

**FIRST ENGROSSMENT  
with Conference Committee Amendments**

**ENGROSSED SENATE BILL NO. 2015**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the various divisions  
2 under the supervision of the director of the office of management and budget; to provide other  
3 appropriations; to provide for various transfers and financial transactions; to provide an  
4 exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to  
5 provide statements of legislative intent; to provide for a legislative council study; to create and  
6 enact a new section to chapter 54-06, a new section to chapter 54-11, a new section to chapter  
7 54-23.2, five new sections to chapter 57-34, and a new section to chapter 65-02 of the North  
8 Dakota Century Code, relating to the collection and receipt of public funds, mobile data terminal  
9 and 911 service fees, the audit and assessment of telecommunications carriers, deficiency  
10 notice protest and appeal procedure, claim for credit or refund of the tax on telecommunications  
11 carriers, preservation of records, and resale certificates, and payments in lieu of taxes on  
12 workers compensation bureau property; to amend and reenact subsection 2 of section  
13 4-14.1-07, section 15-39.1-26, subsection 2 of section 32-12.2-07, sections 34-15-07,  
14 39-12-20, subdivision g of subsection 3 of section 49-23-04, sections 54-16-04.1, 54-16-04.2,  
15 54-27.2-02, 54-44-04.6, 57-34-01, 57-34-02, 57-34-03, 57-34-06, and 57-34-10 of the North  
16 Dakota Century Code, relating to ethanol plants, the collection, investment, and deposit of state  
17 funds, time periods under the one-call excavation notice system, the risk management fund,  
18 emergency commission approvals, the budget stabilization fund, and telecommunications  
19 carriers gross receipts tax revenues; to provide a penalty; to provide a continuing appropriation;  
20 to provide an effective date; to provide an expiration date; to provide for retroactive application;  
21 to provide for application; and to declare an emergency.

22 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

23 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
24 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in

Fifty-sixth  
Legislative Assembly

1 the state treasury, not otherwise appropriated, and from special funds derived from federal  
2 funds and other income, to the various divisions under the supervision of the director of the  
3 office of management and budget for the purpose of defraying their expenses, for the biennium  
4 beginning July 1, 1999, and ending June 30, 2001, as follows:

5 Subdivision 1.

6 OFFICE OF MANAGEMENT AND BUDGET

7 Administration	\$2,982,026
8 Fiscal management	3,875,828
9 Facility management	8,074,694
10 Central personnel	1,212,300
11 Division of community services	42,035,197
12 Risk management	959,911
13 Statewide compensation plan	<u>5,400,000</u>
14 Total all funds	\$64,539,956
15 Less estimated income	<u>46,088,243</u>
16 Total general fund appropriation	\$18,451,713

17 Subdivision 2.

18 INFORMATION SERVICES DIVISION

19 Information resource management	<u>\$49,659,295</u>
20 Total all funds	\$49,659,295
21 Less estimated income	<u>49,409,295</u>
22 Total general fund appropriation	\$250,000

23 Subdivision 3.

24 CENTRAL SERVICES

25 Central services	<u>\$5,454,471</u>
26 Total all funds	\$5,454,471
27 Less estimated income	<u>4,774,332</u>
28 Total general fund appropriation	\$680,139

29 Subdivision 4.

30 STATE RADIO COMMUNICATIONS

Fifty-sixth  
Legislative Assembly

1	Salaries and wages	\$2,468,120
2	Operating expenses	1,788,580
3	Equipment	<u>160,000</u>
4	Total all funds	\$4,416,700
5	Less estimated income	<u>514,990</u>
6	Total general fund appropriation	\$3,901,710
7	Grand total general fund appropriation section 1	\$23,283,562
8	Grand total special funds appropriation section 1	\$100,786,860
9	Grand total all funds appropriation section 1	\$124,070,422

10           **SECTION 2. APPROPRIATION.** There is hereby appropriated from federal funds  
11 \$6,000,000, or so much of the sum as may be necessary, to the director of the office of  
12 management and budget for the division of community services for flood-related disasters and  
13 the weatherization of low-income homes, for the period beginning with the effective date of this  
14 Act and ending June 30, 1999.

15           **SECTION 3. APPROPRIATION.** There is hereby appropriated out of any moneys in  
16 the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so  
17 much of the sum as may be necessary, to the emergency commission for the purpose of  
18 paying costs associated with Americans with Disabilities Act litigation to which the department  
19 of transportation is a party for the biennium beginning July 1, 1999, and ending June 30, 2001.  
20 The emergency commission may use the funds to make payments to the plaintiffs in the event  
21 a judgement is entered against the state in Miller v. State of North Dakota.

22           **SECTION 4. APPROPRIATION - UNIVERSITY SYSTEM - GRANT TO PRAIRIE**  
23 **PUBLIC BROADCASTING.** There is hereby appropriated out of any moneys in the general  
24 fund in the state treasury, not otherwise appropriated, the sum of \$415,000, or so much of the  
25 sum as may be necessary, to the university system office for the purpose of providing a grant to  
26 be used as matching funds by prairie public broadcasting for phase I of the project to convert to  
27 digital television broadcasting.

28           **SECTION 5. ATTORNEY GENERAL - GAMING ENFORCEMENT GRANTS - LINE**  
29 **ITEM TRANSFERS.** Notwithstanding section 54-16-04 and section 5 of Senate Bill No. 2003,  
30 as approved by the fifty-sixth legislative assembly, the emergency commission may authorize  
31 the attorney general to make transfers between the line items in section 1 of Senate Bill

1 No. 2003 of up to the sum of \$310,086 for the purpose of providing additional local gaming  
2 enforcement grants in accordance with the provisions of section 6 of Senate Bill No. 2003, for  
3 the biennium beginning July 1, 1999, and ending June 30, 2001.

