

Department of Commerce
Budget No. 601
Senate Bill Nos. 2018, 2225, 2260, House Bill Nos. 1015, 1350, 1496

	FTE Positions	General Fund	Other Funds	Total
2009-11 executive budget (bills as introduced)	68.00	\$34,490,039	\$53,708,861	\$88,198,900
2009-11 legislative appropriations	68.00	58,476,303	138,261,105	196,737,408
Legislative increase (decrease) to executive budget	0.00	\$23,986,264	\$84,552,244	\$108,538,508
Legislative increase (decrease) to 2007-09 appropriations	2.00	\$29,894,338	\$82,502,589	\$112,396,927

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2007-09 legislative appropriations	\$25,481,965	\$3,100,000	\$28,581,965
2009-11 legislative appropriations	30,056,303	28,420,000	58,476,303
2009-11 legislative increase (decrease) to 2007-09 appropriations	\$4,574,338	\$25,320,000	\$29,894,338
Percentage increase (decrease) to 2007-09 appropriations	18.0%	816.8%	104.6%
2009-11 legislative increase (decrease) to executive budget	\$3,166,264	\$20,820,000	\$23,986,264
Percentage increase (decrease) to executive budget	11.8%	273.9%	69.5%

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

Salaries and Wages

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

	Major Items			
	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Removed funding added in the executive budget for state employee salary equity adjustments		(\$134,236)	(\$42,391)	(\$176,627)
Adjusted funding for cost-share programs for installation of biofuel blender pumps from \$2 million from the general fund as provided for in the executive recommendation to \$1 million from the general fund and \$1 million from federal fiscal stimulus funds		(1,000,000)	1,000,000	0

Removed funding for grants to local communities to establish or expand child care options	(3,500,000)	(3,500,000)
Provided for a transfer from the general fund to the North Dakota Development Fund for providing financing to early childhood facilities (\$1,250,000); provided funding for early childhood facility grants for technical assistance, a business plan, or infrastructure (\$500,000); and provided funding for administration of the programs (\$70,000) (Senate Bill No. 2225)	1,820,000	1,820,000
Increased funding for InnovateND program (see InnovateND Program section below)	100,000	100,000
Increased funding for tourism marketing. This funding is in addition to the \$912,000 increase included in the executive budget.	250,000	250,000
Increased special funds spending authority by \$15 million to reflect the estimated carryover of federal funds for the neighborhood stabilization program		15,000,000
Increased funding for the North Dakota Trade Office (see North Dakota Trade Office section below)	64,000	64,000
Decreased funding for a transfer to the workforce enhancement fund from \$2 million to \$1 million. The department may spend money in the fund pursuant to a continuing appropriation for workforce enhancement grants.	(1,000,000)	(1,000,000)
Decreased funding for Operation Intern (see Operation Intern Program section below)	(300,000)	(300,000)
Added funding for compiling information on tax-exempt property (see Other Sections in Senate Bill No. 2018 section below)	11,500	11,500
Added funding for a technology-based entrepreneur grant program to be developed by the department	1,000,000	1,000,000
Added funding for a grant to the Lewis and Clark Foundation. The department may spend the funds only to the extent matching funds have been secured from nonstate sources on a dollar-for-dollar basis. The funds may be used only for construction costs.	1,500,000	1,500,000
Added funding for a grant to the Theodore Roosevelt Medora Foundation. The department may spend the funds only to the extent matching funds of \$12 million from nonstate sources have been secured by the foundation. The funds may be used only for construction costs.	500,000	500,000

