

**2021 HOUSE APPROPRIATIONS**

**HB 1025**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1025  
1/29/2021

A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; and to declare an emergency.

**8:35 Chairman Delzer** Called the meeting to order. Roll call was taken

| <b>Attendance</b>                  |   |
|------------------------------------|---|
| Representative Jeff Delzer         | P |
| Representative Keith Kempenich     | P |
| Representative Bert Anderson       | P |
| Representative Larry Bellew        | P |
| Representative Tracy Boe           | P |
| Representative Mike Brandenburg    | P |
| Representative Michael Howe        | P |
| Representative Gary Kreidt         | P |
| Representative Bob Martinson       | P |
| Representative Lisa Meier          | P |
| Representative Alisa Mitskog       | P |
| Representative Corey Mock          | P |
| Representative David Monson        | P |
| Representative Mike Nathe          | P |
| Representative Jon O. Nelson       | P |
| Representative Mark Sanford        | P |
| Representative Mike Schatz         | P |
| Representative Jim Schmidt         | P |
| Representative Randy A. Schobinger | P |
| Representative Michelle Strinden   | P |
| Representative Don Vigesaa         | P |

### Discussion Topics:

- Secretary of State
- Office of Management
- Attorney General
- Tax Department
- ND State University
- Department of Health
- Department of Environmental Quality
- Adjutant General

**8:40 Joe Morrissette-** Director of the Office of Management and Budget; introduces HB 1025 (**testimony # 4140**)

**8:50 Tag Anderson-** Director of Risk Management, OMB; reviews lawsuits pending

**9:00 Sandra McMerty-** Deputy Commissioner- ND Tax Department, oral testimony in favor

**9:03 Dean Bresciani-** President of ND State University (**testimony #4141**)

**9:09 Brenda Weisz-** Chief Financial Officer –ND Department of Health, oral testimony in favor

**9:11 Dave Glatt-** ND Director, Department of Environmental Quality, oral testimony

**9:16 Al Dohrmann-** Adjutant General & Director of Emergency Services for the state of ND  
(**testimony # 4164**)

**9:20 Cody Shultz-** Director, Homeland Security- ND Department of Adjutant General oral  
testimony.

**Additional written testimony:** Submitted but not addressed **#4150**

**9:25 Chairman Delzer** Closes hearing for HB 1025; discussion continues for HB 1025

**9:45 Closes discussion on HB 1025**

*Risa Berube,*

*House Appropriations Committee Clerk*

TESTIMONY OF

**Joe Morrisette, Director of the Office of Management and Budget**

Chairman Delzer and members of the House Appropriations Committee, I am Joe Morrisette, Director of the Office of Management and Budget. I am here to testify in support of House Bill No. 1025, which provides deficiency appropriations to eight different agencies. I will provide an overview of each request. Representatives from each agency are here to provide more detail and answer specific questions.

**Secretary of State**

The appropriation in subdivision 1 is to pay a court-ordered judgement in the case of Self Advocacy Solutions N.D. v. Jaeger, relating to election law. The judgement of \$97,500 was entered on October 23, 2020. Through June 30, 2021, interest of approximately \$87 is expected to accrue.

I ask that you amend this amount to **\$97,587** to include accrued interest.

**Office of Management and Budget**

The appropriation in subdivision 2 is to pay a court-ordered judgement in the case of Brakebill v. Jaeger, relating to election law. The judgement of \$452,983.76 was entered on May 7, 2020. Through June 30, 2021, interest of approximately \$884 is expected to accrue.

I ask that you amend this amount to **\$453,868** to reflect the correct judgement amount and accrued interest.

We are now aware of two additional judgements that will need to be paid and I am asking for amendments to include the following:

- **\$103,000** for the court-ordered judgement and accrued interest in the case of Traynor Law Firm v. State, relating to the cost for removal proceedings against the Ward County Sherriff.
- **\$40,025** for the court-ordered judgement and accrued interest in the case of SpoofoCard, LLC v. Burgum, relating to a challenge to North Dakota's anti-spoofing law.

**Attorney General**

The appropriation in subdivision 3 is to pay the court-ordered judgement relating to the case of North Dakota Farm Bureau, Inc. v. Stenehjem relating to a federal challenge to ND corporate farm laws. The judgement of \$175,435 was entered on August 27, 2019. Through June 30, 2021, interest of \$5,707 is expected to accrue.

I ask that you amend this amount to **\$181,142** to reflect the correct judgement amount and accrued interest.

To simplify the bill and the process of paying these judgements, the amounts in subdivisions 1, 2, and 3 could be combined into one appropriation to the Office of Management and Budget, which could serve as the fiscal agent for paying these claims. If you choose to amend the bill in that way, the appropriation to OMB could be \$875,622 and current subsections 1 and 3 could be removed.

