

## STUDY OF THE CAPITOL COMPLEX AND STATE FACILITIES - BACKGROUND MEMORANDUM

### STUDY RESPONSIBILITIES

Section 1 of House Bill No. 1403 provides for a study of the utilization of all facilities on the State Capitol grounds, including an evaluation of facility needs by state agencies and a review of the Capitol complex master plan. This responsibility was assigned to the Government Services Committee. A copy of House Bill No. 1403 is attached as [Appendix A](#).

Section 1 of Senate Bill No. 2425 added a new subsection to North Dakota Century Code (NDCC) Section 54-44-04. The new subsection requires the Office of Management and Budget to prepare and submit a report to the Legislative Council by October 1, 2010, regarding the location, expenses, and square footage requirements of all facilities occupied by each state agency. The report must include recommendations for relocation of any entity to achieve improvements in service to the public along with optimal efficiencies in usage of space and cost. The report must include recommendations within the master plan for construction of buildings on the Capitol grounds. This responsibility was assigned to the Government Services Committee. A copy of Senate Bill No. 2425 is attached as [Appendix B](#).

### BACKGROUND Capitol Complex

The Capitol complex was established in 1883 when two tracts of 160 acres each were deeded to the Territory of North Dakota from the Northern Pacific Railroad Company. After the first State Capitol was destroyed by fire in 1930, 160 acres were sold to pay for a new building which was completed in 1934. Additional acreage was sold in 1949 and other acreage is used as easements for water and streets. The current Capitol complex consists of 132 acres. Besides the building, other facilities at the complex include the Heritage Center, State Office Building, Governor's residence, Department of Transportation building, and the Liberty Memorial Building which houses the State Library. A map of the Capitol complex is attached as [Appendix C](#).

### Facility Management

The Facility Management Division of the Office of Management and Budget is responsible for the overall daily operations and preservation of the State Capitol complex and surrounding 132-acre grounds. In addition, the division is responsible for providing space management services for most state agencies. All new construction, historical preservation and restoration, and extraordinary repairs are prioritized and forecasted for a 10-year period.

The 2009 Legislative Assembly provided a total of \$4,487,000 from the general fund for the following extraordinary repairs during the 2009-11 biennium:

	General Fund
Veterans' Memorial repairs	\$187,000
Capitol grounds building repairs	675,000
Capitol grounds parking lot repairs	1,775,000
Capitol restoration	1,200,000
Cooling tower and heat pump replacements	500,000
Exterior Capitol limestone study	150,000
Total	\$4,487,000

### Capitol Grounds Planning Commission

The Capitol Grounds Planning Commission, provided for in NDCC Section 48-10-01, advises the director of the Office of Management and Budget and the Legislative Council on matters relating to the physical and aesthetic features of the interior and exterior of all buildings on the Capitol grounds. The commission consists of the Lieutenant Governor as chairman and eight other members, including two citizens, one licensed architect, and one representative from the State Historical Society appointed by the Governor. The President of the Senate appoints two senators as members and the Speaker of the House of Representatives appoints two representatives. In addition to Lt. Governor Jack Dalrymple, current members of the Capitol Grounds Planning Commission include:

- Senator Randel Christmann.
- Senator Robert M. Horne.
- Representative Robert Kilichowski.
- Representative Matthew M. Klein.
- Merl Paaverud, State Historical Society.
- Michael Burns, licensed architect.
- Lisa Carlson, citizen member.
- Doug Prchal, citizen member.

### Capitol Building Fund

The Capitol Grounds Planning Commission administers the Capitol building fund. The Capitol building fund was established at the time of statehood by the Enabling Act of 1889. Section 12 of the Enabling Act provided 50 sections of land to North Dakota upon statehood to be used for the purpose of financing construction of public buildings for legislative, executive, and judicial use. The Capitol building fund is made up of the land, proceeds from the sale of the land, and any investment income from the proceeds. Section 12 of the Enabling Act was amended by Congress in 1957 to expand the fund's use for construction, reconstruction, repair, renovation, furnishings, equipment, or other

permanent improvements of public buildings at the Capitol.

