

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2014
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission; to provide for approval of alternate bids by the emergency commission and budget section; to authorize transfers; to amend and reenact sections 38-08-04.2, 38-12-02, 38-12-03, and 38-12.1-04, subsection 1 of section 38-12.1-05, sections 38-15-03, 38-19-03, and 38-19-04, subsection 10 of section 38-15-02, section 54-17-03, subsection 3 of section 54-17.4-01, and sections 54-17.4-05, 54-17.4-06, and 54-17.4-07 of the North Dakota Century Code, relating to appointment of a director of mineral resources, transfer of the state geologist's functions to the director of mineral resources, and the secretary of the industrial commission; to repeal section 3 of chapter 491 of the 2003 Session Laws, relating to the expiration of the authorization for the state to purchase oil put options; to provide for a report to the legislative council; to provide a section of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Subdivision 1.

INDUSTRIAL COMMISSION

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

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

Salaries and wages	\$16,527,614
Operating expenses	10,925,665
Capital assets	825,000
Contingencies	<u>1,500,000</u>
Total from Bank of North Dakota fund - Base level	\$29,778,279

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

Partnership in assisting community expansion fund	\$5,700,000
Agriculture partnership in assisting community expansion fund	1,425,000
Beginning farmer revolving loan fund	<u>950,000</u>
Total general fund - Base level	\$8,075,000

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$16,690,956
Operating expenses	12,991,196
Contingencies	250,000
Agriculture promotion	<u>50,000</u>
Total from mill and elevator fund - Base level	\$29,982,152

Subdivision 5.

HOUSING FINANCE AGENCY

Salaries and wages	\$3,929,907
Operating expenses	2,391,480
Grants	27,168,380
HFA contingencies	<u>100,000</u>
Total from housing finance agency fund - Base level	\$33,589,767
Grand total general fund - Section 1	\$15,101,884
Grand total special funds - Section 1	<u>130,642,034</u>
Grand total all funds - Section 1	\$145,743,918

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

Subdivision 1.

INDUSTRIAL COMMISSION

Salaries and wages	(\$184,571)
Operating expenses	3,083
Capital assets	(22,800)
Lignite research and development	(1,070,000)
Grants - Bond payments	7,461,422
Oil and gas division contingency	<u>225,000</u>
Total all funds - Adjustments/enhancements	\$6,412,134
Less estimated income - Adjustments/enhancements	<u>6,604,189</u>
Total general fund - Adjustments/enhancements	(\$192,055)

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

Salaries and wages	\$1,625,778
Capital assets	10,447,000
Contingencies	<u>200,000</u>
Total from Bank of North Dakota fund - Adjustments/enhancements	\$12,272,778

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

Total general fund - Adjustments/enhancements	<u>(\$2,375,000)</u>
Total from beginning farmer revolving loan fund - Adjustments/enhancements	\$2,375,000

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$641,435
Operating expenses	1,967,817
Contingencies	50,000
Agriculture promotion	<u>200,000</u>
Total from mill and elevator fund - Adjustments/enhancements	\$2,859,252

Subdivision 5.

HOUSING FINANCE AGENCY

Salaries and wages	\$446,894
Operating expenses	414,098
Grants	<u>(577,100)</u>
Total from housing finance agency fund - Adjustments/enhancements	\$283,892
Grand total general fund - Section 2	(\$2,567,055)
Grand total special funds - Section 2	<u>24,395,111</u>
Grand total all funds - Section 2	\$21,828,056

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state industrial commission and agencies under its control for the purpose of defraying the expenses of their various divisions, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

Salaries and wages	\$6,060,092
Operating expenses	1,907,850
Capital assets	45,500
Lignite research and development	15,200,000
Grants - Bond payments	27,292,412
Oil and gas division contingency	<u>225,000</u>
Total all funds	\$50,730,854
Less estimated income	<u>43,896,025</u>
Total general fund appropriation	\$6,834,829

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

Salaries and wages	\$18,153,392
Operating expenses	10,925,665
Capital assets	11,272,000
Contingencies	<u>1,700,000</u>
Total appropriation from Bank of North Dakota fund	\$42,051,057

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

Partnership in assisting community expansion fund	\$5,700,000
Agriculture partnership in assisting community expansion fund	1,425,000
Beginning farmer revolving loan fund	<u>950,000</u>
Total all funds	\$8,075,000
Less beginning farmer revolving loan fund	<u>2,375,000</u>
Total general fund	\$5,700,000

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$17,332,391
Operating expenses	14,959,013
Contingencies	300,000
Agriculture promotion	<u>250,000</u>
Total appropriation from mill and elevator fund	\$32,841,404

Subdivision 5.

