

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 state industrial  
 2 commission and the agencies under the management of the industrial commission; to authorize  
 3 transfers; to amend and reenact sections 38-08-04.2, 38-12-02, 38-12-03, and 38-12.1-04,  
 4 subsection 1 of section 38-12.1-05, sections 38-15-03, 38-19-03, and 38-19-04, subsection 10  
 5 of section 38-15-02, subsection 3 of section 54-17.4-01, and sections 54-17.4-05, 54-17.4-06,  
 6 and 54-17.4-07 of the North Dakota Century Code, relating to appointment of a director of  
 7 mineral resources and transferring the state geologist's functions to the director of mineral  
 8 resources; to repeal section 3 of chapter 491 of the 2003 Session Laws, relating to expiration of  
 9 the authorization for the state to purchase oil put options; to provide for a report to the  
 10 legislative council; and to declare an emergency.

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

12 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this  
 13 section represent the base level funding component appropriated to the state industrial  
 14 commission and agencies under its control in section 3 of this Act as follows:

15 Subdivision 1.

16 INDUSTRIAL COMMISSION	
17 Salaries and wages	\$6,244,663
18 Operating expenses	1,904,767
19 Capital assets	68,300
20 Lignite research and development	16,270,000
21 Grants - Bond payments	<u>19,830,990</u>
22 Total all funds - Base level	\$44,318,720
23 Less estimated income - Base level	<u>37,291,836</u>
24 Total general fund - Base level	\$7,026,884

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1	Subdivision 2.	
2		BANK OF NORTH DAKOTA - OPERATIONS
3	Salaries and wages	\$16,527,614
4	Operating expenses	10,925,665
5	Capital assets	825,000
6	Contingencies	<u>1,500,000</u>
7	Total from Bank of North Dakota fund - Base level	\$29,778,279
8	Subdivision 3.	
9		BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT
10	Partnership in assisting community expansion fund	\$5,700,000
11	Agriculture partnership in assisting community expansion fund	1,425,000
12	Beginning farmer revolving loan fund	<u>950,000</u>
13	Total general fund - Base level	\$8,075,000
14	Subdivision 4.	
15		MILL AND ELEVATOR ASSOCIATION
16	Salaries and wages	\$16,690,956
17	Operating expenses	12,991,196
18	Contingencies	250,000
19	Agriculture promotion	<u>50,000</u>
20	Total from mill and elevator fund - Base level	\$29,982,152
21	Subdivision 5.	
22		HOUSING FINANCE AGENCY
23	Salaries and wages	\$3,929,907
24	Operating expenses	2,391,480
25	Grants	27,168,380
26	HFA contingencies	<u>100,000</u>
27	Total from housing finance agency fund - Base level	\$33,589,767
28	Grand total general fund - Section 1	\$15,101,884
29	Grand total special funds - Section 1	<u>130,642,034</u>
30	Grand total all funds - Section 1	\$145,743,918

1           **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The  
2 amounts identified in this section represent the funding adjustments or enhancements to the  
3 base funding level for the state industrial commission and agencies under its control which are  
4 included in the appropriation in section 3 of this Act as follows:

5           Subdivision 1.

6	INDUSTRIAL COMMISSION	
7	Salaries and wages	(\$205,071)
8	Operating expenses	3,083
9	Capital assets	(22,800)
10	Lignite research and development	(1,070,000)
11	Grants - Bond payments	7,461,422
12	Oil and gas division contingency	<u>225,000</u>
13	Total all funds - Adjustments/enhancements	\$6,391,634
14	Less estimated income - Adjustments/enhancements	<u>6,583,689</u>
15	Total general fund - Adjustments/enhancements	(\$192,055)

16          Subdivision 2.

17	BANK OF NORTH DAKOTA - OPERATIONS	
18	Salaries and wages	\$1,625,778
19	Capital assets	10,447,000
20	Contingencies	<u>200,000</u>
21	Total from Bank of North Dakota fund - Adjustments/enhancements	\$12,272,778

22          Subdivision 3.

23	BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT	
24	Total general fund - Adjustments/enhancements	<u>(\$2,375,000)</u>
25	Total from beginning farmer revolving loan fund -	\$2,375,000

