

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2040

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Missouri River Room, State Capitol

SB 2040
1/9/2015
Job # 21787

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to the office of management and budget to develop a master plan in conjunction with the capitol grounds planning commission for all state agencies with a physical location in the Bismarck area; to provide for reports to the legislative management; and to declare an emergency.

Minutes:

Attachments 1-2

Chairman Dever: Opened the hearing on SB 2040.

Alex Cronquist, Legal Council, Legislative Council: See attachment #1 for testimony on interim committee report.

(2:32)**Chairman Dever:** Is the Capitol Building Fund the fund that is the fund that is under the control of the Capitol Grounds Planning Commission?

Alex Cronquist: I believe it is under trust funds but the Capitol Grounds Planning Commission does spend out of it.

Chairman Dever: There is a certain amount of land set aside going back to statehood?

Alex Cronquist: On the first page of the report at the bottom goes into more detail on that.

Chairman Dever: Do you know how much money they have due to oil funds?

Alex Cronquist: As of June 30th, 2013 the balance was 3,474,000. As of June 2014 it will be just over 3.1 million.

Chairman Dever: Do you know what the purpose in the emergency clause is?

Alex Cronquist: I think that was just to get a jump start on the master plan.

Senator Nelson: Looking at the 2000 plan we did, that was expensive too. How much of that was accomplished?

Alex Cronquist: I am not aware of that.

Chairman Dever: It is zero.

(5:00) Pam Sharp, OMB: Testified in opposition to the bill. This bill was very well intentioned by the interim committee. They worked long and hard and had lots of testimony and they wanted to come up with something. Many agencies testified about their space needs. There are some serious concerns with the bill. It provides \$300,000 for developing a master plan for all state agencies with a physical location in the Bismarck area. That is different than the Capitol Complex Master Plan that was done in 2000. That master plan basically said that if you are going to have future buildings that you would put them in specific locations and how the complex could expand. That has been completed. There were recommended set-backs and other things for the parking lots that have all been accomplished. There are still other things that should we grow there is a plan for that; for instance, addressing parking needs and building placements. It does not address needs to where each agency needs to be and this bill seems to do that; those on the grounds as well as those that have leased space around Bismarck. One of the things that the committee was trying to do was to pull the ones who are renting space together. One of my biggest concerns is the \$300,000 appropriation. All the work that this consultant would do has been done. It is at OMB right now. We have all the information for every agency on their needs, what space they are using, what they think they need to have, their cost per square foot of their lease, etc. We have presented it to several interim committees.

(8:24)(See Attachment #2 for additional info provided) Many examples of changes that have been made in recent years to make room for different agencies, as well as some proposed remodels were given. It was stated that elected officials and agencies that have general funds have priority in the capital tower.

(11:27) Chairman Dever: Would this \$300,000 be better used for other projects? (Example of front steps were discussed)

Pam Sharp: Those types of things are they ones that the planning commission likes to work with. I have not spoken to them about this but I don't think that would be a pertinent use of those funds.

Chairman Dever: I don't think that off campus considerations are in the purview of the Capitol Ground Fund.

Pam Sharp: I don't think so either.

Senator Davison: How was the information already compiled in your office and who leads that process?

Pam Sharp: Our facility manager director leads that and it is an ongoing process. He constantly works with agencies that are leasing space. He negotiates their leases and has to approve them as well. It is information that we continuously update.

Senator Davison: Is there a committee that does this? Who makes those decisions and what is the process?

Pam Sharp: We have an architect on board that aids in the planning. The three key people that are making those decisions are myself, John Doyle the Director of Facility Management, and Joe Leopold who is the architect for the state capitol.

Senator Davison: It appears to me that they are looking for an outside organization to review that process, some of the decisions made and what is happening.

Pam Sharp: I do not know if that is what they are trying to do. I know there has been some interest in other interims by some legislators that want to have all this put together because they think we should build a new building. Someone could certainly come and review our work but we do have the authority to assign space in the capital.

Senator Davison: Asked about lease fees and how they are determined and Chairman Dever reminded the committee that OMB provides that information in detail.

(20:48) Senator Nelson referenced attachment #1 pages 2 and 3 and the list of agencies that wanted extra space. Pam Sharp walked through the list and where each agency is currently at for space and most of them appear to be fine for space or they are working on them as adjustments have been made.

(26:22) Senator Cook: How many state agencies have space across the river?

Pam Sharp: ITD's backup data center is in Mandan.

Chairman Dever: It seems to me if the Capitol Grounds Planning Commission is accumulating dollars in their fund that they might want to establish priorities and bring something forward.