4 **SECTION 6. APPROPRIATION.** The amount of \$25,000, or so much of that amount  
5 as may be necessary, is hereby appropriated out of any moneys in the general fund in the state  
6 treasury, not otherwise appropriated, to the council on the arts for the purpose of providing a  
7 grant to the plains art museum for the Lewis and Clark bicentennial event, for the biennium  
8 beginning July 1, 1999, and ending June 30, 2001. The council on the arts may provide the  
9 grant only after the plains art museum has raised \$25,000 of other funds to be used to match  
10 the general fund moneys appropriated in this section.

11 **SECTION 7. LINE ITEM TRANSFERS - EMERGENCY COMMISSION AND BUDGET**  
12 **SECTION APPROVAL.** Upon approval of the emergency commission, the director of the office  
13 of management and budget may transfer between various line items in subdivisions 1, 2, and 3  
14 of section 1 of this Act appropriation authority of up to ten percent of a given line item to adjust  
15 for changing circumstances in meeting established performance measures. Any further  
16 transfers must be approved by the budget section.

17 **SECTION 8. CAPITOL BUILDING FUND.** The amount of \$225,000, or so much of the  
18 sum as is necessary, included in the estimated income line item in subdivision 1 of section 1 of  
19 this Act, is to be spent by the facility management division from the capitol building fund during  
20 the biennium beginning July 1, 1999, and ending June 30, 2001. The amount of \$25,000, or so  
21 much of the sum as is necessary, included in the estimated income line item in subdivision 1 of  
22 section 1 of this Act, is to be spent by the administration division from the capitol building fund  
23 for capitol grounds planning during the biennium beginning July 1, 1999, and ending June 30,  
24 2001.

25 **SECTION 9. EXEMPTION.** The fiscal management appropriation contained in  
26 subdivision 1 of section 1 of chapter 15 of the 1997 Session Laws is not subject to the  
27 provisions of section 54-44.1-11 for up to an amount of \$750,000 and any unexpended funds  
28 from this appropriation are available for continued development and operating costs of the  
29 accounting, management, and payroll systems during the biennium beginning July 1, 1999, and  
30 ending June 30, 2001.

1           **SECTION 10. SPECIAL COMPENSATION ADJUSTMENTS FOR CLASSIFIED**

2 **STATE EMPLOYEES.** It is the intent of the fifty-sixth legislative assembly that the statewide  
3 compensation plan appropriation included in subdivision 1 of section 1 of this Act be used for  
4 market equity compensation adjustments for classified state employees. The special market  
5 equity adjustments are to begin with the month of July 1999, to be paid in August 1999. The  
6 special market equity adjustments are to be independent of any general salary increase  
7 provided by this legislative assembly.

8           The special market equity increases are to be prioritized based on equity for employees  
9 whose salaries are furthest from their respective salary range midpoints effective July 1, 1999.  
10 Special market equity increases may not be given to employees whose salary exceeds the  
11 midpoints of their assigned salary range effective July 1, 1999.

12           Probationary employees are eligible for the special market equity increases.  
13 Employees whose documented performance levels do not meet standards are not eligible for  
14 the special market equity increases.

15           The central personnel division shall provide a model base plan to each agency.  
16 Agencies may adopt the model plan, adopt the model plan with exceptions, or offer an  
17 alternative plan that meets the intent outlined in this section.

18           Upon adoption of an appropriate plan and application to the central personnel division,  
19 the division shall transfer appropriated general funds or special fund spending authority for the  
20 increases to the agencies.

21           **SECTION 11. INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS -**

22 **GUIDELINES.** It is the intent of the fifty-sixth legislative assembly that 1999-2001  
23 compensation adjustments for permanent state employees are to be increases of a minimum of  
24 \$35 per month, beginning with the month of July 1999, to be paid in August 1999, and a  
25 minimum of \$35 per month, beginning with the month of July 2000, to be paid in August 2000.  
26 Any increases greater than \$35 per month may not be given across-the-board and must be  
27 based on merit and equity. Each agency appropriation is increased by 2.0 percent per year.

28           Probationary employees and employees whose documented performance levels do not  
29 meet standards are not eligible for the general or additional increases.

1           During the biennium, no salary increase other than the \$35 per month in July 1999 and  
2 \$35 per month in July 2000 may be given to an employee whose salary exceeds or would  
3 exceed the salary range maximum.

4           It is the intent of the fifty-sixth legislative assembly that the workers compensation  
5 bureau provide pay raises based on merit and performance throughout the 1999-2001  
6 biennium.

7           An agency may provide average salary increases of up to 3.0 percent for the second  
8 year of the 1999-2001 biennium only to the extent that the increase can be paid without an  
9 increase in the agency's appropriation. State agencies and institutions shall report to the office  
10 of management and budget on the amounts provided for salary increases for the second year  
11 of the biennium, any amounts transferred between line items pursuant to section 12 of this Act,  
12 the source of funding, and the impact on the provision of agency services. The office of  
13 management and budget shall report to the budget section at its December 2000 meeting  
14 concerning the amounts provided by state agencies and institutions for salary increases for the  
15 second year of the biennium, line item transfers relating to the increases, the source of the  
16 funding, and the impact on the provision of agency services.

17           **SECTION 12. STATE AGENCIES - LINE ITEM TRANSFER AUTHORITY.**

18 Notwithstanding the provisions of chapter 54-16, the director of the office of management and  
19 budget and the state treasurer shall make transfers of funds between line items of an agency or  
20 institution upon the request of the agency or institution in order to provide for an average of 3.0  
21 percent employee salary increases for the second year of the 1999-2001 biennium as provided  
22 in section 11 of this Act.

