



GOVERNMENT ADMINISTRATION COMMITTEE

Tuesday, August 11, 2020
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Randy Burckhard, Chairman, called the meeting to order at 9:30 a.m.

Members present: Senators Randy Burckhard, Jay Elkin, John Grabinger, Joan Heckaman, Richard Marcellais, Scott Meyer, Kristin Roers; Representatives Pamela Anderson, Glenn Bosch, Karen Karls, Jon O. Nelson, Austen Schauer, Cynthia Schreiber-Beck

Member absent: Representative Ben Koppelman

Others present: Allen H. Knudson, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Nelson, seconded by Representative Karls, and carried on a voice vote that the minutes of the January 22, 2020, meeting be approved as distributed.

STUDY OF ACCESSIBILITY OF THE STATE CAPITOL

Mr. John Boyle, Director, Facilities Management Division, Office of Management and Budget, presented information regarding:

- The cost of improvements to the Capitol ([Appendix B](#)) for compliance with the Americans with Disabilities Act of 1990 (ADA), including costs identified by state government branch ([Appendix C](#));
- A prioritized list of ADA concerns identified in the J2 Studio Architecture + Design, PC report ([Appendix D](#));
- A list of ADA concerns that can be addressed during the 2019-20 interim, including concerns already addressed, remaining concerns to be addressed, and expected costs and funding sources to be used;
- A list of ADA concerns, costs, and proposed funding to be included in the Office of Management's (OMB) 2021-23 biennium budget request; and
- An update of the Capitol south entrance project.

Mr. Boyle said the total cost of improvements to the Capitol for ADA compliance is approximately \$460,950, which includes \$286,100 for public spaces and meeting rooms and \$174,850 for restrooms. He said the costs relate to the purchase and installation of signage, door lever locksets, door operators and closers, handrails, new doors, assisted listening devices, a new wheelchair lift, restroom stalls and grab bars, sink trap covers, and new lockers. He said the repairs would be made in legislative committee rooms and chambers, public areas of the Capitol, including the legislative and judicial wings, the cafeteria, and certain restrooms in the Capitol tower.

Mr. Boyle said other considerations to make the Capitol more accessible not required by the ADA include adding benches throughout the building, creating bariatric seating in public areas, and renovating a restroom into a family restroom. He said the cost of the additional accessibility concerns is approximately \$172,400. He said architecture fees and other potential unknown costs may result in a total cost of \$750,000 to comply with the ADA and improve accessibility of the Capitol. He said OMB intends to request the entire \$750,000 in the agency's 2021-23 biennium budget request.

In response to a question from Senator Heckaman, Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, said since OMB is including \$750,000 in its 2021-23 biennium budget request to address accessibility concerns within the Capitol, the committee may choose not to recommend its bill draft but instead recommend the 2021 Legislative Assembly support OMB's request for all or a portion of the \$750,000 to address Capitol accessibility concerns.

In response to a question from Senator Heckaman, Mr. Joe Morrisette, Director, Office of Management and Budget, said while OMB's budget request will include funding for ADA compliance concerns and will be considered for the 2021-23 executive budget, a committee sponsored bill to address ADA compliance concerns may be beneficial.

Mr. Boyle said the successful bid for the Capitol south entrance project was slightly less than the \$2 million appropriated for the project. He said the anticipated project completion date is December 1, 2020. He said additional accessible parking spaces will be added in the visitor's parking lot on the south side of the Capitol.

In response to a question from Senator Marcellais, Mr. Boyle said while there will not be parking spaces specifically designated for accessibility buses, there will be a designated area for buses to drop-off passengers to enter the Capitol south entrance.

Mr. Levi Kinnischtzke, Fiscal Analyst, Legislative Council, presented a bill draft [21.0066.01000] which would provide an appropriation of \$460,950 to OMB for costs associated with the implementation of changes to the Capitol grounds for compliance with the ADA. He said the funding would be appropriated from the Capitol building fund. He said OMB would be required to consult with the Legislative Management when considering changes to legislative branch areas and with the Chief Justice when considering changes to judicial branch areas.

Mr. Kinnischtzke presented a memorandum entitled [Analysis of the Capitol Building Fund for the 2017-19 and 2019-21 Bienniums](#). He said the Capitol building fund receives revenue primarily from rentals, royalties, and bonuses. He said the 2017-19 ending fund balance was \$6.5 million. He said the estimated 2019-21 biennium ending fund balance is \$3.5 million.

In response to a question from Senator Marcellais, Mr. Boyle said if an appropriation is provided during the 2021 legislative session, the funding likely would be available on July 1, 2021. He said the timing required for the request for proposal process and hiring an architect would result in an estimated construction period of January 2022 through April 2022.