Added funding for a transfer to the centers of excellence fund for providing funding for centers of excellence grants for the 2009-11 biennium. The department may spend money in the fund pursuant to a continuing appropriation for the centers of excellence program (see centers of excellence sections below).	15,000,000	15,000,000
Added funding for a centers of excellence best practice review to be completed by the department and the Centers of Excellence Commission	50,000	50,000
Appropriated federal fiscal stimulus funds (see Federal Fiscal Stimulus Funding section below)		68,594,635
Added funding for a transfer to the centers of excellence fund for providing funding for 2007-09 centers of excellence awarded projects (House Bill No. 1015)	4,450,000	4,450,000
Added funding for providing matching funds for eligible individual development accounts (Senate Bill No. 2260)	125,000	125,000
Added funding for a grant for construction of a Great Plains Applied Energy Research Center on the Bismarck State College campus (House Bill No. 1350)	5,000,000	5,000,000
Added funding for conducting an equine processing facility feasibility study (House Bill No. 1496)	50,000	50,000
Total	0.00	\$23,986,264
		\$84,552,244
		\$108,538,508

FTE Changes

The 2009-11 biennium appropriation includes funding for 68 FTE positions, an increase of 2 FTE positions from the 2007-09 biennium authorized level of 66 FTE positions. The Legislative Assembly did not change the executive recommendation to add 1 FTE administrative assistant position and 1 FTE position for the State Commission on Community Service.

One-Time Funding

In Section 6 of Senate Bill No. 2018, the Legislative Assembly identified \$2,100,000 from the general fund for the workforce enhancement fund (\$1,000,000), biofuel blender pumps grants (\$1,000,000), and promotion and marketing of the USS *North Dakota* (\$100,000) as one-time funding items. Other one-time funding items for the Department of Commerce include:

- Senate Bill No. 2018 - \$15,000,000 from the general fund for transfer to the centers of excellence fund for the 2009-11 biennium.
- Senate Bill No. 2225 - \$1,820,000 from the general fund for grants and loans for child care providers.
- House Bill No. 1015 - \$4,450,000 from the general fund for transfer to the centers of excellence fund for 2007-09 centers of excellence awarded projects.
- House Bill No. 1350 - \$5,000,000 from the general fund for a grant for construction of a Great Plains Applied Energy Research Center on the Bismarck State College campus.
- House Bill No. 1496 - \$50,000 from the general fund for conducting an equine processing facility feasibility study.

The total one-time funding for the Department of Commerce is \$28,420,000. This amount is not to be considered part of the agency's base budget for preparing the 2011-13 executive budget and the department is to report to the Appropriations Committees during the 2011 legislative session on the use of this funding.

Federal Fiscal Stimulus Funding

In Section 2 of Senate Bill No. 2018, the Legislative Assembly appropriated \$68,594,635 of federal fiscal stimulus funds from the federal American Recovery and Reinvestment Act of 2009. This funding, which is summarized below, is not to be considered part of the agency's base budget for the 2011-13 biennium. 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.

Community development block grant program	\$1,300,000
Community services block grant	4,853,305
State energy program	24,585,000
Energy efficiency and conservation block grants	10,000,000
Weatherization assistance program	25,266,330
Emergency shelter grants	2,590,000
Total	\$68,594,635^{1,2}

¹Section 3 of Senate Bill No. 2018 provides that the Department of Commerce is to use \$2 million of the federal fiscal stimulus funds for establishing a grant program to assist in the purchase and installation of electrical generators that consume at least 75 percent of the gas from oil and gas well sites which would otherwise be flared or wasted. The funding is contingent upon approval from the United States Department of Energy of use of funding for the grant program. Before making a grant from the program, the Department of Commerce is to obtain the recommendation of the oil and gas research program administered by the Industrial Commission regarding the application's technical accuracy and consistency with the oil and gas research program.

²Section 4 of Senate Bill No. 2018 provides that the Department of Commerce use \$1 million of the federal fiscal stimulus funds for biofuel blender pump grants.

