

## REVENUE-GENERATING USES OF THE VETERANS' HOME - BACKGROUND MEMORANDUM

Section 35 of Senate Bill No. 2015 (2019) ([appendix](#)) provides for a study during the 2019-20 interim regarding the feasibility and desirability of developing other allowable revenue-generating uses of the Veterans' Home facilities and grounds in addition to the purposes identified in North Dakota Century Code Section 37-15-02. The study must include an analysis of potential revenue-generating activities for the Veterans' Home facilities and grounds, including a review of the effect on any federal requirements. The Legislative Management is required to report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the 67<sup>th</sup> Legislative Assembly. The Legislative Management has assigned the responsibility for this study to the Government Administration Committee.

### HISTORY, BACKGROUND, AND ELIGIBILITY

Veterans' homes were established by an Act of Congress in 1887. Certain lands were set aside in a number of states and territories for the establishment and maintenance of homes for veteran Union soldiers. The North Dakota Veterans' Home was established in 1891 and has been in operation since 1893. The Veterans' Home, originally called the Old Soldiers' Home, is owned and operated by the state and currently provides 98 basic care and 52 skilled nursing beds for North Dakota veterans, including honorably discharged soldiers of the North Dakota National Guard, and spouses.

The chairman and secretary of the Administrative Committee on Veterans' Affairs (ACOVA) are required to appoint a seven-member governing board for the administration of the Veterans' Home, which must be approved by a majority vote of ACOVA. The members of the Veterans' Home Governing Board are not required to be members of ACOVA. The chairman and secretary must also appoint a subcommittee of ACOVA members to be responsible for the supervision and governance of the Department of Veterans' Affairs. A member of the subcommittee may not serve on the Veterans' Home Governing Board. The Administrative Committee on Veterans' Affairs is required to present any veteran matters needing attention and action to the appropriate board, commission, agency, or state department, as well as the North Dakota Veterans' Legislative Council, as recommended by the Veterans' Home Governing Board or the subcommittee for the department. The Administrative Committee on Veterans' Affairs is required to ensure compliance with applicable federal and state laws in the administration of both the Veterans' Home and the department.

Section 37-15-07 requires ACOVA to appoint an administrator of the Veterans' Home and establish the qualifications, term of office, and salary of the position. Section 37-15-08 requires the administrator to appoint staff of the Veterans' Home and to establish their compensation, subject to legislative appropriations.

Section 13 of Article IX of the Constitution of North Dakota, and Section 37-15-01 provide the Veterans' Home is to be located in Lisbon. Pursuant to Section 37-15-10, to be eligible for admission, veterans must meet one of the following criteria:

- Bona fide residents of North Dakota verified 30-day residency;
- Served in a North Dakota regiment;
- Entered the armed services as a North Dakota resident; or
- Spouse or surviving spouse of an eligible veteran meet the criteria above.

A veteran whose last period of service in the armed services was terminated under dishonorable conditions is not eligible. In addition, a veteran that has been convicted of a felony or a crime involving moral turpitude, may not be admitted to the Veterans' Home without producing sufficient evidence of subsequent good conduct and reformation of character so as to satisfy the Board of Admissions.

The basic care unit requires potential residents to have total independence with personal care needs--bathing, dressing, eating, ambulating (walking), toileting, and transferring. The Veterans' Home is unable to accept residents who are receiving dialysis treatment and requires applicants who have a diagnosis of alcohol or substance abuse to have 9 to 12 months of documented sobriety before being accepted. A potential resident with a mental health condition must be stabilized at the time of admission. The skilled care unit requires a potential resident meet the North Dakota criteria for nursing home placement.

As of July 2019, there were 54 individuals in the basic care unit, an occupancy rate of 55 percent and 52 individuals in the skilled care unit, an occupancy rate of 100 percent.

## **MORATORIUMS**

In House Bill No. 1355 (2019), the Legislative Assembly amended Section 23-09.3-01.1 to extend the moratorium on expansion of basic care bed capacity through July 31, 2021. The bill also amended Section 23-16-01.1 to extend the moratorium on expansion of long-term care, including skilled-care bed capacity through July 31, 2021. These moratoriums restrict nursing facilities from adding basic care or long-term care beds to the state's licensed bed capacity. Transfers of basic care beds from one basic care facility to another entity is permitted. Exceptions to the moratorium on basic care beds are provided if:

- A nursing facility converts nursing facility beds to basic care;
- An entity demonstrates to the State Department of Health and the Department of Human Services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a 50 mile radius have been occupied at 90 percent or more for the previous 12 months; or
- The State Department of Health and the Department of Human Services grant approval of new basic care beds to an entity. The approved entity is required to license the beds within 48 months from the date of approval.