In response to a question from Senator Roers, Mr. Boyle said OMB has completed minor ADA compliance changes in the Capitol in 2020 using funding available in the 2019-21 biennium OMB budget.

In response to a question from Chairman Burckhard, Mr. Boyle said approval will be needed from the Capitol Grounds Planning Commission before OMB makes any changes to the Capitol.

In response to a question from Representative Bosch, Mr. Boyle said the Coronavirus (COVID-19) pandemic has not affected ADA concerns of the Capitol.

It was moved by Representative Nelson, seconded by Senator Roers, and carried on a roll call vote that bill draft [21.0066.01000] be revised to provide an appropriation of \$750,000 to OMB, to clarify of the total, \$460,950 is for costs associated with ADA compliance and \$289,050 is for additional costs to improve accessibility of the Capitol, and to declare the bill an emergency measure. Senators Burckhard, Elkin, Grabinger, Heckaman, Marcellais, Meyer, and Roers and Representatives Anderson, Bosch, Karls, Nelson, Schauer, and Schreiber-Beck voted "aye." No negative votes were cast.

It was moved by Senator Roers, seconded by Representative Karls, and carried on a roll call vote that the bill draft [21.0066.01000], as revised, relating to accessibility improvements on the Capitol grounds be approved and recommended to the Legislative Management. Senators Burckhard, Elkin, Grabinger, Heckaman, Marcellais, Meyer, and Roers and Representatives Anderson, Bosch, Karls, Nelson, Schauer, and Schreiber-Beck voted "aye." No negative votes were cast.

STUDY OF THE STATEWIDE INTEROPERABLE RADIO NETWORK

Mr. Kinnischtzke distributed a report ([Appendix E](#)) from the Information Technology Department (ITD) regarding membership of the Statewide Interoperable Executive Committee, including delegate members. The report lists the 20 statutory members of the Statewide Interoperable Executive Committee, of which there are currently 7 members delegating committee representation to a designee.

In response to a question from Senator Elkin, Mr. Duane Schell, Chief Technology Officer, Information Technology Department, said law enforcement, firefighters, and emergency medical employees of cities, counties, and other political subdivisions are eligible for reimbursement of the purchase cost of vehicular and mobile radios. He said volunteer emergency personnel are not eligible for reimbursement because they are not employed by a political subdivision. He said legislation may be requested during the 2021 legislative session to allow reimbursement for volunteer emergency personnel.

In response to a question from Representative Schauer, Mr. Schell said the statewide interoperable radio network (SIRN) project will require use of state-owned towers and leased towers. He said there are agreements to use approximately 20 leased towers for SIRN. He said additional leased towers will be needed as the SIRN project progresses.

In response to a question from Chairman Burckhard, Mr. Schell said many towers being leased for the SIRN project are owned by telephone cooperatives.

Mr. Kinnischtzke presented a memorandum entitled [Government Administration Committee Study Summary - Statewide Interoperable Radio Network](#). He said the committee has received testimony from the Division of State Radio in the Department of Emergency Services, ITD, the Statewide Interoperability Executive Committee, the Emergency Services Communications Coordinating Committee, and the North Dakota Association of Counties. He said the testimony indicated state and local entities involved with governance of the SIRN project do not support a change in governance at this time.

Representative Bosch expressed concern regarding the size of the Statewide Interoperability Executive Committee. He said legislation addressing emergency services governance may be needed after the SIRN project is complete.

STUDY OF OTHER USES OF THE VETERANS' HOME FACILITIES

Mr. Mark Johnson, Administrator, Veterans' Home, presented information ([Appendix F](#)) regarding the Veterans' Home 2021-23 biennium budget request, including plans to increase basic care census and agency revenue.

Mr. Johnson said the Veterans' Home's 2021-23 biennium budget request will include a general fund reduction of \$565,432 and the reprioritization of \$917,302 in special funds, as required by the Governor's budget guidelines. He said challenges in reducing the agency's budget include the majority of expenditures are related to salaries and wages and resident care, requirements related to compliance with state and federal regulations, and certain equipment needing to be replaced due to the age of the Veterans' Home facilities. He said another challenge is reducing the agency budget when the cost of medication has increased due to the COVID-19 pandemic. He said the Veterans' Home intends to increase contracting services and reduce employees while adjusting employee shifts from 8 hours to 12 hours to reduce the cost of benefits paid to employees.

Mr. Johnson said the United States Department of Veterans' Affairs (VA) provides funding for three programs:

- Skilled care;
- Basic care; and
- Adult day care.

Mr. Johnson said if the Veterans' Home is used for purposes not approved by the VA, the state would be required to repay the VA \$15,354,187 for the portion of the Veterans' Home constructed using federal funds.

