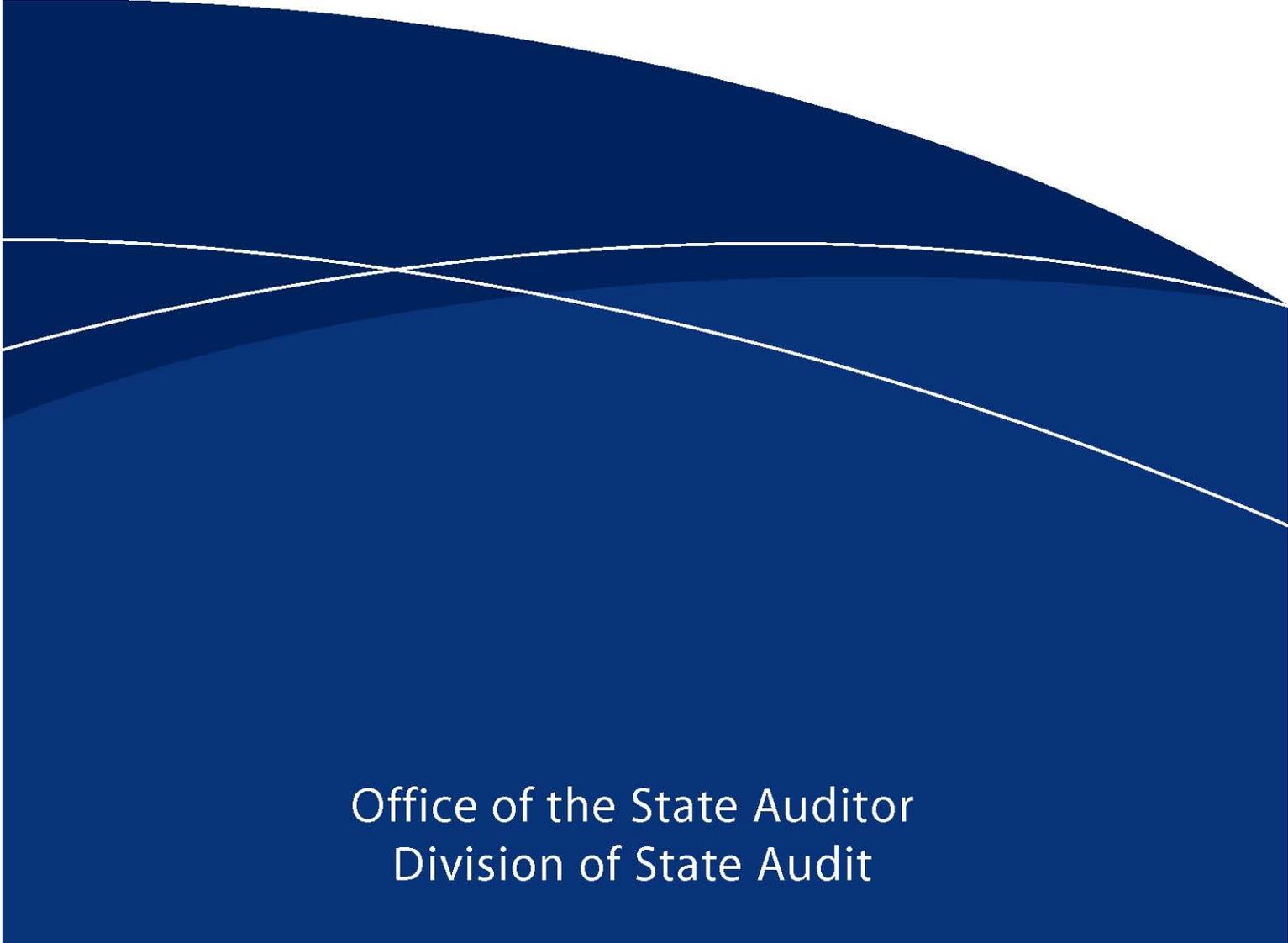


State of North Dakota Special Funds **Performance Audit Report**

December 18, 2018

Joshua C. Gallion
State Auditor



Office of the State Auditor
Division of State Audit

Office of the State Auditor

State Special Funds Report Highlights

For selected special funds, are general fund resources being used to supplant special fund resources?

No state law or fiscal policy prevents a state agency from using general fund appropriations before spending its special funds except for the Center for Distance Education. As a result, we identified approximately \$97 million in general fund resources were expended in fiscal year 2018 when state agencies had special funds available (See page 2).

Montana and Tennessee are examples of states with formally established spending prioritization policies codified into state law or fiscal policy, respectively.

Are selected special funds' fund balance levels justifiable?

For a limited number of special funds, state laws establish minimum fund balance levels or caps on amounts which can be carried over at the end of a fiscal year or biennium. No state laws or fiscal policies were identified that provide guidance on appropriate fund balance (reserve) levels for the special funds included in our audit scope. As a result, certain special funds continue to grow, and reserve levels varied significantly. Without laws or fiscal policies to provide guidance, we were not able to determine if fund balance levels were justifiable (See page 4).



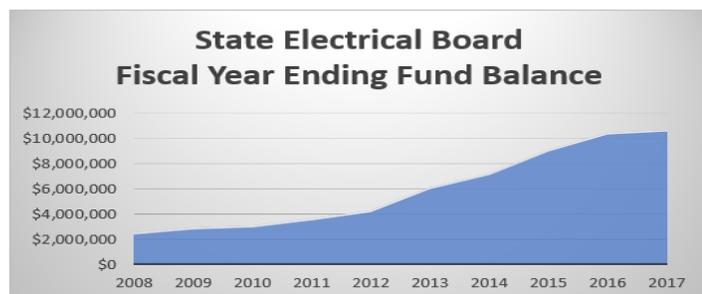
Source: ConnectND Financials

The Department of Tourism Fund is an example of a special fund with a growing fund balance level that also had resources available when general fund resources were expended. We estimated the Department of Tourism Fund's reserve level to be 30 years based on the fund's fiscal year 2018 average monthly expenditures.

Other states' local governments were identified with established reserve policies for special funds. Further, some of North Dakota's occupational and professional boards, commodity groups, and agencies established their own formal reserve policies or targets for their special funds while most special funds reviewed lacked established formal reserve policies or targets.

Compliance Finding

We also concluded the State Electrical Board is in noncompliance with state law regarding the fees charged for inspections based on the growth of their fund balance (See page 9).



