



North Dakota Legislative Council

Prepared for the Government Finance Committee
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STATE AGENCY FEES - BACKGROUND MEMORANDUM

North Dakota Century Code Section 54-35-27, as created in [House Bill No. 1031 \(2021\)](#), requires the Legislative Management to assign one or more interim committees the responsibility to study state agency fees. State agencies with 40 or fewer fees were required to submit a report to the Office of Management and Budget (OMB) by July 2022, regarding details on each of the fees. By September 2022, OMB was required to compile the agency fee reports and submit a comprehensive report to the Legislative Management. State agencies with more than 40 fees are required to submit a report to the Legislative Management by July 2024, regarding details on each of the fees. By September 2024, OMB is required to compile the reports into a comprehensive report for the committee.

The report from each state agency must provide an analysis of each fee, including a comparison of the revenue generated by the fee, costs associated with the fee, and the appropriateness of the fee. After submission of the initial reports, all state agencies are required to submit updates to the Legislative Management by July of every even-numbered year regarding any new fees, changes to existing fees, or the removal of any fees. The Government Finance Committee is assigned to study state agency fees and is required to make a recommendation for each fee, including allowing the fee to remain unchanged, removing the fee, or changing the fee. The Legislative Management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the 69th Legislative Assembly.

PREVIOUS STUDIES 2017-18 Interim

Behavioral Health Noncompliance 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.

Industrial Water Use Fees

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 industrial water use.

Fleet Service Fees

Pursuant to Section 9 of Senate Bill No. 2001 (2017), the Government Finance Committee reviewed fleet services rates charged to state agencies, but made no recommendations as a result of the study.

Road Maintenance Fees

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.

Survey of State Agency Fees

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.

2019-20 Interim

State Agency Fees Study

Section 1 of Senate Bill No. 2130 (2019) directed the Legislative Management, in coordination with the State Auditor, to study the provisions of Century Code relating to state agency fees. The study was assigned to the Government Finance Committee and included 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. The study also included 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 committee received a performance audit of state agency fees conducted by the State Auditor's office ([appendix](#)) and a [list of state agency fees](#) from the State Auditor's office. The audit period covered the 2017-19 biennium and the audit identified over 1,200 fees. The audit included North Dakota University System institutions' mandatory and other fees. The State Auditor's office defined a fee as "a fixed charge, or a sum paid or charged for a service" and the definition excludes any charges for taxes, fines, or penalties. For the University System, the State Auditor's office used the definition of fees from the North Dakota State Board of Higher Education Policy Manual, Policy 805.3, and those mandatory fees are defined as student fees, technology fees, North Dakota Student Association fees, and ConnectND fees.

As a result of the study, the Government Finance Committee recommended [House Bill No. 1031 \(2021\)](#) to create a new section to Chapter 54-35 establishing a process to study each state agency fee every 10 years. The bill was amended during session, and the final version approved by the Legislative Assembly removed the requirement to study each fee every 10 years and instead required an interim committee to study the fees after agencies submit reports regarding details and an analysis for each fee.

2021-22 Interim

The Legislative Management assigned the Government Finance Committee the responsibility to study state agency fees pursuant to Section 54-35-27. Based on a motion approved by the committee, OMB developed an agency fee reporting template to identify the constitutional or statutory reference for the fee, the date the fee was established, the current amount of the fee, the reason the fee is set at the specific dollar amount, the fund in which the fee revenue is deposited, the total revenue collected from the fee in the most recently completed biennium, any restrictions on the expenditure of the fee revenue, the significance of the expenditure of the fee revenue for the agency's budget, a comparison of the fee revenue to the cost incurred to provide the services associated with the fee, the date the fee was last changed, and comments from the agency on the appropriateness and affordability of the fee. State agencies used the reporting template to submit their responses to OMB.

In September 2022, the committee received a report from OMB on state agencies with 40 or fewer fees. Based on the report, 46 state agencies had 40 or fewer fees, including 15 state agencies with no fees and 31 state agencies with at least 1 fee but no more than 40 fees.

