

GOVERNMENT FINANCE COMMITTEE

The Government Finance Committee was assigned the following responsibilities:

- Study of the feasibility and desirability of reducing Lewis and Clark Interpretive Center fees and consider alternatives to address the sustainability of the Parks and Recreation Department's operations of the Lewis and Clark Interpretive Center. (2019 House Bill No. 2019, § 14)
- Study of the public access and use of real property located between the Missouri River and the Missouri River Correctional Center (MRCC), owned by the State of North Dakota, under the control of the Department of Corrections and Rehabilitation (DOCR), and the impact of transferring the property to the Parks and Recreation Department. (2019 House Bill No. 2019, § 15)
- Study, in coordination with the State Auditor, the provisions of the North Dakota Century Code relating to state agency fees. The study must include 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; consideration of whether the amounts of 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. (2019 Senate Bill No. 2130, § 1)
- Receive a report before June 30, 2020, from the Department of Environmental Quality (DEQ) regarding the department's plan for boiler inspection fees to meet program expenses. (2019 House Bill No. 1024, § 32)
- Review state budget information, including the monitoring of state revenue and appropriations. (Legislative Management directive)

Committee members were Senators Ronald Sorvaag (Chairman), Howard C. Anderson, Jr., Randy Burckhard, Dwight Cook, Jordan Kannianen, Diane Larson, Erin Oban, and Jessica Unruh-Bell and Representatives Bert Anderson, Larry Bellew, Jeff Delzer, Sebastian Ertelt, Jay Fisher, Michael Howe, Corey Mock, Gary Paur, Mike Schatz, and Michelle Strinden.

LEWIS AND CLARK INTERPRETIVE CENTER STUDY

The committee was assigned a study of the feasibility and desirability of reducing Lewis and Clark Interpretive Center fees and consider alternatives to address the sustainability of the Parks and Recreation Department's operations of the Lewis and Clark Interpretive Center.

Background Information

The Parks and Recreation Department operates the Lewis and Clark Interpretive Center near Washburn in conjunction with the Fort Mandan historic site. The interpretive center has four permanent galleries, two rotating history and art galleries, a museum store, event center rental space, a historical library, and a rest area operated in conjunction with the Department of Transportation (DOT). Since 1999 the Legislative Assembly has approved funding totaling \$10,073,341 related to the interpretive center, of which \$9,193,309 is from the general fund and \$880,032 is from other funds. The 2015 Legislative Assembly approved one-time funding of \$2,050,000 to transfer the interpretive center and certain assets from the Lewis and Clark Foundation to the state, to be operated by the Parks and Recreation Department. In addition, the Legislative Assembly appropriated \$125,000 from the general fund to the Parks and Recreation Department for operating costs of the interpretive center for the remainder of the 2013-15 biennium. For the 2019-21 biennium, the Legislative Assembly approved funding of \$1,250,687, including \$888,668 from the general fund, \$100,000 from DOT, and \$262,019 from the parks and recreation operating fund for operations of the interpretive center. The interpretive center has 3.75 full-time employees and 7 seasonal staff.

Revenues, Expenditures, Fees, and Visitation

The committee reviewed historical information related to revenues, expenditures, fees, and visitation data of the Lewis and Clark Interpretive Center.

The following table provides a comparison of historical revenues and expenditures for the Lewis and Clark Interpretive Center for fiscal years 2015 through 2020:

	2015	2016	2017	2018	2019	2020
Revenue	\$54,128	\$270,493	\$253,742	\$432,801 ²	\$388,803	\$241,329
Expenses	(2,181,841) ¹	(868,693)	(954,881)	(858,737)	(984,242)	(746,518)
Total income (loss)	(\$2,127,713)	(\$598,200)	(\$701,139)	(\$425,936)	(\$595,439)	(\$505,189)

¹Includes Lewis and Clark Interpretive Center purchase cost \$2,050,000.

²Includes \$100,000 transfer from DOT.

