

GOVERNMENT ADMINISTRATION COMMITTEE

The Government Administration Committee was assigned the following studies:

- Section 24 of House Bill No. 1003 (2021) directed a study regarding the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study was to include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions were assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the Attorney General's office. The study also was to include consultation with the Attorney General and any agency with attorney and legal-related positions in state government for the 2021-23 biennium.
- Section 43 of House Bill No. 1015 (2021) directed a study regarding space needs of the executive, judicial, legislative branches, and the Ethics Commission. The study was to include a review of each branch's employee work location policies; an assessment of the space needs of each branch to fulfill their constitutional and statutory responsibilities; an evaluation of state agency leases of space from private and other governmental entities in Bismarck, amounts being paid for these leases, and state agency rental payments being made to the Office of Management and Budget (OMB) from special and federal funds; consideration of the feasibility and desirability of OMB charging rent to agencies receiving funding from the general fund; and the development of a space utilization plan for the Capitol complex. The study also was to include consideration of whether adequately sized committee rooms, appropriate accommodations under the federal Americans with Disabilities Act of 1990 (ADA), and flexible meeting areas are available.
- Section 3 of Senate Bill No. 2023 (2021) directed a study regarding funding sources for the budget of the Racing Commission. The study was to include consideration of the feasibility and desirability of changing the Racing Commission to a special funds only budget and the effect on general fund revenues.
- House Concurrent Resolution No. 3043 (2021) directed a study regarding the amount, type, cost, and occupancy of property leased by the state or any state agency since January 1, 2018. The study was to include a determination of the individuals who own the property leased by the state or a state agency, including the members of a corporation, partnership, or any other type of entity that owns property leased by the state or a state agency, whether any statewide elected or appointed official should be restricted from owning any property leased by the state or state agency under the direction of the state agency, and whether a legislator should be prohibited from voting on appropriation bills for agencies that lease property from the legislator.

The Legislative Management also assigned the committee the responsibility to:

- Receive a report from OMB by October 15 of each even-numbered year, regarding the reports received by OMB from each executive branch state agency, excluding entities under the control of the State Board of Higher Education, receiving federal funds, of plans to operate the state agency when federal funds are reduced by 5 percent or more of the total federal funds the state agency receives, pursuant to North Dakota Century Code Section 54-27-27.1.
- Approve any agreement between a North Dakota state entity and South Dakota to form a bistate authority pursuant to Section 54-40-01.
- Receive a report from the Adjutant General regarding any land purchased for the expansion of Camp Grafton pursuant to Section 16 of House Bill No. 1016 (2021).

Committee members were Senators Randy Burckhard (Chairman), Jerry Klein, Scott Meyer, and Tracy Potter and Representatives Rick Becker, Glenn Bosch, Jared C. Hagert, Karla Rose Hanson, Pat D. Heinert, Karen Karls, Lawrence R. Klemin, Ben Koppelman, Todd Porter, Shannon Roers Jones, and Dan Ruby. Senator Erin Oban was a member until she resigned from the Legislative Assembly on March 27, 2022. Representative Jim Kasper was a member until he was reassigned to the Health Care Committee on November 1, 2021.

STUDY OF ATTORNEY AND LEGAL-RELATED POSITIONS IN STATE GOVERNMENT

Background

The committee studied the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study was to include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the Attorney General's office. The committee was to consult with the Attorney General and any agency with attorney and legal-related positions in state government for the 2021-23 biennium.

Section 54-12-01(6) requires the Attorney General to consult with and advise the Governor and all other state officers and when requested give written opinions on all legal or constitutional questions related to the duties of such officers respectively.

Section 54-12-08(1) provides that after consultation with a state agency head or with the agency affected, the Attorney General may appoint an assistant attorney general (AAG) or special assistant attorney general (SAAG) to represent the agency. A state agency head or state agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state agency is interested or is a party, except upon written appointment by the Attorney General. Workforce Safety and Insurance, the Department of Transportation, the Tax Commissioner, the Public Service Commission, the Insurance Commissioner, the Agriculture Commissioner, and the Securities Commissioner may employ attorneys to represent them. These entities are required to pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be SAAGs appointed by the Attorney General pursuant to this section. Absent good cause, the Attorney General is required to appoint as SAAGs licensed attorneys selected by these entities. The Attorney General may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.