### **Tax Department**

The appropriation in subdivision 4 is to meet deficiency needs in both the Homestead Tax Credit and Disabled Veterans Credit programs. These programs provide property tax relief for qualifying individuals. The Tax Department has a responsibility to reimburse the counties for property tax reductions granted pursuant to these programs. There is no authority for the department to withhold reimbursement or prorate the appropriated amount, so they must request a deficiency if actual program costs exceed appropriations.

The Homestead Tax Credit appropriation for 2019-21 is \$15.8 million and nearly \$8.4 million was spent in the first year. The deficiency request for the Homestead Tax Credit program is \$1.31 million.

The Disabled Veterans' Credit appropriation for 2019-21 is \$8,410,200 and over \$5.2 million was spent in the first year. The deficiency request for the Disabled Veterans Credit program is \$2.73 million.

### **North Dakota State University**

The appropriation in subdivision 5 is a deficiency request of \$474,657 from NDSU to cover litigation costs relating to the A. Glenn Hill Center construction project.

### **Department of Health**

The appropriation in subdivision 6 is a deficiency request from the Department of Health for COVID-19-related expenses. At the time the executive budget recommendation was finalized, the deadline for expenditure of Coronavirus Relief Fund moneys was anticipated to be December 30, 2020. Since that time, federal legislation has extended the timeframe to December 31, 2021. This change in federal guidance, as well as progress made responding to the pandemic and other factors, has diminished the need for this deficiency.

### **Department of Environmental Quality**

The appropriation in subdivision 7 is a deficiency request from the Department of Environmental Quality for costs relating to the COVID-19 wastewater testing project for the period January 1, 2021 through June 30, 2021.

**Adjutant General**

The appropriation in subdivision 8 is the deficiency request for the Office of the Adjutant General is to repay Bank of North Dakota loans for disaster costs and Dakota Access Pipeline protest costs.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for House Bill 1025 with the requested amendments. I would be happy to answer any questions.

## **HB1025**

**House Appropriations Committee**

**January 29, 2021**

**Dean L. Bresciani, NDSU President**

**701-231-7211 | [dean.bresciani@ndsu.edu](mailto:dean.bresciani@ndsu.edu)**

Chair and Committee Members: I am Dean Bresciani, President of North Dakota State University. I'm here today to provide information on one provision of HB1025 relating to litigation costs associated with the A. Glenn Hill Center on NDSU's campus.

After completing construction of the A. Glenn Hill Center in late 2015, the project's general contractor, Roers Construction, Inc. (the "GC") alleged that NDSU owed the GC an additional \$1,317,403 based on claimed delays and increased costs during the construction process. NDSU disputed the allegations, and NDSU was served with a lawsuit on January 16, 2018, which forced NDSU to defend itself in court. With the approval of the State Board of Higher Education and the Attorney General's Office, NDSU retained the law firm of Stinson LLP with offices in Bismarck and Minneapolis as litigation counsel.

Subcontractors and other parties involved in the construction project were brought into the litigation, and ultimately, there were a total of nine parties. Upon completion of extensive discovery, but prior to summary judgment motions and a possible trial, the parties reached a global settlement with the assistance of a mediator. The settlement negotiations were complicated because there were nine parties together with their attorneys and insurance companies. NDSU signed the settlement agreement on November 15, 2019 contingent upon the approval of the State Board of Higher Education, which was provided on December 3, 2019.

With this bill, NDSU is seeking repayment solely for the litigation costs associated with this lawsuit, which totaled \$474,657. NDSU was required to defend itself against this suit and incurred substantial attorney's fees, expert fees, mediation fees and court costs as a result. We are asking for reimbursement for those costs. This bill would not be utilized for settlement payment purposes.

We ask that you pass HB1025 with this appropriation for NDSU. I, along with NDSU's litigation counsel, are available to answer your questions. Thank you.

TESTIMONY OF  
MAJOR GENERAL ALAN S. DOHRMANN  
NORTH DAKOTA NATIONAL GUARD  
BEFORE THE  
HOUSE APPROPRIATIONS COMMITTEE  
29 JANUARY 2021  
HOUSE BILL 1025

Good morning Mr. Chairman, members of the committee, I am Al Dohrmann, Adjutant General and Director of Emergency Services for the state of North Dakota. I am here today to testify in support of Subdivision 8 of House Bill 1025.

Subdivision 8 provides \$8,062,300 of loan authority from the Bank of North Dakota (BND), of which we are asking for \$3,130,540 for projected disaster related cost this biennium, and \$14,064,916 of BND loan authority to pay the remaining balance of the Dakota Access Pipeline protest loans with BND. The sum of these two loan repayments is now \$17,195,456. I will address the DAPL loan and will bring Mr. Schulz, our Director of Homeland Security, up to provide an update on the disaster costs.

