

## BUDGET SECTION DUTIES AND RESPONSIBILITIES FOR THE 2011-13 BIENNIUM

This memorandum lists duties and responsibilities assigned to the Budget Section for the 2011-13 biennium by the North Dakota Century Code, Session Laws, or Legislative Council 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

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

1. **Status of the State Board of Agricultural Research and Education (Section 4-05.1-19(10))** - This section requires, within the duties of the State Board of Agricultural Research and Education, a status report to be presented to the Budget Section.
2. **Higher education campus improvements and building construction (Section 15-10-12.1)** - This section requires the approval of the Budget Section or the Legislative Assembly for the construction of any building financed by donations, gifts, grants, and bequests on land under the control of the board. Campus improvements and building maintenance of more than \$385,000 also require the approval of the Budget Section or Legislative Assembly. Budget Section approval can only be provided when the Legislative Assembly is not in session, excluding the six months prior to a regular legislative session. The Budget Section approval regarding the construction of buildings and campus improvements must include a specific dollar limit for each building, 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 \$385,000 or less and the sale of real property received by gift or bequest may be authorized by the State Board of Higher Education.
3. **Sources of funds received for construction projects of entities under the State Board of Higher Education (Section 15-10-12.3)** - This section requires each institution under 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.
4. **Designation of a center of excellence (Section 15-69-02, effective through July 31, 2011)** - This section provides that designation of a center of excellence occurs upon State Board of Higher Education, North Dakota Economic Development Foundation, Emergency Commission, and Budget Section approval of a Centers of Excellence Commission funding award recommendation. In considering whether to designate a center of excellence, the board, the foundation, and the Budget Section may not modify the commission recommendation, and the Budget Section may not take action on a commission funding award recommendation until the Emergency Commission reviews the commission recommendation and makes a recommendation to the Budget Section.
5. **Annual audits from center of excellence-awarded funds under Chapter 15-69 (Section 15-69-05, effective through July 31, 2023)** - This section requires that a center of excellence that is awarded funds under Chapter 15-69 provide an annual audit to the Budget Section on the funds distributed to the center until the completion of the commission's postaward monitoring of the center.
6. **Game and Fish Department land acquisitions (Section 20.1-02-05.1)** - This section provides that Budget Section approval is required for Game and Fish Department land acquisitions of more than 10 acres or \$10,000.
7. **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.
8. **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 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 one year of receipt of the certified mail notification.

