

**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 office of the  
 2 adjutant general; to provide statements of legislative intent; to provide an appropriation; to  
 3 provide for transfers; to provide an exemption; to amend and reenact subsections 3 and 4 of  
 4 section 37-29-03 as created by section 1 of House Bill No. 1181, as approved by the sixty-first  
 5 legislative assembly, and section 54-06-27 of the North Dakota Century Code, relating to job  
 6 protections for volunteer emergency responders of the adjutant general's office and leave for  
 7 emergency service volunteers; to provide for a report to the budget section; and to declare an  
 8 emergency.

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
 11 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
 12 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
 13 other income, to the office of the adjutant general for the purpose of defraying the expenses of  
 14 that agency, for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

## 15 Subdivision 1.

## 16 NATIONAL GUARD

|    |                                    |                   |                                          |
|----|------------------------------------|-------------------|------------------------------------------|
| 17 |                                    | Adjustments or    |                                          |
| 18 |                                    | <u>Base Level</u> | <u>Enhancements</u> <u>Appropriation</u> |
| 19 | Salaries and wages                 | \$4,216,409       | \$625,027      \$4,841,436               |
| 20 | Operating expenses                 | 3,848,828         | (171,937)      3,676,891                 |
| 21 | Capital assets                     | 213,667           | 10,003      223,670                      |
| 22 | Grants                             | 449,514           | 500,000      949,514                     |
| 23 | Civil air patrol                   | 160,091           | 62,745      222,836                      |
| 24 | Tuition, recruiting, and retention | 2,407,500         | 0      2,407,500                         |

Sixty-first  
Legislative Assembly

|   |                       |                   |                    |                   |
|---|-----------------------|-------------------|--------------------|-------------------|
| 1 | Air guard contract    | 9,474,114         | 77,429             | 9,551,543         |
| 2 | Army guard contract   | 66,423,926        | (6,365,827)        | 60,058,099        |
| 3 | Reintegration program | 295,218           | 1,082,191          | 1,377,409         |
| 4 | Veterans' cemetery    | <u>354,635</u>    | <u>134,506</u>     | <u>489,141</u>    |
| 5 | Total all funds       | \$87,843,902      | (\$4,045,863)      | \$83,798,039      |
| 6 | Less estimated income | <u>74,786,605</u> | <u>(6,499,373)</u> | <u>68,287,232</u> |
| 7 | Total general fund    | \$13,057,297      | \$2,453,510        | \$15,510,807      |

8 Subdivision 2.

9 DEPARTMENT OF EMERGENCY SERVICES

|    |                       |                   |                     |                      |
|----|-----------------------|-------------------|---------------------|----------------------|
| 10 |                       |                   | Adjustments or      |                      |
| 11 |                       | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 12 | Salaries and wages    | \$7,788,202       | \$1,595,403         | \$9,383,605          |
| 13 | Operating expenses    | 3,829,400         | 287,657             | 4,117,057            |
| 14 | Capital assets        | 440,377           | 1,576,970           | 2,017,347            |
| 15 | Grants                | 40,794,635        | 3,607,632           | 44,402,267           |
| 16 | Radio communications  | <u>0</u>          | <u>3,745,000</u>    | <u>3,745,000</u>     |
| 17 | Total all funds       | \$52,852,614      | \$10,812,662        | \$63,665,276         |
| 18 | Less estimated income | <u>46,889,068</u> | <u>4,711,801</u>    | <u>51,600,869</u>    |
| 19 | Total general fund    | \$5,963,546       | \$6,100,861         | \$12,064,407         |