Attachment #1 provides a breakdown of the DAPL cost and the payments made against loans totaling \$39,064,916 dating back to the Fall of 2016. As you can see, we have received \$10,000,000 of federal funds from a Department of Justice Emergency Law Enforcement Assistance Grant, along with \$15,000,000 of donations to pay down the principle, leaving us with \$14,064,916 in our deficiency. This amount is comprised of \$13,362,262 in principle and an estimated \$702,654 in interest through June 30, 2021.

Also within Subdivision 8 is \$8,062,300 for the state cost share related to presidentially declared disasters including the 2019 Spring flood (DR4444), the 2019 Fall flood (DR4475), the 2020 Spring flood (DR4553), the 2020 Summer flood (DR4565) and National Guard support for COVID-19 response efforts.

Before I turn it over to Mr. Cody Schulz, to update you on the four flood disasters declared throughout the biennium. I will address the now unneeded loan authority we received for National Guard COVID operations.

We received authorization of \$2,184,000 as a means to fund the 25% state cost share of the National Guard support to the COVID-19 response, which is included in the amount at page 2, line 18 of HB 1025. As of January 21, 2021, Federal Government announced they will retroactively fund 100% of the cost associated with all FEMA mission assignments for National Guard COVID operations through September 2021. With this new Federal authority, we will not need any of the loan authority for State Active Duty for COVID-19 response efforts; therefore, line 18 of page 2 can be reduced by this amount.

With that Mr Chairman, I will turn it over to Cody to provide an update on the remaining disaster declarations.

Good Morning Mr Chairman, and members of the committee. I am Cody Schulz, Director of Homeland Security. I would like to provide an update on the four flood disasters declared this biennium.

The four flood disasters incurred this biennium involved 30 counties throughout the state and have a total federal and state cost of \$42,241,560 with an estimated state cost share of \$5,750,160. Of this amount, we are estimating a need for \$3,130,540 to be paid out this biennium. This includes both principle and interest payments for the BND loan draws. The remainder or difference between the two state cost share figures we expect to be paid out in the 2021-2023 biennium and is part of our Appropriations request contained in HB 1016.

Mr Chairman, both of the items identified within Subdivision 8 are estimates and any excess funding will not be expended.

We ask for your support of HB 1025 and will stand by for any questions you may have.

# DAPL EXPENDITURES



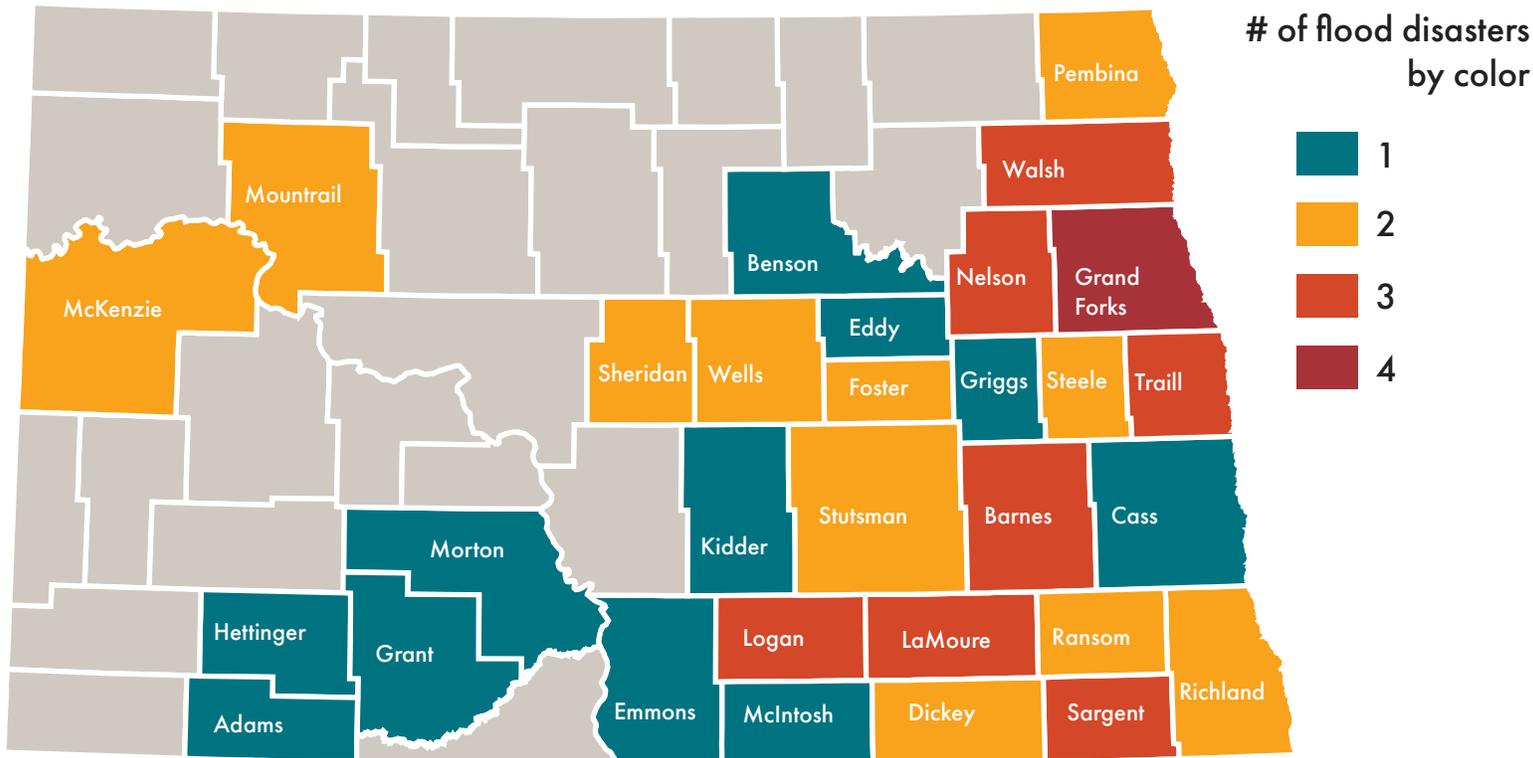
**\$39,064,916**  
(Total DAPL Expenditures)