9. **Relinquishment of agency rights to recover property (Section 47-30.1-24.1)** - This section provides that each state agency that does not submit a claim for unclaimed property belonging to that agency within one year of receipt of the certified mail notification relinquishes its right to recover the property upon approval of the Budget Section.
10. **Change or expand state building construction projects (Section 48-01.2-25)** - This section provides that 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.
11. **Job insurance trust fund (Section 52-02-17)** - This section requires that Job Service North Dakota 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 three years. The Legislative Management has assigned this responsibility to the Budget Section.
12. **Report on the number of employees receiving bonuses above the 25 percent limitation (Section 54-06-30)** - This section authorizes agencies to pay bonuses to not more than 25 percent of the employees employed by the agency on July 1 of each state fiscal year. Human Resource Management Services may approve the payment of bonuses above the 25 percent limitation but is required to report any exceptions granted under this subsection to the Budget Section (effective August 1, 2009).
13. **Irregularities in the fiscal practices of the state (Section 54-14-03.1)** - This section requires the Office of the Budget 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.
  - d. The use of state funds to provide bonuses, cash incentive awards, or temporary salary adjustments for state employees.
14. **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 an 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 an intent to reject the money.
15. **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 an 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 an intent to reject the money or programs.
16. **Consider authorization of additional full-time equivalent (FTE) positions (Section 54-16-04.3)** - This section provides that on the advice of the Office of Management and Budget 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 (effective July 1, 2009).
17. **Transfers of spending authority from the state contingencies appropriation exceeding \$50,000 (Section 54-16-09)** - This section provides that, 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 \$700,000 was provided for the 2011-13 biennium.
18. **Capital improvements preliminary planning revolving fund (Section 54-27-22)** - This section provides that 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 (approximately \$150,000 is available for the 2011-13 biennium).
  19. **Tobacco settlement funds (Section 54-44-04(23))** - This section requires the director of the Office of Management and Budget to report to the Budget Section on the status of tobacco settlement funds and related information.
  20. **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 seven days after the day of adjournment of the organizational session. The Budget Section was assigned this responsibility.
  21. **Report from the Information Technology Department (Section 54-59-19)** - This section requires the Information Technology Department to prepare and present an annual report to the Information Technology Committee and to present a summary of the report to the Budget Section.
  22. **Status of the risk management workers' compensation program (Section 65-04-03.1(5))** - This section requires Workforce Safety and Insurance and the Risk Management Division of the Office of Management and Budget to periodically report to the Budget Section on the success of the risk management workers' compensation program.
  23. **Report regarding any transfers between line items and between subdivisions in excess of \$50,000 (Section 3 of 2011 Senate Bill No. 2012)** - This section requires the Department of Human Services to report to the Budget Section after June 30, 2012, on any transfers in excess of \$50,000 made during the 2011-13 biennium between line items within each subdivision and between subdivisions (effective July 1, 2011).
  24. **Quarterly reports regarding the implementation of the comprehensive tobacco prevention and control plan and outcomes achieved (Section 2 of 2011 House Bill No. 1025)** - This section requires the Tobacco Prevention and Control Executive Committee to report to the Budget Section quarterly on the implementation of the comprehensive tobacco prevention and control plan and outcomes achieved for the 2011-12 interim (effective July 1, 2011).
  25. **Report regarding emergency snow removal grants distributed to counties, townships, and cities before June 30, 2011 (Section 2 of 2011 Senate Bill No. 2369)** - This section requires the Department of Emergency Services to distribute emergency snow removal grants prior to June 30, 2011, and report to the Budget Section regarding the grants awarded (effective May 1, 2011).
  26. **Periodic reports regarding 2009 flood disaster-related expenditures, transfers, reimbursements, and general fund deposits (2009 S.L., ch. 64, § 5)** - This section requires the Adjutant General to provide periodic reports to the Budget Section on 2009 flood disaster-related expenditures, transfers, reimbursements, and general fund deposits from April 9, 2009, through June 30, 2011.
  27. **Report on specified commodities and services exempted from the procurement requirements of Section 54-44.4-02.2** - This section requires the director of the Office of Management and Budget 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 (December 2010).
