

2025 SENATE STATE AND LOCAL GOVERNMENT

SB 2396

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

SB 2396
2/6/2025

To provide for a performance audit of the department of commerce.

Members Present: Chairman Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

3:47 p.m. Chair Roers called the hearing to order.

Discussion Topics:

- Performance audit

3:47 p.m. Senator Weston, District 15, introduced the bill and submitted testimony

#36064. 3:51 p.m. Reed Johnson, Legal Intern at the Governor's Office, testified neutral.

3:52 p.m. Josh Gallion, ND State Auditor, testified neutral.

3:57 p.m. Senator Walen moved to adopt amendment #25.1372.02004.

3:57 p.m. Senator Braunberger seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	AB
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 5-0-1

4:00 a.m. Senator Walen moved a Do Pass as amended and rerefer to Appropriations.

4:00 p.m. Senator Barta seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	AB
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Judy Lee	Y

Senator Chuck Walen	Y
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Motion Passed 5-0-1

Senator Braunberger will carry the bill.

Additional written testimony:

Charles Hoefer, CEO/Owner Hoefer Group LLC, submitted testimony in favor #35965.

4:03 p.m. Chair Roers adjourned the meeting.

Susan Helbling, Committee Clerk

RS 2/6/25
1 of 2

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

1 A BILL for an Act to provide for a performance audit of the department of commerce and the
2 North Dakota development fund; and to provide an appropriation.

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

4 **SECTION 1. PERFORMANCE AUDIT - DEPARTMENT OF COMMERCE AND NORTH**
5 **DAKOTA DEVELOPMENT FUND.** The legislative management shall contract with an
6 out-of-state and independent third party for the completion of a performance audit of the
7 department of commerce and the North Dakota development fund, for the biennium beginning
8 July 1, 2025, and ending June 30, 2027. The chairman of the legislative management shall
9 arrange for the audit and by August 30, 2026, receive the audit report. The performance audit
10 must address the economy, efficiency, and effectiveness of the economic development
11 programs at the department of commerce and the North Dakota development fund relative to
12 industry best practices criteria for the years 2020 to 2024 by examining internal processes,
13 controls, and results to identify areas for improvement and provide recommendations for
14 corrective actions.

15 **SECTION 2. APPROPRIATION - LEGISLATIVE MANAGEMENT - PERFORMANCE**
16 **AUDIT - DEPARTMENT OF COMMERCE AND NORTH DAKOTA DEVELOPMENT FUND.**
17 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
18 appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the
19 legislative management for the purpose of contracting for a performance audit of the

- 1 department of commerce and the North Dakota development fund, for the biennium beginning
- 2 July 1, 2025, and ending June 30, 2027.

**REPORT OF STANDING COMMITTEE
SB 2396**

State and Local Government Committee (Sen. Roers, Chairman) recommends **AMENDMENTS** ([25.1372.02004](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2396 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

February 6, 2025

From: **Charles Hoefer**

CEO / Owner, Hoefer Group, LLC

19 2nd St SE, Dunseith, ND 58329

SUBJECT: Testimony in Favor of SB 2396

Madam Chair Roers and Members of the State and Local Government Senate Committee:

For the record, I am Charles Hoefer. I am in favor of this bill, and I am providing first-hand testimony and other public information, which is crucial to motivating the passage of SB 2396 to allow for a performance audit of Commerce and the North Dakota Development Fund.

1. Introduction:

North Dakota Commerce functions under the Governor's executive authority, while mandates, appropriations, and numerous State and federal laws set the guard rails. Powers given to Commerce officials are unlike any other commerce department in the nation. There are more local banks per capita in North Dakota than any other state. Those banks exist because of the State Bank of North Dakota's support system deploying assets, infrastructure, and competitive financial products cost-effectively to enable those private banks. North Dakota's business financing landscape is shaped by the interplay of Commerce and the State Bank interfacing by mandates with a cottage industry of small banks, private lenders, communities, public lenders, and nonprofits for the benefit of all North Dakotans.

North Dakota's business funding, and especially its startup finance eco-system, promises great benefits. Business owners in or being recruited to the State are promised low-interest, public-private financing opportunities, even with lighter collateral. State-influenced incentives are attractive and there remains little incentive for out-of-state private equity or banks to compete. As a result, and due to small population, most of North Dakota's business and startup finance is connected to an interplay of power between Commerce, the State Bank, and the cottage industry they support or influence. Billions of dollars in funding stacks are controlled or influenced by Commerce officials. Great State powers hold great fiduciary responsibilities, and, without accountability, risk foul play.

2. An Alarming Review of Public Information:

\$1.6 billion has been appropriated in the Regular Session to Budget No. 601, Commerce, from 2001-2025, with 32% of that (\$515 million) in the last two sessions, and Governor Armstrong seeks another \$249 million in this session. The bulk of those public funds are intended to provide loans and grants to support North Dakota businesses, and hundreds of millions of dollars have been basketed to Commerce's North Dakota Development Fund, a statewide nonprofit development corporation. With such staggering appropriations for a small population, how on earth does the Development Fund justify reporting a total asset position under \$37 million in 2023? *Where did all the taxpayer money go?*

There are more than a few hints in Governor Armstrong's Commerce budget that something is amiss. For starters, despite very limited powers afforded to the State Auditor, the Governor's current budget request discloses that the State Auditor made significant audit findings of Commerce and the Development Fund, identifying:

- a) *Misuse* by Commerce and Development Fund officials of State purchase cards,
- b) *Deficient and improper accounting* at the Development Fund,
- c) *Improperly written-off loans* at the Development Fund, and
- d) *A non-competitive grant process* that prevented representation of best candidates.

The 2023 Development Fund Annual Report adds to concerns. For example, the Development Fund Board approved loans companies in which board members have ownership. Those loans were listed as non-reducing, with identical balances of \$4.66 million in 2022 and 2023. Worse, \$3.16 million was already reserved for loss (See Note 7 in the Annual Report). One or more Board members are, according to audited financial notes, self-dealing in free taxpayer dollars under the guise of loans.

Additionally, the Development Fund reported \$30.2 million loans receivable in 2023. However, \$14.5 million was already *impaired*, meaning set for write-off (see Note 4 of the Annual Report). A series of accounting maneuvers charged off millions more in bad loans. One creative way charge-offs were accomplished was to swap bad loans into bad equity and then charge the equity as an impairment, meaning a revaluation to \$0.00, or a charge-off (see Note 3 and the Statement of Cash Flows).

3. A Need for Accountability in the Actions of Commerce Officials:

As shown above, self-dealing is evidence within Commerce using taxpayer dollars, and audit reports show that such dealings may include preferential treatment for write-offs.

On April 24, 2024 *InForum* writer Rob Port claimed that former Commerce Commissioner Josh Teigen or his family benefited directly or indirectly from \$2.5 million in Commerce loans when he was a Commerce director. One business connected to funding reportedly closed North Dakota operations, and the other was not found with any staff in its offices when *InForum* investigated. All of the loans were reported to *InForum* as active and in good standing by Commerce, however. Port quoted Teigen as having evidenced that he disclosed his conflicts.

Even if Commerce board members and officials are disclosing their conflicts of interest, there is really minimal reason to expect that an organization whose lending boards are appointed or directed by the Governor would routinely oppose their own colleagues' requests.

