STUDY OF THE RESEARCH ENTERPRISE AND COMMERCIALIZATION BUILDING ON THE CAMPUS OF THE UNIVERSITY OF NORTH DAKOTA - BACKGROUND MEMORANDUM

STUDY DIRECTIVE

Pursuant to the directive (Appendix A) of the Chairman of the Legislative Management, the Government Finance Committee has been assigned a study of State Board of Higher Education activities relating to any agreement or financing associated with the purchase of the Research Enterprise and Commercialization (REAC) building from the University of North Dakota (UND) Research Foundation. As part of the study, the committee is to review the following:

- Proposed use or obligation of state or other funding for which the state was not legally obligated to pay;
- The manner in which the negotiations to purchase the building complied with legislative intent and how the interests of taxpayers were weighed against the interest of the creditors; and
- The effect of the provisions of the State Board of Higher Education's ground lease with the foundation on the disposition of the building if the building was not purchased by the State Board of Higher Education.

The study directive also provides the committee may suggest a performance audit be conducted on the actions relating to the REAC building if the committee feels sufficient information has not been made available for the study.

BACKGROUND

In November 2006, UND entered a ground lease with the UND Research Foundation to lease approximately 45,000 square feet of state-owned land to the foundation for the construction of the REAC building. North Dakota Century Code Section 54-01-27 allows state agencies or institutions to enter agreements to lease real property owned by the state to private entities. The UND Research Foundation, which is registered with the Secretary of State as a private nonprofit entity, obtained financing for the building, and construction began in 2008 and was completed in 2009. Attached as Appendix B is a campus map of UND detailing the location of the building.

LEGISLATIVE ACTIONS RELATING SPECIFICALLY TO THE BUILDING

In March 2006, the Budget Section approved a Centers of Excellence Commission recommendation to award $3.5 million to UND for the Center for Life Sciences and Advanced Technology project. The project application indicated the funding would be used for the construction of a facility to support the mission of the center with space for offices, laboratories, and pilot manufacturing sites. The funding was used for the construction of the REAC building.

The 2013 Legislative Assembly through Section 23 of Senate Bill No. 2003 authorized the State Board of Higher Education to enter agreements to purchase the REAC building from the UND Research Foundation and enter agreements to finance the purchase. The section further requires the State Board of Higher Education to provide a report to the Budget Section regarding the purchase of the building. A copy of Section 23 of Senate Bill No. 2003 is attached as Appendix C.

PROPOSED STUDY PLAN

The following is a proposed study plan for the committee's consideration:

1. Receive and review information regarding the history of the REAC building; financing and funds used to construct the building; an overview of the facility, including space leased to other entities; and limitations on the use of the facility.
2. Receive and review information regarding the legal obligations of the state to repay any of the original loans used to construct the building.
3. Receive and review information regarding the original ground lease entered by UND and the UND Research Foundation and what would happen if the ground lease was terminated.
4. Receive and review information regarding the status of the purchase of the building, including the manner in which purchase negotiations have or will be handled and how the negotiations complied with legislative intent regarding the purchase of the building.
5. Receive testimony from interested persons regarding the study.
6. If determined to be necessary, recommend to the Chairman of the Legislative Management that a performance audit be conducted on actions relating to the REAC building.
7. Develop other committee recommendations and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Management.

ATTACH:3

SENATORS
Ray Holmberg
Dwight Cook
Joan Heckaman
Dave Oehlke
Larry J. Robinson
Mac Schneider
Ronald Sorvaag
Rich Wardner

REPRESENTATIVES
Al Carlson
Chuck Damschen
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Brenda Heller
Marvin E. Nelson
Kenton Onstad
Mark S. Owens
Jim Schmidt

North Dakota Legislative Management

Ray Holmberg, Chairman
Al Carlson, Vice Chairman
Jim W. Smith, Director, Legislative Council Staff

January 17, 2014

Honorable Jeff Delzer
State Representative
2919 Fifth Street NW
Underwood, ND 58576-9603

Dear Representative Delzer:

This letter is sent to you in your capacity as Chairman of the Legislative Management's interim Government Finance Committee. I am expanding the committee's responsibilities to include a review of the State Board of Higher Education's activities relating to any agreement or financing associated with the purchase of the Research Enterprise and Commercialization building from the University of North Dakota (UND) Research Foundation on the campus of UND.

