

STATE AGENCY FEES - BACKGROUND MEMORANDUM

Section 1 of Senate Bill No. 2130 (2019) ([appendix](#)) directs the Legislative Management, in coordination with the State Auditor, the provisions of the North Dakota Century Code relating to state agency fees. The study must include a review of the dates state agency fee provisions were created and modified, the revenue generated by the fee as compared to the expenditures related to the purpose or purposes for which the fee is imposed, and the fund or funds in which fee revenue is deposited and from which fee revenue is expended; consideration of whether the fees should be changed and whether the imposition of a fee is appropriate or if other government revenues should be used to fund the provision of services. The Legislative Management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the 67th Legislative Assembly.

LEGISLATIVE HISTORY REGARDING STATE AGENCY FEES 2009 Legislative Session

The 2009 Legislative Assembly approved the following special fund fee changes:

Changes to Fees That Impact Special Funds	
Bill No.	Description
HB 1141	Insurance Commissioner - Provided for an increase in the licensing and renewal fees charged to surplus lines insurance producers and consultants.
HB 1306	Department of Transportation - Provided for a restricted license for subsequent offenders participating in the 24/7 sobriety program.
HB 1368	Attorney General - Provided for an initial fee of \$250 for certification of reduced ignition cigarettes.
HB 1402	North Dakota State Wheat Commission - Provided for reinstatement of wheat checkoff promotion fees at the current rate, which would have decreased as of July 1, 2009.
HB 1484	Adjutant General - Increased the maximum facility fee for hazardous chemicals.
SB 2046	State Department of Health - Provided for a fee for Life Safety Code surveys of all health facilities licensed by the State Department of Health.
SB 2160	Department of Financial Institutions - Required the licensing and registration of mortgage loan originators.
SB 2203	North Dakota Barley Council - Increased the barley checkoff from the current rate of 10 mills to 20 mills.
SB 2208	North Dakota Oilseed Council - Increased the assessment on flax from a rate of 2 cents per bushel to 3 cents per bushel and the assessment on canola and sunflower increased from the rate of 3 cents per bushel to 4 cents per bushel.
SB 2350	North Dakota Ethanol Council - Created an assessment of three one-hundredths of 1 cent per gallon of ethanol produced in North Dakota.
SB 2378	Parks and Recreation Department - Increased the off-highway vehicle tax from \$5 to \$15.
SB 2415	Attorney General - Created a new concealed weapons permit category, increased the concealed weapons permit fees from \$25 to \$45, and eliminated the general fund share of the permit fee.

2009-10 Interim

The 2009 Legislative Assembly provided for the following studies related to fees:

- Section 2 of House Bill No. 1412 (2009) provided for a study of the equity of the 911 fee structure, including consideration of fees, taxes, assessments for services, equity of services, and payments among residents within service areas; fee collection methods; and current and future funding of emergency services communications in the state. The Public Safety and Transportation Committee recommended Senate Bill No. 2046 (2011) to increase fees charged for the use of the law enforcement teletype system, which was not approved; however, fees were increased in Section 9 of Senate Bill No. 2016 (2011).
- House Concurrent Resolution No. 3051 (2009) provided for a study of the imposition of criminal and civil penalties, fines, fees, and forfeitures by administrative rule. The Administrative Rules Committee made no recommendation regarding the study of imposition of penalties by administrative rules. However, committee members suggested that the Legislative Assembly should act with more deliberation in the future with regard to statutory provisions delegating authority for administrative rules imposing penalties.

2011 Legislative Session

The 2011 Legislative Assembly approved the following special fund fee changes:

Changes to Fees That Impact Special Funds	
Bill No.	Description
HB 1063	Board of Barber Examiners - Provided for an increase in barber licensing fees.
HB 1109	Department of Transportation - Extended the license period for a Class D operator's license and increased the fee.
SB 2016	Adjutant General - Provided for an increase in law enforcement telecommunications system fees.
SB 2064	Insurance Commissioner - Increased caps and fees collected for boiler inspections.
SB 2080	State Board of Pharmacy - Provided for licensing of veterinary dispensing outlets and registration of veterinary dispensing technicians.
SB 2101	State Board of Water Well Contractors - Increased testing, certification, and renewal fees for water well contractors.
SB 2134	Department of Agriculture - Increased the annual assessment for honeybee colonies.
SB 2207	Department of Transportation - Required registration of certain nonresident vehicles.
SB 2308	Department of Transportation - Required an assessment fee for issuance of online motor carrier permits.
SB 2347	Insurance Commissioner - Provided for a late fee for registrations of petroleum tanks not paid within 60 days.

