STATE CAPITOL GROUNDS DISABILITY ACCESSIBILITY - BACKGROUND MEMORANDUM

Section 1 of House Bill No. 1298 (2019) (appendix) provides for a study during the 2019-20 interim regarding accessibility of the State Capitol grounds as related to the Americans with Disabilities Act of 1990. The study must include the effectiveness of the quantity and location of handicapped accessible parking spaces and the accessibility of entrances to the Capitol in consideration of security concerns. The study also must include interior considerations including handicapped accessible restrooms with appropriate signage and seating areas on the ground floor of the Capitol for individuals to rest. The Legislative Management is required to report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the 67th Legislative Assembly. The Legislative Management has assigned the responsibility for this study to the Government Administration Committee.

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act of 1990 is a civil rights law that prohibits discrimination against individuals with disabilities related to jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to ensure individuals with disabilities have the same rights and opportunities as individuals without disabilities. The Act is divided into five titles that relate to different areas of public life:

- **Title I - Employment** - Related to helping individuals with disabilities access the same employment opportunities and benefits available to individuals without disabilities. This title is regulated and enforced by the United States Equal Employment Opportunity Commission.
- **Title II - Public Services: State and Local Government** - Prohibits discrimination on the basis of disability by public entities, such as state and local government agencies, and requires public entities to make their programs, services, and activities accessible to individuals with disabilities. This title includes provisions related to public transportation offered by state or local government. This title is regulated by the United States Department of Justice.
- **Title III - Public Accommodations and Services Operated by Private Entities** - Prohibits places of public accommodation from discriminating against individuals with disabilities, which includes privately owned, leased, or operated facilities like hotels, restaurants, retail merchants, doctor's offices, golf courses, private schools, day care centers, health clubs, sports stadiums, and movie theaters. This title requires public accommodations to remove barriers in existing buildings where it is easy to do so without much difficulty or expense. This title includes provisions related to public transportation offered by a private company. This title is regulated by the United States Department of Justice.
- **Title IV - Telecommunications** - Requires telephone and internet companies to provide nationwide system of interstate and intrastate telecommunications relay services that allows individuals with hearing or speech disabilities to communicate over the telephone and also requires closed captioning of federally funded public service announcements. This title is regulated by the Federal Communications Commission.
- **Title V - Miscellaneous Provisions** - Contains a variety of provisions relating to the Americans with Disabilities Act, including how the Act relates to other laws, state immunity, its impact on insurance providers and benefits, prohibition against retaliation and coercion, illegal use of drugs, and attorney's fees.

Since 1990, Congress has modified the Americans with Disabilities Act, most notably in 2008 and 2010.

CAPITOL GROUNDS AND FACILITIES HISTORY

The original Capitol, constructed in 1884, was destroyed by a fire in December 1930. The current Capitol building was completed in 1934 and includes the 294-foot long legislative wing. In 1981, construction on the judicial wing of the Capitol was completed. The judicial wing is 300 feet long and contains 168,400 square feet. The Capitol grounds include 132 acres. Other major buildings on the Capitol grounds are as follows:

- **Liberty Memorial Building** - In 1924, construction of the Liberty Memorial Building was completed. The building currently houses the State Library, is the oldest facility on the Capitol grounds, and underwent a complete renovation in 1982.
- **State Office Building** - In 1951, the Legislative Assembly approved House Bill No. 605 to authorize the Board of Administration to sell the south 15 acres on the west side of US Highway 83 of the Capitol grounds to the Board of Education for the construction of a new building to house Bismarck Junior College. In 1955, construction of the State Office Building was completed. Bismarck Junior College quickly outgrew the building

and in 1959, the Legislative Assembly authorized the purchase of the building. The State Water Commission is the current occupant of the State Office Building, which contains 28,838 square feet.

- **Governor's residence** - In 1960, a new Governor's residence was constructed on the Capitol grounds to replace the original Governor's residence located on Fourth Street. The second Governor's residence was demolished in 2018 after the construction of a third Governor's residence, located on the capitol grounds just north of where the second Governor's residence was located.
- **Department of Transportation (DOT) building** - In 1968, the DOT building was completed, which primarily houses DOT and contains 125,000 square feet.
- **Heritage Center** - In 1981, the State Historical Society moved into a newly constructed Heritage Center, which contained 130,000 square feet. In 2014, construction of a 97,000-square-foot expansion was completed.

CAPITOL GROUNDS AND FACILITIES RELATED STATUTES

Office of Management and Budget

North Dakota Century Code Section 54-21-18 provides the director of the Office of Management and Budget (OMB) must control, manage, and maintain the State Office Building. The building must be considered a part of the Capitol relating to the custody, maintenance, and control of the Capitol and grounds. Except as otherwise provided by law, the director of OMB has charge and control of the executive mansion, the Capitol, and the park and public grounds connected to these buildings. The director may adopt rules to promote the health, safety, and general welfare, to prohibit disturbances and disorderly assemblies, to keep the peace, and to regulate nuisances on the Capitol grounds and in any of the buildings located on the Capitol grounds. The rules may include regulation of public assemblies and accessibility to the buildings and grounds, obstructions, fees, insurance, forms, indemnification by users, and waiver of insurance and indemnity requirements by the director.

Capitol Grounds Planning Commission

Section 48-10-01 establishes the Capitol Grounds Planning Commission, which consists of the Lieutenant Governor as the chairman and eight members selected biennially as follows:

- The Governor must appoint two citizens, one licensed architect, and one representative from the State Historical Society;
- The President of the Senate must appoint two senators; and
- The Speaker of the House of Representatives must appoint two representatives as members.