Pam Sharp: They do have priorities established. They asked us to include in the budget signage for the capitol ground as a priority for example. Another priority is a parking deck for the legislative parking; that is a \$13 million project and it is not included in the Governor's budget at this time because it may not be the right time to do it.

Senator Nelson: That was in the 2000 master plan.

Chairman Dever: A couple of other Senators have approached me about this study and if it is going to go forward that there would be consideration of the establishment of offices for legislators. Maybe half a dozen so that when legislators need to get together with constituents or a client and confidentiality is important that they have the opportunity to do that. Is there anything in the capitol building that would accommodate that?

Pam Sharp: Right now there is not just some space free from that unless there would be some in the legislative wing that could remodeled. I am not as familiar as the space in the legislative wing as I am elsewhere. Right now there is some space in judicial wing that is has been

assigned to the Supreme Court for them to remodel for training rooms. If the new Liberty Memorial is approved, that space would potentially be available.

(30:59) Senator Flakoll: What are the plans for the top floor of the capitol?

Pam Sharp: To go back to an observatory and special events. There have been offices when we needed it for space.

Chairman Dever: Closed the hearing on SB 2040.

Senator Nelson: Moved a Do Not Pass.

Senator Flakoll: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Motion Carries.

Senator Nelson will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2040**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Nelson Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Nelson

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

REPORT OF STANDING COMMITTEE

SB 2040: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2040 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

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Cronquist
#1
pg 1

STUDY OF FACILITY NEEDS OF STATE AGENCIES IN THE BISMARCK AREA

The committee was assigned a study of facility needs of state agencies in the Bismarck area pursuant to Section 37 of 2013 House Bill No. 1015. The study was to include 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 was to determine if additional facilities are needed for the operations of state agencies. If it was determined that additional space is needed, the committee was 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.

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 Capitol 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.

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 Chapter 48-10, 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.

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.

House Bill No. 1117 (1979) amended Section 48-10-02 to provide that 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 Legislative Assembly in 2013 House Bill No. 1015 increased the continuing appropriation limit to \$175,000.

The Capitol building fund includes 9,994 surface acres. The Capitol building fund had a June 30, 2013, balance of \$3,474,302. As of June 2014, it is estimated the Capitol building fund will have a June 30, 2015, balance of \$3,164,440.

Capitol Complex Space Needs

The committee received information from the Facility Management Division regarding the Capitol complex and state facilities. The committee learned the Capitol complex contains a total of 397,923 square feet of office space for 1,629 full-time equivalent (FTE) positions in the Capitol tower, judicial wing, Department of Transportation building, State Office Building, the Heritage Center, and the Liberty Memorial Building. The committee learned, based on a standard of 230 square feet per occupant, the Capitol tower is designed to house 537 employees and the judicial wing is designed to house 453 employees. The number of square feet per FTE position ranges from 116 for a portion of the Tax Commissioner's office to 478 for the Historical Society Foundation space in the Heritage Center. The committee reviewed the Capitol complex master plan developed in 2000. The committee learned the 2000 master plan has not been updated. The committee also learned there is not a formal process to identify projected state agency space needs.

Space Away from the Capitol Grounds

In addition to the Capitol complex, there are several state-owned or state-leased facilities located in the Bismarck 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. The average office space lease cost in the Bismarck area is approximately \$12 to \$13 per square foot. The committee learned the operating cost of leased space off the Capitol grounds is approximately \$5 to \$8 per square foot and the operating cost of space in the Capitol is \$11.29 per square foot.

Agency Space Needs and Utilization

The committee received information from state agencies regarding space needs. The committee reviewed the results of a survey conducted to identify all office, meeting, and storage space leased or owned by state agencies in the Bismarck area. The survey identified the cost per square foot, use, and employee headcount for each agency location in the Bismarck area. The survey results indicate state agencies lease nearly 500,000 square feet of space away from the Capitol grounds in the Bismarck area. This number includes office, meeting, storage, and other space leased from the private sector and other state agencies, such as Workforce Safety Insurance. Leased space cost ranges from \$0.26 per square foot for 560 square feet of cold storage space leased by the Department of Trust Lands to \$22.20 per square foot for 5,684 square feet of office space leased by the North Dakota University System. Agencies in the Bismarck area identified over 2 million square feet of state-owned space. Agencies reporting the most state-owned space included the Adjutant General (541,299 square feet) and the Department of Corrections and Rehabilitation (716,393 square feet). Total employee headcount for agencies in the Bismarck area identified in the survey was 5,122. The survey also identified projected space needs for each agency. Of the 50 agencies surveyed, 21 identified current or projected space needs. Space needs range from 200 square feet of work space identified by the Commission on Legal Counsel for Indigents to 24,660 square feet of office, meeting, training, and storage space identified by the judicial branch. Other state agencies identifying space needs include:

