

**Department of Commerce  
Budget No. 601  
House Bill No. 1018, Senate Bill No. 2057**

	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2011-13 executive budget (bills as introduced)	70.25	\$46,089,494	\$88,634,937	\$134,724,431
<b>2011-13 legislative appropriations</b>	<b>68.25</b>	<b>41,759,865</b>	<b>88,634,937</b>	<b>130,394,802</b>
Legislative increase (decrease) to executive budget	(2.00)	(\$4,329,629)	\$0	(\$4,329,629)
Legislative increase (decrease) to 2009-11 appropriations	0.25	(\$21,716,438)	(\$49,626,168)	(\$71,342,606)

**ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS**

	<b>Ongoing General Fund Appropriation</b>	<b>One-Time General Fund Appropriation</b>	<b>Total General Fund Appropriation</b>
2009-11 legislative appropriations	\$30,056,303	\$33,420,000	\$63,476,303
<b>2011-13 legislative appropriations</b>	<b>29,134,865</b>	<b>12,625,000</b>	<b>41,759,865</b>
2011-13 legislative increase (decrease) to 2009-11 appropriations	(\$921,438)	(\$20,795,000)	(\$21,716,438)
Percentage increase (decrease) to 2009-11 appropriations	(3.1%)	(62.2%)	(34.2%)
2011-13 legislative increase (decrease) to executive budget	(\$659,291)	(\$3,670,338)	(\$4,329,629)
Percentage increase (decrease) to executive budget	(2.2%)	(22.5%)	(9.4%)

**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 Senate Bill No. 2015.

	<b>Major Items FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
The legislative action:				
Removed funding provided in the executive budget for an eminent researcher recruitment grant.		(\$1,000,000)		(\$1,000,000)
Reduced funding provided for workforce enhancement grants by \$1.625 million to provide a total of \$375,000 from the general fund. In addition, the Legislative Assembly authorized the department to use up to \$1.125 million from unspent 2009-11 biennium appropriation authority for the Great Plains Applied Energy Research Center for workforce enhancement grants during the 2011-13 biennium, making available a total		(1,625,000)		(1,625,000)

of \$1.5 million. The executive budget provided \$2 million from the general fund for these grants.

Reduced funding provided for the American Indian Business Development Office to provide a total of \$150,000 from the general fund.		(50,000)		(50,000)	
Removed funding added in the executive budget to continue four Jobs for America's Graduates programs previously paid with federal funds in the 2009-11 biennium.		(100,000)		(100,000)	
Removed one-time funding added in the executive budget for a statewide marketing effort of the WorkKeys program.		(125,000)		(125,000)	
Added one-time funding for an electronic portfolio pilot project.		150,000		150,000	
Added funding for grants relating to a 2020 and Beyond Initiative to assess current assets and resources of the state and whether these assets and resources match the emerging opportunities and trends within the state.		50,000		50,000	
Added funding for the North Dakota Trade Office for a lease rate increase from \$2 per square foot to \$8 per square foot.		60,400		60,400	
Removed funding added in the executive budget to create a Division of Energy, including an energy director position (\$243,549), program manager position (\$125,216), and operating expenses (\$250,926).	(2.00)	(619,691)		(619,690)	
Removed funding provided for child care grants (\$500,000), loans (\$420,338), and development grants (\$150,000) and provided a separate \$3.1 million general fund appropriation to the Department of Human Services for grants to child care service providers for workforce development, quality improvement, technical assistance, and capacity building as provided in North Dakota Century Code Section 50-11.1-14.1.		(1,070,338)		(1,070,338)	
<b>Total</b>		<u>(2.00)</u>	<u>(\$4,329,629)</u>	<u>\$0</u>	<u>(\$4,329,629)</u>

**FTE Changes**

The 2011-13 biennium appropriation includes funding for 68.25 FTE positions, an increase of .25 FTE positions from the 2009-11 biennium authorized level of 68 FTE positions. The Legislative Assembly removed 2 FTE positions included in the executive recommendation for an energy director position and program manager position related to the proposed Division of Energy which was also removed.