Self-dealing is only one of many concerns. Commerce officials have the capacity to abuse their State powers and oppose their mandates, even to turn project winners into losers through retaliation. A single message by a senior Commerce official can deprive a private citizen access to the publicly-influenced North Dakota private and third party business financing system. A performance review will help identify where the Commerce and Development Fund capital is being deployed, and into what projects stacks and partnerships, and with what rate of success, to ensure the system is operating fairly and according to applicable laws.

4. My Personal Testimony with Commerce Officials:

I was recruited to North Dakota by Commerce manager Dave Lehman to build the highest job-creating manufacturer in the State. I have a family history in such endeavors, and I am a global leader in RV design. Lehman connected me to public and private finance partners and the State Bank. I was interviewed carefully by Commerce and the Development Fund, and I was impressed with their process and diligence. Lehman introduced me to a 100,000 square foot factory he knew personally, located in the poorest region of the State, and in a community decimated by the 2015 exit of a manufacturer.

Our Dunseith factory had been embroiled in federal crimes, which created serious property encumbrances. Lehman concealed disclosure of critical facts about our Dunseith factory, even making false statements, when inducing me to buy the site and personally guarantee multiple loans connected to it. Lehman and other Commerce and State officials had funded and facilitated aerospace and defense work at the site almost until I bought it, which the work was illegal, but Lehman said that all such work had stopped in 2015. There are public records we have independently obtained to support that State officials were warned not to pursue such work, but did so anyway for years.

There was a bloody room shockingly discovered at the site that appeared to be connected to the tenant before me, who also worked with officials. There were guided missile parts concealed at the site, and other federal evidence which reflected both past and ongoing serious federal crimes connected to the property. The site's crimes and misconduct were dumped on us. I was forced upon discovery to report and resolve the crimes and encumbrances with authorities, or risk potential serious liabilities. Eventually, our factory was declared a federal crime scene in June 2023, more than a year after we bought the property, and following many threats we faced.

Commerce officials, seeking to conceal their past misconduct, retaliated against me in ways that are now becoming well-documented publicly through *The Dakotan* (www.mydakotan.com). I faced fear and terror in North Dakota, including stalking and electronics interference, and a physical threat. I was also repeatedly extorted by Commerce officials as to my loan with them, and they were concealing the evidence of past Commerce officials' misconduct connected to my reporting and relief. Commerce officials still conceal hundreds of public records that relate to me, despite requests from media to have those records since 2023. I have begun to release shared records to prove my situation.

Communities and State legislators have raised alarm about my situation with Commerce.

I request the passage of this bill.

Charles Hoefer

25.1372.02004
Title.

Prepared by the Legislative Council
staff for Senator Weston
January 31, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

1 A BILL for an Act to provide for a performance audit of the department of commerce and the
2 North Dakota development fund; and to provide an appropriation.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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Sixty-ninth
Legislative Assembly

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2025 SENATE APPROPRIATIONS

SB 2396

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division Red River Room, State Capitol

SB 2396
2/12/2025

A BILL for an Act to provide for a performance audit of the department of commerce and the North Dakota development fund; and to provide an appropriation.

3:33 p.m. Chairman Wanzek opened the meeting.

Members present: Chairman Wanzek, Vice-Chair Dwyer, Senator Burckhard, Senator Erbele, and Senator Sickler.

Discussion Topics:

- Transparency
- Cost of audit

3:34 p.m. Senator Weston, District 15, introduced the bill, testified in favor and answered committee questions.

3:42 p.m. Chairman Wanzek closed the meeting.

Carol Thompson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division Red River Room, State Capitol

SB 2396
2/14/2025

A BILL for an Act to provide for a performance audit of the department of commerce and the North Dakota development fund; and to provide an appropriation.

10:35 a.m. Chairman Wanzek opened the meeting.

Members present: Chairman Wanzek, Vice-Chair Dwyer, Senator Burckhard, and Senator Sickler. Absent: Senator Erbele.

Discussion Topics:

- Cost of audit

10:38 a.m. Brady Larson, Assistant Legislative Budget Analyst, supplied budget information.

10:42 a.m. Senator Dwyer moved to amend SB 2396 to reduce the appropriation for the audit from 350,000 to 200,000.

10:42 a.m. Senator Burkhard seconded the motion.

Senators	Vote
Senator Terry M. Wanzek	Y
Senator Randy A. Burckhard	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	A
Senator Jonathan Sickler	Y

Motion passed 4-0-1

10:43 a.m. Senator Dwyer moved a Do Pass as Amended.

10:43 a.m. Senator Burckhard seconded the motion.

Senators	Vote
Senator Terry M. Wanzek	Y
Senator Randy A. Burckhard	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	A
Senator Jonathan Sickler	Y

Motion passed 4-0-1

Senator Dwyer will carry the bill.

10:44 a.m. Chairman Wanzek closed the meeting.

Carol Thompson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2396
2/17/2025

A BILL for an Act to provide for a performance audit of the department of commerce and the North Dakota development fund; and to provide an appropriation.

2:58 p.m. Chairman Bekkedahl opened the hearing.

Members Present: Chairman Bekkedahl, Vice-Chairman Erbele, and Senators Burckhard, Cleary, Conley, Davison, Dwyer, Magrum, Mathern, Meyer, Schaible, Sorvaag, Thomas, Wanzek.

Members Absent: Senators Dever, Sickler.

Discussion Topics:

- Independent Audits
- Reducing Appropriation Rationale

2:58 p.m. Senator Dwyer introduced the bill.

3:00 p.m. Senator Dwyer moved amendment LC 25.1372.03001 (#37910).

3:00 p.m. Senator Burckhard seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	A
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	N
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	A
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 13-1-2.

3:02 p.m. Senator Dwyer moved a Do Pass as Amended.

3:02 p.m. Senator Burckhard seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	A
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	N
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	A
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 13-1-2.

Senator Dwyer will carry the bill.

3:03 p.m. Chairman Bekkedahl closed the hearing.

Elizabeth Reiten, Committee Clerk

February 14, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

CC 2/17
10F2

ENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

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**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2396**

Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS** ([25.1372.03001](#)) and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 2 ABSENT OR EXCUSED AND NOT VOTING). SB 2396 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2-17-25

25.1372.03001
Title.

Prepared by the Legislative Council
staff for Senate Appropriations -
Government Operations Division
Committee

February 14, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2396

Introduced by

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2025 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2396

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2396
3/11/2025

A BILL for an Act to provide for a performance audit of the department of commerce and the North Dakota development fund; and to provide an appropriation.

2:44 p. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, T. Brown, Finley-DeVile, Grindberg, Kasper, D. Ruby, Schatz, Schauer, Vollmer

Members Absent: Representatives C. Brown, Koppelman

Discussion Topics:

- Audit cost
- Independent out of state auditor
- Investments and loans
- Open records request
- Best practices
- Audit scope

2:44 p.m. Senator Kent Weston, District 15, Sarles, ND, introduced and testified.

3:04 p.m. Kurt Swenson, Engineer, Beulah, ND, testified in favor.

3:33 p.m. Josh Gallion, ND State Auditor, testified as neutral and submitted testimony #40695.

Additional written testimony:

Representative Bill Tveit, Hazen, ND, submitted testimony in favor #39637.

Reed Johnson, Legal Intern, ND Office of the Governor, submitted testimony as neutral #41087.

3:56 p.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

Representative Bill Tveit
House District 33
Testimony for SB 2396

Testimony in Support of SB 2396. 8 March 2025
House Industry, Business & Labor Committee

Chairman Warrey, committee members;

As a co-sponsor of SB 2396, I request a do pass recommendation for a Performance Audit of the Department of Commerce and the North Dakota Development Fund by an out of state and independent third party. Though the fiscal note has been reduced, I feel that amount is adequate for a quality review.

