

2009 HOUSE EDUCATION

HB 1460

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

House Education Committee

☐ Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7926

Committee Clerk Signature

Carmen Hart

Minutes:

Rep. Rick Berg, District 45, appeared. We have a lot of state assets that are under utilized. We have excess K-12 assets over the years with school districts consolidating or closing. This is similar in that but also looking at our whole state and there are a couple of things that stand out. One is our Grafton Developmental Center in Grafton. Another is the School for the Deaf at Devils Lake. Most of these entities have been the economic engine of that community. I know it is very difficult but I think we should be proactive in some of these assets. That is what this bill is designed to do. It is designed to encourage some creative thinking on how to utilize our current assets so those assets will become economic engines in the future. San Haven was closed down in the 80s and it was probably not closed down right. It is still there. Could we have done something different with? In this bill state institutions would work with the local communities and local stakeholders to look at what other alternatives might be out there. Let us assume they came up with one that made sense and was viable and doable. The state of North Dakota would continue to fund for that entity for ten years for by the present value of ten years payments for that entity, and we would turn the asset over to a public private partnership for some other alternative use. He talked about the former Fergus Falls Regional Treatment Center being used for some Chinese students coming there. **(See Handout 1.)**

Rep. John Wall: Are some of these things going on without legislation?

Rep. Berg: If I were in charge of the School for the Deaf, I would not want to look at alternative uses until the legislature said we are going to eliminate your funding.

Rep. Dennis Johnson: The School for the Deaf is still being needed but for a lot of less enrollment.

Rep. Berg: My main purpose here was not to create a sense of fear for those local communities. They need to be a partner in the solution. Obviously I have been a supporter of the School for the Deaf. Having said that this bill is pretty flexible. The key from my perspective is again if the repairs and maintenance on those facilities that we are not using right now, if that is costing us \$500,000 a year if we market something long term, I would like someone else to take that responsibility other than the state of North Dakota.

Rep. Phillip Mueller: Would the state have some oversight of what that institution might be asked to close? Would you have some oversight of what would go in its place?

Rep. Berg: OMB is given some discretion on this. I would look to them to get the input. Certainly no other state has gone the road like this. I am sure of regardless of what might go in there, there would be some people that would criticize it. If the process was well thought out and provides some checks and balances, I think a positive end result could conclude.

Rep. Phillip Mueller: Let us say it did happen. Let us say up in Grafton what comes in to the institution is a window making operation. Would you not see a little bit of a problem here and that we are basically using state government dollars to subsidize business that is going to compete directly with the one across the street?

Rep. Berg: The one that we subsidized? We have a fair system when it comes to the economic development world. We certainly would want to bring a business in that is going to drive other business out. I think a lot of the incentives for economic development are such that they won't do that. If you drive into Fargo in the Industrial Park, you will find Cardinal Glass,

Integrity which is Marvin, and three other businesses that provide things that go into that window that Marvin Window sells. If in fact, there is an opportunity, should we not be exploring that with Marvin Windows who are the other suppliers would make sense for them to locate. From my prospective if one of the players in this may be the Department of Commerce engaging in some national searches and national input—if we look at the global marketplace and this Fergus Falls example I am talking about—180,000 students among 12 colleges that would all like an education. I am trying to move us a little bit out of the manufacturing mentality and think about where this global market is going. It is one of knowledge, one of technology, and one of robotics. I am not sure what the intention would be but I think if people looked at this with an open mind, there may be some wonderful alternatives. Alternatives will create jobs and a strong economy in those communities long term.

Rep. Lee Kaldor, District 20, Mayville, appeared. **(See Attachment 1.)**

Rep. Phillip Mueller: If I am hearing you right, the community is making the determination of being the driving force if you will behind a change in an institution's role or what they do. Explain to me how the OMB folks come into this picture. The way I read it the OMB drives that whole discussion and initiate then with the input of the community. It seems like you are presenting it the other way around.

Rep. Kaldor: I may be doing that with a purpose. I like to see it that way. I like to see the coordination of both the OMB and the community be very close. I would not be very supportive of legislation that would dictate to a community this is what shall happen. I think the process as we have gone through in Mayville regarding the situation we are in right now, I would have to say that the planning was not done as well as it should have been years ago.