23           **SECTION 13. INTENT.** Within the authority included in subdivision 1 of section 1 of  
24 this Act, are the following grants and special items:

25 Boys and girls clubworks	\$53,000
26 State contingencies	600,000
27 State memberships and related expenses	317,000
28 Firemen's association	63,000
29 Unemployment insurance	1,200,000

1	Capitol grounds planning commission	25,000
2	State lobbyist	120,000

3           **SECTION 14. TRANSFER.** During the biennium beginning July 1, 1999, and ending  
4 June 30, 2001, the director of the office of management and budget is authorized to transfer  
5 special funds to the general fund as follows:

6	Lands and minerals trust fund	\$3,000,000
7	Public employees life insurance program	1,500,000
8	Financial institutions regulatory fund	200,000

9           **SECTION 15. DEVELOPMENTAL DISABILITIES REVOLVING LOAN FUND -**  
10 **AUTHORITY TO SELL LOANS - TRANSFERS.** Between January 1 and June 30, 2001, at the  
11 request of the director of the office of management and budget, the executive director of the  
12 department of human services shall sell such loans in the developmental disabilities revolving  
13 loan fund created under North Dakota Century Code section 6-09.6-01, as may be necessary  
14 to the Bank of North Dakota to provide \$2,150,000, or so much thereof as may be necessary,  
15 with the proceeds to be deposited in the general fund. The loans may only be sold to the  
16 extent necessary to achieve the June 30, 2001, ending general fund balance as estimated by  
17 the fifty-sixth legislative assembly.

18           **SECTION 16. FIRE AND TORNADO FUND.** The amount of \$63,000, or so much of  
19 the amount as is necessary, included in the estimated income line item in subdivision 1 of  
20 section 1 of this Act, is from the fire and tornado fund.

21           **SECTION 17. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL**  
22 **FUND.** During the biennium ending June 30, 2001, the industrial commission shall transfer to  
23 the state general fund up to \$50,000,000 from the current earnings and the accumulated  
24 undivided profits of the Bank of North Dakota. No more than \$15,000,000 of the amount  
25 transferred may come from accumulated undivided profits. The moneys must be transferred in  
26 the amounts and at such times as requested by the director of the office of management and  
27 budget.

28           No transfers may be made that would reduce the Bank's capital structure below  
29 \$100,000,000.

1           **SECTION 18. CONTINGENT BANK OF NORTH DAKOTA TRANSFERS TO STATE**  
2 **GENERAL FUND - BUDGET SECTION APPROVAL.** If, during the biennium ending June 30,  
3 2001, the director of the office of management and budget determines via revised projections  
4 that general fund revenue collections will not meet the revenues as forecast in the March 1999  
5 legislative forecast, then the industrial commission shall transfer to the state general fund an  
6 additional amount, as determined by the director of the office of management and budget and  
7 as approved by the budget section, from the earnings and accumulated and undivided profits of  
8 the Bank of North Dakota. Transfers made under the provisions of this section may not be  
9 made before July 1, 2000, and may only be made to the extent that the transfer is necessary to  
10 achieve a projected June 30, 2001, general fund balance of \$10,000,000. The moneys must  
11 be transferred in amounts and at such times as requested by the director of the office of  
12 management and budget. The additional amount transferred may not exceed the lesser of  
13 \$40,000,000 or the revenue shortfall of actual collections compared to the March 1999  
14 legislative forecast.

15           No transfers may be made that would reduce the Bank's capital structure below  
16 \$100,000,000.

17           **SECTION 19. FEDERAL PROGRAM TERMINATIONS - BLOCK GRANT - FUNDING**  
18 **REDUCTIONS - RELATED PROGRAM REDUCTIONS - REPORTS TO THE BUDGET**

19 **SECTION.** If the federal government during the 1999-2001 biennium terminates funding for  
20 any program administered by an agency, department, or institution of the state of North Dakota,  
21 the agency, department, or institution, subject to budget section approval, may terminate the  
22 program and not replace the reduction in federal funds with state funds, notwithstanding any  
23 other provision of law. If the federal government combines funding for separate programs in a  
24 block grant resulting in a reduction of total federal funds available for those programs, the  
25 administering agency, department, or institution may, subject to budget section approval,  
26 prioritize or reprioritize programs as necessary in making programmatic reductions. The  
27 agency, department, or institution may administer funds available under a new federal block  
28 grant or similar measure, consistent with the terms of that measure, notwithstanding any other  
29 provisions of law intended to conform to or implement the provisions of the repealed federal  
30 Act, and shall report any program terminations, reductions, or changes resulting from this  
31 section to the budget section of the legislative council for its approval.



1           **SECTION 20. PROGRAM-BASED PERFORMANCE BUDGETING.** The office of  
2 management and budget shall discontinue the program-based performance budgeting pilot  
3 project when preparing the 2001-03 biennium budget documents and accompanying  
4 appropriation bills. Budget documents for the 2001-03 biennium are to be based on the  
5 standard line items and are not to contain agency performance measures.

6           **SECTION 21. LEGISLATIVE COUNCIL INTERIM STUDY OF PERFORMANCE**  
7 **INCENTIVE PILOT PROGRAMS.** The legislative council shall consider studying the  
8 establishment of agency performance incentive pilot programs. If conducted, the study should  
9 address how agencies could develop, implement, administer, maintain, and evaluate  
10 performance incentive pilot programs. The study should also address the development of  
11 personnel policies and procedure manuals and how pay raises which may not be across the  
12 board are to be awarded as a reward and incentive for superior performance and the length of  
13 time they may be in effect. The legislative council shall report its findings and  
14 recommendations, together with any legislation required to implement the recommendations, to  
15 the fifty-seventh legislative assembly.

