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Sixtieth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with House Amendments

ENGROSSED SENATE BILL NO. 2015

Introduced by

Appropriations Committee

(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide an exemption; to create and enact a new section to chapter 6-09 and a new section to chapter 55-10 of the North Dakota Century Code, relating to earnings and profits of the Bank of North Dakota and historical sites; to amend and reenact sections 15-69-02, 15-69-03, 15-69-04, 15-69-05, 24-02-37, and 39-04-39 of the North Dakota Century Code, relating to centers of excellence, state highway fund, and registration fees; to provide an appropriation; to provide for reports to the budget section; to create a legislative council medical assistance committee; to provide legislative intent; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BASE LEVEL FUNDING INFORMATION. The amounts identified in this section represent the base level funding component appropriated to the office of management and budget in section 3 of this Act as follows:

Salaries and wages	$13,595,086
Operating expenses	11,341,106
Capital assets	3,999,000
Grants	389,000
Prairie public broadcasting	1,337,138
Procurement assistance study	150,000
Centers of excellence	36,000,000
Total all funds - Base level	$66,811,330
Less estimated income - Base level	46,655,319
Total general fund - Base level	$20,156,011

SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION. The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the office of management and budget which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	$1,625,058
Operating expenses	151,030
Capital assets	646,019
Grants	(335,000)
Prairie public broadcasting	(1,337,138)
Procurement assistance study	(150,000)
Centers of excellence	(36,000,000)
Total all funds - Adjustments/enhancements	($35,400,031)
Less estimated income - Adjustments/enhancements	(38,224,959)
Total general fund - Adjustments/enhancements	$2,824,928

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the office of management and budget for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2007, and ending June 30, 2009, as follows:

Salaries and wages	$15,220,144
Operating expenses	11,492,136
Capital assets	4,645,019
Grants	54,000
Total all funds	$31,411,299
Less estimated income	8,430,360
Total general fund appropriation	$22,980,939

SECTION 4. EXEMPTION. The amount appropriated for the fiscal management division, as contained in section 3 of chapter 15 of the 2005 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available

for continued development and operating costs of the accounting, management, and payroll systems, during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 5. CAPITOL BUILDING FUND. The amount of $750,000, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act, is to be spent by the facility management division from the capitol building fund during the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 6. APPROPRIATION - WILLISTON RESEARCH CENTER - NESSON VALLEY IRRIGATION PROJECT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $180,000, or so much of the sum as may be necessary, to the Williston research center for the nesson valley irrigation project, including $100,000 for operating costs and $80,000 for salaries and wages, for the biennium beginning July 1, 2007, and ending June 30, 2009. The Williston research center is authorized one full-time technician position for this project.

SECTION 7. INTENT. Within the authority included in section 3 of this Act are the following grants and special items:

Boys and girls clubwork	$53,000
State contingencies	$500,000
State memberships and related expenses	$581,000
Unemployment insurance	$1,500,000
Capitol grounds planning commission	$25,000

SECTION 8. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes $3,000,000 for the one-time funding item identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The office of management and budget shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Deferred maintenance	$3,000,000

SECTION 9. REPORT ON SALARY EQUITY. The office of management and budget shall report to the budget section on the status of salary equity for state employees by June 30, 2008.

SECTION 10. ONE-TIME FUNDING - NORTH DAKOTA UNIVERSITY SYSTEM. Notwithstanding the one-time funding section contained in House Bill No. 1003, the allocation of $3,700,000 for connectND system support included in the grand total general fund appropriation line item in section 3 of House Bill No. 1003, as amended by the senate, is to be considered a part of the institutions' base budgets to be used in preparing the 2009-11 executive budget.

SECTION 11. LEGISLATIVE INTENT - CRIME LABORATORY - USE OF SPACE BY STATE DEPARTMENT OF HEALTH. It is the intent of the sixtieth legislative assembly that the facility management division of the office of management and budget develop a plan for the state department of health to assume control of the existing crime laboratory space from the attorney general's office when the new crime laboratory is completed. The plan should also identify additional space in the judicial wing of the state capitol, currently occupied by the state department of health, to be made available for the supreme court.