This audit makes sense considering the amount of funds that this department has available to distribute with very little oversight.

Manufacturing and business development is important for job creation and future economic growth in North Dakota. We need to assure that such is kept transparent and fair to all parties, especially our constituents.

Thank You for your consideration,

Representative Bill Tveit, District 33, Hazen 701-870-4014



NORTH DAKOTA OFFICE OF THE STATE AUDITOR

State Auditor Joshua C. Gallion

Department of Commerce

Audit Report for the Biennium Ended June 30, 2023

Client Code 601





WHAT WE LOOKED AT AND WHY

North Dakota state law requires that our team perform an audit once every two to four years. This included a review of financial transactions and determining that expenses are correct. Our audit reports any errors, internal control weaknesses or potential violations of law identified in significant or high-risk functions of the agency.

WHAT WE FOUND



Motion Picture Grant Procedures

The Department of Commerce did not follow their normal process for a grant application timeframe.

Read more on page 4



Improper Purchase Card Transactions

The Department of Commerce used state-issued purchase cards on items that were not appropriate for government funds.

Read more on page 6

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Conclusion and Background 6

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HAVE QUESTIONS? ASK US.

NORTH DAKOTA STATE
AUDITOR'S OFFICE

600 E. Boulevard Ave. Dept. 117
Bismarck, North Dakota 58505

- 701-328-2241
- NDSAO@nd.gov
- ND.gov/Auditor
- Facebook.com/NDStateAuditor
- Linkedin.com/company/NDStateAuditor
- Youtube.com/@NDStateAuditor

Introduction

Department of Commerce

May 20, 2024

We are pleased to submit this audit of the Department of Commerce for the biennium ended June 30, 2023. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two to four years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

The primary consideration in determining the contents of these audits is to produce informative audits to improve government. Statutory audit requirements are an important part of these audits and are addressed by our standard audit objective. Whenever possible, additional audit objectives are included to increase responsiveness and effectiveness of state government.

Kevin Scherbenske, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to the Department of Commerce staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

/S/

JOSHUA C. GALLION
NORTH DAKOTA STATE AUDITOR

TERMS USED IN REPORT

Appropriation: An amount authorized by the North Dakota Legislative Assembly to be spent for a specific purpose.

ConnectND: The accounting system for North Dakota.

Emergency Commission: Group of elected officials that have the authority to transfer or expend money appropriated by the North Dakota Legislative Assembly. Additional information can be found in N.D.C.C. Chapter 54-16.

Internal Control: Policies and procedures that ensure reliable financial reporting, safeguard assets, promote accountability and efficiency, and prevent fraud.

North Dakota Administrative Code (N.D.A.C.): The codification of all rules of state administrative agencies.

North Dakota Century Code (N.D.C.C.): Collection of all the statutes passed by the North Dakota Legislative Assembly.

Performance Audit: Engagements that provide objective analysis, findings, and conclusions to assist management and those charged with governance and oversight to improve program performance and operations, reduce costs, facilitate decision making, and contribute to public accountability.

Purchase Card: The purchasing card is a credit card program administered by the Office of Management and Budget.

Session Laws: Published after each regular and special legislative session and contain the laws enacted during that session.

Standards for Internal Control in the Federal Government (GAO or Green Book): Sets the standards for an effective internal control system for federal agencies.

Audit Results

PRIMARY OBJECTIVE

Are there any errors, internal control weaknesses, or potential violations of law for significant or high-risk functions of the agency?

CONCLUSION

Except for the findings identified in this report, no errors, internal control weaknesses, or potential violations of law were identified.

FINDING
2023-01

Motion Picture Grant Procedures

WHAT HAPPENED

The Department of Commerce awarded a \$600,000 Motion Picture Production and Recruitment Grant through a competitive process. The Department allowed 10 days for interested parties to apply, which does not align with the timeframes used by the agency for other grants awarded through the same process. As a result, eligible applicants may not have had time to properly collect, organize, and submit the required information in time to apply.

BACKGROUND

During the 2021 legislative session, the legislature appropriated \$100,000 to the Department of Commerce for a Motion Picture Production and Recruitment Grant. (Senate Bill 2018, section 2). The Legislature indicated that the grant was intended for one particular vendor and it was awarded to that vendor in June of 2021, following the intent of the legislature.

During the 2023 legislative session, the Department of

Commerce was appropriated \$600,000 for another Motion Picture Production and Recruitment Grant. (House Bill 1018 section 2). This time, the Department of Commerce chose to open the award to others through a competitive process, which aims to create a fair and transparent environment for the selection of the best candidate. The grant was announced on the Department of Commerce's website on the afternoon of Friday, July 21st, 2023, with applications closing on Monday, July 31st, 2023. This gave entities 10 days to see the grant and apply. The legislative intent was for the motion picture to be completed no later than June 30, 2025.

The grant was established to benefit an organization that is dedicated to the preservation and honor of North Dakota land, history, and citizens. Film products are used to showcase the state by telling stories that will instill curiosity and potentially inspire viewers to learn more about the history, culture, and landscapes of North Dakota and to motivate travel. Eligible applicants were required to be North Dakota-based organizations that could do all filming and production in North Dakota and have a history of distributing impactful motion pictures about North Dakota's land, history, and citizens.



The department allowed **10 days** for interested parties to apply, which does not align with the **timeframes used for other grants** awarded through the same process.

The Department of Commerce received four applications in those 10 days, scored them on August 3rd, 2023, and awarded the entire \$600,000 to the same vendor who received the 2021 award. The Department of Commerce announced the award on August 4th, 2023, before paying it out on January 5th, 2024. Two films are currently in development by the vendor selected with a completion date

set for no later than June of 2025.

We reviewed awarding procedures for 12 other grants issued by the Department in 2022 and 2023 to determine the number of days allowed for applicants to apply and found that in the same competitive process, the Department gave 28 to 84 days from the date grants were announced.

The GAO Greenbook of Internal Controls states that “Those in key roles for the unit may further define policies through day-to-day procedures.” Also, “Management periodically evaluates the entity’s methods of communication so that the organization has the appropriate tools to communicate quality information throughout and outside of the entity on a timely basis.” Having procedures that do not allow adequate time for awarding competitive grants could limit the number of eligible applicants and hinder the goal of attracting the best candidate.

RECOMMENDATION

We recommend the Department of Commerce evaluate allowable timeframes for announcing and awarding competitive grants to ensure enough time is allocated to attract the best candidates.

DEPARTMENT OF COMMERCE RESPONSE

The Department of Commerce respectfully disagrees with the audit’s finding regarding inconsistent timelines for grant programs. The methodology used appears flawed as it fails to consider the inherent differences between grant programs.

Grant programs vary significantly in their time constraints. A one-time, highly time-sensitive grant with strict seasonal requirements cannot be fairly compared to ongoing programs with application windows spread throughout the biennium.

We implemented a competitive RFP process, ensuring objective evaluation and merit-based selection of the

strongest application. Our goal, as always, is to be responsible stewards of taxpayer dollars and maximize the return on investment for the state.

Prolonging the award process would have only disadvantaged the final recipient, regardless of who it was. This delay would have hindered their ability to deploy the capital efficiently and deliver the intended product back to the state within the timeframe established by the legislature. An audit finding that criticizes timely awarding of the most qualified project seems misplaced.