**One-Time Funding**

In Section 2 of Senate Bill No. 2057, the Legislative Assembly identified \$12.625 million of funding from the general fund as one-time funding items for the Department of Commerce. These amounts are not to be considered part of the Department of Commerce base budget for preparing the 2013-15 executive budget, and the Department of Commerce is to report to the Appropriations Committees during the 2013 legislative session on the use of the funding. The table below summarizes one-time funding included in the executive recommendation and provided by the Legislative Assembly to the Department of Commerce from the general fund for the 2011-13 biennium.

<b>One-Time Funding Initiatives</b>	<b>2011-13 Biennium Executive Recommendation House Bill No. 1018</b>	<b>2011-13 Biennium Legislative Appropriation Senate Bill No. 2057</b>	<b>2011-13 Biennium Legislative Appropriation Increase (Decrease) From 2011-13 Executive Recommendation</b>
Workforce enhancement grants	\$2,000,000	\$375,000	(\$1,625,000)
Centers of research excellence	13,000,000	12,000,000	(1,000,000)
American Indian Business Development Office	100,000	50,000	(50,000)
WorkKeys	125,000		(125,000)
Electronic portfolio pilot project		150,000	150,000
2020 and Beyond study		50,000	50,000
Child care credential grants	150,000		(150,000)
Child care grants and loans	920,338		(920,338)
<b>Total</b>	<b>\$16,295,338</b>	<b>\$12,625,000</b>	<b>(\$3,670,338)</b>

### Federal Fiscal Stimulus Funding

The Legislative Assembly appropriated \$24,496,750 of federal fiscal stimulus funds carryover from the 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 2013-15 biennium. 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.

United States Department of Energy low-income weatherization assistance program	\$9,100,000
State energy program	9,000,000
Energy efficiency and conservation block grants	4,946,750
Homeless prevention and rapid rehousing program	1,250,000
Community services block grant	200,000
<b>Total</b>	<b>\$24,496,750</b>

### Exemption

In Section 18 of Senate Bill No. 2057, the Legislative Assembly authorized the Department of Commerce to continue up to \$4.1 million of the 2009-11 \$5 million general fund appropriation for a Great Plains Applied Energy Research Center (2009 S.L., ch. 26, § 1). In the 2009-11 biennium the department conducted a feasibility study to determine if a Great Plains Applied Energy Research Center on the Bismarck State College campus was a viable investment. The study determined the project was not feasible; therefore, the department did not continue with construction of the center. The executive recommendation provided \$5 million carryover for the centers of research excellence program in the 2011-13 biennium. The Legislative Assembly provided \$4.1 million carryover in the 2011-13 biennium for the following purposes:

<b>Off Budget Items</b>	<b>2011-13 Biennium Executive Recommendation House Bill No. 1018</b>	<b>2011-13 Biennium Legislative Appropriation Senate Bill No. 2057</b>	<b>2011-13 Biennium Legislative Appropriation Increase (Decrease) From 2011-13 Executive Recommendation</b>
Centers of research excellence	\$5,000,000		(\$5,000,000)
North Dakota Development Fund to provide funding to startup stage technology-based businesses		\$1,000,000	1,000,000
Workforce enhancement grants		1,125,000	1,125,000
Tourism infrastructure grants		750,000	750,000
Acquisition of the antiballistic missile site at the Stanley R. Mickelson safeguard complex in Nekoma		600,000	600,000
Minot Air Force Base realignment grant		325,000	325,000
Grant to a not-for-profit organization assisting individuals with business ideas		300,000	300,000
<b>Total</b>	<b>\$5,000,000</b>	<b>\$4,100,000</b>	<b>(\$900,000)</b>