Consolidation of Attorney and Legal-Related Positions

Representatives of the Attorney General's office reported the office employs 42 attorneys, 6 paralegals, and 6 legal assistants. They reported the Attorney General is responsible for the legal representation of the state and its component entities and an attorney is not allowed to represent the state or a state entity unless the attorney is an AAG or an SAAG. An assistant attorney general is an attorney employed by the Attorney General's office and a SAAG is an attorney employed by a private or public entity other than the Attorney General's office but who is granted the SAAG designation by the Attorney General. The committee was informed the Attorney General believes it is important not to expand the number of state entities that hire SAAGs outside the Attorney General's office to:

- Uphold the Attorney General's constitutional responsibility to fulfill the duties of his office and provide legal representation for the state and state entities;
- Provide for better accountability and oversight of state attorneys by the Attorney General;
- Provide consistent legal advice and interpretations across state government;
- Avoid the unintentional presentation of conflicting legal positions by the state in litigation, administrative hearings, public meetings, and other venues;
- Prevent wasteful duplication of efforts across multiple state entities;
- Reduce costs;
- Foster and facilitate collaboration among attorneys representing state entities to improve legal insights and work products;
- Maintain attorneys' independence to provide advice based on appropriate legal analyses;
- Provide an opportunity for specialization among groups or divisions of attorneys in the Attorney General's office who can advise multiple state entities; and
- Ensure seamless transitions of legal matters between general counsels and litigators.

The committee was informed the Governor's office, OMB, Tax Commissioner, Department of Human Services, Insurance Commissioner, Public Service Commission, Securities Department, Workforce Safety and Insurance, Department of Corrections and Rehabilitation, Adjutant General, Department of Commerce, Agriculture Commissioner, and Department of Transportation employ SAAGs. Representatives of the Attorney General's office reported the Attorney General is not requesting certain agencies' attorneys be transferred to the Attorney General's office.

Conclusion

The committee makes no recommendation regarding the study of attorney and legal-related positions in state government.

STUDIES OF SPACE NEEDS AND PROPERTY LEASED BY THE STATE

Study of Space Needs

The committee studied space needs of the executive, judicial, legislative branches, and the Ethics Commission. The study was to include:

- A review of each branch's and the Ethics Commission's employee work location policies;

- An assessment of the space needs of each branch and the Ethics Commission to fulfill their constitutional and statutory responsibilities;
- An evaluation of state agency leases of space from private and other governmental entities in Bismarck, amounts being paid for these leases, and state agency rental payments being made to OMB from special and federal funds;
- Consideration of the feasibility and desirability of OMB charging rent to agencies receiving funding from the general fund; and
- The development of a space utilization plan for the Capitol complex.

The study also included consideration of whether adequately sized committee rooms, appropriate accommodations under the ADA, and flexible meeting areas are available.

The Budget Section, at its June 28, 2022, meeting, asked the committee to include building lease agreements entered into by the Attorney General's office as part of the study of state agency space needs.

Study of Property Leased by the State

The committee studied the amount, type, cost, and percent occupancy of property leased by the state or any state agency since January 1, 2018. The study was to include a determination of the individuals who own the property leased by the state or a state agency, including members of a corporation, partnership, or any other type of entity that owns property leased by the state or a state agency, whether any statewide elected or appointed official should be restricted from owning any property leased by the state or state agency under the direction of the state agency, and whether a legislator should be prohibited from voting on appropriation bills for agencies that lease property from the legislator.