SECTION 12. BUDGET SECTION TOUR GROUP REVIEW. Institutions shall report to any budget section tour group that visits the institution during the 2007-08 interim on the status of the extraordinary repairs funded in the institutions' budgets and the tour groups shall review the status of the repairs as part of the tour of the institution.

SECTION 13. LEGISLATIVE INTENT - STATE WATER COMMISSION - MAPPING PROJECT. It is the intent of the sixtieth legislative assembly that the state water commission provide up to $300,000 for the Red River basin mapping initiative to develop a high-resolution digital evaluation model. The funding for this project is from within existing appropriation authority of the state water commission and is contingent upon additional federal funding being available for this project.

SECTION 14. HIGHER EDUCATION INSTITUTION BUDGET DETAIL - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The North Dakota university system shall provide to the appropriations committees of the sixty-first legislative assembly a budget detail report for each institution in the North Dakota university system and a composite report of major categories of the university system. These reports are to be in addition to the normal budget presentation.

SECTION 15. Legislative council medical assistance committee - Membership - Duties - Continuing appropriation.

1. The legislative council shall appoint a medical assistance committee. Membership of the committee must include:
   a. Five members of the house of representatives, three of whom must be selected by the leader representing the majority faction of the house of representatives and two of whom must be selected by the leader representing the minority faction of the house of representatives.
   b. Five members of the senate, three of whom must be selected by the leader representing the majority faction of the senate and two of whom must be selected by the leader representing the minority faction of the senate.
   c. Up to nine members who represent medical assistance providers and the department of human services, who serve in an ex officio nonvoting capacity, and who are selected by the chairman of the committee with the concurrence of the other legislative members of the committee.
2. The legislative council chairman shall designate the committee chairman and vice chairman from among the legislative members of the committee.
3. The committee shall operate according to the statutes and procedures governing the operation of other legislative council interim committees.
4. The committee shall study the state's medical assistance program, including options for benefit, management, and reimbursement reform. The committee shall engage consultant services to undertake an actuarially based analysis of the medical assistance program and reform options to ensure the future long-term sustainability of the program. The analysis must:
   a. Gather data regarding the current categories of medical assistance beneficiaries;
   b. Evaluate the current financial expenditures for medical assistance by county and by category of aid and within those categories by type of service;
   c. Evaluate the current medical assistance reimbursement system;
   d. Evaluate issues related to beneficiary access to care in the medical assistance program and patient access in the state's health care system, including the uninsured and underinsured;

e. Evaluate the current commercial insurance market in conjunction with federal opportunities to increase coverage options; and

f. Evaluate options for reform, including the implementation of risk-sharing arrangements, preventive services and case management, a high-risk pool, and a premium assistance program, and the potential use of pilot projects for evaluating the effectiveness of reform options.

5. The committee also shall engage consultant services to study the progress in the implementation of the medical assistance program management initiatives, including statewide targeted case management services, improvement of mental health treatment services, including the use of prescription drugs, and the use of medical assistance cards for beneficiary identification.

6. The legislative council may accept gifts, grants, and donations from any source, including federal or private sources, to assist the committee on medical assistance in conducting its study and obtaining consultant services under this section. Any gifts, grants, and donations received are appropriated to the legislative council on a continuing basis for the purpose of conducting the study of the state's medical assistance program and obtaining consultant services.

7. A state employee who is a member of the committee must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. Members of the committee who are not members of the legislative assembly or state employees are not entitled to compensation or reimbursement of expenses for service on the committee.

SECTION 16. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $100,000, or so much of the sum as may be necessary, and from special funds derived from federal funds or other income, the sum of $150,000, or so much of the sum as may be necessary, to the legislative council for the purpose of obtaining consultant services for the medical assistance program analysis described in section 15 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 17. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $100,000, or so much

of the sum as may be necessary, and from special funds derived from federal funds or other income, the sum of $100,000, or so much of the sum as may be necessary, to the legislative council for the purpose of obtaining consultant services for analyzing the implementation progress of the medical assistance program management initiatives described in section 15 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 18. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Earnings and profits of the Bank - Limitation on transfers. Subject to legislative appropriation or transfer, the industrial commission may transfer earnings and accumulated undivided profits of the Bank to the state general fund or to a special fund. The transfer authority granted under this section is limited to transfers that do not reduce the Bank's capital structure to less than eight percent of the Bank's average assets for the last quarter of the calendar year preceding the end of each biennium.

