



# North Dakota Legislative Council

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## BUDGET SECTION DUTIES AND RESPONSIBILITIES FOR THE 2021-23 BIENNIUM

### BUDGET SECTION OVERVIEW

North Dakota Century Code Section 54-35-02.9, as enacted in Senate Bill No. 2055 (2019), establishes the Budget Section. The section provides the Budget Section consists of the Majority and Minority Leaders of the House and Senate, the Assistant Majority and Minority Leaders of the House and Senate, the Speaker of the House, and the members of the House and Senate Appropriations Committees. The Legislative Management is to designate the Chairman of the Budget Section and the Chairman is to call quarterly meetings.

Section 54-35-02.9 provides the Legislative Assembly, by law, may provide for the Budget Section to approve specific actions, projects, and transfers. When evaluating state agency requests, the Budget Section is to consider criteria applicable to the request, including whether:

1. The request is for a specific purpose;
2. The request is for a specific amount of funds and for a specific time frame, not to continue beyond the end of the current biennium;
3. The request conforms with legislative intent;
4. The request is consistent with related statutory provisions;
5. The request supports state priorities;
6. The request improves state efficiencies and promotes effective state government;
7. If the request is for a new program, the program does not extend beyond the current biennium; and
8. The request addresses a state emergency.

### ASSIGNED BUDGET SECTION DUTIES

The following are the duties and responsibilities assigned to the Budget Section for the 2021-23 biennium by Century Code, Session Laws, or Legislative Management directive. The duties are listed in two categories--continuing duties (duties which were also assigned to the Budget Section during a previous biennium) and new duties. Continuing duties are listed in two categories--those that were acted on during the previous biennium and those that were not.

#### Continuing Duties Acted on During the Previous Biennium

1. **Annual report from the North Dakota State University (NDSU) Extension Service (Section 11-38-12)** - This section requires, within the duties of the NDSU Extension Service, an annual report to be presented to the Budget Section regarding any adjustments or increases of full-time equivalent (FTE) positions.
2. **Department of Trust Lands investment performance (Section 15-02-08.1)** - This section requires the Department of Trust Lands to provide annual reports to the Budget Section regarding the investment performance of funds under its control.
3. **Higher education campus improvements and building maintenance (Section 15-10-12.1)** - This section requires the approval of the Budget Section or the Legislative Assembly for campus improvements and building maintenance of more than \$700,000 on land under the control of the State Board of Higher Education which are financed by donations, gifts, grants, and bequests. Budget Section approval can only be provided when the Legislative Assembly is not in session, excluding the 6 months prior to a regular legislative session and the 3 months following the close of a regular session. The Budget Section approval must include a specific dollar limit for each campus improvement or maintenance project. If a request is to be considered by the Budget Section, the Legislative Council must notify each member of the Legislative

Assembly and allow any member to present testimony to the Budget Section regarding the request. Campus improvements and building maintenance of \$700,000 or less and the sale of real property received by gift or bequest may be authorized by the board. Any new building or an addition to an existing building with a cost of more than \$700,000 requires approval by the Legislative Assembly.