Background

Capitol Grounds and Facilities History

The original Capitol, constructed in 1884, was destroyed by a fire in December 1930. The current Capitol 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. The Facility Management Division of 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. Other major buildings on the Capitol grounds are:

- Liberty Memorial Building - In 1924, construction of the Liberty Memorial Building was completed. The building 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.
- 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 the second Governor's residence location.
- 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.

Office of Management and Budget

Section 54-21-18 provides the Director of 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.

Section 48-10-02 requires the Capitol Grounds Planning Commission to administer the Capitol building fund and provides 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. 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 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 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 gifts for exterior placement on the Capitol grounds or for the improvement of the exterior construction of any building 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. 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 consider major interior changes being proposed 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 2021 Legislative Assembly appropriated \$2.9 million from the Capitol building fund, including \$518,000 for a building automation project, \$500,000 for extraordinary repairs, \$350,000 for a building consolidation study, \$300,000 for special assessments, \$500,000 for interior and exterior signs, \$750,000 for accessibility improvements, and \$25,000 for accessibility compliance consulting services. The Legislative Assembly estimated the 2021-23 biennium ending balance in the fund will be \$1.8 million.

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

Several state-owned 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, the Department of Trust Lands, and the Game and Fish Department. Some agencies, such as Workforce Safety and Insurance, lease a portion of their facilities to other state agencies.

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 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 committee received testimony from a representative of OMB regarding accessibility of the State Capitol grounds. The Office of Management and Budget, with approval by the Capitol Grounds Planning Commission, ensures the Capitol grounds are in compliance with the ADA. Since the implementation of the ADA, changes made to the Capitol include the addition of accessible bathrooms, added signage, meeting room door replacements, replacing stairs with ramps on the

ground floor, and a renovation to the entrance of the Brynhild Haugland Room. The committee was informed OMB hired J2 Studio Architecture + Design, PC, to assess accessibility of the State Capitol and compliance with the ADA.

Agency Space Needs and Utilization

The committee received testimony from representatives of OMB regarding work location policies, the authority of OMB to determine executive branch space needs, and the authority of OMB to negotiate leases entered by state agencies. The testimony indicated:

- There is no statewide work location policy for state employees;
- Each agency determines the most appropriate work location policy based on the needs of the agency;
- State agencies supply necessary equipment and materials for employees, but commuting expenses, Internet, utilities, rent, and various supplies typically are not reimbursed by the state to the employees;
- Section 54-21-28 provides for OMB to conduct a periodic space utilization study of executive branch staff on the Capitol grounds, develop a space allocation and design policy, and allocate and assign office space, based upon space utilization studies and the established policies, guidelines, standards, and procedures;
- Section 54-21-24.1 provides a lease or rental agreement or renewal of the lease or rental agreement for the lease or rental of buildings or portions of buildings may be entered by the Director of OMB. The department, agency, or board for which the office space is sought must approve the office space before the Director may finalize a contract or lease for the office space;
- OMB does not remove space from an agency unless the agency approves; and
- OMB is considering whether there is a need for OMB to approve facility renovation change orders. The committee was informed OMB reviews the financial aspects of each state lease, but the legal provisions of the lease are reviewed by the Attorney General's office.

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. The survey identified the cost per square foot, use, employee headcount, and the individual owners of leased space for each agency location. Leased space cost ranges from \$0 per square foot for certain office and storage space leased by the Attorney General to \$28.48 per square foot for 1,781 square feet of recruitment office space leased by the Adjutant General in West Fargo and \$31.25 per square foot for 96 square feet of office space leased by the Attorney General in Grand Forks. The survey also identified projected space needs for each agency. The Secretary of State, State Auditor, Legislative Assembly, Legislative Council, judicial branch, Highway Patrol, Adjutant General, and State Historical Society identified needs for additional or renovated space.