AUDITOR’S OFFICE RESPONSE

The funding for the Motion Picture grant was included in House Bill 1018 of the 2023 Legislative Session and was signed by the Governor on May 6, 2023. The Department of Commerce did not have to wait until July 21 to announce the competitive RFP process.

The Department of Commerce could have announced the RFP anytime after the bill was signed and either kept the same awarding timeline or awarded earlier in July. This would not have impacted the ability for the recipient to complete the intended project and allowed for similar application timelines as other grants awarded by the Department of Commerce.

Instead, the Department of Commerce chose to wait until July and limit the response time given to applicants. This may have limited the number of qualified candidates that applied for this grant.

Improper Purchase Card Transactions

WHAT HAPPENED

The Department of Commerce used state-issued purchase cards (also known as p-cards) on items that were in violation of laws and regulations and were not appropriate uses of government funds. They also did not reconcile transactions to the individual purchase card statements to make sure all purchases were accounted for.

BACKGROUND

The Department of Commerce issued purchase cards to 33 of 91 employees and spent over \$916,000 in purchase card transactions during our audit period.

We reviewed 34 transactions and found the following issues:

- Two transactions (6%) did not have itemized receipts to support the purchase.
- Two transactions (6%) involved alcohol purchases for staff and board members.
- Five transactions (15%) were for meals that exceeded state per diem rates.
- Six transactions (18%) were not reconciled to the individual purchase card statements.

Missing itemized receipts, per diem meal rate overages, and alcohol purchases for staff and board members were made by The North Dakota Development Fund (NDDF). The NDDF is part of the Department of Commerce and operates to provide flexible financing to help develop and expand businesses in the state. Non-itemized receipts and per diem overages were for purchases made at restaurants and bars. Alcohol was purchased at a board meeting dinner

and strategic planning session. The purpose of an approval is to ensure that improper transactions do not occur. Each of these instances were approved by the employee's supervisor, making the approval process ineffective. This allowed improper transactions to take place and increases the risk that it continues to happen and go undetected.

The State of North Dakota P-Card Manual states that original receipts are required for all transactions and that the reviewer should match receipts to the cardholder statement submitted by the cardholder. The Office of Management and Budget's (OMB) Fiscal Administrative Policy #505 provides the meal allowance, or per diem rates, for travel while away from normal places of employment; N.D.C.C. 44-08-04(2) also states the per diem rates for travel within the state. OMB Fiscal Policy #516 states that alcoholic beverages are considered a non-reimbursable expense. As the NDDF is a creation of a statute and is considered a state agency, they are required to follow the same requirements as other state employees.



This allowed **improper transactions** to take place and increases the risk that it continues to happen and **go undetected**.

Reconciling receipts to individual purchase card statements is important because it verifies that documented expenses reflect the actual amounts charged to credit cards. GAO Standards for Internal Control state that management designs appropriate types of control activities for the entity's internal control system (Standard 10.03) and that transaction control activities are actions built directly into operational processes to support the entity in achieving its objectives and addressing related risks. Management may design a variety of transaction control activities for

operational processes, which may include reconciliations. (Standard 10.10).

RECOMMENDATION

We recommend the Department of Commerce ensure:

- Itemized receipts are submitted for all purchase card transactions.
- Cardholders only use state-issued purchase cards on allowable transactions.
- Per diem meal rates are followed.
- Supervisors and reviewers do not approve improper purchases.
- Receipts are reconciled to individual purchase card statements.

DEPARTMENT OF COMMERCE RESPONSE

The Department of Commerce will comply with the finding as presented. Commerce has been reimbursed by the North Dakota Development Fund (NDDF) for all purchase card transactions, including those mentioned in this finding. Corrective actions have been taken as all NDDF purchase cards were cancelled as of May 1st, 2024. Going forward, Commerce will be implementing additional training requirements related to the State of North Dakota P-card program for all P-card holders, supervisors, and reviewers.



Audit Procedures

Primary Objective

INTERNAL CONTROL

We obtained an understanding of internal control through inquiries, observations, and inspection of documentation and electronic data records. We planned our audit work to assess the design, implementation, and operating effectiveness of those internal controls that were significant to our audit objectives.

The specific internal control testing completed for this audit objective is identified below:

- Segregated preparation and approval of expenditures is tested in the State of North Dakota Annual Financial Report.
- Purchase card receipts are being reconciled to the individual purchase card statements.
- Purchase card expenditures and the related receipts are reviewed and approved by an appropriate individual.
- Procedures for awarding motion picture grants are in place and operating effectively.

During our testing, we noted the deficiencies listed in recommendations 2023-01 and 2023-02. No other control deficiencies were noted.

SCOPE

The Department of Commerce's sole location is its Bismarck office which was included in the audit scope. Our audit scope includes the biennium ended June 30, 2023. Our audit scope also includes all activity surrounding the \$100,000 in one-time funding for motion picture

production and recruitment grants (2021 Session Laws Senate Bill 2018 Section 2) and the \$600,000 in one-time funding for motion picture production and recruitment grants (2023 Session Laws House Bill 1018 Section 2).

METHODOLOGY

To meet this objective, we:

- Interviewed appropriate agency personnel.
- Observed the Department of Commerce's processes and procedures.
- Inspected documentary evidence.
- Analyzed financial data in ConnectND to determine areas of risk.
- Used non-statistical random sampling and the results were projected to the population. Where applicable, populations were stratified for efficiency and to ensure the population was adequately represented in the samples.
- Selected a judgmental/random sample of operating expenditures to ensure the expenditures were in compliance with the law and properly coded and supported. (N.D.C.C. 44-08-05.1 #1a).
- Selected a judgmental/random sample of grant expenditures to ensure expenditures were in compliance with the law and properly coded and supported. (N.D.C.C. 44-08-05.1 #1a).
- Selected a judgmental/random sample of purchase card transactions and determined receipts were present to support individual purchase card statement charges, purchases were reasonable, and coding was adequate for management control and financial reporting purposes. (N.D.C.C. 44-08-05.1, and OMB purchasing card manual).

