation of crane hall on the Minot state university campus as a residence hall using auxiliary revenues.

SECTION 17. LEGISLATIVE INTENT - LONG-TERM FINANCE PLAN REVIEW - REPORT TO THE BUDGET SECTION. It is the intent of the fifty-ninth legislative assembly that the state board of higher education conduct a review of the long-term finance plan, including a review of peer institutions and a review of the allocation of funds between equity and parity within the plan, during the 2005-06 interim. A representative of the board shall periodically report to the appropriate committee of the legislative council and the budget section on the status of the review during the 2005-06 interim.

SECTION 18. LEGISLATIVE INTENT - NORTH DAKOTA UNIVERSITY SYSTEM - EXECUTIVE BUDGET RECOMMENDATION. It is the intent of the fifty-ninth legislative assembly that the office of the budget submit for introduction to the sixtieth legislative assembly the North Dakota university system appropriations bill for the 2007-09 biennium in the same format as approved by the fifty-ninth legislative assembly.

SECTION 19. NORTH DAKOTA STATE UNIVERSITY SPECIAL ASSESSMENT DISTRICT. The state board of higher education may authorize North Dakota state university to request of the city of Fargo creation of a \$1,025,000 special improvement district to finance necessary repairs and improvements to seventeenth avenue located on the North Dakota state university campus.

SECTION 20. LEGISLATIVE INTENT - HIGHER EDUCATION ACCOUNTABILITY MEASURES. It is the intent of the legislative assembly that the

board of higher education's performance and accountability report as required by section 15-10-14.2 include an executive summary and information regarding:

1. Education excellence, including:
 - a. Student performance on nationally recognized exams in their major fields compared to the national averages.
 - b. First-time licensure pass rates compared to other states.
 - c. Alumni-reported and student-reported satisfaction with preparation in selected major, acquisition of specific skills, and technology knowledge and abilities.
 - d. Employer-reported satisfaction with preparation of recently hired graduates.
 - e. Biennial report on employee satisfaction relating to the university system and local institutions.
 - f. Student graduation and retention rates.
2. Economic development, including:
 - a. Enrollment in entrepreneurship courses and the number of graduates of entrepreneurship programs.
 - b. Percentage of university system graduates obtaining employment appropriate to their education in the state.
 - c. Number of businesses and employees in the region receiving training.
3. Student access, including number and proportion of enrollments in courses offered by nontraditional methods.
4. Student affordability, including:
 - a. Tuition and fees on a per student basis compared to the regional average.
 - b. Tuition and fees as a percentage of median North Dakota household income.
 - c. Cost per student in terms of general fund appropriations and total university system funding.
 - d. Per capita general fund appropriations for higher education.
 - e. State general fund appropriation levels for university system institutions compared to peer institutions general fund appropriation levels.
5. Financial operations, including:
 - a. Cost per student and percentage distribution by major function.

- b. Ratio measuring the funding derived from operating and contributed income compared to total university system funding.
- c. Ratio measuring the amount of expendable net assets as compared to the amount of long-term debt.
- d. Research expenditures in proportion to the amount of revenue generated by research activity and funding received for research activity.
- e. Ratio measuring the amount of expendable fund balances divided by total expenditures and mandatory transfers.
- f. Ratio measuring net total revenues divided by total current revenues.

SECTION 21. BISMARCK STATE COLLEGE CAREER AND TECHNOLOGY INSTITUTE. The state board of higher education may enter an agreement or agreements with the Bismarck state college foundation or other private entity and do all things necessary and proper to authorize construction by the foundation or other private entity of a building on the Bismarck state college campus, using state funds, federal funds, donations, gifts, or other private funds.

SECTION 22. LEGISLATIVE INTENT - STUDENT EXCHANGE PROGRAMS. It is the intent of the fifty-ninth legislative assembly that the state board of higher education consider allowing related faculty members and practicing professionals in the related fields in the state to assist in the selection of students awarded funding through the student exchange program and consider investigating options of entering contracts with other higher education institutions for providing opportunities for students to complete professional fields of study not offered through the North Dakota university system, specifically other institutions granting professional degrees targeting critical shortages in large animal veterinary practice.

SECTION 23. LEGISLATIVE COUNCIL STUDY OF HIGHER EDUCATION FUNDING AND ACCOUNTABILITY. The legislative council shall consider studying, during the 2005-06 interim, higher education funding and accountability. If conducted, the study should include a review of the progress made in implementing the higher education roundtable recommendations relating to the university system meeting the state's expectations and needs, the funding methodology needed to meet these expectations and needs, and the appropriate accountability and reporting system for the North Dakota university system. The review should include an independent consultant's evaluation of:

1. The roundtable recommendations and the goals and objectives of the North Dakota university system;
2. The long-term financing plan for the North Dakota university system, including a review of the peer institutions selected and updated funding comparisons;
3. The North Dakota university system's prioritization of higher education funding, including the resource allocation mechanism addressing equity funding issues and the funding for initiatives at North Dakota's colleges and universities; and
4. The accountability mechanisms.

The study should be conducted and the consultant selected with input from the state board of higher education. The independent consultant selected to do the evaluation must possess a national reputation and experience in higher education governance and funding and management in multicampus public university systems and may not have been under contract with the state board of higher education during the previous five years.

The study may include the use of a higher education roundtable format.

The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 24. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$175,000, or so much of the sum as may be necessary, to the legislative council for the purpose of conducting the higher education study as provided for in this Act, for the biennium beginning July 1, 2005, and ending June 30, 2007. The legislative council may receive any other funds available for conducting the study and those funds are hereby appropriated.

SECTION 25. USE OF UNSPENT 2003-05 GENERAL FUND APPROPRIATIONS. The state board of higher education shall use \$250,000 of North Dakota university system office unspent 2003-05 biennium general fund appropriation authorized to continue under section 54-44.1-11 for capital asset needs at Valley City State University in the sum of \$150,000, including \$108,000 for brick tuck-pointing, \$10,000 for a sound system, and \$32,000 to replace special funds for the W. E. Osmon bleacher replacement project, and for internships at the North Dakota trade office in the sum of \$100,000 for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 26. AMENDMENT. Section 15-62.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-62.2-01. Student financial assistance and scholars programs - Establishment - Administrative responsibility. The North Dakota student financial assistance and scholars programs are established to provide grants or scholarships, or both, to assist the following students:

1. Resident undergraduate students pursuant to section 15-10-19.1.
2. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to section 15-40.2-10, who are attending qualified institutions of postsecondary education within North Dakota.
3. North Dakota resident students who, because of physical or mental handicap as certified by a physician, are attending postsecondary institutions out of state due to the lack of special services or facilities, or both, necessary to meet the postsecondary educational needs of the handicapped students within North Dakota.
4. Scholars who qualify and are selected for scholarships pursuant to sections 15-62.2-00.1 and 15-62.2-03.1 through 15-62.2-03.5.

A student must be in substantial need of financial assistance to receive grants under the student financial assistance program. The state board of higher education shall administer the student financial assistance program and the scholars program. At least twenty-three and one-half percent of the funds appropriated for the student financial assistance program must be allocated to students at private baccalaureate degree-granting institutions with the remaining funds allocated to students at public and American Indian institutions.

SECTION 27. EMERGENCY. The capital assets, professional student exchange program, and contingency and capital emergency line items contained in section 3 of this Act and sections 14, 15, and 19 of this Act are declared to be an emergency measure.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 32

SENATE BILL NO. 2004

(Appropriations Committee)
(At the request of the Governor)

STATE DEPARTMENT OF HEALTH

AN ACT to provide an appropriation for defraying the expenses of the state department of health; to create and enact a new subsection to section 23-01-05 of the North Dakota Century Code, relating to the state health officer's duty to establish an environmental review process for commercial buildings; to amend and reenact subsection 1 of section 19-02.1-24, section 19-08-04, subsections 5 and 8 of section 23-09-01, and sections 23-09-16, 23-09-24, 23-09.1-02.2, and 23-10-03 of the North Dakota Century Code, relating to licensure of food vending machines, beverage sales, food and lodging establishments, assisted living facilities, pushcarts, mobile food units, salvaged food distributors, bed and breakfasts, mobile home parks, trailer parks, and campgrounds; to repeal sections 19-08-05, 23-09-17, 23-09.1-03, and 23-10-05 of the North Dakota Century Code, relating to license fee amounts for beverage sales, food and lodging establishments, mobile food units, pushcarts, bed and breakfasts, mobile home parks, trailer parks, and campgrounds; to provide for a report to the legislative council; to provide legislative intent; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Salaries and wages	\$29,972,929
Operating expenses	24,151,257
Capital assets	3,204,837
Grants	36,690,628
Tobacco prevention and control	7,783,097
WIC food payments	17,680,000
Community health advisory	100,000
Total all funds - Base level	\$119,582,748
Less estimated income - Base level	<u>106,481,656</u>
Total general fund - Base level	\$13,101,092

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

Salaries and wages	\$2,080,994
Operating expenses	1,462,724
Capital assets	(1,690,368)
Grants	5,111,538
Tobacco prevention and control	902,898
WIC food payments	(1,930,000)
Community health advisory	<u>(100,000)</u>

Total all funds - Adjustments/enhancements	\$5,837,786
Less estimated income - Adjustments/enhancements	<u>5,602,356</u>
Total general fund - Adjustments/enhancements	<u>\$235,430</u>

SECTION 3. 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 state department of health for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$32,053,923
Operating expenses	25,613,981
Capital assets	1,514,469
Grants	41,802,166
Tobacco prevention and control	8,685,995
WIC food payments	<u>15,750,000</u>
Total all funds	\$125,420,534
Less estimated income	<u>112,084,012</u>
Total general fund appropriation	<u>\$13,336,522</u>

SECTION 4. ABANDONED MOTOR VEHICLE DISPOSAL FUND. The estimated income line item included in section 3 of this Act includes \$250,000, or so much of the sum as may be necessary, to be made available to the state department of health from the abandoned motor vehicle disposal fund, under section 39-26-11, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item included in section 3 of this Act includes \$252,808, or so much of the sum as may be necessary, to be made available to the state department of health from the environment and rangeland protection fund, for the biennium beginning July 1, 2005, and ending June 30, 2007. This amount includes \$50,000 for a grant to the North Dakota stockmen's association environmental services program.

SECTION 6. DOMESTIC VIOLENCE PREVENTION FUND. The estimated income line item included in section 3 of this Act includes \$340,000, or so much of the sum as may be necessary, to be made available to the state department of health from the domestic violence prevention fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. ENVIRONMENTAL HEALTH PRACTITIONER LICENSURE FEE ADMINISTRATIVE FUND. The estimated income line item included in section 3 of this Act includes \$1,000, or so much of the sum as may be necessary, to be made available to the state department of health from the environmental health practitioner licensure fee administrative fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. WASTEWATER OPERATORS CERTIFICATION FUND. The estimated income line item included in section 3 of this Act includes \$21,214, or so much of the sum as may be necessary, to be made available to the state department of health from the wastewater operators certification fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 9. COMMUNITY HEALTH TRUST FUND. The estimated income line item included in section 3 of this Act includes \$6,610,000, or so much of the sum

as may be necessary, to be made available to the state department of health from the community health trust fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. INTENT - INDIRECT COST RECOVERIES. Notwithstanding section 54-44.1-14, the state department of health may deposit indirect cost recoveries in its operating account.

SECTION 11. AMENDMENT. Subsection 1 of section 19-02.1-24 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~No An establishment may not sell any type of prepackaged food from a food vending machine without first obtaining a license from the department. A license may be issued upon payment of a fee of fifteen dollars annually. The license expires on June thirtieth of each year. The department may adopt rules establishing the amount and the procedures for the collection of license fees. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.~~

SECTION 12. AMENDMENT. Section 19-08-04 of the North Dakota Century Code is amended and reenacted as follows:

19-08-04. License required. The department may, ~~in its discretion,~~ require manufacturers, importers, jobbers, or other retailers to furnish suitable samples to the department for inspection and chemical analysis. If any beverage does not meet all requirements of law, the department shall refuse to license ~~the beverage~~ and shall prevent ~~its sale of the beverage~~. The license fee must be paid annually during the month of December or ~~prior to before~~ placing the beverage on the market. The license expires December thirty-first next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser may be required to secure a license for a product prepared for the dispenser's own use from a product already licensed. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 13. A new subsection to section 23-01-05 of the North Dakota Century Code is created and enacted as follows:

- a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and

- (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

³² **SECTION 14. AMENDMENT.** Subsections 5 and 8 of section 23-09-01 of the North Dakota Century Code are amended and reenacted as follows:

5. "Food establishment" means any fixed restaurant, limited restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, catering kitchen, delicatessen, bakery, grocery store, meat market, food processing plant, school, child care, or similar place in which food or drink is prepared for sale or service to the public on the premises or elsewhere with or without charge.
8. "Lodging establishment" includes every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished for pay to ~~four or more~~ transient guests. The term does not include a facility providing personal care services directly or through contract services as defined in section 23-09.3-01 or 50-32-01.

SECTION 15. AMENDMENT. Section 23-09-16 of the North Dakota Century Code is amended and reenacted as follows:

23-09-16. License - Application. Before any food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility may be operated in this state, it must be licensed by the department. The department shall waive the license requirement for any food establishment, lodging establishment, or assisted living facility licensed by a city or district health unit if the local health unit's sanitation, safety, and inspection rules are approved by the department. Application for license must be made to the department during December of every year, or before the operating of the food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility, as the case may be. The application must be in writing on forms furnished by the department and must be accompanied by the required fee. An additional amount of fifty percent of the license fee must be imposed upon renewal if the license was not renewed before February first following the expiration date. A reduced license fee in the amount of one-half the applicable license fee must be charged for a new food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility beginning operations after July first of each year and for changes in ownership and location of such existing establishments after July first of each year. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating

³² Section 23-09-01 was also amended by section 1 of House Bill No. 1147, chapter 437.

fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 16. AMENDMENT. Section 23-09-24 of the North Dakota Century Code is amended and reenacted as follows:

23-09-24. Salvaged food - License required. It is unlawful for a person to claim to be a salvaged food distributor or to engage in the activity of selling, distributing, or otherwise trafficking in distressed or salvaged food, or both, at wholesale, without a license issued under ~~section 23-09-17~~ this chapter authorizing that person to operate as a salvaged food distributor. A salvaged food distributor license may not be issued absent compliance with this section and any rules adopted to implement this section. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees under this section. License fees collected under this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 17. AMENDMENT. Section 23-09.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

23-09.1-02.2. License required - Application - Issuance. Before any bed and breakfast facility may operate in this state ~~it~~, the facility must be licensed by the department. Licenses expire on December thirty-first following the date of issuance unless canceled by failure to comply with this chapter or with any of the rules adopted ~~under~~ to implement this chapter. Renewal application for license must be made to the department during December of every year. A license must be issued upon compliance by the applicant with provisions of this chapter and any rules adopted ~~under~~ to implement this chapter. The application must be in writing on forms furnished by the department and must be accompanied by the required fee. Licenses issued by the department are not transferable nor applicable to any premises other than those for which the license was issued. The department may adopt rules establishing the amount of and the procedures for the collection of annual license fees. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 18. AMENDMENT. Section 23-10-03 of the North Dakota Century Code is amended and reenacted as follows:

23-10-03. License required - Application. ~~No~~ A person may not establish, maintain, or enlarge a mobile home park, trailer park, or campground in this state without first obtaining a license from the department. The application for the license must be made in writing to the department and must state the location and type of the mobile home park, trailer park, or campground, the proposed water supply, the proposed method of sewerage and garbage disposal, and such other information as may be required by the department. Application forms must be prepared by the department and distributed upon request. The department shall waive the license fee for any mobile home park, trailer park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park, trailer park, or campground that is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, trailer parks, and campgrounds. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees. License fees collected pursuant to this section

must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 19. REPEAL. Sections 19-08-05, 23-09-17, 23-09.1-03, and 23-10-05 of the North Dakota Century Code are repealed.

SECTION 20. LEGISLATIVE COUNCIL STUDY - HEALTHY NORTH DAKOTA PROGRAM. The legislative council shall consider studying, during the 2005-06 interim, the costs and benefits of adopting a comprehensive healthy North Dakota and workplace wellness program in collaboration with the state department of health, health insurers and other third-party payers, workforce safety and insurance, interested nonprofit health-related agencies, and others who have an interest in establishing accident and disease prevention programs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 21. LEGISLATIVE COUNCIL STUDY - PUBLIC HEALTH INFRASTRUCTURE AND FOOD AND LODGING INSPECTIONS. The legislative council shall study, during the 2005-06 interim, the state's public health unit infrastructure and the ability of the public health units to respond to public health issues. The study must include an assessment of the efficiency of operations, given the personnel and financial resources available, and the effectiveness of services, given the lines of governmental authority of the current infrastructure. The study must include the efficiency of the food and lodging investigation services provided by the state department of health and the public health units and must develop a plan maximizing efficiencies through a coordinated system and fee structure. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 22. LEGISLATIVE COUNCIL STUDY - TOBACCO SETTLEMENT COLLECTIONS. The legislative council shall consider studying, during the 2005-06 interim, whether to change guidelines for funding programs as a result of additional tobacco settlement collections that are anticipated to be received and deposited in the community health trust fund from 2008 through 2017. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 23. LEGISLATIVE INTENT - WORKSITE WELLNESS PILOT PROJECT. It is the intent of the fifty-ninth legislative assembly that the state department of health may use federal funding to match nonstate funding and contract with a nonstate entity for a worksite wellness pilot project during the 2005-07 biennium. The state department of health shall provide a report on the pilot project to the sixtieth legislative assembly.