— \$10 Million  
(Federal Department of Justice  
Emergency Law Enforcement  
Assistance Grant)

— \$15 Million (Donation)

**\$14,064,916**  
(BND Loan Balance and estimated  
interest through June 30, 2021)

# FLOOD DISASTER DECLARATIONS BY COUNTY • 2019-2021 BIENNIUM



## FLOOD DISASTERS BY YEAR

2019 Spring Flood - DR4444 - 19 Counties

2019 Fall Flood - DR4475 - 16 Counties

2020 Spring Flood - DR4553 - 18 Counties

2021 Summer Flood - DR4565 - 6 Counties

## 2019-2021 BIENNIUM PAYMENTS (ESTIMATES)

|               |              |
|---------------|--------------|
| Federal ..... | \$15,437,431 |
| State .....   | \$3,130,540  |

**TOTAL = \$18,567,971**

## CUMMULATIVE DAMAGE ESTIMATES

|               |              |
|---------------|--------------|
| Federal ..... | \$36,491,400 |
| State .....   | \$5,750,160  |
| Local .....   | \$7,298,280  |

**TOTAL = \$49,539,840**

January 28, 2021

North Dakota State Legislature  
House Appropriations Committee  
Bismarck, North Dakota

Re: House Bill 1025 -- Committee Hearing on January 29, 2021

Attn: House Appropriations Committee

I am an attorney, appointed as Special Assistant Attorney General, to represent the North Dakota State Board of Higher Education d/b/a North Dakota State University ("NDSU"). I was lead counsel representing NDSU on litigation brought by Roers Construction, LLC relating to the construction of the A. Glenn Hill Center on the NDSU campus.

This litigation was settled in late 2019. I am available to provide testimony regarding the litigation expenditures for legal fees, expert witness fees, mediation expenses and court-related costs.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith S. Moheban', with a long horizontal flourish extending to the right.

Keith S. Moheban

50 South Sixth Street, Suite 2600  
Minneapolis, Minnesota 55402  
[keith.moheban@stinson.com](mailto:keith.moheban@stinson.com)  
612-839-8291

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Brynhild Haugland Room, State Capitol

HB 1025  
2/9/2021

|   |
|---|
| A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; and to declare an emergency |
|---|

**3:31 Chairman Delzer** Called the meeting to order

| <b>Attendance</b>                  | <b>P/A</b> |
|------------------------------------|------------|
| Representative Jeff Delzer         | P          |
| Representative Keith Kempenich     | P          |
| Representative Bert Anderson       | P          |
| Representative Larry Bellew        | P          |
| Representative Tracy Boe           | P          |
| Representative Mike Brandenburg    | P          |
| Representative Michael Howe        | P          |
| Representative Gary Kreidt         | P          |
| Representative Bob Martinson       | P          |
| Representative Lisa Meier          | P          |
| Representative Alisa Mitskog       | P          |
| Representative Corey Mock          | A          |
| Representative David Monson        | P          |
| Representative Mike Nathe          | P          |
| Representative Jon O. Nelson       | P          |
| Representative Mark Sanford        | P          |
| Representative Mike Schatz         | P          |
| Representative Jim Schmidt         | P          |
| Representative Randy A. Schobinger | P          |
| Representative Michelle Strinden   | P          |
| Representative Don Vigesaa         | P          |