Exceptions to the moratorium on long-term care beds are provided if:

- A facility reverts basic care beds to nursing facility beds; or
- Relicenses nursing facility beds delicensed after July 31, 2011. A nursing facility may not delicense or otherwise reconfigure licensed nursing facility bed capacity more than one time in a 12-month period.

A nursing facility, upon prior written notice to the State Department of Health, may delicense a maximum of 25 percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of 48 months. The total delicensed nursing facility bed capacity that may be held for a nursing facility cannot be greater than 50 percent of the number of currently licensed beds in the nursing facility.

## **SERVICES**

Residents of the Veterans' Home receive medical treatment, including 24-hour nursing care, and access to registered nurses, licensed practical nurses, medication technicians, household coordinators, and resident living specialists to provide personal care for each resident. The Veterans' Home also offers the following services:

- Onsite pharmacy services (for veterans);
- Transportation to the Fargo Veterans' Administration Medical Center;
- Transportation to local medical appointments;
- Dietary and nutritional services, including special diet menus;
- Chaplain and spiritual care services;
- Mental health services;
- Physical, occupational, and speech therapy services;
- Social services;
- Recreational therapy, including scenic drives, shopping trips, bingo, parties, card games, and access to an activity room;
- Laundry services;
- Therapeutic work program; and
- Financial services.

## **VETERANS' HOME FACILITIES**

### **Barracks**

The primary residence building for veterans, the barracks building, was completed in 1893 and included an attic, two floors, and a basement. The first floor had a parlor, reading and dining room, office, kitchen, pantry, and serving room. The second floor had two dormitories, which held 15 people each, a six-patient hospital, and a lavatory. The basement contained a boiler room, fuel and vegetable rooms, bathroom, and laundry. The 1947 Legislative Assembly appropriated \$600,000 for a new four-story barracks building designed to accommodate 150 veterans, spouses, and widows. The new barracks building was completed in June 1950 while the original barracks building was demolished in the summer of 1952. In 2011, the new barracks building was demolished and replaced with the current Veterans' Home.

### **New Veterans' Home**

The 2007 Legislative Assembly provided \$21,098,656, of which \$6,483,226 was from the permanent oil tax trust fund, \$12,040,278 was from federal funds, and \$2,575,152 was from revenue bond proceeds, for construction of a new 150-bed Veterans' Home facility. The 2009 Legislative Assembly provided an additional \$10,588,895, of which \$7,944,991 was from the general fund and \$2,643,904 was from federal funds, for total construction funding of \$31,687,551.

In Senate Bill No. 2075 (2009), the Legislative Assembly provided funding from the general fund for exterior improvements associated with the new facility (\$350,000) and funding from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 (ARRA) for the installation of a geothermal heating system in the new building (\$3,039,414). The bill also provided contingent funding from the general fund for the installation of the geothermal heating system in the new building, if funding from ARRA was not available, to provide \$3,039,414 for this purpose. The Veterans' Home facility's geothermal heating system did not qualify for funding from ARRA, so the contingent funding from the general fund was used for the installation of a geothermal heating system in the new Veterans' Home facility.

In House Bill No. 1007 (2011), the Legislative Assembly approved an additional \$332,000 for the new Veterans' Home. The new Veterans' Home was completed in May 2011. In Senate Bill No. 2007 (2013), the Legislative Assembly appropriated \$1,121,000, of which \$560,500 was from the general fund, for the demolition of the old Veterans' Home, also known as the new barracks building. The Veterans' Home used \$110,000 of this funding to complete the construction of a cold storage building to store items previously kept in the old facility. The remaining amount was used for the demolition of the old facility, which was completed in 2014.

The Legislative Assembly, in Section 4 of Senate Bill No. 2007 (2017), authorized the Veterans' Home to continue into the 2017-19 biennium funds appropriated for the construction of the Veterans' Home facility in 2009 and continued into the 2011-13, 2013-15, and 2015-17 bienniums to address a lawsuit with the general contractor of the project, Comstock Construction. The Veterans' Home continued \$234,679 of general fund authority into the 2017-19 biennium. The lawsuit related to excess water on the construction site of the new Veterans' Home facility that led to collapsed trenches and damaged equipment, for which the Veterans' Home withheld payment of certain invoices billed to the Veterans' Home by Comstock Construction. The Veterans' Home lawsuit with Comstock Construction concluded in August 2017. Of the \$254,000 Comstock was seeking from the Veterans' Home, the court awarded Comstock Construction \$194,250. In addition, the Veterans' Home incurred legal fees of \$33,614 related to the lawsuit, resulting in a total cost of \$227,864. Of the \$234,679 of funding continued, \$6,815 was not spent and was canceled at the end of the 2017-19 biennium.