SECTION 24. LEGISLATIVE INTENT - FUNDING FOR ABSTINENCE PROGRAMS. It is the intent of the fifty-ninth legislative assembly that the state department of health pursue \$220,000 for abstinence programs from federal grants or other sources and that the new funding be in addition to existing funding for abstinence programs.

SECTION 25. LEGISLATIVE INTENT - FEDERAL BIOTERRORISM FUNDING. It is the intent of the fifty-ninth legislative assembly that the full-time equivalent employee positions funded with federal bioterrorism grants be discontinued when the funding for the programs ends.

SECTION 26. BASIC CARE SURVEY PILOT PROJECT - LEGISLATIVE COUNCIL REPORT. The state department of health shall develop a pilot project to test an announced basic care survey process. The pilot project must begin with fifty percent of the state-licensed basic care providers surveyed receiving an announced survey and the remaining receiving an unannounced survey. The state department of health shall evaluate the survey pilot project and submit a report to the legislative council during the 2005-06 interim. The report must include a recommendation of whether the unannounced survey process should continue for all basic care facilities. The pilot project must include standard basic care surveys and all complaint investigations must be unannounced.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 33

SENATE BILL NO. 2005

(Appropriations Committee)
(At the request of the Governor)

INDIAN AFFAIRS COMMISSION

AN ACT to provide an appropriation for defraying the expenses of the Indian affairs commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the Indian affairs commission in section 3 of this Act as follows:

Salaries and wages	\$314,311
Operating expenses	<u>40,932</u>
Total general fund - Base level	\$355,243

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the Indian affairs commission which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$26,259
Operating expenses	<u>22,963</u>
Total all funds - Adjustments/enhancements	\$49,222
Less estimated income - Adjustments/enhancements	<u>20,000</u>
Total general fund - Adjustments/enhancements	\$29,222

SECTION 3. 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 Indian affairs commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$340,570
Operating expenses	<u>63,895</u>
Total all funds	\$404,465
Less estimated income	<u>20,000</u>
Total general fund appropriation	\$384,465

Approved April 7, 2005

Filed April 12, 2005

CHAPTER 34

SENATE BILL NO. 2006

(Appropriations Committee)
(At the request of the Governor)

AERONAUTICS COMMISSION

AN ACT to provide an appropriation for defraying the expenses of the aeronautics commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the aeronautics commission in section 3 of this Act as follows:

Salaries and wages	\$674,424
Operating expenses	1,831,368
Capital assets	134,000
Grants	6,520,000
Total all funds - Base level	\$9,159,792
Less estimated income - Base level	<u>8,637,292</u>
Total general fund - Base level	<u>\$522,500</u>

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified this section represent the funding adjustments or enhancements to the base funding level for the aeronautics commission which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$35,878
Operating expenses	61,338
Grants	<u>(3,472,500)</u>
Total all funds - Adjustments/enhancements	(3,375,284)
Less estimated income - Adjustments/enhancements	<u>(3,402,971)</u>
Total general fund - Adjustments/enhancements	<u>\$27,687</u>

SECTION 3. 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 aeronautics commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$710,302
Operating expenses	1,892,706
Capital assets	134,000
Grants	<u>3,047,500</u>
Total all funds	\$5,784,508
Less estimated income	<u>5,234,321</u>
Total general fund appropriation	<u>\$550,187</u>

Approved April 4, 2005

Filed April 4, 2005

CHAPTER 35

SENATE BILL NO. 2007

(Appropriations Committee)
(At the request of the Governor)

VETERANS' HOME AND DEPARTMENT OF VETERANS' AFFAIRS

AN ACT to provide an appropriation for defraying the expenses of the veterans' home and department of veterans' affairs; and to provide legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the veterans' home and department of veterans' affairs in section 3 of this Act as follows:

Subdivision 1.

VETERANS' HOME

Salaries and wages	\$7,975,737
Operating expenses	2,711,704
Capital assets	<u>329,754</u>
Total all funds - Base level	\$11,017,195
Less estimated income - Base level	<u>7,971,123</u>
Total general fund - Base level	\$3,046,072

Subdivision 2.

VETERANS' AFFAIRS

Total all funds - Base level	\$524,292
Less estimated income - Base level	<u>43,494</u>
Total general fund - Base level	\$480,798
Total general fund - Section 1	\$3,526,870
Total special funds - Section 1	\$8,014,617
Total all funds - Section 1	\$11,541,487

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the veterans' home and department of veterans' affairs which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

VETERANS' HOME

Salaries and wages	(\$247,032)
Operating expenses	463,074
Capital assets	<u>20,852</u>
Total all funds - Adjustments/enhancements	\$236,894
Less estimated income - Adjustments/enhancements	<u>(996,290)</u>
Total general fund - Adjustments/enhancements	\$1,233,184

Subdivision 2.

VETERANS' AFFAIRS

Total all funds	\$125,291
Less estimated income	<u>(43,494)</u>
Total general fund - Adjustments/enhancements	\$168,785
Total general fund - Section 2	\$1,401,969
Total special funds - Section 2	(\$1,039,784)
Total all funds - Section 2	\$362,185

SECTION 3. 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 veterans' home and department of veterans' affairs for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

VETERANS' HOME

Salaries and wages	\$7,728,705
Operating expenses	3,174,778
Capital assets	<u>350,606</u>
Total all funds	\$11,254,089
Less estimated income	<u>6,974,833</u>
Total general fund appropriation	\$4,279,256

Subdivision 2.

VETERANS' AFFAIRS

Veterans' affairs	\$649,583
Total general fund appropriation	\$649,583
Grand total general fund appropriation - S.B. 2007	\$4,928,839
Grand total special funds appropriation - S.B. 2007	\$6,974,833
Grand total all funds appropriation - S.B. 2007	\$11,903,672

SECTION 4. LEGISLATIVE INTENT - VETERANS' HOME STAFFING POLICY. It is the intent of the fifty-ninth legislative assembly that the veterans' home review its policy of staffing for basic care services, including the number of licensed practical nurses as compared to certified nurse assistants scheduled for each shift, and to present a report to the appropriations committees of the sixtieth legislative assembly during the agency's budget presentation regarding justification for the staffing policy and information on savings that may be realized from changes in the policy.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 36

SENATE BILL NO. 2008

(Appropriations Committee)
(At the request of the Governor)

DEPARTMENT OF FINANCIAL INSTITUTIONS

AN ACT to provide an appropriation for defraying the expenses of the department of financial institutions; and to provide a contingent appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Salaries and wages	\$2,984,539
Operating expenses	<u>672,726</u>
Total special funds - Base level	\$3,657,265

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

Salaries and wages	\$398,782
Operating expenses	107,087
Capital assets	7,500
Contingency	<u>20,000</u>
Total special funds - Adjustments/enhancements	\$533,369

SECTION 3. 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 financial institutions regulatory fund in the state treasury, not otherwise appropriated, to the department of financial institutions for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$3,383,321
Operating expenses	779,813
Capital assets	7,500
Contingency	<u>20,000</u>
Total special funds appropriation	\$4,190,634

SECTION 4. CONTINGENT APPROPRIATION. If Senate Bill No. 2195 is approved by the fifty-ninth legislative assembly, the department of financial institutions is appropriated out of any moneys in the financial institutions regulatory fund in the state treasury, not otherwise appropriated, the amount of \$32,169, or so much of that amount as is necessary, for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 37

SENATE BILL NO. 2009

(Appropriations Committee)
(At the request of the Governor)

STATE FAIR ASSOCIATION

AN ACT to provide an appropriation for defraying the expenses of the state fair association; and to amend and reenact section 4-02.1-09 of the North Dakota Century Code, relating to compensation of state fair board members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state fair association in section 3 of this Act as follows:

Capital assets	\$210,000
Premiums	<u>391,750</u>
Total all funds - Base level	\$601,750
Less estimated income - Base level	<u>20,000</u>
Total general fund - Base level	\$581,750

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state fair association which are included in the appropriation in section 3 of this Act as follows:

Premiums	\$13,250
Total all funds - Adjustments/enhancements	<u>\$13,250</u>
Less estimated income - Adjustments/enhancements	<u>(20,000)</u>
Total general fund - Adjustments/enhancements	\$33,250

SECTION 3. APPROPRIATION FOR THE STATE FAIR ASSOCIATION. 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, to the state fair association for the purpose of defraying the expenses of the state fair association, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Capital assets	\$210,000
Premiums	<u>405,000</u>
Total general fund	\$615,000

SECTION 4. AMENDMENT. Section 4-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

4-02.1-09. Vacancies and special compensation of board members. Any vacancy occurring on the board of directors must be filled by the board of directors for the unexpired term of the vacancy. ~~The board of directors may not receive any salary for their services, but, by resolution of the board, per diem payments of ten dollars and travel expenses not exceeding such amounts as allowed other state officials and employees, may be allowed for attendance at each regular or special meeting of the board or members.~~ The board of directors has the power, in its discretion, ~~to~~ may contract for and ~~to~~ pay directors rendering unusual or exceptional services to the association, special compensation appropriate to the value of such services.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 38

SENATE BILL NO. 2010

(Appropriations Committee)
(At the request of the Governor)

COUNCIL ON THE ARTS

AN ACT to provide an appropriation for defraying the expenses of the council on the arts; to provide an appropriation from the cultural endowment fund; to amend and reenact sections 21-10-06, 54-54-04, and 54-54-08.2 of the North Dakota Century Code, relating to funds under the management of the state investment board, employees of the council on the arts, and to the cultural endowment fund; and to provide a statement of legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the council on the arts in section 3 of this Act as follows:

Salaries and wages	\$425,568
Operating expenses	221,443
Grants	1,415,857
Lewis and Clark bicentennial	<u>163,750</u>
Total all funds - Base level	\$2,226,618
Less estimated income - Base level	<u>1,222,215</u>
Total general fund - Base level	\$1,004,403

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the council on the arts which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$26,184
Operating expenses	6,543
Grants	60,400
Lewis and Clark bicentennial	<u>(55,450)</u>
Total all funds - Adjustments/enhancements	\$37,677
Less estimated income - Adjustments/enhancements	<u>46,103</u>
Total general fund - Adjustments/enhancements	(\$8,426)

SECTION 3. 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 council on the arts for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$451,752
Operating expenses	227,986
Grants	1,476,257
Lewis and Clark bicentennial	<u>108,300</u>
Total all funds	\$2,264,295

Less estimated income	<u>1,268,318</u>
Total general fund appropriation	\$995,977

SECTION 4. APPROPRIATION. All income from the cultural endowment fund is appropriated to the council on the arts for the furthering of the cultural arts in the state for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. AMENDMENT. Section 21-10-06 of the North Dakota Century Code is amended and reenacted as follows:

21-10-06. Funds under management of board - Accounts. The board is charged with the investment of the following funds:

1. State bonding fund.
2. Teachers' fund for retirement.
3. State fire and tornado fund.
4. Workforce safety and insurance fund.
5. National guard tuition trust fund.
6. Public employees retirement system.
7. Insurance regulatory trust fund.
8. State risk management fund.
9. Veterans' cemetery trust fund.
10. Health care trust fund.
11. Cultural endowment fund.

Separate accounting must be maintained for each of the above funds. When it is deemed advantageous, the moneys of the individual funds may be commingled for investment purposes.

The state investment board may provide investment services to, and manage the money of, any agency, institution, or political subdivision of the state, subject to agreement with the industrial commission. The scope of services to be provided by the state investment board to the agency, institution, or political subdivision must be specified in a written contract. The state investment board may charge a fee for providing investment services and any revenue collected must be deposited in the state retirement and investment fund.

SECTION 6. AMENDMENT. Section 54-54-04 of the North Dakota Century Code is amended and reenacted as follows:

54-54-04. Other employees - Appointment - Compensation. The chairman with the approval of the council may employ such officers, experts, and other employees as may be needed to carry out the provisions of this chapter. ~~Such persons~~ The executive director shall serve at the pleasure of the chairman and the chairman shall fix ~~their~~ the compensation of the executive director.

SECTION 7. AMENDMENT. Section 54-54-08.2 of the North Dakota Century Code is amended and reenacted as follows:

54-54-08.2. Cultural endowments - Limitations. ~~The Investment of the cultural endowment fund must be maintained by the Bank of North Dakota which is also responsible for the investment of the principal moneys deposited in such fund under the supervision of the state investment board in accordance with chapter 21-10.~~ Funds will be expended from the cultural endowment fund only to the limits of accrued interest on state general fund appropriations and other public and private funds received. The expenditure of endowment funds must occur at the direction of the North Dakota council on the arts. The council may seek the counsel and assistance of a group or groups of private citizens of the council's choosing to aid it in arriving at expenditure decisions when private funds are involved. Section 54-54-06 applies to private donations to the cultural endowment fund; provided, that gifts, donations, and bequests can be dedicated as principal of the fund in perpetuity or for a term of years, in which case only the income earned as a result of investment of those funds can be expended pursuant to section 54-54-08.1 and this section.

SECTION 8. LEGISLATIVE INTENT - INVESTMENT OF THE CULTURAL ENDOWMENT FUND. It is the intent of the fifty-ninth legislative assembly that the council on the arts, in cooperation with the state investment board, determine the asset mix and risk for investing the assets of the cultural endowment fund under the management of the state investment board.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 39

SENATE BILL NO. 2011

(Appropriations Committee)
(At the request of the Governor)

HIGHWAY PATROL

AN ACT to provide an appropriation for defraying the expenses of the highway patrol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the highway patrol in section 3 of this Act as follows:

Administration	\$2,241,434
Field operations	30,434,831
Law enforcement training academy	<u>1,016,344</u>
Total all funds - Base level	<u>\$33,692,609</u>
Less estimated income - Base level	<u>15,481,087</u>
Total general fund - Base level	\$18,211,522

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the highway patrol which are included in the appropriation in section 3 of this Act as follows:

Administration	\$103,906
Field operations	406,680
Law enforcement training academy	<u>38,219</u>
Total all funds - Adjustments/enhancement	\$548,805
Less estimated income - Adjustments/enhancements	<u>(747,802)</u>
Total general fund - Adjustments/enhancements	\$1,296,607

SECTION 3. 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 highway patrol for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Administration	\$2,345,340
Field operations	30,841,511
Law enforcement training academy	<u>1,054,563</u>
Total all funds	\$34,241,414
Less estimated income	<u>14,733,285</u>
Total general fund appropriation	\$19,508,129

SECTION 4. SPECIAL FUNDS TRANSFER. The less estimated income line item in section 3 of this Act includes the sum of \$7,516,175, or so much of the sum as may be necessary, from the state highway tax distribution fund which may be transferred at the direction of the superintendent of the highway patrol for the

purpose of defraying the expenses of the highway patrol during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. PAYMENTS TO HIGHWAY PATROL OFFICERS. Each patrol officer of the state highway patrol is entitled to receive from funds appropriated in section 3 of this Act an amount not to exceed one hundred seventy dollars per month for the biennium beginning July 1, 2005, and ending June 30, 2007. The payments are in lieu of reimbursement for meals and other expenses, except lodging, while in travel status within the state of North Dakota or while at their respective home stations. The amounts must be paid at the time and in the same manner as salaries are paid to members of the highway patrol and may be paid without the presentation of receipts or other memorandums.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 40

SENATE BILL NO. 2012

(Appropriations Committee)
(At the request of the Governor)

DEPARTMENT OF TRANSPORTATION

AN ACT to provide an appropriation for defraying the expenses of the department of transportation; to create and enact a new section to chapter 24-01, section 24-02-40.1, a new section to chapter 24-08, and section 57-43.1-03.2 of the North Dakota Century Code, relating to the highway performance classification plan, grant or revenue anticipation financing by the department of transportation, naming of the liberty memorial bridge, and refunds of certain fuels taxes paid by native Americans; to amend and reenact sections 24-01-03, 24-01-51, 39-04-19, 57-40.3-10, 57-43.1-02, and 57-43.2-02 of the North Dakota Century Code, relating to highway and bridge maintenance, haying of no-mow areas, motor vehicle registration fees, motor vehicle excise tax revenue, and motor vehicle fuels and special fuels tax rates; to repeal section 39-04-39.5 of the North Dakota Century Code, relating to allocation of motor vehicle registration fees; and to provide an effective date; and to provide a contingent expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Salaries and wages	\$105,222,404
Operating expenses	122,902,369
Capital assets	512,175,642
Grants	44,085,503
Total special funds - Base level	<u>\$784,385,918</u>

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

Salaries and wages	(\$105,222,404)
Operating expenses	(122,902,369)
Capital assets	(512,175,642)
Grants	(44,085,503)
Administration	27,174,242
Driver's and vehicle services	20,035,352
Highways	863,644,411
Fleet services	<u>43,268,038</u>
Total special funds - Adjustments/enhancements	<u>\$169,736,125</u>

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the department of transportation for the

purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Administration	\$27,174,242
Driver's and vehicle services	20,035,352
Highways	863,644,411
Fleet services	<u>43,268,038</u>
Total special funds appropriation	\$954,122,043

SECTION 4. FULL-TIME EQUIVALENT EMPLOYEES. The department of transportation is authorized to hire additional full-time equivalent positions for highway construction in addition to those authorized by the legislative assembly when it is cost-effective to hire additional positions for construction and maintenance of highways in lieu of entering into contracts for these purposes. The department of transportation shall notify the office of management and budget and report to the legislative council the additional full-time equivalent positions hired.

SECTION 5. AMENDMENT. Section 24-01-03 of the North Dakota Century Code is amended and reenacted as follows:

24-01-03. Responsibility for state highway system. The director is responsible for the construction, maintenance, and operation of the state highway system and ~~is authorized to~~ may enter into a cooperative agreement with any municipality for the construction, maintenance, or repair of any urban connecting street. The director may not divest the state from responsibility for maintaining the structural integrity of any bridge over a navigable water of this state which is currently maintained by the state unless an agreement is reached with the municipality.