- Secretary of State;
- State Auditor;
- Attorney General;
- Tax Commissioner;
- Office of Administrative Hearings;
- Department of Trust Lands;

- School for the Deaf;
- University System;
- State Department of Health;
- Tobacco Prevention and Control Executive Committee;
- Indian Affairs Commission;
- Department of Veterans' Affairs;
- Department of Human Services;
- Insurance Commissioner;
- Labor Commissioner;
- Highway Patrol;
- Adjutant General;
- North Dakota Council on the Arts; and
- Parks and Recreation Department.

The committee received additional information from certain state agencies regarding their space needs.

- The judicial branch occupies 21,604 square feet of space in the judicial wing of the Capitol and leases 8,400 net square feet of office space in a building located off the Capitol grounds. The judicial branch indicated it has an unmet space need of 24,660 gross square feet. The committee toured the Supreme Court office space.
- The Attorney General's office has expanded and foresees further expansion in the future due to the increasing law enforcement needs of the state. The committee learned the State Crime Laboratory building may need to be expanded during the 2017-19 biennium.
- The Information Technology Department vacated approximately 10,000 square feet of office space in the judicial wing of the Capitol to consolidate its operations in one building located away from the Capitol grounds. The committee toured the vacant areas in the judicial wing. The committee learned the 10,000 square feet in the judicial wing of the Capitol vacated by the Information Technology Department will be used by the Supreme Court, the Secretary of State, the Department of Labor and Human Rights, and the Indian Affairs Commission.

Property Taxes

The committee learned state-owned property is exempt from local property taxes; however, state statute requires certain state agencies to make payments in lieu of property taxes. Five state agencies have made payments in lieu of property taxes since fiscal year 2011. The five agencies are the Adjutant General, Department of Trust Lands, Game and Fish Department, State Water Commission, and Workforce Safety and Insurance. The committee learned the Game and Fish Department paid over \$481,000 in lieu of property taxes to multiple counties in fiscal year 2014 and Workforce Safety and Insurance paid over \$181,000 in lieu of property taxes to Burleigh County in fiscal year 2014.

Recommendations

The committee recommends a bill draft [15.0130.02000] to provide an appropriation of \$300,000 from the Capitol building fund to OMB to develop a master plan in conjunction with the Capitol Grounds Planning Commission for all state agencies with a physical location in the Bismarck area. The bill draft requires the master plan to identify and address current and projected space needs of state agencies in the Bismarck area and include the estimated costs to address the needs. The bill draft also requires OMB to provide periodic status reports on the development of the Bismarck area state agency master

plan to the Legislative Management during the 2015-16 interim and to present the completed master plan to the Legislative Management by July 1, 2016.

SB 2040
1/19/15

Pam Sharp
#2

54-21-27. Removal or sale of unsafe public building - Procedure.

The superintendent of the institution, the warden of the institution, the commanding general of the national guard, or the head of an agency, department, bureau, board, or commission, as the case may be, having the responsibility of supervising and maintaining a public building belonging to the state of North Dakota, may sell or remove such building whenever it is found to be obsolete, a fire hazard, in unsafe condition so as to constitute a hazard to life or limb, and is of no future use to the state where it is located, by obtaining the written approval of the state director of the office of management and budget if under the director's supervision or the head of the department having supervision and the state fire marshal.

Economics shall dictate whether or not the sale or removal shall be by advertising for public bids and awarding same to the lowest responsible bidder. If the building is to be destroyed, every effort must be made to salvage and store any material which will be beneficial to the state or which will have a salable value.

54-21-28. Space utilization studies - Office space allocation.

The director of the office of management and budget shall:

1. Conduct a periodic comprehensive space utilization study of all executive branch staff located within the facilities on the capitol grounds.
2. Develop a space allocation and design policy which will consider space equalization and maximize the effective use of public facilities in a cost-effective manner.
3. Allocate and assign office space, based upon space utilization studies and the established policies, guidelines, standards, and procedures, to all executive branch staff housed and working in facilities on the capitol grounds.
4. Include in developing standards and criteria to be used in making space allocations, considerations regarding equipment; work stations; private offices; conference rooms; reception areas; vaults; necessary arrangements of dividers, doors, and walls to increase adequate air circulation; telephones; lighting; and heating in the utilization of available space.
5. Be consulted, and the director's approval obtained, before any change is made within any assigned and allocated space, and before any structural alteration is made.