### **Centers of Research Excellence**

Section 12 of Senate Bill No. 2057 (2011) establishes a centers of research excellence fund and centers of research excellence program. The centers of research excellence program established by the 2011 Legislative Assembly replaces the centers of excellence program with the following modifications:

- Grant award determinations are made by the Centers of Excellence Commission and do not require Emergency Commission or Budget Section approval.
- Tourism was removed from the definition of an "industry cluster."
- Under centers of research excellence application and eligibility requirements, the requirement that research universities limit applications to two per round of centers funding is removed as well as the requirement relating to consideration of a center's ability to become financially self-sustaining from the award determination process.
- Under centers of research excellence postaward monitoring, an audit is required on all funds distributed to the centers after the second full fiscal year and after all funds distributed to the centers have been expended and for all other years during the postaward monitoring, the centers may contract with an independent accountant for an agreed-upon procedures engagement. This was changed from the requirement of annual audits until the completion of the commission's postaward monitoring, which lasted for no fewer than 6 years and no more than 10 years following center designation.
- The centers of research excellence program is considered an ongoing program of the Department of Commerce (the centers of excellence program had an established expiration date).

The 2011 Legislative Assembly appropriated \$12 million from the general fund for transfer to the centers of research excellence fund for providing funding for a limited deployment-cooperative airspace project grant (\$4 million), centers of research excellence grants (\$5 million), and base realignment grants (\$3 million) for the 2011-13 biennium.

The Department of Commerce may use up to \$4 million of the funds transferred to the centers of research excellence fund for grants to the North Dakota University System's research institutions for the purpose of leveraging private and federal funding to advance state opportunities associated with a limited deployment-cooperative airspace project in the state during the 2011-13 biennium. Up to \$2.7 million may be awarded to the University of North Dakota and up to \$1.3 million to North Dakota State University. The Department of Commerce is to develop application criteria, review submitted applications, and recommend applications for approval to the Centers of Excellence Commission. Any uncommitted funds available as of July 1, 2012, may be used by the Centers of Excellence Commission for the centers of research excellence program. One research university or nonprofit foundation related to that research university may receive no more than 50 percent of the available funds.

The Department of Commerce may use \$8 million of the funds transferred to the centers of research excellence fund for centers of research excellence grants as established in Senate Bill No. 2057. Of the \$4 million available to the University of North Dakota through the centers of research excellence program, \$3 million is to be used for base realignment grants. The department may award base realignment grants 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, a grant of up to \$200,000 to the Grand Forks Housing Authority for a planning initiative, or grants for infrastructure and economic development projects or programs to accommodate growth in proximity to or at the Grand Forks Air Force Base. Any remaining funds of the \$3 million available for base realignment grants that are not committed within the first 18 months of the biennium may be used by the Centers of Excellence Commission for the centers of research excellence program.

### **Centers of Excellence**

The 2011 Legislative Assembly did not appropriate new funding to the centers of excellence fund or program for the 2011-13 biennium. The remaining balance in the centers of excellence fund is obligated to centers of excellence awarded in prior bienniums. Pursuant to provisions of Senate Bill No. 2057 (2011), the centers of excellence fund will be repealed on August 1, 2023. Section 15-69-05, relating to centers of excellence, is amended to provide for the distribution of remaining obligated funds and postaward monitoring of centers of excellence awarded in prior bienniums. The postaward monitoring is changed to provide that an audit be required on all funds distributed to the centers after the second full fiscal year and after all funds distributed to the centers have been expended and for all other years during the postaward monitoring, the centers may contract with an independent accountant for an agreed-upon procedures engagement. This was changed from the requirement of annual audits until the completion of the commission's postaward monitoring, which lasted for no fewer than 6 years and no more than 10 years following center designation.

**InnovateND Program**

The Legislative Assembly provided \$550,000, of which \$400,000 is from the general fund for the InnovateND program in the 2011-13 biennium. This level of funding is the same as the executive recommendation and the 2009-11 biennium appropriation.