The new Veterans' Home includes two basic care pods that can house 98 residents and one skilled-care pod that can house 52 residents. Each pod includes four households designed for 12 to 13 residents in each household. The facility has 142 private rooms and 4 semi-private rooms, each room with its own private bathroom. The household centers on a large living room area, open kitchen, and dining area. The Veterans' Home also includes geothermal heat, family visiting rooms, therapy rooms, a barber and beauty shop, libraries, exercise room, gazebo, pool hall, bank, museum, movie theater, post office, and chapel.

## **OTHER MAJOR BUILDINGS**

### **Hospital**

In 1899, a hospital building was erected. In the late 1940s, the hospital was closed and the building became the civilian employee quarters before eventually being demolished.

### **Administrator's Residence**

In 1907, a building was constructed to serve as the commandant's residence, now known as the administrator's residence. The 2019 Legislative Assembly appropriated \$233,450 from the soldiers' home fund for the demolition of the administrator's residence, which includes the demolition of the house, driveway, and two underground tunnels.

### **Shop Addition**

The 2013 Legislative Assembly appropriated \$788,200 from the Melvin Norgard memorial fund for the construction of a shop addition project for the 2013-15 biennium. The 2015 Legislative Assembly appropriated \$126,800 for the shop addition project for the 2015-17 biennium and authorized the Veterans' Home to continue 2013-15 biennium funding provided for the project to continue into the 2015-17 biennium. The 2017 Legislative Assembly authorized the Veterans' Home to continue funding for the shop addition project into the 2017-19

biennium. The shop addition was completed in August 2017 at a total cost of \$1,030,770, including the \$915,000 appropriated by the Legislative Assembly and \$115,770 of donations available to the Veterans' Home.

## REVENUE AND APPROPRIATIONS

### Veterans' Home Operating Fund

Section 37-15-14 establishes a Veterans' Home operating fund, also known as the soldiers' home fund, to be maintained in the State Treasury. Revenue for the fund is derived from interest on the sale of lands, land rent, federal funds provided for the support and maintenance of the Veterans' Home, and all other funding available to the Veterans' Home, except funds deposited in the custodial funds.

Section 37-15-14.1 allows the Veterans' Home Governing Board to establish fees to be paid by members of the Veteran's Home, which must be based on the adjusted income of each member, but not to exceed 49 percent of the average daily member cost. The fees must be set under a formula determined by the Veterans' Home Governing Board and designed to assure dignity and equity in the charge. The administrator of the Veterans' Home must collect fees monthly, which must be deposited in the Veterans' Home operating fund. As of July 2019, the current monthly maximum rent is \$1,850 for basic care residents. In addition, the Veterans' Home receives federal funding of \$47.36 for every day each resident is enrolled in basic care.

Skilled-care residents are charged a daily rate developed by the Department of Human Services' case mix system. The current skilled-care rate range is \$227 to \$681 each day. In addition, the Veterans' Home receives federal funding of \$109.73 for every day each resident is enrolled in skilled care.

Revenue collected in the fund for the 2011-13 through 2017-19 bienniums is as follows:

	2011-13 Biennium	2013-15 Biennium	2015-17 Biennium	2017-19 Biennium
Federal funding	\$4,740,347	\$5,081,942	\$5,660,005	\$5,341,234
Interest income	461	371	323	429
Donations	6,964	8,085	6,793	4,453
Pharmacy copayments	150,922	208,544	180,539	101,382
Meal sales and miscellaneous sales and services	57,938	87,787	132,686	133,933
Care and Treatment - Medical assistance	3,616,320	2,779,692	3,265,251	2,974,125
Care and Treatment - Medicare	7,774	383,939	337,664	280,986
Care and Treatment - Blue Cross Blue Shield	3,847,721	5,796,853	6,596,734	6,855,651
Care and Treatment - Other	1,736,893	1,675,770	1,749,841	1,626,177
Mineral royalties	4,770			5,456
Insurance recoveries		400,000	32,500	
Other	3,919	18,275	16,003	13,766
Transfer to the Melvin Norgard memorial fund	(258,966)			
Transfer from the state lands permanent fund	279,429	325,428	434,000	711,984
<b>Total</b>	<b>\$14,194,492</b>	<b>\$16,766,686</b>	<b>\$18,412,339</b>	<b>\$18,049,576</b>

The fund balance as of June 30, 2019, was \$6,664,894.

### Melvin Norgard Memorial Fund

Section 3 of House Bill No. 1007 (2011) established the Melvin Norgard memorial fund in Section 37-15-23. All income related to a bequest made to the Veterans' Home by Melvin Norgard, including mineral lease income, royalties, and sale proceeds, must be transferred or deposited into the Melvin Norgard memorial fund. The State Treasurer is to invest money in the fund, and investment income of the fund must be retained in the fund. Money in the fund is available, subject to legislative appropriations, for projects and programs to benefit and serve the residents of the Veterans' Home. The Legislative Assembly must consider recommendations of the Veterans' Home Governing Board when making appropriations from the fund for projects and programs.