Source: State Electrical Board's audited financial statements, years ended June 30, 2008 - 2017

**LEGISLATIVE AUDIT AND FISCAL REVIEW
COMMITTEE MEMBERS**

**Senator Jerry Klein – Chairman
Representative Chet Pollert – Vice Chairman**

Representatives

**Bert Anderson
Patrick Hatlestad
Mary Johnson
Keith Kempenich
Gary Kreidt
Andrew G. Maragos
Mike Nathe
Marvin E. Nelson
Wayne A. Trottier**

Senators

**Dwight Cook
Judy Lee
Richard Marcellais**

Auditor Personnel and Primary Contacts

State Auditor Personnel

**Ron Tolstad Jr., CPA, M.Acc.
Audit Manager**

**Richard Fuher, CPA, MBA
Auditor in-charge**

**Nathan Wangler, CPA
Auditor**

Primary Contacts

**Joe Morrissette, CPA
Director
Office of Management and Budget
Various state agencies.**

Contents

<i>Transmittal Letter</i>	<i>1</i>
<i>Introduction</i>	<i>2</i>
<i>Objectives for this Audit</i>	<i>2</i>
<i>Objective 1, General Fund Supplanting</i>	<i>2</i>
<i>Objective 2, Special Fund Balances</i>	<i>4</i>
<i>Compliance Finding</i>	<i>9</i>
<i>Purpose, Scope and Methodology</i>	<i>10</i>
<i>Purpose and Authority of the Audit</i>	<i>10</i>
<i>Scope and Methodology</i>	<i>10</i>
<i>Appendix A – List of Selected Special Funds Objective 1</i>	<i>12</i>
<i>Appendix B – Montana Spending Priority</i>	<i>15</i>
<i>Appendix C – List of Selected Special Funds Objective 2</i>	<i>16</i>
<i>Agency Special Funds</i>	<i>16</i>
<i>Commodity Groups</i>	<i>21</i>
<i>Occupational and Professional Boards</i>	<i>22</i>



STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE - DEPT. 117
BISMARCK, NORTH DAKOTA 58505

Transmittal Letter

December 18, 2018

Members of the North Dakota Legislative Assembly

Honorable Doug Burgum
Governor

Joe Morrissette, CPA
Director, Office of Management and Budget

This report contains the results of a performance audit of special funds. The audit was conducted pursuant to North Dakota Century Code 54-10-01 subsection 4, which allows the State Auditor to conduct performance audits of state agencies as the State Auditor determines necessary.

The objectives of this audit were as follows:

1. For selected special funds, are general fund resources being used to supplant special fund resources?
2. Are selected special funds' fund balance levels justifiable?

This report presents our conclusions, finding, recommendation, and the response from the State Electrical Board.

Respectfully Submitted,

/S/

Joshua C. Gallion
State Auditor

Introduction

The state uses special funds to account for certain resources which are legally or administratively restricted for specific purposes. The use of a special fund must be authorized by state law in accordance with North Dakota Century Code (NDCC) section 54-06-07:

“All fees, which are not otherwise by the laws of this state directed to be deposited in a special fund or disbursed for a special purpose, received or charged by any elective or appointive officer or deputy state officer for any act or service rendered in the officer’s official capacity must be accounted for and paid over by the officer monthly to the state treasurer and must be credited to the general fund of the state.”

For example, the State Auditor’s Operating Fund is a special fund authorized by state law. State law requires the State Auditor to charge political subdivisions for audits and any other services rendered and direct those fees to be deposited in the State Auditor’s Operating Fund. State law also requires the expenses relating to political subdivision audits be paid from this fund, within the limits of legislative appropriation.

Objectives for this Audit

The objectives of this performance audit were to respond to the following questions:

1. For selected special funds, are general fund resources being used to supplant special fund resources?
2. Are selected special funds’ fund balance levels justifiable?

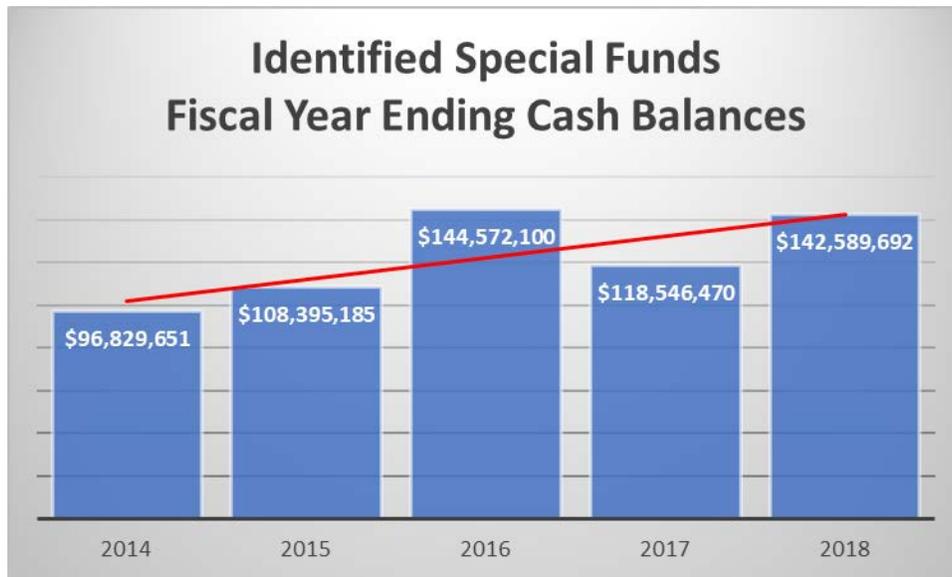
Objective 1, General Fund Supplanting

For the purpose of this audit, general fund supplanting occurs when general fund resources are expended when special fund resources were available. We identified approximately \$97 million in general fund resources were expended in fiscal year 2018 when special funds were available (17 out of 26 selected special funds).

State agencies provided various reasons for spending general funds first, including:

1. Spending general funds and special funds as budgeted. Support for this assertion was sometimes evident in the Internet Budget Analysis and Reporting System (IBARS).
2. Special funds were being saved for significant future expenditures, such as software or other capital expenditures.
3. Special funds were being saved to deal with future budget cutbacks.
4. There is nothing in state law preventing them from expending general fund appropriations before expending special funds.
5. Special funds are typically spent down in the second year of the biennium.

We also identified, in total, special funds with resources available have grown by approximately \$44.7 million or 47 percent since the end of fiscal year 2014. The following graph illustrates the total fiscal year ending cash balances of the identified special funds over the last five years.



