

**Industrial Commission
Budget No. 405
Senate Bill No. 2014**

	FTE Positions	General Fund	Other Funds	Total
2009-11 executive budget (bills as introduced)	60.06	\$15,756,796	\$49,321,084	\$65,077,880
2009-11 legislative appropriations	61.06¹	13,800,254	49,308,484	63,108,738
Legislative increase (decrease) to executive budget	1.00	(\$1,956,542)	(\$12,600)	(\$1,969,142)
Legislative increase (decrease) to 2007-09 appropriations	5.69	\$2,001,618	(\$20,088,285)	(\$18,086,667)

¹The 2009-11 authorized FTE positions do not include the 2 contingent FTE positions for the Oil and Gas Division and 1 FTE position for the Geological Survey Division that were authorized in Section 6 of Senate Bill No. 2014 by the 2009 Legislative Assembly for the 2009-11 biennium. Upon Emergency Commission approval, the Oil and Gas Division of the Industrial Commission may hire up to 2 additional FTE positions if the average drilling rig count exceeds 100 active rigs for each month in any consecutive three-month period. Upon Emergency Commission approval, the Geological Survey Division of the Industrial Commission may hire 1 additional FTE position if an application is received for solution mining of potash or uranium.

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2007-09 legislative appropriations	\$11,268,636	\$530,000	\$11,798,636
2009-11 legislative appropriations	10,122,102	3,678,152	13,800,254
2009-11 legislative increase (decrease) to 2007-09 appropriations	(\$1,146,534)	\$3,148,152	\$2,001,618
Percentage increase (decrease) to 2007-09 appropriations	(10.2%)	594.0%	17.0%
2009-11 legislative increase (decrease) to executive budget	(\$541,542)	(\$1,415,000)	(\$1,956,542)
Percentage increase (decrease) to executive budget	(5.1%)	(27.8%)	(12.4%)

SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS

Salaries and Wages

The legislative action affecting the recommended appropriation for the Industrial Commission is in accordance with legislative salary and fringe benefits guidelines as contained in House Bill No. 1015.

	Major Items			
	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Removed funding added in the executive budget for state employee salary equity adjustments		(\$582,708)	(\$12,600)	(\$595,308)

Added 1 FTE geologist position	1.00	191,166	191,166
Added funding for a state facility lignite feasibility demonstration project		400,000	400,000
Reduced funding for travel expenses		(150,000)	(150,000)
Reduced funding for renewable energy development from \$5 million to \$3 million		(2,000,000)	(2,000,000)
Provided funding for recruitment and retention bonuses for Department of Mineral Resources nonclassified employees		185,000	185,000
Total	<u>1.00</u>	<u>(\$1,956,542)</u>	<u>(\$1,969,142)</u>

FTE Changes

The 2009-11 biennium appropriation includes funding for 61.06 FTE positions, an increase of 5.69 FTE positions from the 2007-09 biennium authorized level of 55.37 FTE positions. The Legislative Assembly did not change the executive recommendation to add 1 FTE engineering technician position, 1 FTE petroleum engineer position, .5 FTE administrative assistant position, .19 FTE administrative assistant position, and to change the funding source from the lands and minerals trust fund to the general fund for the 2 FTE positions that were added, upon Emergency Commission approval, during the 2007-09 biennium. The Legislative Assembly added 1 FTE geologist position. The Legislative Assembly also provided a contingent appropriation and authorized up to 2 additional FTE positions for the Oil and Gas Division and 1 additional FTE position for the Geological Survey Division for the 2009-11 biennium. The 3 contingent FTE positions are not included in the total FTE count for the 2009-11 biennium.

One-Time Funding

In Section 2 of Senate Bill No. 2014, the Legislative Assembly identified \$3,678,152 from the general fund as one-time funding, of which \$3,000,000 is for renewable energy development programs, \$400,000 is for a state facility lignite feasibility demonstration project, \$185,000 is for recruitment and retention bonuses for Department of Mineral Resources nonclassified employees, and \$93,152 is for fracturing sand and coalbed methane studies. This amount is not to be considered part of the agency's base budget for preparing the 2011-13 executive budget and the Industrial Commission is to report to the Appropriations Committees during the 2011 legislative session on the use of this funding.