Relatives of Melvin Norgard filed a lawsuit against the Veterans' Home to dispute mineral rights on land donated by Melvin Norgard to the Veterans' Home. As a result, royalty income generated from these lands was temporarily suspended by the royalty trust, Greenhead Corporation, during the 2015-17 biennium. In April 2015 a settlement was reached with the relatives of Melvin Norgard. The Veterans' Home received 18.055 mineral acres and \$35,005 in mineral payments from the settlement.

Mineral royalty revenue and interest income collected in the fund was \$397,832 in the 2011-13 biennium, \$207,077 in the 2013-15 biennium, \$63,465 in the 2015-17 biennium, and \$178,014 in the 2017-19 biennium. The fund balance as of June 30, 2019, was \$208,032.

**Custodial Funds**

Pursuant to Section 37-15-21, the administrator of the Veterans' Home may accept and expend funds from any source, including federal or private sources and donations, gifts, or bequests to benefit the Veterans' Home. All money received or accepted must be used for the specific purpose for which it was given or donated. The Veterans' Home may establish and maintain its own local fund to administer money received, and all interest, rent, or income from money or property received must be deposited in the Veterans' Home operating fund unless, by the terms of acquisition, the money is required to be maintained in a different manner. This fund, used primarily to subsidize Veterans' Home activities, is maintained at a local bank and is audited by the State Auditor.

Revenue collected in the fund was \$208,554 in the 2011-13 biennium, \$230,153 in the 2013-15 biennium, \$589,403 in the 2015-17 biennium, and \$198,092 in the 2017-19 biennium. The increase in revenue during the 2015-17 biennium is primarily from donations for equipment and the shop addition project, as well as receiving an inheritance gift of \$229,000. The fund balance as of June 30, 2019, was \$383,365.

**Appropriations**

Below is a summary of appropriations provided and full-time equivalent (FTE) positions authorized by the Legislative Assembly for the Veterans' Home for the 2009-11 through 2019-21 bienniums.

	<b>2009-11 Biennium</b>	<b>2011-13 Biennium</b>	<b>2013-15 Biennium</b>	<b>2015-17 Biennium</b>	<b>2017-19 Biennium</b>	<b>2019-21 Biennium</b>
Salaries and wages	\$11,538,855	\$13,916,861	\$15,874,867	\$17,504,980	\$18,684,490	\$18,916,632
Accrued leave payments			458,196			
Operating expenses	4,561,857	5,942,285	5,408,850	4,958,742	5,454,239	5,108,731
Capital assets	259,906	705,500	1,622,040	678,600	553,303	696,333
Administrator's residence						233,450
Shop addition			788,200			
New Veterans Home facility	11,028,983	332,000				
Federal stimulus funds	3,158,005					
Geothermal system <sup>1</sup>	3,039,414					
<b>Total</b>	<b>\$33,587,020</b>	<b>\$20,896,646</b>	<b>\$24,152,153</b>	<b>\$23,142,322</b>	<b>\$24,692,032</b>	<b>\$24,955,146</b>
General fund	\$16,751,722	\$5,553,323	\$7,722,353	\$8,128,024	\$5,951,439	\$5,679,324
Other funds	\$16,835,298	\$15,343,323	\$16,429,800	\$15,014,298	\$18,740,593	\$19,275,822
FTE	120.72	120.72	120.72	120.72	120.72	120.72

<sup>1</sup>For the 2009-11 biennium, the Veterans' Home was provided a general fund appropriation of \$3,039,414 for the installation of a geothermal heating system in the new Veterans' Home facility, contingent on if federal funds for the system are not available, to provide a total cost of \$3,039,414 for the system either from federal funds, or if federal funds are not available, from the contingent general fund appropriation.

**STUDY PLAN**

The following is a proposed study plan for the committee's consideration in its study of other allowable revenue-generating uses of the Veterans' Home facilities and grounds:

1. Receive and review information from representatives of the Veterans' Home, ACOVA, and veteran service organizations regarding:
  - a. Current uses of the Veterans' Home facilities and grounds;
  - b. Current basic and skilled-care occupancy rates;
  - c. The potential to increase basic care occupancy rates;
  - d. The costs and feasibility of converting basic care capacity to skilled care and the anticipated number of additional skilled care beds that could be occupied if skilled-care capacity was increased; and
  - e. Other ways to utilize Veterans' Home facilities and grounds, including potential federal restrictions and any concerns regarding the availability of federal funds for current operations and any future programs or projects.
2. Receive and review information from interested persons regarding the committee's study of other allowable revenue-generating uses of the Veterans' Home facilities and grounds.
3. Develop recommendations and any bill drafts necessary to implement the recommendations.
4. Prepare a final report for submission to the Legislative Management.

ATTACH:1