Centers of Excellence - Funding

The executive budget included a \$15 million general fund appropriation to the Office of Management and Budget for providing grants to centers of excellence and authorized the Office of Management and Budget, as directed by the Centers of Excellence Commission with Emergency Commission and Budget Section approval, to borrow up to \$5 million from the Bank of North Dakota for providing additional funding for centers of excellence if the \$15 million appropriated is committed. The Legislative Assembly appropriated \$15 million from the general fund for transfer to the centers of excellence fund for providing funding to centers of excellence for the 2009-11 biennium. The Legislative Assembly provided a contingent general fund appropriation of \$5 million for transfer to the centers of excellence fund for providing additional centers of excellence funding for the 2009-11 biennium. The Office of Management and Budget may transfer this funding only if actual general fund revenues for the period July 1, 2009, through December 1, 2009, exceed estimated general fund revenues for that period by at least \$5 million, as determined by the Office of Management and Budget, based on the legislative estimates made at the close of the 2009 legislative session.

Centers of Excellence Enhancement Grants

The Legislative Assembly provided, in Section 23 of Senate Bill No. 2018, that the Department of Commerce use \$10 million of the funds transferred to the centers of excellence fund for centers of excellence enhancement grants. The centers of excellence enhancement grants may be made available to research universities under the control of the State Board of Higher Education or nonprofit university-related foundations for use in infrastructure or enhancement of economic development and employment opportunities. Appropriate use of funds include a base realignment grant to enhance economic development and employment opportunities associated with the Grand Forks Air Force Base resulting from action by the federal Defense Base Closure and Realignment Commission; infrastructure and economic development projects or programs to accommodate growth in proximity to or at the Grand Forks Air Force Base; and infrastructure and economic development projects or programs to enhance the capacity of a research university to interface and collaborate with private industry on research, development, demonstration, and commercialization of technology. The Department of Commerce is to develop application criteria, including local support criteria for requests relating to the Grand Forks Air Force Base, review submitted applications, and recommend applications for approval to the Centers of Excellence Commission. Centers of excellence enhancement grants are exempt from North Dakota Century Code (NDCC) Section 15-69-02, Section 15-69-04(3) and (4), and Section 15-69-05(1), (3), and (4).

Centers of Excellence - State Tax Revenue Impact Study

The Legislative Assembly would have provided, in Section 24 of Senate Bill No. 2018, that during the 2009-11 biennium the State Auditor, in consultation with the Tax Commissioner and the Department of Commerce, was to conduct a study of the state tax revenue impact of the centers of excellence program and was to calculate the direct and indirect impact of the program on state tax revenues. The study was to include an analysis for each center of excellence of the actual matching funds received by source, actual number of private sector jobs created, and new private sector facilities opened as the result of the center. **This section was vetoed by the Governor.**

Centers of Excellence - Best Practice Review

The Legislative Assembly provided, in Section 25 of Senate Bill No. 2018, that the Department of Commerce and the Centers of Excellence Commission are to conduct a best practice review of the centers of excellence program by contracting with an appropriate entity with broad-based expertise in programs similar to North Dakota's centers of excellence program. The Legislative Assembly provided the department a \$50,000 general fund appropriation for contracting with an entity to perform the review.

Centers of Excellence - Exemption

Section 27 of Senate Bill No. 2018 allows the Department of Commerce to continue any unspent funds appropriated for the centers of excellence program for the 2007-09 biennium to the 2009-11 biennium. The Office of Management and Budget is to transfer any unexpended funds from these appropriations to the centers of excellence fund at the end of the 2007-09 biennium.

Centers of Excellence - Reports

The Legislative Assembly provided, in Section 28 of Senate Bill No. 2018, that the Department of Commerce report on the status of the centers of excellence program and the status of the centers of excellence fund to the Budget Section during the third quarter of 2010 and to the Appropriations Committees during the 2011 legislative session.

Centers of Excellence - Statutory Changes

The Legislative Assembly provided, in Sections 29 through 33 of Senate Bill No. 2018, for the following statutory changes relating to the centers of excellence program:

- Establish a centers of excellence fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the centers of excellence program. Interest earned on money in the fund is to be credited to the fund.
- A center of excellence may not use funds awarded for infrastructure.
- No more than two applications per higher education institution may be submitted for each round of center funding.
- Of the \$2 of matching funds required for a center, at least \$1 must be cash, of which at least 50 cents must be from the private sector.