The jurisdiction, control, and duty of the state and municipality with respect to such urban connecting streets must be as follows:

1. The director has no authority to change or establish any grade of any such street without approval of the governing body of such municipality.
2. The municipality shall maintain at its own expense ~~maintain~~ all underground facilities in such streets and has the right to construct such additional underground facilities as may be necessary in such streets.
3. The municipality has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby must ~~promptly~~ be repaired promptly by said municipality at its direction and without cost to the department.
4. The municipality has exclusive right to grant franchises over, beneath, and upon such streets.

SECTION 6. A new section to chapter 24-01 of the North Dakota Century Code is created and enacted as follows:

Highway performance classification plan. To the extent possible, the department of transportation shall implement the highway performance classification plan.

SECTION 7. AMENDMENT. Section 24-01-51 of the North Dakota Century Code is amended and reenacted as follows:

24-01-51. (Effective January 1, 2006 2008) Haying of no-mow areas.

Notwithstanding any other provision of law, a person owning land adjacent to an area within the right of way of a highway which is designated as a no-mow or managed-mow area may hay the no-mow or managed-mow area after July fifteenth without any payment or penalty.

SECTION 8. Section 24-02-40.1 of the North Dakota Century Code is created and enacted as follows:

24-02-40.1. Grant or revenue anticipation financing. Notwithstanding any other provision of law, the department, whenever needed for the liberty memorial bridge improvement project and the United States highway 2 project improvements, may arrange with any state-owned or private financing agency or underwriter, including the Bank of North Dakota, grant or revenue anticipation financing through the issuance of evidences of indebtedness on such terms and conditions as the department determines if construction funds on hand are insufficient to meet current obligations or to achieve cost-savings or efficiencies in road construction. The department may refund the evidences of indebtedness as often as it is advantageous to do so. Evidences of indebtedness may be sold at public or private sale and must mature not more than fifteen years from their date or dates, and the proceeds of the sale may be invested on such terms and conditions as the department determines. Grant or revenue anticipation financing must be in amounts no larger than can be repaid from moneys known or reasonably anticipated to be due and forthcoming. The grant or revenue anticipation financing may not be used in anticipation of increased federal aid highway grants or increased state highway user revenue funds, and the financing may not be obligated for road construction that cannot be financed from known sources of grants or revenue. The department may pledge any federal aid grants received or to be received for debt service and related issuance costs for evidences of indebtedness issued under this section directly to a trustee in trust for payment to holders of the evidences of indebtedness. The department may also pledge any biennially appropriated revenues for debt service on the evidences of indebtedness directly to a trustee in trust for payment to holders of the evidences of indebtedness. Any evidences of indebtedness issued under this section are not general obligations or debt of the state, the department, or any public officer or employee of the department or this state. The principal of and interest on the evidences of indebtedness are limited obligations payable solely from grants or revenues received or to be received by the department. The department may capitalize from proceeds of the evidences of indebtedness all expenses incidental to issuing the evidences of indebtedness, including any reserves for payment of the evidences of indebtedness.

SECTION 9. A new section to chapter 24-08 of the North Dakota Century Code is created and enacted as follows:

Liberty memorial bridge. A bridge replacing the bridge between Mandan and Bismarck presently known as the liberty memorial bridge is designated the liberty memorial bridge upon the completion of the replacement bridge.

SECTION 10. AMENDMENT. Section 39-04-19 of the North Dakota Century Code is amended and reenacted as follows:

39-04-19. Motor vehicle registration fees and mile tax. Motor vehicles required to pay registration fees or a mile tax shall pay the following fees:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the department, shall pay a fee of twenty dollars

for a trip permit which is valid for a period of seventy-two hours. All fees collected under the provisions of this subsection must be credited to the highway construction fund.

2. Motor vehicles required to be registered in this state must be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle, including a motorcycle or trailer, first becomes subject to registration other than at the beginning of the registration period, such fees must be prorated on a monthly basis. The minimum fee charged hereunder must be five dollars:

a. Passenger motor vehicles:

Gross Weights	YEARS REGISTERED				
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years	
Less than 3,200	\$60 \$70	\$52 \$62	\$44 \$54	\$36 \$46	
3,200 - 4,499	80 90	68 78	56 66	44 54	
4,500 - 4,999	88 108	84 91	66 76	60 60	
5,000 - 5,999	120 139	107 117	85 95	63 73	
6,000 - 6,999	162 172	143 143	104 114	76 86	
7,000 - 7,999	195 205	169 169	124 134	89 99	
8,000 - 8,999	228 238	186 196	144 154	102 112	
9,000 and over	264 271	242 222	164 174	146 125	

A house car is subject to registration at the rates prescribed for other vehicles under this subdivision modified by using the weight applicable to a vehicle whose weight is forty percent of that of the house car, but not using a weight of less than four thousand pounds [1814.35 kilograms].

A pickup truck is subject to registration at the rates prescribed for other vehicles under this subdivision by applying the shipping weight of the vehicle to the fee schedule. At a minimum, the registered gross weight displayed on the registration card for a pickup truck must be twice the shipping weight of the vehicle. Unless otherwise exempted by this chapter, the owner of a pickup truck shall request the registered gross weight of the pickup truck be increased to ensure the registered gross weight is sufficient to include the total weight of the vehicle and any load transported on or by the vehicle. For purposes of this subdivision, a pickup truck is a motor vehicle with a manufacturer's gross vehicle weight rating of less than eleven thousand five hundred pounds [5216.31 kilograms], with an unladen weight of less than eight thousand pounds [3628.74 kilograms], and which is equipped with an open box-type bed not exceeding nine feet [2.74 meters] in length.

- b. Schoolbuses, buses for hire, buses owned and operated by religious, charitable, or nonprofit organizations and used exclusively for religious, charitable, or other public nonprofit purposes, and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and trailers which qualify for registration under this subsection or subsection 5:

YEARS REGISTERED

Gross Weights	1st Through 6th Years	7th Through 9th Years	10th Through 12th Years	13th Through 19th Years	20th and Subsequent Years
Not over 4,000	\$58 \$68	\$45 \$55	\$40 \$50	\$37 \$47	\$36 \$46
4,001 - 6,000	63 73	50 60	44 54	38 48	37 47
6,001 - 8,000	68 78	55 65	48 58	39 49	38 48
8,001 - 10,000	73 83	60 70	52 62	44 54	40 50
10,001 - 12,000	78 88	65 75	56 66	43 53	42 52
12,001 - 14,000	83 93	70 80	60 70	46 56	46 55
14,001 - 16,000	88 98	75 85	64 74	49 59	48 58
16,001 - 18,000	93 103	80 90	68 78	51 61	50 60
18,001 - 20,000	96 106	83 93	70 80	52 62	51 61

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, 6th, and 7th Years	8th, 9th, 10th, 11th, and 12th Years	13th and Subsequent Years
20,001 - 22,000	\$426 \$136	\$400 \$110	\$87 \$97
22,001 - 26,000	478 188	448 158	132 142
26,001 - 30,000	230 249	197 207	175 185
30,001 - 34,000	305 315	250 260	222 232
34,001 - 38,000	366 376	290 309	265 275
38,001 - 42,000	427 437	348 358	307 317
42,001 - 46,000	488 498	396 406	350 360
46,001 - 50,000	549 559	445 455	393 403
50,001 - 54,000	610 629	503 513	444 454
54,001 - 58,000	680 690	552 562	487 497
58,001 - 62,000	742 752	604 611	530 540
62,001 - 66,000	802 812	649 659	573 583
66,001 - 70,000	863 873	698 708	615 625
70,001 - 74,000	924 934	747 757	658 668
74,001 - 78,000	986 995	796 806	701 711
78,001 - 82,000	1,046 1,056	845 855	744 754
82,001 - 86,000	1,109 1,179	900 960	804 841
86,001 - 90,000	1,204 1,301	1,054 1,064	918 928
90,001 - 94,000	1,413 1,423	1,159 1,169	1,005 1,015
94,001 - 98,000	1,536 1,545	1,264 1,274	1,093 1,103
98,001 - 102,000	1,657 1,667	1,368 1,378	1,180 1,190
102,001 - 105,500	1,779 1,789	1,473 1,483	1,267 1,277

c. Notwithstanding the fees provided by subdivision a of subsection 2, only one-half of the increase in registration fees, rounded up to the nearest dollar, resulting from the reclassification of pickup trucks in 2005 from subdivision b of subsection 2 to subdivision a of subsection 2 is effective from July 1, 2005, through June 30, 2007.

d. Motorcycles, fifteen dollars.

- Motor vehicles acquired by disabled veterans under the provisions of Public Law 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax and, if paid, such veterans are entitled to a refund. This exemption also applies to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight but shall apply to no more than two such motor vehicles owned by a disabled veteran at any one time.
- Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars. Upon the request of a person with a trailer or farm trailer to whom a registration or identification plate is provided under this subsection, the department

shall provide a plate of the same size as provided for a motorcycle. The department shall provide notification of this option to the person before the replacement or issuance of the plate.

5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or leased for at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
20,001 - 22,000	998 108	84 94	70 80	52 62
22,001 - 24,000	103 113	89 98	73 83	54 64
24,001 - 26,000	111 121	94 104	77 87	56 66
26,001 - 28,000	122 132	102 112	83 93	60 70
28,001 - 30,000	141 141	110 120	89 99	64 74
30,001 - 32,000	146 156	123 133	100 110	73 83
32,001 - 34,000	166 166	141 141	106 116	77 87
34,001 - 36,000	176 176	149 149	112 122	81 91
36,001 - 38,000	186 186	157 157	118 128	85 95
38,001 - 40,000	196 196	165 165	124 134	89 99
40,001 - 42,000	206 206	173 173	130 140	93 103
42,001 - 44,000	216 216	181 181	136 146	97 107
44,001 - 46,000	226 226	189 189	142 152	101 111
46,001 - 48,000	236 236	197 197	148 158	105 115
48,001 - 50,000	246 246	205 205	154 164	109 119
50,001 - 52,000	256 256	213 223	160 170	113 123
52,001 - 54,000	266 276	221 231	166 176	117 127
54,001 - 56,000	276 286	229 239	172 182	121 131
56,001 - 58,000	286 296	237 247	178 188	125 135
58,001 - 60,000	296 306	245 255	184 194	129 139
60,001 - 62,000	306 316	253 263	190 200	133 143
62,001 - 64,000	316 326	261 271	196 206	137 147
64,001 - 66,000	326 336	269 279	202 212	141 151
66,001 - 68,000	336 346	277 287	208 218	145 155
68,001 - 70,000	346 356	285 295	214 224	149 159
70,001 - 72,000	356 366	293 303	220 230	153 163
72,001 - 74,000	366 376	301 311	226 236	157 167
74,001 - 76,000	376 386	309 319	232 242	161 171
76,001 - 78,000	386 396	317 327	238 248	165 175
78,001 - 80,000	396 406	325 335	244 254	169 179
80,001 - 82,000	406 416	333 343	250 260	173 183
82,001 - 84,000	416 426	341 351	256 266	177 187
84,001 - 86,000	426 436	349 359	262 272	181 191
86,001 - 88,000	436 446	357 367	268 278	185 195
88,001 - 90,000	446 456	365 375	274 284	189 199
90,001 - 92,000	456 466	373 383	280 290	193 203
92,001 - 94,000	466 476	381 391	286 296	197 207
94,001 - 96,000	476 486	389 399	292 302	201 211
96,001 - 98,000	486 496	397 407	298 308	205 215
98,001 - 100,000	496 506	405 415	304 314	209 219
100,001 - 102,000	506 516	413 423	310 320	213 223
102,001 - 104,000	516 526	421 431	316 326	217 227
104,001 - 105,500	526 536	429 439	322 332	221 231

6. A motor vehicle registered in subsection 5 may be used for custom combining operations by displaying identification issued by the department and upon payment of a fee of twenty-five dollars.
7. Thirteen dollars of each registration fee collected under subsections 2 and 5 must be deposited in the state highway fund.

³³ **SECTION 11. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is amended and reenacted as follows:

57-40.3-10. Transfer of revenue. All moneys collected and received under this chapter must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited to ~~the general fund.~~ as follows:

1. The first one hundred fifty million dollars received during a biennium must be deposited in the state general fund.
2. The first thirty-seven million five hundred thousand dollars received during a biennium exceeding the amount allocated under subsection 1 must be deposited in the state highway fund.
3. Amounts received in excess of the amount allocated under subsections 1 and 2 must be allocated eighty percent to the state general fund and twenty percent to the state highway fund.

³⁴ **SECTION 12. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-02. Tax imposed on motor vehicle fuels.

1. Except as otherwise provided in this section, a tax of ~~twenty-one~~ twenty-three cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. A supplier or distributor shall remit the tax imposed by this section on motor vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on direct sales of motor vehicle fuel to a consumer.
3. The tax imposed by this section does not apply on a sale by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on an export, or on a sale to an exempt consumer.
4. The person required to remit the tax imposed by this section shall pass the tax on to the retailer and to the consumer. A retailer who paid the tax to the supplier or distributor shall pass the tax on to the consumer.

³³ Section 11 was vetoed by the Governor, see chapter 618.

³⁴ Section 57-43.1-02 was also amended by section 2 of House Bill No. 1478, chapter 584.

5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.
6. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

SECTION 13. Section 57-43.1-03.2 of the North Dakota Century Code is created and enacted as follows:

57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as the attorney general determines necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as the attorney general determines is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

³⁵ **SECTION 14. AMENDMENT.** Section 57-43.2-02 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-02. (Contingent effective date - See note - Effective through June 30, 2005) Tax imposed.

1. Except as otherwise provided in this chapter, an excise tax of twenty-one cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in this state. For the purpose of determining the tax upon compressed natural gas under this section,

³⁵ Section 57-43.2-02 was also amended by section 6 of Senate Bill No. 2217, chapter 94.

one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other special fuel. The tax under this subsection is reduced by one and five-hundredths cents per gallon [3.79 liters] on the sale or delivery of diesel fuel that contains at least two percent biodiesel fuel by weight.

2. A supplier, distributor, or retailer shall remit the tax imposed by this section on special fuel used and on direct sales of special fuel to a customer.
3. The tax imposed by this section does not apply on sales by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an exempt consumer.
4. The person required to remit the tax imposed by this section shall pass the tax on to the customer.
5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the special fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.
6. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

(Effective after June 30, 2005) Tax imposed.

1. Except as otherwise provided in this chapter, an excise tax of ~~twenty-one~~ ~~twenty-three~~ cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in this state. For the purpose of determining the tax upon compressed natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
2. A supplier, distributor, or retailer shall remit the tax imposed by this section on special fuel used and on direct sales of special fuel to a customer.
3. The tax imposed by this section does not apply on sales by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an exempt consumer.
4. The person required to remit the tax imposed by this section shall pass the tax on to the customer.
5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the special fuel was sold or used by

the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.

6. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

SECTION 15. REPEAL. Section 39-04-39.5 of the North Dakota Century Code is repealed.

SECTION 16. EFFECTIVE DATE - CONTINGENT EXPIRATION DATE.

Section 13 of this Act is effective for qualifying motor vehicle and special fuel purchases made after December 31, 2004, and is effective until the first day of the first month after the tax commissioner, with the approval of the attorney general, certifies to the governor and the office of the legislative council that an Act of Congress has specifically authorized, or a United States Supreme Court decision has held or may be interpreted to have held, that a state may impose its motor vehicle and special fuel tax laws on native Americans who purchase motor vehicle fuels and special fuels from a retail fuel dealer located on the Indian reservation where the native American is enrolled. Sections 10, 11, 12, and 14 of this Act are effective for registrations and taxable events occurring after June 30, 2005. Section 15 of this Act is effective for registrations occurring after June 30, 2005.

Approved May 4, 2005

Filed May 4, 2005

CHAPTER 41

SENATE BILL NO. 2013

(Appropriations Committee)
(At the request of the Governor)

COMMISSIONER OF UNIVERSITY AND SCHOOL LANDS

AN ACT to provide an appropriation for defraying the expenses of the commissioner of university and school lands; to provide a continuing appropriation; to provide for distribution amounts for permanent funds; and to create and enact a new section to chapter 15-08.1 of the North Dakota Century Code, relating to a continuing appropriation from the lands and minerals trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the commissioner of university and school lands in section 3 of this Act as follows:

Salaries and wages	\$1,876,162
Operating expenses	722,572
Capital assets	37,000
Grants	4,888,100
Contingencies	<u>50,000</u>
Total special funds - Base level	\$7,573,834

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the commissioner of university and school lands which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$334,618
Operating expenses	(73,872)
Capital assets	<u>(27,000)</u>
Total special funds - Adjustments/enhancements	\$233,746

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from the state lands maintenance fund and the oil and gas impact grant fund in the state treasury, to the commissioner of university and school lands for the purpose of defraying the expenses of the commissioner of university and school lands, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$2,210,780
Operating expenses	648,700
Capital assets	10,000
Grants	4,888,100
Contingencies	<u>50,000</u>
Total special funds	\$7,807,580

SECTION 4. OIL AND GAS IMPACT GRANT FUND. The amount of \$5,000,000, or so much of the amount as may be necessary, included in the total special funds appropriated in section 3 of this Act may be spent from the oil and gas impact grant fund by the commissioner of university and school lands for the purpose of providing oil and gas development impact grants and the administration of the oil and gas development impact grant program, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. GRANTS. Section 54-44.1-11 does not apply to appropriations made for oil impact grants in section 3 of this Act.

SECTION 6. APPROPRIATION LINE ITEM TRANSFERS. Upon approval of the board of university and school lands, the commissioner of university and school lands may transfer from the contingencies line item in section 3 of this Act to all other line items except the capital assets line item. The commissioner shall notify the office of management and budget of each transfer made pursuant to this section.