16           **SECTION 22. UNIVERSITY OF NORTH DAKOTA WINTER SPORTS FACILITY**  
17 **MAINTENANCE FUND.** The university of North Dakota shall establish a reserve fund to be  
18 used to provide for future repair and maintenance costs related to the winter sports facility to be  
19 constructed at the university of North Dakota. The university shall establish a reserve fund for  
20 this purpose from building operating profits, donations, or other funds.

21           **SECTION 23. AMENDMENT.** Subsection 2 of section 4-14.1-07 of the 1997  
22 Supplement to the North Dakota Century Code as amended by section 11 of House Bill No.  
23 1019, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

24           2. An ethanol plant that was in operation before July 1, 1995, and which ~~produced~~  
25           has a production capacity of fewer than fifteen million gallons [56781000 liters] of  
26           ethanol ~~in the previous fiscal year~~ may receive up to seven hundred fifty thousand  
27           dollars in production incentives from the state for production in a fiscal year. An  
28           ethanol plant that was in operation before July 1, 1995, and which has a  
29           production capacity of fifteen million gallons [56781000 liters] or more of ethanol  
30           per year is not eligible for production incentives from the state.

1           **SECTION 24. AMENDMENT.** Section 15-39.1-26 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **15-39.1-26. Investment of moneys in fund - Interest and earnings attributable to**  
4 **fund.** Investment of the fund ~~shall be~~ is under the supervision of the state investment board in  
5 accordance with chapter 21-10. ~~Such~~ The moneys must be placed for investment only with a  
6 firm or firms whose endeavor is money management, and only after a trust agreement or  
7 contract has been executed. Investment costs may be paid directly from the fund, and are  
8 hereby appropriated for that purpose, in accordance with section 21-10-06.2. All interest and  
9 earnings on funds administered by the board must be credited to the fund.

10           **SECTION 25. AMENDMENT.** Subsection 2 of section 32-12.2-07 of the 1997  
11 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12           2. The state risk management fund is a special fund in the state treasury  
13 administered by the director of the office of management and budget. The fund is  
14 a revolving fund consisting of contributions from participating state entities, all  
15 payments received by the fund from its activities, and other appropriations by the  
16 legislative assembly. The state investment board shall invest the fund in  
17 accordance with chapter 21-10. Funds received as contributions from state  
18 entities, all other payments deposited in the fund, and interest and income  
19 received on investments are hereby appropriated on a continuing basis for the  
20 purposes of the fund. Section 54-44.1-11 does not apply to the fund.

21           **SECTION 26. AMENDMENT.** Section 34-15-07 of the 1997 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23           **34-15-07. Disposition of civil money penalties.** A civil money penalty collected  
24 under this chapter must be paid into the state treasury for deposit in the general fund ~~after the~~  
25 ~~costs of recovering the civil money penalty are deducted therefrom.~~

26           **SECTION 27. AMENDMENT.** Section 39-12-20 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **39-12-20. Proceeds of sale - Continuing appropriation.** The proceeds of sale must  
29 be ~~applied first to the payment of~~ deposited with the state treasurer. The state treasurer shall  
30 deposit in the highway fund an amount equal to the amount of the charges assessed pursuant  
31 to section 39-12-17 after paying the costs to the county. An amount equal to the costs of the

1 proceedings, including attorneys and witness fees and costs, ~~and next to the payment of the~~  
2 ~~charges assessed. Such charges must be remitted to the state treasurer to be credited to the~~  
3 ~~highways fund~~ is appropriated on a continuing basis out of the funds collected to the county in  
4 which the prosecution took place for the purpose of defraying the costs of prosecution. The  
5 balance of the proceeds of any sale after the payment of costs and charges ~~must is~~  
6 appropriated on a continuing basis out of the funds collected to be paid over by the sheriff to  
7 the person entitled thereto as determined by the court or must be deposited with the clerk of  
8 court for such payment.

9 **SECTION 28. AMENDMENT.** Subdivision g of subsection 3 of section 49-23-04 of the  
10 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11 g. An excavator may not use a location more than ~~seventy two hours~~ ten days,  
12 or any extension of that period, after the planned excavation date unless the  
13 excavator has made previous arrangements with the operators affected.

14 **SECTION 29.** A new section to chapter 54-06 of the North Dakota Century Code is  
15 created and enacted as follows:

16 **Expenses incurred to collect funds owed the state - Continuing appropriation.** If  
17 a state agency enters a contract with a collection or credit agency to collect money due the  
18 state, the fees for services, reimbursement, or other remuneration to the collection or credit  
19 agency must be based on the amount of money actually collected. All funds collected on  
20 behalf of a state agency by a collection or credit agency must be deposited with the state  
21 treasurer. An amount equal to the amount of fees for services, reimbursement, or any other  
22 remuneration to the collection or credit agency as set forth in the contract is appropriated from  
23 the fund into which the money collected was deposited to the state agency for which the funds  
24 were collected for the payment of fees due under the contract.

25 **SECTION 30.** A new section to chapter 54-11 of the North Dakota Century Code is  
26 created and enacted as follows:

27 **Appointment of agents.** The treasurer may appoint agents for the purpose of  
28 receiving public funds as required by section 12 of article X of the Constitution of North Dakota.  
29 If appointed by the state treasurer, the Bank of North Dakota shall serve as an agent of the  
30 state treasurer for the purpose of receiving public funds, including funds that must be deposited  
31 in higher education institution special revenue funds.