Section 2 of Senate Bill No. 388 (1967) (contained in NDCC Section 48-10-02) provided that all money, properties, and income from the fund, unless otherwise appropriated, are dedicated and reserved for the exclusive purpose of the construction of an addition to the legislative wing. The Capitol Grounds Planning Commission is to take steps to accumulate and conserve the money and property in the Capitol building fund for such purpose.

An appropriation in Section 3 of Senate Bill No. 388 provided \$30,000 from the Capitol building fund to the commission for the purpose of conducting a study of legislative facilities and exploring the feasibility of converting additional space within the existing State Capitol for committee rooms, office space, and other legislative needs. If additional space within the State Capitol was not determined available, the commission was to prepare plans for a new wing or an addition to the existing legislative wing to provide sufficient space to meet the present and foreseeable future needs of the Legislative Assembly. Additional space was found within the existing State Capitol and no additions were built.

House Bill No. 1117 (1979) amended NDCC Section 48-10-02 to provide that the Board of University and School Lands invest and manage the fund on behalf of the Capitol Grounds Planning Commission. The bill further amended Section 48-10-02 to provide a continuing appropriation to the Capitol Grounds Planning Commission from the interest and income from the Capitol building fund not to exceed 50 percent of the unencumbered balance. Expenditures made under the continuing appropriation may be made, after consideration of the Capitol grounds master plan, for projects or planning but may not exceed \$50,000 per biennium. The bill provided that expenditures may only be made upon approval by two-thirds of the total membership of the commission. The 2007 Legislative Assembly in Senate Bill No. 2090 increased the continuing appropriation limit to \$100,000.

A 1993 Attorney General's opinion (Letter Opinion 93-L-119) dated April 1, 1993, addressed the issue of whether the principal of the Capitol building fund may be expended pursuant to legislative appropriation. The opinion stated that neither the Enabling Act nor the state constitution provide for permanent status of any portion of the Capitol building fund. The opinion further stated that funds derived from the Capitol land grant are not meant to be kept permanent and may be used as the Legislative Assembly determines. The

opinion concluded that the Legislative Assembly may appropriate funds for capital improvements which result in the expenditure of the fund's principal.

The current value of the Capitol building fund's permanent assets is \$1,429,452, of which \$1,329,508 is cash and investments and \$99,944 is land. The Capitol building fund includes 9,994 surface acres. An analysis of legislative appropriations for the Capitol building fund for the 2007-09 and 2009-11 bienniums is attached as [Appendix D](#).

## 2009 RELATED LEGISLATION

As previously stated, Section 1 of House Bill No. 1403 provides for a study of the utilization of all facilities on the State Capitol grounds, including an evaluation of facility needs by state agencies and a review of the Capitol complex master plan. As introduced, House Bill No. 1403 would have provided a \$3 million appropriation from the general fund for the design and construction of a new Governor's mansion.

In addition, Section 1 of Senate Bill No. 2425 added a new subsection to NDCC Section 54-44-04. The new subsection requires the Office of Management and Budget to prepare and submit a report to the Legislative Council by October 1, 2010, regarding the location, expenses, and square footage requirements of all facilities occupied by each state agency.

## STUDY PLAN

The following is a proposed study plan for the committee's consideration in its studies of the Capitol complex and state facilities:

1. Receive and review information regarding the current utilization of the facilities on the State Capitol grounds.
2. Receive and review information regarding the current Capitol complex master plan.
3. Receive and review information regarding the location, expenses, and square footage of Capitol complex space occupied by each state agency.
4. Receive testimony from other interested persons regarding the committee's study of the Capitol complex and state facilities.
5. Develop recommendations and any bill drafts necessary to implement the recommendations.
6. Prepare a final report for submission to the Legislative Council.

ATTACH:4