The following table provides information regarding the daily fees for the Lewis and Clark Interpretive Center:

	Rate
Facility rentals	
Event center	\$500 per day
Library meeting room	\$100 per day or \$75 per half-day
Fort Mandan lodge classroom	\$150 per day
Picnic shelters	\$50 per day
Interpretive passes	
Adult	\$8 per day
Student	\$5 per day
Family	\$25 per day

The committee was informed 75 percent of the visitors to the Lewis and Clark Interpretive Center are from outside North Dakota. The following table provides annual visitation data for the interpretive center:

	Fiscal Year 2017	Fiscal Year 2018
Building use	70,726	117,456
Paid admission	16,414	15,912
School tours	3,109	2,429
Facility rentals	42	38

Comparisons to Similar Facilities

The committee received historical information related to funding provided by DOT for the Lewis and Clark Interpretive Center, and on the average cost to operate a rest area. The department provided \$100,000 to the interpretive center for the operation of the rest area during each of the 2017-19 biennium and the 2019-21 biennium or an average of \$50,000 per year. The committee was informed the annual operating cost of similar rest areas, which includes janitorial and utility, were as follows:

- Larimore rest area off of US Highway 2 is \$60,000 annually;
- Alexander Henry rest area north of Grand Forks on Interstate 29 is \$69,000 annually; and
- Oriska rest area east of Valley City is \$109,000 annually.

The committee compared interpretive revenue at the Lewis and Clark Interpretive Center to interpretive revenue at Fort Abraham Lincoln State Park. The following schedule compares the revenue of fiscal years 2016 through 2019:

Fiscal Year	Lewis and Clark Interpretive Center	Fort Abraham Lincoln State Park
2016	\$75,441	\$69,881
2017	\$71,421	\$52,973
2018	\$72,392	\$52,664
2019	\$78,142	\$54,982

The committee received information showing the Lewis and Clark Interpretive Center fees are comparable to the Lewis and Clark Interpretive Center fees in Great Falls, Montana and other similar sites in North Dakota.

Parks and Recreation Department Recommendation

The committee received the Parks and Recreation Department recommendation regarding the operations of the Lewis and Clark Interpretive Center. The department recommends continuing operations under its current business model along with the creation of an interpretive annual family pass.

Recommendation

The committee makes no recommendation, but committee members expressed support for the Parks and Recreation Department's recommendation to continue operating under its current business model along with the creation of an interpretive annual family pass.

STATE AGENCY FEE STUDY

The committee was assigned a study, in coordination with the State Auditor, of the provisions of the Century Code relating to state agency fees. The study 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; 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.

Background Information

The committee reviewed the legislative history of changes to state agency fees in recent bienniums, previous studies of state agency fees, and survey responses from state agencies regarding fees charged by each agency.

State Agency Fees

The committee received a performance audit of state agency fees conducted by 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. The committee was informed the other fees are application fees, distance learning access fees, course fees, program fees, capacity enrollment fees, and other incidental fees.

Due to the large number of fees, the committee determined the fees could not be adequately evaluated during 1 interim. The committee selected a small number of fees to obtain information to conduct an evaluation. The committee received information on the following state agency fees:

- Attorney General's beer and liquor license fees;
- DOCR's supervision fee; and
- DOT's antique personalized plate fee, antique plate fee, collector personalized plate fee, duplicate decal and registration card issuance fees, and public or nonprofit organization plate fees.

The committee considered the type of information to use to evaluate each fee. For each fee, the committee specifically reviewed the legislative history of the fee including fee changes, the revenue generated, the number of items issued relating to the fee, and the cost of providing the service related to the fee.

The committee considered options for reviewing fees. Due to the large number of fees to be studied, the committee considered the development of a process providing for the Legislative Management to study each agency fee every 10 years. The Legislative Management would determine which fees are studied and which committees would conduct the studies each interim. Agencies will conduct an evaluation of each of the fees the agency imposes and report to a Legislative Management interim committee along with a recommendation for each fee. The Legislative Management interim committee assigned a fee study will consider the agency evaluation report, public input, and other information to develop a recommendation for each fee identifying whether the Legislative Assembly should let the fee remain unchanged, be eliminated, increased, decreased, or otherwise modified.

Recommendation

The committee recommends a bill draft [21.0113.02000] to Chapter 54-35 to provide for a Legislative Management process of studying each state agency fee every 10 years.

PUBLIC ACCESS AND USE OF REAL PROPERTY STUDY

The committee was assigned a study of the public access and use of real property located between the Missouri River and MRCC, owned by the State of North Dakota, under the control of DOCR, and the impact of transferring the property to the Parks and Recreation Department.