4. **Sources of funds received for construction projects of entities under the control of the State Board of Higher Education (Section 15-10-12.3)** - This section requires each institution under the control of the State Board of Higher Education undertaking a capital construction project that was approved by the Legislative Assembly and for which local funds are to be used to present a biennial report to the Budget Section detailing the source of all funds used in the project.
5. **State Board of Higher Education's semiannual project variance reports (Section 15-10-47)** - This section requires the Office of Management and Budget (OMB) to provide to the Budget Section upon request information relating to the State Board of Higher Education's semiannual project variance reports regarding construction projects valued at more than \$250,000.
6. **Annual report from the NDSU Main Research Center (Section 15-12.1-05)** - This section requires, within the duties of the NDSU Main Research Center, an annual report to be presented to the Budget Section regarding any adjustments or increases of FTE positions.
7. **Status of the State Board of Agricultural Research and Education (Section 15-21.2-17(10))** - This section requires, within the duties of the State Board of Agricultural Research and Education, a status report to be provided to the Budget Section.
8. **State Fire Marshal report on fire departments funding (Section 18-04-02)** - This section provides the Budget Section receive a biennial report from the State Fire Marshal summarizing the expenditures by certified city fire departments, certified rural fire departments, and certified fire protection districts of funds received under Section 18-04-05 and the information on committed and uncommitted reserve fund balances of these entities.
9. **Legacy and Budget Stabilization Fund Advisory Board semiannual reports (Section 21-10-11)** - This section requires the Legacy and Budget Stabilization Fund Advisory Board to provide at least semiannual reports to the Budget Section regarding asset allocation and investment policies developed for the legacy and budget stabilization funds as well as recommendations presented to the State Investment Board regarding investment of funds in the legacy and budget stabilization funds.
10. **National Guard service member, veteran, family, and survivor support program (Section 37-03-18)** - This section requires the Adjutant General to provide annual reports to the Budget Section regarding the income and expenditures made from the North Dakota National Guard service member, veteran family, and survivor support program and requires Budget Section approval for any expenditures from the fund that exceed \$500,000.
11. **State disaster relief fund expenditures (Section 37-17.1-27)** - This section requires an agency to report to the Appropriations Committees of the Legislative Assembly or to the Budget Section on the purpose and payee of any expenditure from the state disaster relief fund.
12. **Abandoned oil and gas well plugging and site reclamation fund (Section 38-08-04.5)** - This section requires the Industrial Commission to report to the Budget Section on the status of the abandoned oil and gas well plugging and site reclamation fund and related information.
13. **Annual audits of renaissance fund organizations (Section 40-63-07(9))** - This section requires the Department of Commerce Division of Community Services to provide annual reports to the Budget Section on the results of audits of renaissance fund organizations.
14. **Report identifying every state agency that has not submitted a claim for property belonging to that agency (Section 47-30.1-24.1)** - This section requires the Commissioner of the Board of University and School Lands to present a report to the Budget Section identifying every state agency that has not submitted a claim for unclaimed property belonging to that agency within 1 year of receipt of the certified mail notification.
15. **Relinquishment of agency rights to recover property (Section 47-30.1-24.1)** - This section provides each state agency that does not submit a claim for unclaimed property belonging to that agency within 1 year of receipt of the certified mail notification relinquishes its right to recover the property upon approval of the Budget Section.