20 Subdivision 3.

21 BILL TOTAL

|    |                           |                    |                     |                      |
|----|---------------------------|--------------------|---------------------|----------------------|
| 22 |                           |                    | Adjustments or      |                      |
| 23 |                           | <u>Base Level</u>  | <u>Enhancements</u> | <u>Appropriation</u> |
| 24 | Grand total general fund  | \$19,020,843       | \$8,954,371         | \$27,975,214         |
| 25 | Grand total special funds | <u>121,675,673</u> | <u>51,996,198</u>   | <u>173,671,871</u>   |
| 26 | Grand total all funds     | \$140,696,516      | \$60,950,569        | \$201,647,085        |
| 27 | Full-time equivalent      | 232.00             | 0.00                | 232.00               |

28 positions

29 SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS -

30 ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the  
31 funds as may be necessary, are appropriated from federal funds made available to the state

under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the adjutant general, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

|                                                 |             |
|-------------------------------------------------|-------------|
| Military energy-related maintenance and repairs | \$2,522,270 |
|-------------------------------------------------|-------------|

The adjutant general may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

### **SECTION 3. APPROPRIATION - FEDERAL FISCAL STABILIZATION - OTHER**

**GOVERNMENT SERVICES.** There is appropriated from federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$1,261,500, or so much of the sum as may be necessary, to the adjutant general for the purpose of replacing boilers, constructing an operations center, and enhancing security relating to the national crime information center, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget.

**SECTION 4. APPROPRIATION - FLOOD-RELATED COSTS.** There is appropriated from special funds derived from federal funds or other income the sum of \$50,000,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of defraying expenses relating to 2009 flood disasters, for the period beginning with the effective date of this Act through June 30, 2011.

### **SECTION 5. APPROPRIATION - VOLUNTEER MANAGEMENT GRANT PROGRAM.**

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$400,000, or so much of the sum as may be necessary, to the department of emergency services to provide grants to political subdivisions for payments to

entities that have provided volunteer management services within that political subdivision for a particular disaster in an amount that may not exceed \$50,000 for each disaster, for the period beginning with the effective date of this Act and ending June 30, 2011.

**SECTION 6. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SECOND LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixtieth legislative assembly for the 2007-09 biennium and the 2009-11 one-time funding items included in the appropriation in section 1 of this Act:

| <u>One-Time Funding Description</u>                    | <u>2007-09</u> | <u>2009-11</u> |
|--------------------------------------------------------|----------------|----------------|
| Computer-aided dispatch project                        | \$980,000      | \$0            |
| Motorola lease purchase payment (general fund portion) | 1,084,970      | 1,525,347      |
| Special assessments                                    | 92,000         | 0              |
| Deferred maintenance                                   | 625,000        | 0              |
| Veterans' bonus multiple deployments                   | 0              | 500,000        |
| Technology projects                                    | 0              | 3,600,000      |
| Technology equipment and software purchases            | <u>0</u>       | <u>160,000</u> |
| Total general fund                                     | \$2,781,970    | \$5,785,347    |

The 2009-11 one-time funding amounts are not a part of the entity's base budget for the 2011-13 biennium. The adjutant general shall report to the appropriations committees of the sixty-second legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 7. VETERANS' CEMETERY MAINTENANCE FUND - APPROPRIATION.**

In addition to the amount appropriated to the adjutant general in the veterans' cemetery line item in subdivision 1 of section 1 of this Act, there is appropriated any additional funds which are received and deposited in the veterans' cemetery maintenance fund pursuant to sections 37-03-14 and 39-04-10.10 for the operation of the North Dakota veterans' cemetery for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 8. MAINTENANCE AND REPAIRS - TRANSFERS.** The adjutant general may transfer to the operating expenses and capital assets line items contained in section 1 of this Act up to the sum of \$500,000 from the various other line items contained in section 1 of this Act, as determined necessary by the adjutant general to provide for the maintenance and repair of state-owned armories in this state during the biennium beginning July 1, 2009, and

ending June 30, 2011. Any amounts transferred pursuant to this section must be reported to the director of the office of management and budget.