SECTION 7. DISTRIBUTIONS TO STATE INSTITUTIONS. Notwithstanding section 15-03-05.2 during the biennium beginning July 1, 2005, and ending June 30, 2007, the board of university and school lands shall distribute the following amounts, or so much income as may be available, from the permanent funds managed for the benefit of the following entities:

North Dakota state university	\$1,146,000
University of North Dakota	986,000
Youth correctional center	404,000
School for the deaf	322,000
North Dakota state college of science	339,600
State hospital	343,600
Veterans' home	269,600
Valley City state university	268,000
North Dakota vision services - School for the blind	241,600
Mayville state university	176,000
Minot state university - Bottineau	33,600
Dickinson state university	33,600
Minot state university	33,600
Total	\$4,597,200

SECTION 8. A new section to chapter 15-08.1 of the North Dakota Century Code is created and enacted as follows:

Lands and minerals trust fund - Continuing appropriation. There is appropriated annually the amount necessary to pay from the lands and minerals trust fund all principal and interest to the common schools trust fund on any loans made from the fund to the developmentally disabled loan fund program nos. 2 and 3. This authority is ineffective after all loans are repaid.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 42

SENATE BILL NO. 2014

(Appropriations Committee)
(At the request of the Governor)

INDUSTRIAL COMMISSION

AN ACT to provide an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission; to provide for approval of alternate bids by the emergency commission and budget section; to authorize transfers; to amend and reenact sections 38-08-04.2, 38-12-02, 38-12-03, and 38-12.1-04, subsection 1 of section 38-12.1-05, sections 38-15-03, 38-19-03, and 38-19-04, subsection 10 of section 38-15-02, section 54-17-03, subsection 3 of section 54-17.4-01, and sections 54-17.4-05, 54-17.4-06, and 54-17.4-07 of the North Dakota Century Code, relating to appointment of a director of mineral resources, transfer of the state geologist's functions to the director of mineral resources, and the secretary of the industrial commission; to repeal section 3 of chapter 491 of the 2003 Session Laws, relating to the expiration of the authorization for the state to purchase oil put options; to provide for a report to the legislative council; to provide a section of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state industrial commission and agencies under its control in section 3 of this Act as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

Salaries and wages	\$6,244,663
Operating expenses	1,904,767
Capital assets	68,300
Lignite research and development	16,270,000
Grants - Bond payments	<u>19,830,990</u>
Total all funds - Base level	\$44,318,720
Less estimated income - Base level	<u>37,291,836</u>
Total general fund - Base level	\$7,026,884

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

Salaries and wages	\$16,527,614
Operating expenses	10,925,665
Capital assets	825,000
Contingencies	<u>1,500,000</u>
Total from Bank of North Dakota fund - Base level	\$29,778,279

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

Partnership in assisting community expansion fund	\$5,700,000
Agriculture partnership in assisting community expansion fund	1,425,000
Beginning farmer revolving loan fund	<u>950,000</u>
Total general fund - Base level	\$8,075,000

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$16,690,956
Operating expenses	12,991,196
Contingencies	250,000
Agriculture promotion	<u>50,000</u>
Total from mill and elevator fund - Base level	\$29,982,152

Subdivision 5.

HOUSING FINANCE AGENCY

Salaries and wages	\$3,929,907
Operating expenses	2,391,480
Grants	27,168,380
HFA contingencies	<u>100,000</u>
Total from housing finance agency fund - Base level	\$33,589,767
Grand total general fund - Section 1	\$15,101,884
Grand total special funds - Section 1	<u>130,642,034</u>
Grand total all funds - Section 1	\$145,743,918

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state industrial commission and agencies under its control which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

Salaries and wages	(\$184,571)
Operating expenses	3,083
Capital assets	(22,800)
Lignite research and development	(1,070,000)
Grants - Bond payments	7,461,422
Oil and gas division contingency	<u>225,000</u>
Total all funds - Adjustments/enhancements	\$6,412,134
Less estimated income - Adjustments/enhancements	<u>6,604,189</u>
Total general fund - Adjustments/enhancements	(\$192,055)

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

Salaries and wages	\$1,625,778
Capital assets	10,447,000
Contingencies	<u>200,000</u>
Total from Bank of North Dakota fund - Adjustments/enhancements	\$12,272,778

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

Total general fund - Adjustments/enhancements	<u>(\$2,375,000)</u>
Total from beginning farmer revolving loan fund - Adjustments/enhancements	<u>\$2,375,000</u>

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$641,435
Operating expenses	1,967,817
Contingencies	50,000
Agriculture promotion	<u>200,000</u>
Total from mill and elevator fund - Adjustments/enhancements	<u>\$2,859,252</u>

Subdivision 5.

HOUSING FINANCE AGENCY

Salaries and wages	\$446,894
Operating expenses	414,098
Grants	<u>(577,100)</u>
Total from housing finance agency fund - Adjustments/enhancements	<u>\$283,892</u>
Grand total general fund - Section 2	<u>(\$2,567,055)</u>
Grand total special funds - Section 2	<u>24,395,111</u>
Grand total all funds - Section 2	<u>\$21,828,056</u>

SECTION 3. 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 state industrial commission and agencies under its control for the purpose of defraying the expenses of their various divisions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

Salaries and wages	\$6,060,092
Operating expenses	1,907,850
Capital assets	45,500
Lignite research and development	15,200,000
Grants - Bond payments	27,292,412
Oil and gas division contingency	<u>225,000</u>
Total all funds	<u>\$50,730,854</u>
Less estimated income	<u>43,896,025</u>
Total general fund appropriation	<u>\$6,834,829</u>

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

Salaries and wages	\$18,153,392
Operating expenses	10,925,665
Capital assets	11,272,000
Contingencies	<u>1,700,000</u>
Total appropriation from Bank of North Dakota fund	<u>\$42,051,057</u>

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

Partnership in assisting community expansion fund	\$5,700,000
Agriculture partnership in assisting community expansion fund	1,425,000
Beginning farmer revolving loan fund	<u>950,000</u>
Total all funds	\$8,075,000
Less beginning farmer revolving loan fund	<u>2,375,000</u>
Total general fund	\$5,700,000

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$17,332,391
Operating expenses	14,959,013
Contingencies	300,000
Agriculture promotion	<u>250,000</u>
Total appropriation from mill and elevator fund	\$32,841,404

Subdivision 5.

HOUSING FINANCE AGENCY

Salaries and wages	\$4,376,801
Operating expenses	2,805,578
Grants	26,591,280
HFA contingencies	<u>100,000</u>
Total appropriation from housing finance agency fund	\$33,873,659
Total general fund appropriation - Section 3	\$12,534,829
Total special funds appropriation - Section 3	<u>155,037,145</u>
Total all funds appropriation - Section 3	\$167,571,974

SECTION 4. APPROPRIATION. In addition to the amount appropriated to the housing finance agency in subdivision 5 of section 3 of this Act, there is appropriated any additional income or unanticipated income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. APPROPRIATION - EMERGENCY COMMISSION APPROVAL. In addition to the amount appropriated to the industrial commission in subdivision 1 of section 3 of this Act, there is appropriated, with the approval of the emergency commission, funds that may become available to the commission from bonds authorized by law to be issued by the industrial commission under chapters 4-36 and 54-17.2 and section 54-17-25, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. ALTERNATE BIDS - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL - APPROPRIATION. The industrial commission shall advertise for bids for a new building for the Bank of North Dakota. Alternate bids must be solicited which would allow footings to be installed for up to three additional floors. The industrial commission may proceed with the construction of additional footings upon approval by the emergency commission and budget section. Any additional funds required for the footings in excess of the \$11,000,000 appropriated in subdivision 2 of section 3 of this Act are hereby appropriated to the Bank of North Dakota for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. TRANSFER. The sum of \$73,650, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the North Dakota mill and elevator association. The moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 8. TRANSFER. The sum of \$94,545, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the accumulated and undivided profits of the Bank of North Dakota. The moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 9. TRANSFER. The sum of \$64,727, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the housing finance agency fund. The moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 10. TRANSFER. The sum of \$26,019, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the revenues of the municipal bond bank. The available moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 11. INCOME AUTHORIZATION - STUDENT LOAN TRUST. There is authorized the receipt of fees by the industrial commission in the sum of \$79,100, or so much of the sum as is owed, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, from the student loan trust for administrative services rendered by the industrial commission to the extent permitted by sections 54-17-24 and 54-17-25. The fees must be received during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 12. TRANSFER. The industrial commission shall transfer to the general fund in the state treasury the sum of \$5,000,000 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, 2005, and ending June 30, 2007.

SECTION 13. LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING PROGRAM - APPROPRIATION - LIGNITE MARKETING FEASIBILITY STUDY. The amount of \$1,500,000, or so much of the amount as may be necessary, included in the grants - bond payments and special funds appropriation line items in subdivision 1 of section 3 of this Act, is appropriated from the lignite research fund for the purpose of contracting for an independent, nonmatching lignite marketing feasibility study or studies that determine those focused priority areas where near-term, market-driven projects, activities, or processes will generate matching private industry investment and have the most potential of preserving existing lignite production and jobs or that will lead to increased development of lignite and its products and create new lignite jobs and economic growth for the general welfare of this state. Moneys appropriated pursuant to this section may also be used for the purpose of contracting for nonmatching studies and activities in support of the lignite vision 21 project; for nonmatching externality studies and activities in externality proceedings; or other marketing, environmental, or transmission activities that assist with marketing of lignite-based electricity and lignite-based byproducts. Moneys not

needed for the purposes stated in this section are available to the commission for funding projects, processes, or activities under the lignite research, development, and marketing program.

SECTION 14. LEGISLATIVE INTENT - BOND PAYMENTS. The amount of \$27,292,412 included in subdivision 1 of section 3 of this Act in the grants - bond payments line item must be paid from the following funding sources during the biennium beginning July 1, 2005, and ending June 30, 2007:

North Dakota university system	\$14,278,141
Department of corrections - State penitentiary	3,038,586
State department of health	685,309
Job service North Dakota	696,650
Department of human services - Southeast human service center	571,731
Department of human services - State hospital	517,634
Department of human services - Developmental center at Grafton	593,231
Adjutant general	59,248
Veterans' home improvement fund	234,891
ITD connectND	<u>5,402,163</u>
Subtotal	\$26,077,584
University system energy conservation projects	1,214,828
Total	\$27,292,412

SECTION 15. LEGISLATIVE INTENT - FIRSTHOME PARK GRANT. It is the intent of the fifty-ninth legislative assembly that the housing finance agency provide a \$100,000 grant from funds appropriated in the grants line item in subdivision 5 of section 3 of this Act to the Dickinson park district for park improvements at the west river community center complex to be named the firsthome park.

SECTION 16. APPROPRIATION - TRANSFER. The funds appropriated by subdivision 3 of section 3 of this Act must be transferred by the Bank of North Dakota to the partnership in assisting community expansion fund established by section 6-09.14-02. The Bank of North Dakota may not be construed to be a general fund agency because of the appropriation made by subdivision 3 of section 3 of this Act.

SECTION 17. UNOBLIGATED MONEYS IN PARTNERSHIP FOR COMMUNITY EXPANSION FUND - TRANSFER TO THE GENERAL FUND. Notwithstanding section 6-09.14-02, any unobligated moneys, up to \$2,200,000, in the partnership in assisting community expansion fund as of June 30, 2005, must be returned to the general fund and considered general fund turnback.

SECTION 18. CONTINGENT OIL AND GAS DIVISION FUNDING - EMERGENCY COMMISSION APPROVAL. The funds appropriated in the oil and gas division contingency line item in subdivision 1 of section 3 of this Act are from the land and minerals trust fund. If funds are required due to the average drilling rig count exceeding thirty active rigs for each month in any consecutive three-month period, the oil and gas division may spend moneys from this line item upon emergency commission approval. The oil and gas division may hire up to two full-time equivalent positions with the contingency funds.

SECTION 19. AGRICULTURE PROMOTION - INTERNATIONAL BUSINESS AND TRADE OFFICE. The mill and elevator association shall provide a grant of \$200,000 from the agriculture promotion line item in subdivision 4 of section 3 of this Act to the international business and trade office upon proof of the

international business and trade office securing \$1 of matching funds from other public or private sources for every \$2 from the mill and elevator association.

SECTION 20. AMENDMENT. Section 38-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.2. Director of mineral resources - Director of oil and gas - Delegation to director of oil and gas. The industrial commission is authorized to appoint a director of oil and gas and to set the director's salary within the limits of legislative appropriations. The industrial commission may designate the state geologist as the director of oil and gas. The industrial commission is authorized to appoint a director of mineral resources who shall serve at the pleasure of the commission. The director of mineral resources shall carry out the duties of the director of oil and gas along with the duties of director of mineral resources. The commission may set the salary of the director of mineral resources. The commission may delegate to the director of oil and gas all powers the commission has under this title and under rules enacted under this title.

SECTION 21. AMENDMENT. Section 38-12-02 of the North Dakota Century Code is amended and reenacted as follows:

38-12-02. Jurisdiction of commission. The commission has jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. Subject to the provisions of section 38-08-21, the ~~state geologist~~ director of mineral resources shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the subsurface mineral resources of this state and the provisions of this chapter. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission acting through the ~~office of the state geologist~~ director of mineral resources has the authority:

1. To require:
 - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration, development, and production of subsurface minerals on state and private lands within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
 - b. The delivery, free of charge, to the state geologist of the basic exploration data collected by the operator, within thirty days of field collection of such data. This data must include:
 - (1) Sample cuts, core chips, or whole cores.
 - (2) Sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.

- (3) Elevation and location information on the data collection points.
- (4) Other pertinent information as may be requested by the state geologist.

The data so submitted is confidential for a period of one year when so requested by the operator and such period may be further extended upon approval by the commission.

- c. The filing of monthly production reports in the manner prescribed by the commission and any other reports deemed necessary by the commission.
 - d. The conducting of all exploration, development, and production operations in such a manner as to prevent pollution of freshwater supplies, to provide for the protection of the environment and public safety, and to ensure the optimum recovery of the mineral resource.
 - e. The reclamation of all land disturbed by operations regulated by this chapter to a condition consistent with prior land use and productive capacity.
2. To regulate the drilling and abandonment of exploration test holes and producing wells and all other exploration, development, production, and reclamation operations.
 3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter.
 4. To inspect all exploration, development, and production sites. For the purposes of this subsection, the state geologist director of mineral resources or the state geologist's director's representative shall have access to all exploration, development, or production installations for purposes of inspection and shall have the authority to require the operator's aid if ~~same~~ it is necessary and is requested.

SECTION 22. AMENDMENT. Section 38-12-03 of the North Dakota Century Code is amended and reenacted as follows:

38-12-03. Permit required. It is unlawful to commence operations for the exploration, development, or production of subsurface minerals without first obtaining a permit from the state geologist director of mineral resources, under such rules and regulations as may be prescribed by the commission and paying to the commission a fee for each such permit in an amount to be prescribed by the commission.

SECTION 23. AMENDMENT. Section 38-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

38-12.1-04. Jurisdiction of commission. The commission has jurisdiction and authority over all persons and property, both public and private, necessary to effectively enforce the provisions of this chapter. The state geologist director of mineral resources shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the provisions of this chapter. The commission has authority to make such investigations as it deems proper to

determine whether facts exist which justify action by the commission. The commission acting through the office of the state geologist director of mineral resources has the authority:

1. To require:
 - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration for coal on state and private lands and roads used in coal exploration within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
 - b. The delivery, free of charge, to the state geologist of the basic data collected during the course of the exploration within a reasonable time as may be prescribed by the state geologist. The data so submitted is confidential and available only to the office of the state geologist for official purposes for a period of two years, and such period of confidentiality must, upon application, be extended for one-year periods by the state geologist, for a total period not to exceed ten years unless it is demonstrated that such period should be further extended in order to prevent possible resulting harm to the person, or the persons' successors and assigns, who delivered such basic data to the state geologist. The basic data must include, if specifically requested by the state geologist and if the information has been developed by or for a person conducting the exploration:
 - (1) Sample cuts.
 - (2) Drillers' logs, sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.
 - (3) Elevation and location information on the data collection points.
 - (4) Other pertinent information as may be required by the state geologist.
2. To require the plugging, covering, or reburial in an appropriate manner so as to protect environmental quality, general health and safety, and economic values of all holes, pits, or trenches excavated during the course of coal exploration.
3. To promulgate and enforce rules, regulations, and orders to effectuate the provisions, purpose, and intent of this chapter.
4. To inspect all drilling or exploration sites. For the purposes of this subsection, the state geologist director of mineral resources or ~~the state geologist's~~ the director's representative shall have access to all drilling or exploration installations regulated by this chapter for the purpose of

inspection and sampling and shall have the authority to require the operators' aid if the ~~state geologist or the state geologist's representative~~ director finds it necessary and requests it.

5. Notwithstanding any of the other provisions of this section, the commission acting through the ~~office of the state geologist~~ director of mineral resources shall require that any lands substantially disturbed in coal exploration, including excavations, roads, and drill holes, and the removal of necessary facilities and equipment be reclaimed in accordance with the applicable performance standards of section 38-14.1-24. Reclamation must be accomplished ~~so as~~ to protect environmental quality, general health and safety, and economic values.

SECTION 24. AMENDMENT. Subsection 1 of section 38-12.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. It is unlawful to commence operations for drilling for the exploration for coal without first obtaining a permit from the ~~state geologist~~ director of mineral resources, under such rules and regulations as may be prescribed by the commission, and paying to the commission a fee of one hundred dollars for each such permit area. The permit application must include a description of the exploration area and the period of proposed exploration. The permit must be granted within thirty days after a proper application is has been submitted ~~therefor~~.