Only until a new president arrived on the scene and they really took part to the importance of facility planning and had a master plan, did we come up with a plan like we have today. It is

my hope that the office of management and budget in studying the utilization of facilities would in essence communicate with communities and talk to them first about alternatives before they would go off and dictate or tell them this would be done. We really do need the communities to buy in if there is ever a change. If we don't, I think we run some pretty terrible risks.

Rep. Phillip Mueller: In your testimony you said if that institution or agency is serving a beneficial mission for the state. I still am not very clear on who makes that determination?

Rep. Kaldor: I hope we do. The process we go through every two years here in hearing the budgets of the agencies and the institutions of state government, we make good determination as to whether or not they are serving the purpose intended and serving the state of North Dakota. We have made mistakes and we have done some things that were destructive or damaging to communities. Another community is Ellendale. Ellendale had a fire. The state really did nothing to help that community after that happened.

Rep. Dennis Johnson: Going back to the School for the Deaf, that building to be used for a center went out to different state agencies so we need the money to renovate it. Would a bill like this be appropriated into law for something like this?

Rep. Kaldor: If they are going to move into another state agency or the utilization of a state agency, I am assuming the state would participate at least or bear the cost of that renovation if it was needed for that purpose. If it was for private purpose, then we obviously have this mechanism to provide an estimate of a current or present value for future appropriations that have otherwise been expended in that part that is sold.

Rep. John Wall: With one of the dormitories if you decided as a community that you had a need for apartments or assisted living center, how could you bring that about right now and how would this bill be able to make that happen?

Rep. Kaldor: There are probably others here who could speak to that better with OMB or with the university system. As I understand, we would have to go before some entity. I think the legislature if we were to sell state property. Leasing property is probably a little bit different. It is a fairly lengthy process. This bill would show the community that there is some assistance that would be provided if that is about to occur. Without that there is none. Right now in our community there are committees working on trying to find alternative uses for West Hall and East Hall complexes, and we really have nothing from the state other than dollars to tear them down. I think this would be better than that.

Rep. Berg: I want to concur with Rep. Kaldor on the local drive. I think something like this it is critical to have one entity that is kind of managing it. One way of setting this up might be having a local group in that community that could have a first kind of here's who might be interested, here's who might be looking, this is kind of what's going on, where they could nix or say that it sounds interesting and would like to take the next step.

There was no opposition.

Chairman Kelsch: I had a question of OMB on the fiscal note.

John Boyle, Director of Facility Management, prepared the fiscal note. Since it said it would be in the office of management and budget, we created or came up with a name of an asset manager type of position.

Chairman Kelsch: Do you believe this is going to be a full-time position and it would need to hire an individual full time to manage these assets?

John Boyle: It depends on how many assets are out there. Until we actually get into the process and figuring how many potential properties are out there—I think it could definitely be a full time position once it gets up and going. I guess it just depends on how active agencies will be in working with communities.

Rep. Karen Karls: Our Government Veterans Affairs Committee heard of two bills just last week on selling some Job Service buildings in Jamestown, Fargo, and Grafton. They are state owned buildings and they needed to come before the legislature to get permission, and would these type of buildings possibly fall under this type of an asset manager?

Vice Chair Lisa Meier: They are federal owned buildings.

Rep. Karen Karls: They are paid for with federal funds, but the federal funds come to our state and so the money would go back into their programs.

John Boyle: I believe that because they are disposals of property that they have to come before the legislature just like when we purchase an asset like an office building to lease to an agency. All those have to become before the legislature for approval. He gave this example. The Bank of North Dakota was asked to dispose of their own bank building so they listed it with a broker. It didn't sell. DOT was looking for temporary space while remodeling and getting rid of asbestos on the fourth floor of their building. They asked for his assistance and they worked with the Bank of North Dakota and they are leasing 20,000 square feet of the annex. As soon as that lease was signed, then the building was sold, because now you had a tenant in there and there is income off of the property and they sold the building.

Vice Chair Lisa Meier: What are the two locations that you are currently considering? Are they vacant buildings? You mentioned some real estate that was being looked at right now.

John Boyle: I am not sure right now.

Rep. Phillip Mueller: How do you envision this working?

John Boyle: We are working on a flowchart for Rep. Berg. I would think that the first thing that would happen is because there is so much property in the state, we would have to depend first on agencies to contact us and those would be the first ones to come under review or looking at past history and talking to budget analysts and what their agencies are dealing with.