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

- **Legislative Council:**

The most significant changes in legislative committee rooms over the last 3 decades occurred during the 2021 legislative session due to the need for social distancing resulting from the COVID-19 emergency;

The 2021 changes expanded the legislative presence in the judicial wing of the State Capitol through the construction of four new committee rooms;

Most feedback from legislators and others regarding the newly constructed meeting rooms was positive and many legislators expressed interest in continuing to use the rooms;

The legislative branch retained control over the four new rooms since the conclusion of the 2021 legislative session, but the long-term jurisdiction over the rooms had not been formally resolved until the November 2021 special legislative session, in which the Legislative Assembly approved Senate Bill No. 2349 to transfer the rooms to the legislative branch as recommended by this committee; and

Section 48-08-04 identifies areas of the State Capitol which may not be used without the authorization of the Legislative Council.

- **Judicial branch:**

The judicial branch does not have a specific policy regarding work location;

The court has 27,764 square feet of space on the first and second floors of the judicial wing of the State Capitol and no longer leases office space;

Architects were contracted to determine the feasibility of converting the Liberty Memorial Building into a new Supreme Court building in 2015 and the judicial branch continues to favor that proposal; and

The Liberty Memorial Building would require a 21,000 square foot addition to house the judicial branch.

- Ethics Commission:

The Ethics Commission has entered a 10-year lease for 1,344 square feet of space in north Bismarck for \$19.50 per square foot per year;

The Ethics Commission opposes being located in the State Capitol because it could limit independence of the commission and discourage individuals from contacting the commission with concerns; and

The Ethics Commission is reviewing its need for a physical office location.

- Attorney General:

There was a \$1.8 million cost overrun on a building leased by the office at 1720 Burlington Avenue in Bismarck;

The prior Attorney General was made aware of the cost overrun in January 2021 and the cost overrun primarily was due to requests from the Attorney General's office for renovations, additions, and other changes to the property;

Several items in the contract with the lessor did not comply with state contract requirements, including the monthly lease payments reflected the contractually agreed-to amount plus an additional amount for the cost overrun;

Approximately \$1.4 million of unspent funds from Attorney General's 2019-21 biennium appropriation was used to pay for a portion of the cost overrun and the remaining \$400,000 was added to the monthly lease payments to be paid by the Attorney General over the 10-year lease term;

Employees from the Bureau of Criminal Investigation, Consumer Protection Division, Lottery, Information Technology, Criminal Justice Information Services, and the State Fire Marshal are located in the leased facility;

The Attorney General's office is working with the State Auditor in its review of the lease;

The cost overrun for renovations of the facility at 1720 Burlington Avenue is a state responsibility because it was a build-to-suit project; and

Despite the deletion of the email accounts of the former Attorney General and former Deputy Attorney General, many emails related to the lease have been recovered from individuals outside the Attorney General's office.

- Information Technology Department:

The agency entered a lease of an 85,000 square foot building in north Bismarck in June 2014 with an expiration date of June 2025 at a cost of \$17 per square foot per year;

The agency staff was required to vacate the building from July 2019 through September 2020 due to necessary structural repairs;

The agency's space needs have changed since the COVID-19 emergency and the agency is subleasing 40,000 square feet of the building to the Department of Environmental Quality;

The agency has a telework policy that identifies state and employee responsibilities; and

94 percent of Information Technology Department staff live in North Dakota, with a large majority living in Burleigh and Morton Counties.

Representatives of OMB provided information regarding a proposal for OMB to charge rent to agencies receiving funding from the general fund that are located on the Capitol grounds. The committee was informed:

- Only nongeneral fund agencies on the Capitol grounds pay rent;
- There would be no net cost to implement this proposal, because the Facility Management Division budget would receive funding from special funds derived from rent paid by the general fund agencies instead of directly from the general fund;
- The proposal would provide an incentive for general fund agencies to more efficiently use space on the Capitol grounds;
- Total leased space decreased by 20 percent from 2019 to 2021 and there is potential to reduce total leased space by an additional 20 percent by 2023; and
- State agencies have reduced leased space throughout Bismarck through the use of remote work, resulting in lease savings of over \$1 million annually for the state.