16. **Change or expansion of state building construction projects (Section 48-01.2-25)** - This section provides a state agency or institution may not significantly change or expand a building construction project approved by the Legislative Assembly unless the change, expansion, or additional expenditure is approved by the Legislative Assembly or the Budget Section if the Legislative Assembly is not in session, excluding the 6 months prior to a regular legislative session and the 3 months following the close of a regular session.
17. **Job insurance trust fund (Section 52-02-17)** - This section requires Job Service North Dakota to report to the Legislative Council before March 1 of each year the actual job insurance trust fund balance and the targeted modified average high-cost multiplier, as of December 31 of the previous year, and a projected trust fund balance for the next 3 years. The Legislative Management has assigned this responsibility to the Budget Section.
18. **Warrants and checks outstanding for more than 90 days and less than 3 years (Section 54-11-01)** - This section requires the State Treasurer to report to the Budget Section, within 90 days of the beginning of each fiscal year, all warrants and checks outstanding for more than 90 days and less than 3 years.
19. **Irregularities in the fiscal practices of the state (Section 54-14-03.1)** - This section requires OMB to submit a written report to the Budget Section documenting:
  - a. Any irregularities in the fiscal practices of the state;
  - b. Areas where more uniform and improved fiscal procedures are desirable;
  - c. Any expenditures or governmental activities contrary to law or legislative intent; and
  - d. The use of state funds to provide bonuses, cash incentive awards, or temporary salary adjustments for state employees.
20. **Transfers exceeding \$50,000 (Section 54-16-04(2))** - This section provides, subject to Budget Section approval, the Emergency Commission may authorize a transfer of more than \$50,000 from one fund or line item to another. Budget Section approval is not required if the transfer is necessary to comply with a court order, to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis, or to avoid an imminent financial loss to the state.
21. **Acceptance of federal funds not designated for a specific purpose or program which were not appropriated (Section 54-16-04.1(4))** - This section provides, upon approval by the Emergency Commission and Budget Section, the state may accept any federal funds made available to the state which are not for a specific purpose or program and which are not required to be spent prior to the next regular legislative session for deposit into a special fund until the Legislative Assembly appropriates the funds.
22. **Acceptance and expenditure of federal funds of more than \$50,000 which were not appropriated (Section 54-16-04.1).**
  - a. Acceptance of federal funds - This section requires Budget Section approval for any Emergency Commission action authorizing a state officer to accept more than \$50,000 of federal funds which were not appropriated, and the Legislative Assembly has not indicated intent to reject the money. Budget Section approval is not required if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or to avoid an imminent financial loss to the state.
  - b. Expenditure of federal funds - This section requires Budget Section approval for any Emergency Commission action authorizing a state officer to spend more than \$50,000 of federal funds which were not appropriated, and the Legislative Assembly has not indicated intent to reject the money. The Budget Section may amend any request that exceeds \$3 million and the amended request is deemed approved by the Emergency Commission. The total amount of requests that may be approved during a biennium under this section, excluding Federal Highway Administration emergency relief and federal disaster and emergency recovery funding, may not exceed \$50 million. **Attached as an [appendix](#) is additional information regarding Emergency Commission and Budget Section approval to accept and expend additional federal funds.**
23. **Acceptance and expenditure of other funds of more than \$50,000 which were not appropriated (Section 54-16-04.2).**
  - a. Acceptance of other funds - This section requires Budget Section approval for any Emergency Commission action authorizing a state officer to accept more than \$50,000 from gifts, grants, donations, or other sources which were not appropriated, and the Legislative Assembly has not indicated intent to reject the money or programs. Budget Section approval is not required if the acceptance is necessary

to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or to avoid an imminent financial loss to the state.

