North Dakota Legislative Council
Prepared for the Government Finance Committee
LC# 23.9227.01000
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CASH MANAGEMENT STUDY - BACKGROUND MEMORANDUM

STUDY OVERVIEW

The Chairman of the Legislative Management has directed the Government Finance Committee to study the cash management of state funds (appendix). The study must include consideration of the constitutional and statutory provisions regarding the deposit, expenditure, and investment of state funds. The study must include consideration of the timing of state revenues and expenditures; investment risks, returns, and expenses; and the costs and benefits of the state's current cash management practices compared to alternative cash management practices. The committee may consider input from representatives of the Office of Management and Budget, State Treasurer, Bank of North Dakota, Board of University and School Lands, the State Investment Board, and other state agencies. The committee is to report its findings and recommendations, together with any legislation required to implement the recommendations, to the Legislative Management for consideration by the 68th Legislative Assembly.

CONSTITUTIONAL AND STATUTORY PROVISIONS

Constitutional Provisions

Pursuant to Article IX of the Constitution of North Dakota, the Board of University and School Lands is authorized to invest the proceeds from the sale of university and school lands as provided by law. Perpetual trust funds must be maintained to preserve purchasing power and to provide stable distributions to the beneficiaries.

As provided in Section 12 of Article X of the Constitution of North Dakota, all money collected by state agencies must be paid to the State Treasurer for deposit to the credit of the state. The Legislative Assembly must provide an appropriation before the expenditure of any funds.

The Board of University and School Lands is authorized to invest the coal development trust fund pursuant to Section 21 of Article X of the Constitution of North Dakota and may issue loans to political subdivisions from the fund as provided by law.

The foundation aid stabilization fund includes a reserve to offset any potential reductions to state school aid payments in the event of a revenue shortfall pursuant to Section 24 of Article X of the Constitution of North Dakota.

The veterans' postwar trust fund is managed and invested by the State Treasurer under Section 25 of Article X of the Constitution of North Dakota. The fund may be invested only in the same manner as other investments managed by the State Investment Board.

Pursuant to Section 26 of Article X of the Constitution of North Dakota, the State Investment Board is required to invest the principal of the legacy fund.

Statutory Provisions

Investing

The State Treasurer is authorized to invest the veterans' aid fund under North Dakota Century Code Section 37-14-03.

Pursuant to Section 37-07.3-02 the National Guard training area and facility development trust fund must be invested by the State Investment Board.

The Bank of North Dakota is authorized to invest the surface mining and reclamation bond fund under Section 38-14.3-04.

The seed department fund must be invested by the State Treasurer pursuant to Section 4.1-52-11, and 20 percent of the investment income must be credited to the general fund and 80 percent must be credited to the seed department fund.

Pursuant to Section 55-01-14, the America 250 Commission may invest any gifts, grants, or donations to support commission's efforts to promote semiquincentennial activities in the state.

Chapter 21-10 establishes the State Investment Board and authorizes the board to invest certain state funds. Pursuant to Section 21-10-06, the State Investment Board invests the following:

1. State bonding fund;
2. Teachers' fund for retirement;
3. State fire and tornado fund;
4. Workforce Safety and Insurance fund;
5. Public Employees Retirement System fund;
6. Insurance regulatory trust fund;
7. State risk management fund;
8. Budget stabilization fund;
9. Water projects stabilization fund;
10. Health care trust fund;
11. Cultural endowment fund;
12. Petroleum tank release compensation fund;
13. Legacy fund;
14. Legacy earnings fund; and
15. Other funds under contract with the board.

If requested by the Director of the Office of Management and Budget, the State Treasurer may invest the surplus property special fund under Section 54-44-04.5.

If requested by the Director of the Office of Management and Budget and approved by the Industrial Commission, the State Investment Board may purchase oil put options to offset reduced state general fund oil and gas tax revenues pursuant to Section 54-44-16.