26          Adjustments/enhancements

27          Subdivision 4.

28	MILL AND ELEVATOR ASSOCIATION	
29	Salaries and wages	\$641,435
30	Operating expenses	1,967,817



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1	Salaries and wages	\$18,153,392
2	Operating expenses	10,925,665
3	Capital assets	11,272,000
4	Contingencies	<u>1,700,000</u>
5	Total appropriation from Bank of North Dakota fund	\$42,051,057
6	Subdivision 3.	
7	BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT	
8	Partnership in assisting community expansion fund	\$5,700,000
9	Agriculture partnership in assisting community expansion fund	1,425,000
10	Beginning farmer revolving loan fund	<u>950,000</u>
11	Total all funds	\$8,075,000
12	Less beginning farmer revolving loan fund	<u>2,375,000</u>
13	Total general fund	\$5,700,000
14	Subdivision 4.	
15	MILL AND ELEVATOR ASSOCIATION	
16	Salaries and wages	\$17,332,391
17	Operating expenses	14,959,013
18	Contingencies	300,000
19	Agriculture promotion	<u>50,000</u>
20	Total appropriation from mill and elevator fund	\$32,641,404
21	Subdivision 5.	
22	HOUSING FINANCE AGENCY	
23	Salaries and wages	\$4,376,801
24	Operating expenses	2,805,578
25	Grants	26,591,280
26	HFA contingencies	<u>100,000</u>
27	Total appropriation from housing finance agency fund	\$33,873,659
28	Total general fund appropriation - Section 3	\$12,534,829
29	Total special funds appropriation - Section 3	<u>154,816,645</u>
30	Total all funds appropriation - Section 3	\$167,351,474

1           **SECTION 4. APPROPRIATION.** In addition to the amount appropriated to the housing  
2 finance agency in subdivision 5 of section 3 of this Act, there is appropriated any additional  
3 income or unanticipated income from federal or other funds which may become available to the  
4 agency for the biennium beginning July 1, 2005, and ending June 30, 2007.

5           **SECTION 5. APPROPRIATION - EMERGENCY COMMISSION APPROVAL.** In  
6 addition to the amount appropriated to the industrial commission in subdivision 1 of section 3 of  
7 this Act, there is appropriated, with the approval of the emergency commission, funds that may  
8 become available to the commission from bonds authorized by law to be issued by the  
9 industrial commission under chapters 4-36 and 54-17.2 and section 54-17-25, for the biennium  
10 beginning July 1, 2005, and ending June 30, 2007.

11           **SECTION 6. TRANSFER.** The sum of \$68,525, or so much of the sum as may be  
12 necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of  
13 this Act, is from the North Dakota mill and elevator association. The moneys must be  
14 transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order  
15 of the industrial commission.

16           **SECTION 7. TRANSFER.** The sum of \$89,420, or so much of the sum as may be  
17 necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of  
18 this Act, is from the accumulated and undivided profits of the Bank of North Dakota. The  
19 moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30,  
20 2007, upon order of the industrial commission.

21           **SECTION 8. TRANSFER.** The sum of \$59,602, or so much of the sum as may be  
22 necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of  
23 this Act, is from the housing finance agency fund. The moneys must be transferred during the  
24 biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial  
25 commission.

26           **SECTION 9. TRANSFER.** The sum of \$20,894, or so much of the sum as may be  
27 necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of  
28 this Act, is from the revenues of the municipal bond bank. The available moneys must be  
29 transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order  
30 of the industrial commission.

1           **SECTION 10. INCOME AUTHORIZATION - STUDENT LOAN TRUST.** There is  
2 authorized the receipt of fees by the industrial commission in the sum of \$79,100, or so much of  
3 the sum as is owed, included in the special funds appropriation line item in subdivision 1 of  
4 section 3 of this Act, from the student loan trust for administrative services rendered by the  
5 industrial commission to the extent permitted by sections 54-17-24 and 54-17-25. The fees  
6 must be received during the biennium beginning July 1, 2005, and ending June 30, 2007, upon  
7 order of the industrial commission.