Rep. Phillip Mueller: Once in awhile we come around here with possible base closures from the federal government. Everybody puts on their best clothes on and lines up their nicest speeches and tries their best to hold back any base changes let alone closures. How would this be any different from that process?

John Boyle: There was a base closure in South Carolina. I would hope that this works out very similar to the way that worked out, because here the federal government worked with the city and the county. They got the whole base for free and throughout economic dollars from the state they went in and redid the whole base. You have shopping centers on that land, townhouses, and planned urban developments. It is a tremendous, successful project. We would want as much input as we could from the agency. We would assist, not drive.

Rep. Berg: Mr. Boyle and I need to visit a little more. I have two conflicting things. One is that we should catalog all our assets. We should make sure that wherever they are, we are getting a good return for the taxpayers and those assets. As it relates to this, I think it could be really focused and scaled down. There are probably ten properties that over \$10 million that could fit this category. That might be the way to implement something like this would be to take those, work with the local community, the local stakeholders, and they are going to say no way or they are going to say they are open to it. Therein leads down a course of okay what are the possibilities of how to make it work? What we are trying to do here in the initial part is exact opposite of base closing. Rather than say your base is going to close, now do something with it, we are saying let us try and find an alternative use that might be better for your community long term than this current state institution.

The hearing was closed.

There was some discussion about San Haven and the mess the abandoned buildings are in. The state still owns the land. They really don't want this to happen. Those that went to Devils

Lake this summer saw various buildings at the School for the Deaf that could be utilized by state agencies. Here again, they are owned by the state and so if someone else is going to lease those back to somebody else, then we have to make the necessary renovations of the state to bring them up to code. There was talk about a dormitory built at Dickinson state that eventually was used for office purposes.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

House Education Committee

☐ Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8620

Committee Clerk Signature

Carmen Hart

Minutes:

The attached amendments were handed out. **(See Attachment 1.)** They are basically going to credence to the community and institution approved plan so the community is involved in approving the plan.

Vice Chair Lisa Meier: Essentially the fiscal note still stays?

Chairman Kelsch: That is correct. The fiscal note still stays.

Rep. Phillip Mueller: I realize we can't put a fiscal note on it because none of this has happened. If you multiply out here for a ten year time, that would be an astronomical kind of number. I think we may be setting up our legislature for a nasty bill here if this should pass at some time down the road.

Chairman Kelsch: I believe that someone should have a record of every state owned building in the state of North Dakota cataloged with a value so that there is a resource available should questions be asked. I don't know that you need a whole person to keep the catalog current. I have some questions about this whole issue would work, but the bottom line is that I think you could certainly have each one of the campuses catalog our buildings, submit it to someone who can put it into a database and we have it. I think you are potentially right that it could end up costing the state a lot more money in the end. The cost would outweigh the benefits in the end.

Rep. Jerry Kelsh: I agree with that if you are talking strictly about the university system. I think the School for the Deaf and the School for the Blind and some of those smaller institutions that we have that has some pretty useable stuff that is just kind of sitting there could help that. This is for any institution. For instance Valley City, Mayville, or whatever, if that would happen, that would be astronomical.

Chairman Kelsch: We are already doing a study for the School for the Deaf to look at what we can do with those buildings.

Rep. Phillip Mueller moved to accept amendment 90799.0201. **Rep. Corey Mock** seconded the motion.

Voice vote was taken. Motion carries.

Rep. Phillip Mueller moved a **Do Not Pass as Amended**. **Vice Chair Lisa Meier** seconded the motion.

DO NOT PASS AS AMENDED. 11 YEAS, 3 NAYS. **Rep. David Rust** is the carrier of the bill.

Rep. David Rust: One of the places where you can get a pretty good idea what buildings are out there and what their value is from their insurance plans. For instance in public schools most are insured with State Fire and Tornado Fund where the value is listed.

Rep. Jerry Kelsh: The state owned insurance company too should certainly have all that.