  28. **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 organizational session (December 2012).
- Continuing Duties Not Acted on During the Previous Biennium**
29. **Investment in real property by the Board of University and School Lands (Section 15-03-04)** - This section provides that 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.
30. **Statement from ethanol plants in operation before July 1, 1995, that received production incentives (Section 17-02-01)** - This section requires any North Dakota ethanol plant in operation before July 1, 1995, receiving production incentives from the state to file with the Budget Section within 90 days after the conclusion of the plant's fiscal year a statement by a certified public accountant indicating whether the plant produced a profit during the preceding fiscal year, after deducting incentive payments received from the state.
  31. **Reduction of the game and fish fund balance below \$15 million (Section 20.1-02-16.1)** - This section provides that 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.
  32. **Provision of contract services by the Developmental Center at Westwood Park, Grafton (Section 25-04-02.2)** - This section provides that, subject to Budget Section approval, the Developmental Center at Westwood Park, Grafton, may provide services under contract with a governmental or nongovernmental person.
  33. **Waiver of exemption of special assessments levied for flood control purposes on state property (Section 40-23-22.1)** - This section provides that 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.
  34. **Termination of food stamp program (Section 50-06-05.1(17))** - This section provides that, subject to Budget Section approval, the Department of Human Services 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.
  35. **Termination of energy assistance program (Section 50-06-05.1(19))** - This section provides that, subject to Budget Section approval, the Department of Human Services 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.
  36. **Transfers resulting in program elimination (Section 54-16-04(1))** - This section provides that, 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.
  37. **Transfers exceeding \$50,000 (Section 54-16-04(2))** - This section provides that, 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.
  38. **Acceptance of federal funds for a specific purpose or program which were not appropriated (Section 54-16-04.1(4))** - This section provides that, 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.
  39. **New correctional programs which exceed \$100,000 of cost during a biennium (Section 54-23.3-09)** - This section requires the director of the Department of Corrections and Rehabilitation to report to the Legislative Assembly or, if the Legislative Assembly is not in session, the Budget Section, prior to the implementation of any new program that serves adult or juvenile offenders, including alternatives to conventional incarceration and programs operated on a contract basis, if the program is anticipated to cost in excess of \$100,000 during the biennium.
  40. **Cashflow financing (Section 54-27-23)** - This section provides that in order to meet the cashflow needs of the state, the Office of Management and Budget 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.
41. **Budget stabilization fund (Section 54-27.2-03)** - This section provides that any transfers from the budget stabilization fund must be reported to the Budget Section.
  42. **Purchases of "put" options (Section 54-44-16)** - This section requires the Office of Management and Budget to report any purchases of "put" options to the Budget Section.
  43. **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.
  44. **Budget reduction due to initiative or referendum action (Section 54-44.1-13.1)** - This section provides that, 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.
  45. **Children's Services Coordinating Committee grants (Section 54-56-03)** - This section provides that Budget Section approval is required prior to the distribution by the Children's Services Coordinating Committee of any grants not specifically authorized by the Legislative Assembly.
  46. **Requests by the Information Technology Department to finance the purchase of software, equipment, or implementation of services (Section 54-59-05(4))** - This section requires the Information Technology Department 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.
  47. **Report on reductions made in homestead property income tax credit (Section 57-38-01.29)** - This section requires the Tax Commissioner to report to the Budget Section, for review, any adjustments in the homestead property income tax credit which was available in taxable years 2007 and 2008.
  48. **Consider request to reduce the commercial property income tax credit (Section 57-38-01.30)** - This section provides that Budget Section approval is required for any adjustments made by the Tax Commissioner to the commercial property income tax credit which was available in taxable years 2007 and 2008.
  49. **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.
  50. **Federal block grant hearings (2011 House Concurrent Resolution No. 3002)** - This resolution authorizes the Budget Section, through September 30, 2013, to hold any **required** legislative hearings for federal block grants.

