

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1016
(Appropriations Committee)
(At the request of the Governor)

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	<u>33,899,585</u>
Total all funds - Base level	\$38,586,176
Less estimated income - Base level	<u>37,217,141</u>
Total general fund - Base level	\$1,369,035

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	<u>213,493</u>
Total all funds - Adjustments/enhancements	\$23,451,293
Less estimated income - Adjustments/enhancements	<u>19,730,151</u>
Total general fund - Adjustments/enhancements	\$3,721,142

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	<u>213,493</u>
Total all funds	\$62,037,469
Less estimated income	<u>56,974,292</u>
Total general fund appropriation	\$5,090,177

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.

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 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.

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:
- (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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1016.

House Vote: Yeas 89 Nays 1 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State