



North Dakota Legislative Council

Prepared for the Government Administration Committee

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OTHER GOVERNMENT ADMINISTRATION COMMITTEE RESPONSIBILITIES - BACKGROUND MEMORANDUM

In addition to studies of the feasibility and desirability of consolidating attorney and legal-related positions in state government; the space needs of the executive, judicial, and legislative branches and the Ethics Commission; and the amount, type, cost, and occupancy of property leased by the state or any state agency; the 2021-22 interim Government Administration Committee has been assigned the following duties:

- Study funding sources for the budget of the Racing Commission (Section 3 of Senate Bill No. 2023 (2021)).
- Receive a report from the Office of Management and Budget (OMB) by October 15 of each even-numbered year, regarding the reports received by OMB from each executive branch state agency, excluding entities under the control of the State Board of Higher Education, receiving federal funds, of a plan to operate the state agency when federal funds are reduced by 5 percent or more of the total federal funds the state agency receives (North Dakota Century Code (NDCC) Section 54-27-27.1).
- Approve any agreement between a North Dakota state entity and South Dakota to form a bistate authority (NDCC Section 54-40-01).
- Receive a report during the 2021-22 interim from the Adjutant General regarding any land purchased for the expansion of Camp Grafton (Section 16 of House Bill No. 1016 (2021)).

STUDY OF THE RACING COMMISSION BUDGET

Section 3 of Senate Bill No. 2023 provides for a study of funding sources for the budget of the Racing Commission, including consideration of the feasibility and desirability of changing the Racing Commission to a special funds only budget and the effect on general fund revenues.

The 2021 Legislative Assembly appropriated \$574,495, including \$407,894 from the general fund and \$166,601 from other funds, including the Racing Commission's operating fund, to the commission for the 2021-23 biennium.

North Dakota Century Code Section 53-06.2-08 authorizes the Racing Commission to charge a license fee, as established by the Racing Commission, for races commensurate with the size and attendance of the race meet. The Racing Commission may grant licenses to horse owners, jockeys, trainers, veterinarians, concessionaires, service providers, and such other persons as determined by the commission. North Dakota Century Code Section 53-06.2-05(6) provides for the Racing Commission to deposit any fees collected under its authority in the Racing Commission operating fund. The Racing Commission may spend the fee revenues for operating costs of the commission pursuant to legislative appropriation. The Racing Commission has established the amounts of various license fees in North Dakota Administrative Code Section 69.5-01-05-02, which provides each application for a license, or its renewal, must be accompanied by the payment of an annual fee. The license fees identified include \$100 plus \$10 per day of racing for an association license to conduct live racing, \$75 for a trainer, \$50 for an individual owner, and \$7,500 for a new service provider. The fee amounts were last adjusted in July 2011. In its submitted budget request for the 2021-23 biennium, the Racing Commission estimated approximately \$132,500 of revenue to be deposited in its operating fund for the biennium.

North Dakota Century Code Chapter 53-06.2 establishes the breeders' fund, the purse fund, and the racing promotion fund and provides for the Racing Commission to administer the funds. The breeders' fund was established to financially reward breeders or owners of North Dakota-bred horses. The purse fund was established to supplement and improve purses offered at racetracks within the state. The racing promotion fund was established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state. Pursuant to NDCC Section 53-06.2-11, the breeders' fund, purse fund, and racing promotion fund receive revenue from wagers on live horse racing and simulcast and account wagering. In addition

to the three special funds, a portion of revenue from wagers on live horse racing and simulcast and account wagering is placed in the general fund.

FEDERAL FUNDS REPORT

North Dakota Century Code Section 54-27-27.1 requires each executive branch state agency, excluding entities under the control of the State Board of Higher Education, receiving federal funds, to report biennially to OMB a plan to operate the state agency when federal funds are reduced by 5 percent or more of the total federal funds the state agency receives. The report must include information on whether the agency will request state funds to offset the decrease in federal funds. The report is not required to address a reduction in federal funds received by the agency which is a result of:

- A decrease in caseloads or cost per case;
- A change in the anticipated project completion date for a construction project qualifying for federal fund reimbursement; or
- The completion of a one-time project funded in whole or in part by federal funds.