**North Dakota Trade Office**

The Legislative Assembly provided \$2,613,400 from the general fund for the North Dakota Trade Office. The \$2,613,400 is \$60,400 more than the executive recommendation of \$2.553 million from the general fund and \$549,400 more than the 2009-11 biennium appropriation of \$2,064,000 from the general fund. The following is a summary of funding for the North Dakota Trade Office:

<b>Biennium</b>	<b>General Fund</b>	<b>Special Funds</b>	<b>Total</b>
2003-05	\$75,000 <sup>1</sup>	\$0	\$75,000
2005-07	\$0	\$700,000 <sup>2</sup>	\$700,000
2007-09	\$1,500,000 <sup>3</sup>	\$0	\$1,500,000
2009-11	\$2,064,000 <sup>4</sup>	\$0	\$2,064,000
2011-13	\$2,613,400 <sup>5</sup>	\$0	\$2,613,400

<sup>1</sup>Section 21 of House Bill No. 1019 (2003) 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 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.

<sup>2</sup>The 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.

<sup>3</sup>Section 10 of House Bill No. 1018 (2007) 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.

<sup>4</sup>Section 11 of Senate Bill No. 2018 (2009) 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.

<sup>5</sup>Section 26 of Senate Bill No. 2057 (2011) provides that the Department of Commerce may spend 70 percent of funding appropriated to the North Dakota Trade Office (\$2,613,400) without requiring matching funds from the North Dakota Trade Office. 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 for the 2011-13 biennium. 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 same as the executive recommendation and the 2009-11 biennium. Section 10 creates a new section to Chapter 54-60 to create an internship fund and provide a continuing appropriation. Interest earned on money in the fund is retained in the fund. Section 17 allows the department to continue any unexpended amounts from the 2009-11 biennium appropriations relating to internships (operating expenses line item - 2009 S.L., ch. 46, § 1) into the 2011-13 biennium and provides that any unexpended funds of this amount in the 2011-13 biennium be transferred to the internship fund at the end of the 2011-13 biennium. Section 25 provides that the \$900,000 appropriated for the program in the operating expenses line item in Section 1 be transferred to the internship fund.

**Other Sections in Senate Bill No. 2057**

**Financing to early childhood facilities** - Section 3 extends the expiration of financing to early childhood facilities from the North Dakota Development Fund from July 31, 2011, to July 31, 2013, and increases the award limit per childhood facility from \$100,000 to \$200,000.

**Small business technology investment** - Section 4 establishes a small business technology investment program that provides matching investments to startup technology-based businesses. A matching requirement provides that corporations must provide \$2 of angel fund investment matching funds, certified under Section 57-38-01.26, for each \$1 of state funds awarded. Investments are limited to \$50,000 per award recipient.

**Biofuel blender pump incentive program** - Section 9 reestablishes the biofuel blender pump incentive program that expired on November 30, 2010. The program is to be administered by the Department of Commerce to provide cost-share grants up to \$14,000 per pump to motor fuel retailers for the installation of biofuel blender pumps and associated equipment at retail locations, including the piping system and storage components. Section 36 establishes an expiration date of July 31, 2013, for the statutory provisions.

**Electronic portfolio pilot project** - Section 11 establishes a pilot program within higher education for an electronic portfolio system to be administered by the Division of Workforce Development.

**Income tax credit** - Sections 13 and 14 provide for an income tax credit on purchases of manufacturing machinery and equipment for the purpose of automating manufacturing processes. Section 37 provides that Sections 13 and 14 are effective for the first three taxable years beginning after December 31, 2012.