In response to a question from Representative Nelson, Mr. Johnson said the requirement to repay the VA for the portion of federal funds used to construct the Veterans' Home eventually will expire, however, the date is unknown and the Veterans' Home has not received specific information from the VA on the subject.

In response to a question from Senator Marcellais, Mr. Johnson said the Veterans' Home has 53 of 98 basic-care beds filled, an occupancy rate of 54.1 percent, and 49 of 52 skilled-care beds filled, an occupancy rate of 94.2 percent.

In response to a question from Representative Schauer, Mr. Johnson said an adult day care program at the Veterans' Home may not be successful because demand for the program may be low in a rural location like Lisbon. He said staffing the program also may be a challenge. He said the Veterans' Home could consider starting an adult day care program at non-Veterans' Home facilities in Fargo, but the program may require a significant amount of funding.

Mr. Johnson said the COVID-19 pandemic has resulted in an increase in the cost of supplies, additional overtime for employees, staffing concerns, resident isolation from family, and changing regulations. He said multiple meetings have been canceled with Eide Bailly, LLP, the vendor selected by the Veterans' Home Governing Board to develop a strategic plan and provide recommendations for filling vacant basic-care beds. He said the basic care census at the Veterans' Home is similar to other facilities in the state.

Mr. Johnson said the Veterans' Home met with Eide Bailly on August 10, 2020, for the first time to discuss services provided at the Veterans' Home, exploring a different basic care rate structure, and closing the Veterans' Home C pod. He said Eide Bailly indicated the Veterans' Home hourly rate for certified nursing assistants is \$4 lower than the market average. He said Eide Bailly expects a final report will be available in December 2020.

Mr. Johnson said no residents have contracted COVID-19, but two employees have tested positive for the virus and have since recovered. He said residents have been tested for COVID-19 three times while employees have been tested four times. He said the Veterans' Home discontinued admitting new residents in March 2020 but began again in June 2020, admitting 12 residents since resuming the admission process.

In response to a question from Senator Marcellais, Mr. Johnson said additional Veterans' Home advertisements may have helped lead to the admission of 12 new residents to the Veterans' Home. He said the Veterans' Home having no positive COVID-19 resident cases and having a reputation as a safe facility also may have contributed to the recent increase in residency.

Mr. Kinnischtzke presented a memorandum entitled [Government Administration Committee Study Summary - Revenue-Generating Uses of the Veterans' Home](#). He said the committee previously received testimony from the Veterans' Home regarding a history of the Veterans' Home and its facilities, occupancy rates for basic care and skilled care, and potential uses of Veterans' Home facilities and grounds for other revenue-generating uses and any concerns regarding these activities, including the effect of federal funds requirements and on the availability of federal funds. He said the committee received testimony regarding the feasibility of the Veterans' Home adding additional skilled-care beds, adding an adult day care program, and remodeling basic-care areas into independent assisted living units. He said the committee received testimony regarding the resident pharmacy program, costs of the program, and federal per diem funding provided from the VA for the program.

Mr. Kinnischtzke said the committee previously received testimony from the Veterans' Home Governing Board indicating the Veterans' Home basic-care census may increase as the number of Vietnam War veterans applying for residency increases.

Senator Heckaman said while adding an independent assisted living program at the Veterans' Home may be the best option, the committee may not have enough information to recommend changes at the Veterans' Home at this time. She said if the Eide Bailly report is available in December 2020, the report will provide the 2021 Legislative Assembly valuable information to make any potential program changes at the Veterans' Home.

STUDY OF STATE AND FEDERAL VETERANS' PROGRAMS

Task Force for Veterans Affairs

Ms. Danelle Hopkins, Veterans Affairs Policy Advisor, Governor's office, presented information ([Appendix G](#)) regarding recommendations made by the Task Force for Veterans Affairs to the Governor to improve the care, assistance, and benefits available to veterans. She said the task force was established in October 2018 and consists of 15 members from the Department of Veterans' Affairs, Administrative Committee on Veterans' Affairs (ACOVA), National Guard, ND Cares Coalition, and Fargo VA.

Ms. Hopkins said the COVID-19 pandemic has delayed final recommendations to the Governor. She said the proposed recommendations of the task force to the Governor include:

- Maintain ACOVA membership at 15 but reducing the number of members from the 5 largest veteran service organizations from 3 members each to 2 members each. The remaining 5 members would be elected by all North Dakota veterans and may include nominations from all veteran service organizations. All members would still be appointed by the Governor.
- At least one member of ACOVA be a member of one of North Dakota's Native American tribes.
- At least one member of ACOVA be female.
- If a member can no longer serve on ACOVA, the member's position must be filled by nominations from all North Dakota veterans.
- Remove the Adjutant General as an ex-officio, nonvoting member of ACOVA.
- Require ACOVA to standardize the criteria for nominating members in the ACOVA operating manual.
- Continue support for and awareness of veteran behavioral health support.
- Continue efforts to eliminate veteran homelessness, including establishing a Department of Veterans' Affairs Committee to End Veteran Homelessness.
- Increase education and awareness of medical marijuana for veterans.

