

**FIRST ENGROSSMENT  
with Conference Committee Amendments**

**ENGROSSED HOUSE BILL NO. 1016**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of  
2 emergency services; to provide for a performance audit of the department of emergency  
3 services; to provide authorization for a loan from the Bank of North Dakota; to provide for a  
4 report to the legislative council; to provide a statement of legislative intent; to provide for a  
5 department of emergency services and an advisory committee; and to amend and reenact  
6 subdivision b of subsection 2 of section 28-32-01, subsection 3 of section 37-17.1-05, sections  
7 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,  
8 37-17.1-15, 37-17.1-22, and 37-17.1-23, subsection 2 of section 39-01-01, and sections  
9 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  
10 65-06-01 of the North Dakota Century Code, relating to the department of emergency services.

11 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

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

23 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The  
24 amounts identified in this section represent the funding adjustments or enhancements to the

1 base funding level for the department of emergency services under the supervision of the  
2 adjutant general which are included in the appropriation in section 3 of this Act as follows:

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

11 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the  
12 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
13 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
14 other income, to the department of emergency services under the supervision of the adjutant  
15 general for the purpose of defraying the expenses of that agency, for the biennium beginning  
16 July 1, 2005, and ending June 30, 2007, as follows:

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

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

30 **SECTION 5. PERFORMANCE AUDIT - DEPARTMENT OF EMERGENCY**  
31 **SERVICES.** The state auditor shall conduct a performance audit of the department of

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

9 **SECTION 6. STATE RADIO COMMUNICATIONS SYSTEM - LOAN**

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

18 **SECTION 7. HOMELAND SECURITY FUNDING ALLOCATION REVIEW PROCESS -**

19 **REPORT TO THE LEGISLATIVE COUNCIL.** The department of emergency services shall  
20 implement during the 2005-06 interim a review process relating to the department's allocation  
21 of federal homeland security funds to political subdivisions. The process must assure that all  
22 agencies and responders are involved in the distribution of the federal funds and that the  
23 priorities included in the local needs assessment are met. The department, as requested, shall  
24 provide the legislative council a report detailing the uses of federal homeland security funds at  
25 the state and local level and a report regarding any discrepancies relating to the needs  
26 assessments completed by the department and political subdivisions and purchases made with  
27 federal homeland security funds.

28 **SECTION 8. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS SYSTEM**

29 **MIGRATION PROJECT - POLITICAL SUBDIVISION FINANCIAL PARTICIPATION.** It is the  
30 intent of the fifty-ninth legislative assembly that political subdivisions spend a portion of the

1 federal homeland security funding allocations on costs associated with the migration of the  
2 state radio communications system from analog to digital.

3 **SECTION 9. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS SYSTEM**  
4 **MIGRATION PROJECT.** It is the intent of the fifty-ninth legislative assembly that the office of  
5 management and budget address all remaining costs associated with the migration of the state  
6 radio communications system from analog to digital in the department's budget request for the  
7 2007-09 biennium.

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

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

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

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

30 **SECTION 13. Advisory committee to department of emergency services.** The  
31 adjutant general shall create one or more advisory committees to the department of emergency

1 services. An advisory committee may consist of not more than eleven members representing  
2 local and state interests in the department. Members must be appointed to four-year staggered  
3 terms. An advisory committee shall advise the department regarding collaboration with political  
4 subdivisions, and each member of an advisory committee shall report to the local interest each  
5 member represents concerning recommendations approved by the committee. Each member  
6 of the advisory committee is entitled to be paid sixty-two dollars and fifty cents per day for time  
7 spent in attendance at meetings and is entitled to be reimbursed for the member's actual and  
8 necessary expenses at the rates and in the manner provided by law for other state officers.  
9 The compensation and expenses must be paid out of department appropriations.