**Exemption** - Sections 15, 16, and 19 through 22 allow unexpended amounts from the following 2009-11 biennium appropriations to continue into the 2011-13 biennium:

- Agricultural Products Utilization Commission (2009 S.L., ch. 46, § 1).
- Discretionary funds (line item - 2009 S.L., ch. 46, § 1).
- Technology-based entrepreneurship grant program (grants line item - 2009 S.L., ch. 46, § 1).
- Early childhood facility grants (2009 S.L., ch. 108, § 6).
- Biofuel blender pump incentive program (2009 S.L., ch. 46, §§ 1 and 2).
- USS *North Dakota* (grants line item - 2009 S.L., ch. 46, § 1).

**Department of Human Services - Child care service providers grant** - Section 27 provides a \$3.1 million general fund appropriation to the Department of Human Services for grants to child care service providers for workforce development, quality improvement, technical assistance, and capacity building as provided in Section 50-11.1-14.1.

**2020 and Beyond Initiative** - Section 29 provides that the North Dakota Economic Development Foundation contract with an organization with North Dakota business membership which is statewide in scope and represents business interests across the state in order to conduct a 2020 and Beyond Initiative studying various aspects of the state's economic conditions. The 2020 and Beyond Initiative must include periodic meetings of six legislators appointed by the chairman of the Legislative Management, individuals representing North Dakota business interests, individuals representing North Dakota education interests, and individuals representing state and local government interests. The grants line item includes the sum of \$50,000 from the general fund for providing a grant to implement the 2020 and Beyond Initiative.

**Institution of higher education vaccinology initiative** - Section 30 provides that of the funds appropriated in the discretionary funds line item, \$50,000 from the general fund may be used by the Department of Commerce to provide a matching grant to an institution of higher education for a vaccinology initiative.

**Examination of population growth impact on revenues study** - Section 31 provides that the Legislative Management consider studying the development of a reliable means of estimating the effect of future population growth on state and local government revenues.

**Early childhood services provider training and assistance study** - Section 32 provides that the Legislative Management consider studying the means by which training and assistance are provided to early childhood services providers and the efficiency of administering training and assistance to early childhood services providers, including whether there is duplication of efforts. The study should review the effectiveness of funding provided to the Department of Human Services for early childhood care, including workforce development, child care capacity, and quality improvement for early childhood facilities, for the 2009-11 biennium and to the Department of Commerce for financing to early childhood facilities and early childhood facility grants for technical assistance, a business

plan, or infrastructure for the 2009-11 biennium. The study should also consider the effectiveness of funding provided to the Department of Human Services for child care service provider grants for the 2011-13 biennium.

**Center of research excellence program continuity** - Section 33 provides legislative intent that the centers of research excellence program be considered an ongoing program of the Department of Commerce.

#### **Related Legislation**

**Angel fund investment tax credit** - House Bill No. 1057 amends and reenacts Section 57-38-01.26 relating to the angel fund investment tax credit, provides a report to the Legislative Management, and provides an effective date and expiration date. The bill expands provisions of the angel fund investment tax credit to enable passthrough entities, such as partnerships and limited liability companies, to participate. The bill also provides that unused angel fund investment tax credits may be sold, assigned, or transferred to other taxpayers.

**Tourism infrastructure grants - Emergency Commission and Budget Section approval** - Section 31 of Senate Bill No. 2015 provides that the \$750,000 available for tourism infrastructure grants may only be awarded upon Emergency Commission and Budget Section approval. **This section was vetoed by the Governor.**

**Tourism strategic partnerships** - House Concurrent Resolution No. 4021 directs the Legislative Management to study the feasibility and desirability of developing a strategic partnership between the Tourism Division and corresponding tourism departments or alliances of tourism departments of the Indian tribes within North Dakota promoting tourism in North Dakota.

**Crop insurance development grants** - Senate Bill No. 2222 requires the Agricultural Products Utilization Commission to reserve \$150,000 from the agricultural fuel tax fund for the purpose of awarding grants that have been approved by the Crop Insurance Development Board. If any portion of the reserved amount remains unexpended at the conclusion of a biennium, the unexpended amount must also be made available for the purpose of awarding grants during the ensuing biennium.