Chapter 59-17 establishes prudent investor standards relating to the financial responsibility of trustees who invest and manage trust assets.

As designated by the Children and Family Services Division of the Department of Human Services, the State Treasurer invests the children's trust fund under Section 50-27-01.

Pursuant to Chapter 10-04, the Securities Department regulates investing activities in the state.

The North Dakota Transmission Authority may issue bonds to support transmission projects, and the State Investment Board may invest in bonds issued by the authority under Section 17-05-10.

Pursuant to Chapter 54-30, the State Treasurer, upon approval of the Industrial Commission, may issue bonds to support the mortgage lending activities of the Bank of North Dakota and may invest money in the real estate bond sinking fund.

The North Dakota Pipeline Authority may issue bonds to support pipeline projects, and the State Investment Board may invest in bonds issued by the authority under Section 54-17.7-09.

Pursuant to Section 6-09-07, state funds must be deposited with the Bank of North Dakota except as otherwise provided by law.

The Bank of North Dakota may invest up to $15 million in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund under Section 6-09-15.

The Melvin Norgard memorial fund is invested by the State Treasurer for the benefit of the Veterans' Home pursuant to Section 37-15-23.

Pursuant to Section 4.1-44-03, the State Treasurer is required to invest the following:

1. Potato fund;
2. Oilseed fund;
3. Dry bean fund;
4. Dry pea and lentil fund;
5. Barley fund;
6. Soybean fund;
7. Corn fund;
8. Honey fund;
9. Turkey fund;
10. Milk marketing fund;
11. Dairy Promotion Commission fund;
12. State Wheat Commission fund;
13. Ethanol fund; and
14. North Dakota Beef Commission fund.

Under Chapter 6-09.4, the Public Finance Authority may issue bonds to support municipal projects, and the authority may invest available funds in the same manner as other state funds.

The North Dakota Building Authority may invest funds not required for immediate use pursuant to Section 54-17.2-03.

Cashflow

Pursuant to Section 54-11-01, the State Treasurer manages all state money except as otherwise provided by law, including the deposit of all revenue and payments for expenses. Income earned from deposits or investments must be credited to the general fund, except as otherwise provided by law.

The Office of Management and Budget, upon approval of the Emergency Commission, may borrow to meet the cyclical cashflow needs of state government under Section 54-27-23.

The budget stabilization fund is available to offset a portion of general fund budget reductions in the event of a revenue shortfall pursuant to Chapter 54-27.2.

Pursuant to Chapter 54-44, the Office of Management and Budget manages the state's accounting system and oversees the state's financial transactions, including the preparation of the state's financial statements.

The Office of Management and Budget cancels unexpended appropriations at the end of each biennium and controls the rate of expenditures, including the use of budget reductions due to a revenue shortfall, under Chapter 54-44.1.

RELATED STUDIES

Beginning with the 1975-76 interim, a Legislative Management interim committee has been assigned the responsibility to review state budget information, including the monitoring of state revenues and the status of major state agency appropriations. This responsibility has been assigned to the Government Finance Committee for the 2021-22 interim.

The Legislative Management also assigned the Government Finance Committee to study state revenues and state revenue forecasts, including the monitoring of state economic activity, reviewing forecasting data, and analyzing the executive revenue forecasts and alternative revenue forecasts.

STUDY PLAN

The following is a proposed study plan for the committee's consideration of its cash management study:

1. Receive information from the Office of Management and Budget, State Treasurer, Bank of North Dakota, Board of University and School Lands, the State Investment Board, and other state agencies regarding the cash management of state funds, including current cash management practices, challenges with the timing of state revenues and expenditures, investment of state funds, rates of return on state deposits and investments, and alternative cash management practices.
2. Receive testimony from interested persons regarding the study.
3. Develop recommendations and any bill drafts necessary to implement the recommendations.
4. Prepare a final report for submission to the Legislative Management.

ATTACH:1