FISCAL NOTE

Requested by Legislative Council

02/18/2009

REVISION

Amendment to: Engrossed
HB 1460

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Because HB 1460 does not require OMB to implement any programs, there is no fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Because HB 1460 does not require OMB to implement any programs, there is no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Boyle	Agency:	OMB
Phone Number:	328-4002	Date Prepared:	02/18/2009

FISCAL NOTE
Requested by Legislative Council
02/17/2009

Amendment to: Engrossed
 HB 1460

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Boyle	Agency:	OMB
Phone Number:	328-4002	Date Prepared:	02/18/2009

FISCAL NOTE
Requested by Legislative Council
02/06/2009

Amendment to: HB 1460

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$160,754	\$0	\$173,871	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

OMB to create an asset management division to assist agencies to develop insitutional alternative use plans to ensure the requirements of the bill are achieved. Revised language in the engrossed version has not changed the need to have an additional FTE added to OMB.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenues cannot be determined until a complete inventory of lands and buildings that are not achieving their highest and best-use is prepared by state agencies and analyzed by OMB.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This newly created position will identify assets that are currently not utilized in their highest and best-use form. This position will assist the agencies holding ownership in these identified properties for either utilizing the properties highest and best-use or for disposition. The expenditure is the biennium salary for this newly created asset management position. The 2011-13 salary includes an annual 4% increase on salary and benefits.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Boyle	Agency:	OMB
Phone Number:	328-4002	Date Prepared:	02/09/2009

FISCAL NOTE
Requested by Legislative Council
01/26/2009

REVISION

Bill/Resolution No.: HB 1460

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
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Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

OMB to create an asset management division within one of its existing divisions to assist agencies to develop institutional alternative use plans to ensure that all land and buildings owned by agencies are utilized to their highest and best potential.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenues cannot be determined until a complete inventory of lands and buildings that are not achieving their highest and best-use is prepared by state agencies and analyzed by OMB.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This newly created position will identify assets that are currently not utilized in their highest and best-use form. This position will assist the agencies holding ownership in these identified properties for either utilizing the properties highest and best-use or for disposition. The expenditure is the biennium salary for this newly created asset management position. The 2011-13 salary includes an annual 4% increase on salary and benefits.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Boye	Agency:	OMB
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Phone Number: 328-4002

Date Prepared: 01/26/2009

FISCAL NOTE
Requested by Legislative Council
01/20/2009

Bill/Resolution No.: HB 1460

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
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Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Unable to determine.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Pam Sharp	Agency:	OMB
Phone Number:	328-4606	Date Prepared:	01/23/2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1460

Page 1, line 1, after "state" insert "property and" and after "use" insert "grant"

Page 1, line 3, after "State" insert "property and" and after "use" insert "grant"

Page 1, line 4, after "state" insert "property and" and after "use" insert "grant"

Page 1, line 5, after "state" insert "property or"

Page 1, line 6, after "proposed" insert "property or"

Page 1, line 8, replace "The" with "In accordance with the provisions of the community and institution approved plan, the"

Page 1, line 12, replace "may" with "shall"

Renumber accordingly

V/R
2/4/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1460

Page 1, line 1, after "state" insert "property and" and after "use" insert "grant"

Page 1, line 3, after "State" insert "property and" and after "use" insert "grant"

Page 1, line 4, after the first "state" insert "property and" and after "use" insert "grant"

Page 1, line 5, after "state" insert "property or"

Page 1, line 6, after "proposed" insert "property or"

Page 1, line 8, replace "The" with "In accordance with the provisions of the community and institution approved plan, the"

Page 1, line 12, replace "may" with "shall"

Renumber accordingly

Date:

2-4-09

Roll Call Vote #: 7

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1460

House Education

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

90799.0201

Action Taken

☒ Do Pass

☐ Do Not Pass

☐ Amended

Motion Made By

Rep Mueller

Seconded By

mended Mock
Rep Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch			Rep. Lyle Hanson		
Vice Chairman Lisa Meier			Rep. Bob Hunsakor		
Rep. Brenda Heller			Rep. Jerry Kelsh		
Rep. Dennis Johnson			Rep. Corey Mock		
Rep. Karen Karls			Rep. Phillip Mueller		
Rep. Mike Schatz			Rep. Lee Myxter		
Rep. John D. Wall					
Rep. David Rust					

*Voice vote
motion
carries.*

Voice vote
motion
carries.

Total	(Yes)	No
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No

to accept
amendment

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2-4-09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1460

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90799.0201

Action Taken ☐ Do Pass ☒ Do Not Pass ☒ Amended

Motion Made By Rep Mueller Seconded By Rep Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson	✓	
Vice Chairman Lisa Meier	✓		Rep. Bob Hunsakor	✓	
Rep. Brenda Heller		✓	Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson		✓	Rep. Corey Mock	✓	
Rep. Karen Karls	✓		Rep. Phillip Mueller	✓	
Rep. Mike Schatz		✓	Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep Rust

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1460: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1460 was placed on the Sixth order on the calendar.