Source: ConnectND Financials

The State of North Dakota does not have a law or fiscal policy to prevent a state agency from using general fund appropriations before spending its special funds except for the Center for Distance Education. The Center for Distance Education is required to spend its special funds before using its general fund appropriation. [NDCC section 15-19-06]. Prior to 2007, the Veterans' Home was also required to expend federal and other funds before its general fund appropriations could be spent. [2007 North Dakota Session Laws chapter 307 amended NDCC section 37-15-14].

The Office of Management and Budget discloses the following in the state's Comprehensive Annual Financial Report (CAFR):

"When both general purpose and restricted funds are available for use, it is the State's policy to use restricted resources first."

However, no such spending prioritization policy has been formally established.

The Legislative Council and Office of Management and Budget confirmed no other requirements or guidance exists related to the order in which general fund resources and special fund resources are required to be spent.

According to *Statement No. 34 of the Governmental Accounting Standards Board (GASB)*, governments should disclose (if applicable), the government's policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net assets are available. *Statement No. 54 of the Governmental Accounting Standards Board* relates to governments establishing a policy to address the spending order for unrestricted fund balance (committed, assigned, or unassigned amounts) when an

expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used.

While other states make similar disclosures without formally established policies, below are two examples of states with formally established policies.

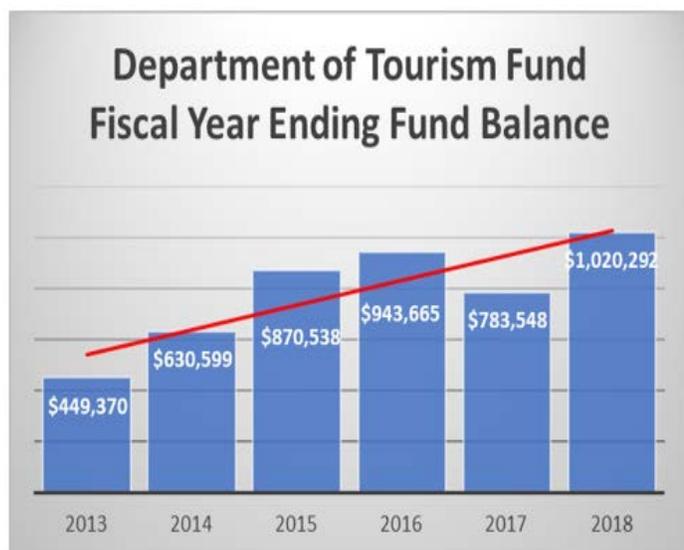
- Montana’s spending prioritization policy is codified in state law. Montana Code Annotated section 17-2-108, states, in part, “An office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated non-general fund money whenever possible before using general fund appropriations.” However, certain entities are provided exemptions. See Appendix B for the full text of Montana Code Annotated section 17-2-108.
- Tennessee’s spending prioritization policy is outlined in a policy statement of the Department of Finance and Administration issued in accordance with the authority granted under the Tennessee Code Annotated. The Finance and Administration Policy states, “When both restricted and unrestricted resources are available for use and allowable, restricted resources are generally used first and then unrestricted as necessary. Of the unrestricted resources, the state considers that committed amounts would be reduced first, followed by assigned amounts and then unassigned amounts.”

A list of the selected special funds for this objective, along with fiscal year ending cash balances, can be found in Appendix A of this report.

Objective 2, Special Fund Balances

The second objective for this performance audit was to answer the question, “Are selected special funds’ fund balance levels justifiable?” We found certain special funds continue to grow, and reserve levels varied significantly. However, without laws or fiscal policies providing guidance on appropriate fund balance (reserve) levels, we were not able to determine if fund balance levels were justifiable.

The Department of Tourism Fund is an example of a special fund with a growing fund balance level. We estimated the Department of Tourism Fund’s reserve level to be 30 years based on the fund’s fiscal year ending fund balance in relation to the fund’s fiscal year 2018 average monthly expenditures. The fund was also identified in the first objective as having resources available in fiscal year 2018 when general fund resources were expended. The graph illustrates the growth of the Department of Tourism Fund’s fiscal year ending fund balance since the end of fiscal year 2013. As of December 18, 2018, the Department of Tourism Fund’s fund balance was \$1,050,430.



Source: ConnectND Financials

For a limited number of special funds, state laws establish minimum fund balance levels or caps on amounts which can be carried over at the end of a fiscal year or biennium. For example,

- The North Dakota Game and Fish Department shall 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 [NDCC 20.1-02-16.1].
- The North Dakota Insurance Department is required to have the Office of Management and Budget transfer any fund balance remaining in the Insurance Regulatory Trust Fund that exceeds \$1 million to the general fund after the fiscal year has been closed and all expenses relating to the fiscal year have been accounted for [NDCC 26.1-01-07.1].
- Secretary of State shall transfer any unobligated balance remaining in the General Services Operating Fund exceeding \$75,000 to the general fund [NDCC 54-09-08].
- Workforce Safety and Insurance (WSI) is required to maintain adequate financial reserves plus net position of at least 120 percent to a maximum of 140 percent of the actuarial established discounted reserve. Should WSI's available net position be outside of these levels, the statute allows WSI two years to come into compliance. However, statute restricts WSI from granting a dividend credit of greater than 50 percent of the prior year's premium [NDCC 65-04-02].

However, no state laws or fiscal policies were identified that provide guidance on appropriate fund balance (reserve) levels for the special funds included in our audit scope.

The Government Finance Officers Association (GFOA) recommends that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the general fund for financial reporting and budgetary purposes. The policy should be set by the appropriate policy body and define a framework and process for how the government would increase or decrease the level of unrestricted general fund balance over a specific time period.

We identified other state's local governments which established reserve policies for special funds. Further, some of North Dakota's occupational and professional boards, commodity groups, and agencies established formal reserve policies or targets for their special funds. These reserve policies typically defined and set goals to help maintain a prudent level of financial resources to protect against reducing service levels or raising taxes and fees because of temporary revenue shortfalls or unpredicted one-time expenditures. However, most special funds included in our audit scope lacked established reserve policies or targets.

The GFOA also recommends, at a minimum, that state and local governments, regardless of size, maintain unrestricted budgetary fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures. The GFOA also indicates a government's unique situation often may require a level of unrestricted fund balance in the general fund significantly in excess of this recommended minimum level. When establishing a policy governing the level of unrestricted fund balance in the general fund, the GFOA recommends governments consider a variety of factors, including the predictability of its revenue and the volatility of its expenditures; perceived exposure to significant one-time outlays; and the availability of resources in other funds.