Background Information

The Missouri River Correctional Center population includes inmates who meet the criteria for minimum custody. The inmates may include those convicted of violent offenses or sex offenses. The center is the only option for transition housing for this portion of the inmate population. While there is no fence around the property, MRCC provides a safe and secure environment by maintaining proper custody, work, education, and treatment programs, and encouraging inmates to make the needed change to be law-abiding citizens and productive members of society. Roughrider Industries operates a welding shop, sheep pasture, and sandbagging operation at MRCC providing jobs for inmates and revenue for DOCR. The committee reviewed the legislative history related to MRCC, which included a review of the Legislative Management's interim Government Services Committee regarding the MRCC land use and planning study, including the department's plan regarding the relocation of MRCC completed during the 2013-14 interim. That committee concluded it was not desirable to move MRCC to an area adjacent to the Youth Correctional Center in Mandan, but the study indicated it was possible but not desirable to locate a park on the MRCC site because it would increase the risk to the state to allow citizens to be in close proximity to inmates.

Missouri River Correctional Center Site

The committee toured the MRCC site and received drone footage, an aerial image of the MRCC site, and a map of the area. The Department of Corrections and Rehabilitation leases 295 acres of farmland at \$415 per acre and invested \$300,000 in three irrigation pivots on the site. The committee received testimony indicating the department controls the weeds and natural grass by allowing the Hettinger Research Extension Center to keep its sheep on MRCC land not leased for agricultural production.

Land Use Options

The committee received information from the Parks and Recreation Department regarding the feasibility and desirability of transferring MRCC land for use by the public, the potential impact of transferring MRCC land to the department, and the ability of the department to maintain the property. During the 2015 legislative session, the Legislative Assembly provided grant funding to the State Water Commission. With their funding, the State Water Commission provided a \$1 million grant to the Parks and Recreation Department for developing recreational activity on sovereign lands. As a result, the Parks and Recreation Department began planning a day park on the site. In 2016, DOCR transferred a portion of MRCC land to the Parks and Recreation Department, but in 2017 the land was returned to DOCR. The Parks and Recreation Department did not use the \$1 million grant received from the State Water Commission for developing the day park but instead used it for other purposes. The committee received a memorandum of understanding signed in July 2018, between the two departments, providing the Parks and Recreation Department would have the first option to purchase the land previously transferred if the MRCC site ever ceases operations or moves to another location. The Parks and Recreation Department's study identified a desire to preserve the view shed of the land, which is directly across from Fort Abraham Lincoln State Park and its 2017 master plan for MRCC land was a highly developed plan with an estimated cost of \$6.7 million.

The committee received information from DOCR regarding the feasibility and desirability of transferring MRCC land for use by the public, the potential impact of transferring MRCC land to the Parks and Recreation Department, security risks related to public use of land around MRCC, its plan to mitigate those risks along with potential costs necessary to implement the mitigation plan. The committee was informed it is physically feasible to locate a day park on land near MRCC; however, it is not desirable to co-locate a day park and a minimum security prison because the seclusion of the facility helps provide security between the public and the inmates. The department expressed concern that increasing public use in the area increases the possibility of contraband being brought into the center, the public being on DOCR property, and unauthorized contact with inmates, and increases the need for additional law enforcement in the area. These concerns potentially have a negative impact on the transition and re-entry process of the minimum security inmates. According to the testimony, if DOCR had to mitigate these risks, the entrance to the park would need to be relocated to Washington Street and it would be necessary to construct a gated entrance to MRCC to prevent the public from inadvertently entering MRCC from 48th Street. Additional cameras and increased correctional staff also would be needed. It is estimated to cost \$20 per linear foot to construct a permanent barrier between the public use land and MRCC, and it was asserted the barrier could impact the transition and re-entry process of the minimum security inmates. The 2014 MRCC land use and planning study, which indicated it was physically feasible, but not desirable, to relocate MRCC to a site adjacent to the Youth Correctional Center, provided three concepts of which only one was developed to keep MRCC at its current location at a cost of \$7.1 million. However, that amount would need to be adjusted for inflation to reflect the current cost.

The committee considered a concurrent resolution to recognize the memorandum of understanding and option to acquire land entered by DOCR and the Parks and Recreation Department relating to the MRCC land.

Recommendation

The committee recommends a concurrent resolution draft [21.3004.02000] to recognize the memorandum of understanding and option to acquire land, upon approval from the Legislative Assembly, entered by DOCR and the Parks and Recreation Department relating to MRCC land.