1           **SECTION 31. AMENDMENT.** Section 54-16-04.1 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **54-16-04.1. May authorize acceptance and disbursement of federal funds.** The  
4 emergency commission with the advice and counsel of the executive office of the budget may  
5 authorize the state treasurer to receive any moneys not appropriated by the legislative  
6 assembly which are made available by any federal agency and which the legislative assembly  
7 has not indicated an intent to reject. The emergency commission may authorize pass-through  
8 federal funds from one state agency to another state agency. The emergency commission,  
9 with approval of the budget section of the legislative council if the amount under consideration  
10 exceeds fifty thousand dollars, may authorize any state officer to expend federal moneys from  
11 the date such moneys become available until June thirtieth following the next regular legislative  
12 session. The expenditures must be consistent with state law and with the terms of the grant  
13 and the program may not commit the legislative assembly for matching funds in the future  
14 unless the program has first been approved by the legislative assembly. A state officer may not  
15 expend funds received from the federal government which have not been specifically  
16 appropriated by the legislative assembly except as provided in this chapter. A state officer shall  
17 submit an expenditure plan with a request for approval under this section of expenditure of  
18 federal funds combined with or as part of a block grant for a new or existing program.

19           **SECTION 32. AMENDMENT.** Section 54-16-04.2 of the 1997 Supplement to the North  
20 Dakota Century Code is amended and reenacted as follows:

21           **54-16-04.2. Commission may authorize acceptance and expenditure of moneys.**  
22 The emergency commission, upon the advice of the office of management and budget, with  
23 approval of the budget section of the legislative council if the amount under consideration  
24 exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts,  
25 grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for  
26 new or existing programs if the legislative assembly has not indicated an intent to reject the  
27 moneys or the program. The emergency commission may authorize the state officer to expend  
28 money received under this section from the date the money becomes available until June  
29 thirtieth following the next regular legislative session.

30           **SECTION 33.** A new section to chapter 54-23.2 of the North Dakota Century Code is  
31 created and enacted as follows:

1           **Mobile data terminal and 911 service fees.** State radio communications shall  
2 establish and charge fees to provide mobile data terminal service to interested local law  
3 enforcement agencies. The fees must be based on actual costs incurred by state radio  
4 communications for providing the service.

5           State radio communications shall charge at least twenty cents per telephone for 911  
6 services provided to political subdivisions. Each county currently receiving 911 services from  
7 state radio communications shall abide by the standards established by the governor's  
8 emergency services advisory committee.

9           **SECTION 34. AMENDMENT.** Section 54-27.2-02 of the 1997 Supplement to the North  
10 Dakota Century Code is amended and reenacted as follows:

11           **54-27.2-02. ~~(Effective through June 30, 1999)~~ Certain general fund revenues to be**  
12 **deposited in the budget stabilization fund.** Notwithstanding any other provision of law  
13 except section 54-27.2-01, any amount in the state general fund in excess of sixty-five million  
14 dollars at the end of any biennium must be transferred by the state treasurer to the budget  
15 stabilization fund. For purposes of this section, "at the end of any biennium" means after  
16 cancellation of unexpended appropriations under section 54-44.1-11.

17           ~~**(Effective July 1, 1999) Certain general fund revenues to be deposited in the**~~  
18 ~~**budget stabilization fund.**~~ Notwithstanding any other provision of law except section  
19 ~~54-27.2-01,~~ any amount in the state general fund in excess of forty million dollars at the end of  
20 any biennium must be transferred by the state treasurer to the budget stabilization fund. For  
21 purposes of this section, "at the end of any biennium" means after cancellation of unexpended  
22 appropriations under section 54-44.1-11.

23           **SECTION 35. AMENDMENT.** Section 54-44-04.6 of the 1997 Supplement to the North  
24 Dakota Century Code is amended and reenacted as follows:

25           **54-44-04.6. State surplus property - Department heads to inform director -**  
26 **Disposition of property - Proceeds - Exchange of property.**

27           1. The person in charge of any department, agency, or institution of the state shall  
28 inform the director of the office of management and budget or the director's  
29 designee whenever that department, agency, or institution possesses property  
30 surplus to its needs, whether originally obtained with state or other funds.

- 1           2. State surplus property must be transferred at fair market value to state agencies,  
2                   political subdivisions, and nonprofit organizations eligible to receive federal surplus  
3                   property under the Federal Property Administrative Services Act of 1949, as  
4                   amended. Eligible organizations must be notified of the availability of property on  
5                   a regular basis.
- 6           3. If not disposed of under subsection 2, then by sale on sealed bids or at public  
7                   auction to the highest and best bidder for property valued at more than three  
8                   thousand dollars, with no money deposit required prior to sale, or by sealed bids,  
9                   public auction, or negotiation at fair value for property valued at less than three  
10                  thousand dollars.
- 11          4. All proceeds received from the transfer or sale of state surplus property must be  
12                  deposited ~~into the fund from which the property was originally purchased, less~~  
13                  administrative expenses with the state treasurer for deposit in the surplus property  
14                  operating fund. For each piece of property, the office of management and budget  
15                  shall transfer to the agency from which the property was received an amount equal  
16                  to the proceeds of the sale less the administrative expenses of the sale. The  
17                  agency shall deposit the proceeds into the fund from which the property was  
18                  originally purchased.
- 19          5. No department, agency, or institution may exchange items as part of a purchase  
20                  price of new items until a detailed statement of the value of the items to be  
21                  exchanged and request for approval have been submitted to the director of the  
22                  office of management and budget. The director shall approve the exchange only if  
23                  the director has determined that the item has been valued at fair value.

