

**Industrial Commission
Budget 405
House Bill Nos. 1014, 1515; Senate Bill No. 2288**

	FTE Positions	General Fund	Other Funds	Total
2007-09 legislative appropriation	55.37 ¹	\$11,798,636 ²	\$69,396,769	\$81,195,405
2005-07 legislative appropriation	<u>51.37</u>	<u>6,878,658</u>	<u>43,903,138</u>	<u>50,781,796</u>
2007-09 appropriation increase (decrease) to 2005-07 appropriation	4.00 ¹	\$4,919,978	\$25,493,631	\$30,413,609

¹The authorized FTE positions do not include the 2 contingent FTE positions for the Department of Mineral Resources that were authorized in Section 28 of House Bill No. 1014 by the 2007 Legislative Assembly for the 2007-09 biennium. See the **Contingent FTE positions** section below for additional information.

²This amount includes \$530,000 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$11,268,636.

NOTE: The 2007-09 legislative appropriation amounts include \$47,055, of which \$42,632 is from the general fund, for the agency's share of the \$10 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees.

Item Description

Contingent FTE positions - The Legislative Assembly provided a contingent appropriation of \$285,000 from the lands and minerals trust fund and authorized up to 2 additional FTE positions--1 FTE field inspector position and 1 FTE plugging and reclamation supervisor position--for the Department of Mineral Resources (formerly the Oil and Gas Division), upon Emergency Commission approval, if the average drilling rig count exceeds 45 active rigs for each month in any consecutive three-month period.

One-time funding - In Section 4 of House Bill No. 1014, the Legislative Assembly identified one-time funding of \$480,000 from the general fund for core and sample library repairs (\$230,000) and a transfer to the fossil restoration fund (\$250,000). The Industrial Commission also received one-time funding of \$50,000 from the general fund for equipment for a total of \$530,000 in one-time funding. This amount is not to be considered part of the agency's base budget for preparing the 2009-11 executive budget, and the Industrial Commission is to report to the Appropriations Committees during the 2009 legislative session on the use of this funding.

Student loan trust - Section 15 of House Bill No. 1014 provides for a transfer of \$3.1 million from the student loan trust fund to the general fund.

North Dakota Building Authority lease payments limitation - North Dakota Century Code (NDCC) Section 54-17.2-23 limits the general fund amount of lease payments for a biennium to 10 percent of an amount collected from an equivalent 1 percent sales, use, and motor vehicle excise tax.

Status/Result

The Industrial Commission received Emergency Commission approval in March 2008 to hire 2 additional FTE positions for the Department of Mineral Resources. The department has submitted position information questionnaires and classification requests to Human Resource Management Services of the Office of Management and Budget for the 2 new FTE positions. As of April 22, 2008, the active oil rig count is 67.

The Department of Mineral Resources has spent \$122,663 on a roof replacement and repairs for the core and sample library. The department anticipates spending the remaining appropriation on additional repairs throughout the 2007-09 biennium.

The department has spent \$47,730 for fossil exhibits and fossil restoration and has obligated \$111,000 for fossil exhibits at the Heritage Center. The department anticipates spending the remaining appropriation on fossil exhibit and restoration projects throughout the 2007-09 biennium.

The department anticipates spending the \$50,000 appropriation for equipment during the 2007-09 biennium.

The Industrial Commission anticipates transferring \$3.1 million of earnings from the student loan trust fund to the general fund in December 2008.

Based on the 2007 legislative forecast for projected sales, use, and vehicle excise tax collections for the 2007-09 biennium, the maximum statutory general fund amount of lease payments for the 2007-09 biennium is \$22,893,398 and the estimated limit for the 2009-11 biennium is \$23,809,134. The estimated general fund debt service requirement for the 2007-09 biennium is \$20,072,543, which is \$2,820,855 less than the legal limit of debt service. The general fund debt

service requirement for the 2009-11 biennium is estimated to be approximately \$18,301,696, which is \$5,507,438 less than the legal limit. This amount will change with the forecast for the 2009-11 biennium.