SECTION 25. AMENDMENT. Section 38-15-03 of the North Dakota Century Code is amended and reenacted as follows:

38-15-03. Jurisdiction of commission. The commission has continuing jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. The ~~state geologist~~ director of mineral resources shall act as a supervisor charged with enforcing the regulations and orders of the commission applicable to the provisions of this chapter. The commission has authority to make investigations it deems proper to determine whether facts exist which justify action by the commission. The commission has the authority:

1. To require the furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and regulations of the commission prescribed to govern, satisfy, and resolve conflicting interests among producers within North Dakota.
2. To resolve conflicting interests of producers of natural resources which cannot be voluntarily concluded by them in the public interest to eliminate waste, to the end that the producer, landowner, and mineral owner realize the greatest possible economic advantage.
3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and intent of this chapter.

SECTION 26. AMENDMENT. Section 38-19-03 of the North Dakota Century Code is amended and reenacted as follows:

38-19-03. Jurisdiction of the commission. The commission has jurisdiction and authority and is charged with the responsibility to enforce the

provisions of this chapter. This chapter does not apply to any activity regulated under chapters 38-08, 38-12, 38-12.1, 38-14.1, and 61-28. The jurisdiction granted to the commission by this chapter is not exclusive and does not affect the jurisdiction of other governmental entities. The commission acting through the ~~office of the state geologist~~ director of mineral resources has the authority:

1. To require:
 - a. Identification of ownership of all facilities, installations, and equipment used in the extraction of geothermal energy.
 - b. The making and filing of all logs and reports on facility location, drilling, boring, excavating, and construction and the filing, free of charge, of samples, core chips, and complete cores, when requested, in the office of the state geologist.
 - c. The drilling, boring, casing, excavating, plugging, and construction of facilities in a manner to prevent contamination and pollution of surface and ground water sources and unnecessary environmental degradation.
 - d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter and the rules and orders of the commission relating to the extraction of geothermal energy. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
 - e. Metering or measuring all products extracted from or by means of a facility regulated by this chapter.
 - f. That every person who operates a geothermal energy extraction facility in this state shall keep and maintain complete and accurate records of the quantities and nature of products extracted from or by means of any facility, and the ultimate disposition of such products, which records must be available to the commission or its agents at all times, and that every such person file with the commission such reports as it may prescribe.
 - g. That upon termination of the operation of any facility or activity regulated by this chapter, the operator of the facility shall restore the surface as nearly as possible to its original condition and productivity.
2. To regulate:
 - a. The drilling, boring, excavating, and construction of all geothermal energy extraction facilities.
 - b. Operations to assure the optimum performance of all facilities regulated under this chapter.

3. To limit and prescribe the nature, quantity, and source of geothermal energy to be extracted from any facility regulated by this chapter.
4. To adopt rules and issue orders to effectuate the purposes of this chapter.

SECTION 27. AMENDMENT. Section 38-19-04 of the North Dakota Century Code is amended and reenacted as follows:

38-19-04. Permit or report required. It is unlawful to commence any operations for the drilling, boring, excavating, or construction of a geothermal energy extraction facility, which is used for other than private residential heating and cooling purposes, without first securing a permit from the ~~state geologist~~ director of mineral resources, under such rules as may be adopted by the commission and after paying to the commission a fee for each such facility in an amount to be prescribed by the commission by rule. The fee set must be related to the cost or regulation and inspection under this chapter.

A report is required upon completion of any geothermal energy extraction facility used solely for private residential heating or cooling purposes. The report must be prepared by the geothermal energy extraction facility installer on a form provided by the state geologist and must be furnished to the state geologist within thirty days after the completion of the facility. The report must contain relevant information the state geologist requires relating to the environmental safety of the facility, including the facility owner and location, a log of formations penetrated, if any, system specifications and design, and fluids used in the facility.

All construction of geothermal energy extraction facilities must comply with rules adopted under this chapter.

SECTION 28. AMENDMENT. Subsection 10 of section 38-15-02 of the North Dakota Century Code is amended and reenacted as follows:

10. "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, ~~helium~~, iodine, lithium, magnesium, ~~nitrogen~~, phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds; occurring more than five hundred feet [152.4 meters] below the surface of the land but does not include sand and gravel and rocks crushed for sand and gravel.

³⁶ **SECTION 29. AMENDMENT.** Section 54-17-03 of the North Dakota Century Code is amended and reenacted as follows:

54-17-03. Chairman and attorney - Secretary - Employees - Compensation - Bonds. The governor is the chairman of the industrial commission, and its attorney is the attorney general. ~~In the transaction of its general business,~~ The commission shall appoint a secretary and may employ other subordinate officers, employees, and agents, on such terms as ~~it may deem the commission determines proper and as, in its judgment, the public interests may require.~~ it may deem the commission determines proper and as, in its judgment, the public interests may require. The

³⁶ Section 54-17-03 was also amended by section 2 of Senate Bill No. 2130, chapter 487.

commission may require suitable bonds of its secretary or other subordinate officers, employees, or agents. ~~‡ The commission shall fix the amount of the compensation of each person so engaged~~ the commission's secretary, officers, employees, and agents and the secretary's salary may exceed the maximum salary in the grade established for the classification assigned under chapter 54-44.3. The compensation, together with other expenditures for operation and maintenance of the general business of the commission, must remain within the appropriation available in each year for such purpose.

SECTION 30. AMENDMENT. Subsection 3 of section 54-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Survey" means the North Dakota geological survey, a division of the department of mineral resources.

SECTION 31. AMENDMENT. Section 54-17.4-05 of the North Dakota Century Code is amended and reenacted as follows:

54-17.4-05. State geologist - Qualifications - Selection - Salary. There is created the position of state geologist.

1. The state geologist's qualifications must include a doctor of philosophy degree in geology from an accredited university or college or equivalent geological experience, demonstrated competency in administration, and five years of practical experience in the field of geology ~~to qualify for direction of the survey.~~
2. ~~The commission director of mineral resources shall either appoint the state geologist or carry out the duties of the state geologist along with the duties of director of mineral resources.~~ Prior to appointment of a state geologist the ~~commission~~ director of mineral resources may appoint an acting state geologist.
3. The state geologist is under the direction and control ~~and serves at the pleasure of the commission~~ director of mineral resources.
4. ~~The annual salary of the state geologist is set by the commission subject to legislative appropriation.~~

SECTION 32. AMENDMENT. Section 54-17.4-06 of the North Dakota Century Code is amended and reenacted as follows:

54-17.4-06. State geologist - Authority. ~~The state geologist is the executive and administrative head of the survey and shall exercise the powers of the office and be responsible for the execution of its duties.~~

SECTION 33. AMENDMENT. Section 54-17.4-07 of the North Dakota Century Code is amended and reenacted as follows:

54-17.4-07. State geologist - Grants, funds, and contracts. The state geologist, with the approval of the ~~commission~~ director of mineral resources, may accept and expend money from and enter into contracts with federal, state, local, or other public entities to carry out the purposes of this chapter or to provide geological services. If such funds exceed appropriations made by the legislative assembly, the ~~state geologist~~ director of mineral resources shall seek emergency commission approval for their expenditure.

SECTION 34. REPEAL. Section 3 of chapter 491 of the 2003 Session Laws is repealed.

SECTION 35. STATE MILL AND ELEVATOR ASSOCIATION - REPORT TO BUDGET SECTION. The manager of the state mill and elevator association shall present an annual report to the budget section of the legislative council. The report must include the current role and mission of the state mill and elevator association and short-term and long-term plans for acquisitions, construction, renovation, equipment upgrading, sales and marketing, personnel, and all financial matters. The report also must include a description of efforts by the state mill and elevator association to inform legislators about the role, mission, and operations of the state mill and elevator association.

SECTION 36. EMERGENCY. The appropriation in subdivision 3 of section 3 of this Act and the transfer in section 16 of this Act for the partnership in assisting community expansion are declared to be emergency measures.

Approved April 25, 2005
Filed April 26, 2005

CHAPTER 43

SENATE BILL NO. 2015

(Appropriations Committee)
(At the request of the Governor)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

AN ACT to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to the incarceration of female inmates in grade one correctional facilities; to amend and reenact subsection 2 of section 12.1-32-07 of the North Dakota Century Code, relating to supervision fees for a probationer; to provide a statement of legislative intent; to provide for a legislative council study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the department of corrections and rehabilitation in section 3 of this Act as follows:

Field services	\$21,087,058
Prisons division	72,022,798
Juvenile community services	9,629,163
Youth correctional center	<u>11,577,679</u>
Total all funds - Base level	\$114,316,698
Less estimated income - Base level	<u>32,580,087</u>
Total general fund - Base level	\$81,736,611

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the department of corrections and rehabilitation which are included in the appropriation in section 3 of this Act as follows:

Field services	\$5,246,568
Prisons division	5,606,730
Juvenile community services	(1,722,510)
Youth correctional center	1,213,416
Equity pool	<u>1,500,000</u>
Total all funds - Adjustments/enhancements	\$11,844,204
Less estimated income - Adjustments/enhancements	<u>(6,420,477)</u>
Total general fund - Adjustments/enhancements	\$18,264,681

SECTION 3. 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 department of corrections and rehabilitation for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Field services	\$26,333,626
Prisons division	77,629,528
Juvenile community services	7,906,653
Youth correctional center	12,791,095
Equity pool	1,500,000
Total all funds	\$126,160,902
Less estimated income	26,159,610
Total general fund appropriation	\$100,001,292

SECTION 4. CRIME VICTIMS RESTITUTION AND GIFT FUND. The sum of \$44,000, or so much of the sum as may be necessary, included in the field services line item in section 3 of this Act, is from the crime victims restitution and gift fund and must be used by the department of corrections and rehabilitation for the purposes provided in section 54-23.4-05, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. STATE PENITENTIARY LAND FUND. The sum of \$135,000, or so much of the sum as may be necessary, included in the youth correctional center line item in section 3 of this Act, is from the state penitentiary land fund and must be used by the department of corrections and rehabilitation for capital projects at the youth correctional center, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. PROBATIONER VIOLATION TRANSPORTATION FUND. The sum of \$165,000, or so much of the sum as may be necessary, included in the field services line item in section 3 of this Act, is from the probationer violation transportation fund and must be used by the department of corrections and rehabilitation for the purposes provided in section 12-65-08, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. A new section to chapter 12-44.1 of the North Dakota Century Code is created and enacted as follows:

Female inmates in grade one correctional facilities. Notwithstanding section 12-44.1-06, a grade one correctional facility that has a contract with the department of corrections and rehabilitation to confine female inmates who have been sentenced to the legal and physical custody of the department of corrections and rehabilitation may confine the female inmate for more than one year in accordance with the terms of the contract. A female inmate who has been sentenced to the legal and physical custody of the department of corrections and rehabilitation and who is confined in a grade one correctional facility under a contract with the department of corrections and rehabilitation has the same rights to sentence reduction for good and meritorious conduct and to pardon and parole as an inmate confined in a department of corrections and rehabilitation prisons division facility.

³⁷ **SECTION 8. AMENDMENT.** Subsection 2 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

³⁷ Section 12.1-32-07 was also amended by section 2 of House Bill No. 1051, chapter 113.

2. The conditions of probation must be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another offense during the period for which the probation remains subject to revocation. The court shall order supervision costs and fees of not less than ~~thirty-six~~ forty dollars per month unless the court makes a specific finding on record that the imposition of fees will result in an undue hardship. If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state.

SECTION 9. LEGISLATIVE INTENT - COMPOSITE SCHEDULE. It is the intent of the fifty-ninth legislative assembly that future composite schedules for teacher salaries prepared by the office of management and budget's human resource management services division be developed so that the pay increases are based on the salaries of all teachers who teach in schools with a combined enrollment of greater than one hundred students, excluding the Fargo and West Fargo school districts.

SECTION 10. LEGISLATIVE INTENT - EMPLOYEE SALARY EQUITY - FIELD SERVICES. It is the intent of the fifty-ninth legislative assembly that if the department of corrections and rehabilitation can identify \$250,000 of general fund savings within its 2005-07 biennium appropriation, the department may use that savings to provide salary equity adjustments for employees in the field services division.

SECTION 11. LEGISLATIVE INTENT - SHORT-TERM DIVERSION. It is the intent of the fifty-ninth legislative assembly that the department of corrections and rehabilitation increase the number of inmates in short-term diversion during the 2005-07 biennium by fifteen inmates, from thirty to forty-five inmates.

SECTION 12. LEGISLATIVE COUNCIL STUDY - STRATEGIC PLAN FOR DEPARTMENT OF CORRECTIONS AND REHABILITATION'S INCARCERATION AND CORRECTIONAL FACILITY NEEDS.

1. The legislative council shall appoint an interim committee, during the 2005-06 interim, to develop a legislative strategic plan, including site and facilities' plans, for the department of corrections and rehabilitation's incarceration and correctional facility needs.
2. The legislative council shall appoint a minimum of ten members of the house of representatives and a minimum of five members of the senate. The legislative council shall appoint the chairman of the appropriations committee of the house of representatives or the senate or the assistant majority leader of the house of representatives or the senate as the chairman of the committee.
3. The committee shall:
 - a. Receive information from the department of corrections and rehabilitation, regional authorities with regional corrections centers,

- counties with county jails, cities with city jails, corporations operating private correctional facilities, and others the committee considers necessary to develop a strategic plan for the state's incarceration and correctional facility needs for the next twenty years.
- b. Consider using existing facilities; other available state facilities; and county, local, or private facilities.
 - c. Consider any cost and benefits of replacing all or parts of existing correctional facilities or other state property with a modern all-encompassing facility.
 - d. Consider state-operated facilities compared to contract-operated state facilities.
 - e. Consider contracting with a private entity to provide all or part of the state's correctional and rehabilitation needs.
 - f. Consider the impact to the department of corrections and rehabilitation of changing sentencing guidelines, increasing fines as an alternative to incarceration for nonviolent or minor drug offenders, and utilizing alternatives to incarceration and treatment programs, including receiving information regarding the efficiency of treatment programs.
 - g. Develop a strategic plan based on the information received by the committee.
4. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 13. EXPIRATION DATE. Section 7 of this Act is effective through June 30, 2007, and after that date is ineffective.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 44

SENATE BILL NO. 2016

(Appropriations Committee)
(At the request of the Governor)

JOB SERVICE NORTH DAKOTA

AN ACT to provide an appropriation for defraying the expenses of job service North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to job service North Dakota in section 3 of this Act as follows:

Salaries and wages	\$34,017,882
Operating expenses	14,529,359
Capital assets	39,684
Grants	7,617,792
Work force 2000	<u>1,250,000</u>
Total all funds - Base level	\$57,454,717
Less estimated income - Base level	<u>56,204,717</u>
Total general fund - Base level	\$1,250,000

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for job service North Dakota which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$645,718
Operating expenses	(1,290,446)
Capital assets	185,316
Grants	1,429,373
Work force 2000	<u>230,231</u>
Total all funds - Adjustments/enhancements	\$1,200,192
Less estimated income - Adjustments/enhancements	<u>969,961</u>
Total general fund - Adjustments/enhancements	\$230,231

SECTION 3. 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 job service North Dakota, for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$34,663,600
Operating expenses	13,238,913
Capital assets	225,000
Grants	9,047,165
Work force 2000	<u>1,480,231</u>
Total all funds	\$58,654,909

Less estimated income	\$7,174,678
Total general fund appropriation	\$1,480,231

SECTION 4. APPROPRIATION - REED ACT FUNDS - WORK FIRST.

There is appropriated out of moneys made available to the state by the federal Reed Act distributions made in federal fiscal years 1957, 1958, 1999, and 2002, pursuant to section 903 of the Social Security Act, the sum of \$254,925, or so much of the sum as may be necessary, to job service North Dakota for the purpose of paying allowable Wagner-Peyser Act expenses associated with the work first demonstration project, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. APPROPRIATION - REED ACT FUNDS - UNEMPLOYMENT INSURANCE COMPUTER MODERNIZATION PROCUREMENT PLANNING.

There is appropriated out of moneys made available to the state by the federal Reed Act distributions made in federal fiscal years 1957, 1958, 1999, and 2002, pursuant to section 903 of the Social Security Act, the sum of \$525,000, or so much of the sum as may be necessary, to job service North Dakota for the purpose of unemployment insurance computer system modernization procurement planning, for the biennium beginning July 1, 2005, and ending June 30, 2007.

Grand total general fund appropriation S.B. 2016	\$1,480,231
Grand total estimated income appropriation S.B. 2016	\$57,954,603
Grand total all funds appropriation S.B. 2016	\$59,434,834

SECTION 6. APPROPRIATION. All federal funds received by job service North Dakota in excess of those funds appropriated in section 3 of this Act are appropriated, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. WORK FORCE 2000 FUNDING. Fifty percent of the work force 2000 funding in section 3 of this Act must be used for projects for new or expanding businesses in North Dakota.

SECTION 8. WORK FIRST - REED ACT. The special appropriation of federal Reed Act funds in section 4 of this Act is to be used by job service North Dakota to carry out a demonstration project on the effectiveness of certain actions in causing more rapid reemployment of unemployment insurance claimants and a corresponding reduction in the average duration of claims. The legislative assembly specifically authorizes job service North Dakota, during the period July 1, 2005, through June 30, 2007, to carry out this demonstration project. In so doing, job service North Dakota may provide additional or alternative services to the group of claimants randomly selected for participation in the demonstration project, and may, after assuring appropriate due process requirements are met, make participation in those services a condition of nonmonetary eligibility for unemployment insurance benefits. Job service North Dakota may also provide those demonstration project services at fewer than all of its local office sites.