24           **SECTION 36.** A new section to chapter 57-34 of the North Dakota Century Code is  
25   created and enacted as follows:

26           **Tax commissioner to audit returns and state board of equalization to assess tax.**  
27   The tax commissioner shall proceed to audit the returns of telecommunications carriers not  
28   later than three years after the due date of the return, or three years after the return was filed,  
29   whichever period expires later. The state board of equalization shall assess the tax and, if any  
30   additional tax is found due, the tax commissioner shall notify the taxpayer in detail as to the  
31   reason for the increase.

1           **SECTION 37.** A new section to chapter 57-34 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Deficiency, protest, and appeal.**

- 4           1. When tax is understated on a return because of a mathematical or clerical error,  
5           the tax commissioner shall notify the telecommunications carrier of the error and  
6           the amount of additional tax due. This notice is not a notice of deficiency and the  
7           telecommunications carrier has no right to protest.
- 8           2. If upon audit the tax commissioner finds additional tax due, the tax commissioner  
9           shall notify the telecommunications carrier and the state board of equalization of  
10           the deficiency in the tax amount. A notice of deficiency must be sent to the  
11           telecommunications carrier by first-class mail and must state the amount of  
12           additional tax due and set forth the reasons for the increase.
- 13           3. A telecommunications carrier has thirty days from the date of mailing of the notice  
14           of deficiency to file a written protest with the state board of equalization objecting  
15           to the assessment of additional tax due. The protest must set forth the basis for  
16           the protest and any other information that may be required by the state board of  
17           equalization. If a telecommunications carrier fails to file a written protest within the  
18           time provided, the amount of additional tax stated in the notice of deficiency  
19           becomes finally and irrevocably fixed. If a telecommunications carrier protests  
20           only a portion of the tax commissioner's finding, the portion that is not protested  
21           becomes finally and irrevocably fixed.
- 22           4. If a protest is filed, the state board of equalization shall reconsider the assessment  
23           of additional tax due.
- 24           5. Within six months after the protest is filed, the state board of equalization shall mail  
25           to the telecommunications carrier a notice of reconsideration and assessment  
26           which must respond to the telecommunications carrier's protest and assess the  
27           amount of any additional tax due. The amount set forth in that notice becomes  
28           finally and irrevocably fixed unless the telecommunications carrier brings an action  
29           against the state in district court within six months of the mailing of the notice of  
30           reconsideration and assessment.

1           **SECTION 38.** A new section to chapter 57-34 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Claims for credit or refund.**

4           1. A telecommunications carrier may file a claim for credit or refund of an  
5 overpayment of any tax imposed by this chapter within three years after the due  
6 date of the return or within three years after the return was filed, whichever period  
7 expires later.

8           2. A claim for credit or refund must be made by filing with the tax commissioner an  
9 amended return, or other report as prescribed by the tax commissioner,  
10 accompanied by a statement outlining the specific grounds upon which the claim  
11 for credit or refund is based.

12           3. The tax commissioner shall notify the telecommunications carrier if the state board  
13 of equalization disallows all or part of a claim for credit or refund. The decision of  
14 the state board of equalization denying a claim for credit or refund is final and  
15 irrevocable unless the telecommunications carrier brings an action against the  
16 state in district court within six months of the mailing of the notice denying the  
17 claim for credit or refund.

18           **SECTION 39.** A new section to chapter 57-34 of the North Dakota Century Code is  
19 created and enacted as follows:

20           **Preservation of records.** Every telecommunications carrier required to make a return  
21 and pay any tax under this chapter shall preserve records of the gross proceeds of sale as the  
22 commissioner may require and every carrier shall preserve for a period of three years and three  
23 months all invoices and other records of telecommunications services purchased for resale. All  
24 of these books, invoices, and other records must be open to examination at any time by the  
25 commissioner or any duly authorized agent of the commissioner.

26           **SECTION 40.** A new section to chapter 57-34 of the North Dakota Century Code is  
27 created and enacted as follows:

28           **Resale certificates.** A telecommunications carrier who receives a resale certificate  
29 certifying that another telecommunications carrier holds a North Dakota sales and use tax  
30 permit for sales or use tax purposes under section 57-39.2-14 is relieved from submitting the  
31 telecommunications gross receipts tax upon the sale of telecommunications services to be



1 resold by the telecommunications carrier submitting the certificate. When a  
2 telecommunications carrier submits a false resale certificate to another telecommunications  
3 carrier, the telecommunications carrier that submitted the certificate is liable for the  
4 telecommunications gross receipts tax on the sale. A hospital, hotel, motel, or similar place of  
5 temporary accommodation selling telecommunications service to its patients or guests is not a  
6 telecommunications carrier under this section.

7         **SECTION 41. AMENDMENT.** Section 57-34-01 of the 1997 Supplement to the North  
8 Dakota Century Code is amended and reenacted as follows:

9         **57-34-01. Definitions.** The definitions in this section may not be construed to subject  
10 a telecommunications carrier or telecommunications service to the provisions of title 49. As  
11 used in this chapter, unless the context or subject matter otherwise clearly requires:

12         1. "Adjusted gross receipts" means telecommunications carrier gross receipts less all  
13 amounts paid by the reporting telecommunications carrier on telecommunications  
14 service that is taxable under this chapter in state and local sales and use taxes  
15 and federal excise taxes and less amounts paid by the reporting  
16 telecommunications carrier to another telecommunications carrier for directory  
17 assistance originated by a caller in this state.

18         2. "Company" includes any individual, copartnership, business trust, corporation,  
19 limited liability company, joint-stock company, association, or any other  
20 organization.

21         ~~2.~~ 3. "Gross receipts" means all telecommunications carrier retail revenues from  
22 telecommunications service charges billed to any station in this state and from  
23 charges to another telecommunications carrier for directory assistance originated  
24 by a caller in this state.