Certain selected special funds are self-supporting funds that do not have resources available in other funds. Examples of self-supporting funds include commodity groups and occupational and professional boards that do not receive general fund appropriations. According to the GFOA, it

could be justifiable for a self-supporting fund to have more fund balance in reserve than an agency's operating fund where general funds have been appropriated.

The Civic Federation, which is an independent, non-partisan government research organization that provides analysis and recommendations on government finance issues for the Chicago region and the State of Illinois, considers reserve levels to be excessive if the fund balance ratio of unreserved general and special revenue balances to operating expenditures is higher than 50 percent.

State Agency Special Funds:

Forty-seven state agency special funds met our criteria for this objective defined on page 10. Commodity group and occupational and professional board special funds will be discussed in the following sections of this report. The estimated number of months in reserve for the selected agency special funds ranged from 6.1 months (Agriculture Department Fund) to 356.8 months (Department of Tourism Fund). One selected special fund (State Infrastructure Bank) had no fiscal year 2018 expenditures to calculate the number of months in reserve. The State Highway Fund had the largest fund balance amount, which was approximately \$540 million (17.8 months in reserve). It should be noted that the:

- State Infrastructure Bank is in the process of being closed out by the Department of Transportation with the remaining balance eventually being transferred to the State Highway Fund.
- State Highway Fund has carryover authority from the legislature in the amount of \$503,115,558 relating to enhanced state highway investments until June 30, 2021.

The fiscal year 2018 ending fund balances and fund expenditures used to determine the number of months in reserve were obtained from the legal balances on the state's accounting system. The ending fund balance amounts and the number of months in reserve do not reflect commitments as of June 30, 2018, or other information which could affect the reserve calculation. Below are a few examples of items which could skew the ending fund balance levels and number of months in reserve:

- Aeronautics Commission Fund's fiscal year 2018 ending fund balance was approximately \$5.7 million. However, information provided by the Aeronautics Commission listed \$4.4 million in outstanding grant obligations to airports at June 30, 2018.
- Attorney General Refund Fund's fiscal year 2018 ending fund balance was approximately \$8.7 million. However, the 65th Legislative Assembly provided the Attorney General an exemption to NDCC requirements which would have resulted in a portion of the fund balance at the end of last biennium (June 30, 2017) being transferred to the general fund.
- Environmental and Rangeland Protection Fund's fiscal year 2018 ending fund balance was approximately \$6.7 million. Multiple state agencies expend money from this fund capped by legislative appropriations.
- Career and Technical Education Fund balance level is the result of a \$2,477,000 transfer from the Foundation Aid Stabilization Fund appropriated by the 65th Legislative Assembly for providing grants to school districts and area centers for career and technical education programs.

The Game and Fish Department was the only agency to establish a formal target or policy for its special fund. By law, the Game and Fish Department Fund cannot be reduced below \$15 million, unless authorized by the Budget Section. The Department's policy is to keep an amount equal to

25 percent to 50 percent of its biennial appropriation in reserve funds and will pursue either program cutbacks, increased income (i.e. through license fee increases), or a combination of the two, as alternatives to drawing reserve funds to a dangerously low level. According to the Department's policy, based on its 2017-19 biennial appropriation of approximately \$84 million, reserve funds should be between \$21 million and \$42 million. The Game and Fish Department Fund's fiscal year 2018 ending fund balance was approximately \$32.7 million.

See Appendix C for a complete list of the agency special funds included in our audit scope for this objective, along with additional information related to the ending fund balance levels.

Commodity Groups:

Ten commodity group special funds met our establishing criteria for this objective defined on page 10. The estimated number of months in reserve ranged from 6.1 months (Oilseed Council) to 26.6 months (Ethanol Council). The Soybean Council had the largest fund balance amount, which was approximately \$10 million (10.7 months in reserve). One factor commodity groups face in setting an appropriate reserve level relates to fluctuations in production, which can significantly reduce their revenues. The following commodity groups had established formal targets or policies.

- Barley Council's policy is to maintain a reserve level based on the formula (8-year rolling average of U.S. Department of Agriculture (USDA) – National Agricultural Statistics Service (NASS) production X 0.90 X \$0.02) X 1.5). The Council uses the factor of 0.90 to indicate the percentage of the NASS production that would be sold in North Dakota thus subject to the \$0.02 per bushel assessment. The Council uses the factor 1.5 because they strive to maintain account balances approximately equivalent to 1.5 years of the rolling average of estimated revenue. As of June 30, 2018, the Council had approximately 44 percent more in reserve than the policy dictated.
- Beef Commission's policy is to maintain a fund balance estimated to be equal to a 6-month operating budget in addition to any long-term liabilities the Commission has previously incurred. As of June 30, 2018, the Commission had a fund balance estimated to be equal to less than a 6-month operating budget after factoring in approximately \$722,000 in outstanding research contract obligations to be paid over the next 3 years.

See Appendix C for a complete list of the commodity group special funds included in our audit scope for this objective.

Occupational and Professional Boards:

Ten occupational and professional boards included in Title 43 of the North Dakota Century Code met our establishing criteria for this objective defined on page 10. The estimated number of months in reserve ranged from 7 months (State Board of Accountancy) to 49.7 months (State Board of Registration for Professional Engineers and Land Surveyors). The State Electrical Board had the largest fund balance amount (or equivalent), which was approximately \$10.6 million (31 months in reserve). Five of the 10 occupational and professional boards reviewed had established some form of reserve policy or target.