8           **SECTION 11. TRANSFER.** The industrial commission shall transfer to the general  
9 fund in the state treasury the sum of \$5,000,000 from the North Dakota mill and elevator  
10 association. The moneys must be transferred in amounts and at such times as requested by  
11 the director of the office of management and budget during the biennium beginning July 1,  
12 2005, and ending June 30, 2007.

13           **SECTION 12. LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING**  
14 **PROGRAM - APPROPRIATION - LIGNITE MARKETING FEASIBILITY STUDY.** The amount  
15 of \$1,500,000, or so much of the amount as may be necessary, included in the grants - bond  
16 payments and special funds appropriation line items in subdivision 1 of section 3 of this Act, is  
17 appropriated from the lignite research fund for the purpose of contracting for an independent,  
18 nonmatching lignite marketing feasibility study or studies that determine those focused priority  
19 areas where near-term, market-driven projects, activities, or processes will generate matching  
20 private industry investment and have the most potential of preserving existing lignite production  
21 and jobs or that will lead to increased development of lignite and its products and create new  
22 lignite jobs and economic growth for the general welfare of this state. Moneys appropriated  
23 pursuant to this section may also be used for the purpose of contracting for nonmatching  
24 studies and activities in support of the lignite vision 21 project; for nonmatching externality  
25 studies and activities in externality proceedings; or other marketing, environmental, or  
26 transmission activities that assist with marketing of lignite-based electricity and lignite-based  
27 byproducts. Moneys not needed for the purposes stated in this section are available to the  
28 commission for funding projects, processes, or activities under the lignite research,  
29 development, and marketing program.

30           **SECTION 13. LEGISLATIVE INTENT - BOND PAYMENTS.** The amount of  
31 \$27,292,412 included in subdivision 1 of section 3 of this Act in the grants - bond payments line

1 item must be paid from the following funding sources during the biennium beginning July 1,  
2 2005, and ending June 30, 2007:

3 North Dakota university system	\$14,278,141
4 Department of corrections - State penitentiary	3,038,586
5 State department of health	685,309
6 Job service North Dakota	696,650
7 Department of human services - Southeast human service center	571,731
8 Department of human services - State hospital	517,634
9 Department of human services - Developmental center at Grafton	593,231
10 Adjutant general	59,248
11 Veterans' home improvement fund	234,891
12 ITD connectND	<u>5,402,163</u>
13 Subtotal	\$26,077,584
14 University system energy conservation projects	<u>1,214,828</u>
15 Total	\$27,292,412

16 **SECTION 14. APPROPRIATION - TRANSFER.** The funds appropriated by  
17 subdivision 3 of section 3 of this Act must be transferred by the Bank of North Dakota to the  
18 partnership in assisting community expansion fund established by section 6-09.14-02. The  
19 Bank of North Dakota may not be construed to be a general fund agency because of the  
20 appropriation made by subdivision 3 of section 3 of this Act.

21 **SECTION 15. UNOBLIGATED MONEYS IN PARTNERSHIP FOR COMMUNITY**  
22 **EXPANSION FUND - TRANSFER TO THE GENERAL FUND.** Notwithstanding section  
23 6-09.14-02, any unobligated moneys, up to \$2,200,000, in the partnership in assisting  
24 community expansion fund as of June 30, 2005, must be returned to the general fund and  
25 considered general fund turnback.

26 **SECTION 16. CONTINGENT OIL AND GAS DIVISION FUNDING - EMERGENCY**  
27 **COMMISSION APPROVAL.** The funds appropriated in the oil and gas division contingency  
28 line item in subdivision 1 of section 3 of this Act are from the land and minerals trust fund. If  
29 funds are required due to the average drilling rig count exceeding thirty active rigs for each  
30 month in any consecutive three-month period, the oil and gas division may spend moneys from



1 this line item upon emergency commission approval. The oil and gas division may hire up to  
2 two full-time equivalent positions with the contingency funds.

