

**Industrial Commission
Budget 405
Senate Bill No. 2014**

	FTE Positions	General Fund	Other Funds	Total
2009-11 legislative appropriation	61.06 ¹	\$14,275,254 ²	\$49,317,984	\$63,593,238
2007-09 legislative appropriation	<u>55.37</u>	<u>11,798,636</u>	<u>69,396,769</u>	<u>81,195,405</u>
2009-11 appropriation increase (decrease) to 2007-09 appropriation	5.69	\$2,476,618	(\$20,078,785)	(\$17,602,167)

¹The authorized FTE positions do not include the 2 contingent FTE positions for the Oil and Gas Division and 1 FTE position for the Geological Survey Division that were authorized in Section 6 of Senate Bill No. 2014 by the 2009 Legislative Assembly for the 2009-11 biennium (see the **Contingent FTE positions** section below for additional information).

²This amount includes \$3,678,152 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$10,597,102.

NOTE: The 2009-11 legislative appropriation amounts include \$484,500, of which \$475,000 is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

Item Description

Contingent FTE positions - The Legislative Assembly provided a contingent appropriation of \$515,207 from the lands and minerals trust fund. The Oil and Gas Division may use up to \$319,041 to hire up to 2 FTE positions, upon Emergency Commission approval, if the average drilling rig count exceeds 100 active rigs for each month in any consecutive three-month period. The Geological Survey Division may use up to \$196,166 to hire 1 FTE position, upon Emergency Commission approval, if an application is made for solution mining of potash or uranium.

FTE changes - The Legislative Assembly authorized the Industrial Commission a total of 61.06 FTE positions, an increase of 5.69 FTE positions from the 2007-09 biennium authorized level of 55.37 FTE positions. The increase in the total number of FTE positions authorized consists of 1 FTE engineering technician position, 1 FTE petroleum engineer position, 1 FTE geologist position, .5 FTE administrative assistant position, .19 FTE administrative assistant position, and 2 FTE positions that were added, upon Emergency Commission approval, during the 2007-09 biennium.

Status/Result

The drilling rig count has averaged more than 100 rigs since February 2010. The Oil and Gas Division anticipates submitting a request to the Emergency Commission in June 2010 to hire 2 FTE positions.

The Geological Survey Division anticipates a mining permit application to be filed in late 2011 or early 2012 and will request 1 FTE position in its 2011-13 budget request.

As of April 20, 2010, the Industrial Commission has filled 5 of the 5.69 FTE positions authorized for the 2009-11 biennium. The following is a summary of the areas in which new FTE positions were authorized and the number of positions filled:

	Number of Positions Authorized	Number of Positions Filled
Engineering technician	1.00	1.00
Petroleum engineer	1.00	1.00
Geologist	1.00	1.00
Administrative assistant	.69	
Department of Mineral Resources contingent FTE - 2007-09 biennium	2.00	2.00
Total	5.69	5.00

Department of Mineral Resources nonclassified employees - House Bill No. 1067 exempts engineers and geologists employed by the Department of Mineral Resources from the state employee classification system.

Salary equity distribution - The Industrial Commission received allocation of \$484,500, of which \$475,000 is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

One-time funding - In Section 2 of Senate Bill No. 2014, the Legislative Assembly identified \$3,678,152 from the general fund as one-time funding, of which \$3 million is for renewable energy development programs, \$400,000 is for a state facility lignite feasibility demonstration project, \$185,000 is for recruitment and retention bonuses for Department of Mineral Resources nonclassified employees, and \$93,152 is for fracturing sand and coalbed methane studies. This amount is not to be considered part of the agency's base budget for preparing the 2011-13 executive budget and the Industrial Commission is to report to the Appropriations Committees during the 2011 legislative session on the use of this funding.

Thirty-one Department of Mineral Resources employees were changed from classified to nonclassified employees effective August 1, 2010.

The table below provides information relating to the salary equity adjustments provided to employees of the Industrial Commission beginning July 1, 2009:

	Amount	Number of Employees
Support staff	\$46,122	9
Geological Survey unclassified staff	79,537	9
Geological Survey classified staff	2,805	1
Oil and Gas Division unclassified staff	350,049	21
Oil and Gas Division classified staff	5,555	1
Total	\$484,068	41

The following is a summary of the status of the Industrial Commission's one-time funding:

Renewable energy development programs	See Renewable energy functions section below
State facility lignite feasibility demonstration project	See State facility lignite feasibility demonstration project section below
Recruitment and retention bonuses for Department of Mineral Resources	As of April 20, 2010, approximately \$81,400 has been distributed for bonuses. The remaining \$103,600 will be distributed as bonuses in November 2010.
Fracturing sand and coalbed methane studies	The department has collected 62 sand samples from 20 counties and will collect an additional 38 sand samples in the summer of 2010. The samples will be analyzed to determine the best sample for frac sand suitability. The department has completed coalbed methane studies in 30 counties and tested 3,500 State Water Commission monitoring wells. Four additional counties will be studied in the summer of 2010.

Federal fiscal stimulus funding - Section 20 of Senate Bill No. 2014 authorizes the Industrial Commission to seek Emergency Commission and Budget Section approval under North Dakota Century Code Chapter 54-16 for authority to spend any additional federal funds received under the American Recovery and Reinvestment Act of 2009 for the 2009-11 biennium. Any federal funds received and spent 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 American Recovery and Reinvestment Act of 2009 funds are no longer available.

Federal fiscal stimulus bond allocations - Section 22 of Senate Bill No. 2014 provides that any bond allocations made available to the state of North Dakota under the American Recovery and Reinvestment Act of 2009 for the national recovery zone economic development bond limitation, the national recovery zone facility bond limitation, and the qualified energy conservation bond limitation must be reallocated by the state and as may be provided in any guidance issued by the Secretary of the Treasury or the Internal Revenue Service. Any such reallocation must be made by the Governor or may be delegated by the Governor to the Industrial Commission or Public Finance Authority.