The Office of Management and Budget is required to report to the Legislative Management by October 15 of each even-numbered year on the federal funds reports received from state agencies. The report must include a summary of the reports received from state agencies on how each agency will operate with the reduction in federal funds.

The 2017-18 interim Government Administration Committee received a report from OMB in July 2018 regarding state agency plans to operate if federal funds are reduced by 5 percent or more of the total federal funds the agency receives. Due to the timing of the report, the OMB survey of state agencies was not complete. However, the committee learned six agencies, including the Information Technology Department, Tax Commissioner, School for the Deaf, Insurance Department, Aeronautics Commission, and Adjutant General, were expecting a decrease in federal funding of 5 percent or more. The committee was informed none of the six agencies intended to request state funds to offset the decrease in federal funds. Other agencies surveyed did not expect federal funding to decrease by 5 percent or more, but many responded with actions anticipated to be taken if federal funding decreased. As of July 2018, all agencies that responded indicated the programs associated with the decreased federal funding would be reduced to match the federal funding available.

AGREEMENTS BETWEEN NORTH DAKOTA AND SOUTH DAKOTA

North Dakota Century Code Section 54-40-01 provides an agency, department, or institution may enter an agreement with the State of South Dakota to form a bistate authority to jointly exercise any function the entity is authorized to perform by law. Any proposed agreement must be submitted to the Legislative Assembly or, if the Legislative Assembly is not in session, to the Legislative Management or a committee designated by the Legislative Management for approval or rejection. The agreement may not become effective until approved by the Legislative Assembly or the Legislative Management.

The South Dakota Legislature in 1996 enacted a law creating a legislative commission to meet with a similar commission from North Dakota to study ways North Dakota and South Dakota could collaborate to provide government services more efficiently. The North Dakota Legislative Council (Legislative Management) appointed a commission to meet with the South Dakota commission. As a result of the joint commission, the North Dakota Legislative Assembly enacted legislation relating to higher education and the formation of a cooperative agreement with South Dakota. The South Dakota commission proposed several initiatives, but the South Dakota Legislature did not approve any of the related bills. Since then, no proposed agreements have been submitted to the committee for approval to form a bistate authority with the State of South Dakota.

CAMP GRAFTON EXPANSION

Section 16 of House Bill No. 1016 (2021) provides for the Adjutant General to report to the Legislative Management regarding any land purchased for the expansion of Camp Grafton. The 2019 Legislative Assembly, in Senate Bill No. 2016 (2019), appropriated \$600,000 from the strategic investment and improvements fund to the Adjutant General for the Camp Grafton expansion. The expansion is to provide space for the National Guard to expand its shooting range at Camp Grafton. The 2019 Legislative Assembly provided legislative intent that:

- The Adjutant General purchase options for the purchase or long-term lease of land for the Camp Grafton expansion, including the purchase of no more than 1,600 acres and the long-term lease of the remainder, not to exceed 6,000 acres in total.

- If the Adjutant General secures options to purchase or lease all necessary land for the Camp Grafton expansion, the 2021 Legislative Assembly provide funding and authority for the purchase or long-term lease of land for the Camp Grafton expansion.
- The Adjutant General not use eminent domain for the expansion of Camp Grafton.

The Adjutant General reported to the 2021 Legislative Assembly it had spent \$28,300 for appraisals to move forward with negotiations for purchase and lease agreements.

The 2021 Legislative Assembly, in House Bill No. 1016, provided authority for the Adjutant General to continue the unexpended appropriation authority from the \$600,000 appropriation from the strategic investment and improvements fund to continue the expansion of Camp Grafton. In addition, the 2021 Legislative Assembly appropriated \$280,000 of ongoing funding from the general fund to lease land and \$1.75 million of one-time funding from the general fund to purchase land for the Camp Grafton expansion. The 2021 Legislative Assembly provided legislative intent that:

- The Adjutant General contract for the purchase or long-term lease of land for the Camp Grafton expansion, including the purchase of no more than 1,600 acres and the long-term lease of the remainder, not to exceed 6,000 acres in total.
- The Adjutant General not use eminent domain for the expansion of Camp Grafton.