3 **SECTION 17. AMENDMENT.** Section 38-08-04.2 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **38-08-04.2. Director of mineral resources - Director of oil and gas - Delegation to**  
6 **director of oil and gas.** ~~The industrial commission is authorized to appoint a director of oil and~~  
7 ~~gas and to set the director's salary within the limits of legislative appropriations. The industrial~~  
8 ~~commission may designate the state geologist as the director of oil and gas. The industrial~~  
9 commission is authorized to appoint a director of mineral resources who shall serve at the  
10 pleasure of the commission. The director of mineral resources shall carry out the duties of the  
11 director of oil and gas along with the duties of director of mineral resources. The commission  
12 may set the salary of the director of mineral resources. The commission may delegate to the  
13 director of oil and gas all powers the commission has under this title and under rules enacted  
14 under this title.

15 **SECTION 18. AMENDMENT.** Section 38-12-02 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **38-12-02. Jurisdiction of commission.** The commission has jurisdiction and authority  
18 over all persons and property, public and private, necessary to enforce effectively the  
19 provisions of this chapter. Subject to the provisions of section 38-08-21, ~~the state geologist~~  
20 director of mineral resources shall act as a supervisor charged with the duty of enforcing the  
21 regulations and orders of the commission applicable to the subsurface mineral resources of this  
22 state and the provisions of this chapter. The commission has authority to make such  
23 investigations as it deems proper to determine whether facts exist which justify action by the  
24 commission. The commission acting through the ~~office of the state geologist~~ director of mineral  
25 resources has the authority:

- 26 1. To require:
- 27 a. The furnishing of a reasonable bond with good and sufficient surety,  
28 conditioned upon the full compliance with the provisions of this chapter, and  
29 the rules and orders of the commission prescribed to govern the exploration,  
30 development, and production of subsurface minerals on state and private  
31 lands within the state of North Dakota. The person required to furnish the

- 1 bond may elect to deposit a collateral bond, self-bond, cash, or any  
2 alternative form of security approved by the commission, or combination  
3 thereof, by which a permittee assures faithful performance of all requirements  
4 of this chapter and the rules and orders of the industrial commission.
- 5 b. The delivery, free of charge, to the state geologist of the basic exploration  
6 data collected by the operator, within thirty days of field collection of such  
7 data. This data must include:
- 8 (1) Sample cuts, core chips, or whole cores.  
9 (2) Sample logs, radioactivity logs, resistivity logs, or other types of  
10 electrical or mechanical logs.  
11 (3) Elevation and location information on the data collection points.  
12 (4) Other pertinent information as may be requested by the state geologist.
- 13 The data so submitted is confidential for a period of one year when so  
14 requested by the operator and such period may be further extended upon  
15 approval by the commission.
- 16 c. The filing of monthly production reports in the manner prescribed by the  
17 commission and any other reports deemed necessary by the commission.
- 18 d. The conducting of all exploration, development, and production operations in  
19 such a manner as to prevent pollution of freshwater supplies, to provide for  
20 the protection of the environment and public safety, and to ensure the  
21 optimum recovery of the mineral resource.
- 22 e. The reclamation of all land disturbed by operations regulated by this chapter  
23 to a condition consistent with prior land use and productive capacity.
- 24 2. To regulate the drilling and abandonment of exploration test holes and producing  
25 wells and all other exploration, development, production, and reclamation  
26 operations.
- 27 3. To promulgate and to enforce rules, regulations, and orders to effectuate the  
28 purposes and the intent of this chapter.
- 29 4. To inspect all exploration, development, and production sites. For the purposes of  
30 this subsection, the ~~state geologist~~ director of mineral resources or the ~~state~~  
31 ~~geologist's~~ director's representative shall have access to all exploration,

1 development, or production installations for purposes of inspection and shall have  
2 the authority to require the operator's aid if ~~same~~ it is necessary and is requested.

3 **SECTION 19. AMENDMENT.** Section 38-12-03 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **38-12-03. Permit required.** It is unlawful to commence operations for the exploration,  
6 development, or production of subsurface minerals without first obtaining a permit from the  
7 ~~state geologist~~ director of mineral resources, under such rules and regulations as may be  
8 prescribed by the commission and paying to the commission a fee for each such permit in an  
9 amount to be prescribed by the commission.