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

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

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

30 **37-17.1-06. State division of ~~emergency management~~ homeland security.**

- 1           1.    A The division of ~~emergency management is hereby established in the office of the~~  
2                    ~~adjutant general. The division shall have a director appointed by, and to serve at~~  
3                    ~~the pleasure of, the adjutant general and the director's compensation must be fixed~~  
4                    ~~by the adjutant general within the legislative appropriations. The division shall~~  
5                    homeland security, must have ~~other~~ professional, technical, secretarial, and  
6                    clerical employees as necessary for the performance of its functions. The director  
7                    of the division shall fix the compensation of the staff in conformity with state merit  
8                    system regulations and may make such expenditures within the appropriations  
9                    therefor, or from other funds made available to the director for purposes of  
10                   emergency management, as may be necessary to carry out the purposes of this  
11                   chapter.
- 12           2.    The division of ~~emergency management~~ homeland security shall prepare and  
13                   maintain a state disaster plan and keep it current, which plan may include  
14                   provisions for:
- 15                   a.    Averting or minimizing the injury and damage caused by disasters or  
16                   emergencies.
- 17                   b.    Prompt and effective response to a disaster or emergency.
- 18                   c.    Emergency relief.
- 19                   d.    Identification of areas particularly vulnerable to a disaster or emergency.
- 20                   e.    Recommendations for zoning, building, and other land use controls, safety  
21                   measures for securing mobile homes or other nonpermanent or  
22                   semipermanent structures, and other mitigation and preparedness measures.
- 23                   f.    Assistance to local officials in developing and maintaining local emergency  
24                   management systems.
- 25                   g.    Authorization and procedures for the erection or other construction of  
26                   temporary works designed to protect against or mitigate danger, damage, or  
27                   loss from any disaster or emergency.
- 28                   h.    Preparation and distribution of emergency management assistance program  
29                   guidance to the appropriate state and local officials.
- 30                   i.    Organization of manpower and chains of command.
- 31                   j.    Coordination of federal, state, and local emergency management activities.

- 1 k. Coordination of state disaster or emergency operations plans with the  
2 disaster or emergency plans of the federal government.
- 3 l. Other necessary matters.
- 4 3. The division of ~~emergency management~~ homeland security shall take an integral  
5 part in the development and revision of local disaster or emergency operations  
6 plans prepared under section 37-17.1-07. To this end it shall employ or otherwise  
7 secure the services of professional and technical personnel capable of providing  
8 expert assistance to local emergency management organizations. These  
9 personnel shall consult with local emergency management organizations on a  
10 regularly scheduled basis and shall make field examinations of the areas,  
11 circumstances, and conditions to which particular local disaster or emergency  
12 plans are intended to apply and may suggest or require revisions.
- 13 4. In preparing and revising state disaster or emergency plans, the division of  
14 ~~emergency management~~ homeland security shall seek the advice and assistance  
15 of local government, business, labor, industry, agriculture, civic, and volunteer  
16 organizations and community leaders. In advising local emergency management  
17 organizations, the division shall encourage them also to seek advice from these  
18 sources.
- 19 5. State disaster or emergency plans or any parts thereof have the force of law upon  
20 implementation by the governor.
- 21 6. The division of ~~emergency management~~ homeland security shall:
- 22 a. Coordinate the procurement and prepositioning of supplies, materials, and  
23 equipment for disaster or emergency operations.
- 24 b. Provide guidance and standards for local disaster or emergency operational  
25 plans.
- 26 c. Periodically review local disaster or emergency operational plans.
- 27 d. Coordinate state or state and federal assistance to local emergency  
28 management organizations.
- 29 e. Establish and operate or assist local emergency management organizations  
30 to establish and operate training programs and programs for emergency  
31 public information.

- 1           f.    Make surveys of industries, resources, and facilities, within the state, both  
2                   public and private, as are necessary to carry out the purposes of this chapter.  
3           The use of sensitive and proprietary logistical data submitted to the state in  
4           confidence by individual industries and suppliers must be accorded full  
5           confidentiality and will be released only in aggregate form.
- 6           g.    Plan and make arrangements for the availability and use of any private  
7                   facilities, services, and property, and, if necessary and if in fact used,  
8                   coordinate payment for that use under terms and conditions agreed upon.
- 9           h.    Establish access to a register of persons with types of training and skills  
10                   important in mitigation, preparedness, response, and recovery.
- 11          i.    Establish access to a register of equipment and facilities available for use in a  
12                   disaster or emergency.
- 13          j.    Prepare, for issuance by the governor, executive orders, proclamations, and  
14                   guidance as necessary or appropriate in managing a disaster or emergency.
- 15          k.    Coordinate with the federal government and any public or private agency or  
16                   entity in achieving any purpose of this chapter and in implementing programs  
17                   for disaster mitigation, preparation, response, and recovery.
- 18          l.    Be the state search and rescue coordinating agency, establish access to a  
19                   register of search and rescue equipment and personnel in the state, and plan  
20                   for its effective utilization in carrying out the search for and rescue of persons  
21                   when no violation of criminal laws exists.
- 22          m.    Do other things necessary, incidental, or appropriate for the implementation of  
23                   this chapter.