When establishing an appropriate target reserve level, several factors need to be considered. For example, a common threat facing occupational and professional boards is the potential for litigation related to disciplining a licensee. Another factor could be the frequency of license

renewals (annual vs. biennial). The following occupational and professional boards have a formal reserve policy or target:

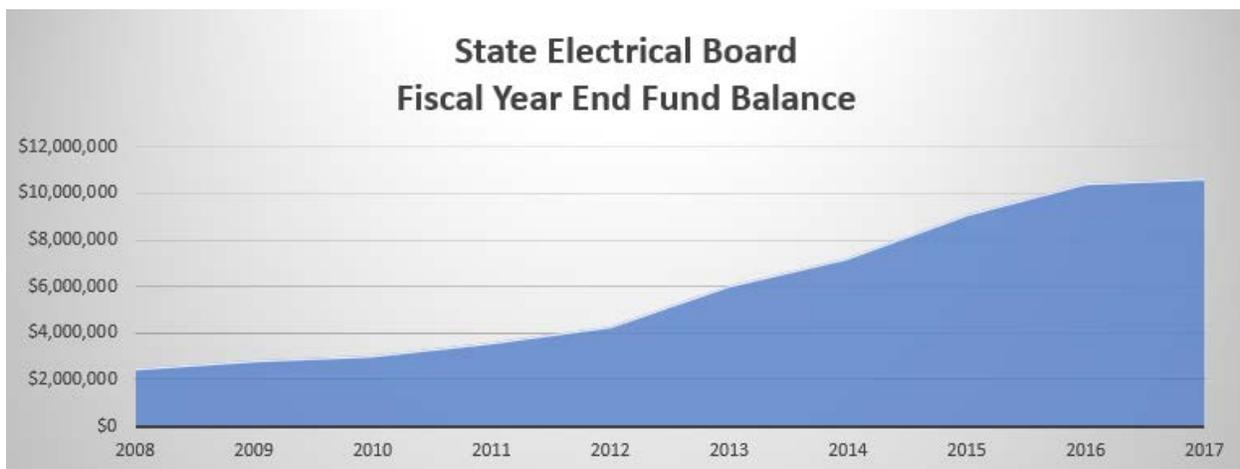
- The State Board of Accountancy's target reserve level is 60 percent of expenses. As of June 30, 2017, the Board had 59.4 percent of expenses in reserve.
- The State Board of Dental Examiners' policy regarding reserves is to maintain 1.5 times annual expenses (biennial license renewals). As of June 30, 2017, the Board had less than 1.5 times annual expenses in reserve.
- The State Board of Registration for Professional Engineers and Land Surveyors' (PELS) Resolution for Operating Reserve creates an office operations reserve fund in an amount equal to one year of operating expenses and in addition to the Legal Fund based on the previous years' actual operating expenses. As of June 30, 2016, the Board had 3.8 years of operating expenses in reserve, which exceeded the reserve amount established by the Board, and \$200,000 in the Legal Fund. However, the Board has since increased the Legal Fund to \$1 million due to six pending legal cases.
- The State Board of Pharmacy has set a contingency fund goal at 100 percent of the annual budget to allow for unforeseen expenditures, such as litigation or defense of North Dakota's pharmacy laws. As of June 30, 2016, the Board had less than the amount designated for the next year's anticipated operating costs in reserve.
- The Real Estate Commission's policy is to maintain one year of operating expenses in reserve. In addition, the Commission is required by law to maintain a minimum of \$60,000 in a Real Estate Education, Research, and Recovery Fund [NDCC 4-23.2-02]. As of June 30, 2017, the Commission had more than two years of operating expenses in reserve and \$93,597 in the Real Estate Education, Research, and Recovery Fund.

See Appendix C for a complete list of the occupational and professional boards included in our audit scope for this objective.

Compliance Finding

North Dakota Century Code section 43-09-22 states, “The [State Electrical Board] may charge the master electrician responsible for the installation a fee to cover the cost of inspection.” We concluded the State Electrical Board accumulated excess fund balance as a result of charging amounts in excess of the cost of inspections.

The State Electrical Board’s total fund balance has grown to \$10.6 million for the year ended June 30, 2017, which equates to approximately 31 months in reserves based on the average monthly expenditures for fiscal year 2017. The following chart illustrates how the State Electrical Board’s total fund balance has grown from the end of fiscal year 2008 to the end of fiscal year 2017.



Source: State Electrical Board’s audited financial statements for the years ended June 30, 2008, through 2017

The State Electrical Board’s excess charges resulted from the fee structure not being updated timely during the increased economic activity related to the Bakken oil development.

Recommendation

The State Auditor recommends the State Electrical Board ensure fees charged do not exceed the costs of inspections. Further, the State Electrical Board should work with the Legislature to determine what should be done with its excess fund balance.

Management’s Response

The State Electrical Board policy is to carry approximately 18-24 months reserve and does agree with these findings. The board has already started to work on adjusting the inspection fee structure and processes to timely address needed changes. Currently, the board is working with the legislature (SB 2056) to address any excess fund balance.

Purpose, Scope and Methodology

Purpose and Authority of the Audit

The State Auditor selected this performance audit of special funds under authority granted in North Dakota Century Code 54-10-01 subsection 4.

Performance audits are defined as engagements that provide assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria, such as specific performance requirements, measures, or defined business practices. Performance audits provide objective analysis so management and those charged with governance and oversight can use the information to improve performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability. The purpose of this report is to communicate our findings, conclusions, and recommendations based on our review of selected special funds.

Scope and Methodology

The Office of the State Auditor conducted this audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require the audit be planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on our audit objectives. The evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Objective 1: For selected special funds, are general fund resources being used to supplant special fund resources?

The scope of the first objective was limited to special funds accounted for on the state's ConnectND Financials Module where general fund resources appeared to be used for similar expenditures. Special funds assigned to the North Dakota University System and those with cash balances less than \$250,000 as of May 31, 2018, were excluded. In addition, distribution, fiduciary, trust, and reserve funds were excluded. The audit period for the first objective was from July 1, 2016, to June 30, 2018. A list of the selected special funds for the first objective can be found in Appendix A.

Objective 2: Are selected special funds' fund balance levels justifiable?

The scope of the second objective included special funds accounted for in the state's ConnectND Financials Module and certain occupational and professional boards included in Title 43 of the North Dakota Century Code. Special funds assigned to the North Dakota University System and occupational and professional boards with annual receipts less than \$200,000 were excluded. Special funds with ending fund balances less than \$250,000 or with reserve levels less than six months were also excluded. Special fund reserve levels were calculated by dividing the fiscal year 2018 ending fund balance by the fiscal year 2018 average monthly expenditures. In addition, distribution, fiduciary, trust, and reserve funds were excluded. The audit period for the second objective was July 1, 2017, to June 30, 2018; except for occupational and professional boards. For occupational and professional boards, the audit period was the fiscal year of the most recently submitted audited financial statements to the Office of the State Auditor. A list of the selected special funds for the second objective can be found in Appendix C.