25         ~~3.~~ 4. "Station" means a subscriber service address located in this state with a distinct  
26 call number designation or distinct extension number designation. If this is not a  
27 defined location, "station" means the location of the primary use of  
28 telecommunications equipment as determined by telephone number, authorization  
29 code, or billing address.

- 1       4- 5. "Telecommunications carrier" means a ~~person~~ company that is engaged in the  
2           business of furnishing telecommunications service within this state. The term  
3           includes a reseller of telecommunications service.
- 4       5- 6. "Telecommunications service" means transmitting for consideration of two-way  
5           communication by wire, cable, fiber optics, radio, lightwave, microwave, satellite,  
6           or other means. The term includes:
- 7           a. Essential telecommunications service and nonessential telecommunications  
8           service as defined in section 49-21-01;
- 9           b. Telecommunications service that originates and terminates in this state and is  
10          billed to a station in this state;
- 11          c. Interstate telecommunications service that originates or terminates in this  
12          state and is billed to a station in this state; and
- 13          d. ~~A hospital, hotel, motel, or similar place of temporary accommodation selling~~  
14          ~~telecommunications service to its patients or guests, if there is a separately~~  
15          ~~stated charge for the service; and~~
- 16          e. Telegraph service.
- 17       6- 7. "Telecommunications service charges" means the value of all consideration  
18           received by a telecommunications carrier for provision of telecommunications  
19           service and recovery within the year of telecommunications service charges written  
20           off in a prior year as uncollectible. For a telecommunications carrier operating on  
21           any form of mutual basis, the term includes all amounts assessed against the  
22           members for the operation and maintenance of the business. The term does not  
23           include revenue from merchandising, jobbing and contract work, maintenance or  
24           repair of customer premises equipment including equipment leased or rented by  
25           the customer from any source, operations not directly related to provision of  
26           telecommunications service, amounts charged for billing and collection on behalf  
27           of another telecommunications carrier, proceeds from transfer of capital stock, or  
28           transfer, sale, or lease of property not directly related to telecommunications  
29           service. The term does not include amounts collected for or amounts collected  
30           from federal and state mechanisms to preserve and advance universal service.

1           **SECTION 42. AMENDMENT.** Section 57-34-02 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **57-34-02. Reports of telecommunications carriers - Penalty.**

- 4           1. Each telecommunications carrier that received intercarrier telecommunications  
5 revenue in the preceding calendar year shall make and file with the tax  
6 commissioner, on or before January fifteenth of each year, a list containing the  
7 name and mailing address of each telecommunications carrier from which the  
8 reporting telecommunications carrier received intercarrier telecommunications  
9 revenue in the preceding calendar year. This list is to be filed in addition to the  
10 report required by subsection 3.
- 11          2. Each telecommunications carrier that provided telecommunications service in the  
12 preceding calendar year to one or more pay telephones owned by another  
13 company shall make and file with the tax commissioner, on or before January  
14 fifteenth of each year, a list containing the name and mailing address for each  
15 company that owned a pay telephone served by the reporting telecommunications  
16 carrier in the preceding calendar year. This list is to be filed in addition to the  
17 report required by subsection 3.
- 18          3. Each telecommunications carrier subject to gross receipts taxes under this chapter  
19 shall make and file with the tax commissioner, on or before May first of each year,  
20 on the form as the tax commissioner may prescribe, a report containing a  
21 statement of its gross receipts in this state during the preceding calendar year,  
22 amounts paid by the carrier on telecommunications service that is taxable under  
23 this chapter during the preceding calendar year in state and local sales and use  
24 taxes and federal excise taxes, amounts received from or paid to another  
25 telecommunications carrier for directory assistance, and any other information as  
26 the tax commissioner may require. The form must include a notice of a  
27 telecommunications carrier's right to appeal its assessment to the state board of  
28 equalization prior to or at the August meeting of the state board of equalization.  
29 Each report must be signed, subject to section 12.1-11-02, by the president,  
30 secretary, or other official of the telecommunications carrier.

1           **SECTION 43. AMENDMENT.** Section 57-34-03 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **57-34-03. Computation of taxes by tax commissioner - Exemption for**  
4 **high-volume customers - Continuing appropriation.**

- 5           1. On or before July fifteenth of each year, the tax commissioner shall review the  
6 report under subsection 3 of section 57-34-02 and compute the ~~tentative~~ total tax  
7 to be assessed against each telecommunications carrier in this state at a rate of  
8 two and one-half percent of adjusted gross receipts. ~~The~~ If the tax commissioner's  
9 computation of the total tax differs from the amount computed by a  
10 telecommunications carrier, the tax commissioner shall give ~~ten days'~~ notice of the  
11 change by mail to each that telecommunications carrier of its tentative total tax  
12 under this section and of its right to contest the determination before the state  
13 board of equalization at its August meeting on or before July fifteenth. The state  
14 board of equalization shall assess the tax under this section after consideration of  
15 any contest presented.
- 16           2. A telecommunications carrier's retail customer in this state is entitled to a refund  
17 equal to two and one-half percent of the amount of telecommunications service  
18 charges paid to telecommunications carriers by that customer in excess of eight  
19 hundred thousand dollars in a calendar year. A refund claim under this subsection  
20 must be filed with the tax commissioner before July first of the year following the  
21 calendar year for which the refund is claimed. A claim for refund must be made in  
22 the manner prescribed by the tax commissioner. Refunds under this subsection  
23 must be paid by the tax commissioner from tax collections under this chapter and  
24 are appropriated as a standing and continuing appropriation to the tax  
25 commissioner for that purpose.