Due to the timing of the report, the committee deferred the review of the fees until the next interim. As a result, the committee made no recommendations from its study of state agency fees.

RECENT CHANGES TO STATE AGENCY FEES

2017 Legislative Session

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

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 and increased the emergency 911 fee on prepaid wireless services.
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.

Bill No.	Description
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. The bill also 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.

2019 Legislative Session

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

Bill No.	Description
HB 1004	State Department of Health - Increased the fees for vital records, which are deposited in the department's operating fund and the children's trust fund.
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 0.25 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	State 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.

2021 Legislative Session

The 2021 Legislative Assembly approved the following special fund fee changes:

Bill No.	Description
HB 1012	Department of Human Services - Authorizes the department to charge fees for early childhood workforce training and development courses to defray the cost of the courses.
HB 1032	Insurance Commissioner - Deposits prescription drug wholesaler license fees in a newly created drug pricing fund.
HB 1067	Public Service Commission - Authorizes a fee for the cost of investigating a public utility's integrated resource plan.
HB 1080	Department of Trust Lands - Reduces the maximum fee for late oil and gas royalty payments.
HB 1168	Department of Transportation - Authorizes a fee for users to access an electronic version of the knowledge portion of the driver's test.
HB 1278	Job Service North Dakota - Increases unemployment insurance tax rates to provide unemployment insurance for military spouses related to a military transfer.
HB 1417	Information Technology Department - Allows the department to collect fees for services provided in response to a cybersecurity incident.
SB 2014	Industrial Commission - Allows the commission to charge fees for the carbon dioxide storage facility fund and the carbon dioxide trust fund based on the impact of a storage facility and the source of carbon dioxide.
SB 2024	Department of Environmental Quality - Increases the fee for boiler inspections from \$20 to \$35.

Bill No.	Description
SB 2111	Department of Transportation - Authorizes the department to lease space to public or private entities on the department's radio towers or on the land on which the towers are located.
SB 2241	State Department of Health - Authorizes the department to collect a fee related to the review of construction plans for health care facilities.

2023 Legislative Session

The 2023 Legislative Assembly approved the following special fund fee changes:

Bill No.	Description
HB 1068	Department of Financial Institutions - Authorizes the department to charge license fees for residential mortgage service providers.
HB 1134	Game and Fish Department - Allows current nonresident National Guard members to apply for resident hunting licenses, resulting in an increase in license fee revenue.
HB 1389	Veterans' Home - Expands eligibility for admission to the Veterans' Home resulting in increased revenue from additional resident fee collections.
SB 2063	Department of Transportation - Authorizes the department to charge private entities for the use of electric vehicle charging infrastructure to match federal grants for electric vehicle charging infrastructure.
SB 2113	Department of Transportation - Allows the department to collect private funds for deposit in a newly created flexible transportation fund to support road and bridge projects.
SB 2281	Attorney General - Increases the charitable gaming license fees and deposits the additional revenue into a newly created charitable gaming technology fund.

PROPOSED STUDY PLAN

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

1. Review the September 2022 state agency fee report prepared by OMB.
2. Receive a report from OMB by September 2024 regarding details of the fees imposed by state agencies that have more than 40 fees, including an analysis of each fee.
3. Receive a report from OMB by September 2024 regarding any fees that were added, deleted, or changed since the 2021-23 biennium by agencies with 40 or fewer fees.
4. Identify potential state agency fees to be reviewed during the biennium and subsequent bienniums.
5. Make a recommendation for each fee identifying whether the fee should remain unchanged or be eliminated, increased, decreased, or modified and the rationale for the recommendation.
6. Review and discuss the timing of the required reports and timing of the recommendations required for the committee.
7. Develop recommendations and any necessary legislation to implement the recommendations.
8. Prepare a final report for presentation to the Legislative Management.

ATTACH:1