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

26           **37-17.1-07. Local emergency management organizations.**

- 27          1.    All areas of the state are within the jurisdiction of and must be served by the  
28                   division of ~~emergency management~~ homeland security and by a local emergency  
29                   management organization.
- 30          2.    Each county shall maintain an emergency management organization which serves  
31                   the entire county.

- 1           3. Each city shall provide an emergency management organization of its own, or it  
2           shall participate in the countywide emergency management organization. Each  
3           governing board of a city shall make its determination on the basis of the city's  
4           emergency management requirements, hazards, capabilities, and resources. The  
5           division of ~~emergency management~~ homeland security shall publish and keep  
6           current a list of cities desiring to have an emergency management organization of  
7           their own.
- 8           4. The mayor of a city or chairman of the board of county commissioners shall notify  
9           the division of ~~emergency management~~ homeland security of the manner in which  
10          the city or county is providing or securing emergency management activities,  
11          identify the person who will coordinate the activities of the local emergency  
12          management organization, and furnish additional information relating thereto as  
13          the division requires.
- 14          5. Each local emergency management organization shall prepare and keep current a  
15          local disaster or emergency operational plan for its area.
- 16          6. The local emergency management organization shall prepare and distribute to all  
17          appropriate officials in written form a clear and complete statement of the disaster  
18          or emergency responsibilities of their local agencies and officials.

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

21           **37-17.1-07.1. Hazardous chemicals preparedness and response program.**

- 22          1. ~~Program components.~~
  - 23           a. ~~State emergency response commission.~~ The governor shall appoint  
24           members of the state emergency response commission to carry out the  
25           commission's responsibilities as outlined in Public Law 99-499, 42 U.S.C.  
26           11001, et seq., also referred to as SARA title III, and the responsibilities of the  
27           commission members as outlined in the North Dakota emergency operations  
28           plan.
  - 29           b. ~~Program development.~~ In conjunction with the state emergency response  
30           commission, the local emergency planning committees, and the local  
31           emergency management organizations, the division of ~~emergency~~

- 1                   ~~management~~ homeland security shall coordinate the development and  
2 maintenance of a state hazardous chemicals preparedness and response  
3 program.
- 4           c. ~~Chairperson.~~ The director of the division of ~~emergency management~~  
5 homeland security shall serve as the ~~chairperson~~ chairman of the state  
6 emergency response commission. In the absence of the ~~chairperson~~  
7 chairman, the designated vice ~~chairperson~~ chairman shall serve as  
8 ~~chairperson~~ chairman. The ~~chairperson~~ chairman shall recognize the  
9 assignment of representatives to the commission who are designated through  
10 a delegation of authority by a member. The ~~chairperson~~ chairman shall  
11 designate a commission secretary, solely for the purpose of documenting and  
12 distributing clerical proceedings, from the staff of the division of ~~emergency~~  
13 ~~management~~ homeland security.
- 14           d. ~~Facility reporting.~~ For the purpose of complying with the reporting  
15 requirements set forth in sections 302, 304, 311, 312, and 313 of Public Law  
16 99-499, 42 U.S.C. 11001, et seq., also referred to as SARA title III, the owner  
17 and operator of any facility, as defined in SARA title III, shall submit those  
18 reports to the North Dakota division of ~~emergency management~~ homeland  
19 security as required by SARA title III, which shall establish and maintain the  
20 state repository for these reports.
- 21           2. ~~Establishment of funds.~~
- 22           a. ~~State hazardous chemicals preparedness and response fund.~~ There is  
23 created in the state treasury a nonlapsing restricted account to be known as a  
24 state hazardous chemicals preparedness and response fund. The fund  
25 consists of revenue collected from the state hazardous chemical fee system  
26 and funds appropriated by the general assembly. Moneys in the fund shall be  
27 appropriated biennially to the division of ~~emergency management~~ homeland  
28 security for carrying out the purposes, goals, and objectives of SARA title III,  
29 and the state hazardous chemicals preparedness and response program.
- 30           b. ~~County hazardous chemicals preparedness and response account.~~ The  
31 county treasurer of each county shall establish a nonlapsing restricted