10 **SECTION 20. AMENDMENT.** Section 38-12.1-04 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **38-12.1-04. Jurisdiction of commission.** The commission has jurisdiction and  
13 authority over all persons and property, both public and private, necessary to effectively enforce  
14 the provisions of this chapter. The ~~state geologist~~ director of mineral resources shall act as a  
15 supervisor charged with the duty of enforcing the regulations and orders of the commission  
16 applicable to the provisions of this chapter. The commission has authority to make such  
17 investigations as it deems proper to determine whether facts exist which justify action by the  
18 commission. The commission acting through the ~~office of the state geologist~~ director of mineral  
19 resources has the authority:

20 1. To require:

21 a. The furnishing of a reasonable bond with good and sufficient surety,  
22 conditioned upon the full compliance with the provisions of this chapter, and  
23 the rules and orders of the commission prescribed to govern the exploration  
24 for coal on state and private lands and roads used in coal exploration within  
25 the state of North Dakota. The person required to furnish the bond may elect  
26 to deposit a collateral bond, self-bond, cash, or any alternative form of  
27 security approved by the commission, or combination thereof, by which a  
28 permittee assures faithful performance of all requirements of this chapter and  
29 the rules and orders of the industrial commission.

30 b. The delivery, free of charge, to the state geologist of the basic data collected  
31 during the course of the exploration within a reasonable time as may be

1 prescribed by the state geologist. The data so submitted is confidential and  
2 available only to the office of the state geologist for official purposes for a  
3 period of two years, and such period of confidentiality must, upon application,  
4 be extended for one-year periods by the state geologist, for a total period not  
5 to exceed ten years unless it is demonstrated that such period should be  
6 further extended in order to prevent possible resulting harm to the person, or  
7 the persons' successors and assigns, who delivered such basic data to the  
8 state geologist. The basic data must include, if specifically requested by the  
9 state geologist and if the information has been developed by or for a person  
10 conducting the exploration:

- 11 (1) Sample cuts.
  - 12 (2) Drillers' logs, sample logs, radioactivity logs, resistivity logs, or other  
13 types of electrical or mechanical logs.
  - 14 (3) Elevation and location information on the data collection points.
  - 15 (4) Other pertinent information as may be required by the state geologist.
- 16 2. To require the plugging, covering, or reburial in an appropriate manner so as to  
17 protect environmental quality, general health and safety, and economic values of  
18 all holes, pits, or trenches excavated during the course of coal exploration.
  - 19 3. To promulgate and enforce rules, regulations, and orders to effectuate the  
20 provisions, purpose, and intent of this chapter.
  - 21 4. To inspect all drilling or exploration sites. For the purposes of this subsection, the  
22 ~~state geologist~~ director of mineral resources or ~~the state geologist's~~ the director's  
23 representative shall have access to all drilling or exploration installations regulated  
24 by this chapter for the purpose of inspection and sampling and shall have the  
25 authority to require the operators' aid if the ~~state geologist or the state geologist's~~  
26 ~~representative~~ director finds it necessary and requests it.
  - 27 5. Notwithstanding any of the other provisions of this section, the commission acting  
28 through the ~~office of the state geologist~~ director of mineral resources shall require  
29 that any lands substantially disturbed in coal exploration, including excavations,  
30 roads, and drill holes, and the removal of necessary facilities and equipment be  
31 reclaimed in accordance with the applicable performance standards of section

1           38-14.1-24. Reclamation must be accomplished ~~so as~~ to protect environmental  
2           quality, general health and safety, and economic values.

3           **SECTION 21. AMENDMENT.** Subsection 1 of section 38-12.1-05 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5           1. It is unlawful to commence operations for drilling for the exploration for coal without  
6           first obtaining a permit from the ~~state geologist~~ director of mineral resources, under  
7           such rules and regulations as may be prescribed by the commission, and paying to  
8           the commission a fee of one hundred dollars for each such permit area. The  
9           permit application must include a description of the exploration area and the period  
10          of proposed exploration. The permit must be granted within thirty days after a  
11          proper application ~~is~~ has been submitted ~~therefor~~.