Page 1, line 1, after "state" insert "property and" and after "use" insert "grant"

Page 1, line 3, after "State" insert "property and" and after "use" insert "grant"

Page 1, line 4, after the first "state" insert "property and" and after "use" insert "grant"

Page 1, line 5, after "state" insert "property or"

Page 1, line 6, after "proposed" insert "property or"

Page 1, line 8, replace "The" with "In accordance with the provisions of the community and institution approved plan, the"

Page 1, line 12, replace "may" with "shall"

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1460

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

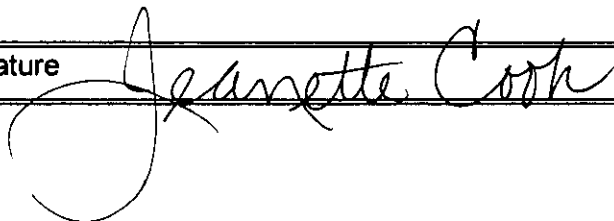
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9481

Committee Clerk Signature



Minutes:

Rep. RaeAnn Kelsch approached the podium and discussed HB 1460. It came out of Committee with a Do Not Pass, 11/3 recommendation. I think that most of you probably supported it and brought this bill back down here. I have been told that there is no longer any money in this bill. That OMB did not want to be required to do what is currently in this bill, which is to explore the opportunities for alternative uses for state institutions. In putting in the bill that they would need a new FTE to manage this program, it killed the bill. Rep. Berg has said that this is no longer the case, that OMB has said that they don't need a single person to do this. So, perhaps there is no money left in 1460.

Chm. Svedjan: If it has a Do Not pass why did it come here?

Rep. Kelsch: It passed on the House Floor.

Rep. Berg approached the podium and distributed amendment .0301. He stated that the intent of this bill was to take a look at some of these underutilized assets and try to get the local communities to say that we are willing to look at alternative uses. If they do, how would we support that? When the bill was introduced in Education, OMB came down and said that we need one FTE to do this program. OMB viewed this bill wrong. I think that these amendments clear it up. What we are saying is that we are going to put this statute on the books. OMB is not going to create a program, not going to do all this work, and not going to hire an FTE. But,

it will be sitting there. So, if Devils Lake, for example, comes to OMB and says that they have an alternative use for their facility and ask how it could work, then the bill says whatever the saving are to the state, we would take the present value of that over ten years and chip that in as part of the incentive to the local community. We haven't had specific discussions, but I think that the School of the Deaf may be an option, where there may be three million dollars a biennium. They may say that we can serve our clients needs by doing something else, but that will cost the state two million dollars. Whereas a state that would cost us two million versus three million. Then we could save three million dollars over the next ten years, so we are willing to put that amount of money into your alternative plan. Then the state would have no more liability for that facility. The whole concept is driven by the locals. We are not shoving anything down to them. They would have to get the local stakeholders involved and decide that they want to look at the alternative use. Then with the amendments, line 3-6, we would envision someone would come and state their interest. OMB will tell them what the legislature will be willing to do in a general sense. It will all take legislative approval, but at least it starts them down a road knowing that they could put some alternative together.

Rep. Berg moved the amendments .0301.

Rep. Kempenich seconded the motion.

Rep. Delzer: What about a cap? You could be talking about a lot of money?

Rep. Berg: You could be talking about a lot of savings to the state. Anything that comes forward will need legislative approval. There is a cap on the time period, ten years. My problem with the dollar cap is what if there is huge savings to the state?

Rep. Berg explained an example in Fergus Falls, MN. (7 minutes)

Rep. Wald: Would you be hampered by the constitution that states "there shall be an institution at...."?

Rep. Berg: It takes the local stakeholders to move forward. OMB would be working with the community. They would work on the legal things that need to be done, and they would be introducing them into a legislative session.

Rep. Skarphol: I don't have a problem with the amendments but have a suggestion. On lines 10 and 14 change "shall" to "may". It would state, 'may do these things'. Also add, 'provide a grant up to the present value'. Then they would have some degree of flexibility.

Rep. Berg: I could go with "grant up to". I would add that to my amendment. I defer to Rep. Kaldor for the "Shall" to "may".