BOILER INSPECTION PROGRAM FEE REPORT

The committee received a report from DEQ regarding the department's plan for boiler inspection fees to meet program expenses pursuant to Section 32 of House Bill No. 1024 (2019). The department reported it reviewed the fees charged for the boiler inspection program and determined an equitable approach would be to increase the inspection fees by \$10 and to increase the annual certificate fee by \$10. The boiler inspection fees are set in the North Dakota Administrative Code and range from \$35 to \$150. The department increased the inspection fees by \$10 effective July 1, 2020. The annual boiler certificate fee is set in statute and is \$20. The \$10 increase will require a statutory change. The department plans to request a change to the boiler certificate fee during the 2021 legislative session and the department projects the boiler inspection program would be operating at a \$300,000 to \$400,000 deficit in the 2021-23 biennium if the fees are not increased.

STATE BUDGET INFORMATION

The Chairman of the Legislative Management assigned the committee various budget-related duties, including monitoring state revenues and expenses.

Status of the General Fund and Selected Special Funds

The committee received a Legislative Council report on ongoing general fund revenues and appropriations and the potential 2021-23 biennium revenue shortfall. Ongoing general fund revenues have been less than ongoing general fund spending since the 2015-17 biennium.

The committee received an update regarding oil and gas tax revenues from the Department of Mineral Resources. According to the report, the core area of the Bakken has oil inventory for the next 2 to 5 years.

The committee received updates regarding the status of the general fund and selected special funds. The following is the status of the 2019-21 biennium general fund budget from September 1, 2020, through July 31, 2020:

Unobligated general fund balance - July 1, 2019		\$65,000,000
Add		
Total general fund revenue collected through July 31, 2020		3,154,504,653
Remaining forecasted revenues		1,772,773,763
Balance obligated for authorized carryover from the 2017-19 biennium		130,404,813
Total estimated available		\$5,122,683,229
Less		
2019-21 biennium general fund ongoing appropriations	(\$4,794,924,098)	
2019-21 biennium general fund one-time appropriations	(48,639,068)	
Authorized carryover from previous biennium	(130,404,813)	
2019-21 authority used in 2017-19 pursuant to emergency clause	106,000	
Total appropriations and adjustments		(4,973,861,979)
Estimated ending balance - June 30, 2021		\$148,821,250

Through July 31, 2020, actual general fund revenues, in total, were \$104.3 million, or 3.4 percent more than estimated and the estimated 2019-21 biennium ending balance as of July 2020 was \$148.8 million, which was \$104.4 million more than estimated. Through May 31, 2020, the budget stabilization fund balance was \$717.2 million, which was \$8.8 million less than the maximum authorized balance of \$726 million due to investment losses.

Online Sales Tax Collections

The committee received information from the Tax Commissioner regarding an update on sales tax collections from online sales. The committee was informed 6,288 out-of-state businesses that sell online to North Dakota residents had registered with the state to comply with state law. The total sales tax collections from remote sellers since June 21, 2018, through February 5, 2020, were \$37 million, of which \$28.05 million was the state's portion and \$8.95 million was the local portion. According to the report, marketplace sellers are companies that sell products on behalf of other retailers, such as Etsy and Amazon. These types of companies had total sales tax collections from October 1, 2019, through February 5, 2020, of \$6.57 million, of which \$4.89 million was the state's portion and \$1.68 million was the local portion.

OTHER REPORTS

The committee receive other reports, including:

- A report from DEQ regarding the department's petroleum tank release program and why fees cover only 50 percent of the cost of the program. The department reported that during the 2019 legislative session, the department had proposed funding in the petroleum tank release compensation fund cover 100 percent of the petroleum tank program costs; however, the 2019 Legislative Assembly provided funding for the petroleum tank program using 50 percent from the general fund and 50 percent from the petroleum tank release compensation fund. The department is reviewing the petroleum tank program rules, the Century Code provisions, the fee structure, and the petroleum tank fund balance to propose changes for consideration by the 2021 Legislative Assembly.
- A report from the Department of Mineral Resources regarding an update on oil and gas activity in the state. The committee was informed that on average, an oil rig can drill a 20,000-foot oil well in 10 days.
- Reports from the Legislative Council staff relating to:
 - Ongoing general fund revenues and appropriations and the projected ongoing revenue shortfall for the 2021-23 biennium general fund budget;
 - Oil and gas tax revenues; and
 - 2019-21 agency compliance with legislative intent.