HOUSING FINANCE AGENCY

Salaries and wages	\$4,376,801
Operating expenses	2,805,578
Grants	26,591,280
HFA contingencies	<u>100,000</u>
Total appropriation from housing finance agency fund	\$33,873,659
Total general fund appropriation - Section 3	\$12,534,829
Total special funds appropriation - Section 3	<u>155,037,145</u>
Total all funds appropriation - Section 3	\$167,571,974

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

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

SECTION 6. ALTERNATE BIDS - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL - APPROPRIATION. The industrial commission shall advertise for bids for a new building for the Bank of North Dakota. Alternate bids must be solicited which would allow footings to be installed for up to three additional floors. The industrial commission may proceed with the construction of additional footings upon approval by the emergency commission and budget section. Any additional funds required for the footings in excess of the \$11,000,000 appropriated in subdivision 2 of section 3 of this Act are hereby appropriated to the Bank of North Dakota for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 7. TRANSFER. The sum of \$73,650, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the North Dakota mill and elevator association. The moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 8. TRANSFER. The sum of \$94,545, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the accumulated and undivided profits of the Bank of North Dakota. The moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 9. TRANSFER. The sum of \$64,727, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the housing finance agency fund. The moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 10. TRANSFER. The sum of \$26,019, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, is from the

revenues of the municipal bond bank. The available moneys must be transferred during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

SECTION 11. INCOME AUTHORIZATION - STUDENT LOAN TRUST. There is authorized the receipt of fees by the industrial commission in the sum of \$79,100, or so much of the sum as is owed, included in the special funds appropriation line item in subdivision 1 of section 3 of this Act, from the student loan trust for administrative services rendered by the industrial commission to the extent permitted by sections 54-17-24 and 54-17-25. The fees must be received during the biennium beginning July 1, 2005, and ending June 30, 2007, upon order of the industrial commission.

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

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

SECTION 14. LEGISLATIVE INTENT - BOND PAYMENTS. The amount of \$27,292,412 included in subdivision 1 of section 3 of this Act in the grants - bond payments line item must be paid from the following funding sources during the biennium beginning July 1, 2005, and ending June 30, 2007:

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

SECTION 15. LEGISLATIVE INTENT - FIRSTHOME PARK GRANT. It is the intent of the fifty-ninth legislative assembly that the housing finance agency provide a \$100,000 grant from funds appropriated in the grants line item in subdivision 5 of section 3 of this Act to the Dickinson park district for park improvements at the west river community center complex to be named the firsthome park.

SECTION 16. APPROPRIATION - TRANSFER. The funds appropriated by subdivision 3 of section 3 of this Act must be transferred by the Bank of North Dakota to the partnership in assisting

community expansion fund established by section 6-09.14-02. The Bank of North Dakota may not be construed to be a general fund agency because of the appropriation made by subdivision 3 of section 3 of this Act.

SECTION 17. UNOBLIGATED MONEYS IN PARTNERSHIP FOR COMMUNITY EXPANSION FUND - TRANSFER TO THE GENERAL FUND. Notwithstanding section 6-09.14-02, any unobligated moneys, up to \$2,200,000, in the partnership in assisting community expansion fund as of June 30, 2005, must be returned to the general fund and considered general fund turnback.

SECTION 18. CONTINGENT OIL AND GAS DIVISION FUNDING - EMERGENCY COMMISSION APPROVAL. The funds appropriated in the oil and gas division contingency line item in subdivision 1 of section 3 of this Act are from the land and minerals trust fund. If funds are required due to the average drilling rig count exceeding thirty active rigs for each month in any consecutive three-month period, the oil and gas division may spend moneys from this line item upon emergency commission approval. The oil and gas division may hire up to two full-time equivalent positions with the contingency funds.