1 account, to be known as the county hazardous chemicals preparedness and  
2 response account. The county hazardous chemicals preparedness and  
3 response account consists of revenue from the state hazardous chemicals  
4 fee system, county, federal or state funds, grants, and any private donations  
5 provided to finance the county hazardous chemicals preparedness and  
6 response program.

7 c. ~~Facility fee system.~~ Each owner and operator of a facility, as defined in  
8 SARA title III, shall pay an annual hazardous chemicals fee to the division of  
9 ~~emergency management~~ homeland security by March first of each year. The  
10 fee is twenty-five dollars for each chemical within the meaning of 40 CFR  
11 355.20 or its successor which is required under section 312 of SARA, title III,  
12 to be listed on the hazardous chemical inventory form (tier II) which the owner  
13 or operator must submit to the division. The federal requirements must be  
14 used for completing the tier II form, including the threshold amounts, as  
15 outlined in 40 CFR 370.20. The maximum fee for a facility under this section  
16 is one hundred fifty dollars. The division of ~~emergency management~~  
17 homeland security shall transfer to the county hazardous chemicals  
18 preparedness and response account one-half of the funds collected from the  
19 state's hazardous chemicals fee system.

20 d. ~~Exemptions.~~ The owners or operators of family farm enterprises that are not  
21 engaged in the retail or wholesale of hazardous chemicals and facilities  
22 owned by the state or local governments are exempt from the fee under  
23 subdivision c. For purposes of this section, the terms "family farm" and  
24 "farmer" have the same meaning as set forth in section 6-09.11-01.

25 e. ~~Accept funding.~~ The state and county governments are authorized to accept  
26 and may deposit grants, gifts, and federal funds into the hazardous chemicals  
27 preparedness and response fund and accounts for the purpose of carrying  
28 out the hazardous chemicals preparedness and response program.

29 f. ~~Definition.~~ "Hazardous chemical" means as defined in 40 CFR 355.20 and  
30 29 CFR 1910.1200.

- 1           g. ~~City fee system.~~ The state hazardous chemicals fee system does not  
2           supersede a city fee system for hazardous chemicals.
- 3        3. ~~Recovery of response costs.~~
- 4           a. ~~General rule.~~ A person who causes a release, as defined in 40 CFR 355.20,  
5           of a hazardous chemical in excess of the reportable quantity of that chemical,  
6           as defined in 40 CFR 355.20, is liable for the response costs incurred by state  
7           or local hazardous chemical response personnel. The state agency, local  
8           agency, volunteer organization, or hazardous chemical response personnel,  
9           as identified in the state or local emergency operations plan, which  
10          undertakes a response action may recover those response costs in an action  
11          brought before a court of competent jurisdiction. If more than one jurisdiction,  
12          organization, or agency incurs response costs for the same hazardous  
13          chemical release or incident, those hazardous chemical response  
14          jurisdictions, agencies, organizations, or personnel may file a joint action and  
15          may designate one entity to represent the others in the action.
- 16          b. ~~Amount.~~ In the action to recover reasonable and necessary response costs,  
17          state agencies, local agencies, or volunteer organizations may include  
18          operational, administrative, personnel, and legal costs incurred from its initial  
19          response action up to the time that it recovers its cost. Reasonable and  
20          necessary costs are those additional costs incurred that are a result of the  
21          responsible party's failure or inability to implement or initiate the necessary  
22          actions to protect life, property, and the environment.
- 23        4. ~~Penalties and fines.~~
- 24          a. ~~Civil fines.~~ A person who violates any of the reporting, planning, or  
25          notification requirements outlined in the provisions of the Emergency Planning  
26          and Community Right-to-Know Act of 1986 [title III of Public Law 99-499,  
27          42 U.S.C. 11001 et seq.], or fails to pay a state hazardous chemicals fee is  
28          subject to a civil fine of not more than fifteen thousand dollars for each  
29          separate offense. For purposes of this subdivision, each day of continued  
30          violation constitutes a separate offense. All civil fines collected under this  
31          subdivision must be deposited in the state general fund. The state and its

1 political subdivisions and employees of the state or a political subdivision  
2 acting within the scope of their employment are not subject to the civil fines  
3 established in this subdivision.