- Determined if the Department of Commerce provided the Tax Commissioner with approved qualifying taxpayers for the 21st Century Manufacturing Workforce Incentive. (2019 Session Laws House Bill 1040 Section 1 #8).
- Determined if one-time funding usage was accurately reported to the legislature. (2021 Session Laws Senate Bill 2018 Section 2).
- Determined if \$19,000,000 (or as much as necessary) of one-time funding was utilized for beyond visual line of sight unmanned aircraft system grants. (2021 Session Laws Senate Bill 2018 Sections 2 and 7).
- Determined if \$1,000,000 was utilized for grants to an organization dedicated to expanding workforce opportunities, training, and education related to the beyond visual line of sight program and ensured the grant payments were matched 1:1 with funds from private or other public sources. (2021 Session Laws Senate Bill 2018 Sections 2 and 9 and 2021 Special Session Laws House Bill 1506 Section 22).
- Determined if the amount of General Fund appropriation carried over from the prior biennium and \$7,000,000 (or as much as necessary) transferred from the Strategic Investment and Improvements Fund was spent on the Enhanced Use Lease Grant. (2021 Session Laws Senate Bill 2018 Sections 2, 7, and 16).
- Determined if \$1,500,000 (or as much as necessary) was utilized for job development grants to organizations dedicated to promoting job development and economic growth. (2021 Session Laws Senate Bill 2018 Sections 2 and 7).
- Determined if \$6,565,432 (or as much as necessary) was used for tourism marketing and branding operating expenses and \$434,568 (or as much as necessary) was used for tourism transportation improvement grants to an organization dedicated to preserving and promoting a historic, tourism destination North Dakota city. (2021 Session Laws Senate Bill 2018 Sections 2 and 8 #1).
- Determined if \$1,000,000 (or as much as necessary) was utilized for technical skills training grants. (2021 Session Laws Senate Bill 2018 Sections 2 and 8 #2).
- Determined if \$100,000 (or as much as necessary) in one-time funding was used for motion picture production and recruitment grants. (2021 Session Laws Senate Bill 2018 Section 2).
- Determined if \$2,000,000 (or as much as necessary) was utilized for travel agent and tour operating emergency resiliency grants and no ineligible organizations were awarded a grant. (2021 Session Laws Senate Bill 2018 Sections 2 and 8 #3).
- Determined if \$5,000,000 (or as much as necessary) was granted to the Department of Transportation for the purpose of defraying infrastructure construction expenses of the beyond visual line of sight unmanned aircraft system program. (2021 Session Laws Senate Bill 2018 Sections 3 and 14).
- Ensured \$948,467 (or as much as necessary) was utilized for defraying expenses of the entrepreneurship grants and voucher program. Additionally, ensured the Department of Commerce established guidelines to provide grants to entrepreneurial centers and guidelines to award vouchers to entrepreneurs seeking assistance from or working with entrepreneurial centers. (2021 Session Laws Senate Bill 2018 Section 5).
- Ensured \$250,000 (or as much as necessary) was used to provide matching funds to an organization assisting in the recruitment, distribution, and supply, and enhancing the quality and efficiency of personnel providing health services in rural areas of the state. Also, determined if grant payments were made only to organizations that had secured matching funds from nonstate sources on a dollar-for-dollar basis. (2021 Session Laws Senate Bill 2018 Section 6).

- Determined if earned revenue is being maximized to the extent possible while operating and conducting business of the northern plains unmanned aircraft system test site. (2021 Session Laws Senate Bill 2018 Section 19).
- Determined \$1,000,000 (or as much as necessary) was used for the community development planning grant program. (2021 Special Session Laws House Bill 1506 Section 20).
- Determined that \$100,000 (or as much as necessary) was used for the workforce innovation network grant program. (2021 Special Session Laws House Bill 1506 Section 21).
- Ensured \$10,000,000 (or as much as necessary) was utilized towards autonomous agriculture grants and the grant payments were made only to organizations that had matched funds on a 1:1 basis. (2021 Special Session Laws Senate Bill 2345 Section 1 #37).
- Ensured \$15,000,000 (or as much as necessary) was utilized towards a local workforce development incentive program and the grant payments were made only to organizations that had matched funds on a 4:1 basis. (2021 Special Session Laws Senate Bill 2345 Section 1 #38).
- Ensured \$5,000,000 (or as much as necessary) was utilized towards adding or expanding a technical skills training grant program and a workforce innovation grant program. (2021 Special Session Laws Senate Bill 2345 Section 1 #39).
- Ensured \$120,000,000 (or as much as necessary) was utilized towards weatherization and energy programs. (2023 Session Laws House Bill 1018 Section 6).
- Determined if rules were adopted to implement, amend, and periodically update the state building code, consisting of international building, residential, mechanical, and fuel gas codes. (N.D.C.C. 54-21.3-03(1)).
- Determined if the state building code advisory committee is meeting with the Department of Commerce at least once each calendar year to address proposed amendments and adopt those approved by majority vote according to century code. (N.D.C.C. 54-21.3-03(3)).
- Determined if rules were adopted for the certification of inspectors and for the procedures to be followed in conducting inspections of modular residential and commercial structures. (N.D.C.C. 54-21.3-07).
- Determine if rules were adopted for establishing a manufactured home installation program for all manufactured homes built in accordance with manufactured homes standards under 24 CFR 3280 and these rules were used to establish minimum installation standards. (N.D.C.C. 54-21.3- 08).
- Determined if the division of workforce development in developing the state's talent strategy:
 - Consulted with partners in the state's system for workforce development, workforce training, and talent attraction;
 - Developed a comprehensive, consolidated biennial statewide strategic plan which is continuously reviewed for improvement and the improvements are implemented;
 - Developed linkages between partners of the state's system for workforce development, workforce training, and talent attraction to ensure coordination and nonduplication of programs and services provided in the state. (N.D.C.C. 54-60-19(1)).
- Determined if the division of workforce development developed and implemented a system of performance and accountability measures for the state's system for workforce development, workforce training, and talent attraction. (N.D.C.C. 54-60-19(2)).
- Determined if the division of workforce development developed and implemented a program to assist public schools in promoting North Dakota career opportunities

to students in grades nine through twelve.
(N.D.C.C. 54-60-18).

- Determined if the women's business development office is:
 - Funding the women's business leadership council;
 - Certifying women-owned businesses for federal or state contracting;
 - Recruiting, training, and assisting women entrepreneurs to develop and diversify their businesses;
 - Sufficiently staffed to implement the office's programs. (N.D.C.C. 54-60-15).
- Determined if the division of workforce development administered a program to increase use of internships, apprenticeships, and work experience opportunities for higher education students, high school students enrolled in grade eleven or twelve, and educators in accordance with law. (N.D.C.C. 54-60-17).
- Selected a random sample of Internship Fund expenditures to ensure expenditures were in accordance with fund restrictions, reasonable, and properly coded. (N.D.C.C. 54-60-17.1).
- Selected a random sample of Energy Conservation Grant Fund expenditures to ensure expenditures were in accordance with fund restrictions, reasonable, and properly coded. (N.D.C.C. 54-44.5-05.1).
- Selected a random sample of Uncrewed Aircraft Systems Fund expenditures to ensure expenditures were in accordance with fund restrictions, properly coded, and supported. (N.D.C.C. 54-60-29).
- Determined if the legislature was provided semi-annual reports on the uncrewed aircraft systems program that were accurate and properly supported. (N.D.C.C. 54-60-28, N.D.C.C. 54-60-29.1).
- Selected a random sample of Ethanol Production Incentive Fund expenditures to ensure payments were

calculated in accordance with law, reasonable, and properly coded. (N.D.C.C. 17- 02-03, N.D.C.C. 17-02-05).

- Ensured the Department of Commerce did not distribute more than \$1,600,000 of Ethanol Production Incentive Fund payments per eligible facility and did not create a negative fund balance. Additionally, ensured no eligible facility had received state payments that exceeded a cumulative total of \$10,000,000 or for longer than ten years. (N.D.C.C. 17-02-04).
- Analyzed accounts charged to each appropriation line to determine that expenditures were not charged to an inappropriate line to circumvent appropriation spending authority. (N.D.C.C. 54-16- 03, N.D.C.C. 54-44.1-09, N.D.C.C. 54-44.1-11).
- Reviewed non-appropriated fund activity to ensure the Department of Commerce had legislative approval for non-appropriated expenditures. (N.D.C.C. 54-44.1-09).
- Reviewed expenditures related to appropriation adjustments including those approved by the Emergency Commission to ensure the Department of Commerce complied with the documented intent of the adjustment. (N.D.C.C. 54-10-01.1, N.D.C.C. 54-16-03).
- Analyzed expenditures and selected a random sample of purchases subject to procurement rules to ensure the purchases complied with law, were properly coded, and reasonable. (N.D.C.C. 54- 44.4 and N.D.A.C. 4-12).
- Selected a random sample of travel related expenditure reimbursements to ensure reimbursements were within legal restrictions, reasonable, and properly coded. (N.D.C.C. 44-08- 03, N.D.C.C. 44-08-04, N.D.C.C. 54-06-09).
- Reviewed the annual physical inventory of property of sufficient value and permanence to ensure compliance with law. (N.D.C.C. 44-04-07).