SECTION 19. AGRICULTURE PROMOTION - INTERNATIONAL BUSINESS AND TRADE OFFICE. The mill and elevator association shall provide a grant of \$200,000 from the agriculture promotion line item in subdivision 4 of section 3 of this Act to the international business and trade office upon proof of the international business and trade office securing \$1 of matching funds from other public or private sources for every \$2 from the mill and elevator association.

SECTION 20. AMENDMENT. Section 38-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 21. AMENDMENT. Section 38-12-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. To require:
 - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration, development, and production of subsurface minerals on state and private lands within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.

- b. The delivery, free of charge, to the state geologist of the basic exploration data collected by the operator, within thirty days of field collection of such data. This data must include:
 - (1) Sample cuts, core chips, or whole cores.
 - (2) Sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.
 - (3) Elevation and location information on the data collection points.
 - (4) Other pertinent information as may be requested by the state geologist.

The data so submitted is confidential for a period of one year when so requested by the operator and such period may be further extended upon approval by the commission.

- c. The filing of monthly production reports in the manner prescribed by the commission and any other reports deemed necessary by the commission.
 - d. The conducting of all exploration, development, and production operations in such a manner as to prevent pollution of freshwater supplies, to provide for the protection of the environment and public safety, and to ensure the optimum recovery of the mineral resource.
 - e. The reclamation of all land disturbed by operations regulated by this chapter to a condition consistent with prior land use and productive capacity.
2. To regulate the drilling and abandonment of exploration test holes and producing wells and all other exploration, development, production, and reclamation operations.
 3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter.
 4. To inspect all exploration, development, and production sites. For the purposes of this subsection, the ~~state geologist~~ director of mineral resources or the ~~state geologist's~~ director's representative shall have access to all exploration, development, or production installations for purposes of inspection and shall have the authority to require the operator's aid if ~~same~~ it is necessary and is requested.

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

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

SECTION 23. AMENDMENT. Section 38-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. To require:
 - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration for coal on state and private lands and roads used in coal exploration within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
 - b. The delivery, free of charge, to the state geologist of the basic data collected during the course of the exploration within a reasonable time as may be prescribed by the state geologist. The data so submitted is confidential and available only to the office of the state geologist for official purposes for a period of two years, and such period of confidentiality must, upon application, be extended for one-year periods by the state geologist, for a total period not to exceed ten years unless it is demonstrated that such period should be further extended in order to prevent possible resulting harm to the person, or the persons' successors and assigns, who delivered such basic data to the state geologist. The basic data must include, if specifically requested by the state geologist and if the information has been developed by or for a person conducting the exploration:
 - (1) Sample cuts.
 - (2) Drillers' logs, sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.
 - (3) Elevation and location information on the data collection points.
 - (4) Other pertinent information as may be required by the state geologist.
2. To require the plugging, covering, or reburial in an appropriate manner so as to protect environmental quality, general health and safety, and economic values of all holes, pits, or trenches excavated during the course of coal exploration.
3. To promulgate and enforce rules, regulations, and orders to effectuate the provisions, purpose, and intent of this chapter.
4. To inspect all drilling or exploration sites. For the purposes of this subsection, the ~~state geologist~~ director of mineral resources or ~~the state geologist's~~ the director's representative shall have access to all drilling or exploration installations regulated by this chapter for the purpose of inspection and sampling and shall have the authority to require the operators' aid if the ~~state geologist or the state geologist's representative~~ director finds it necessary and requests it.
5. Notwithstanding any of the other provisions of this section, the commission acting through the ~~office of the state geologist~~ director of mineral resources shall require that any lands substantially disturbed in coal exploration, including excavations, roads, and drill holes, and the removal of necessary facilities and equipment be reclaimed in accordance with the applicable performance standards of section 38-14.1-24. Reclamation must be accomplished ~~so as~~ to protect environmental quality, general health and safety, and economic values.

SECTION 24. AMENDMENT. Subsection 1 of section 38-12.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 25. AMENDMENT. Section 38-15-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 26. AMENDMENT. Section 38-19-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. To require:
 - a. Identification of ownership of all facilities, installations, and equipment used in the extraction of geothermal energy.
 - b. The making and filing of all logs and reports on facility location, drilling, boring, excavating, and construction and the filing, free of charge, of samples, core chips, and complete cores, when requested, in the office of the state geologist.
 - c. The drilling, boring, casing, excavating, plugging, and construction of facilities in a manner to prevent contamination and pollution of surface and ground water sources and unnecessary environmental degradation.
 - d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter and the rules and orders of the commission relating to the extraction of geothermal energy. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of

security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.