SECTION 19. AMENDMENT. Section 15-69-02 of the North Dakota Century Code is amended and reenacted as follows:

15-69-02. (Effective through July 31, 2011) Centers of excellence.

1. The board shall establish a centers of excellence program relating to economic development. The program must distinguish among center designations for awards designated to address commercialization, workforce, and infrastructure needs. Through the program the commission shall make funding award recommendations for commission-approved applications to the board, the foundation, and the budget section of the legislative council. A center must be an institution of higher education under the control of the board or a nonprofit university-related or college-related foundation of an institution of higher education under the control of the board. In order to be considered for center designation, the institution of higher education or nonprofit foundation must be working in partnership with the private sector. In addition to any center designated under this chapter, the North Dakota state university center for technology enterprise and the university of North Dakota center for innovation are centers.
2. A commission funding award recommendation must be for a specified amount. Designation of a center occurs upon board, foundation, and budget section

approval of a commission funding award recommendation. In considering whether to designate a center, the board, foundation, and budget section may not modify the commission recommendation. The budget section may not ~~make a determination of whether to approve or reject~~ take action on a commission funding award recommendation until the emergency commission reviews the commission recommendation or modified recommendation and makes a recommendation to the budget section. Upon receipt of a commission funding award recommendation, the budget section shall approve the recommendation, reject the recommendation, or rerefer the recommendation to the commission with recommended modifications. If the commission receives a rereferred recommendation from the budget section, the commission shall consider whether to modify the recommendation. If upon rereferral the commission modifies a recommendation, the board, foundation, and budget section shall consider whether to approve or reject the modified recommendation. If upon rereferral the commission does not modify a recommendation, the budget section shall make a determination of whether to approve or reject the recommendation.

3. A center that receives funds distributed under this chapter is not qualified to receive subsequent designations as a center until the biennium following the center's most recent designation.

4. The board rules adopted under subsection 9 of section 15-10-17, relating to ownership of intellectual property, inventions, and discoveries, must address activities and issues unique to centers. The board rules adopted under subsection 9 of section 15-10-17 and the terms of a center's private and public partnership must provide that at least four percent of the revenues derived from intellectual property developed by the private sector partner or by the public sector partner of a center of excellence must be deposited in the general fund in the state treasury.

5. Unless otherwise provided through the appropriation process, the commission's funding awards to address workforce needs may not exceed two million dollars per biennium and the commission's funding awards to address infrastructure needs

may not exceed two million dollars per biennium. Buildings that are essential to attracting private investment shall not be considered infrastructure.

SECTION 20. AMENDMENT. Section 15-69-03 of the North Dakota Century Code is amended and reenacted as follows:

15-69-03. (Effective through July 31, 2011) Centers of excellence commission. The centers of excellence commission consists of six members. The foundation shall appoint ~~three~~ two of the foundation's members to serve on the commission ~~and~~, the board shall appoint ~~three~~ two of the board's members to serve on the commission, and the legislative council shall appoint two legislators to serve on the commission. The commission members shall designate a chairman and a vice chairman of the commission. Each member of the commission shall serve for a term of three years, beginning July first; may be reappointed for additional terms; and serves at the pleasure of the appointing entity. If a commission member ceases to serve as a member of the appointing entity, that member's membership on the commission ceases immediately and the appointing entity shall appoint a new member for the remainder of the term. Terms of ~~initial~~ commission members ~~begin on July 1, 2005, and~~ must be staggered. On a meeting-by-meeting basis, an appointing entity may substitute a member of that appointing entity to serve in place of one of the regular members appointed by that entity. If the commission chairman and vice chairman are not present at a meeting, the commission members present at that meeting shall select a commission member to serve as chairman for that meeting. A commission member may receive compensation and travel and expense reimbursement from the appointing entity. The ~~board~~ department of commerce shall provide the commission with appropriate staff services as may be requested by the commission.