Methodologies included:

- Researching North Dakota Century Code and Session Laws for laws related to the spending order of resources and fund balance levels.
- Reviewing the Office of Management and Budget's *Fiscal and Administrative Policy* and the state's *Comprehensive Annual Financial Report* for policies or other guidance related to the spending order of resources and fund balance levels.
- Interviewing management of the Office of Management and Budget and Legislative Council about any known laws or policies related to the spending order of resources or fund balance levels.
- Researching best practices related to spending order of resources or fund balance levels.
- Analyzing the state's ConnectND financials data to identify special funds where it appeared general fund resources were used for similar expenditures.
- Analyzing the state's ConnectND financials data and occupational and professional board financial statements to calculate the number of months in reserve.
- Interviewing management of those agencies assigned selected special funds about the uses of general fund resources and special fund resources or the number of months in reserve.

Appendix A – List of Selected Special Funds Objective 1

The following tables list the 26 selected special funds for the first objective, “For selected special funds, are general fund resources being used to supplant special fund resources?” The agency listed represents the primary agency expending resources from the fund. The fiscal year ending cash balances for each of the funds are provided for the last five fiscal years for informational purposes.

Identified Special Funds with Resources Available When General Funds Were Expended						
Agency	Fund Name	Fiscal Year Ending Cash Balances				
		2014	2015	2016	2017	2018
Commission on Legal Counsel for Indigents	Indigent Defense Administration Fund	\$2,170,770	\$467,596	\$472,026	\$1,048,250	\$1,523,613
Department of Agriculture	Agriculture Department Operating Fund	\$561,600	\$406,117	\$839,939	\$945,840	\$1,345,377
Department of Commerce	Department of Tourism	\$635,655	\$885,336	\$949,255	\$1,050,476	\$1,023,511
*Department of Corrections and Rehabilitation	Penitentiary Land Replacement Fund	\$2,009,795	\$665,485	\$649,292	\$343,830	\$331,561
Department of Corrections and Rehabilitation	Department of Corrections and Rehabilitation Operating Fund	\$5,136,492	\$4,855,076	\$6,064,364	\$6,233,276	\$4,535,897
Department of Health	Department of Health Operating Fund	\$4,912,221	\$6,029,339	\$6,091,544	\$4,896,829	\$3,263,242
Department of Human Services	Human Services Department Fund	\$48,885,791	\$66,440,327	\$100,926,913	\$67,482,409	\$95,513,551
Department of Parks and Recreation	State Park Fund	\$3,423,757	\$2,259,779	\$2,587,172	\$5,454,379	\$6,346,542
Information Technology Department	Educational Technology Council Fund	\$752,363	\$645,442	\$640,229	\$1,676,715	\$967,584

* A portion of the Penitentiary Land Replacement Fund could have been potentially used to reduce fiscal year 2018 general fund expenditures related to allowable maintenance items, if such funds had been budgeted and appropriated.

Identified Special Funds with Resources Available When General Funds Were Expended in Fiscal Year 2018						
Agency	Fund Name	Fiscal Year Ending Cash Balances				
		2014	2015	2016	2017	2018
Office of the Adjutant General	Radio Communications Fund	\$465,199	\$576,264	\$474,848	\$800,900	\$406,415
Office of the Adjutant General	State Hazardous Chemicals Fund	\$348,499	\$424,381	\$513,792	\$540,689	\$603,490
Office of the Adjutant General	Veterans Cemetery Fund	\$332,843	\$368,151	\$439,327	\$336,525	\$458,542
Office of the Attorney General	Attorney General Refund Fund	\$9,040,960	\$8,617,187	\$7,126,585	\$8,565,673	\$8,699,333
Office of the Attorney General	Attorney General's Operating Fund	\$14,094,311	\$9,816,457	\$7,700,581	\$8,795,486	\$8,484,326
School for the Deaf	School for the Deaf Fund	\$1,482,703	\$1,709,804	\$2,095,868	\$2,742,332	\$3,044,694
Vision Services/School for the Blind	School for the Blind Fund	\$583,708	\$793,133	\$1,183,397	\$1,476,006	\$1,582,279
Veterans' Home	Soldiers Home Fund	\$1,992,984	\$3,435,312	\$5,816,966	\$6,156,855	\$4,459,735

Source: ConnectND Financials

Concluded General Funds Were Not Being Used to Supplant Special Fund Resources in Fiscal Year 2018						
Agency	Fund Name	Fiscal Year Ending Cash Balances				
		2014	2015	2016	2017	2018
Aeronautics Commission	Aeronautics Commission Special Fund	\$10,229,866	\$7,623,004	\$7,676,761	\$7,144,834	\$5,823,536
Department of Agriculture	Environment and Rangeland Protection Fund	\$5,548,619	\$3,628,369	\$6,308,349	\$4,592,748	\$7,169,118
Department of Career and Technical Education	Career School Fee Fund	\$297,036	\$220,101	\$192,145	\$147,130	\$2,584,438
Department of Commerce	Ag Products Utilization Fund	\$3,275,686	\$3,341,990	\$2,970,336	\$2,200,381	\$1,868,089
Department of Commerce	Internship Fund	\$1,121,727	\$337,538	\$939,480	\$667,178	\$1,340,313
Department of Commerce	Community Service Fund	\$9,035,106	\$9,050,760	\$10,823,918	\$10,556,343	\$11,836,997
Highway Patrol	Motor Carrier Electronic Permit Transaction Fund	\$916,593	\$3,975,925	\$6,022,001	\$7,785,697	\$8,493,945
Industrial Commission	Industrial Commission Fund	\$285,909	\$922,364	\$6,660,811	\$1,719,321	\$1,680,046
Information Technology Department	Electronic Health Information Exchange Fund	\$6,602,512	\$4,648,279	\$3,353,449	\$2,410,220	\$1,434,193

Source: ConnectND Financials

Appendix B – Montana Spending Priority

Montana Code Annotated 2017

TITLE 17. STATE FINANCE

CHAPTER 2. ACCOUNTING

Part 1. Treasury Funds and Accounts

Expenditure Of Nongeneral Fund Money First

17-2-108. Expenditure of nongeneral fund money first. (1) Except for the exemptions applicable to the Montana historical society in 22-3-114(5), the Montana state library in 22-1-226(5), the Montana school for the deaf and blind in 20-8-107(5), and the department of public health and human services in 53-1-612, an office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money whenever possible before using general fund appropriations.

(2) Except as provided in 53-1-612, the approving authority, as defined in 17-7-102, shall authorize the decrease of the general fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation in an appropriation act unless the decrease is contrary to federal law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If directed by an appropriation act, the approving authority shall decrease the general fund appropriation of an agency by the amount of money received from nonfederal sources in excess of the appropriation unless the decrease is contrary to state law, state rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If the general fund appropriation of an agency is decreased pursuant to this section, the appropriation for the fund in which the money is received is increased in the amount of the general fund decrease.