## **Discussion Topics:**

- **Amendment 21.0478.01004**

**3:32 Chairman Delzer**-Reviews the bill

**3:37 Legislative Council** -Passes out Amendment 21.0478.01004

**3:39 Representative Martinson**-Makes a motion to adopt amendment 21.0478.01004

**Representative Kempenich**- Seconds the motion

Further discussion

**3:41 Voice Vote- Motion Carries**

Further discussion

**3:50 Representative Monson-** Motion to further amend and remove NDSU litigation expenses

**Representative Jon O. Nelson-**Second

Further discussion

**Voice Vote- Motion Carries**

**Representative Kempenich-** Made a motion for a Do Pass as Amended

**Representative Vigesaa –**Seconds the motion

**3:53 Roll Call vote was taken;**

| <b>Roll Call Vote Representatives</b> | <b>Vote</b> |
|---------------------------------------|-------------|
| Representative Jeff Delzer            | Y           |
| Representative Keith Kempenich        | Y           |
| Representative Bert Anderson          | Y           |
| Representative Larry Bellew           | Y           |
| Representative Tracy Boe              | Y           |
| Representative Mike Brandenburg       | Y           |
| Representative Michael Howe           | Y           |
| Representative Gary Kreidt            | Y           |
| Representative Bob Martinson          | Y           |
| Representative Lisa Meier             | Y           |
| Representative Alisa Mitskog          | Y           |
| Representative Corey Mock             | A           |
| Representative David Monson           | Y           |
| Representative Mike Nathe             | Y           |
| Representative Jon O. Nelson          | Y           |
| Representative Mark Sanford           | Y           |
| Representative Mike Schatz            | Y           |
| Representative Jim Schmidt            | Y           |
| Representative Randy A. Schobinger    | Y           |
| Representative Michelle Strinden      | Y           |
| Representative Don Vigesaa            | Y           |

**Motion Carries- 20-0-1**

**Representative Howe will carry the bill**

**Additional written testimony:** No Written testimony

**4:01 Chairman Delzer** Closes the hearing for HB 1025

*Risa Berube,*

*House Appropriation Committee Clerk*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1025

Page 1, line 2, after the semicolon insert "to provide for payment of court-ordered judgments; to provide a statement of legislative intent;"

Page 1, line 5, after "fund" insert "and state disaster relief fund"

Page 1, remove lines 10 through 21

Page 2, line 4, replace "5" with "2"

Page 2, line 8, replace "6" with "3"

Page 2, remove lines 9 through 16

Page 2, replace lines 18 through 20 with:

|                                  |                    |
|----------------------------------|--------------------|
| "Loan repayment - disaster costs | <u>\$3,130,540</u> |
| Total state disaster relief fund | \$3,130,540"       |

Page 2, line 21, replace "9" with "4"

Page 2, after line 21, insert:

"BANK OF NORTH DAKOTA

|   |                     |
|---|---------------------|
| Loan repayment - Theodore Roosevelt presidential library endowment fund | <u>\$17,500,000</u> |
| Total general fund  | \$17,500,000        |

Subdivision 5."

Page 2, replace line 23 with:

|  |                  |
|--|------------------|
| "Grand total general fund              | \$22,014,657     |
| Grand total state disaster relief fund | <u>3,130,540</u> |
| Grand total all funds                  | \$25,145,197     |

**SECTION 2. PAYMENT OF COURT-ORDERED JUDGMENTS.** From the litigation funding pool line item in section 1 of chapter 40 of the 2019 Session Laws, the office of management and budget shall make payments for court-ordered judgments in accordance with section 32-12-04, during the period beginning with the effective date of this Act and ending June 30, 2021, on behalf of the following:

|                                 |                |
|---------------------------------|----------------|
| Secretary of state              | \$97,587       |
| Office of management and budget | 596,893        |
| Attorney general                | <u>181,152</u> |
| Total payments                  | \$875,632      |

**SECTION 3. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS.** It is the intent of the sixty-seventh legislative assembly that the attorney general seek reimbursement from the federal government for the costs of responding to unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-seventh legislative assembly that these reimbursements be used to repay the Bank of North Dakota loans authorized by the

emergency commission and the legislative assembly which were obtained to provide the funding necessary to respond to the unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-seventh legislative assembly that the provisions of section 54-16-13 apply to the loans, except that emergency commission approval does not apply."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment:

- Removes the \$32,092,680 general fund deficiency appropriation for the State Department of Health relating to Coronavirus (COVID-19) costs;
- Removes the \$14,064,916 general fund deficiency appropriation for the Adjutant General to repay a Bank of North Dakota loan relating to the Dakota Access Pipeline protest costs and adds a section of legislative intent relating to the loan repayment;
- Removes the \$1.4 million general fund deficiency appropriation for the Department of Environmental Quality relating to a wastewater testing project;
- Decreases the amount for Adjutant General loan repayments relating to disaster costs by \$4,931,760, from \$8,062,300 to \$3,130,540, and changes the funding source from the general fund to the state disaster relief fund;
- Adds a \$17.5 million general fund deficiency appropriation to the Bank of North Dakota to repay a portion of the \$35 million loan obtained for the Theodore Roosevelt Presidential Library and Museum endowment fund; and
- Removes deficiency appropriations for the Secretary of State, Office of Management and Budget, and the Attorney General to pay court-ordered judgments and adds a section providing for the payment of these judgments, as adjusted, to be made from the litigation funding pool of the Office of Management and Budget appropriated by the 2019 Legislative Assembly.