AUTHORITY AND STANDARDS

This biennial audit of the Department of Commerce has been conducted by the Office of the State Auditor pursuant to authority within North Dakota Century Code Chapter 54-10.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The standards used to evaluate internal control are published in the publication Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States. (Green Book, GAO-14- 704G).

Financials

Revenues, Expenses, and Changes in Net Position

REVENUES AND OTHER SOURCES		JUNE 30, 2023	JUNE 30, 2022
Federal Revenue		\$ 13,332,952	\$ 18,404,354
Program Income		886,324	909,911
Loan Principal and Interest		226,710	553,267
Tourism Merchandise Sales		202,581	115,817
Refund of Prior Biennium Expenditures		45,016	358,345
Interest on Investment		36,733	9,805
Miscellaneous Revenue		566,911	359,814
Transfers In		82,753,327	41,477,925
Total Revenue and Other Sources		\$ 98,050,554	\$ 62,189,238

Source: ConnectND Financials

Continued on the following page

Financials

Revenues, Expenses, and Changes in Net Position

EXPENDITURES AND OTHER USES	JUNE 30, 2023	JUNE 30, 2022
Grant Expenditures	\$ 61,763,689	\$ 37,460,386
Operating Fees and Services	24,404,203	22,410,250
Salaries and Benefits	6,721,953	6,004,063
Professional Fees and Services	608,405	731,682
Professional Development	487,193	238,376
IT Data Processing, Communications, and Services	448,694	368,056
Travel	440,569	255,099
Printing and Postage	353,803	383,095
Supplies	90,640	65,299
Rent	89,350	61,616
Miscellaneous Expenditures	22,023	23,871
Transfers Out	110,000	1,382,130
Total Expenditures and Other Uses	\$ 95,540,522	\$ 69,383,923

Source: ConnectND Financials

Appropriations

For the Biennium Ended June 30, 2023

	FINAL APPROPRIATION	EXPENDITURES	UNEXPENDED APPROPRIATIONS
Expenditures by Line Item			
Salaries and Wages	\$ 13,048,897	\$ 12,190,781	\$ 858,116
Operating Expenses	26,697,367	23,870,900	2,826,467
Grants	117,322,015	67,756,437	49,565,578
COVID-19 Response	71,029,294	20,474,815	50,554,479
Discretionary Funds	5,299,873	3,714,685	1,585,188
Workforce Community Service Program	1,074,888	-	1,074,888
Community Development Plan Grant Program	1,000,000	428,034	571,966
Workforce Innovation Network Grant Program	100,000	100,000	-
Unmanned Aircraft System	5,000,000	5,000,000	-
Partner Programs	1,562,531	1,562,531	-
Entrepreneurship Grants	2,147,148	1,874,192	272,956
CARES Act Funding - 2020	22,813,983	7,747,766	15,066,217
American Rescue Plan Act	35,000,000	14,167,910	20,832,090
Weatherization and Energy Prog	120,000,000	140,620	119,859,380
Totals	\$ 422,095,997	\$ 159,028,673	\$ 263,067,324
Expenditures by Source			
General	\$ 44,070,862	\$ 41,201,243	\$ 2,869,619
Federal	311,377,599	87,722,223	223,655,376
Special	66,647,536	30,105,207	36,542,329
Totals	\$ 422,095,997	\$ 159,028,673	\$ 263,067,324

Source: ConnectND Financials



Office of the
State Auditor


NORTH DAKOTA STATE AUDITOR
JOSHUA C. GALLION

NORTH DAKOTA STATE AUDITOR'S OFFICE

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To: Chairman Warrey, Members of the House Industry, Business, and Labor Committee

From: Reed Johnson, legal intern, North Dakota office of the governor

Re: SB 2396 Testimony

Date: 3/11/2025

Chairman Warrey, Members of the House Industry, Business, and Labor Committee,

Hello, my name is Reed Johnson, and I am a legal intern with the governor's office. I am here to provide neutral testimony today on Senate Bill 2396, which provides for an independent, third-party audit of the commerce department and the North Dakota Development Fund (NDDF). The governor ran on a promise of transparency in state government, and he would welcome independent or internal audits of any state executive agencies. This bill authorizes the legislative management committee to contract with an out-of-state and independent third party to audit the department of commerce and the North Dakota Development Fund from 2020 to 2024 by examining the internal policies, procedures, and results of the commerce department during that same time. As written, the governor's office does not have pause or concern about the ends or means by which the bill seeks to accomplish this audit. Thank you for your time, and I stand for any questions.

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2396
3/25/2025

A BILL for an Act to provide for a performance audit of the department of commerce and the North Dakota development fund; and to provide an appropriation.

10:43 a.m. p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, C. Brown, T. Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schauer, Vollmer

Member Absent: Representative Schatz

Discussion Topics:

- Independent 3rd party audit
- Committee action

10:48 a.m. Representative Koppelman moved to adopt amendment language #43764.

10:51 a.m. Representative D. Ruby seconded the motion.

Voice vote.

Motion passed.

10:52 a.m. Koppelman moved Do Pass as Amended and Rereferred to Appropriations.

10:52 a.m. D. Ruby seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Jorin Johnson	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Timothy Brown	Y
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	AB

Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

Motion passed 13-0-1.

10:56 a.m. Representative Koppelman will carry the bill.

10:56 a.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

VC 3/25/25
1 of 2

REENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

1 A BILL for an Act to provide for a performance audit of the ~~department of commerce and the~~
2 North Dakota development fund; to provide for a legislative management report; and to provide
3 an appropriation.

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

5 **SECTION 1. PERFORMANCE AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH~~**
6 **DAKOTA DEVELOPMENT FUND - LEGISLATIVE MANAGEMENT REPORT.** The legislative
7 management shall contract with an ~~out-of-state and~~ independent third party for the completion
8 of a performance audit of the ~~department of commerce and the~~ North Dakota development
9 fund, for the biennium beginning July 1, 2025, and ending June 30, 2027. ~~The chairman of the~~
10 ~~legislative management shall arrange for the audit and by August 30, 2026, receive the audit~~
11 ~~report.~~ The performance audit must address the economy, efficiency, and effectiveness of the
12 economic development programs ~~at the department of commerce and of~~ the North Dakota
13 development fund relative to industry best practices criteria for the years 2020 to 2024 by
14 examining internal processes, controls, and results to identify areas for improvement and
15 provide recommendations for corrective actions. A representative of the North Dakota
16 development fund shall report the audit findings to the legislative management before
17 September 1, 2026.

18 **SECTION 2. APPROPRIATION - LEGISLATIVE MANAGEMENT - PERFORMANCE**
19 **AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH DAKOTA DEVELOPMENT FUND.~~**

20 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise

- 1 appropriated, the sum of ~~\$200,000~~\$250,000, or so much of the sum as may be necessary, to
- 2 the legislative management for the purpose of contracting for a performance audit of the
- 3 ~~department of commerce and the~~ North Dakota development fund, for the biennium beginning
- 4 July 1, 2025, and ending June 30, 2027.

**REPORT OF STANDING COMMITTEE
REENGROSSED SB 2396**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **AMENDMENTS** ([25.1372.04002](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2396 was placed on the Sixth order on the calendar.

