

**Industrial Commission
Budget 405
House Bill No. 1014; Senate Bill No. 2371**

	FTE Positions	General Fund	Other Funds	Total
2011-13 legislative appropriation	74.06 ¹	\$18,075,613 ²	\$46,766,756	\$64,842,369 ²
2009-11 legislative appropriation	<u>61.06</u>	<u>14,425,254</u>	<u>49,317,984</u>	<u>63,743,238</u>
2011-13 appropriation increase (decrease) to 2009-11 appropriation	13.00	\$3,650,359	(\$2,551,228)	\$1,099,131

¹The 2011-13 authorized FTE positions do not include the 4 FTE positions for the Oil and Gas Division that were authorized in Section 8 of 2011 House Bill No. 1014 by the Legislative Assembly for the 2011-13 biennium (see the **Contingent FTE positions** section below for additional information).

²This amount includes \$3,299,400 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$14,776,213.

Item Description

FTE changes - The 2011-13 biennium appropriation includes funding for 74.06 FTE positions, an increase of 13 FTE positions from the 2009-11 biennium authorized level of 61.06 FTE positions. The Legislative Assembly did not change the executive recommendation to add 7 FTE engineering technician positions, 1 FTE petroleum engineer position, 1 FTE production analyst position, and 1 FTE surface geologist position and to change the funding source from the lands and minerals trust fund to the general fund for the 2 FTE positions that were added, upon Emergency Commission approval, during the 2009-11 biennium. The Legislative Assembly added 1 FTE position to administer the carbon dioxide storage facility administration fund.

Contingent FTE positions - The Legislative Assembly provided a contingent appropriation and authorized up to 4 additional FTE positions for the Department of Mineral Resources for the 2011-13 biennium. Upon Emergency Commission approval, the Industrial Commission may hire 1 additional FTE position if the drilling rig count exceeds 180 for at least 30 consecutive days, 1 additional FTE position if the drilling rig count exceeds 190 for at least 30 consecutive days, and 2 additional FTE positions if the total number of oil wells in the state exceeds 9,300.

Status/Result

As of April 20, 2012, the Industrial Commission has filled 9 of the 13 FTE positions authorized for the 2011-13 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	7.00	3.00
Petroleum engineer	1.00	1.00
Production analyst	1.00	1.00
Geologist	1.00	1.00
Carbon storage facility administrator	1.00	1.00
Department of Mineral Resources contingent FTE - 2009-11 biennium	2.00	2.00
Total	13.00	9.00

The drilling rig count exceeded 180 rigs for 30 consecutive days in August 2011, and exceeded 190 rigs for 30 consecutive days in September 2011. The Department of Mineral Resources received approval from the Emergency Commission in September 2011 to expend \$384,786 and hire two FTE positions. The department has hired one FTE position and is advertising for the second position.

The department anticipates exceeding 9,300 wells in January 2013 and will request 2 FTE positions at that time.

One-time funding - In Section 2 of 2011 House Bill No. 1014, the Legislative Assembly identified \$2,299,400 from the general fund as one-time funding, of which \$1.5 million is for renewable energy development programs, \$532,000 is for the carbon dioxide storage facility administration fund, \$90,000 is for temporary employees for the core library, \$62,400 is for paleontologic preparatory work, and \$115,000 is for fracturing sand, oil-bearing rock, and coalbed methane studies. In Section 28 of 2011 Senate Bill No. 2371, the Legislative Assembly provided one-time funding of \$1 million for expenses associated with litigation or other administrative proceedings involving the Environmental Protection Agency's regulation of hydraulic fracturing. The Industrial Commission is to report quarterly to the Budget Section regarding the status of any litigation and other administrative proceedings.

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

Renewable energy development programs - \$1.5 million	See the Renewable energy functions section below
Carbon dioxide storage facility administration fund - \$532,000	The Department of Mineral Resources has filled the carbon storage facility administrator position and has expended \$51,000 to date. The department anticipates filing a primacy application with the Environmental Protection Agency by the end of 2012.
Temporary employees for core library - \$90,000	The department hired two full-time temporary employees for the reboxing program at the core library.
Paleontologic preparatory work - \$62,400	The department hired one temporary employee to organize paleontologic materials.
Fracturing sand, oil-bearing rock, and coalbed methane studies - \$115,000	The department has collected 200 sand samples and 780 rock samples which were submitted to North Dakota State University for analysis. The department has identified candidate wells for the coalbed methane study. The wells will be tested and analyzed in the summer of 2012.
Litigation or administrative proceedings related to hydraulic fracturing - \$1 million	There has been no litigation or administrative proceedings relating to hydraulic fracturing.

North Dakota Building Authority lease payments limitation - North Dakota Century Code 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.

Based on the 2011 legislative forecast for projected sales, use, and vehicle excise tax collections for the 2011-13 biennium, the maximum statutory general fund amount of lease payments for the 2011-13 biennium is \$34,236,400, and the estimated limit for the 2013-15 biennium is \$35,605,856. The estimated general fund debt service requirement for the 2011-13 biennium is \$17,025,273, which is \$17,211,127 less than the legal limit of debt service. The general fund debt service requirement for the 2013-15 biennium is estimated to be approximately \$16,299,911, which is \$19,305,945 less than the legal limit. This amount will change with the forecast for the 2013-15 biennium.

The Legislative Assembly in 2011 did not provide for any capital projects funded through bond indebtedness that affect the bonding limit for the 2011-13 biennium.

The North Dakota Building Authority anticipates refunding certain bond issues during the 2011-13 biennium. The decrease in bond payments as a result of the refunding will not be known until later in the biennium.

Lignite research grants - Section 11 of 2011 House Bill No. 1014 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 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 in 2009 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 - The Legislative Assembly provided \$1.5 million from the general fund for renewable energy development functions.

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, 2012, the department has spent \$936,000 on project management and planning services and anticipates a request from the Lignite Energy Council in November 2012 for \$1 million for additional services. The \$936,000 includes funds committed but not spent during the 2009-11 biennium.

The Lignite Research Council has recommended using \$500,000 of the \$1.5 million available for the 2011-13 biennium for expenses associated with litigation that may be necessary to protect and promote the continued development of lignite resources. The actual amount provided by the department to the Lignite Energy Council in November 2012 may be reduced by any funding provided for litigation.

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 university conducted a study of the feasibility of a lignite-fired advanced combined heat and power system and the feasibility of utilizing the system to provide education and training opportunities. A final report was issued to the Industrial Commission in December 2010.

The following renewable energy projects have been approved by the Industrial Commission during the 2011-13 biennium:

	General Fund	Other Funds	Total
Dakota turbines	\$106,873 ¹		\$106,873 ¹
Comprehensive statewide higher blend ethanol marketing campaign	199,600		199,600
Energy beets research (Phase II)	500,000		500,000
Improving profitability of North Dakota ethanol plants with algae	200,000		200,000
Total	\$1,006,473		\$1,006,473

¹This funding reflects additional funding provided for the Dakota turbines project which received a grant of \$178,500 in the 2009-11 biennium.

Core library housing - In Section 12 of 2011 House Bill No. 1014, the Legislative Assembly provided legislative intent that the Industrial Commission not construct a new building for the expansion of the core library. If the existing location of the core library does not have sufficient space, the Industrial Commission may relocate parts or all of the library to an existing state-owned facility.

The Department of Mineral Resources has hired temporary employees to rebox core samples at the library resulting in more available space for core samples. The department anticipates reaching library capacity in 2018.