*Handwritten initials and date:*  
JF  
2/10/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1025

Page 1, line 2, after the semicolon insert "to provide for payment of court-ordered judgments; to provide a statement of legislative intent;"

Page 1, line 5, after "fund" insert "and state disaster relief fund"

Page 1, remove lines 10 through 21

Page 2, line 4, replace "5" with "2"

Page 2, remove lines 5 through 16

Page 2, replace lines 18 through 20 with:

|                                  |                    |
|----------------------------------|--------------------|
| "Loan repayment - disaster costs | <u>\$3,130,540</u> |
| Total state disaster relief fund | \$3,130,540"       |

Page 2, line 21, replace "9" with "3"

Page 2, after line 21, insert:

"BANK OF NORTH DAKOTA

|   |                     |
|---|---------------------|
| Loan repayment - Theodore Roosevelt presidential library endowment fund | <u>\$17,500,000</u> |
| Total general fund  | \$17,500,000        |

Subdivision 4."

Page 2, replace line 23 with:

|  |                  |
|--|------------------|
| "Grand total general fund              | \$21,540,000     |
| Grand total state disaster relief fund | <u>3,130,540</u> |
| Grand total all funds                  | \$24,670,540     |

**SECTION 2. PAYMENT OF COURT-ORDERED JUDGMENTS.** From the litigation funding pool line item in section 1 of chapter 40 of the 2019 Session Laws, the office of management and budget shall make payments for court-ordered judgments in accordance with section 32-12-04, during the period beginning with the effective date of this Act and ending June 30, 2021, on behalf of the following:

|                                 |                |
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| Secretary of state              | \$97,587       |
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| Total payments                  | \$875,632      |

**SECTION 3. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS.** It is the intent of the sixty-seventh legislative assembly that the attorney general seek reimbursement from the federal government for the costs of responding to unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-seventh legislative assembly that these reimbursements be used to repay the Bank of North Dakota loans authorized by the emergency commission and the legislative assembly which were obtained to provide

the funding necessary to respond to the unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-seventh legislative assembly that the provisions of section 54-16-13 apply to the loans, except that emergency commission approval does not apply."

*Handwritten initials and date:*  
2/10/21

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment:

- Removes the \$474,657 general fund deficiency appropriation for North Dakota State University relating to litigation expenses;
- Removes the \$32,092,680 general fund deficiency appropriation for the State Department of Health relating to Coronavirus (COVID-19) costs;
- Removes the \$14,064,916 general fund deficiency appropriation for the Adjutant General to repay a Bank of North Dakota loan relating to the Dakota Access Pipeline protest costs and adds a section of legislative intent relating to the loan repayment;
- Removes the \$1.4 million general fund deficiency appropriation for the Department of Environmental Quality relating to a wastewater testing project;
- Decreases the amount for Adjutant General loan repayments relating to disaster costs by \$4,931,760, from \$8,062,300 to \$3,130,540, and changes the funding source from the general fund to the state disaster relief fund;
- Adds a \$17.5 million general fund deficiency appropriation to the Bank of North Dakota to repay a portion of the \$35 million loan obtained for the Theodore Roosevelt Presidential Library and Museum endowment fund; and
- Removes deficiency appropriations for the Secretary of State, Office of Management and Budget, and the Attorney General to pay court-ordered judgments and adds a section providing for the payment of these judgments, as adjusted, to be made from the litigation funding pool of the Office of Management and Budget appropriated by the 2019 Legislative Assembly.

**REPORT OF STANDING COMMITTEE**

**HB 1025: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1025 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to provide for payment of court-ordered judgments; to provide a statement of legislative intent;"

Page 1, line 5, after "fund" insert "and state disaster relief fund"

Page 1, remove lines 10 through 21

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|                                  |                    |
|----------------------------------|--------------------|
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| Total state disaster relief fund | \$3,130,540"       |

Page 2, line 21, replace "9" with "3"

Page 2, after line 21, insert:

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|   |                     |
|---|---------------------|
| Loan repayment - Theodore Roosevelt presidential library endowment fund | <u>\$17,500,000</u> |
| Total general fund  | \$17,500,000        |

Subdivision 4."