North Dakota Building Authority lease payments limitation - Section 54-17.2-23 limits the general fund amount of lease payments for a biennium to 10 percent of an amount collected from an equivalent 1 percent sales, use, and motor vehicle excise tax.

Lignite research grants - Section 10 of Senate Bill No. 2014 provides that up to \$1.5 million of the \$19.97 million appropriated for lignite research grants is for contracting for an independent, nonmatching, lignite marketing feasibility study or studies that determine those focused priority areas where near-term, market-driven projects, activities, or processes will generate matching private industry investment and have the most potential of preserving existing lignite production and jobs or that will lead to increased development of lignite and its products and create new lignite jobs and economic growth for the general welfare of this state. This section also provides that funds appropriated may also be used for the purpose of contracting for nonmatching studies and activities in support of the Lignite

As of April 20, 2010, no funding was available from the American Recovery and Reinvestment Act of 2009 for the renewable energy program.

The commission has developed a process for reallocating recovery zone facility bond allocations. The commission has awarded qualified energy conservation bonds totaling \$2,875,000 to the City of Fargo for a wind tower project.

Based on the 2009 legislative forecast for projected sales, use, and vehicle excise tax collections for the 2009-11 biennium, the maximum statutory general fund amount of lease payments for the 2009-11 biennium is \$26,043,960 and the estimated limit for the 2011-13 biennium is \$27,085,718. The estimated general fund debt service requirement for the 2009-11 biennium is \$18,301,696, which is \$7,742,264 less than the legal limit of debt service. The general fund debt service requirement for the 2011-13 biennium is estimated to be approximately \$17,037,198, which is \$10,048,520 less than the legal limit. This amount will change with the forecast for the 2011-13 biennium.

The 2009 Legislative Assembly did not provide for any capital projects funded through bond indebtedness that affect the bonding limit for the 2009-11 biennium.

The Industrial Commission has contracted with the Lignite Energy Council to provide management of the Lignite Vision 21 Project. The objective of the Lignite Vision 21 Project is to construct new lignite-fired power plants in North Dakota. Consultants from the Lignite Energy Council have also been used to assist the North Dakota Transmission Authority. As of April 15, 2010, the Industrial Commission has received one application for \$1.3 million for Phase 6 of the Lignite Vision 21 Project management and planning services.

Vision 21 Project; for litigation that may be necessary to protect and promote the continued development of lignite resources; for nonmatching externality studies and activities in externality proceedings; or other marketing, environmental, or transmission activities that assist with marketing of lignite-based electricity and lignite-based byproducts. Money not needed for these purposes is available to the commission for funding projects, processes, or activities under the lignite research, development, and marketing program.

State facility lignite feasibility demonstration project - The Legislative Assembly provided \$400,000 from the general fund for a state facility lignite feasibility demonstration project for the purpose of demonstrating the feasibility of using lignite at a state-owned facility equipped with coal-fired boilers generating at least 200,000 pounds of steam at 125 pounds per square inch. The use of any funds provided for in this project must be approved by the Lignite Research Council and the Industrial Commission after following the standard lignite research development program review and approval process.

Renewable energy functions - Senate Bill No. 2129 combines the renewable energy program and biomass incentive and research program into one program under the Renewable Energy Council. The biomass incentive and research fund is repealed. The Legislative Assembly provided \$3 million from the general fund for renewable energy development functions.

The Lignite Research Council and the Industrial Commission approved an application from the University of North Dakota and provided \$400,000 to the university for a state facility lignite feasibility demonstration project.

The following renewable energy projects have been approved by the Industrial Commission during the 2009-11 biennium:

	General Fund	Other Funds	Total
Evaluation of perennial herbaceous biomass crops for production of ethanol	\$280,000		\$280,000
Renewable electrolytic ammonia production from water and nitrogen	250,000		250,000
Dakota turbines	178,500		178,500
Bulk energy storage for North Dakota wind integration	225,000		225,000
Energy beet research	165,000		165,000
Biomass testing laboratory	225,000		225,000
Renewable oil refinery pilot plant construction	500,000		500,000
Total	\$1,823,500		\$1,823,500

Mill and Elevator study - Section 11 of Senate Bill No. 2014 requires the Industrial Commission to obtain the services of a consultant to evaluate the Mill and Elevator during the 2009-10 interim. The evaluation must include a comparison to industry averages or standards of:

1. Financial data reflected on balance sheets and income statements;
2. Cashflow data;
3. Ratio analysis of working capital, operating efficiency, marketing, and other ratios;
4. Liquidity ratios to determine appropriate working capital needed for the mill;
5. Pretax income levels;
6. Business opportunities;
7. Capital investment and recommended net assets levels; and
8. Officer and employee compensation guidelines, including gain-sharing programs.

The Industrial Commission is to provide a summary report exclusive of proprietary information to the Budget Section on the results of the evaluation during the 2009-10 interim.

Study of economic impacts - Senate Concurrent Resolution No. 4015 directs the Industrial Commission to study the economic impacts of proposed federal, regional, and state carbon cap and trade systems, including the Minnesota Next Generation Energy Act of 2007.

The Industrial Commission contracted with Eide Bailly LLP, Certified Public Accountants, to complete the study. The completed study has been presented to the Industrial Commission and will be presented to the Budget Section in June 2010.

The Industrial Commission has approved spending up to \$150,000 and has contracted with Charles River Associates to complete the study. The cost of the study will be paid from the lignite energy research program. The commission anticipates a report will be provided to the Legislative Council by September 1, 2010.