### NEW DUTIES

51. **State Board of Higher Education's monthly project variance reports (Section 15-10-47)** - This section requires the Office of Management and Budget to provide to the Budget Section upon request information relating to the State Board of Higher Education's monthly project variance reports regarding construction projects valued at more than \$250,000.
52. **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 fund as well as recommendations presented to the state investment board regarding investment of funds in the legacy and budget stabilization funds.
53. **Approve expenditures from the state disaster relief fund (Section 37-17.1-27)** - This section requires Emergency Commission and Budget Section approval of expenditures from the state disaster relief fund to provide the required state share of funding for expenses associated with presidential-declared disasters in the state.
54. **Warrants and checks outstanding for more than 90 days and less than three 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 three years.
55. **Reports from state agencies that applied for federal grants estimated to be \$25,000 or more (Section 54-27-27)** - This section requires the Office of Management and Budget 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 (effective July 1, 2011).
56. **Higher education electronic portfolio system pilot program (Section 54-60-27, expires July 1, 2013)** - This section requires the Division of Workforce Development to report to the Budget Section on the use of funding provided for the higher education electronic portfolio system pilot program.
  57. **Annual audits from a center of research excellence (Section 54-65-03)** - This section requires a center of research excellence receiving funds under Chapter 54-65 to provide its annual audit on funds distributed to the center.
  58. **Western Area Water Supply Authority state reimbursement (Section 61-40-09)** - This section provides that if the Western Area Water Supply Authority is in default and unable to repay its loans and interest to the state in the time period required by the Budget Section, the Budget Section may give written notice to the authority that the state has taken possession and ownership of the water system and the liabilities of the authority.
  59. **State Water Commission plan to return governance to the Western Area Water Supply Authority (Section 61-40-09)** - This section provides that if the state takes possession and ownership of the water system and the liabilities of the Western Area Water Supply Authority, the State Water Commission is the governing board from the date of notice delivered by the Budget Section. If the commission determines that governance, possession, and ownership of the water system is not necessary for the authority to be able to reimburse the state in the necessary time period, the commission may request Budget Section approval of a plan to return governance, possession, and ownership to the authority.
  60. **North Dakota University System joint information technology building project (2011 House Bill No. 1003, Section 7)** - This bill requires the University System to report to the Budget Section any funds expended for the University System and University of North Dakota joint information technology building project.
  61. **North Dakota State University Minard Hall project (2011 House Bill No. 1003, Section 8)** - This bill requires North Dakota State University to report to the Budget Section on the status of the Minard Hall project and that the Budget Section may authorize North Dakota State University to increase spending authorization for the project.
  62. **Department of Health status report on United States Environmental Protection Agency litigation and other administrative proceedings (2011 House Bill No. 1004, Section 5)** - This bill provides the Budget Section receive quarterly reports from the State Department of Health during the 2011-12 interim regarding the status of any litigation and other administrative proceedings involving the United States Environmental Protection Agency.
  63. **Department of Corrections and Rehabilitation quarterly reports on prison expansion project (2011 House Bill No. 1015, Section 5)** - This bill provides the Budget Section receive quarterly reports from the Department of Corrections and Rehabilitation during the 2011-12 interim regarding the progress of the prison expansion project and any amounts and purposes of loans from the Bank of North Dakota to defray expenses of the project.
  64. **Office of Management and Budget reports on the status of implementation of the compensation system changes (2011 House Bill No. 1031, Section 4)** - This bill provides the Budget Section receive periodic reports from the Office of Management and Budget during the 2011-12 interim on the status of the implementation of the compensation system changes in accordance with identified compensation system initiatives.
  65. **Insurance Commissioner report regarding the status of provisions of the Patient Protection and Affordable Care Act (2011 Senate Bill No. 2010, Section 9)** - This bill requires the Insurance Commissioner to report at each meeting of the Budget Section during the 2011-12 interim regarding the status of provisions of the Patient Protection and Affordable Care Act.
  66. **Upper Great Plains Transportation Institute annual report on transportation infrastructure needs (2011 Senate Bill No. 2325, Section 1)** - This bill provides the Budget Section receive at least annual presentations from the Upper Great Plains Transportation Institute during the 2011-12 interim regarding the status of report updates and maintenance relating to transportation infrastructure needs for all county and township roads in the state.
  67. **State Water Commission expenditure in excess of \$447,913,774 in the water and atmospheric resource line item (2011 Senate Bill No. 2020, Section 4)** - This bill requires Budget Section approval for State Water Commission expenditure of funds in excess of \$447,913,774 in the water and atmospheric resource line item of the commission's 2011-13 appropriation.

68. **Approve Adjutant General expenditures for presidential-declared state disasters and certain flood mitigation efforts (2011 Senate Bill No. 2369, Section 4)** - This bill requires Emergency Commission and Budget Section approval for the use of funds appropriated to the Adjutant General for defraying expenses associated with presidential-declared state disasters and certain flood mitigation efforts.

### **FEDERAL FUNDS**

69. **Federal funds report** - Receive a report from the Legislative Council staff in the fall of 2012 on the status of the state's federal funds receipts for the current biennium and estimated federal funds receipts for the subsequent biennium.