2011-12 Interim

The 2011 Legislative Assembly provided for the following studies related to fees:

- Section 3 of Senate Bill No. 2044 (2011) provided for a study of motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties. The Advisory Commission on Intergovernmental Relations recommended House Bill No. 1048 (2013), which was approved by the 2013 Legislative Assembly, to increase speeding fees.
- Section 2 of Senate Bill No. 2268 (2011) provided for a study of the current system for the diagnosis of, early treatment of, care for, and education of individuals with autism spectrum disorder, including a review of a sliding fee scale for payment of services and the value of services provided. The Human Services Committee recommended House Bill No. 1037 (2013) to provide for a Legislative Management study of the autism spectrum disorder. House Bill No. 1037 provided that during the 2013-14 interim, the Legislative Management consider studying the current system for the diagnosis, early treatment, care, and education of individuals with autism spectrum disorder. The study must continue the work of the Legislative Management during the 2011-12 interim.
- Section 2 of Senate Bill No. 2351 (2011) provided for a study of mandatory fees and fees for optional purposes or services by institutions under the control of the State Board of Higher Education, including the manner in which fees are determined, identified, and justified and whether the programs, purposes, services, and activities supported by fees should be supported by tuition dollars, legislative appropriations, or other public or private funding sources. The Higher Education Committee reviewed and received testimony, but made no recommendations.
- Senate Concurrent Resolution No. 4001 (2011) provided for a study of the imposition of fees by courts at sentencing and other fees that are imposed upon offenders. The Commission on Alternatives to Incarceration reviewed and received testimony, but made no recommendations.

2013 Legislative Session

The 2013 Legislative Assembly approved the following special fund fee changes:

Changes to Fees That Impact Special Funds	
Bill No.	Description
HB 1227	Department of Agriculture - Provided civil penalty authority and increased late fees relating to fertilizer product registration.
HB 1264	Game and Fish Department - Provided for an early Canada goose license fee.
SB 2051	State Board of Chiropractic Examiners - Increased the license application and renewal fees.
SB 2231	Game and Fish Department - Increased hunting and fishing license fees and boat registration fees.
SB 2261	Adjutant General - Created a prepaid wireless emergency 911 fee.
SB 2294	Department of Transportation - Increased the fee for use of dyed special fuels.

2013-14 Interim

The 2013 Legislative Assembly provided for the following studies related to fees:

- Section 1 of Senate Bill No. 2078 (2013) provided for a study of the assessment of fees by courts, the feasibility and desirability of combining various court fees, and whether courts should be mandated to impose fees established by statute. The Judiciary Committee reviewed and received testimony on bills to consolidate court fees, but made no recommendations.

2015 Legislative Session

The 2015 Legislative Assembly approved the following special fund fee changes:

Changes to Fees That Impact Special Funds	
Bill No.	Description
HB 1101	Department of Financial Institutions - Increased annual license fees collected by the Department of Financial Institutions and allowed the department to collect branch fees for out-of-state financial institutions.
HB 1238	North Dakota Beef Commission - Provided for a \$1 increase per animal in the beef checkoff assessment collected by the North Dakota Beef Commission.
SB 2164	Parks and Recreation Department - Increased the licensing fees for snowmobiles.
SB 2186	Department of Agriculture - Removed the June 30, 2015, effective date allowing honey assessments to remain at 10 cents per colony rather than 5 cents.
SB 2278	Secretary of State - Increased contractor licensing and renewal fees and diverted 25 percent of the fees to the Secretary of State's operating account rather than the general fund.

2015-16 Interim

The 2015 Legislative Assembly did not specifically study any fees.

2017 Legislative Session

The 2017 Legislative Assembly approved the following special fund fee changes:

Changes to Fees That Impact Special Funds	
Bill No.	Description
HB 1002	Secretary of State - Established a fee of \$40 for request of lists or compilations of information recorded or filed with the Secretary of State, rather than an amount equal to the cost of each request.
HB 1015	Various state agencies - Allowed state agencies to charge a reasonable fee to those who request to have a publication printed or mailed if that publication is available electronically.
HB 1019	Parks and Recreation Department - Increased the annual park entrance fee from \$25 to \$35 and increased the daily park entrance fee from \$5 to \$7.
HB 1178	Information Technology Department and Adjutant General - Increased the fee on assessed communications services (\$9.6 million) and increased the emergency 911 fee on prepaid wireless services (\$463,000).
HB 1217	Aeronautics Commission - Removed the scheduled reductions in aircraft registration fees for aircraft and increased the permanent registration fee from \$85 to \$125.
HB 1255	Department of Transportation - Created a large truck primary highway network and a monthly or annual permit for overweight vehicles using the network.
HB 1288	Department of Transportation - Created an annual permit fee for overlength loads and increased the permit fee for overwidth loads.
SB 2011	Highway Patrol - Allowed the Highway Patrol to charge a fee of \$10 to nonstate employees that are eligible to receive a Capitol building access card and allowed the Highway Patrol to charge a fee of up to \$15, rather than \$15, for the issuance of an electronic oversized vehicle permit.
SB 2210	Secretary of State - Increased the fee on combative sports gross revenue from 3 to 5 percent.
SB 2344	State Department of Health - Provided for various fees associated with the manufacture and distribution of medical marijuana.

