



# North Dakota Legislative Council

Prepared for the Government Finance Committee  
 LC# 25.9063.01000  
 September 2023

## DEPARTMENT OF FINANCIAL INSTITUTIONS APPROPRIATIONS PROCEDURES STUDY - BACKGROUND MEMORANDUM

Section 3 of House Bill No. 1008 (2023) provides the Legislative Management consider studying the appropriation procedures for the Department of Financial Institutions (DFI). The study must include an analysis of the feasibility and desirability of alternative appropriation methods, management structures employed, oversight and reporting to the executive branch and legislative branch, staff classification structures with indexing to federal or market compensation, and staffing structures that allow for adjustments to market conditions. The Legislative Management assigned the study to the Government Finance Committee.

### DEPARTMENT OF FINANCIAL INSTITUTIONS - APPROPRIATIONS HISTORY

The Department of Financial Institutions is a self-funded regulatory agency responsible for the oversight of state banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions, credit unions, and other financial corporations doing business under the laws of North Dakota. The department conducts examinations to determine the soundness of financial institutions and monitor compliance with applicable rules and regulations.

The schedule below provides information on the appropriations to DFI for the 2015-17 biennium through the 2023-25 biennium. The department's budget bill alternates between House Bill No. 1008 and Senate Bill No. 2008. Since the department is funded by special funds, the department's budget was not affected by the general fund budget reductions during the 2015-17 biennium when the state experienced a budgetary shortfall resulting from a significant decline in oil prices and related oil development activities. Beginning with the 2021-23 biennium, the Legislative Assembly has included a section in the department's budget bill allowing the department to transfer funds among line items without approval from the Emergency Commission.

	<b>HB 1008 - 2015-17 Biennium</b>	<b>SB 2008 - 2017-19 Biennium</b>	<b>HB 1008 - 2019-21 Biennium</b>	<b>SB 2008 - 2021-23 Biennium</b>	<b>HB 1008 - 2023-25 Biennium</b>
<b>Budget bill</b>					
Salaries and wages	\$6,737,190	\$6,813,840	\$7,022,655	\$7,415,098	\$7,714,462
Operating expenses	1,575,252	1,576,072	2,093,217	1,671,409	2,121,917
Contingency	77,000	20,000	20,000	20,000	20,000
<b>Other appropriations</b>					
Desktop support - HB 1021 (2015)	66,325	0	0	0	0
Mortgage examiner - HB 1068 (2023)	0	0	0	0	225,000
<b>Total special funds</b>	<b>\$8,455,767</b>	<b>\$8,409,912</b>	<b>\$9,135,872</b>	<b>\$9,106,507</b>	<b>\$10,081,379</b>
Full-time equivalent positions	30.00	30.00	31.00	31.00	35.00

### PREVIOUS RELATED STUDIES 2017-18 Interim - Combining Agencies Study

Pursuant to Section 4 of Senate Bill No. 2008 (2017), the Governor's office was required to study the operations of DFI and Securities Department to determine the feasibility and desirability of combining the agencies into a single department. The Legislative Management assigned the Government Administration Committee to receive a report from the Governor's office regarding the findings and recommendations of the study.

The report indicated the two agencies support separate and distinct regulatory policy objectives and core missions with no significant redundancies in the regulatory functions and operations. No significant cost reduction or operational efficiencies were identified to be gained from combining the two agencies because the removal of

one director position likely would result in the creation of two deputy director positions to oversee each division. The Governor recommended the agencies not be combined.

The Government Administration Committee recommended the Legislative Management concur with the recommendation of the Governor that the agencies not be combined.

### **2021-22 Interim - Information Technology Budgeting Study**

Pursuant to Section 13 of Senate Bill No. 2021 (2021), the Government Finance Committee studied the state government information technology and appropriations process. The study included a review of the current process and the feasibility and desirability of providing a general fund appropriation to the Information Technology Department (ITD) rather than providing general fund appropriations to state agencies to pay for services. The study included consideration of any costs or cost-savings that may result and any transparency benefits that may result from the potential changes.

The committee received information from ITD and selected agencies regarding the advantages and disadvantages of the current budgeting process and potential changes. Based on information from ITD, the budgeting process provides flexibility but requires two appropriations since agencies need authority to pay ITD for the services and ITD needs authority to pay for staff and other expenses to provide the services. Comments from ITD indicated a general fund appropriation to ITD may increase transparency but may increase demand for services. Other state agencies noted cost-savings from volume pricing through ITD's unification initiative, but they encountered challenges with technology devices and policy changes that did not meet their unique needs. Some smaller agencies were concerned about a loss of priority for receiving services if the budgeting process were changed to provide a general fund appropriation to ITD.