InnovateND Program

The Legislative Assembly provided \$500,000, of which \$350,000 is from the general fund and \$150,000 is from special funds, for the InnovateND program. The \$500,000 is \$100,000 more than the executive recommendation of \$400,000, of which \$250,000 is from the general fund and \$150,000 is from special funds, and \$200,000 more than the 2007-09 biennium appropriation of \$300,000, of which \$150,000 was from the general fund and \$150,000 was from special funds.

North Dakota Trade Office

The Legislative Assembly provided \$2,064,000 from the general fund for the North Dakota Trade Office. The \$2,064,000 is \$64,000 more than the executive recommendation of \$2,000,000 from the general fund, and \$564,000 more than the 2007-09 biennium appropriation of \$1,500,000 from the general fund. The following is a summary of funding for the North Dakota Trade Office:

Biennium	General Fund	Special Funds	Total
2003-05	\$75,000 ¹	\$0	\$75,000
2005-07	\$0	\$700,000 ²	\$700,000
2007-09	\$1,500,000 ³	\$0	\$1,500,000
2009-11	\$2,064,000 ⁴	\$0	\$2,064,000

¹Section 21 of 2003 House Bill No. 1019 required the Department of Commerce to establish a trade promotion authority for promoting North Dakota products and improving international trade for North Dakota products for the 2003-05 biennium. The department was to use \$75,000 from the general fund appropriated in its operating expenses line item for operating costs of the authority for the 2003-05 biennium. Section 22 of 2003 House Bill No. 1019 provided that the department may spend any gifts, grants, or other income received by the authority pursuant to a continuing appropriation for the 2003-05 biennium.

²The 2005 Legislative Assembly provided funding of \$500,000 from the Development Fund and \$200,000 from the Mill and Elevator for costs associated with the North Dakota Trade Office. Matching funds of 50 percent were to be provided before this funding was made available.

³Section 10 of 2007 House Bill No. 1018 provided that the Department of Commerce may spend 50 percent of the funding without requiring any matching funds from the North Dakota Trade Office, and any additional amounts may be spent only to the extent that the North Dakota Trade Office provides \$1 of matching funds from private or other public sources for each \$1 provided by the Department of Commerce. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota Trade Office's export assistance program.

⁴Section 11 of 2009 Senate Bill No. 2018 provides that the Department of Commerce may spend 62.5 percent of the funding without requiring any matching funds from the North Dakota Trade Office, and any additional amounts may be spent only to the extent that the North Dakota Trade Office provides \$1 of matching funds from private or other public sources for each \$1 provided by the Department of Commerce. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota Trade Office's export assistance program.

Operation Intern Program

The Legislative Assembly provided \$900,000 from the general fund for the Operation Intern program. The \$900,000 is \$300,000 less than the executive recommendation of \$1,200,000 from the general fund and \$300,000 more than the 2007-09 biennium general fund appropriation of \$600,000.

Other Sections in Senate Bill No. 2018

Agriculture fuel tax refunds - Section 7 provides that the department's 2009-11 biennium appropriation includes \$575,500 from refunds of tax for fuel used for agricultural purposes for the Agricultural Products Utilization Commission.

Exemption - Agricultural Products Utilization Commission - Section 8 allows the department to continue any unspent funds appropriated for the Agricultural Products Utilization Commission for the 2007-09 biennium to the 2009-11 biennium.

Exemption - Discretionary funds - Section 9 allows the department to continue any unspent funds appropriated for discretionary funds for the 2007-09 biennium to the 2009-11 biennium.

Exemption - Operation Intern program - Section 10 allows the department to continue any unspent funds appropriated for the Operation Intern program for the 2007-09 biennium to the 2009-11 biennium.

Technology-based entrepreneurship grant program - Section 13 provides that the department report to the Budget Section in the third quarter of 2010 on the status of the technology-based entrepreneurship grant program, including an overview of the program and program expenditures.

Tax-exempt property - Section 14 provides that during the 2009-10 interim the department compile information identifying tax-exempt property by school district, including information on the related value of the property based on soil survey, insured value, or other means and a categorization of the property by whether or not it produces revenue based on its use. The department is to report the information compiled to the Budget Section during the third quarter of 2010.