Federal Fiscal Stimulus Funding

Section 20 of Senate Bill No. 2014 authorizes the Industrial Commission to seek Emergency Commission and Budget Section approval under North Dakota Century Code (NDCC) Chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 for the 2009-11 biennium. Any federal funds received and spent under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

Federal Fiscal Stimulus Bond Allocations

Section 22 of Senate Bill No. 2014 provides that any bond allocations made available to the state of North Dakota under the federal American Recovery and Reinvestment Act of 2009 for the national recovery zone economic development bond limitation, the national recovery zone facility bond limitation, and the qualified energy conservation bond limitation must be reallocated by the state and as may be provided in any guidance issued by the Secretary of the Treasury or the Internal Revenue Service. Any such reallocation must be made by the Governor or may be delegated by the Governor to the Industrial Commission or Public Finance Authority.

Lease Payments

The Legislative Assembly did not change the executive recommendation to provide \$27,441,865 for lease payments on outstanding bonded indebtedness, a decrease of \$2,033,151 from the 2007-09 biennium appropriation of \$29,475,016. The following schedule lists the 2007-09 and 2009-11 biennium lease payments:

	2007-09 Biennium	2009-11 Biennium	Increase (Decrease)
Higher education institutions	\$15,822,002	\$12,014,048	(\$3,807,954)
Department of Corrections and Rehabilitation - State Penitentiary	3,090,022	2,203,515	(886,507)
State Department of Health	692,242	704,127	11,885
Job Service North Dakota	743,905	747,772	3,867
Department of Human Services - Southeast Human Service Center	56,431		(56,431)
Department of Human Services - State Hospital	466,391	437,729	(28,662)
Department of Human Services - Developmental Center at Westwood Park, Grafton	534,505	501,657	(32,848)
Adjutant General	70,667	70,627	(40)
Veterans' Home improvement fund	256,114		(256,114)
Information Technology Department - ConnectND	5,407,075	5,405,936	(1,139)
Office of Management and Budget	158,519	665,298	506,779
Attorney General	182,485	765,882	583,397
State Historical Society	331,762	1,392,393	1,060,631
Department of Parks and Recreation	17,544	73,630	56,086
Research and extension service	136,152	571,423	435,271
Subtotal	\$27,965,816	\$25,554,037	(\$2,411,779)
North Dakota University System energy conservation projects	1,491,242	1,869,248	378,006
Department of Corrections and Rehabilitation energy conservation projects	17,958	18,580	622
Total	\$29,475,016	\$27,441,865	(\$2,033,151)

Lignite Research Grants

The Legislative Assembly did not change the executive recommendation providing \$22,971,300 for lignite research grants, an increase of \$3,560,700 from the 2007-09 biennium appropriation of \$19,410,600. Total funding anticipated to be available for the 2009-11 biennium of \$23,175,820 for lignite research grants is generated from the following sources:

Anticipated carryover from the 2007-09 biennium	\$10,557,380
Two cent per ton coal severance tax for research and development	1,200,000
Fifty percent of the coal severance taxes deposited in the coal development trust fund	3,375,000
Twenty percent of the coal severance taxes deposited in the coal development trust fund (clean coal projects)	1,350,000
Investment income on Dakota Gasification Company ammonia plant and Red Trail	2,893,440
Five percent of the general fund share of coal conversion tax	2,500,000
Revenue bonds/short-term loan	1,000,000
Interest income	300,000
Total	\$23,175,820

Section 10 of Senate Bill No. 2014 provides that up to \$1.5 million of the lignite research grants funding 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 a portion of the funds appropriated may 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.

Please refer to the **Trust Fund Analyses** section of this report for an analysis of the lignite research fund.

