



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 were required to submit a report to the Legislative Management by July 2024, regarding details on each of the fees. By September 2024, OMB was 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 70th Legislative Assembly.

PREVIOUS STUDIES 2017-18 Interim

Fee Studies

During the 2017-18 interim, the Legislative Management studied the following fees:

- Behavioral health noncompliance fees - Pursuant to Section 33 of House Bill No. 1012 (2017), the Health Services Committee studied 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 committee made no recommendations.
- 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.
- 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, road 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 noting several statutory fees do not cover the cost to produce or provide the service being purchased. The committee 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

Section 1 of Senate Bill No. 2130 (2019) directed the Legislative Management, in coordination with the State Auditor, to study the provisions of the 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.

2023-24 Interim

The Government Finance Committee studied state agency fees pursuant to Section 54-35-27 as assigned by the Legislative Management. Based on the fee reports submitted by state agencies with 40 or fewer fees during the 2021-23 biennium, the committee received information from the State

Treasurer, Tax Department, judicial branch, Department of Trust Lands, Department of Environmental Quality, Department of Mineral Resources, Securities Department, Housing Finance Agency, Department of Corrections and Rehabilitation, and Department of Agriculture. Some agencies were hesitant to suggest changes to fees established by the Legislative Assembly, but some agencies recommended consolidating fees, repealing obsolete fees, or increasing fee amounts to address inflationary increases related to the administration of collecting the fees or providing services.

In September 2024, OMB presented a report on state agencies with more than 40 fees, which included eight state agencies with a combined total of more than 1,100 fees. Due to the timing of the report, the committee deferred the review of the fees until the next interim.

The Government Finance Committee did not make any recommendations regarding the study of state agency fees but suggested the Legislative Council provide the fee reports to the Appropriations Committees during the legislative session to allow the committees to review the fees for potential changes.

RECENT CHANGES TO STATE AGENCY FEES 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.
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.

2025 Legislative Session

The 2025 Legislative Assembly approved the following special fund fee changes:

Bill No.	Description
HB 1010	Insurance Commissioner - Increases certain investment broker and firm registration fees which are deposited in the general fund.
HB 1086	Insurance Commissioner - Amends fees charged by the State Fire Marshal and deposits the revenue in the insurance regulatory trust fund rather than the reduced cigarette ignition propensity fund.
HB 1113	Public Employees Retirement System - Authorizes the Public Employees Retirement System to charge participating state employees for the cost of administering the deferred compensation plan.
HB 1123	Insurance Commissioner - Increases insurance fees which are deposited in the insurance regulatory trust fund and then transferred to the general fund each fiscal year.
HB 1417	Judicial branch and Commission on Legal Counsel for Indigents - Repeals various court and indigent defense fees.
HB 1470	Game and Fish Department - Increases hunting and fishing license fees.
HB 1584	Insurance Commissioner - Requires the Insurance Commissioner to charge pharmacy benefit managers an initial application fee.
SB 2024	Department of Environmental Quality - Deposits fuel inspection fees in the department's operating fund rather than the general fund.
SB 2057	Judicial branch - Increases the amount of various court fees charged by the judicial branch.
SB 2082	Department of Emergency Services - Increases fees charged by the Department of Emergency Services Division of Homeland Security for the state hazardous chemical fee system, which are deposited in the state hazardous chemicals preparedness and response fund.
SB 2090	Insurance Commissioner - Deposits fireworks application license fees in the insurance regulatory trust fund rather than the general fund.
SB 2133	Department of Transportation - Requires the department to issue blackout license plates and to charge related fees.
SB 2216	Game and Fish Department - Establishes a waterfowl habitat restoration stamp fee for resident small game licenses and deposits the revenue in a newly created waterfowl habitat improvement fund.
SB 2251	State Auditor - Removes the authority of the State Auditor to charge for audits of state agencies.
SB 2267	Department of Environmental Quality - Allows the department to charge fees for wastewater treatment system licenses for deposit in the department's operating fund.

PROPOSED STUDY PLAN

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

1. Review the September 2024 state agency fee report prepared by OMB.
2. Receive reports from state agencies by July 2026 regarding any fees that were added, deleted, or changed during the 2023-25 biennium.
3. Identify potential state agency fees to be reviewed during the biennium and subsequent bienniums.

4. 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.
5. Review and discuss the timing of the required reports and timing of the recommendations required for the committee.
6. Develop recommendations and any necessary legislation to implement the recommendations.
7. Prepare a final report for presentation to the Legislative Management.

ATTACH:1