

STUDY OF STATE AGENCY FACILITY NEEDS - BACKGROUND MEMORANDUM

STUDY RESPONSIBILITIES

Section 37 ([Appendix A](#)) of 2013 House Bill No. 1015 provides for a study of the facility needs of state agencies located in the Bismarck area, including an evaluation of current and projected facility needs of state agencies, facilities on the Capitol grounds currently being used by state agencies, and facilities owned or leased by state agencies that are not located on the Capitol grounds. The study must determine if additional facilities are needed for the operations of state agencies. If it is determined that additional space is needed, the committee is to review the most economical options for increasing the amount of facilities space available, including options for renovating or expanding existing buildings on the Capitol grounds, options for constructing new buildings on the Capitol grounds, and options for building or leasing facilities that are not located on the Capitol grounds. The responsibility for this study has been assigned to the Government Services Committee.

BACKGROUND Capitol Complex

The Capitol complex was established in 1883 when 320 acres were deeded to the Territory of Dakota from the Northern Pacific Railroad Company. After the first State Capitol was destroyed by fire in 1930, 160 acres around the perimeter of the complex 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, maintenance building, and the Liberty Memorial Building which houses the State Library. A map of the Capitol complex is attached as [Appendix B](#).

Facility Management Division

The Facility Management Division of the Office of Management and Budget (OMB) 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.

Capitol Grounds Planning Commission

The Capitol Grounds Planning Commission, provided for in North Dakota Century Code (NDCC) Section 48-10-01, advises the Director of OMB 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 Drew Wrigley, current members of the Capitol Grounds Planning Commission include:

- Senator Lonnie J. Laffen.
- Senator Connie Triplett.
- Representative Jerry Kelsh.
- Representative Matthew M. Klein.
- Mr. Merl Paaverud, State Historical Society.
- Mr. Michael Burns, licensed architect.
- Ms. Lisa Carlson, citizen member.
- Mr. 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 1967 Senate Bill No. 388 (contained in NDCC Section 48-10-02) provided 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 1967 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 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 expenditures may only be made upon approval by two-thirds of the total membership of the commission. The Legislative Assembly in 2007 Senate Bill No. 2090 increased the continuing appropriation limit to \$100,000. The Legislative Assembly in 2013 House Bill No. 1015 increased the continuing appropriation limit to \$175,000.

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 neither the Enabling Act nor the state constitution provide for permanent status of any portion of the Capitol building fund. The opinion further stated 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 the Legislative Assembly may appropriate funds for capital improvements which result in the expenditure of the fund's principal.

The Capitol building fund includes 9,994 surface acres. An analysis of the Capitol building fund for the 2011-13 and 2013-15 bienniums is attached as [Appendix C](#).

Other Facilities Leased by State Agencies in the Bismarck-Mandan Area

Several state-owned or state-leased facilities are located in the Bismarck-Mandan area. Examples of agencies owning facilities in the area include Workforce Safety and Insurance, the Department of Corrections and Rehabilitation, the Bank of North Dakota, and the Game and Fish Department. Some agencies, such as Workforce Safety and Insurance, lease a portion of its facilities to other state agencies. Attached as [Appendix D](#) is a listing of office space leased by state agencies in the Bismarck-Mandan area. Attached as [Appendix E](#) is a listing of warehouse and storage space leased by state agencies in the Bismarck-Mandan area.

PREVIOUS STUDIES

The 2009-10 interim Government Services Committee studied the utilization of facilities on the State Capitol grounds, including an evaluation of facility needs by state agencies. The committee received information regarding the capacity of facilities on the Capitol grounds and space leased by state agencies in the Bismarck-Mandan area. The committee also received information regarding the cost to house agencies on the Capitol grounds, the costs for agencies to lease space off of the Capitol grounds, and the estimated costs to construct a new facility on the Capitol grounds. The committee made no recommendations regarding its study of the utilization of facilities on the Capitol grounds.

STUDY PLAN

The following is a proposed study plan for the committee's consideration in its study of the facility needs of state agencies:

1. Receive and review information regarding the current utilization of the facilities on the State Capitol grounds and the current Capitol complex master plan.

2. Receive and review information regarding the location, expenses, and square footage of Capitol complex space occupied by each state agency.
3. Receive and review information regarding other state-owned buildings in the Bismarck-Mandan area.
4. Receive and review information regarding facilities leased by state agencies in the Bismarck-Mandan area, including lease costs and square footage of the facilities.
5. Determine if additional facilities are needed for state agencies and review the most economical options for increasing the facilities space if needed.
6. Receive testimony from interested persons regarding the committee's study of state agency facility needs.
7. Develop recommendations and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Management.

ATTACH:5