(3) If directed by an appropriation act, the approving authority may decrease a state special revenue, proprietary, or other fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation unless the decrease is contrary to state or federal law or federal rule. The appropriation for the fund in which the money is received is decreased by the amount of the federal special revenue increase allowed by law, rule, or contract and approved for the purpose.

History: En. Sec. 4, Ch. 194, L. 1951; amd. Sec. 1, Ch. 101, L. 1953; amd. Sec. 8, Ch. 158, L. 1959; amd. Sec. 3, Ch. 267, L. 1971; amd. Sec. 45, Ch. 326, L. 1974; R.C.M. 1947, 82-109(2); amd. Sec. 1, Ch. 352, L. 1989; amd. Sec. 3, Ch. 787, L. 1991; amd. Sec. 4, Ch. 4, L. 1993; amd. Sec. 3, Ch. 339, L. 1995; amd. Sec. 1, Ch. 332, L. 2003; amd. Sec. 4, Ch. 576, L. 2003; amd. Sec. 1, Ch. 151, L. 2005.

Appendix C – List of Selected Special Funds Objective 2

The following tables list the selected special funds for the second objective, “Are selected special funds’ fund balance levels justifiable?”

Agency Special Funds

Forty-seven agency special funds were selected for this objective. Commodity group and occupational and professional board special funds will be discussed in the following tables of this appendix. The agency listed represents the primary agency expending resources from the fund while the average monthly expenditures are based on the fund’s total expenditures. Additional information obtained during the audit is provided below each fund as applicable.

Agency	Fund Name	Fiscal Year 2018 Ending Fund Balance	Fiscal Year 2018 Average Monthly Expenditures
Aeronautics Commission	Aeronautics Commission Special Fund	\$5,759,271	\$366,722
Approximately \$4.4 million in outstanding grant obligations at June 30, 2018.			
Commission on Legal Counsel for Indigents	Indigent Defense Administration Fund	\$1,502,775	\$34,393
Agency typically spends down its special funds in the second year of the biennium.			
Department of Agriculture	Federal Environmental Law Impact Fund	\$1,547,697	\$13,390
This fund was created by the legislative assembly to review federal environmental legislation and regulations detrimentally impacting or potentially detrimentally impacting the state’s agricultural, energy, or oil production sectors. This fund is used as determined necessary upon conferring with the Attorney General.			
Department of Agriculture	Environment and Rangeland Protection Fund	\$6,741,215	\$301,803
The legislature capped the Department’s use of the fund for the biennium at \$6.4 million.			
Department of Agriculture	Agriculture Department Operating Fund	\$1,200,136	\$197,332
Department of Career and Technical Education	Career School Fee Fund	\$2,582,765	\$4,998
Ending fund balance is the result of a \$2,477,000 transfer from the Foundation Aid Stabilization Fund appropriated by the 65 th Legislative Assembly for providing grants to school districts and area centers for career and technical education programs.			
Department of Commerce	Department of Tourism	\$1,020,292	\$2,860

Agency	Fund Name	Fiscal Year 2018 Ending Fund Balance	Fiscal Year 2018 Average Monthly Expenditures
Department of Commerce	Ag Products Utilization Fund	\$1,868,075	\$87,007
Approximately \$466,495 in outstanding grant obligations at June 30, 2018.			
Department of Corrections and Rehabilitation	Department of Corrections and Rehabilitation Operating Fund	\$10,269,215	\$589,193
Ending fund balance consists of \$4.5 million in cash while the remainder consists of approximately \$5 million in accounts receivable and large allowance for uncollectible accounts.			
Department of Human Services	Children's Trust Fund	\$721,123	\$21,225
Department of Human Services	Human Services Department Fund	\$96,038,303	\$3,317,365
Certain amounts which make up the ending fund balance are restricted for specific purposes. Overall, while the Department of Human Services indicated various adjustments are planned to be completed by the end of the biennium, the fund balance at the end of the last three bienniums has grown.			
Department of Parks and Recreation	Snow Mobile Fund	\$645,437	\$20,645
Department of Parks and Recreation	Off-Highway Vehicle Fund	\$795,525	\$28,634
Department of Parks and Recreation	State Park Fund	\$6,098,800	\$390,915
Department of Transportation	Special Road Fund	\$2,058,623	\$30,497
State law requires unobligated funds at June 30th of each odd-numbered year be held for an additional two years after which the funds revert to the State Highway Fund.			
Department of Transportation	Dealer Enforcement Fund	\$251,232	\$8,038
Department of Transportation	Highway Fund	\$540,319,811	\$30,420,753
Legislature has provided carryover authority of \$503,115,558 related to enhanced state highway investments until June 30, 2021.			
Department of Transportation	Motorcycle Safety Fund	\$450,467	\$38,179
Department of Transportation	State Infrastructure Bank	\$3,205,203	\$0
The multistate infrastructure has disbanded. The Department of Transportation indicated they are working with the federal government to close out the fund and to allow them to transfer the remaining balance into the State Highway Fund.			
Game and Fish Department	Game and Fish Fund	\$32,775,223	\$1,627,694
The ending fund balance level is in line with the Department's reserve policy.			

Agency	Fund Name	Fiscal Year 2018 Ending Fund Balance	Fiscal Year 2018 Average Monthly Expenditures
Game and Fish Department	Private Land Habitat and Access Improvement Fund	\$1,421,698	\$184,939
Highway Patrol	Motor Carrier Electronic Permit Transaction Fund	\$8,392,848	\$73,373
The 65 th Legislative Assembly expanded the use of this fund by appropriating \$1,369,165 for the purpose of defraying various expenses associated with the issuance of permits and other nonenforcement motor carrier and administrative activities. Otherwise, the Highway Patrol has been limited by North Dakota Century Code 39-12-02 regarding allowable uses of the fund.			
Historical Society	Concession Fund	\$1,016,527	\$81,358
Historical Society	Historical Gift and Bequest Fund	\$327,451	\$36,078
Industrial Commission	Carbon Dioxide Storage Facility Administration Fund	\$264,756	\$1,497
The purpose of the fund is for the regulation of carbon dioxide storage facilities. Thus far, none have been constructed in North Dakota. The ending fund balance appears to be the remainder of a general fund transfer from the 2011 Session Laws. This fund will continue to have limited expenditures until the first application is received.			
Industrial Commission	Lignite Research Fund	\$25,709,553	\$294,458
Approximately \$12.4 million in outstanding project commitments as of June 30, 2018, with a \$15 million project (Project Tundra) proposal expected to be submitted in the Fall 2018.			
Industrial Commission	Renewable Energy Development Fund	\$6,282,949	\$84,094
Approximately \$2.5 million in outstanding project commitments as of June 30, 2018.			
Industrial Commission	Geologic Data Preservation Fund	\$287,431	\$4,566
Industrial Commission	Oil and Gas Research Fund	\$12,662,923	\$322,240
Approximately \$8.4 million in outstanding project commitments as of June 30, 2018.			
Industrial Commission	Oil and Gas Reservoir Data Fund	\$648,661	\$17,413
The Industrial Commission indicated \$650,000 has been committed to a project through February 2020.			