Page 2, replace line 23 with:

|  |                  |
|--|------------------|
| "Grand total general fund              | \$21,540,000     |
| Grand total state disaster relief fund | <u>3,130,540</u> |
| Grand total all funds                  | \$24,670,540     |

**SECTION 2. PAYMENT OF COURT-ORDERED JUDGMENTS.** From the litigation funding pool line item in section 1 of chapter 40 of the 2019 Session Laws, the office of management and budget shall make payments for court-ordered judgments in accordance with section 32-12-04, during the period beginning with the effective date of this Act and ending June 30, 2021, on behalf of the following:

|                                 |                |
|---------------------------------|----------------|
| Secretary of state              | \$97,587       |
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| Attorney general                | <u>181,152</u> |
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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- Removes deficiency appropriations for the Secretary of State, Office of Management and Budget, and the Attorney General to pay court-ordered judgments and adds a section providing for the payment of these judgments, as adjusted, to be made from the litigation funding pool of the Office of Management and Budget appropriated by the 2019 Legislative Assembly.

**2021 SENATE APPROPRIATIONS**

**HB 1025**

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1025  
3/12/2021  
Senate Appropriations Committee

|   |
|---|
| A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; to provide for payment of court-ordered judgments; to provide a statement of legislative intent; and to declare an emergency. |
|---|

**Chairman Holmberg** opened the hearing at 9:15 a.m.

Senators present: Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.

**Discussion Topics:**

- House Cuts
- Wastewater Sampling
- Loans
- Bank of North Dakota

**Joe Morrissette, Office of Management and Budget**, testified in favor and submitted testimony #8854

**Dave Glatt, Department of Environmental Quality**, testified in favor and submitted testimony #8926

**Pam Sagness, Department of Human Services**, proposed an amendment; testimony #8930.

**Cody Schulz, Director of Homeland Security, Department of Emergency Services**, testified in favor and submitted testimony #8876.

**Sandy McMerty, Deputy Commissioner, Department of State Tax Commissioner**, testified in favor but submitted no written testimony.

**Additional written testimony:** #8265.

**Chairman Holmberg** closed the hearing at 9:54 a.m.

*Rose Laning, Committee Clerk*

TESTIMONY OF

**Joe Morrisette, Director of the Office of Management and Budget**

Chairman Holmberg and members of the Senate Appropriations Committee, I am Joe Morrisette, Director of the Office of Management and Budget. I am here to testify in support of Engrossed House Bill 1025, which provides deficiency appropriations to various agencies. I will provide an overview of the bill. Representatives from each agency are here to provide more detail and answer specific questions.

### **Tax Department**

The appropriation in subdivision 1 is the deficiency request for the Tax Department to meet deficiency needs in both the Homestead Tax Credit and Disabled Veterans Credit programs. These programs provide property tax relief for qualifying individuals. The Tax Department is required to reimburse the counties for property tax reductions granted pursuant to these programs. There is no authority for the department to withhold reimbursement or prorate the appropriated amount, so they must request a deficiency if actual program costs exceed appropriations.

The Homestead Tax Credit appropriation for 2019-21 is \$15.8 million and nearly \$8.4 million was spent in the first year. The deficiency request for the Homestead Tax Credit program is \$1.31 million. The Disabled Veterans' Credit appropriation for 2019-21 is \$8,410,200 and over \$5.2 million was spent in the first year. The deficiency request for the Disabled Veterans Credit program is \$2.73 million.

### **Adjutant General**

The appropriation in subdivision 2 is the deficiency request for the Office of the Adjutant General to repay Bank of North Dakota loans for disaster costs and Dakota Access Pipeline (DAPL) protest costs. After the bill passed the House, I was made aware that the \$3.1 million loan repayment amount does not include accrued interest on the DAPL loan. It is calculated at a variable rate, so the exact amount of interest that will be accrued by June 30, 2021 is unknown. However, interest expense for the 2019-21 biennium is estimated to be between \$700,000 and \$750,000.

I ask you to consider increasing the Adjutant General deficiency appropriation by \$750,000 to ensure the state can pay the Bank of North Dakota the full amount of interest that will accrue by June 30, 2021.

## **Bank of North Dakota**

The appropriation in subdivision 3 was added by the House to provide the partial repayment for the \$35 million loan authorized in 2019 Senate Bill 2001 for creation of the Theodore Roosevelt Presidential Library Endowment Fund. SB 2001 provides that the "governor shall repay the loan authorized in this section from funds appropriated by the legislative assembly." The loan was originated on November 13, 2020 and has a term that may not exceed six years.