25.1372.04000

Sixty-ninth
Legislative Assembly
of North Dakota

SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

1 A BILL for an Act to provide for a performance audit of the ~~department of commerce and the~~
2 North Dakota development fund; and to provide an appropriation.

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

4 **SECTION 1. PERFORMANCE AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH~~**
5 **DAKOTA DEVELOPMENT FUND.** The legislative management shall contract with an
6 ~~out-of-state and~~ independent third party for the completion of a performance audit of the
7 ~~department of commerce and the~~ North Dakota development fund, for the biennium beginning
8 July 1, 2025, and ending June 30, 2027. The chairman of the legislative management shall
9 arrange for the audit and by August 30, 2026, receive the audit report. The performance audit
10 must address the economy, efficiency, and effectiveness of the economic development
11 programs at the ~~department of commerce and~~ the North Dakota development fund relative to
12 industry best practices criteria for the years 2020 to 2024 by examining internal processes,
13 controls, and results to identify areas for improvement and provide recommendations for
14 corrective actions.

15 **SECTION 2. APPROPRIATION - LEGISLATIVE MANAGEMENT - PERFORMANCE**
16 **AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH DAKOTA DEVELOPMENT FUND.~~**
17 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
18 appropriated, the sum of ^{250,000}~~\$200,000~~, or so much of the sum as may be necessary, to the
19 legislative management for the purpose of contracting for a performance audit of the
20 ~~department of commerce and~~ the North Dakota development fund, for the biennium beginning
21 July 1, 2025, and ending June 30, 2027.

2025 HOUSE APPROPRIATIONS

SB 2396

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2396
4/3/2025

A BILL for an Act to provide for a performance audit of the North Dakota development fund; to provide for a legislative management report; and to provide an appropriation.

8:55 a.m. Chairman Vigesaa opened the meeting.

Members present: Chairman Vigesaa, Vice Chairman Kempenich, Representatives Anderson, Berg, Bosch, Brandenburg, Fisher, Hanson, Louser, Martinson, Meier, Mitskog, Monson, Murphy, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Wagner

Members absent: Representatives: Swiontek

Discussion Topics:

- Committee Action

8:55 a.m. Representative Warrey introduced the bill.

9:03 a.m. Representative J. Nelson moved to Amend to Add an Emergency Clause.

9:03 a.m. Representative Monson seconded the motion.

9:04 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	AB
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Glenn Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	Y
Representative Karla Rose Hanson	Y
Representative Scott Louser	Y
Representative Bob Martinson	AB
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y

Representative Gregory Stemen	Y
Representative Steve Swiontek	AB
Representative Scott Wagner	Y

9:04 a.m. Motion passed 20-0-3.

9:05 a.m. Representative Stemen moved Do Pass as Amended.

9:05 a.m. Representative Nathe seconded the motion.

9:05 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Glenn Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	Y
Representative Karla Rose Hanson	Y
Representative Scott Louser	Y
Representative Bob Martinson	AB
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	AB
Representative Scott Wagner	Y

9:05 a.m. Motion passed 21-0-2.

9:05 a.m. Representative J. Nelson will carry the bill.

9:06 a.m. Chairman Vigesaa closed the meeting.

Krystal Eberle, Committee Clerk

April 3, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

VC 4/4/25
1 of 2

REENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

In place of the amendments (25.1372.04002) adopted by the House, Reengrossed Senate Bill No. 2396 is amended by amendment (25.1372.04003) as follows:

1 A BILL for an Act to provide for a performance audit of the ~~department of commerce and the~~
2 North Dakota development fund; and to provide for a legislative audit and fiscal review
3 committee report; to provide an appropriation; and to declare an emergency.

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

5 **SECTION 1. PERFORMANCE AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH~~**
6 **~~DAKOTA DEVELOPMENT FUND - LEGISLATIVE AUDIT AND FISCAL REVIEW~~**
7 **COMMITTEE REPORT.** The legislative management shall contract with an ~~out-of-state and~~
8 independent third party for the completion of a performance audit of the ~~department of~~
9 ~~commerce and the~~ North Dakota development fund, for the biennium period beginning July 1,
10 2025, with the effective date of this Act, and ending June 30, 2027. ~~The chairman of the~~
11 ~~legislative management shall arrange for the audit and by August 30, 2026, receive the audit~~
12 ~~report.~~ The performance audit must address the economy, efficiency, and effectiveness of the
13 economic development programs ~~at the department of commerce and of~~ the North Dakota
14 development fund relative to industry best practices criteria for the years 2020 to 2024 by
15 examining internal processes, controls, and results to identify areas for improvement and
16 provide recommendations for corrective actions. A representative of the North Dakota
17 development fund shall report the audit findings to the legislative audit and fiscal review
18 committee before September 1, 2026.

19 **SECTION 2. APPROPRIATION - LEGISLATIVE MANAGEMENT COUNCIL -**
20 **~~PERFORMANCE AUDIT - DEPARTMENT OF COMMERCE AND NORTH DAKOTA~~**

1 **DEVELOPMENT FUND.** There is appropriated out of any moneys in the general fund in the
2 state treasury, not otherwise appropriated, the sum of ~~\$200,000~~\$250,000, or so much of the
3 sum as may be necessary, to the legislative ~~management~~council for the purpose of contracting
4 for a performance audit of the ~~department of commerce and the~~ North Dakota development
5 fund, for the ~~biennium~~period beginning ~~July 1, 2025~~,with the effective date of this Act, and
6 ending June 30, 2027.

7 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

**REPORT OF STANDING COMMITTEE
REENGROSSED AND AMENDED SB 2396**

Appropriations Committee (Rep. Vigesaa, Chairman) recommends **AMENDMENTS** ([25.1372.04003](#)) and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). Reengrossed SB 2396, as amended, was placed on the Sixth order on the calendar.

2025 CONFERENCE COMMITTEE

SB 2396

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2396
4/18/2025
Conference Committee

To provide for a performance audit of the department of commerce.

11:00 a.m. Chair Roers called the hearing to order.

Members Present: Chair Roers; Senators: Barta and Castaneda; Chairman Kasper;
Representatives: Bahl and Brown

Discussion Topics:

- Time frame
- First step

11:00 a.m. Chair Roers opened the hearing up for discussion.

11:01 a.m. Representative Kasper introduced proposed amendment testimony #45095.

11:03 a.m. Josh Gallion, State auditor, answered questions from the committee.

11:22 a.m. Representative Kasper moved Amendment LC #25.1372.04004 and further amend on page 2 line 2 change 9/30/26 to 8/01/262 and on Page 2 line 10 change 10/15/26 to 9/30/26.

11:22 a.m. Representative Bahl seconded the motion.

11:22 a.m. Voice vote - motion carried 6-0-0.

11:23 a.m. Representative Schauer moved in place of House amendment LC #25.1372.04003 adopted by the House, the bill is amended by the conference committee amendment LC #25.1372.04005.

11:23 a.m. Senator Barta seconded the motion.

11:23 a.m. Roll call vote - motion carried 6-0-0

11:24 a.m. Representative Kasper is the House bill carrier.

11:24 a.m. Senator Barta is the Senate bill carrier.

11:25 a.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk

April 18, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

4/18/25 vc
1 of 2

REENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

In place of amendment (25.1372.04003) adopted by the House, Reengrossed Senate Bill No. 2396 is amended by amendment (25.1372.04004) as follows:

A BILL for an Act to amend and reenact section 10-30.5-08 of the North Dakota Century Code, relating to annual audits of the North Dakota development fund; to provide for a performance audit of the ~~department of commerce and the~~ North Dakota development fund; to provide for a legislative management report; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-30.5-08 of the North Dakota Century Code is amended and reenacted as follows:

10-30.5-08. Annual audit.