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

13 5. ~~Enforcement.~~

14 a. If the director of the division of ~~emergency management~~ homeland security  
15 determines that a violation of this chapter has occurred, the director shall  
16 make all evidence available to the attorney general for use in any remedial  
17 action the attorney general's office determines appropriate, including  
18 injunctive relief.

19 b. Nothing in this section may be construed to deny use of the remedies  
20 authorized under chapter 32-40.

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

23 **37-17.1-11. Disaster or emergency mitigation.**

24 1. In addition to disaster or emergency mitigation measures as included in the state  
25 and local disaster or emergency operational plans, the governor shall consider, on  
26 a continuing basis, steps that could be taken to mitigate or reduce the harmful  
27 consequences of disasters or emergencies. At the governor's direction, and  
28 pursuant to any other authority and capability they have, state agencies charged  
29 with responsibilities in connection with floodplain management, stream  
30 encroachment and flow regulation, weather modification, fire prevention and  
31 control, air quality, public works, land use and land use planning, and construction

1 standards, shall make studies of disaster or emergency mitigation-related matters.  
2 The governor, from time to time, shall make recommendations to the legislative  
3 assembly, local governments, and other appropriate public and private entities as  
4 may facilitate measures for mitigation or reduction of the harmful consequences of  
5 disasters or emergencies.

6 2. The North Dakota state engineer and the water commission, in conjunction with  
7 the division of ~~emergency management~~ homeland security, shall keep land uses  
8 and construction of structures and other facilities under continuing study and  
9 identify areas which are particularly susceptible to severe land shifting,  
10 subsidence, flood, or other catastrophic occurrence. The studies under this  
11 subsection must concentrate on means of reducing or avoiding the dangers  
12 caused by this occurrence or the consequences thereof.

13 3. If the division of ~~emergency management~~ homeland security determines, on the  
14 basis of the studies or other competent evidence, that an area is susceptible to a  
15 disaster of catastrophic proportions without adequate warning; existing building  
16 standards and land use controls in that area are inadequate and could add  
17 substantially to the magnitude of the disaster or emergency; and changes in  
18 zoning regulations, other land use regulations, or building requirements are  
19 needed in order to further the purposes of this section, it shall specify the essential  
20 changes to the governor. If the governor, upon review of the determination, finds  
21 after public hearing, that the changes are essential, the governor shall so  
22 recommend to the agencies or local governments with jurisdiction over that area  
23 and subject matter. If no action or insufficient action pursuant to the governor's  
24 recommendations is taken within the time specified by the governor, the governor  
25 shall so inform the legislative assembly and request legislative action appropriate  
26 to mitigate the impact of the disaster or emergency.

27 4. The governor, at the same time that the governor makes recommendations  
28 pursuant to subsection 3, may suspend the standard or control which the governor  
29 finds to be inadequate to protect the public safety and by regulation place a new  
30 standard or control in effect. The new standard or control remains in effect until  
31 rejected by concurrent resolution of both houses of the legislative assembly or

1 amended by the governor. During the time it is in effect, the standard or control  
2 contained in the governor's regulation must be administered and given full effect by  
3 all relevant regulatory agencies of the state and local governments to which it  
4 applies. The governor's action is subject to judicial review in accordance with  
5 chapter 28-32 but is not subject to temporary stay pending litigation.

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

8 **37-17.1-13. Communications.** The division of ~~emergency management~~ homeland  
9 security shall ascertain what means exist for rapid and efficient communications in times of a  
10 disaster or emergency. The division shall consider the desirability of supplementing these  
11 communications resources or of integrating them into a comprehensive state or state and  
12 federal telecommunications or other communications system or network, including the military  
13 installations. In studying the character and feasibility of any system or its several parts, the  
14 division shall evaluate the possibility of multipurpose use thereof for general state and local  
15 governmental purposes. The division shall make recommendations to the governor as  
16 appropriate.