SECTION 9. UNEMPLOYMENT INSURANCE MODERNIZATION - REED ACT. The special appropriation of federal Reed Act funds in section 5 of this Act is to be used by job service North Dakota to carry out procurement planning for replacement of the current automated unemployment insurance tax and benefit system. Job service North Dakota is specifically directed to take those actions necessary to determine the requirements of such a replacement system and to issue

a request for proposals to vendors to seek responses from those vendors on a timetable that will allow the selected response to be used as the basis of an appropriation request to the sixtieth legislative assembly.

Approved April 25, 2005
Filed April 26, 2005

CHAPTER 45

SENATE BILL NO. 2017

(Appropriations Committee)
(At the request of the Governor)

OFFICE OF ADMINISTRATIVE HEARINGS

AN ACT to provide an appropriation for defraying the expenses of the office of administrative hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the office of administrative hearings in section 3 of this Act as follows:

Salaries and wages	\$938,648
Operating expenses	304,310
Total special funds appropriation - Base level	\$1,242,958

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the office of administrative hearings which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$95,487
Operating expenses	<u>(37,393)</u>
Total special funds appropriation - Adjustments/enhancements	\$58,094

SECTION 3. 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 administrative hearings for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$1,034,135
Operating expenses	<u>266,917</u>
Total special funds appropriation	\$1,301,052

Approved April 7, 2005

Filed April 12, 2005

CHAPTER 46

SENATE BILL NO. 2018

(Appropriations Committee)
(At the request of the Governor)

DEPARTMENT OF COMMERCE

AN ACT to provide an appropriation for defraying the expenses of the department of commerce; to provide exemptions; to provide appropriations to various agencies; to authorize the office of management and budget to borrow funds from the Bank of North Dakota; to provide for an unemployment compensation shared work demonstration project; to provide for a transfer from the beginning farmer revolving loan fund; to provide a statement of legislative intent; to create and enact two new sections to chapter 54-34.3, a new section to chapter 54-44.5, and three new sections to chapter 54-60 of the North Dakota Century Code, relating to a division of economic development and finance international business and trade office, a division of economic development and finance local economic developer certification program, creation of an office of renewable energy and energy efficiency within the division of community services, department of commerce target industry requirements, a department of commerce state employee image training program, and a department of commerce business hotline program; to amend and reenact sections 2 and 3 of House Bill No. 1009, as approved by the fifty-ninth legislative assembly, subsection 2 of section 4-14.1-07, sections 4-14.1-08, 4-14.1-09, 4-14.1-10, and 54-34.3-03, subsection 1 of section 54-34.3-06, and sections 57-02-27.3 and 57-51.1-07.2 of the North Dakota Century Code, relating to the agriculture commissioner's appropriation, administration of ethanol production incentives, the structure of the division of economic development and finance, the division of economic development and finance North Dakota American Indian business development office, taxable valuation of wind turbine electric generators, and the permanent oil tax trust fund; to provide for state agency studies and reports to the legislative council; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding

adjustments or enhancements to the base funding level for the department of commerce which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$986,030
Operating expenses	1,294,721
Capital assets	25,000
Grants	3,517,844
North Dakota development fund	(1,550,000)
Agricultural products utilization	(192,179)
Discretionary funds	3,000
Economic development initiatives	644,568
Economic development grants	150,000
Lewis and Clark bicentennial	80,733
Total all funds - Adjustments/enhancements	\$4,959,717
Less estimated income - Adjustments/enhancements	<u>4,836,887</u>
Total general fund - Adjustments/enhancements	\$122,830

SECTION 3. 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 department of commerce for the purpose of defraying the expenses of its various divisions for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$7,699,370
Operating expenses	9,531,968
Capital assets	25,000
Grants	50,102,870
Agricultural products utilization	2,791,000
Discretionary funds	1,450,127
Economic development initiatives	644,568
Economic development grants	150,000
Lewis and Clark bicentennial	3,932,644
Total all funds	\$76,327,547
Less estimated income	<u>57,189,994</u>
Total general fund appropriation	\$19,137,553

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of establishing and maintaining procurement information on the internet and for performing the procurement assistance study, for the biennium beginning July 1, 2005, and ending June 30, 2007. The office of management and budget is authorized one full-time equivalent position.

SECTION 5. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of performing the technology commercialization study provided for in Senate Bill No. 2032, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the upper great plains transportation institute for the purpose of performing the transportation study

provided for in Senate Bill No. 2032, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. APPROPRIATION - JOB SERVICE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000, or so much of the sum as may be necessary, and from other funds to be collected by job service, the sum of \$20,000, or so much of the sum as may be necessary, to job service North Dakota for the purpose of defraying any implementation costs associated with implementing a shared work demonstration project, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. JOB SERVICE NORTH DAKOTA - SHARED WORK DEMONSTRATION PROJECT. During the 2005-06 interim, job service North Dakota shall develop, implement, and operate a shared work demonstration project to demonstrate the feasibility of providing for a statewide shared work unemployment compensation program. Job service North Dakota shall seek the advice of the unemployment insurance advisory council in developing, implementing, and operating this demonstration project. The demonstration project must:

1. Operate for one selected employer, which must have at least seventy-five employees and must be an experienced-rated employer.
2. Operate in accordance with a specific written agreement between job service North Dakota, the selected employer, and the labor representative of the collective bargaining agreement if a collective bargaining agreement exists.
3. Allow shared work compensation to be paid to employees who, being otherwise eligible for unemployment insurance benefits, have their working hours reduced by the selected employer by at least ten percent but no more than sixty percent.
4. Operate in such a manner that the selected employer's unemployment insurance experience ratings are not compromised.
5. Operate in such a manner that the unemployment trust fund is not so negatively impacted as to result in a greater tax burden to the remainder of the employers contributing to the trust fund.
6. Operate from January 1, 2006, through June 30, 2007, after which the demonstration project must cease.
7. Provide that employees receiving benefits calculated solely under the shared work demonstration project are not subject to the sixty percent weekly earnings disregard provided for under section 52-06-06.

SECTION 9. LEGISLATIVE COUNCIL STUDY - SHARED WORK DEMONSTRATION PROJECT. During the 2005-06 interim, the legislative council shall consider studying the implementation by job service North Dakota of a shared work demonstration project. If the legislative council conducts this study, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 10. APPROPRIATION. There is appropriated out of any moneys in the agricultural fuel tax fund in the state treasury, not otherwise appropriated, the

sum of \$75,000, or so much of the sum as may be necessary, and from federal funds, the sum of \$150,000, or so much as may be necessary, to the department of commerce for the agricultural products utilization commission for the purpose of an animal identification initiatives grant program to meet national standards for the biennium beginning July 1, 2005, and ending June 30, 2007. The state's administrator of the animal identification program as provided for in section 36-09-25 shall establish the grant criteria to be used by the agricultural products utilization commission for allocating the grants to auction markets, weighing associations, and feedlots.

SECTION 11. CENTERS OF EXCELLENCE - OFFICE OF MANAGEMENT AND BUDGET - BORROWING AUTHORITY - APPROPRIATION - REPAYMENT FROM PERMANENT OIL TAX TRUST FUND. As requested by the centers of excellence commission, the office of management and budget shall borrow the sum of \$15,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota, which is appropriated for the purpose of providing funding to centers of excellence as directed by the centers of excellence commission, for the biennium beginning July 1, 2005, and ending June 30, 2007. By June 30, 2007, the office of management and budget shall repay any loan obtained pursuant to provisions of this section, including accrued interest, from funds available in the permanent oil tax trust fund. Repayment may be made from transfers into the permanent oil tax trust fund after a total of \$77,000,000 of oil tax revenues has been received by the general fund during the 2005-07 biennium, including the \$71,000,000 deposited in the general fund in accordance with section 57-51.1-07.2.

SECTION 12. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - PERMANENT OIL TAX TRUST FUND - LOAN REPAYMENT. Notwithstanding section 57-51.1-07.2, there is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of \$16,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of repaying the Bank of North Dakota for loans and accrued interest relating to funds borrowed for centers of excellence, for the biennium beginning July 1, 2005, and ending June 30, 2007. The appropriation made under this section is limited to 50 percent or \$16,000,000, whichever is less, of the revenues deposited in the permanent oil tax trust fund that exceed \$6,000,000 for the 2005-07 biennium.

SECTION 13. CENTERS OF EXCELLENCE - OFFICE OF MANAGEMENT AND BUDGET - CONTINGENT BORROWING AUTHORITY - APPROPRIATION. As requested by the centers of excellence commission and subject to emergency commission and budget section approval, the office of management and budget shall borrow the sum of \$5,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota, which is appropriated for the purpose of providing funding to centers of excellence as directed by the centers of excellence commission, for the biennium beginning July 1, 2005, and ending June 30, 2007. The office of management and budget shall request funding from the sixtieth legislative assembly to repay any loan obtained pursuant to provisions of this section, including accrued interest, from funds available in the permanent oil tax trust fund. The borrowing authority and appropriation provided for in this section is available only if all other funding provided by the fifty-ninth legislative assembly for centers of excellence has been obligated.

SECTION 14. LEGISLATIVE INTENT - FUTURE FUNDING FOR CENTERS OF EXCELLENCE. It is the intent of the fifty-ninth legislative assembly that the centers of excellence program be a continuing program for economic development in North Dakota and that the legislative assembly intends to make available an

additional \$30,000,000 for centers of excellence in future bienniums using similar funding mechanisms which will provide a total of \$50,000,000 for centers of excellence.

SECTION 15. AGRICULTURE FUEL TAX REFUNDS. The less estimated income line item in section 3 of this Act includes \$575,000 from refunds of tax for fuel used for agricultural purposes, to be used by the agricultural products utilization commission, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 16. TRANSFER. During the biennium beginning July 1, 2005, and ending June 30, 2007, the director of the office of management and budget and the state treasurer shall transfer \$425,000 from the beginning farmer revolving loan fund to the agricultural fuel tax fund.

SECTION 17. EXEMPTION. The funds appropriated in the agricultural products utilization line item in section 3 of this Act are not subject to section 54-44.1-11 and any unexpended funds from this line item for grants are available for grants during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 18. EXEMPTION. The funds appropriated in the discretionary funds line item in section 3 of this Act are not subject to section 54-44.1-11 and any unexpended funds from this line item may be spent during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 19. ECONOMIC DEVELOPMENT INITIATIVES. The economic development initiatives line item in section 3 of this Act includes \$394,568 from the general fund and \$250,000 of special funds raised by the department of commerce for the following economic development initiatives recommended by the primary sector business congress for the biennium beginning July 1, 2005, and ending June 30, 2007:

- Target industry identification and report
- Image information program
- Business hotline program
- Local economic developer certification and training program
- Dakota manufacturing initiative
- Intellectual property rights study and report
- Economic development incentives study and report
- Business climate initiative study

SECTION 20. LIFE SCIENCES SECTOR DEVELOPMENT GRANT. The department of commerce shall provide a \$100,000 grant from funds appropriated in the economic development grants line item in section 3 of this Act to an economic development corporation in the Red River valley research corridor by June 30, 2006, to increase opportunities in the state for expanded research and business development in the life sciences sector for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 21. RURAL DEVELOPMENT COUNCIL GRANT - BUDGET SECTION REPORT. The department of commerce shall provide a grant of up to \$50,000 from the funds appropriated in the economic development grants line item in section 3 of this Act to the rural development council for the purpose of matching federal funds for the biennium beginning July 1, 2005, and ending June 30, 2007. The department of commerce shall report to the budget section after July 1, 2006, on the use of this funding.

SECTION 22. WHEAT SCAB RESEARCH GRANT - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION. Upon receipt, review, and approval of an application for grant funding that meets the provisions of House Bill No. 1519, as approved by the fifty-ninth legislative assembly, from a private company within the state doing research on sensor technology for the purpose of obtaining more detailed environmental data relating to wheat scab disease and to improve the management of the disease, the agricultural products utilization commission shall provide a grant to this company of \$100,000 from its funding available for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 23. LEWIS AND CLARK BICENTENNIAL - ADDITIONAL SALES TAX ON LODGING. The Lewis and Clark bicentennial line item in section 3 of this Act includes \$3,041,511, or such lesser amount as is generated from the separate and additional tax imposed under section 57-39.2-03.8 or 57-39.7-01 of the North Dakota Century Code.

SECTION 24. STATE TAX COMMISSIONER - AUDIT OF ETHANOL PRODUCTION INCENTIVE PROGRAM. The state tax commissioner shall conduct an audit of the ethanol production incentive program during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 25. RED RIVER VALLEY RESEARCH CORRIDOR MARKETING - BUDGET SECTION REPORT. An amount up to \$400,000 from the general fund in section 3 of this Act must be made available through a grant to the Red River valley research corridor for the purpose of matching federal funds. The funds are available for the period beginning July 1, 2005, and ending June 30, 2007. The department of commerce shall report to the budget section after July 1, 2006, on the use of this funding.

SECTION 26. CENTER FOR TECHNOLOGY - BUDGET SECTION REPORT. An amount up to \$50,000 from the general fund in section 3 of this Act must be made available through a grant to the North Dakota center for technology program. The department of commerce shall report to the budget section after July 1, 2006, on the use of this funding.

SECTION 27. PARTNERS IN MARKETING - BUDGET SECTION REPORT. An amount up to \$250,000 from the general fund in section 3 of this Act must be made available for grants in the partners in marketing grant program. The department of commerce shall report to the budget section after July 1, 2006, on the use of this funding.

SECTION 28. NORTH DAKOTA DEVELOPMENT FUND - INTERNATIONAL BUSINESS AND TRADE OFFICE. Notwithstanding chapter 10-30.5, during the 2005-07 biennium the North Dakota development fund shall provide the division of economic development and finance with grant funds of up to \$500,000 for the purpose of funding the international business and trade office. The North Dakota development fund shall distribute funds to the division of economic development and finance upon proof of the division securing one dollar of matching funds from other public or private sources for every two dollars from the development fund.

SECTION 29. AMENDMENT. Subsection 2 of section 4-14.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The agricultural products utilization commission office of renewable energy and energy efficiency shall determine the amount of production

incentives to which a plant is entitled under this section by multiplying the number of gallons of ethanol produced by the plant and marketed to a distributor or wholesaler by forty cents. The ~~commission office~~ shall forward the production incentives to the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative council a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.

³⁸ **SECTION 30. AMENDMENT.** Section 4-14.1-08 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-08. Ethanol production incentive - Calculation - Payment. The ~~agricultural products utilization commission office~~ of renewable energy and energy efficiency shall provide quarterly to each eligible facility a production incentive based on the average North Dakota price per bushel of corn received by farmers during the quarter, as established by the North Dakota agricultural statistics service and the average North Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by the American coalition for ethanol. The amount payable as a production incentive must be calculated by including the sum arrived at under subsection 1 with the sum arrived at under subsection 2.

1. a. If the average quarterly price per bushel of corn is above one dollar and eighty cents, for each one cent by which the quarterly price is above one dollar and eighty cents, the ~~agricultural products utilization commission office~~ of renewable energy and energy efficiency shall add to the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.
- b. If the average quarterly price per bushel of corn is one dollar and eighty cents, the ~~agricultural products utilization commission office~~ of renewable energy and energy efficiency shall add zero to any amount payable under this section.
- c. If the average quarterly price per bushel of corn is below one dollar and eighty cents, for each one cent by which the quarterly price is below one dollar and eighty cents, the ~~agricultural products utilization commission office~~ of renewable energy and energy efficiency shall subtract from the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.
2. a. If the average quarterly rack price per gallon of ethanol is above one dollar and thirty cents, for each one cent by which the average quarterly rack price is above one dollar and thirty cents, the

³⁸ Section 4-14.1-08 was also amended by section 3 of Senate Bill No. 2270, chapter 67.

~~agricultural products utilization commission~~ office of renewable energy and energy efficiency shall subtract from the amount payable under this section, two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

- b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty cents, the ~~agricultural products utilization commission~~ office of renewable energy and energy efficiency shall subtract zero from any amount payable under this section.
- c. If the average quarterly rack price per gallon of ethanol is below one dollar and thirty cents, for each one cent by which the average quarterly rack price is below one dollar and thirty cents, the ~~agricultural products utilization commission~~ office of renewable energy and energy efficiency shall add to the amount payable under this section two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

SECTION 31. AMENDMENT. Section 4-14.1-09 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-09. Subsidy limitations. The ~~agricultural products utilization commission~~ office of renewable energy and energy efficiency may not distribute more than one million six hundred thousand dollars annually in payments under section 4-14.1-08. No eligible facility may receive state ethanol payments that exceed a cumulative total of ten million dollars. Change in ownership of an eligible facility does not affect the ten million dollar cumulative total allowed to be paid to that eligible facility under this section.

³⁹ **SECTION 32. AMENDMENT.** Section 4-14.1-10 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-10. Ethanol production incentive fund - Continuing appropriation. There is created in the state treasury a special fund known as the ethanol production incentive fund. The fund consists of transfers made in accordance with section 39-04-39 and deposits made in accordance with section 57-43.1-03.1. All moneys in the fund are appropriated on a continuing basis to the ~~agricultural products utilization commission~~ office of renewable energy and energy efficiency for use in paying ethanol production incentives under sections 4-14.1-07, 4-14.1-08, and 4-14.1-09.