- b. Expenditure of other funds - This section requires Budget Section approval for any Emergency Commission action authorizing a state officer to spend more than \$50,000 from gifts, grants, donations, or other sources which were not appropriated, and the Legislative Assembly has not indicated intent to reject the money or programs. The Budget Section may amend any request that exceeds \$3 million and the amended request is deemed approved by the Emergency Commission. The total amount of requests that may be approved during a biennium under this section may not exceed \$5 million. **Attached as an [appendix](#) is additional information regarding Emergency Commission and Budget Section approval to accept and expend additional other funds.**
24. **Consider authorization of additional FTE positions (Section 54-16-04.3)** - This section provides, on the advice of OMB and the recommendation of the Emergency Commission, the Budget Section may approve the employment by a state officer of FTE positions in addition to those authorized by the Legislative Assembly.
25. **Transfers of spending authority from the state contingencies appropriation exceeding \$50,000 (Section 54-16-09)** - This section provides, subject to Budget Section approval, the Emergency Commission may authorize a transfer of more than \$50,000 from the state contingencies line item to the appropriate line item in the appropriation of the state officer who requested the transfer. Budget Section approval is not required if the transfer is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or to avoid an imminent financial loss to the state. A total of \$500,000 was provided for the 2019-21 biennium.
26. **Housing incentive fund (Section 54-17-40)** - This section requires the Housing Finance Agency to provide a report at least once each biennium to the Budget Section regarding the activities of the housing incentive fund.
27. **Report from the Industrial Commission on revenue impacts in excess of \$20 million (Section 54-17-42)** - This section requires if any order, regulation, or policy of the Industrial Commission necessary to implement the provision of Chapter 38-08 has an estimated fiscal effect on the state in excess of \$20 million in a biennium, the Industrial Commission will provide a report to the Budget Section regarding the fiscal impact on state revenues and expenditures, including any effect on the funds of the Industrial Commission.
28. **North Dakota Outdoor Heritage Advisory Board (Section 54-17.8-07)** - This section provides the Budget Section receive a report from the North Dakota Outdoor Heritage Advisory Board on a biennial basis regarding the activities of the board.
29. **Department of Corrections and Rehabilitation (DOCR) annual report on the department's prison population management plan (Section 54-23.3-11)** - This section requires DOCR to provide an annual report to the Budget Section regarding the department's prison population management plan and inmate admissions and the number of inmates the department has not admitted after sentencing.
30. **Capital improvements preliminary planning revolving fund (Section 54-27-22)** - This section provides before any funds can be distributed from the preliminary planning revolving fund to a state agency, institution, or department, the Budget Section must approve the request.
31. **Reports from state agencies that applied for federal grants estimated to be \$25,000 or more (Section 54-27-27)** - This section requires OMB to present at each meeting of the Budget Section reports received from state agencies other than entities under the control of the State Board of Higher Education that have applied for federal grants estimated to be \$25,000 or more.
32. **Consider specific criteria for actions, projects, and transfers (Section 54-35-02.9)** - This section requires the Budget Section to review specific criteria when considering an item before the Budget Section.
33. **Tobacco settlement funds (Section 54-44-04(23))** - This section requires the Director of OMB to report to the Budget Section on the status of tobacco settlement funds and related information.
34. **Form of budget data (Section 54-44.1-07)** - This section requires the Director of the Budget to prepare budget data in the form prescribed by the Legislative Council and to present it to the Legislative Assembly at a time and place set by the Legislative Council. Drafts of proposed general and special appropriations Acts embodying the budget data and recommendations of the Governor for appropriations for the next biennium and drafts of such revenues and other Acts recommended by the Governor for putting into effect the proposed financial plan must be submitted to the Legislative Council within 7 days after the day of adjournment of the organizational session. The Budget Section was assigned this responsibility.

35. **Report on specified commodities and services exempted from the procurement requirements of Section 54-44.4-02.2** - This section requires the Director of OMB to report to the Budget Section in December of even-numbered years on specified commodities and services exempted by written directive of the Director from the procurement requirements of Chapter 54-44.4.
36. **Three Affiliated Tribes of the Fort Berthold Reservation investment of oil and gas tax receipts (Section 57-51.2-02)** - This section provides the Budget Section receive a report from the Three Affiliated Tribes annually regarding investment of oil and gas tax receipts in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.
37. **Review and report on budget data (Legislative Management directive)** - Pursuant to Legislative Management directive, the Budget Section is to review and report on the budget data prepared by the Director of the Budget and presented to the Legislative Assembly during the legislative organizational session (December 2022).
38. **Federal block grant hearings (Senate Concurrent Resolution No. 4001 (2021))** - This resolution authorizes the Budget Section, through September 30, 2023, to hold any required legislative hearings for federal block grants.
39. **Federal funds report** - Receive a report from the Legislative Council staff in the fall of 2022 on the status of the state's federal funds receipts for the current biennium and estimated federal funds receipts for the subsequent biennium.