Rep. Kaldor: It will be difficult to get community buy in, if there is wiggle room. If they think that this could go the other way, there would be no money available, they would certainly not cooperate in any endeavor like this. That's why I actually had those amendments put in the Education Committee. I understand the position, but if you want communities to look at this seriously, this is the only way that they will do it.

Rep. Berg: The one amendment should say, "a grant up to equal" and leave the "shall" in there.

Rep. Skarphol: I don't disagree with this. It starts out saying that state institutions **may work with**, so they have the choice if they want to work with them. With some explanation they may decide that they do want to work with the state, and they would want that commitment from the state. I think the "shalls" can stay.

Rep. Glassheim: I like this and don't want to muddy the waters. If they "shall" make a grant, does that do away with the appropriations process? Are they required to make the grant up to the present value?

Rep. Berg: It's similar to the Tobacco Fund that was just set up. There's no way for the money to be appropriated without the legislature making that decision. It sets the track down

for people to have some ideas, but it there is no intention to supersede any legislative authority.

Rep. Kaldor: Line 13 requires necessary legislative appropriation, and if there's no appropriation, there is no grant.

Rep. Delzer: You could also add in on Line 14, 'OMB shall after the legislative appropriation provide the grant'. That would clarify that you have to have the appropriation to do it.

Chm. Svedjan: The only change is changing "equal" to "up to". That is the intent.

A voice vote was taken on .0301.

The motion carried.

Rep. Klein moves a Do Pass as amended.

Rep. Kempenich seconded the motion.

Rep. Skarphol: I suggest another amendment to add to this if it does move forward. If an institution such as Mayville or NDSU, desired to close it would take a vote of the people of North Dakota. Sometimes that is difficult to get the people to approve what the local community might want. If the OMB is going to propose a constitutional amendment, maybe it should be suggested to them that they consider in that constitutional amendment, the ability of a region to have a vote of their constituents to close an institution. I am saying that because that area could very strongly want that to happen, but the rest of the state could have resistance to it.

A roll call vote was taken. Aye 22 Nay 2 Absent 1

The motion passed.

Representative Klein will carry HB 1460.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

Page 1, line 3, remove "The"

Page 1, remove lines 4 and 5

Page 1, line 6, remove "state property or institutions."

Page 1, remove line 15

Page 1, line 16, replace "to the property of the institution for the next ten years" with "savings to the state for the next ten years resulting from converting the property or institution to an alternative use. The office of management and budget shall consider the estimated cost to the state of continuing to provide the service of the institution or property to state residents when calculating the estimated savings to the state"

Page 1, line 18, replace "future appropriations and income" with "the estimated savings to the state"

Renumber accordingly

VR
2/13/09

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

Page 1, line 3, remove "The"

Page 1, remove lines 4 and 5

Page 1, line 6, remove "state property or institutions."

Page 1, line 14, replace "equal" with "up"

Page 1, remove line 15

Page 1, line 16, replace "to the property of the institution for the next ten years" with "savings to the state for the next ten years resulting from converting the property or institution to an alternative use. The office of management and budget shall consider the estimated cost to the state of continuing to provide the service of the institution or property to state residents when calculating the estimated savings to the state"

Page 1, line 18, replace "future appropriations and income" with "the estimated savings to the state"

Renumber accordingly

Date: 2/13/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1460

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ~~90759, 0504~~

Action Taken Adopt Amendment .0301 and (see below)

Motion Made By Berg Seconded By Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

"Grant up to"

Voice Vote - Carries

Change "equal to" to "up to"

Date: 2/13/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1460

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

No Par as Amended

Motion Made By

Klein

Seconded By

Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber		✓
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 22 No 2

Absent 1

Floor Assignment

Rep. Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1460, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1460 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "The"

Page 1, remove lines 4 and 5

Page 1, line 6, remove "state property or institutions."

Page 1, line 14, replace "equal" with "up"

Page 1, remove line 15

Page 1, line 16, replace "to the property of the institution for the next ten years" with "savings to the state for the next ten years resulting from converting the property or institution to an alternative use. The office of management and budget shall consider the estimated cost to the state of continuing to provide the service of the institution or property to state residents when calculating the estimated savings to the state"

Page 1, line 18, replace "future appropriations and income" with "the estimated savings to the state"

Renumber accordingly

2009 SENATE EDUCATION

HB 1460

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1460

Senate Education Committee

☐ Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10187

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1460. All members were present.