SECTION 33. AMENDMENT. Section 2 of House Bill No. 1009, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the agriculture

³⁹ Section 4-14.1-10 was also amended by section 4 of Senate Bill No. 2270, chapter 67.

commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages		\$1,243,403
Operating expenses		896,050
Capital assets		(3,000)
Grants		1,674,225
Board of animal health	4,309,224	<u>1,159,224</u>
Contingent appropriation - Wildlife services		130,000
State meat inspection		(763,461)
Pride of Dakota		(180,948)
Wildlife services		(800,000)
Safe send		(308,870)
Noxious weeds		(1,596,836)
Agriculture in the classroom		<u>(45,000)</u>
Total all funds - Adjustments/enhancements	\$1,554,847	<u>\$1,404,847</u>
Less estimated income - Adjustments/enhancements	4,294,916	<u>1,144,916</u>
Total general fund - Adjustments/enhancements		\$259,931

SECTION 34. AMENDMENT. Section 3 of House Bill No. 1009, as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

SECTION 3. 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 agriculture commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages		\$5,738,433
Operating expenses		4,255,875
Capital assets		5,000
Grants		1,774,225
Board of animal health	2,178,688	<u>2,028,688</u>
Contingent appropriation - Wildlife services		130,000
Crop harmonization board		<u>25,000</u>
Total all funds	\$14,107,221	<u>\$13,957,221</u>
Less estimated income	9,613,765	<u>9,463,765</u>
Total general fund appropriation		\$4,493,456

SECTION 35. AMENDMENT. Section 54-34.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-03. Division structure. The division consists of:

1. A finance office;
2. An international business and trade office; ~~and~~
3. ~~Other offices that~~ Offices established by statute; and
4. Offices the director organizes and establishes as necessary to carry out most efficiently and effectively the mission and duties of the division.

SECTION 36. AMENDMENT. Subsection 1 of section 54-34.3-06 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota American Indian business development office to assist North Dakota American Indian tribal and individual economic development representatives, businesses, and North Dakota American Indian entrepreneurs with access to state and federal programs designed to assist ~~them~~ these business interests. The office shall provide services to assist in the formation of partnerships between American Indian and non-American Indian businesses.

SECTION 37. A new section to chapter 54-34.3 of the North Dakota Century Code is created and enacted as follows:

International business and trade office - Advisory board.

1. The director shall administer the international business and trade office. The purpose of the office is to assist North Dakota businesses expand exports to international markets by:
 - a. Advocating for exporters;
 - b. Offering export educational opportunities to North Dakota businesses;
 - c. Researching and raising awareness of export opportunities, issues, and challenges impacting North Dakota businesses;
 - d. Assisting North Dakota businesses in identifying, developing, and cultivating international markets for products; and
 - e. Organizing and carrying out trade missions that seek to facilitate contact and communication between North Dakota businesses and international markets.
2. The director may contract with a third party for the provision of services for the international business and trade office. If the director contracts with a third party under this subsection, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The division may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the office of international business and trade.
4. The director may establish an international business and trade office advisory board with which the director may consult in administering the international business and trade office. Each member of the advisory board created under this subsection is entitled to receive per diem compensation at a rate established by the director not exceeding sixty-two dollars and fifty cents, and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directly related to board membership, except that per diem compensation under this section may not be paid to any member

who receives compensation or salary as a regular state employee or official.

SECTION 38. A new section to chapter 54-34.3 of the North Dakota Century Code is created and enacted as follows:

Local economic developer certification program. The director shall implement a certification program through which the division provides training to assist local economic developers in meeting the needs of businesses. The director may contract with a third-party service provider to assist in implementing the program. The director may set and charge a fee for the receipt of services under this program.

SECTION 39. A new section to chapter 54-44.5 of the North Dakota Century Code is created and enacted as follows:

Office of renewable energy and energy efficiency. The office of renewable energy and energy efficiency is established within the division of community services. The office shall assist in the development of renewable energy within this state to provide secure, diverse, sustainable, and competitive renewable energy supplies and promote the conservation of energy and the wise use of energy resources in both the public and private sectors. The office shall communicate and disseminate information concerning state and federal energy conservation and renewable energy incentives, including tax credits, financing and grants to business entities seeking to invest in wind-generated power and transmission, ethanol production and distribution; and the development of biodiesel, biomass, solar, hydropower, geothermal, and other renewable energy sources. The office shall also manage and distribute all production incentive payments as authorized by chapter 4-14.1.

SECTION 40. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Target industries - Report to legislative council. The commissioner shall identify target industries on which the commissioner shall focus economic development efforts. The commissioner shall designate one of these target industries as a special focus target industry. In identifying and updating target industries, the commissioner shall solicit the advice of the foundation and the North Dakota university system. The commissioner may contract for the services of a third party in identifying target industries. The commissioner shall report biennially to the legislative council. This report must include information regarding the process used and factors considered in identifying and updating the target industries, the specific tactics the department has used to specifically address the needs of the target industries, the unique tactics and the specific incentives the department has used to support the growth of the special focus target industry, and any recommended legislative changes necessary to better focus economic development services on these industries.

SECTION 41. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

North Dakota image information program. The commissioner shall implement a program for use by state agencies to assist state agencies and state agencies' employees to present to the public a positive image of the state. The commissioner may expand the program to include use of the program by the private sector.

SECTION 42. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Business hotline. The commissioner shall create and implement a business hotline program. The program must provide for a telephone number through which the department shall provide, during regular business hours, in-state and out-of-state callers with information regarding how to do business in the state, the services and assistance available to businesses, the advantages of doing business in the state, and information on state and other resources that provide assistance to businesses in the state. In addition to directly providing information, the department may use the business hotline as a clearinghouse through which to refer callers to other federal, state, local, or private sector economic developers. The program must include an in-state and out-of-state marketing campaign in support of the program. The commissioner shall follow up on business leads gained through the program and shall gather data on the results of calls, including business expansion, location, and startup.

SECTION 43. AMENDMENT. Section 57-02-27.3 of the North Dakota Century Code is amended and reenacted as follows:

57-02-27.3. Taxable valuation of centrally assessed wind turbine electric generators. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed before January 1, 2011, must be valued at three percent of assessed value to determine taxable valuation of the property. However, a centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement has been executed after April 30, 2005, and before January 1, 2006, and construction is begun after April 30, 2005, and before July 1, 2006, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property and this reduced valuation applies for that property for the duration of the initial purchased power agreement for that generation unit.

SECTION 44. AMENDMENT. Section 57-51.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.2. Permanent oil tax trust fund - Deposits - Interest - Adjustment of distribution formula. ~~At the end of any biennium beginning after June 30, 1997, all~~ All revenue deposited in the general fund during ~~that~~ a biennium and derived from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 which exceeds seventy-one million dollars must be transferred by the state treasurer to a special fund in the state treasury known as the permanent oil tax trust fund. The state treasurer shall transfer interest earnings of the permanent oil tax trust fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may not be expended except upon a two-thirds vote of the members elected to each house of the legislative assembly.

If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after June 30, 1997, the director of the budget shall adjust the seventy-one million dollar amount in this section by the same percentage increase or decrease in the amount of revenue allocable to the general fund after the change in the allocation formula, and transfers to the permanent oil tax trust fund shall thereafter be made using that adjusted figure so that the dollar amount of the transfers to the permanent oil tax trust fund is not increased or decreased merely because of changes in the distribution formulas.

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

SECTION 45. DAKOTA MANUFACTURING INITIATIVE. The department of commerce shall seek to contract with the Dakota manufacturing extension partnership, incorporated, to implement the Dakota manufacturing initiative. The initiative includes building a membership association of manufacturers in North Dakota and South Dakota, complementing existing national, regional, and local manufacturing entities; providing nonduplicative services to the association's manufacturing members which address critical needs, including identifying and developing private procurement opportunities; and developing a consortium of major manufacturers in North Dakota and South Dakota to design and support overall supply chain development and supplier development. Under the initiative, state funds must be leveraged with additional public and private funds, which may include federal funding sources, South Dakota state funding, and funding from manufacturers.

SECTION 46. NORTH DAKOTA AMERICAN INDIAN BUSINESS DEVELOPMENT OFFICE AND INTERNATIONAL BUSINESS AND TRADE OFFICE - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the commissioner of commerce shall report to the legislative council on the status of the North Dakota American Indian business development office and the status of the international business and trade office; whether the North Dakota American Indian business development office and international business and trade office should continue; whether the division of economic development and finance should continue to contract with a third party for international business and trade office services; and whether there are potential changes that could be made to enhance the support of American Indian businesses and to enhance the support of international trade by North Dakota businesses.

SECTION 47. LOCAL ECONOMIC DEVELOPERS CERTIFICATION PROGRAM - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the commissioner of commerce shall report to the legislative council on the status of the certification program through which the division of economic development and finance provides training services to local economic developers. The report must include information regarding what services have been provided under the program to assist local economic developers, to whom the services were provided, local economic developer level of satisfaction with the program, whether the program should continue, and whether there are changes that could be made to better assist local economic developers.

SECTION 48. IMAGE INFORMATION PROGRAM - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the commissioner of commerce shall report to the legislative council on the status of the image information program. The report must include information regarding what information the program provides to state agencies and state agencies' employees, the manner in which the information is provided, the state agencies reached through the program, whether the program has been expanded to provide information to the private sector, whether the program should continue, and whether there are potential changes that could be made to better enhance the state's and private sector's ability to present a positive image of the state.

SECTION 49. BUSINESS HOTLINE PROGRAM - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the commissioner of commerce shall report to the legislative council on the status of the business hotline program. This report must include information regarding what information the program provides to callers; the number of calls made to the business hotline number; the manner in which the information is provided to callers; followup data; how the program is marketed; whether the program should continue; and whether there are potential changes that could be made to improve the dissemination of business information to businesses in the state, to persons planning on starting a business in the state, and to businesses wishing to do business in the state.

SECTION 50. DAKOTA MANUFACTURING INITIATIVE - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the commissioner of commerce shall report to the legislative council on the status of the Dakota manufacturing initiative. This report must include information regarding how the initiative has been established and regarding the activities of the Dakota manufacturing extension partnership, incorporated. The commissioner shall include in the report whether the state should continue this initiative or whether the goal of assisting manufacturers would be better served by alternative means. The commissioner shall report whether there are potential changes that could be made to improve the networking of manufacturing businesses and other suppliers in this state.

SECTION 51. INTELLECTUAL PROPERTY RIGHTS STUDY - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the department of commerce, in consultation with the state board of higher education, shall conduct a study of the state's intellectual property laws as they relate to the protection of intellectual property rights. The study must include a review of the state's intellectual property laws, including barriers that may inhibit research and development in the state, and must include consideration of successful actions taken by other states to improve the protection of intellectual property rights. The department shall contract with a third party in performing this study. Before July 1, 2006, the commissioner of commerce shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommendations to improve the protection of intellectual property rights.

SECTION 52. ECONOMIC DEVELOPMENT INCENTIVES STUDY - REPORT TO LEGISLATIVE COUNCIL. During the 2005-06 interim, the department of commerce shall conduct a study of the state's economic development incentives. The study must include an inventory of all of the state's economic development incentives, a review of the nature of each incentive, an indication of the targeted class of recipients of each incentive, an indication of the stage of business targeted by each incentive, an analysis of possible barriers to using the incentives, an analysis of possible gaps and overlaps in the state's economic development incentive system, a review of the effectiveness of each incentive and how to gauge the effectiveness of each incentive, and a review of economic development incentive best practices and how the state's incentives compare to best practices. The department of commerce may contract with a third party in performing this study. Before July 1, 2006, the commissioner of commerce shall report to the legislative council the outcome of the study and identify proposed legislative changes necessary to implement any recommended changes to the state's economic development incentive system to make the state's business environment more effective, efficient, and competitive.

SECTION 53. ACCOUNTABILITY MEASURES - REPORTING. The commissioner of the department of commerce shall monitor and report annually

during the 2005-06 interim to either the budget section or an interim committee designated by the legislative council regarding the following North Dakota economic goals and associated benchmarks:

1. Develop unified efforts for economic development based on collaboration and accountability:
 - a. Site selection ranking of the North Dakota department of commerce.
 - b. Share of local economic development organizations participating in statewide marketing strategy.
2. Strengthen cooperation between the university system, economic development organizations, and private businesses:
 - a. Academic research and development expenditures as percentage of gross state product.
 - b. Industry research and development expenditures as percentage of gross state product.
3. Create quality jobs that retain North Dakota's workforce and attract new high-skilled labor:
 - a. Net job growth.
 - b. New private sector businesses per one hundred thousand residents.
 - c. Average annual wage.
 - d. Net migration.
4. Create a strong marketing image that builds on the state's numerous strengths, including workforce, education, and quality of life:
 - a. Positive national and out-of-state media exposure (favorable mentions).
 - b. Number of North Dakota department of commerce web site hits per months.
 - c. Number of leads generated by the North Dakota department of commerce.
5. Accelerate job growth in sustainable, diversified industry clusters to provide opportunities for the state's economy:
 - a. Net job growth in manufacturing.
 - b. Net job growth in business services.
 - c. New private sector businesses in manufacturing.
 - d. New private sector businesses in business services.

- e. Number of utility patents per one hundred thousand residents.
6. Strengthen North Dakota's business climate to increase international competitiveness:
 - a. Gross state product (annual growth rate).
 - b. Venture capital investments (thousands).
 - c. Merchandise export value (per capita).

The department, in cooperation with job service North Dakota, the department of human services, and the university system, shall include in its report the number of individuals trained and the number who became employed as a result of each department's workforce development and training programs, including the state's investment, the areas of occupational training, the average annual salary of those employed, and the average increase in earnings twelve months after completion of training.

SECTION 54. EFFECTIVE DATE. Section 43 of this Act is effective for taxable years beginning after December 31, 2004.

Approved April 27, 2005
Filed April 27, 2005

CHAPTER 47

SENATE BILL NO. 2019

(Appropriations Committee)
(At the request of the Governor)

BOARD FOR CAREER AND TECHNICAL EDUCATION

AN ACT to provide an appropriation for defraying the expenses of the state board for career and technical education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the state board for career and technical education in section 3 of this Act as follows:

Salaries and wages	\$2,966,641
Operating expenses	956,237
Grants	19,291,883
Adult farm management	625,760
Workforce training	1,350,000
Postsecondary education vocational grants	357,452
Total all funds - Base level	\$25,547,973
Less estimated income - Base level	<u>10,874,500</u>
Total general fund - Base level	<u>\$14,673,473</u>

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state board for career and technical education which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$180,487
Operating expenses	68,621
Grants	2,208,233
Adult farm management	<u>100,000</u>
Total all funds - Adjustments/enhancements	\$2,557,341
Less estimated income - Adjustments/enhancements	<u>407,757</u>
Total general fund - Adjustments/enhancements	<u>\$2,149,584</u>

SECTION 3. 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 state board for career and technical education for the purpose of defraying the expenses of the various divisions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$3,147,128
Operating expenses	1,024,858
Grants	21,500,116
Adult farm management	725,760
Workforce training	1,350,000
Postsecondary education vocational grants	<u>357,452</u>
Total all funds	\$28,105,314
Less estimated income	<u>11,282,257</u>
Total general fund appropriation	\$16,823,057

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 48

SENATE BILL NO. 2020

(Appropriations Committee)
(At the request of the Governor)

EXTENSION SERVICE, CROPS INSTITUTE, TRANSPORTATION INSTITUTE, RESEARCH CENTERS, AND SEED FARM

AN ACT to provide an appropriation for defraying the expenses of the extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to provide legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm in section 3 of this Act as follows:

Subdivision 1.

NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE

Extension service	\$33,567,597
Soil conservation committee	<u>778,679</u>
Total all funds - Base level	\$34,346,276
Less estimated income - Base level	<u>20,486,830</u>
Total general fund - Base level	\$13,859,446

Subdivision 2.

NORTHERN CROPS INSTITUTE

Total all funds - Base level	\$1,523,347
Less estimated income - Base level	<u>777,345</u>
Total general fund - Base level	\$746,002

Subdivision 3.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

Total all funds - Base level	\$10,844,750
Less estimated income - Base level	<u>10,361,651</u>
Total general fund - Base level	\$483,099

Subdivision 4.

MAIN RESEARCH CENTER

Total all funds - Base level	\$60,517,214
Less estimated income - Base level	<u>32,306,474</u>
Total general fund - Base level	\$28,210,740

Subdivision 5.

RESEARCH CENTERS

Dickinson research center	\$5,281,134
Central grasslands research center	1,667,387

Hettinger research center	1,521,475
Langdon research center	1,282,885
North central research center	1,712,510
Williston research center	1,643,075
Carrington research center	<u>3,326,616</u>
Total all funds - Base level	\$16,435,082
Less estimated income - Base level	<u>8,967,403</u>
Total general fund - Base level	\$7,467,679

Subdivision 6.

AGRONOMY SEED FARM

Agronomy seed farm	<u>\$1,166,604</u>
Total special funds - Base level	\$1,166,604
Total general fund section 1	\$50,766,966
Total special funds section 1	\$74,066,307
Total all funds section 1	\$124,833,273

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm which are included in the appropriation in section 3 of this Act as follows:

Subdivision 1.

NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE

Extension service	\$3,713,370
Soil conservation committee	<u>58,559</u>
Total all funds - Adjustments/enhancements	\$3,771,929
Less estimated income - Adjustments/enhancements	<u>2,427,076</u>
Total general fund - Adjustments/enhancements	\$1,344,853

Subdivision 2.

NORTHERN CROPS INSTITUTE

Total all funds - Adjustments/enhancements	\$369,602
Less estimated income - Adjustments/enhancements	<u>210,506</u>
Total general fund - Adjustments/enhancements	\$159,096

Subdivision 3.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

Total all funds - Adjustments/enhancements	\$5,180,440
Less estimated income - Adjustments/enhancements	<u>4,863,538</u>
Total general fund - Adjustments/enhancements	\$316,902

Subdivision 4.

MAIN RESEARCH CENTER

Total all funds - Adjustments/enhancements	\$7,531,596
Less estimated income - Adjustments/enhancements	<u>5,216,848</u>
Total general fund - Adjustments/enhancements	\$2,314,748

Subdivision 5.

RESEARCH CENTERS

Dickinson research center	\$266,660
Central grasslands research center	310,855
Hettinger research center	280,431

Langdon research center	44,611
North central research center	516,625
Williston research center	621,608
Carrington research center	<u>912,972</u>
Total all funds - Adjustments/enhancements	\$2,953,762
Less estimated income - Adjustments/enhancements	<u>2,093,700</u>
Total general fund - Adjustments/enhancements	\$860,062

Subdivision 6.