Agency	Fund Name	Fiscal Year 2018 Ending Fund Balance	Fiscal Year 2018 Average Monthly Expenditures
Information Technology Department	Statewide Interoperable Radio Network Fund	\$4,401,801	\$37,507
This fund is newly created to provide funding associated with the purchase, installation, operation, and maintenance of a statewide interoperable radio network and the project is in the process of being completed.			
Information Technology Department	Educational Technology Council Fund	\$955,249	\$16,608
Information Technology Department	Electronic Health Information Exchange Fund	\$1,458,677	\$155,810
The 61 st Legislative Assembly provided \$8 million from the Bank of North Dakota's profits in the 2009 Session Laws. It appears this allotment is being spent down over time.			
Judicial Branch	Court Facilities Improvement and Maintenance Fund	\$1,290,533	\$43,951
Approximately \$767,235 in outstanding grant obligations as of June 30, 2018.			
North Dakota Racing Commission	Breeders' Fund	\$1,092,197	\$23,971
North Dakota Racing Commission	Racing Promotion Fund	\$307,415	\$49,260
North Dakota State Fair	State Fair Operating Fund	\$6,666,821	\$634,646
The State Fair Association's fiscal year end is September 30 th compared to the state's fiscal year end of June 30 th . In addition, the State Fair is held in July. Thus, the identified reserves at June 30 th will be used to cover costs associated with the upcoming fair, which includes guarantee payments for performers.			
Office of the Adjutant General	Veterans Cemetery Fund	\$436,776	\$30,403
Two capital improvement projects estimated at \$152,432 to be completed in fiscal year 2019.			
Office of the Adjutant General	State Hazardous Chemicals Preparedness and Response Fund	\$602,441	\$46,998
Request for Information (RFI) was submitted prior to June 30, 2018 related to a planned \$350,000 software project.			

Agency	Fund Name	Fiscal Year 2018 Ending Fund Balance	Fiscal Year 2018 Average Monthly Expenditures
Office of the Attorney General	Reduced Cigarette Ignition Propensity and Firefighter Protection Act Enforcement Fund	\$436,850	\$3,830
Office of the Attorney General	Attorney General Refund Fund	\$8,668,693	\$159,492
The 65 th Legislative Assembly provided the Attorney General an exemption to NDCC requirements which would have resulted in a portion of the fund balance at the end of last biennium (June 30, 2017) being transferred to the general fund.			
Office of the Attorney General	Twenty-Four Seven Sobriety Program Fund	\$1,755,998	\$83,086
Office of the Attorney General	Multijurisdictional Drug Task Force Grant Fund	\$274,245	\$25,507
Approximately \$200,126 in outstanding grant obligations as of June 30, 2018.			
Office of the Secretary of State	Election Fund	\$996,547	\$29,985
This fund was created to set aside the state matching funds related to the federal funds received from the Help America Vote Act of 2002. According to a representative of the audited entity, these funds will be depleted sometime during the 2019-21 biennium.			
School for the Deaf	School for the Deaf Fund	\$2,995,710	\$62,461
Securities Department	Investor Education and Technology Fund	\$930,552	\$3,568
Vision Services/School for the Blind	School for the Blind Fund	\$1,569,823	\$46,303

Source: ConnectND Financials

Commodity Groups

Ten commodity groups were selected for this objective.

Commodity Group	Fiscal Year 2018 Ending Fund Balance	Fiscal Year 2018 Average Monthly Expenditures
Barley Council	\$1,640,782	\$64,303
Beef Commission	\$1,706,832	\$188,944
Corn Council	\$4,981,302	\$209,067
Dry Bean Council	\$1,144,082	\$74,666
Dry Pea and Lentil Council	\$1,196,872	\$136,106
Ethanol Council	\$344,309	\$12,967
Oilseed Council	\$657,330	\$108,110
Potato Council	\$301,079	\$43,534
Soybean Council	\$10,066,283	\$942,604
Wheat Commission	\$6,331,053	\$340,564

Source: ConnectND Financials

Occupational and Professional Boards

Ten occupational and professional boards included in Title 43 of the North Dakota Century Code were selected for this objective. The amounts provided in the table are based on the most recently submitted audited financial statements to the Office of the State Auditor as of December 18, 2018. Total fund balance and total expenditures were used whenever available. Unrestricted net position and total expenses were substituted as needed.

Occupational and Professional Board	Financial Statement Date	Fund Balance	Average Monthly Expenditures
Firefighter's Association	December 31, 2017	\$1,493,338	\$109,576
Peace Officers Standards and Training Board	December 31, 2016	\$311,985	\$20,646
Real Estate Commission *	June 30, 2017	\$892,013	\$28,581
State Board of Accountancy	June 30, 2017	\$311,336	\$43,653
State Board of Cosmetology	June 30, 2016	\$464,672	\$24,735
State Board of Dental Examiners	June 30, 2017	\$314,311	\$19,613
State Board of Medical Examiners	December 31, 2016	\$1,819,918	\$67,164
State Board of Pharmacy	June 30, 2016	\$689,373	\$53,558
State Board of Registration for Professional Engineers and Land Surveyors *	June 30, 2016	\$2,332,086	\$42,916
State Electrical Board	June 30, 2017	\$10,663,515	\$344,347

Source: Most recent audit reports

*As of the financial statement date, the fund balances for the State Board of Registration for Professional Engineers and Land Surveyors includes \$200,000 restricted for legal proceedings and the Real Estate Commission includes \$93,597 restricted in the Real Estate Education, Research, and Recovery Fund.

You may obtain audit reports on the internet at:

www.nd.gov/auditor/

or by contacting the
Division of State Audit

Office of the State Auditor
600 East Boulevard Avenue – Department 117
Bismarck, ND 58505-0060

(701) 328-2241