**SECTION 9. EXEMPTION.** Funding of \$980,000 from the general fund appropriated for the computer-aided dispatch project, as contained in subdivision 2 of section 3 of chapter 42 of the 2007 Session Laws, is not subject to the provisions of section 54-44.1-11, and any unexpended funds from these appropriations or related revenues are available and may be expended during the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 10. LEGISLATIVE INTENT - REINTEGRATION PROGRAM.** It is the intent of the sixty-first legislative assembly that the adjutant general use all federal funds available for the reintegration program before using the \$1,377,409 appropriated for the program in subdivision 1 of section 1 of this Act. The funding for the program is to be used for providing support for all service members and their families for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 11. REINTEGRATION PROGRAM - REPORT TO THE BUDGET**  
**SECTION.** The adjutant general shall provide a report to the budget section during the 2009-10 interim regarding reintegration program expenditures and the program's impact on service members.

**SECTION 12. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS**  
**COVERAGE.** It is the intent of the sixty-first legislative assembly that the funding of \$500,000 appropriated in the radio communications line item in subdivision 2 of section 1 of this Act is for improving state radio communications coverage in the state. Of the \$500,000, \$100,000 is for conducting a study of the effects of next generation 911, \$75,000 is for alternatives to constructing new state radio towers, and \$325,000 is for implementing a new state radio tower site near Wales.

**SECTION 13. LEGISLATIVE INTENT - DISASTER FUNDING.** It is the intent of the sixty-first legislative assembly that 2009 flood disaster payments to political subdivisions be made allowing for a six percent local share. The difference between current federal funding and anticipated federal funding is to be made by the state until federal reimbursement funds are received for the period beginning with the effective date of this Act through June 30, 2011.

1           **SECTION 14. AMENDMENT.** Subsections 3 and 4 of section 37-29-03 of the North  
2 Dakota Century Code as created by section 1 of House Bill No. 1181, as approved by the  
3 sixty-first legislative assembly, are amended and reenacted as follows:

4           3. Subsection 1 does not apply if due to serving as a volunteer emergency  
5 responder, the employee is absent or tardy from the employee's place of  
6 employment for a period that exceeds ~~ten~~ twenty regular ~~business~~ working days in  
7 a calendar year.

8           4. In order to receive the protections of subsection 1, an employee who will be absent  
9 or tardy from the employee's place of employment while serving as a volunteer  
10 emergency responder in the case of a disaster or emergency shall make  
11 reasonable efforts to notify the employer of that service ~~and shall continue to make~~  
12 ~~those reasonable notification efforts over the course of the absence.~~

13           **SECTION 15. AMENDMENT.** Section 54-06-27 of the North Dakota Century Code as  
14 amended in section 2 of House Bill No. 1181, as approved by the sixty-first legislative  
15 assembly, is amended and reenacted as follows:

16           **54-06-27. Emergency service volunteers - Leave.** Upon issuance of an order or  
17 proclamation declaring a state of disaster or emergency pursuant to chapter 37-17.1, a search  
18 emergency by the air force rescue coordination center or by the department of emergency  
19 services, or a declaration of at least a level II disaster by the American red cross in this or any  
20 other state, the executive officer in charge of a state agency or the governing body of any  
21 political subdivision may grant a leave of absence to any full-time employee of that  
22 governmental entity who is an emergency medical service provider, a member of the civil air  
23 patrol, a firefighter, police officer, volunteer member of the North Dakota army or air national  
24 guard, or emergency radio operator, or who performs other services necessary in an  
25 emergency. The leave of absence must be for the purpose of allowing that employee to  
26 provide voluntary emergency services. An individual on leave under this section is not deemed  
27 to be an employee of the governmental entity for the purposes of workforce safety and  
28 insurance. The cumulative leave granted under this section may not exceed ~~ten~~ twenty  
29 working days during any calendar year. The leave may not result in a loss of compensation,  
30 seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise  
31 eligible.

1           **SECTION 16. EMERGENCY.** Sections 2, 3, 4, 5, 13, 14, and 15 are declared to be an  
2 emergency measure.