12          **SECTION 22. AMENDMENT.** Section 38-15-03 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14          **38-15-03. Jurisdiction of commission.** The commission has continuing jurisdiction  
15 and authority over all persons and property, public and private, necessary to enforce effectively  
16 the provisions of this chapter. The ~~state geologist~~ director of mineral resources shall act as a  
17 supervisor charged with enforcing the regulations and orders of the commission applicable to  
18 the provisions of this chapter. The commission has authority to make investigations it deems  
19 proper to determine whether facts exist which justify action by the commission. The  
20 commission has the authority:

- 21          1. To require the furnishing of a reasonable bond with good and sufficient surety,  
22          conditioned upon the full compliance with the provisions of this chapter, and the  
23          rules and regulations of the commission prescribed to govern, satisfy, and resolve  
24          conflicting interests among producers within North Dakota.
- 25          2. To resolve conflicting interests of producers of natural resources which cannot be  
26          voluntarily concluded by them in the public interest to eliminate waste, to the end  
27          that the producer, landowner, and mineral owner realize the greatest possible  
28          economic advantage.
- 29          3. To promulgate and to enforce rules, regulations, and orders to effectuate the  
30          purposes and intent of this chapter.

1           **SECTION 23. AMENDMENT.** Section 38-19-03 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **38-19-03. Jurisdiction of the commission.** The commission has jurisdiction and  
4 authority and is charged with the responsibility to enforce the provisions of this chapter. This  
5 chapter does not apply to any activity regulated under chapters 38-08, 38-12, 38-12.1, 38-14.1,  
6 and 61-28. The jurisdiction granted to the commission by this chapter is not exclusive and  
7 does not affect the jurisdiction of other governmental entities. The commission acting through  
8 the ~~office of the state geologist~~ director of mineral resources has the authority:

- 9           1. To require:
- 10           a. Identification of ownership of all facilities, installations, and equipment used in  
11           the extraction of geothermal energy.
  - 12           b. The making and filing of all logs and reports on facility location, drilling,  
13           boring, excavating, and construction and the filing, free of charge, of samples,  
14           core chips, and complete cores, when requested, in the office of the state  
15           geologist.
  - 16           c. The drilling, boring, casing, excavating, plugging, and construction of facilities  
17           in a manner to prevent contamination and pollution of surface and ground  
18           water sources and unnecessary environmental degradation.
  - 19           d. The furnishing of a reasonable bond with good and sufficient surety,  
20           conditioned upon the full compliance with this chapter and the rules and  
21           orders of the commission relating to the extraction of geothermal energy. The  
22           person required to furnish the bond may elect to deposit a collateral bond,  
23           self-bond, cash, or any alternative form of security approved by the  
24           commission, or combination thereof, by which a permittee assures faithful  
25           performance of all requirements of this chapter and the rules and orders of  
26           the industrial commission.
  - 27           e. Metering or measuring all products extracted from or by means of a facility  
28           regulated by this chapter.
  - 29           f. That every person who operates a geothermal energy extraction facility in this  
30           state shall keep and maintain complete and accurate records of the quantities  
31           and nature of products extracted from or by means of any facility, and the

1 ultimate disposition of such products, which records must be available to the  
2 commission or its agents at all times, and that every such person file with the  
3 commission such reports as it may prescribe.

4 g. That upon termination of the operation of any facility or activity regulated by  
5 this chapter, the operator of the facility shall restore the surface as nearly as  
6 possible to its original condition and productivity.

7 2. To regulate:

8 a. The drilling, boring, excavating, and construction of all geothermal energy  
9 extraction facilities.

10 b. Operations to assure the optimum performance of all facilities regulated under  
11 this chapter.

12 3. To limit and prescribe the nature, quantity, and source of geothermal energy to be  
13 extracted from any facility regulated by this chapter.

14 4. To adopt rules and issue orders to effectuate the purposes of this chapter.

15 **SECTION 24. AMENDMENT.** Section 38-19-04 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **38-19-04. Permit or report required.** It is unlawful to commence any operations for  
18 the drilling, boring, excavating, or construction of a geothermal energy extraction facility, which  
19 is used for other than private residential heating and cooling purposes, without first securing a  
20 permit from the ~~state geologist~~ director of mineral resources, under such rules as may be  
21 adopted by the commission and after paying to the commission a fee for each such facility in an  
22 amount to be prescribed by the commission by rule. The fee set must be related to the cost of  
23 regulation and inspection under this chapter.