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

19 **37-17.1-14. Mutual aid.**

- 20 1. Counties and cities must be encouraged and assisted by the division of ~~emergency~~  
21 ~~management~~ homeland security to conclude suitable arrangements for furnishing  
22 mutual aid in emergency management. The arrangements must include provision  
23 of aid by persons and units in public employ.
- 24 2. In review of local disaster or emergency plans, the division of ~~emergency~~  
25 ~~management~~ homeland security shall consider whether they contain adequate  
26 provisions for the rendering and receipt of mutual aid.

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

29 **37-17.1-14.1. Mutual aid - Cooperation.**

- 30 1. The division of ~~emergency management~~ homeland security shall encourage and  
31 assist political subdivisions to enter mutual aid agreements with other public and

1 private agencies within the state for reciprocal aid and assistance in responding to  
2 and recovering from actual and potential disasters or emergencies.

3 2. In reviewing emergency operations plans and programs of political subdivisions,  
4 the division of ~~emergency management~~ homeland security shall consider whether  
5 ~~they~~ the plans and programs contain adequate provisions for mutual aid.

6 3. Local emergency management organizations may assist in negotiation of mutual  
7 aid agreements between the governor and an adjoining state or province or a  
8 political subdivision of an adjoining state or province and shall carry out  
9 arrangements of any such agreements relating to the local political subdivision.

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

12 **37-17.1-15. Weather modification.** The division of ~~emergency management~~  
13 homeland security shall keep continuously apprised of weather conditions which present  
14 danger of precipitation or other climatic activity severe enough to constitute a disaster. If the  
15 division determines that precipitation resulting from weather modification operations, either by  
16 itself or in conjunction with other precipitation or climatic conditions or activity, would create or  
17 contribute to the severity of a disaster, ~~it~~ the division shall direct the officer or agency  
18 empowered to issue permits for weather modification operations to suspend the issuance of the  
19 permits. ~~Thereupon, no~~ No permits may be issued until the division informs the officer or  
20 agency that the danger has passed.

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

23 **37-17.1-22. Disaster or emergency response and recovery costs.** Whenever the  
24 governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or  
25 when the governor enters into an agreement with the federal government following a disaster or  
26 emergency declared by the president of the United States, the director of the division of  
27 ~~emergency management~~ homeland security shall determine and record the costs of the state  
28 response and recovery operations in accordance with an agreement with the federal  
29 government or in accordance with procedures established by the governor in the case of a  
30 state-declared disaster or emergency. Immediately following the response or recovery  
31 operations, or prior thereto if ~~deemed~~ determined necessary by the governor, the governor

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

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

10 **37-17.1-23. Disaster or emergency recovery funding - Loan authorization.**

11 1. When approved by the emergency commission, the division of ~~emergency~~  
12 ~~management~~ homeland security is authorized to borrow from the Bank of North  
13 Dakota, to match federal funds under the Robert T. Stafford Disaster Emergency  
14 Assistance Act [Public Law 93-288, as amended]. In addition to the principal  
15 repayment, the Bank of North Dakota shall receive interest on the loan at a rate  
16 equal to other state agency borrowings. On behalf of the state, the division of  
17 ~~emergency management~~ homeland security shall administer the disaster or  
18 emergency recovery program according to state procedures based on federal laws  
19 or regulations. After a county or group of counties have been declared a major  
20 disaster or emergency area by the president, the division shall submit a request to  
21 the emergency commission for:

- 22 ~~4.~~ a. Approval to make an application for a loan from the Bank of North Dakota;  
23 ~~2.~~ b. Approval for additional personnel required to perform the anticipated recovery  
24 activities; and  
25 ~~3.~~ c. Authority to spend additional state and federal funds for the recovery  
26 program.

27 2. If the request is acceptable, the emergency commission shall approve the request  
28 and issue a notice of its action to the division, Bank of North Dakota, and the office  
29 of management and budget. The division shall keep the emergency commission  
30 apprised of the progress of the recovery operation and submit a final report upon  
31 completion of the project. The emergency commission is responsible to repay any

1 loan, including accrued interest, from the Bank of North Dakota which is provided  
2 under this section. If at the end of the biennium a balance exists on the loan, the  
3 emergency commission shall request the legislative assembly for a deficiency  
4 appropriation to repay the loan.