Representative Berg introduced the bill. It is an exciting bill. We have underutilized state property, for example Sand Haven and the School for the Deaf. In Fergus Falls, MN, the state closed a facility and had appropriated \$7 million to tear it down. Doug Burgum and a couple of others from Fargo worked with Hunan Province in China and will use the building to teach English to Chinese students in the fall of 2010. He distributed a photo of the facility which is attached. The number one goal of students in China is to learn English. 200 students will pay \$22,000 each and they will ramp up to 1000 students. It leads him to question what other opportunities are there in North Dakota. Usually a state entity in a district is the economic livelihood of that community. If it closes, it has negative economic impact on the community. This is permissive legislation that lays out an option for the local people to look at. The School for the Deaf is the most likely candidate. It is a beautiful old building but is not well maintained. They have 23 FTE. For example, if the School for the Deaf cost \$2 million per year and services could be provided for those students somewhere else for \$1 million per year, that would result in a saving of \$1 million per year and over 10 years that would be \$10 million. We

would pay out the \$10 million and no longer have liability for that building. It is an option for creative, innovative local people.

Senator Taylor asked what the interest rate would be.

Representative Berg said it would be discounted back by the interest rate to present value.

Senator Flakoll asked for the definition of community, would there be limits on what kind of political sub division would be eligible.

Representative Berg said no, schools that have consolidated or state facilities. It could be done discreetly. They could talk to OMB to see if it looks positive.

Senator Flakoll asked if it could be 2 groups with a good idea.

Representative Berg said the best example is economic development. They could come in discreetly and review the concept with OMB. If they decided to proceed, they would get local support.

Senator Flakoll said 6 years ago there was a federal situation in Colorado. A group repurposed a military facility that was about a square mile. They generated \$3 billion, it was amazing.

Representative Berg said that is correct. Sand Haven was a state institution that was closed in the early 90's. The pipes froze, no one was there, and the value of the building was gone quickly. There was a goose farm in Tulna that went defunct. A local group kept it heated. A group from South Dakota that made vaccines with goose eggs came to Tulna because they had the facility. It is possible that repurposing the School for the Deaf in Devils Lake could bring 100 jobs.

Senator Bakke asked if it would be possible to convert some of these facilities to condos or apartments.

Representative Berg said it should be something that generates jobs. North Dakota is good at education; a private school would be a possibility. It could be a strong economic tool.

Senator Lee said it is a novel idea that could have merit. Making the plan and taking the necessary steps could take 2 – 3 years, is that reasonable?

Representative Berg said he is open to all ideas to streamline the process. There is no cost if nothing happens.

Senator Bakke asked if there is anything in the constitution to prevent this from happening.

Representative Berg said on line 8 it says that OMB will introduce any statutory or constitutional changes that are necessary.

Chairman Freborg closed the hearing on HB 1460.

Senator Flakoll moved a Do Pass on HB 1460, seconded by Senator Bakke.

Senator Flakoll said it is a clever, novel idea that gives people a lot of latitude. The School for the Deaf is required to be in Devils Lake. There is probably some latitude on the acreage and square footage of a facility.

Senator Bakke asked if the state would be selling the land or just the building or would it be a lease.

Senator Flakoll said it would not be a perpetual easement; any option would be on the table.

They could have very creative ideas.

The motion passed 5 – 0, Senator Flakoll will carry the bill.

Date: 3/4/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1460

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Flakoll Seconded By Sen. Bakke

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Gary Lee	✓		Senator Bakke	✓	
Senator Flakoll	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Flakoll

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1460, as reengrossed: Education Committee (Sen. Freborg, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1460 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1460

Attachment 1
HB 1460

House Education Committee

Testimony on HB 1460

January 27, 2009

Chairman Kelsch, House Education Committee, for the record, I am Representative Lee Kaldor, District 20, Mayville, ND. Thank you for allowing me the opportunity to testify before your committee regarding this legislation.