2017-18 Interim

The 2017 Legislative Assembly provided for the following studies related to fees:

- Section 33 of House Bill No. 1012 (2017) provided for a study of state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities or behavioral health needs, including a review of the fees and penalties for noncompliance. The Health Services Committee made no recommendations related to fees and penalties for noncompliance.

- Section 26 of House Bill No. 1020 (2017) provided for a study of industrial water use of the oil and gas industry, including taxes or fees other states charge for water used in the oil and gas industry. The Water Topics Overview Committee made no recommendations related to taxes or fees for water used in the oil and gas industry.
- Section 9 of Senate Bill No. 2001 (2017) provided for a study of the delivery and cost of the Department of Transportation's State Fleet Services for state agencies. The Government Finance Committee reviewed fleet services rates charged to state agencies, but made no recommendations.
- Section 12 of Senate Bill No. 2012 (2017) provided for a study of the funding mechanisms and options available to the Department of Transportation, political subdivisions, and public transportation providers, for road construction, maintenance, other transportation infrastructure needs, and transit services. During the interim, the Government Finance Committee received information regarding fees charged and costs incurred for certain department functions. The committee learned that several fees set in statute do not cover the cost to produce or provide the service being purchased, but made no recommendations.

In August 2018 the Legislative Council staff conducted a survey of state agencies regarding fees charged by each agency. Agencies were asked to provide information regarding the type and amount of each fee charged, statutory authority for charging the fee, where the fee revenue is deposited, 2015-17 biennium actual fee collections, and estimated 2017-19 biennium fee collections. See the memorandum entitled [Survey of State Agency Fees](#) for details regarding fees charged by various agencies.

2019 Legislative Session

The 2019 Legislative Assembly approved the following general fund and special fund fee changes:

Changes to Fees That Impact the Special Funds	
Bill No.	Description
HB 1004	State Health Department - Increased the fees for vital records, which are deposited in the department's operating fund (\$1,923,000) and the children's trust fund (\$2,000).
HB 1100	Department of Human Services - Established a nonrefundable application fee of up to \$300 for administering and enforcing licensing and certification activities related to behavioral health services.
HB 1219	Insurance Commissioner - Established application and renewal fees for public adjuster licenses issued by the Insurance Commissioner.
HB 1291	Department of Transportation - Established a fee for an optional one-time permanent trailer registration.
HB 1349	Agriculture Commissioner - Changed the industrial hemp license fee structure resulting in a decrease in licensing fees collected by the commissioner.
HB 1391	Insurance Commissioner - Established licensing fees related to self-service storage insurance.
SB 2061	Department of Transportation - Established an annual road use fee of \$120 for electric vehicles, \$50 for plug-in hybrid vehicles, and \$20 for electric motorcycles.
SB 2090	State Engineer - Changed the fee structure for water permit applications increasing the deposits in the resources trust fund.
SB 2093	Department of Financial Institutions - Increased the annual licensing fee for financial institutions from \$450 to one-quarter of 1 percent of the institution's transactions, not to exceed \$2,500, and provides for a minimum fee of \$500.
SB 2102	Insurance Commissioner - Required discount medical plan organizations to register with the Insurance Commissioner and establishes a registration fee of \$500 and a renewal fee of \$250 per year.
SB 2210	Department of Health - Authorized an additional certification fee to grow more medical marijuana plants.
SB 2244	Department of Transportation - Increased various driver's license fees, which are deposited into the state highway fund. <i>This bill was vetoed by the Governor.</i>
SB 2293	Game and Fish Department - Increased the fee on motorboat and fishing licenses and deposits the collections into the aquatic nuisance species program fund.

PROPOSED STUDY PLAN

The following is a proposed study plan for the committee's consideration:

1. Receive information from the State Auditor regarding state agency fees and the special funds audit report.
2. Review the survey of state agency fees.
3. Determine the objective of the state agency fees study, including the possibility of studying a select number of state agency fees each interim.

4. Select agency fees to study.
5. Receive information from agencies, which have fees being studied.
6. Develop recommendations and any necessary legislation to implement the recommendations.
7. Prepare a final report for presentation to the Legislative Management.

ATTACH:1