Please identify as part of your review, any proposed use or obligation of state or other funding for purposes for which the state was not legally obligated to pay, the manner in which the negotiations complied with legislative intent and how the interests of taxpayers were weighed against the interest of the creditors, and the effect of the provisions of the State Board of Higher Education's ground lease with the foundation on the disposition of the building if the State Board of Higher Education had not purchased the building.

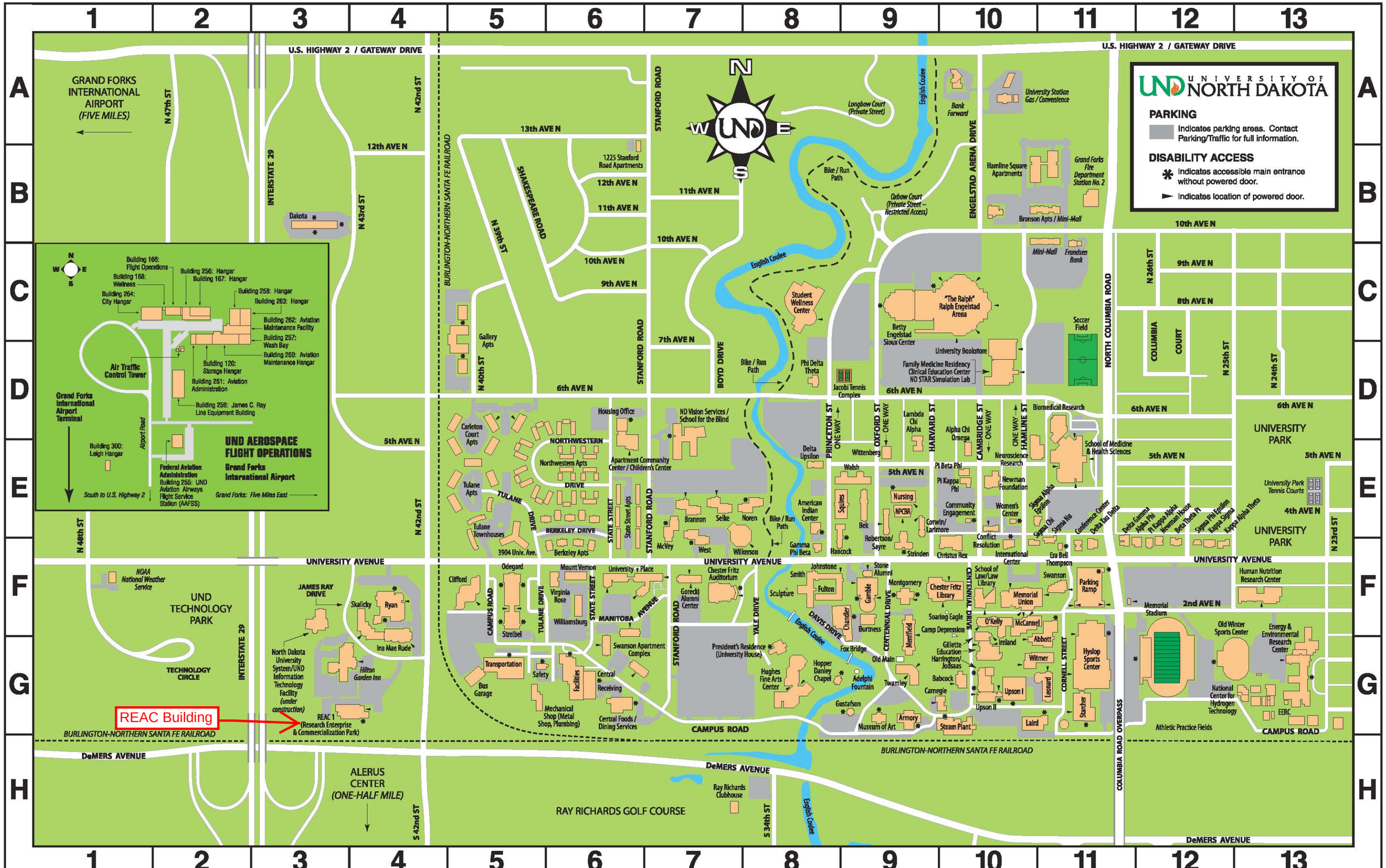
I trust your committee can handle this increased responsibility and report its findings to the Legislative Management in November 2014. If you find after your committee's review that additional information is necessary, please consider suggesting that a performance audit be conducted on the events surrounding this matter.