Other Sections in Bill

Contingent Oil and Gas Division and Geological Survey Division funding - Section 6 provides that \$515,207 of special funds appropriated in the salaries and wages line item is from the lands and minerals trust fund. The Oil and Gas Division may use up to \$319,041 to hire up to 2 FTE positions, upon Emergency Commission approval, if the average drilling rig count exceeds 100 active rigs for each month in any consecutive three-month period. The Geological Survey Division may use up to \$196,166 to hire 1 FTE position, upon Emergency Commission approval, if an application is made for solution mining of potash or uranium.

Mill and Elevator study - Section 11 requires the Industrial Commission to obtain the services of a consultant to evaluate the Mill and Elevator during the 2009-10 interim. The evaluation must include a comparison to industry averages or standards of:

1. Financial data reflected on balance sheets and income statements;
2. Cashflow data;
3. Ratio analysis of working capital, operating efficiency, marketing, and other ratios;
4. Liquidity ratios to determine appropriate working capital needed for the mill;
5. Pretax income levels;
6. Business opportunities;
7. Capital investment and recommended net assets levels; and
8. Officer and employee compensation guidelines, including gain-sharing programs.

The Industrial Commission is to provide a summary report exclusive of proprietary information to the Budget Section on the results of the evaluation during the 2009-10 interim.

Transfer of Mill and Elevator profits - Section 12 creates a new section to NDCC Chapter 54-18 requiring the Industrial Commission to transfer to the state general fund 50 percent of the annual earnings and undivided profits of the Mill and Elevator after any transfers to other state agricultural-related programs. The money must be transferred on an annual basis in the amounts and at the times requested by the director of the Office of Management and Budget.

Gain-sharing program - Section 12 creates a new section to NDCC Chapter 54-18 which defines a gain-sharing program as a program approved annually by the Industrial Commission with provisions that promote profitability, productivity, and safety. Any gain-sharing program approved by the Industrial Commission must include provisions that ensure that no payouts occur unless Mill and Elevator profits exceed \$1 million and transfers will be made to the state general fund for that program year.

State facility lignite feasibility demonstration project - Section 14 provides that the state facility lignite feasibility demonstration project line item includes \$400,000 from the general fund for a state facility lignite feasibility demonstration project for the purpose of demonstrating the feasibility of using lignite at a state-owned facility equipped with coal-fired boilers generating at least 200,000 pounds of steam at 125 pounds per square inch. The use of any funds provided for in this project must be approved by the Lignite Research Council and the Industrial Commission after following the standard lignite research development program review and approval process.

Department of Mineral Resources - Share of equity pool - Section 23 provides that the Office of Management and Budget shall provide at least 4 percent of all general fund salary equity pools that are appropriated for salary equity increases for state employees for the 2009-11 biennium to the Department of Mineral Resources for its nonclassified employees. The Legislative Assembly included language in Section 19 of House Bill No. 1015 which makes the provisions of this section not apply to salary equity pool allocations for the 2009-11 biennium.

Repeal - Mill and Elevator transfer for 2007-09 biennium - Section 24 repeals Section 16 of Chapter 14 of the 2007 Session Laws relating to the Mill and Elevator transfer of \$5 million to the general fund for the 2007-09 biennium.

Related Legislation

Department of Mineral Resources nonclassified employees - House Bill No. 1067 exempts engineers and geologists employed by the Department of Mineral Resources from the state employee classification system.

Agricultural fuel tax fund - Section 34 of Senate Bill No. 2018 creates a new section to NDCC Chapter 54-18 to provide that within 30 days after the conclusion of each fiscal year, the Industrial Commission is to transfer 5 percent of the net income earned by the Mill and Elevator during that fiscal year to the agricultural fuel tax fund.

Carbon dioxide storage - Senate Bill No. 2095 establishes regulation for the long-term geologic storage of carbon dioxide and creates two funds with continuing appropriations--the carbon dioxide storage administrative fund and the carbon dioxide trust fund.

Renewable energy program - Senate Bill No. 2129 combines the renewable energy program and biomass incentive and research program into one program under the Renewable Energy Council. The biomass incentive and research fund is repealed.