26           **SECTION 44. AMENDMENT.** Section 57-34-06 of the 1997 Supplement to the North  
27 Dakota Century Code is amended and reenacted as follows:

28           **57-34-06. Duties of county treasurer.** The county treasurer shall allocate taxes  
29 received under this chapter to the state, the county, and the various taxing districts within the  
30 county according to the proportion that taxes paid by telecommunications carriers in locally  
31 assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and

1 received by the state, the county, and each currently existing taxing district in the county bears  
2 to all taxes paid by telecommunications carriers in locally assessed property taxes and taxes  
3 assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county,  
4 and all taxing districts in the county.

5 **SECTION 45. AMENDMENT.** Section 57-34-10 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **57-34-10. Penalties - Interest - Lien for tax.**

- 8 1. If a telecommunications carrier refuses or neglects to make the reports required by  
9 this chapter, or refuses or neglects to furnish any information requested, the tax  
10 commissioner shall use the best available facts and estimates to determine  
11 taxation of the gross receipts of that carrier. The tax must be imposed upon the  
12 basis of that information, ~~and. If any company fails to make the report required~~  
13 under this chapter on or before the first day of May of any year, the state board of  
14 equalization shall add a penalty of one-quarter of the tax due for failure to make  
15 the required report which must be collected as a part of the tax, but the tax  
16 commissioner, upon application, may grant extensions of time within which the  
17 returns must be filed.
- 18 2. Taxes levied under this chapter are due and payable to the tax commissioner on  
19 January first following the year in which the taxes were assessed. ~~The unpaid~~  
20 ~~principal balance of taxes on the following March first is subject to a penalty of~~  
21 ~~three percent, on the following May first an additional penalty of three percent, on~~  
22 ~~the following July first an additional penalty of three percent, and on the following~~  
23 ~~October fifteenth an additional penalty of three percent. Beginning January first of~~  
24 ~~the year following the year the taxes became due, simple interest at the rate of~~  
25 ~~twelve percent per annum applies to the unpaid principal balance until the taxes~~  
26 ~~and penalties are paid. Interest penalties must be prorated to the nearest full~~  
27 ~~month for a fractional year of delinquency. A remittance of tax need not be made~~  
28 and any assessment or collection of tax may not be made unless the amount is at  
29 least five dollars, including penalty and interest.
- 30 3. If any amount of tax imposed by this chapter is not paid on or before March first, or  
31 if upon audit an additional tax is found to be due, there must be added to the tax

1           remaining due interest at the rate of one percent of the additional tax for each  
2           month or fraction of a month during which the tax remains unpaid, computed from  
3           March first to the date paid.

4       ~~3.~~ 4. Taxes under this chapter constitute a first and paramount lien in favor of the state  
5           upon all property and rights to property of the taxpayer. The lien may be  
6           foreclosed in the same manner provided by law for mortgages on real or personal  
7           property. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or  
8           neglects to pay the liability, the amount, including any interest, penalty, or addition  
9           to the tax, and the additional costs that may accrue are a lien in favor of the state  
10           of North Dakota upon all property and rights to property, whether real or personal,  
11           belonging to the taxpayer. The lien attaches at the time the tax becomes due and  
12           payable and continues until the liability for the amount is satisfied.

13       5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any  
14           interest in, or lien on, any property situated in the state, prior to the tax  
15           commissioner filing in the central indexing system maintained by the secretary of  
16           state a notice of the lien provided for in subsection 4, takes free of, or has priority  
17           over, the lien. The tax commissioner shall index in the central indexing system the  
18           following data:

- 19           a. The name of the taxpayer.
- 20           b. The tax identification number or social security number of the taxpayer.
- 21           c. The name "State of North Dakota" as claimant.
- 22           d. The date and time the notice of lien was indexed.
- 23           e. The amount of the lien.

24           The notice of lien is effective as of eight a.m. the next day following the indexing of  
25           the notice. The tax commissioner shall index any notice of lien with no payment of  
26           fees or costs to the secretary of state.

27       6. Upon payment of the tax, and any accrued penalties and interest, as to which the  
28           tax commissioner has filed a notice of lien, the tax commissioner shall index a  
29           satisfaction of the lien in the central indexing system without fees or costs.

30       **SECTION 46.** A new section to chapter 65-02 of the North Dakota Century Code is  
31       created and enacted as follows:

1           **Payments in lieu of taxes by bureau.** If a building and associated real property is  
2 purchased by the workers compensation bureau pursuant to a legislative grant of authority, the  
3 bureau shall make payments in lieu of property taxes in the manner and according to the  
4 conditions and procedures that would apply if the building and property were privately owned.

5           **SECTION 47. RETROACTIVE APPLICATION.** Section 25 of this Act is effective for all  
6 funds received and deposited into the risk management fund on or after July 1, 1997.

7           **SECTION 48. RETROACTIVE APPLICATION - EFFECTIVE DATE - EXPIRATION**  
8 **DATE.** Sections 36 through 45 of this Act apply retroactively to all tax years beginning after  
9 December 31, 1997. The amendments to subsections 1 and 3 of section 57-34-01 as  
10 amended by section 41 of this Act are effective for taxable years beginning after December 31,  
11 1998. The amendments to subsections 1 and 2 of section 57-34-02 as amended by section 42  
12 of this Act are effective for the first two taxable years beginning after December 31, 1999, and  
13 are thereafter ineffective.

14           **SECTION 49. APPLICATION.** North Dakota Century Code sections 54-16-04 and  
15 54-44.1-11 do not apply to chapter 30 of the 1997 Session Laws.

16           **SECTION 50. EMERGENCY.** Sections 2, 24, 26, 27, 28, 29, 30, and 35 of this Act are  
17 declared to be an emergency measure.