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

7 2. Authorized emergency vehicles:

8 a. Class A authorized emergency vehicles means:

9 (1) Vehicles of a governmentally owned fire department.

10 (2) Vehicles when operated by or under the control of a police officer  
11 having authority to enforce the provisions of this title or by a salaried  
12 employee of a municipal police department within the municipality or by  
13 a sheriff or deputy sheriff not including special deputy sheriffs, or by the  
14 director of the department of corrections and rehabilitation and the  
15 director's authorized agents who have successfully completed training  
16 in the operation of class A authorized emergency vehicles.

17 (3) Vehicles clearly identifiable as property of the department of corrections  
18 and rehabilitation when operated or under the control of the director of  
19 the department of corrections and rehabilitation.

20 (4) Ambulances.

21 (5) Vehicles operated by or under the control of the director, district deputy  
22 director, or a district deputy game warden of the game and fish  
23 department.

24 (6) Vehicles owned or leased by the United States and used for law  
25 enforcement purposes.

26 (7) Vehicles designated for the use of the adjutant general or assistant  
27 adjutant general in cases of emergency.

28 (8) Vehicles operated by or under the control of the director of the parks  
29 and recreation department.

30 (9) Vehicles operated by or under the control of a licensed railroad police  
31 officer and used for law enforcement purposes.

- 1           b. Class B authorized emergency vehicles means wreckers and such other  
2           emergency vehicles as are authorized by the local authorities.
- 3           c. Class C authorized emergency vehicles means:
- 4           (1) Vehicles authorized by the state and division of homeland security or  
5           local division of emergency management organizations.
- 6           (2) Vehicles used by volunteer firefighters while performing their assigned  
7           disaster and emergency responsibilities.
- 8           (3) Vehicles, other than ambulances, used by emergency medical services  
9           personnel.

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

12           **39-10-03.2. Class C authorized emergency vehicles.** All class B specifications apply  
13 to class C authorized emergency vehicles except that a rotating blue flashing light must be  
14 displayed in place of an amber light as provided in section 39-10-03.1. With respect to vehicles  
15 used by state and local disaster emergency services personnel, the division of ~~emergency~~  
16 ~~management~~ homeland security is responsible for adopting rules for the use of flashing blue  
17 lights in accordance with chapter 28-32.

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

20           **54-23.2-01. Definitions.** ~~Wherever the word "director" is hereinafter used, it shall~~  
21 ~~mean the director of the office of management and budget. The word "system" hereinafter~~  
22 ~~used shall mean~~ As used in this chapter, unless the context otherwise requires:

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

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

29           **54-23.2-04.1. Lost or runaway children and missing persons.** ~~The state radio~~  
30 ~~department~~ division shall:

- 1           1.   Establish and maintain a statewide file system for the purpose of effecting an  
2                    immediate law enforcement response to reports of lost or runaway children and  
3                    missing persons. ~~The state radio department shall implement~~
- 4           2.   Implement a data exchange system to compile, to maintain, and to make available  
5                    for dissemination to North Dakota and to out-of-state law enforcement agencies,  
6                    descriptive information ~~which~~ that can assist appropriate agencies in recovering  
7                    lost or runaway children and missing persons.
- 8       ~~2.~~ 3.   Establish contacts and exchange information regarding lost or runaway children  
9                    and missing persons with the national crime information center.
- 10       ~~3.~~ 4.   Notify all enforcement agencies that reports of lost or runaway children and  
11                   missing persons ~~shall~~ must be entered as soon as the minimum level of data  
12                   specified by the ~~state radio department~~ division is available to the reporting agency  
13                   and that no waiting period for entry of such data exists. If the enforcement agency  
14                   is unable to enter the data, the ~~state radio department shall~~ division immediately  
15                   upon notification shall enter the information into the national crime information  
16                   center file.
- 17       4. 5.   Compile and retain information regarding lost or runaway children or missing  
18                   persons in a separate file, in a manner that allows the information to be used by  
19                   law enforcement and other agencies ~~deemed~~ considered appropriate by the ~~state~~  
20                   ~~radio department~~ division, for investigative purposes. The enforcement agency is  
21                   responsible for maintaining the disposition of the case and ~~shall~~ periodically shall  
22                   review the case with the reporting party and the ~~state radio department~~ division to  
23                   ensure all available information is included and to determine the current status of  
24                   the case.
- 25       ~~5.~~ 6.   Provide prompt confirmation of the receipt and entry of the lost or runaway children  
26                   and missing persons report into the file system to the enforcement agency  
27                   providing the report or to the parent, guardian, or identified family member as  
28                   provided in subsection ~~6~~ 7.
- 29       ~~6.~~ 7.   Allow any parent, guardian, or identified family member to submit a missing  
30                   persons report to the ~~state radio department~~ division which will be included in the  
31                   ~~state radio department~~ division file system and transmitted to the national crime