Ms. Hopkins said the changes may be accomplished through policy and North Dakota Administrative Code changes, but legislation to amend North Dakota Century Code provisions also may be necessary.

Department of Veterans' Affairs

Mr. Lonnie Wangen, Commissioner, Department of Veterans' Affairs, presented information ([Appendix H](#)) regarding the department's 2021-23 biennium budget request, including plans to incorporate the recommendations of the Task Force for Veterans Affairs and other plans to improve the care, assistance, and benefits available to veterans. He said the department's 2021-23 biennium budget request will include a general fund reduction of \$63,447, as required by the Governor's budget guidelines. He said the reduction of \$63,447 will relate to veteran service officer travel and training (\$16,012), outreach to county and tribal veteran service officers (\$30,000), computers for volunteers (\$7,935), stand down events (\$5,000), and transport vans (\$4,500).

Mr. Wangen said the department's optional budget requests will include requests to restore the funding reduced to comply with the Governor's guidelines (\$63,447), increase funding for administrative fees for the highly rural transportation grant program (\$100,000), adding funding for a full-time equivalent (FTE) loan and grant officer position (\$158,910), adding a FTE veteran benefits specialist position for women veterans (\$158,910), adding an FTE program coordinator, training, and information officer (\$158,910), and additional funding for the non-highly rural transportation program for the purchase of transport vans (\$37,600) to provide total transport van funding of \$56,400.

In response to a question from Chairman Burckhard, Mr. Wangen said transport vans are replaced once they reach 110,000 to 120,000 miles.

In response to a question from Senator Heckaman, Mr. Wangen said the department did not purchase any transport vans during the 2017-19 biennium but a van was donated to the department. He said in June 2018, the Emergency Commission approved a line item transfer of \$37,200 to allow the department to spend the funding on other department needs instead of purchasing transport vans.

In response to a question from Representative Nelson, Mr. Wangen said the department is proceeding with stand down events despite the COVID-19 pandemic. He said Golden Valley County recently hosted its first stand down event and a Bismarck stand down event is scheduled for October 2020.

In response to a question from Chairman Burckhard, Mr. Wangen said North Dakota has approximately 400 homeless veterans based on a fall 2019 estimate.

In response to a question from Representative Schauer, Mr. Wangen said the department is promoting a federal "suicide challenge" program that includes collaboration with the VA, governor, and North Dakota mayors to raise awareness of counseling and other suicide prevention services available to veterans. He said the department also works to find counseling services for veteran family members when a veteran returns from service with post-traumatic stress disorder or another service-related affliction.

In response to a question from Senator Marcellais, Mr. Wangen said if a Vietnam War veteran or a family member of a Vietnam War veteran believes the person has suffered side effects from exposure to Agent Orange, the affected person is encouraged to contact the department to file a claim with the VA.

Mr. Wangen presented information ([Appendix I](#)) regarding the State Auditor's office 2018 performance audit of the Department of Veterans' Affairs, including actions taken by the department to address concerns and recommendations identified in the audit report. He said of the six recommendations made by the State Auditor, four recommendations have been corrected and completed. He said the Department of Veterans' Affairs is working with ITD to complete two of the audit recommendations.

OTHER COMMITTEE RESPONSIBILITIES

Mr. Morrissette presented information ([Appendix J](#)) regarding the reports from each executive branch agency receiving federal funds of a plan to operate the agency if federal funds the agency receives would be reduced by 5 percent or more, pursuant to Century Code Section 54-27-27.1. He said in July 2020, OMB surveyed the 32 executive branch agencies that receive federal funds. He said of the surveyed agencies, 2 agencies expect a decrease in federal funds of 5 percent or more in the 2021-23 biennium compared to the 2019-21 biennium, including ITD and the Adjutant General. He said neither agency intends to request state funds to replace the anticipated decrease in federal funds. He said neither agency expects a significant impact to agency operations for the 2021-23 biennium.

It was moved by Representative Karls, seconded by Senator Marcellais, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill draft recommended by the committee and to present the report and recommended bill draft to the Legislative Management.

It was moved by Senator Heckaman, seconded by Representative Schauer, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Burckhard adjourned the committee sine die at 2:15 p.m.

Levi Kinnischtzke
Fiscal Analyst

ATTACH:10