#### **Continuing Duties Not Acted on During the Previous Biennium**

40. **Bank of North Dakota loans (Section 6-09-15.1)** - This section requires OMB to provide a report to the Budget Section regarding any loans obtained from the Bank of North Dakota when the balance in the state general fund is insufficient to meet legislative appropriations. The total principal of any loans may not exceed \$50 million.
41. **Investment in real property by the Board of University and School Lands (Section 15-03-04)** - This section provides Budget Section approval is required prior to the Board of University and School Lands purchasing, as sole owner, commercial or residential real property in North Dakota.
42. **Game and Fish Department land acquisitions (Section 20.1-02-05.1)** - This section requires Budget Section approval for Game and Fish Department land acquisitions of more than 10 acres or \$10,000.
43. **Reduction of the game and fish fund balance below \$15 million (Section 20.1-02-16.1)** - This section provides the Game and Fish Department can spend money in the game and fish fund within the limits of legislative appropriations; only to the extent the balance of the fund is not reduced below \$15 million, unless otherwise authorized by the Budget Section.
44. **Provision of contract services by the Life Skills and Transition Center (Section 25-04-02.2)** - This section provides, subject to Budget Section approval, the Life Skills and Transition Center may provide services under contract with a governmental or nongovernmental person.
45. **Waiver of exemption of special assessments levied for flood control purposes on state property (Section 40-23-22.1)** - This section provides state property in a city is exempt from special assessments levied for flood control purposes unless the governing body of the city requests waiver of the exemption and the exemption is completely or partially waived by the Budget Section. The exemption does not apply to any privately owned structure, fixture, or improvement located on state-owned land if the structure, fixture, or improvement is used for commercial purposes unless the structure, fixture, or improvement is primarily used for athletic or educational purposes at a state institution of higher education.
46. **Termination of food stamp program (Section 50-06-05.1(16))** - This section provides, subject to Budget Section approval, the Department of Human Services (DHS) may terminate the food stamp program if the rate of federal financial participation in administrative costs is decreased or if the state or counties become financially responsible for the coupon bonus payments.
47. **Termination of energy assistance program (Section 50-06-05.1(18))** - This section provides, subject to Budget Section approval, DHS may terminate the energy assistance program if the rate of federal financial participation in administrative costs is decreased or if the state or counties become financially responsible for the energy assistance program payments.
48. **Purchase or lease of aircraft by a state agency or entity of state government (Section 54-06-37)** - This section requires Budget Section approval for a state agency or other entity of state government to purchase or lease an aircraft without specific authorization from the Legislative Assembly. This section does

not apply to aircraft purchased or leased by the Adjutant General's office or the University of North Dakota School of Aviation.

49. **Transfers resulting in program elimination (Section 54-16-04(1))** - This section provides, subject to Budget Section approval, the Emergency Commission may authorize a transfer which would eliminate or make impossible the accomplishment of a program or objective for which funding was provided by the Legislative Assembly.
50. **Cashflow financing (Section 54-27-23)** - This section provides that in order to meet the cashflow needs of the state, OMB may borrow, subject to Emergency Commission approval, from special funds on deposit in the state treasury. However, the proceeds of any such indebtedness cannot be used to offset projected deficits in state finances unless first approved by the Budget Section. Additional cashflow financing, subject to certain limitations, must be approved by the Budget Section.
51. **Budget stabilization fund (Section 54-27.2-03)** - This section provides any transfers from the budget stabilization fund must be reported to the Budget Section.
52. **Purchases of "put" options (Section 54-44-16)** - This section requires OMB to report any purchases of "put" options to the Budget Section.
53. **Objection to budget allotments or expenditures (Section 54-44.1-12.1)** - This section allows the Budget Section to object to a budget allotment, an expenditure, or the failure to make an allotment or expenditure if such action is contrary to legislative intent.
54. **Budget reduction due to initiative or referendum action (Section 54-44.1-13.1)** - This section provides, subject to Budget Section approval, the Director of the Budget may reduce state agency budgets by a percentage sufficient to cover estimated revenue reductions caused by initiative or referendum action.
55. **Requests by Information Technology Department (ITD) to finance the purchase of software, equipment, or implementation of services (Section 54-59-05(4))** - This section requires ITD to receive Budget Section or Legislative Assembly approval before executing any proposed agreement to finance the purchase of software, equipment, or implementation of services in excess of \$1 million. The department may finance the purchase of software, equipment, or implementation of services only to the extent the purchase amount does not exceed 7.5 percent of the amount appropriated to the department during that biennium.
56. **Extraterritorial workers' compensation insurance (Section 65-08.1-02)** - This section authorizes Workforce Safety and Insurance to establish, subject to Budget Section approval, a casualty insurance organization to provide extraterritorial workers' compensation insurance.