- e. Metering or measuring all products extracted from or by means of a facility regulated by this chapter.
 - f. That every person who operates a geothermal energy extraction facility in this state shall keep and maintain complete and accurate records of the quantities and nature of products extracted from or by means of any facility, and the ultimate disposition of such products, which records must be available to the commission or its agents at all times, and that every such person file with the commission such reports as it may prescribe.
 - g. That upon termination of the operation of any facility or activity regulated by this chapter, the operator of the facility shall restore the surface as nearly as possible to its original condition and productivity.
2. To regulate:
 - a. The drilling, boring, excavating, and construction of all geothermal energy extraction facilities.
 - b. Operations to assure the optimum performance of all facilities regulated under this chapter.
 3. To limit and prescribe the nature, quantity, and source of geothermal energy to be extracted from any facility regulated by this chapter.
 4. To adopt rules and issue orders to effectuate the purposes of this chapter.

SECTION 27. AMENDMENT. Section 38-19-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

SECTION 28. AMENDMENT. Subsection 10 of section 38-15-02 of the North Dakota Century Code is amended and reenacted as follows:

10. "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, ~~helium~~, iodine, lithium, magnesium, ~~nitrogen~~, phosphorus, potassium,

sodium, thorium, uranium, and sulfur, and their compounds, ~~occurring more than five hundred feet [152.4 meters] below the surface of the land~~ but does not include sand and gravel and rocks crushed for sand and gravel.

SECTION 29. AMENDMENT. Section 54-17-03 of the North Dakota Century Code is amended and reenacted as follows:

54-17-03. Chairman and attorney - Secretary - Employees - Compensation - Bonds. The governor is the chairman of the industrial commission, and its attorney is the attorney general. ~~In the transaction of its general business, the~~ The commission shall appoint a secretary and may employ other subordinate officers, employees, and agents, on such terms as ~~it may deem~~ the commission determines proper and as, in its judgment, ~~the public interests may require.~~ The commission may require suitable bonds of its secretary or other subordinate officers, employees, or agents. ~~# The commission shall fix the amount of the compensation of each person so engaged~~ the commission's secretary, officers, employees, and agents and the secretary's salary may exceed the maximum salary in the grade established for the classification assigned under chapter 54-44.3. The compensation, together with other expenditures for operation and maintenance of the general business of the commission, must remain within the appropriation available in each year for such purpose.

SECTION 30. AMENDMENT. Subsection 3 of section 54-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 31. AMENDMENT. Section 54-17.4-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 32. AMENDMENT. Section 54-17.4-06 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 33. AMENDMENT. Section 54-17.4-07 of the North Dakota Century Code is amended and reenacted as follows:

54-17.4-07. State geologist - Grants, funds, and contracts. The state geologist, with the approval of the ~~commission~~ director of mineral resources, may accept and expend money from and

enter into contracts with federal, state, local, or other public entities to carry out the purposes of this chapter or to provide geological services. If such funds exceed appropriations made by the legislative assembly, the ~~state geologist~~ director of mineral resources shall seek emergency commission approval for their expenditure.

SECTION 34. REPEAL. Section 3 of chapter 491 of the 2003 Session Laws is repealed.

SECTION 35. STATE MILL AND ELEVATOR ASSOCIATION - REPORT TO BUDGET SECTION. The manager of the state mill and elevator association shall present an annual report to the budget section of the legislative council. The report must include the current role and mission of the state mill and elevator association and short-term and long-term plans for acquisitions, construction, renovation, equipment upgrading, sales and marketing, personnel, and all financial matters. The report also must include a description of efforts by the state mill and elevator association to inform legislators about the role, mission, and operations of the state mill and elevator association.

SECTION 36. EMERGENCY. The appropriation in subdivision 3 of section 3 of this Act and the transfer in section 16 of this Act for the partnership in assisting community expansion are declared to be emergency measures.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2014 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 44 Nays 2 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 89 Nays 4 Absent 1

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at ___ o'clock _____ M.

Secretary of State