

Legislative Procedure and Arrangements Committee

Testimony Presented by Sally Holewa State Court Administrator June 29, 2016

I am appearing today to provide you with an update regarding the remodeling of the space in the State Capitol building that was formerly occupied by ITD and to discuss the shared usage of the space.

The total court system budget for this project is \$1,215,070. To date, we have expended \$454,618. A breakdown of the budget is attached. The attached budget includes the additional \$65,693 which was added to the Court's budget for this project pursuant to Section 12 of SB 2015. It does not include the additional \$160,000 for the project that was appropriated under Section 10 of SB 2015 to the legislative assembly to fund additional equipment and furniture for these rooms. The construction process is going well, and the expected completion date of the project is July 31, 2016. However, there is an important issue that needs to be resolved by this committee and that is the issue of how the legislative and judicial branches will share this space.

When ITD moved to their new facility they vacated 11,900 square feet of space in the J-Wing. The Supreme Court has been requesting additional space since 2009. To partially meet our need, the Office of Management and Budget assigned us 6,160 square feet of the newly vacated space. The remaining vacant space was divided between Department of Labor (3,720 sq. ft.) and Secretary of State (2,050 sq. ft.). Working with OMB, the Court developed a proposal to remodel the space to meet our need for more office, meeting and conference rooms. This proposal

was included in our initial appropriation request but was removed by us in response to a \$5 million cut in our request. During discussion about the project, the Government Operations Division of the House Appropriation Committee raised the idea of using three of the proposed rooms as shared judicial and legislative space. The Court agreed to this arrangement with the understanding that the space would be used by the legislature during session but would otherwise be used by the judiciary. With this understanding, the Court accepted the appropriation, along with the responsibility, for remodeling the space and paying the ongoing rent, data processing and other fees associated with the space. We create our conference and education sessions 24 months in advance and our committee meetings 12 months in advance so court schedules can be built around them. Any change in date affects not only our judges and court staff but also litigants whose court hearings may need to be re-scheduled. Our audience size for training events ranges from 40 to 100 or more persons, and the conferences often require more than one room for breakout sessions. All of these factors make it very difficult to change the date or location of a conference once the arrangements have been made. Which brings us to today's issue.

As we discussed at the initial meeting of this committee back in December 2015, we do have a concern about shared usage of this space. Namely, the insertion of Section 26 into SB 2015, which amended N.D.C.C. 48-08-04 and put the authorization to use this space under the authority of the Legislative Council during the interim legislative sessions. It was our understanding that the legislature would have primary use of the shared space during legislative session but outside of that the Court would be allowed to use the space as needed. As you are acutely aware, the interim session encompasses most of the time that is not actually session.

For the above reasons, it is our request that the scheduling of these three rooms be handled differently than other legislative rooms during the interim session. These concerns were discussed with legislators and with Legislative Council Director, Jim Smith, in the waning days of the session, and again with the members of this committee at its initial meeting in December last year and we were assured that there was no objection to making this kind of arrangement. At that December meeting, we also briefly discussed the need to amend the statute to clarify the shared use of the rooms. Recognizing that the space would be ready for use before the legislature is back in session, it was decided to proceed with a Memorandum of Understanding.

We recently received a proposed Memorandum of Understanding from the Legislative Council which I understand is the standard arrangement they have with OMB regarding legislative committee rooms. Since those are not shared rooms, I have attached a counterproposal that more closely matches our arrangement and request that this committee endorse the attached proposal.

Finally, I want to reiterate a naming request that I made at the December 16, 2015 meeting. I suggested that one of these rooms be designated as the Levine Room, in honor of North Dakota's first female Supreme Court Justice, Beryl Levine. Justice Levine was a well-respected jurist, and I believe that it would be appropriate to recognize her contributions to the judiciary by naming a room in the Judicial Wing after her.

MEMORANDUM OF UNDERSTANDING

The purpose of this document is to set forth the conditions ~~for under which the Legislative Council will grant authorization to the judicial branch to use of the shared judicial branch-legislative branch~~ meeting rooms in the judicial wing of the Capitol which are under the jurisdiction of the Legislative Council during the interim between legislative sessions.

Subject to the provisions of North Dakota Century Code Section 48-08-04 and any legislation enacted subsequent to the execution of this agreement, the Legislative Council will provide the meeting rooms to the judicial branch ~~on about~~ no later than May 15 after the conclusion of each regular legislative session. The Legislative Council will assume control over the rooms on December 1 of each even-numbered year. Use of the meeting rooms by the judicial branch is subject to cancellation on short notice if a special session of the Legislative Assembly is called and the use of the rooms by the Legislative Assembly is necessary and no other suitable rooms are available. This provision does not apply if the scheduled judicial use involves a multi-day educational session with 50 or more participants. The Legislative Council will be provided access to make any necessary repairs or improvements. The use of the meeting rooms must be in accordance with the shared use guidelines adopted by the Legislative Procedure and Arrangements Committee and the Judicial Branch during each interim ~~and the State Court Administrator agrees that any use of the rooms by any person outside the judicial branch must be in accordance with the policy adopted by the Legislative Procedure and Arrangements Committee.~~

For the North Dakota Legislative Council:

Jim W. Smith
Director
Date _____

For the Judicial Branch:

Sally Holewa
State Court Administrator
Date _____

GUIDELINES FOR USE OF SHARED JUDICIAL BRANCH - LEGISLATIVE BRANCH COMMITTEE ROOMS NORTH DAKOTA STATE CAPITOL

1. The first priority during regular legislative sessions for the use of legislative committee rooms shared with the judicial branch is for the legislative branch of state government, including the Legislative Assembly, the Legislative Management, the Legislative Council, and any committees, subcommittees, or other entities of the legislative branch.
2. During legislative sessions, the use of legislative committee rooms is governed by Joint Rule 804.
3. When the Legislative Assembly is not in session, the use of committee rooms is governed by North Dakota Century Code Section 48-08-04, and any authorization by the Legislative Council, or its designee, is subject to the following requirements:
 - a. An agency of state government may use committee rooms for official purposes of the agency. A federal official may use a committee room for educational and informational meetings that address issues affecting the state if the official arranges for security, janitorial, and other services with the Office of Management and Budget and the use is sponsored by a state agency. A member of the Legislative Assembly or Judicial Branch may use a committee room for any legal purpose and may sponsor use by a group or organization. Any other group or organization may use committee rooms as necessary for educational and informational meetings that have a reasonable relationship to the legislative process only if the group or organization arranges for security, janitorial, and other services with the Office of Management and Budget and either is sponsored by a state agency or signs a facilities use agreement as required under the *Guidelines for Use of Legislative Chambers and Displays in Memorial Hall, North Dakota State Capitol*.
 - b. Committee rooms may not be provided for use by a group or organization if the purpose of the meeting is to advocate the introduction of legislation or to encourage or oppose the enactment of legislation or any decision on a matter before the Legislative Assembly, Legislative Management, or any legislative committee.
 - c. Any planned function may not interfere with the business or activities of the legislative branch or scheduled use by the judicial branch.
 - d. If the use is not by a state agency or is not sponsored by a state agency, no other suitable facilities are available on the Capitol grounds or in a privately operated facility that may or may not charge a fee for that use
 - e. The sponsor of the planned function assumes full responsibility for the care of the committee room and the equipment in the room, ~~will see that no food is brought into the room, will see that coasters are used if beverages are brought into the room, will not rearrange the furniture in or remove the furniture from the room,~~ and will leave the room in the condition it was in before the planned function.
 - f. Prior approval is obtained from the Legislative Procedure and Arrangements Committee for use contrary to this policy.
 - g. The Director of the Legislative Council, or the Director's designee, may arrange with the Office of Management and Budget to manage the scheduling of committee rooms during regular or special sessions. During the interim between sessions, management and scheduling of the rooms will be the responsibility of the judicial branch Director of Education.

4. ~~The legislative media room on the ground floor of the legislative wing may not be used during a legislative session by anyone other than a member of the Legislative Assembly and may not be used during other periods by anyone other than a legislator or an elected state official unless prior approval is obtained from the Director of the Legislative Council or the Director's designee.~~

Facility Space Expansion Project
Project Status as of June 23, 2016

	<u>Budget</u>		<u>Actual</u>		<u>Balance</u>
IT software	\$ 27,650	\$	-	\$	27,650
Miscellaneous supplies	\$ 3,750	\$	-	\$	3,750
Printing	\$ -	\$	311	\$	(311)
IT equipment under \$5,000	\$ 78,400	\$	-	\$	78,400
IT data processing	\$ 21,000	\$	-	\$	21,000
IT communications	\$ 6,200	\$	-	\$	6,200
Professional fees	\$ -	\$	-	\$	-
Extraordinary repairs	\$ 894,420	\$	454,307	\$	440,113
Equipment over \$5,000	\$ 50,000	\$	-	\$	50,000
IT equipment over \$5,000	<u>\$ 133,650</u>	\$	<u>-</u>	\$	<u>133,650</u>
Total	\$ 1,215,070	\$	454,618	\$	760,452

SB 2015 – SECTIONS RELATED TO FACILITY SPACE EXPANSION

SECTION 10. APPROPRIATION - LEGISLATIVE ASSEMBLY - MEETING ROOMS – REPORTS TO LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000 or so much of the sum as may be necessary, to the legislative assembly for the purpose of purchasing and installing audio and visual equipment, tables, chairs, and other furnishings in legislative meeting rooms within the facility space expansion authorized under House Bill No. 1002, as approved by the sixty-fourth legislative assembly, for the biennium beginning July 1, 2015, and ending June 30, 2017.

The funding appropriated in this section is considered a one-time funding item.

The state court administrator shall provide periodic reports to the legislative procedure and arrangements committee during the 2015-16 interim regarding the status of the facility space expansion authorized under House Bill No. 1002, as approved by the sixty-fourth legislative assembly.

SECTION 12. APPROPRIATION - JUDICIAL WING REMODELING PROJECT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$65,693, or so much of the sum as may be necessary, to the judicial branch for the purpose of defraying the additional costs of the remodeling project in the judicial wing, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 26. AMENDMENT. Section 48-08-04 of the North Dakota Century Code is amended and reenacted as follows: **48-08-04. Use of legislative assembly rooms and halls.** During the interim between legislative sessions, the committee rooms, halls, passageways, and other space in the capitol used by the legislative assembly, including the pioneer room and three additional meeting rooms comprising approximately four thousand square feet in the judicial wing of the capitol, may not be used without authorization of the legislative council.

Legislative Manual 2015-2016

804. Use of committee rooms. During a legislative session, committee rooms under the jurisdiction of the Senate or House and hearing rooms under the jurisdiction of the Legislative Assembly may be used only for the functions and activities of the legislative branch, except as otherwise provided by this rule. A state agency may be granted permission by the Secretary of the Senate or Chief Clerk of the House, individually with respect to a room under the jurisdiction of the Senate or House, respectively, or jointly with respect to a room under the jurisdiction of the Legislative Assembly, to use a room at times and under conditions not interfering with the use of the room by the legislative branch.