Please do not hesitate to contact me if you have any questions concerning this additional committee responsibility.

Sincerely,

Senator Ray Holmberg
Chairman

RH/CH
cc: Members of the Government Finance Committee
Members of the Legislative Management
Representative Chet Pollert, Chairman, Budget Section
Kirsten Diederich, President, State Board of Higher Education


UND UNIVERSITY OF NORTH DAKOTA
PARKING
Indicates parking areas. Contact Parking/Traffic for full information.
DISABILITY ACCESS
Indicates accessible main entrance without powered door.
Indicates location of powered door.
U.S. HIGHWAY 2 / GATEWAY DRIVE
GRAND FORKS INTERNATIONAL AIRPORT (FIVE MILES)
N 47th ST
INTERSTATE 29
N 42nd ST
N 43rd ST
12th AVE N
13th AVE N
11th AVE N
10th AVE N
9th AVE N
8th AVE N
7th AVE N
6th AVE N
5th AVE N
4th AVE N
2nd AVE N
Dakota
BURLINGTON-NORTHERN SANTA FE RAILROAD
SHAKESPEARE ROAD
N 39th ST
N 40th ST
STANFORD ROAD
1225 Stanford Road Apartments
Gallery Apts
Carleton Court Apts
Housing Office
NORTHWESTERN DRIVE
Northwestern Apts
Apartment Community Center / Children's Center
ND Vision Services / School for the Blind
Tulane Apts
TULANE DRIVE
Tulane Townhouses
3904 Univ. Ave.
BERKELEY DRIVE
Berkeley Apts
STATE STREET
State Street Apts
McVey
Brannon
West
Selke
Noren
Wilkerson
Longbow Court (Private Street)
English Coulee
Bike / Run Path
Oxbow Court (Private Street – Restricted Access)
Bank Forward
University Station Gas / Convenience
ENGELSTAD ARENA DRIVE
Hamline Square Apartments
Grand Forks Fire Department Station No. 2
Bronson Apts / Mini-Mall
Mini-Mall
Frandsen Bank
Student Wellness Center
"The Ralph" Ralph Engelstad Arena
Betty Engelstad Sioux Center
University Bookstore
Family Medicine Residency Clinical Education Center ND STAR Simulation Lab
Soccer Field
Jacobi Tennis Complex
Phi Delta Theta
BOYD DRIVE
Delta Upsilon
American Indian Center
Gamma Phi Beta
Haincock
Squires
Bek
Robertson/ Sayre
Strinden
Walsh
Wittenberg
PRINCETON ST ONE WAY
OXFORD ST ONE WAY
HARVARD ST
CAMBRIDGE ST ONE WAY
ONE WAY HAMLINE ST
Lambda Chi Alpha
Alpha Chi Omega
Pi Beta Phi
Pi Kappa Phi
Nursing
NPCBR
Corwin/ Larimore
Community Engagement
Women's Center
Christus Rex
Conflict Resolution
International Center
Neuroscience Research
Newman Foundation
Biomedical Research
School of Medicine & Health Sciences
Sigma Alpha Epsilon
Sigma Chi
Sigma Nu
Era Bell Thompson
Conference Center
Delta Tau Delta
Delta Gamma
Alpha Phi
Pi Kappa Alpha
Newman House
Beta Theta Pi
Sigma Phi Epsilon
Kappa Sigma
Kappa Alpha Theta
NORTH COLUMBIA ROAD
N 26th ST
COLUMBIA COURT
N 25th ST
N 24th ST
N 23rd ST
UNIVERSITY PARK
University Park Tennis Courts
UNIVERSITY AVENUE
Clifford
Odegard
Mount Vernon
University Place
Chester Fritz Auditorium
Goreckl Alumni Center
Johnstone
Smith
Fulton
Sculpture
Stone Alumni
Gamble
Montgomery
Chandler