Considerations and Recommendation

The committee considered but did not recommend a bill draft to provide for the disclosure of leased property ownership and to enact prohibitions relating to the lease of property owned by a member of the Legislative Assembly or an elected or appointed official. Members of the committee expressed concerns regarding the enactment of voting limitations and whether any violations of the prohibitions would be investigated by both a legislative committee and the Ethics Commission.

The committee recommended Senate Bill No. 2349 to transfer certain space in the judicial wing of the State Capitol, including judicial wing room 216 and judicial wing rooms 327 B, C, and E, from the State Department of Health and the Department of Human Services to the legislative branch. The bill was introduced to and approved by the 2021 Legislative Assembly during the November 2021 special legislative session.

STUDY OF THE RACING COMMISSION BUDGET

The committee studied funding sources for the budget of the Racing Commission, including consideration of the feasibility and desirability of changing the Racing Commission to a special funds only budget and the effect on general fund revenues.

The 2021 Legislative Assembly appropriated \$574,495, including \$407,894 from the general fund and \$166,601 from other funds, including the Racing Commission's operating fund, to the commission for the 2021-23 biennium.

Section 53-06.2-08 authorizes the Racing Commission to charge a license fee, as established by the Racing Commission, for races commensurate with the size and attendance of the race meet. The Racing Commission may grant licenses to horse owners, jockeys, trainers, veterinarians, concessionaires, service providers, and such other persons as determined by the commission. Section 53-06.2-05(6) requires the Racing Commission to deposit any fees collected under its authority in the Racing Commission operating fund. The Racing Commission may spend the fee revenues for operating costs of the commission pursuant to legislative appropriation. The Racing Commission has established the amounts of various license fees in North Dakota Administrative Code Section 69.5-01-05-02, which provides each application for a license, or its renewal, must be accompanied by the payment of an annual fee. The license fees identified include \$100 plus \$10 per day of racing for an association license to conduct live racing, \$75 for a trainer, \$50 for an individual owner, and \$7,500 for a new service provider. The fee amounts were adjusted last in July 2011. In its submitted budget request for the 2021-23 biennium, the Racing Commission estimated approximately \$132,500 of revenue to be deposited in its operating fund for the biennium.

Chapter 53-06.2 establishes the breeders' fund, the purse fund, and the racing promotion fund and provides for the Racing Commission to administer the funds. The breeders' fund was established to financially reward breeders or owners of North Dakota-bred horses. The purse fund was established to supplement and improve purses offered at racetracks within the state. The racing promotion fund was established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state. Pursuant to Section 53-06.2-11, the breeders' fund, purse fund, and racing promotion fund receive revenue from wagers on live horse racing and simulcast and account wagering. In addition to the three special funds, a portion of revenue from wagers on live horse racing and simulcast and account wagering is placed in the general fund.

The committee was informed the Racing Commission is comprised of two full-time staff, an executive director and an administrative officer, and two temporary staff, a breeders' fund administrator and a safety steward and investigator. The Racing Commission reported horse racing-related tax collections deposited in the general fund have exceeded the general fund appropriation to the Racing Commission each biennium since the 2013-15 biennium. Representatives of the Racing Commission reported the commission is neutral regarding the source of funds for its budget.

Conclusion

The committee makes no recommendation regarding the study of the Racing Commission budget.

OTHER COMMITTEE DUTIES

Report on Federal Funds

Section 54-27-27.1 requires each executive branch state agency, excluding entities under the control of the State Board of Higher Education, receiving federal funds, to report to OMB a plan to operate the state agency if federal funds are reduced by 5 percent or more of the total federal funds the state agency receives. The report must include information on whether the agency will request state funds to offset the decrease in federal funds. The report is not required to address a reduction in federal funds received by the agency which is a result of:

1. A decrease in caseloads or cost per case;

2. A change in the anticipated project completion date for a construction project qualifying for federal fund reimbursement; or
3. The completion of a one-time project funded in whole or in part by federal funds.