HB1460 is a fairly simple bill. The bill's prime sponsor has explained what he views as the potential benefit from this legislation. Rep. Berg has asked me to co-sponsor this legislation because he knows that I represent a district with the smallest four year university in the state residing in it. Rep. Berg and I have probably been on the opposite side of constitutional issues and debate about colleges in North Dakota for nearly twenty years. We are not likely co-sponsors. However, I agreed to this legislation for a couple of reasons. First, it is appropriate for the state to assist communities that face institutional issues such as occurred at San Haven in the early 90's. That facility was the home of the state sanitarium and was located at Dunseith. During a time of budget troubles and lack of utilization, the state decided to close the institution. The fact is our state did a horrible job of closing that facility. During the first winter, it was discovered that the steam lines and heating system had not been properly drained. Consequently, permanent damage was done to the structure that created a cost burden for any private entity wishing to purchase the building. I have not kept up with the status of that building since those days, but I do remember the debate about our obligation to assist that community during that time. We had no plan at the time and, as I recall, we basically gave the building away in its poor state of repair. This was not really a wise utilization of our resources. It is my hope that this measure would prevent such a thing from happening again in the future.

Second, I signed on to this bill to have an opportunity to state my concerns about our past actions relative to deferred maintenance and our responsibility to ensure the best utilization of our buildings in North Dakota. Even though my small campus at Mayville has not had a new state building constructed in over forty years, and in spite of the fact that our deferred maintenance is the highest per dollar of value in the entire university system, we continue to attract students pursuing a variety of degrees. This year, after much planning, the university system and the Governor have agreed to build a new building to house the education division in state of the art addition to the science building and library putting much more of the academic area under one roof. This move reduces square footage requiring heat and reduces our deferred maintenance by as much as 60% when two former dormitories, each nearly one hundred years old, are razed or separated from the university. This bill would provide an opportunity for privatization of these old buildings, possibly leading to positive economic development for the community. Right now, they can be privatized, but without some start-up capital, there is too much renovation required to make it financially feasible.

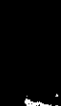
In as much as I have always resisted changes to our Constitution and the fact that the voters have made it clear that they do not want us to close colleges, I want to make it perfectly clear in my testimony that this bill is in no way an admission that the situation has changed. I am as optimistic as ever that we have

tremendous opportunities on our campus and on other campuses as well. And, I am confident that we are economic engines in our communities and the state. But, if a community sees a better option, we as a state should not stand in their way and we would be far better off assisting them in their effort with financial footings for future success.

Finally, whatever happens to this legislation, I want to impress upon this committee and the legislature the importance of maintaining in good repair the facilities we own. Not this bill, nor any other legislative appropriation plan, should be used as a justification for abandonment or under-funding of an institution, if that institution or agency is serving a beneficial mission for the state.

Thank you for your time and consideration.

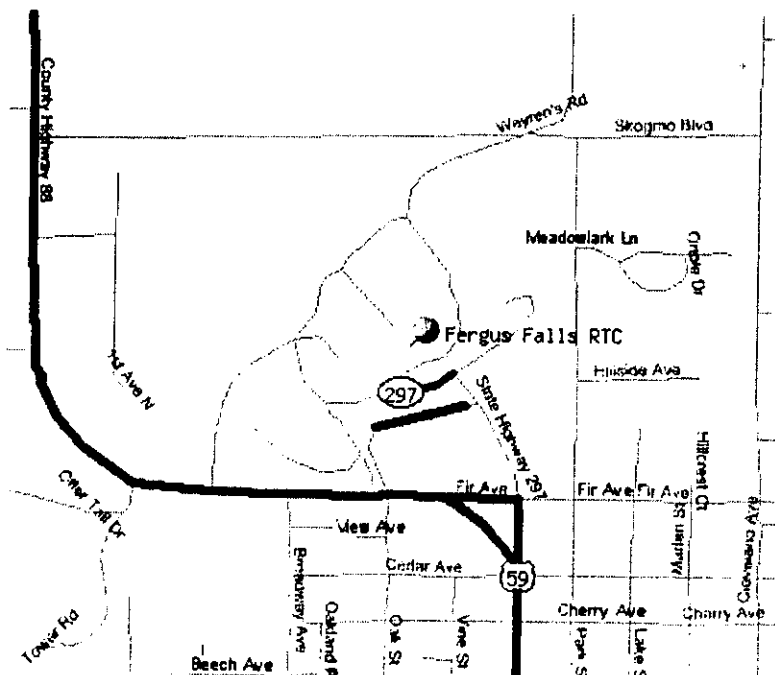
Lee Kaldor



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Kirkbride tower



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