24 A report is required upon completion of any geothermal energy extraction facility used  
25 solely for private residential heating or cooling purposes. The report must be prepared by the  
26 geothermal energy extraction facility installer on a form provided by the state geologist and  
27 must be furnished to the state geologist within thirty days after the completion of the facility.  
28 The report must contain relevant information the state geologist requires relating to the  
29 environmental safety of the facility, including the facility owner and location, a log of formations  
30 penetrated, if any, system specifications and design, and fluids used in the facility.

1 All construction of geothermal energy extraction facilities must comply with rules  
2 adopted under this chapter.

3 **SECTION 25. AMENDMENT.** Subsection 10 of section 38-15-02 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5 10. "Subsurface minerals" means all naturally occurring elements and their  
6 compounds, volcanic ash, precious metals, carbonates, and natural mineral salts  
7 of boron, bromine, calcium, fluorine, ~~helium~~, iodine, lithium, magnesium, ~~nitrogen~~,  
8 phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their  
9 compounds, ~~occurring more than five hundred feet [152.4 meters] below the~~  
10 ~~surface of the land~~ but does not include sand and gravel and rocks crushed for  
11 sand and gravel.

12 **SECTION 26. AMENDMENT.** Subsection 3 of section 54-17.4-01 of the North Dakota  
13 Century Code is amended and reenacted as follows:

14 3. "Survey" means the North Dakota geological survey, a division of the department  
15 of mineral resources.

16 **SECTION 27. AMENDMENT.** Section 54-17.4-05 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **54-17.4-05. State geologist - Qualifications - Selection - Salary.** There is created  
19 the position of state geologist.

- 20 1. The state geologist's qualifications must include a doctor of philosophy degree in  
21 geology from an accredited university or college or equivalent geological  
22 experience, demonstrated competency in administration, and five years of practical  
23 experience in the field of geology ~~to qualify for direction of the survey.~~
- 24 2. The ~~commission~~ director of mineral resources shall either appoint the state  
25 geologist or carry out the duties of the state geologist along with the duties of  
26 director of mineral resources. Prior to appointment of a state geologist the  
27 ~~commission~~ director of mineral resources may appoint an acting state geologist.
- 28 3. The state geologist is under the direction and control ~~and serves at the pleasure of~~  
29 ~~the commission~~ director of mineral resources.
- 30 4. ~~The annual salary of the state geologist is set by the commission subject to~~  
31 ~~legislative appropriation.~~



1           **SECTION 28. AMENDMENT.** Section 54-17.4-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-17.4-06. State geologist - Authority.** The state geologist is the ~~executive and~~  
4 ~~administrative~~ head of the survey and shall exercise the powers of the office and be  
5 responsible for the execution of its duties.

6           **SECTION 29. AMENDMENT.** Section 54-17.4-07 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **54-17.4-07. State geologist - Grants, funds, and contracts.** The state geologist,  
9 with the approval of the ~~commission~~ director of mineral resources, may accept and expend  
10 money from and enter into contracts with federal, state, local, or other public entities to carry  
11 out the purposes of this chapter or to provide geological services. If such funds exceed  
12 appropriations made by the legislative assembly, the ~~state geologist~~ director of mineral  
13 resources shall seek emergency commission approval for their expenditure.

14           **SECTION 30. REPEAL.** Section 3 of chapter 491 of the 2003 Session Laws is  
15 repealed.

16           **SECTION 31. STATE MILL AND ELEVATOR ASSOCIATION - REPORT TO**  
17 **BUDGET SECTION.** The manager of the state mill and elevator association shall present an  
18 annual report to the budget section of the legislative council. The report must include the  
19 current role and mission of the state mill and elevator association and short-term and long-term  
20 plans for acquisitions, construction, renovation, equipment upgrading, sales and marketing,  
21 personnel, and all financial matters. The report also must include a description of efforts by the  
22 state mill and elevator association to inform legislators about the role, mission, and operations  
23 of the state mill and elevator association.

24           **SECTION 32. EMERGENCY.** The appropriation in subdivision 3 of section 3 of this  
25 Act and the transfer in section 14 of this Act for the partnership in assisting community  
26 expansion are declared to be emergency measures.