AGRONOMY SEED FARM

Agronomy seed farm - Adjustments/enhancements	<u>\$31,078</u>
Total special funds - Adjustments/enhancements	\$31,078
Total general fund section 2	\$4,995,661
Total special funds section 2	\$14,842,746
Total all funds section 2	\$19,838,407

SECTION 3. 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 North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm for the purpose of defraying the expenses of those agencies, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE

Extension service	\$37,280,967
Soil conservation committee	<u>837,238</u>
Total all funds	\$38,118,205
Less estimated income	<u>22,913,906</u>
Total general fund appropriation	\$15,204,299

Subdivision 2.

NORTHERN CROPS INSTITUTE

Total all funds	\$1,892,949
Less estimated income	<u>987,851</u>
Total general fund appropriation	\$905,098

Subdivision 3.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

Total all funds	\$16,025,190
Less estimated income	<u>15,225,189</u>
Total general fund appropriation	\$800,001

Subdivision 4.

MAIN RESEARCH CENTER

Total all funds	\$68,048,810
Less estimated income	<u>37,523,322</u>
Total general fund appropriation	\$30,525,488

Subdivision 5.

RESEARCH CENTERS

Dickinson research center	\$5,547,794
Central grasslands research center	1,978,242
Hettinger research center	1,801,906

Langdon research center	1,327,496
North central research center	2,229,135
Williston research center	2,264,683
Carrington research center	4,239,588
Total all funds	\$19,388,844
Less estimated income	11,061,103
Total general fund appropriation	\$8,327,741

Subdivision 6.

AGRONOMY SEED FARM

Agronomy seed farm	\$1,197,682
Total special funds appropriation	\$1,197,682
Grand total general fund appropriation S.B. 2020	\$55,762,627
Grand total special funds appropriation S.B. 2020	\$88,909,053
Grand total all funds appropriation S.B. 2020	\$144,671,680

SECTION 4. ADDITIONAL INCOME - APPROPRIATION. In addition to the amount included in the grand total special funds appropriation line item in section 3 of this Act, any other income, including funds from federal acts, private grants, gifts and donations, or from other sources received by the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm, except as otherwise proved by law, is appropriated for the purpose designated in the act, grant, gift or donation, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. TRANSFER AUTHORITY. Upon approval of the state board of agricultural research and education and appropriate branch research center directors, the director of the main research center may transfer appropriation authority within subdivisions 1, 2, 4, and 5 of section 3 of this Act and shall notify the office of management and budget within ten days following the transfer.

SECTION 6. FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. The board of higher education is authorized to adjust or increase full-time equivalent positions as needed for the entities in section 3 of this Act, subject to availability of funds. The board shall report any adjustments to the office of management and budget prior to the submission of the 2007-2009 budget request.

SECTION 7. UNEXPENDED GENERAL FUND - EXCESS INCOME. Any unexpended general fund appropriation authority to and any excess income received by entities listed in section 3 of this Act are not subject to the provisions of section 54-44.1-11, and any unexpended funds from these appropriations or revenues are available and may be expended by those entities, during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 8. LEGISLATIVE INTENT - BEEF SYSTEMS CENTER OF EXCELLENCE. It is the intent of the fifty-ninth legislative assembly that \$800,000 of the appropriation provided in subdivision 4 of section 3 transferred from the agriculture partnership in assisting community expansion fund is a continuation of funding authority for the beef systems center of excellence as provided in section 9 of chapter 20 of the 2003 Session Laws.

SECTION 9. LEGISLATIVE INTENT - BEEF SYSTEMS CENTER OF EXCELLENCE POSITIONS. It is the intent of the fifty-ninth legislative assembly that the two full-time equivalent positions for the beef systems center of excellence not be filled and the related funding for salaries and wages not be spent until the state

board of agricultural research and education enters into a business partnership agreement for the beef systems center of excellence.

SECTION 10. LEGISLATIVE INTENT - WILLISTON RESEARCH CENTER MACHINE STORAGE SHED. It is the intent of the fifty-ninth legislative assembly that an amount of up to \$100,000 of the appropriation provided in subdivision 4 of section 3 of this Act for extraordinary repairs be used to construct an equipment storage facility at the Williston research center.

SECTION 11. AUTHORIZATION. The special funds spending authority of \$1,400,000 included in subdivision 5 of section 1 of chapter 20 of the 2003 Session Laws for the Dickinson research center building project may come from any available source.

SECTION 12. EMERGENCY. Section 11 of this Act is declared to be an emergency measure.

Approved April 27, 2005
Filed April 27, 2005

CHAPTER 49

SENATE BILL NO. 2021

(Appropriations Committee)
(At the request of the Governor)

INFORMATION TECHNOLOGY DEPARTMENT

AN ACT to provide an appropriation for defraying the expenses of the information technology department; to provide an appropriation; to provide a contingent appropriation; to provide a statement of legislative intent; to amend and reenact subsection 4 of section 54-59-05 of the North Dakota Century Code, relating to the powers and duties of the information technology department; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Salaries and wages	\$25,715,694
Operating expenses	32,120,860
Capital assets	5,323,000
Division of independent study	5,625,480
Educational technology council	793,818
EduTech	2,540,348
Wide area network	7,436,223
Enterprise resource planning system (ConnectND)	20,000,000
Geographic information system	678,343
Prairie public broadcasting	1,337,138
Criminal justice information sharing	<u>4,741,200</u>
Total all funds - Base level	\$106,312,104
Less estimated income - Base level	<u>98,117,301</u>
Total general fund - Base level	\$8,194,803

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

Salaries and wages	\$2,080,403
Operating expenses	9,926,842
Capital assets	5,038,163
Division of independent study	182,159
Educational technology council	91,936
EduTech	112,000
Wide area network	105,988
Enterprise resource planning system (ConnectND)	(20,000,000)
Geographic information system	8,094
Prairie public broadcasting	(1,337,138)
Criminal justice information sharing	<u>(2,216,110)</u>
Total all funds - Adjustments/enhancements	(\$6,007,663)

Less estimated income - Adjustments/enhancements	<u>(7,569,758)</u>
Total general fund - Adjustments/enhancements	<u>\$1,562,095</u>

SECTION 3. 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 information technology department for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$27,796,097
Operating expenses	42,047,702
Capital assets	10,361,163
Division of independent study	5,807,639
Educational technology council	885,754
EduTech	2,652,348
Wide area network	7,542,211
Geographic information system	686,437
Criminal justice information sharing	<u>2,525,090</u>
Total all funds	\$100,304,441
Less estimated income	<u>90,547,543</u>
Total general fund appropriation	<u>\$9,756,898</u>

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$125,000, or so much of the sum as may be necessary, to the secretary of state for a portion of the costs associated with migrating the agency's information technology data base from the AS/400 to a current platform, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. CONTINGENT APPROPRIATION. If the fifty-ninth legislative assembly authorizes the replacement of the department of human services' medicaid management information system, there is appropriated out of special funds derived from other income, not otherwise appropriated, the sum of \$8,125,784 to the information technology department for costs associated with development and implementation of the system, for the biennium beginning July 1, 2005, and ending June 30, 2007. The information technology department is authorized ten additional full-time equivalent positions for the project; however, the positions are only authorized until the development and implementation of the system is completed.

SECTION 6. CRIMINAL JUSTICE INFORMATION SHARING AND EDUCATIONAL TECHNOLOGY COUNCIL. If federal homeland security funding or other federal funding becomes available, the first \$175,000 must be used to complete all proposed criminal justice information sharing initiative projects totaling \$418,910. The next \$50,000 must be used to replace funding from the general fund appropriated for the criminal justice information sharing initiative projects with the savings being made available to the educational technology council for additional classroom video and classroom transformation grants. Any remaining funds must be used to replace funding appropriated from the general fund with the funds from the general fund remaining unspent.

SECTION 7. TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items in section 3 of this Act for the information technology department as may be requested by the chief information officer as determined necessary for the development and implementation of the medicaid management

information system. Any increase in full-time equivalent positions needed for this project must be reported to the director of the office of management and budget during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 8. AMENDMENT. Subsection 4 of section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of ~~three~~ five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council or the legislative assembly before executing a financing agreement. If the budget section or the legislative assembly does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

SECTION 9. EMERGENCY. Section 8 of this Act is declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005

CHAPTER 50

SENATE BILL NO. 2022

(Appropriations Committee)
(At the request of the Governor)

SEED DEPARTMENT

AN ACT to provide an appropriation for defraying the expenses of the state seed department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Salaries and wages	\$3,405,750
Operating expenses	1,664,250
Capital assets	70,000
Grants	200,000
Contingencies	<u>300,000</u>
Total seed department fund - Base level	\$5,640,000

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

Salaries and wages	(\$3,405,750)
Operating expenses	(1,664,250)
Capital assets	(70,000)
Grants	(200,000)
State seed operations	5,909,117
Contingencies	<u>(300,000)</u>
Total seed department fund - Adjustments/enhancements	\$269,117

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from the special funds derived from income, to the state seed department for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Total special funds appropriation	\$5,909,117
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Approved April 8, 2005
Filed April 12, 2005

CHAPTER 51

SENATE BILL NO. 2023

(Appropriations Committee)
(At the request of the Governor)

CAPITAL IMPROVEMENTS

AN ACT to provide an appropriation for capital projects of various state departments; to provide an appropriation for state facility energy improvement capital projects of various state departments and institutions; to authorize the industrial commission to issue and sell evidences of indebtedness for capital projects; to provide a statement of legislative intent; to provide for a legislative council study; to provide an appropriation; and to amend and reenact section 48-01.1-09 of the North Dakota Century Code, relating to the use of a construction manager.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. PROJECT AUTHORIZATIONS. The industrial commission, acting as the North Dakota building authority, shall arrange for the funding of the projects authorized in this section, declared to be in the public interest, through the issuance of evidences of indebtedness under chapter 54-17.2, beginning with the effective date of this Act and ending June 30, 2007. The industrial commission shall issue evidences of indebtedness under this section with the condition that lease rental payments need not begin until July 1, 2007. The authority of the industrial commission to issue evidences of indebtedness under this section ends June 30, 2007, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and comply with any covenants entered into before that date. The proceeds of the evidences of indebtedness and other available funds are appropriated to the agencies listed in this section, beginning with the effective date of this Act and ending June 30, 2007, for the following projects:

Office of management and budget fire suppression	\$3,155,000
Office of the attorney general crime lab addition and renovation	3,632,691
North Dakota state university hazardous material handling and storage facility	3,500,000
North Dakota state college of science electrical distribution	736,000
Dickinson state university murphy hall	4,100,557
Minot state university - Bottineau thatcher hall addition	2,500,000
Department of corrections and rehabilitation James River correctional center ET building improvements	980,000
Department of corrections and rehabilitation James River correctional center programs building code improvements	584,000
North central research center agronomy laboratory and greenhouse	440,000
Central grasslands research extension center office addition	270,000
Main research center greenhouse complex	2,000,000
Historical society chateau interpretive center	1,100,000
Historical society and heritage center research collections expansion	5,500,000
Parks and recreation Turtle River state park administrative office	<u>350,000</u>
Total special funds appropriation	<u>\$28,848,248</u>

The north central research center may obtain and utilize federal and other funds to assist in the construction of an agronomy laboratory at the north central research center. There is appropriated to the north central research center the sum of \$1,250,000, or so much of the sum as may be necessary, from any federal acts, private grants, gifts and donations, or other funds that may become available for this project for the biennium beginning the effective date of this Act and ending June 30, 2007.

The central grasslands research extension center may obtain and utilize federal and other funds to assist in the construction of an office addition at the central grasslands research extension center. There is appropriated to the central grasslands research extension center the sum of \$80,000, or so much of the sum as may be necessary, from any federal acts, private grants, gifts and donations, or other funds that may become available for this project for the period beginning with the effective date of this Act and ending June 30, 2007.

The main research center may obtain and utilize federal funds and other funds to assist in the construction of a greenhouse complex at the main research center. There is appropriated to the main research center the sum of \$5,000,000, or so much of the sum as may be necessary, from any federal acts, private grants, gifts and donations, or other funds that may become available for this project for the biennium beginning the effective date of this Act and ending June 30, 2007.

The state historical society may obtain and utilize federal funds to assist in the renovation and addition at the chateau interpretive center. There is appropriated to the state historical society the sum of \$500,000, or so much of the sum as may be necessary, for any federal or other funds that may become available for this project for the biennium beginning the effective date of this Act and ending June 30, 2007.

The state historical society may obtain and utilize federal or other funds to assist in the heritage center research collections expansion. There is appropriated to the state historical society the sum of \$200,000, or so much of the sum as may be necessary, from any federal or other funds that may become available for this project for the biennium beginning the effective date of this Act and ending June 30, 2007.

The department of parks and recreation may obtain and utilize federal funds to assist in the construction of the administrative office building at Turtle River state park. There is appropriated to the department of parks and recreation the sum of \$350,000, or so much of the sum as may be necessary, from any federal or other funds that may become available for this project for the biennium beginning the effective date of this Act and ending June 30, 2007.

Grand total special funds appropriation	\$36,228,248
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SECTION 2. BOND ISSUANCE REPAYMENT RESPONSIBILITY. Of the total amount of evidences of indebtedness issued under the provisions of section 1 of this Act, a total of \$300,000 must be available from non-general fund sources to assist in the retirement of the evidences of indebtedness issued for the project costs associated with the construction of the projects authorized by this Act:

Historical society	\$300,000
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SECTION 3. STATE FACILITY ENERGY IMPROVEMENT PROJECT AUTHORIZATIONS. The industrial commission, acting as the North Dakota building authority, shall arrange for the funding of the projects authorized in this section, which are described in a report dated November 3, 2004, filed with the governor by

the division of community services of the department of commerce, and which are declared to be in the public interest, through the issuance of evidences of indebtedness under chapter 54-17.2 and section 54-44.5-08, beginning with the effective date of this Act and ending June 30, 2007. The authority of the industrial commission to issue evidences of indebtedness under this section ends June 30, 2007, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2, section 54-44.5-08, and this Act and comply with any covenants entered into prior to that date. The proceeds of the evidences of indebtedness and other available funds are appropriated to the agencies and institutions listed in this section, beginning with the effective date of this Act and ending June 30, 2007, for the following projects:

University of North Dakota sundry projects	\$2,331,554
Total special funds appropriation	<u>\$2,331,554</u>

SECTION 4. LEGISLATIVE INTENT - OLD MAIN RENOVATION. It is the intent of the fifty-ninth legislative assembly that no state funding be used for any renovation projects of old main at Minot state university - Bottineau.

SECTION 5. LEGISLATIVE COUNCIL STUDY - DEFERRED MAINTENANCE - INFRASTRUCTURE. The legislative council shall consider studying, during the 2005-06 interim, deferred maintenance and infrastructure for all state agencies and institutions and compile a list of all the deferred maintenance and long-term infrastructure needs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

⁴⁰ **SECTION 6. APPROPRIATION - HERITAGE CENTER STUDY.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of conducting a study regarding an expanded heritage center, including archive storage, exhibit area, and all other such spaces necessary to complete the facility as outlined in the North Dakota state capitol complex master plan dated December 14, 2000. The study also must examine an alternate location for a comparable replacement facility on the capitol grounds taking into account the cost to retrofit the existing heritage center and long-range plans for the capitol grounds. The office of management and budget shall present the results of the study to the sixtieth legislative assembly.

SECTION 7. AMENDMENT. Section 48-01.1-09 of the North Dakota Century Code is amended and reenacted as follows:

⁴⁰ Section 6 was vetoed by the Governor, see chapter 614.

48-01.1-09. Use of construction manager. If a governing body uses a construction manager on a public improvement, the construction manager must be a licensed contractor. The architect awarded the design contract and the construction manager awarded the construction management contract for a public improvement shall carry out their contractual duties as agents to the public improvement entity. The architect and construction manager may not construct any portion of the public improvement and may not contract with any contractor or subcontractor to construct any portion of the work. The construction manager awarded the contract for ~~construction~~ of a public improvement shall bond the entire cost of the project through a single bond, or through bonds provided by all bid packages and the construction manager's bond for the full amount of the construction manager's services. If the total of the bonds is less than the total project bid, the construction manager shall bond the difference between the total of the bonds and the total project bid.

Approved April 26, 2005

Filed May 4, 2005

CHAPTER 52**SENATE BILL NO. 2031**

(Legislative Council)
(Criminal Justice Committee)

LAW ENFORCEMENT TRAINING APPROPRIATION

AN ACT to provide an appropriation for providing training for law enforcement officers and other emergency service providers; and to provide for a report to the budget section.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$400,000, or so much of the sum as may be necessary, to the highway patrol for the purpose of providing training for law enforcement officers and other emergency service providers, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 2. BUDGET SECTION REPORT. The highway patrol shall provide a report to the budget section after July 1, 2006, regarding the progress of the training program provided for in this Act.

Approved April 25, 2005

Filed April 26, 2005

CHAPTER 53**SENATE BILL NO. 2228**

(Senators Krebsbach, Bowman, O'Connell)
(Representatives Boucher, Price, Timm)

INTERNATIONAL ARTS CENTER

AN ACT to provide an appropriation to the parks and recreation department to assist with the construction costs of the international arts center at the international music camp; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the parks and recreation department for the purpose of providing a one-time grant to the international music camp to assist with the construction costs of the international arts center to be located at the international music camp at the international peace garden, for the period beginning with the effective date of this Act and ending June 30, 2007. The funding for this project is subject to the building project being awarded to a contractor pursuant to procedures set forth in chapter 48-01.1.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 25, 2005
Filed April 26, 2005