#### New Duties

57. **Agriculture research and related entities FTE positions (Section 8 of Senate Bill No. 2020 (2021))** - This bill requires the State Board of Higher Education to report to the Budget Section annually regarding any adjustments made to the number of FTE positions authorized for the NDSU Extension Service, Northern Crops Institute, Upper Great Plains Transportation Institute, Main Research Center, branch research centers, and Agronomy Seed Farm.
58. **Report from the Governor on federal and other funds received (Section 3 of House Bill No. 1001 (2021))** - This section requires the Governor's office to provide a report to the Budget Section regarding the source, amount, and purpose of any additional income from other funds received from a source that exceeds \$150,000.
59. **Report regarding any transfers between line items in excess of \$50,000 (Section 8 of House Bill No. 1012 (2021))** - This section requires DHS to report to the Budget Section after June 30, 2022, on any transfers in excess of \$50,000 made during the 2021-23 biennium between line items within subdivisions 1, 2, and 3 of House Bill No. 1012. This report was also required in Section 10 of Senate Bill No. 2012 (2019).
60. **Report regarding any transfers between line items in excess of \$50,000 (Section 9 of House Bill No. 1012 (2021))** - This section requires DHS to report to the Budget Section after June 30, 2022, on any transfers in excess of \$50,000 made during the 2021-23 biennium from line items within subdivisions 1, 2, and 3 to line items in subdivision 4 of House Bill No. 1012. This report was also required in Section 11 of Senate Bill No. 2012 (2019).
61. **Substance use disorder program (Section 62 of House Bill No. 1012 (2021))** - This section requires DHS to provide quarterly reports to the Budget Section regarding the status of the substance use disorder voucher treatment program.

62. **General fund transfers to highway fund (Section 13 of House Bill No. 1015 (2021))** - This section requires the Department of Transportation to provide quarterly reports regarding the use of funds transferred from the general fund to the highway fund as authorized in the section.
63. **State Water Commission expenditure of additional amounts that become available in the resources trust fund and the water development trust fund in excess of the 2021-23 biennium appropriation (Section 3 of House Bill No. 1020 (2021))** - This bill requires Budget Section approval for State Water Commission expenditure of funds that become available in the resources trust fund and the water development trust fund in excess of 2021-23 biennium appropriations. This requirement was also established in Section 4 of Senate Bill No. 2020 (2019).
64. **State parks gift fund approval (Section 1 of House Bill No. 1097 (2021))** - This bill amends Section 55-08-07.2 to require the Parks and Recreation Department to obtain Emergency Commission and Budget Section approval for any expenditure from the state parks gift fund in excess of \$50,000 if the funding is not designated for a specific purpose.
65. **Main Research Center capital project priority (Section 11 of Senate Bill No. 2020 (2021))** - This section requires the Director of the NDSU Main Research Center to report to the Legislative Management regarding priority capital projects and other expenses that may be eligible for funding from the state fiscal recovery fund allocated to the state under the federal American Rescue Plan Act of 2021.
66. **Intermodal facility grant certification (Section 1 of Senate Bill No. 2245 (2021))** - This section requires OMB to certify that funding appropriated from the federal Coronavirus Capital Projects Fund may be used for an intermodal facility grant before providing the grant.
67. **Federal Coronavirus Capital Projects Fund (various bills)** - These bills require OMB to consult with the Budget Section to determine if capital projects comply with guidelines regarding the use of federal coronavirus capital projects funds.

ATTACH:1