Large tourism infrastructure grants - Section 15 provides legislative intent that the Division of Tourism develop criteria for large tourism infrastructure grants and a method for setting funding priorities for these grants in future bienniums.

Legislative Council study - Technology-based entrepreneurship and economic development best practices - Section 18 provides for a Legislative Council study of technology-based entrepreneurship and economic development best practices. The study is to include a review of best practices implemented by the department and the effectiveness of the department's foundation.

Legislative Council study - Workforce system initiative - Section 19 provides for a Legislative Council study of the state's system for addressing workforce needs through a workforce system initiative. The study is to include a review of the alignment of taxpayer investment with programs, coordination of programs, and the North Dakota workforce strategic plan.

Accountability - Section 20 provides legislative intent that the department establish and implement appropriate accountability requirements relating to grants provided to the Lewis and Clark Foundation and the Theodore Roosevelt Medora Foundation.

Centers of excellence - Sections 21 through 33 relate to centers of excellence (see centers of excellence sections above).

Agricultural fuel tax fund - Section 34 creates a new section to NDCC Chapter 54-18 to provide that within 30 days after the conclusion of each fiscal year, the Industrial Commission transfer 5 percent of the net income earned by the Mill and Elevator during that fiscal year to the agricultural fuel tax fund.

Searchable database of expenditures - Sections 5 and 35 relate to the establishment of a searchable database of expenditures by the Office of Management and Budget.

International Business and Trade Office - Section 36 amends NDCC Section 54-60-16(2) relating to the department's contract with a third party for the provision of services for the International Business and Trade Office.

Operation Intern - Section 37 amends NDCC Section 54-60-17 to limit the number of internship, apprenticeship, and work experience opportunities subsidized for an employer.

Workforce initiatives and activities - Section 38 creates a new section to NDCC Chapter 54-60 relating to reports to the Division of Workforce Development from Job Service North Dakota, the Department of Career and Technical Education, and the State Board of Higher Education regarding workforce initiatives and activities and presentation of workforce-related budget initiatives for upcoming bienniums to the North Dakota Workforce Development Council.

Related Legislation

Organizational structure and programs - Senate Bill No. 2110 relates to the Department of Commerce's organizational structure and programs.

Early childhood facilities - Senate Bill No. 2225:

- Allows early childhood facilities to be eligible for funding from the PACE fund.
- Provides for a transfer of \$1,250,000 from the general fund to the North Dakota Development Fund for providing financing to early childhood facilities.
- Provides funding of \$500,000 from the general fund to the Department of Commerce for early childhood facility grants for technical assistance, a business plan, or infrastructure.
- Provides funding of \$70,000 from the general fund to the Department of Commerce for administration of the programs.
- Requires the Department of Commerce to report to the Budget Section during the second quarter of calendar year 2010 on the status of the financing and grants provided to the early childhood facilities.

Biofuel blender pumps - Senate Bill No. 2228 provides that the Department of Commerce establish a cost-share program to encourage the installation of biofuel blender pumps.

Individual development accounts - Senate Bill No. 2260 provides a \$125,000 general fund appropriation to the Department of Commerce Division of Community Services for providing matching funds for individual development accounts.

Life science industries - Senate Bill No. 2372 provides that the Commissioner of Commerce promote the development of life science industries in the state.

Entrepreneurship award program - House Bill No. 1202 provides that the North Dakota Development Fund, Inc., administer an entrepreneurship award program that provides funding awards to entrepreneurial centers and to entrepreneurs.

Great Plains Applied Energy Research Center - House Bill No. 1350 provides a \$5 million general fund appropriation to the Department of Commerce for a grant for construction of a Great Plains Applied Energy Research Center on the Bismarck State College campus.

Equine processing facility feasibility study - House Bill No. 1496 provides a \$50,000 general fund appropriation to the Department of Commerce for providing a grant for an equine processing facility feasibility study.