The Office of Management and Budget is required to report to the Legislative Management by October 15 of each even-numbered year on the reports received from state agencies under this section. The report must include a summary of the reports received from state agencies on how each agency will operate with the reduction in federal funds. The Government Administration Committee was assigned responsibility for receiving this report for the 2021-22 interim.

The committee received a report from OMB in August 2022 regarding state agency plans to operate if federal funds are reduced by 5 percent or more of the total federal funds the agency receives. Of the 32 executive branch agencies receiving federal funds during the 2021-23 biennium, 11 agencies expect a decrease in federal funds of 5 percent or more in the 2023-25 biennium. The committee was informed the Highway Patrol, Secretary of State, and State Library may seek additional state funding if the federal funding level is not maintained.

Agreements Between North Dakota and South Dakota

Section 54-40-01 provides an agency, department, or institution may enter an agreement with the State of South Dakota to form a bistate authority to jointly exercise any function the entity is authorized to perform by law. Any proposed agreement must be submitted to the Legislative Assembly or, if the Legislative Assembly is not in session, to the Legislative Management or a committee designated by the Legislative Management for approval or rejection. The agreement may not become effective until approved by the Legislative Assembly or the Legislative Management. The Government Administration Committee was assigned this responsibility for the 2021-22 interim.

The committee received information regarding the history of the bistate authority legislation. The South Dakota Legislature in 1996 enacted a law creating a legislative commission to meet with a similar commission from North Dakota to study ways North Dakota and South Dakota could collaborate to provide government services more efficiently. The North Dakota Legislative Council (Legislative Management) appointed a commission to meet with the South Dakota commission. As a result of the joint commission, the Legislative Assembly enacted legislation relating to higher education and the formation of a cooperative agreement with South Dakota. The South Dakota commission proposed several initiatives, but the South Dakota Legislature did not approve any of the related bills.

During the 2021-22 interim, no proposed agreements were submitted to the committee for approval to form a bistate authority with the State of South Dakota.

CAMP GRAFTON EXPANSION

Section 16 of House Bill No. 1016 (2021) required for the Adjutant General to report to the Legislative Management regarding any land purchased for the expansion of Camp Grafton. The 2019 Legislative Assembly, in Senate Bill No. 2016, appropriated \$600,000 from the strategic investment and improvements fund to the Adjutant General for the Camp Grafton expansion. The expansion is to provide space for the National Guard to expand its shooting range at Camp Grafton. The 2019 Legislative Assembly provided legislative intent that:

- The Adjutant General purchase options for the purchase or long-term lease of land for the Camp Grafton expansion, including the purchase of no more than 1,600 acres and the long-term lease of the remainder, not to exceed 6,000 acres in total.
- If the Adjutant General secures options to purchase or lease all necessary land for the Camp Grafton expansion, the 2021 Legislative Assembly provide funding and authority for the purchase or long-term lease of land for the Camp Grafton expansion.
- The Adjutant General not use eminent domain for the expansion of Camp Grafton.

The Adjutant General reported to the 2021 Legislative Assembly it had spent \$28,300 for appraisals to move forward with negotiations for purchase and lease agreements.

The 2021 Legislative Assembly, in House Bill No. 1016, provided authority for the Adjutant General to continue the unexpended appropriation authority from the \$600,000 appropriation from the strategic investment and improvements fund to continue the expansion of Camp Grafton. In addition, the 2021 Legislative Assembly appropriated \$280,000 of ongoing funding from the general fund to lease land and \$1.75 million of one-time funding from the general fund to purchase land for the Camp Grafton expansion. The 2021 Legislative Assembly provided legislative intent that:

- The Adjutant General contract for the purchase or long-term lease of land for the Camp Grafton expansion, including the purchase of no more than 1,600 acres and the long-term lease of the remainder, not to exceed 6,000 acres in total.

- The Adjutant General not use eminent domain for the expansion of Camp Grafton.

The Adjutant General reported in August 2022 that of the \$2.63 million appropriated for the range expansion, \$48,900 has been spent for land appraisals and the expansion has been paused to re-evaluate space needs for new ammunition.