1 information center, if they are unable to receive services from the local law  
2 enforcement agency.

3 ~~7.~~ 8. Compile and maintain a historical data repository relating to missing persons for all  
4 of the following purposes:

5 a. To develop and improve techniques utilized by law enforcement agencies  
6 when responding to reports of missing persons.

7 b. To provide a factual and statistical base for research ~~that~~ which would  
8 address the problem of lost or runaway children and missing persons.

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

11 **54-23.2-09. Mobile data terminal and 911 service fees.** ~~State radio communications~~

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

16 ~~State radio communications~~

17 2. The division may provide 911 services to a political subdivision with a population of  
18 fewer than twenty thousand and shall charge at least twenty cents per telephone  
19 access line and wireless access line for 911 services provided to political  
20 subdivisions. The fee for 911 wireless services must be charged to and paid by  
21 the political subdivision receiving services from ~~state radio communications~~ the  
22 division under this section from and after the date of the agreement entered into by  
23 the political subdivision or its designee under section 57-40.6-05, whether the date  
24 of that agreement is before or after April 4, 2003. Each county currently receiving  
25 911 services from ~~state radio communications~~ the division shall abide by the  
26 standards established by law.

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

29 **57-40.6-11. Annual report to legislative council.** ~~State radio~~ The division of state  
30 radio, in cooperation with entities affected by this section and section 57-40.6-10, shall facilitate  
31 the review of emergency 911 telephone system standards and guidelines and shall report

1 annually to the legislative council on the operation of and any recommended changes in the  
2 standards and guidelines.

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

5 **57-40.6-12. Reports of coordination of public safety answering points coverage.**

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

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

18 **61-16.2-03. Duties of state engineer.** The state engineer shall:

- 19 1. Collect and distribute information relating to flooding and floodplain management.
- 20 2. Coordinate local, state, and federal floodplain management activities to the  
21 greatest extent possible, and encourage appropriate federal agencies to make  
22 their flood control planning data available to communities and districts for planning  
23 purposes, in order to allow adequate local participation in the planning process and  
24 in the selection of desirable alternatives.
- 25 3. Assist communities and districts in their floodplain management activities within  
26 the limits of available appropriations and personnel in cooperation with the division  
27 of ~~emergency management~~ homeland security.
- 28 4. Do all other things, within lawful authority, which are necessary or desirable to  
29 manage the floodplains for uses compatible with the preservation of the capacity of  
30 the floodplain to carry and discharge the base flood. In cooperation with  
31 communities and districts, the state engineer shall conduct, whenever possible,

1           periodic inspections to determine the effectiveness of local floodplain management  
2           programs, including an evaluation of the enforcement of and compliance with local  
3           floodplain management ordinances.

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

6           **65-06-01. Volunteer firefighter, emergency or disaster volunteer, community  
7 emergency response team member, in training defined.** The term "volunteer firefighter"  
8 means any active member of an organized volunteer fire department of this state and any other  
9 individual performing services as a volunteer firefighter for a municipality at the request of the  
10 chief or other individual in command of the fire department of that municipality or of any other  
11 officer of that municipality having authority to demand service as a firefighter. Firefighters who  
12 are paid a regular wage or stipend by the municipality for serving as a firefighter, or whose  
13 entire time is devoted to service as a firefighter for the municipality, for the purpose of this  
14 chapter, are not volunteer firefighters.

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

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

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

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

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