Burtness
Merrifield
Chester Fritz Library
School of Law/Law Library
Memorial Union
Swanson
Parking Ramp
Human Nutrition Research Center
CAMPUS ROAD
Strelbel
Virginia Rose
Williamsburg
MANITOBA AVENUE
Swanson Apartment Complex
President's Residence (University House)
YALE DRIVE
DAVIS DRIVE
Fox Bridge
Old Main
Twamley
Soaring Eagle
Camp Depression
Gillette Education Harrington/ Jodsaas
Babcock
Carnegie
O'Kelly
McCannel
Ireland
Abbott
Witmer
Upson I
Upson II
Leonard
Laird
Starcher
CORNELL STREET
Hyslop Sports Center
Memorial Stadium
Old Winter Sports Center
Energy & Environmental Research Center
National Center for Hydrogen Technology
EERC
Athletic Practice Fields
COLUMBIA ROAD OVERPASS
Transportation
Safety
Facilities
Central Receiving
Mechanical Shop (Metal Shop, Plumbing)
Central Foods / Dining Services
Bus Garage
Hughes Fine Arts Center
Hopper Danley Chapel
Adelphi Fountain
Gustafson
Museum of Art
Armory
Steam Plant
Laird
NOAA National Weather Service
UND TECHNOLOGY PARK
TECHNOLOGY CIRCLE
JAMES RAY DRIVE
Skalicky
Ryan
Ina Mae Rude
Hilton Garden Inn
North Dakota University System/UND Information Technology Facility (under construction)
REAC 1 (Research Enterprise & Commercialization Park)
REAC Building
BURLINGTON-NORTHERN SANTA FE RAILROAD
DeMERS AVENUE
ALERUS CENTER (ONE-HALF MILE)
RAY RICHARDS GOLF COURSE
Ray Richards Clubhouse
S 42nd ST
S 34th ST
N 46th ST
Air Traffic Control Tower
Grand Forks International Airport Terminal
Building 168: Flight Operations
Building 168: Wellness
Building 256: Hangar
Building 167: Hangar
Building 264: City Hangar
Building 258: Hangar
Building 263: Hangar
Building 262: Aviation Maintenance Facility
Building 257: Wash Bay
Building 260: Aviation Maintenance Hangar
Building 120: Storage Hangar
Building 261: Aviation Administration
Building 259: James C. Ray Line Equipment Building
Building 300: Leigh Hangar
Airport Road
Federal Aviation Administration Building 255: UND Aviation Airways Flight Service Station (AAFSS)
UND AEROSPACE FLIGHT OPERATIONS
Grand Forks International Airport
South to U.S. Highway 2
Grand Forks: Five Miles East

SECTION 23. UNIVERSITY OF NORTH DAKOTA - RESEARCH ENTERPRISE AND COMMERCIALIZATION BUILDING PURCHASE - BUDGET SECTION REPORT. During the period beginning with the effective date of this Act and ending June 30, 2015, the state board of higher education may enter a purchase and financing agreement or agreements with a private entity and do all things necessary and proper to authorize the purchase of the research enterprise and commercialization building on the campus of the university of North Dakota using donations, gifts, or other funds. The state board of higher education shall provide a report to the budget section if the research enterprise and commercialization building is purchased as provided under this section.