



State of
North Dakota
Office of the Governor

Doug Burgum
Governor

May 2, 2017

The Honorable Brent Sanford
President of the Senate
North Dakota Senate
State Capitol
Bismarck, ND 58505

Dear President Sanford,

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Section 4, Section 20 and a portion of Section 12 of Senate Bill 2013, the appropriations bill for the Department of University and School Lands.

Section 4 was amended in conference committee and approved by the legislature without the scrutiny or transparency of the full legislative public hearing process. This section directs the State Treasurer to transfer \$16,100,000 – \$8.0 million from the strategic investment and improvements fund and \$8.1 million from the state disaster relief fund – to appropriate the sum of \$10,000 to each of approximately 1,610 organized and unorganized townships in non-oil producing counties. At a time when North Dakota is dealing with an unprecedented revenue shortfall, nearly every state agency and department has made substantial cuts in budgets based upon limited reserves and/or new initiatives that streamline state government. Without demonstrated evidence of differentiated need or want, this exactly equal, across-the-board appropriation is both arbitrary and an inefficient use of our scarce financial resources. Further, given how depleted all of our reserves and ending balances have become, it would be risky to reduce the state disaster relief fund by \$8.1 million.

The portion of Section 12 that reads: “Of the \$3,600,000, \$1,800,000 may be spent only upon approval of the budget section.” is vetoed. This sentence requires the Department of University and School Lands to seek budget section approval before spending funds approved by the full legislative assembly. In *Kelsch v. Jaeger*, the North Dakota Supreme Court stated: “as otherwise provided in the constitution, the legislature may not delegate legislative powers to others, including a subset of its members.” 641 N.W.2d 100 (ND 2002). If enacted, the vetoed portion of Section 12 would interfere with proper management of this state agency. The specific language addressed to the Governor and the Commissioner in Section 12 “to achieve efficiencies and budgetary savings...through the use of innovative ideas and through alternative solutions relating to information technology” remains. Our office, in conjunction with our state CIO, will monitor this IT project closely in terms of scope, budget, spending, and outcomes and work closely with the Commissioner of University and School Lands to accomplish the project goals.

Section 20 of Senate Bill 2013 directs the Commissioner of University and School Lands to apply a specific interpretation to the terms “gross production,” “market value” and “gross proceeds of sale” as stated in its mineral lease form. The North Dakota Attorney General acts as legal counsel to the Commissioner of University and School Lands, including providing legal advice related to its minerals leases and other contracts. The restrictions set forth in Section 20 are an encroachment upon the Attorney General’s authority to provide legal advice to this state agency and a violation of the separation of governmental powers established by the North Dakota Constitution.

Sincerely,

A blue ink signature of Doug Burgum, the Governor of North Dakota.

Doug Burgum
Governor