SECTION 21. AMENDMENT. Section 15-69-04 of the North Dakota Century Code is amended and reenacted as follows:

15-69-04. (Effective through July 31, 2011) Application - Eligibility requirements.

1. The ~~board~~ department of commerce shall provide center application forms, accept applications, review applications for completeness and compliance with board and commission policy, ~~and~~ forward complete applications to the commission in accordance with guidelines established by the commission, and assist with preaward reviews and postaward monitoring as may be requested by the commission.

2. The commission shall meet as necessary to review all complete applications; consider the potential need for independent, expert review of complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; direct the office of management and budget to distribute funds to the centers; monitor centers for compliance with award requirements; ~~and~~ review changes in assertions made in center applications; and conduct postaward monitoring of centers.

3. In considering whether to approve or disapprove an application, the commission shall determine whether the applicant has conducted the due diligence necessary to put together a viable proposal and the commission shall consider whether the center will:

   a. Use university or college research to promote private sector job growth and expansion of knowledge-based industries or use university or college research to promote the development of new products, high-tech companies, or skilled jobs in this state;

   b. Create high-value private sector employment opportunities in this state;

   c. Provide for public-private sector involvement and partnerships;

   d. Leverage other funding;

   e. Increase research and development activities that may involve federal funding from the national science foundation experimental program to stimulate competitive research;

   f. Foster and practice entrepreneurship;

   g. Promote the commercialization of new products and services in industry clusters;

   h. Become financially self-sustaining; and

   i. Establish and meet a deadline for acquiring and expending all public and private funds specified in the application.

4. In considering whether to approve an application, the commission may provide for an independent, expert review of the application to determine whether the proposed center is viable and whether the proposed center is likely to have the desired economic impact. As necessary, the commission may contract for

additional technical review of applications. The commission may not approve an application unless the commission determines the proposed center has a high likelihood of viability and success in positively impacting economic development in the state.

5. For no fewer than six years and no more than ten years following center designation, the commission shall monitor the center's activities in order to determine whether the center is having the desired economic impact.

SECTION 22. AMENDMENT. Section 15-69-05 of the North Dakota Century Code is amended and reenacted as follows:

15-69-05. (Effective through July 31, 2011) Use of funds - Terms of funds - Distribution of funds.

1. A center shall use funds awarded under this chapter to enhance capacity; enhance infrastructure; and leverage state, federal, and private sources of funding. If a center's primary use of funds will be to enhance infrastructure, the commission must have specifically designated the center as addressing infrastructure needs. A center awarded funds under this chapter may not use the funds to supplant funding for current operations or academic instructions or to pay indirect costs.
2. As a condition for receipt of funds under this chapter, a center shall agree to provide the board, foundation, and budget section of the legislative council with annual audits on all funds distributed to the center under this chapter. The annual audits must be provided until the completion of ~~four years following the final distribution of funds under this chapter~~ the commission's postaward monitoring of the center. As a condition for receipt of funds under this chapter, a center shall agree to provide the commission with the information necessary to monitor the postaward activities of the center.
3. Before the commission directs the office of management and budget to distribute funds awarded under this chapter, the center shall provide the commission with detailed documentation of private sector participation and the availability of two dollars of matching funds for each dollar of state funds to be distributed under this chapter. The commission may not direct distribution of funds if the private sector participants cease to participate. The matching funds may include funds facilitated

through the collaboration of the private sector participants with other funding entities. The matching funds may include a combination of cash and in-kind assets with itemized value. Private sector participation may be established through equity investments or through contracts for services with private sector entities. In making funding recommendations and designation determinations, the commission, board, foundation, and budget section shall give major consideration to the portion of the matching funds provided in cash by the private sector.

4. If, before funds are distributed by the office of management and budget, a center undergoes a change in the terms of or assertions made in its application, the commission may direct that the office of management and budget withhold all or a portion of any undistributed funds pending commission review of the changes.

5. The commission may use funds appropriated for the centers of excellence program to pay for the commission's administrative expenses, which may include contracting for independent, expert reviews of complete applications. The amount of funds the commission uses each biennium for administrative expenses may not exceed two and one-half percent of the funds appropriated for the program that biennium.