The 2007 Legislative Assembly did not provide for any capital projects funded through bond indebtedness that affect the bonding limit for the 2007-09 biennium.

The Industrial Commission has contracted with the Lignite Energy Council to provide management of the Lignite Vision 21 Project. The objective of the Lignite Vision 21 Project is to construct new lignite-fired power plants in North Dakota. Consultants from the Lignite Energy Council have also been used to assist the North Dakota Transmission Authority. As of April 15, 2008, none of the \$1.5 million has been committed for research work. The Industrial Commission anticipates receiving requests for consideration in October 2008. The commission anticipates the entire \$1.5 million will be used for research projects by the end of the biennium.

The Industrial Commission has not used any of the \$500,000 allocated to the lignite research fund for litigation purposes. Any litigation fees to date have been paid from lignite research administration fees.

The Industrial Commission has contracted with a consultant to act as director of the North Dakota Pipeline Authority through May 2008. The agency is currently engaged in contract negotiations for director services for fiscal year 2009. The agency has transferred \$300,000 from the oil and gas research fund to the pipeline authority administrative fund.

No bonds have been issued under this program.

The following five renewable energy projects were approved by the Industrial Commission on April 22, 2008:

Lignite research grants - Section 18 of House Bill No. 1014 provides that up to \$1.5 million of the \$19.4 million appropriated for lignite research grants is for 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. This section also provides that funds appropriated may also be used for the purpose of contracting for nonmatching studies and activities in support of the Lignite Vision 21 Project; for litigation that may be necessary to protect and promote the continued development of lignite resources; 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. Money not needed for these purposes is available to the commission for funding projects, processes, or activities under the lignite research, development, and marketing program.

Lignite litigation - House Bill No. 1093 provides that \$500,000 of the amount allocated to the lignite research fund is to be used to pay for fees associated with lignite litigation that may be brought by the state to protect and promote the continued development of lignite resources. If activities associated with the litigation are not initiated by January 1, 2009, the \$500,000 must be returned to the general fund.

North Dakota Pipeline Authority - House Bill No. 1128 created the North Dakota Pipeline Authority governed by the Industrial Commission and a pipeline authority administrative fund.

Clean renewable energy bonds - Senate Bill No. 2156 allows the Public Finance Authority to issue clean renewable energy bonds.

Renewable energy functions - Section 8 of Senate Bill No. 2288 provided \$3 million from the general fund and \$17 million of other funds for renewable energy development functions.

	General Fund	Other Funds	Total
Blue Flint ethanol E85 blending facility	\$50,000		\$50,000
Abundant energy - Wind power development and technical education	500,000		500,000
Feasibility study of a biomass supply for the Spiritwood Industrial Park	109,000		109,000
ComPAKer	72,275		72,275
Development of biomaterials industry in North Dakota	800,000 ¹		800,000 ¹
Total	\$1,531,275		\$1,531,275

¹The Industrial Commission has requested an Attorney General's opinion regarding the potential use of \$800,000 from the biomass incentive and research fund authorized under NDCC Section 54-17-39 for the development of biomaterials industry in North Dakota project.

Biomass incentive and research program - In House Bill No. 1515, the Legislative Assembly established a biomass incentive and research program and authorized the Industrial Commission to transfer up to \$1 million from each of the beginning farmer revolving loan fund and the biofuels PACE fund to the biomass incentive and research fund. The Industrial Commission was also authorized to grant up to \$30,000 from the biomass incentive and research fund to the Agriculture Commissioner to support organic agriculture initiatives and programs during the 2007-09 biennium.

The Industrial Commission has transferred \$30,000 of the \$1 million from the biofuels PACE fund and has not transferred any of the \$1 million from the beginning farmer revolving loan fund to the biomass incentive and research fund. The Industrial Commission has provided \$10,000 from the biomass incentive and research fund to the Agriculture Commissioner for organic agriculture programs. The Agriculture Commissioner is to report to the Industrial Commission in June 2008 on the status of the programs before additional funding is provided.