The Government Finance Committee did not make any recommendations regarding the study of information technology budgeting changes.

## **OTHER EXAMPLES OF RECENT BUDGET CHANGES**

### **Department of Water Resources**

During the 2017-18 interim, the Budget Section reviewed the form of the State Water Commission budget documents and the appropriations bill for presentation to the 2019 Legislative Assembly. Prior to the 2019 legislative session, the State Water Commission budget consisted of two line items, one for administrative and support services and another for water and atmospheric resources, totaling \$722.2 million. Pursuant to North Dakota Century Code Section 54-44.1-07, the Budget Section directed that the budget bill for the department separately identify line items for salaries and wages, operating expenses, capital assets, project carryover, new projects, and any other items as needed to increase transparency in the budgeting process. As directed by the Budget Section, the Office of Management and Budget submitted the 2019-21 biennium State Water Commission budget with the newly identified line items. The Legislative Assembly renamed the State Engineer's office the Department of Water Resources in House Bill No. 1353 (2021); however, the agency's budget continues to use the separate line items as directed by the Budget Section.

### **Department of Environmental Quality**

Pursuant to Senate Bill No. 2327 (2017), the Environmental Health Section of the State Department of Health was separated from the State Department of Health into a newly created Department of Environmental Quality in April 2019. Beginning with the 2019-21 biennium, the budget for the Department of Environmental Quality was included in a separate bill, alternating between House Bill No. 1024 and Senate Bill No. 2024. The budget for the Department of Environmental Quality uses separate line items for salaries and wages, operating expenses, capital assets, and grants. For the 2023-25 biennium, the appropriations to the department total \$117.8 million.

### **Department of Mineral Resources**

During the 2023 legislative session, the Legislative Assembly separated the budget for the Department of Mineral Resources from the Industrial Commission budget within House Bill No. 1014 (2023). For the 2023-25 biennium, the appropriations to the Industrial Commission total \$135.8 million, and the appropriations to the Department of Mineral Resources total \$35.0 million. After the budgets were separated, the budgets for both agencies continued to use separate line items for salaries and wages, operating expenses, and capital assets.

### **Center for Distance Education**

Senate Bill No. 2269 (2023) provided the statutory changes necessary to transfer the supervisory authority for the Center for Distance Education from the Department of Career and Technical Education to the Department of Public Instruction. The budget for the Center for Distance Education was removed from the Department of Career

and Technical Education in House Bill No. 1019 (2023) and was included as a separate division within Senate Bill No. 2013 (2023), the Department of Public Instruction's budget bill. Prior to separating the Center for Distance Education from the Department of Career and Technical Education, the funding for the Center for Distance Education was contained as a line item in the Department of Career and Technical Education budget. The budget for the Center for Distance Education remained as a single line item but was made a separate division within the Department of Public Instruction's budget bill.

### **Department of Health and Human Services**

The State Department of Health and the Department of Human Services were merged into a newly created Department of Health and Human Services (DHHS) in September 2022 pursuant to House Bill No. 1247 (2021). Although the agencies were merged, the budget for each agency was separately identified for the 2023 legislative session with the budget for the Public Health Division of DHHS identified in House Bill No. 1004 (2023) and the budget for the Human Services Division of DHHS identified in Senate Bill No. 2012 (2023). Section 5 of House Bill No. 1004 (2023) requires the Office of Management and Budget to combine the appropriation authority for the Public Health Division and Human Services Division of DHHS from all legislation into one budget on July 1, 2023, and requires DHHS to submit one budget for the 2025-27 biennium.

### **PROPOSED STUDY PLAN**

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

1. Receive information from DFI regarding the current appropriations methods, management and staffing structures, and reporting to the executive branch and legislative branch.
2. Receive comments from DFI regarding the feasibility and desirability of changing the current appropriations methods, management and staffing structures, and reporting to the executive branch and legislative branch.
3. Receive information from DFI regarding appropriation methods and management and staffing structures in other states.
4. Receive comments from the Office of Management and Budget regarding any changes to the Department of Financial Institution's current appropriations methods and management and staffing structures.
5. Receive comments from other interested persons regarding the study.
6. Develop recommendations and any bill drafts necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Management.