The ~~board of directors~~ state auditor's office may conduct an annual audit of the financial statements of the corporation pursuant to this section. If the state auditor's office does not conduct the audit, the state auditor's office shall contract with a certified public accounting firm to audit annually the financial statements of the corporation in accordance with generally accepted auditing standards. The cost of the audit must be borne by the corporation.

SECTION 2. PERFORMANCE AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH DAKOTA DEVELOPMENT FUND - REPORT TO LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE - REPORT TO LEGISLATIVE MANAGEMENT.~~

1. The ~~legislative management~~ state auditor's office shall contract with an ~~out-of-state and~~ independent third party for the completion of a performance audit of the ~~department of commerce and the~~ North Dakota development fund; for the ~~biennium period~~ beginning July 1, ~~2025~~ 2019, and ending June 30, ~~2027~~ 2024. The ~~chairman of the legislative~~

1 ~~management~~state auditor's office shall ~~arrange for the audit and by August 30, 2026,~~
2 receive the final audit report ~~by 30 September~~August 1, 2026.

3 2. The performance audit must address the economy, efficiency, and effectiveness of the
4 ~~economic development programs at the department of commerce and the North~~
5 Dakota development fund ~~relative to industry best practices criteria for the years 2020~~
6 ~~to 2024~~ by examining internal processes, controls, and results to identify areas for
7 improvement and provide recommendations for corrective actions.

8 3. After the report is received under subsection 1, the state auditor's office shall present
9 the report at the next meeting of the legislative audit and fiscal review committee.
10 Before September 30, 2026, the state auditor's office also shall present the report to
11 the legislative management.

12 **SECTION 3. APPROPRIATION - ~~LEGISLATIVE MANAGEMENT~~ - PERFORMANCE**

13 **AUDIT - ~~DEPARTMENT OF COMMERCE AND~~ NORTH DAKOTA DEVELOPMENT FUND -**

14 **ONE-TIME FUNDING.** There is appropriated out of any moneys in the general fund in the state
15 treasury, not otherwise appropriated, the sum of ~~\$200,000~~\$250,000, or so much of the sum as
16 may be necessary, to the ~~legislative management~~state auditor's office for the purpose of
17 contracting for a performance audit of the ~~department of commerce and the~~ North Dakota
18 development fund, for the biennium beginning July 1, 2025, and ending June 30, 2027. The
19 appropriation provided in this section is considered a one-time funding item.

SB 2396 041825 1122 AM Roll Call Vote

Amendment

SB 2396

Date Submitted: April 18, 2025, 11:22 a.m.

Action: Passed

Amendment LC #: Pending LC #

Description of Amendment: .04004 plus 2 dates

Motioned By: Kasper, Jim

Seconded By: Bahl, Landon

Emergency Clause: None

Vote Results: 6 - 0 - 0

Sen. Roers, Kristin	Yea
Sen. Barta, Jeff	Yea
Sen. Castaneda, Jose	Yea
Rep. Kasper, Jim	Yea
Rep. Bahl, Landon	Yea
Rep. Schauer, Austen	Yea

SB 2396 041825 1123 AM Roll Call Vote

Final Recommendation

SB 2396

Date Submitted: April 18, 2025, 11:23 a.m.

Recommendation: In Place Of

Amendment LC #: 25.1372.04005

Engrossed LC #: N/A

Description:

Motioned By: Schauer, Austen

Seconded By: Barta, Jeff

House Carrier: Kasper, Jim

Senate Carrier: Barta, Jeff

Emergency Clause: None

Vote Results: 6 - 0 - 0

Sen. Roers, Kristin	Yea
Sen. Barta, Jeff	Yea
Sen. Castaneda, Jose	Yea
Rep. Kasper, Jim	Yea
Rep. Bahl, Landon	Yea
Rep. Schauer, Austen	Yea

**REPORT OF CONFERENCE COMMITTEE
REENGROSSED SB 2396**

Your conference committee (Sens. Roers, Barta, Castaneda and Reps. Kasper, Bahl, Schauer) recommends that in place of amendment [25.1372.04003](#) adopted by the House, Reengrossed SB 2396 is amended by amendment [25.1372.04005](#).

Reengrossed SB 2396 was placed on the Seventh order of business on the calendar.

25.1372.04004
Title.

Prepared by the Legislative Council
staff for Representative Kasper
April 17, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Weston, Boehm, Hogue, Paulson

Representatives Steiner, Tveit

In place of amendment (25.1372.04003) adopted by the House, Reengrossed Senate Bill No. 2396 is amended by amendment (25.1372.04004) as follows:

1 A BILL for an Act to amend and reenact section 10-30.5-08 of the North Dakota Century Code,
2 relating to annual audits of the North Dakota development fund; to provide for a performance
3 audit of the ~~department of commerce and the~~ North Dakota development fund; to provide for a
4 legislative management report; and to provide an appropriation.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 10-30.5-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **10-30.5-08. Annual audit.**

9 The ~~board of directors~~state auditor's office may conduct an annual audit of the financial
10 statements of the corporation pursuant to this section. If the state auditor's office does not
11 conduct the audit, the state auditor's office shall contract with a certified public accounting firm
12 to audit annually the financial statements of the corporation in accordance with generally
13 accepted auditing standards. The cost of the audit must be borne by the corporation.

14 **SECTION 2. PERFORMANCE AUDIT - ~~DEPARTMENT OF COMMERCE AND NORTH~~**
15 **DAKOTA DEVELOPMENT FUND - REPORT TO LEGISLATIVE AUDIT AND FISCAL REVIEW**
16 **COMMITTEE - REPORT TO LEGISLATIVE MANAGEMENT.**

17 1. The ~~legislative management~~state auditor's office shall contract with an ~~out-of-state and~~
18 independent third party for the completion of a performance audit of the ~~department of~~
19 ~~commerce and the~~ North Dakota development fund; for the ~~biennium~~period beginning
20 July 1, ~~2025~~2019, and ending June 30, ~~2027~~2024. The ~~chairman of the legislative-~~

1 ~~management~~state auditor's office shall ~~arrange for the audit and by August 30, 2026,~~
2 receive the final audit report by September 30, 2026.

3 2. The performance audit must address the economy, efficiency, and effectiveness of the
4 ~~economic development programs at the department of commerce and the~~ North
5 Dakota development fund ~~relative to industry best practices criteria for the years 2020-~~
6 ~~to 2024~~ by examining internal processes, controls, and results to identify areas for
7 improvement and provide recommendations for corrective actions.

8 3. After the report is received under subsection 1, the state auditor's office shall present
9 the report at the next meeting of the legislative audit and fiscal review committee.
10 Before October 15, 2026, the state auditor's office also shall present the report to the
11 legislative management.

12 **SECTION 3. APPROPRIATION - ~~LEGISLATIVE MANAGEMENT~~ - PERFORMANCE**
13 **AUDIT - ~~DEPARTMENT OF COMMERCE AND~~ NORTH DAKOTA DEVELOPMENT FUND.**

14 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
15 appropriated, the sum of ~~\$200,000~~\$250,000, or so much of the sum as may be necessary, to
16 the ~~legislative management~~state auditor's office for the purpose of contracting for a
17 performance audit of the ~~department of commerce and the~~ North Dakota development fund, for
18 the biennium beginning July 1, 2025, and ending June 30, 2027.