SECTION 23. AMENDMENT. Section 24-02-37 of the North Dakota Century Code is amended and reenacted as follows:

24-02-37. State highway fund - Priorities for expenditure - Use of investment income. The state highway fund, created by law and not otherwise appropriated and allocated, must be applied and used for the purposes named in this section, as follows:

1. Except for investment income as provided in subsection 3 and except as otherwise provided in subsection 4, the fund must be applied in the following order of priority:
   a. The cost of maintaining the state highway system.
   b. The cost of construction and reconstruction of highways in the amount necessary to match, in whatever proportion may be required, federal aid granted to this state by the United States government for road purposes in North Dakota.
   c. Any portion of the highway fund not allocated as provided in subdivisions a and b may be expended for the construction of state highways without federal

aid or may be expended in the construction, improvement, or maintenance of such state highways.

2. All funds heretofore appropriated or hereafter appropriated or transferred to the department, whether earmarked or designated for special projects or special purposes or not, must be placed or transferred into a single state highway fund in the office of the state treasurer and any claims for money expended by the department upon warrants prepared and issued by the office of management and budget and signed by the state auditor under this title must be paid out of the state highway fund by the state treasurer; provided, however, that the commissioner shall keep and maintain complete and accurate records showing that all expenditures have been made in accordance with legislative appropriations and authorizations.

3. The state treasurer shall deposit the moneys in the state highway fund in an interest-bearing account at the Bank of North Dakota. The state treasurer shall deposit forty percent of the income derived from the interest-bearing account in a special interest-bearing account in the state treasury known as the special road fund. The special road fund may be used, within the limits of legislative appropriation, exclusively for the construction and maintenance of access roads to and roads within recreational, tourist, and historical areas as designated by the special road committee. A political subdivision or state agency may request funds from the special road fund by applying to the committee on forms designated by the committee. The committee may require the political subdivision or state agency to contribute to the cost of the project as a condition of any expenditure authorized from the special road fund. Any moneys in the fund not obligated by the special road committee on June thirtieth of each odd-numbered year must revert to the state highway fund.

<u>4. The state treasurer shall deposit twenty percent of all sums collected from the registration of farm vehicles under subsection 5 of section 39-04-19 in a special interest-bearing account in the state treasury known as the biofuels road infrastructure fund. The biofuels road infrastructure fund may be used, within the limits of legislative appropriation, exclusively for the construction and maintenance</u>

of access roads to ethanol, biodiesel, biofuel, and other renewable fuel production facilities. A political subdivision or state agency may request funds from the biofuels road infrastructure fund by applying to the director on forms designated by the director. The director may require the political subdivision or state agency to contribute to the cost of the project as a condition of any expenditure authorized from the biofuels road infrastructure fund.

SECTION 24. AMENDMENT. Section 39-04-39 of the North Dakota Century Code is amended and reenacted as follows:

39-04-39. Distribution of registration fees collected. Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, must be promptly deposited in the highway tax distribution fund which must be distributed in the manner as prescribed by law. The state treasurer shall transfer annually from the highway tax distribution fund to the biofuels road infrastructure fund an amount equal to twenty percent of all sums collected for the registration of farm vehicles under subsection 5 of section 39-04-19 and shall transfer annually from the highway tax distribution fund to the ethanol production incentive fund an amount equal to forty percent of all sums collected for the registration of farm vehicles under subsection 5 of section 39-04-19 except that no transfer may be made in an amount that would result in the balance of the ethanol production incentive fund exceeding ~~five~~ ten million dollars.

SECTION 25. A new section to chapter 55-10 of the North Dakota Century Code is created and enacted as follows:

Ronald Reagan peace through strength missile silo historic site. If the state historical society acquires a missile silo historic site, the site is named the Ronald Reagan peace through strength missile silo historic site.

SECTION 26. EFFECTIVE DATE. Section 18 of this Act becomes effective on July 1, 2009.

SECTION 27. EXPIRATION DATE. Section 15 of this Act is effective through December 31, 2008, and after that date is ineffective.