Section 48-10-02 requires the Capitol Grounds Planning Commission to administer the Capitol building fund, which is reserved for the purpose of the construction of an addition to the legislative wing of the Capitol building. The Board of University and School Lands is charged with the investment and management of the fund. The section provides the commission a continuing appropriation to expend the interest and income of the Capitol building fund up to 50 percent of the unencumbered balance on the 1st day of any biennium, but total expenditures may not exceed $250,000 per biennium.

Section 48-10-03 provides the commission develop and modify long-term plans for the development of the Capitol grounds and requires the commission to approve or disapprove the basic style and exterior construction of any building, facility, monument, memorial, or work of art constructed on the Capitol grounds. The commission is allowed to accept or reject gifts for exterior placement on the Capitol grounds or for the improvement of the exterior construction of any building or facility on the Capitol grounds, including landscaping and improvements to the Capitol grounds. The section provides the commission a continuing appropriation for any gifts of money accepted, which must be deposited in the Capitol building fund. No construction or placement of an item on the Capitol grounds may be undertaken without the approval of the commission, unless the construction or placement is authorized by the Legislative Assembly. If the Legislative Assembly authorizes the construction or placement of an item on the Capitol grounds, the commission must approve the site, basic style, and exterior construction of the item within a reasonable period of time.

The commission is required to advise the director of OMB and the Legislative Council on matters relating to the physical and aesthetic features of the interior of all buildings on the Capitol grounds. The commission must be called in and must meet whenever major interior changes, including new construction, remodeling, or renovation of any kind, are proposed or considered for the buildings or facilities on the Capitol grounds. The commission must be consulted before the purchase or installation of furniture or fixtures in public areas of the Capitol and other buildings on the Capitol grounds.

The 2019 Legislative Assembly appropriated $4.22 million from the Capitol building fund, including $2 million for a Capitol south entrance project, $1.9 million for extraordinary repairs, and $320,000 for special assessments. The 2019 Legislative Assembly estimated the 2019-21 biennium ending balance in the fund will be $2.6 million.

State Building Code

Chapter 54-21.3 provides for the State Building Code, which is used to provide North Dakota citizens with nationally recognized standards and requirements for construction and construction materials, eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction or provide preferential treatment to types or classes of materials or products or methods of construction, and to ensure adequate construction of buildings throughout the state and to adequately protect the health, safety, and welfare of the citizens of North Dakota.

Section 54-21.3-03 provides the Department of Commerce, in cooperation with the State Building Code Advisory Committee, must adopt rules to implement, amend, and periodically update the State Building Code, which must consist of the international building, residential, mechanical, and fuel gas codes. The advisory committee must meet with the department or a designee of the commissioner of commerce at least once each calendar year to address proposed amendments to the State Building Code.

Section 54-21.3-04.1 provides every building or facility subject to the Americans with Disabilities Act of 1990 must conform to the 2010 Americans with Disabilities Act standards for accessible design. A state agency or the governing body of a political subdivision must require from any individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act, a statement that the plans and specifications are, in the professional judgment of that individual, in conformance with the Americans with Disabilities Act standards for accessible design. A statement of conformance must be submitted to the Department of Commerce Division of Community Services for recording.

After July 31, 2013, a newly designed and constructed building in excess of 750,000 square feet which is classified within the State Building Code as assembly, business, educational, institutional, or mercantile occupancy and required by code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010.

Section 23-13-04 provides that all doors of ingress and egress in all schoolhouses and churches within the limits of any city and in all other buildings used for public meetings or gatherings in North Dakota, including theaters, public halls, city halls, courthouses, factories, hotels, and all other public buildings where individuals are employed or meet together for any purpose, must be constructed as to conform with the requirements of State Building Code as provided in Chapter 54-21.3 and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

STUDY PLAN

The following is a proposed study plan for the committee's consideration in its study of Capitol grounds disability accessibility:

1. Receive and review information from representatives of OMB and the Capitol Grounds Planning Commission regarding:
   a. Requirements of the Americans with Disabilities Act of 1990 for the Capitol grounds;
   b. Any federal Department of Homeland Securities requirements for the Capitol grounds;
   c. The quantity and location of handicapped accessible parking spaces on Capitol grounds and opportunities to improve the quantity and locations of the parking spaces;
   d. Capitol entrance requirements to comply with the Americans with Disabilities Act of 1990 and opportunities to improve handicap accessibility for Capitol entrances, including security challenges;
   e. The quantity and location of handicapped accessible restrooms, opportunities to improve those restrooms, and the need and challenges of adding family bathrooms in the Capitol;
   f. The accessibility of Capitol committee hearing rooms;
   g. Signage requirements related to the Americans with Disabilities Act of 1990;
   h. Seating availability on the ground floor of the Capitol and opportunities to improve the availability;

i. Facility accommodations available for hearing and vision-impaired individuals;

j. The status of other handicapped accessible devices in the Capitol, including automatic bathroom doors, handicapped ramps, and manual and electric wheelchair availability for visitors; and

k. The estimated cost of potential handicapped accessible improvements including proposed funding sources.

2. Receive and review information from the Department of Commerce regarding the State Building Code and any Americans with Disabilities Act requirements related to the Capitol grounds.

3. Receive and review information from interested persons regarding the committee's study of Capitol grounds disability accessibility.

4. Develop recommendations and any bill drafts necessary to implement the recommendations.

5. Prepare a final report for submission to the Legislative Management.

ATTACH:1