## **Court-Ordered Judgements**

Section 2 of the bill addresses state liability for court-ordered judgements. Pursuant to NDCC Section 32-12-04, a judgement against the state can only be paid by OMB when there is a specific appropriation for that purpose. The House version provides that these amounts be paid from the litigation funding pool appropriated to OMB for the payment of litigation expenses occurring during the 2019-21 biennium. The appropriation for this fund is \$3.5 million from the Strategic Investment and Improvements Fund. Through January 31, 2021, \$1,255,536 has been spent and \$2,244,464 remains unspent. The following amounts are requested for payment of judgements:

- **Secretary of State**
  - \$97,587 for the court-ordered judgement and accrued interest in the case of Self Advocacy Solutions N.D. v. Jaeger, relating to election law.
- **Office of Management and Budget**
  - \$453,868 for the court-ordered judgement and accrued interest in the case of Brakebill v. Jaeger, relating to election law.
  - \$103,000 for the court-ordered judgement and accrued interest in the case of Traynor Law Firm v. State, relating to the cost for removal proceedings against the Ward County Sherriff.
  - \$40,025 for the court-ordered judgement and accrued interest in the case of SpooftCard, LLC v. Burgum, relating to a challenge to North Dakota's anti-spoofing law.
- **Attorney General**
  - \$181,152 for the court-ordered judgement and accrued interest in the case of North Dakota Farm Bureau, Inc. v. Stenehjem relating to a federal challenge to ND corporate farm laws.

## **Other Deficiency Requests**

Additional deficiency requests will be presented by:

- Department of Environmental Quality relating to COVID-related waste-water testing.
- Department of Human Services relating to the ability to transfer current biennium spending between line items to cover a potential shortfall in the community behavioral health program.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for Engrossed House Bill 1025 with the requested amendments. I would be happy to answer any questions.

8926

# COVID-19 Wastewater Sampling

L. David Glatt, P.E.

March 12, 2021

# Why Sample Wastewater?

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- Multiple States and Universities exploring the potential for using wastewater testing as a predictor
- Based on Biological Science, Engineering and Microbiological Principles
- SARS CoV viruses shed in fecal matter
  - Greatest in first 4-5 days of infection
  - Virus Cells shed up to two weeks
- Community Wastewater Collection Systems Intended Purpose

# Why Sample Wastewater?

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- Increased virus load translates to greater response in testing results
- Measures:
  - Asymptomatic
  - Pre-symptomatic
  - Symptomatic

# North Dakota Testing Program

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- NDDEQ and NDSU (Microbiology and Engineering Depts) Partnership
  - April 2020
  - First Testing Conducted July 2020 (Bismarck, Grand Forks and Fargo)
  - October 2020 Expanded testing to 21 Municipalities
    - Voluntary
    - Some expressed concerns relating to workforce availability or No interest
    - Project Sampling/Analysis covers 62 percent of States Population

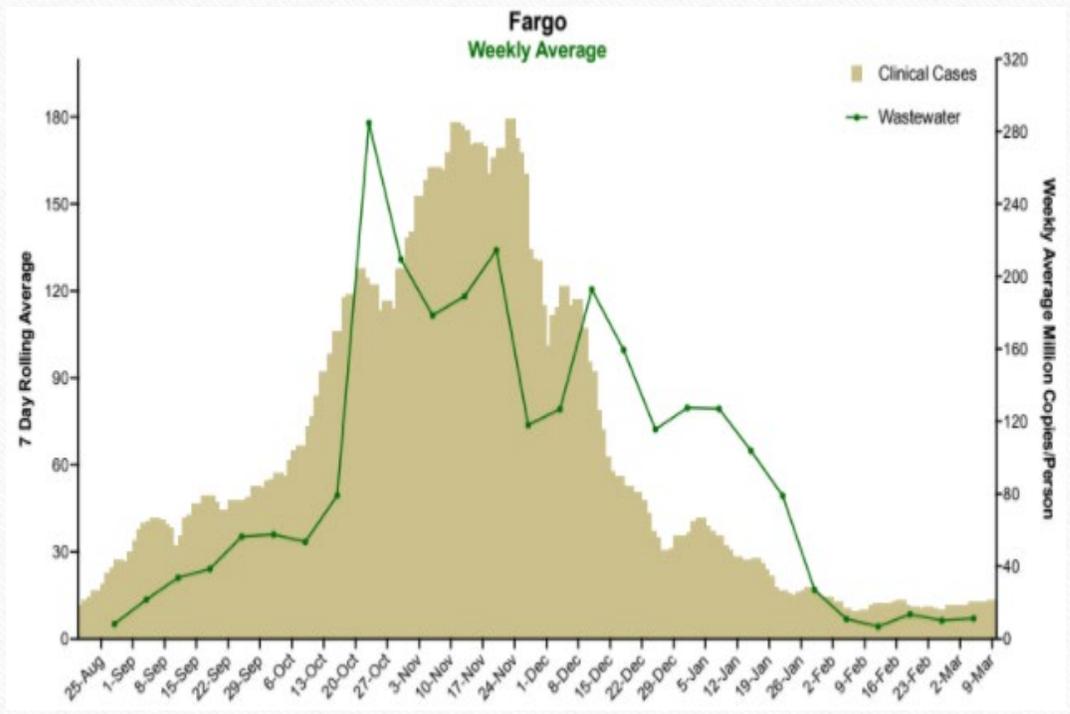
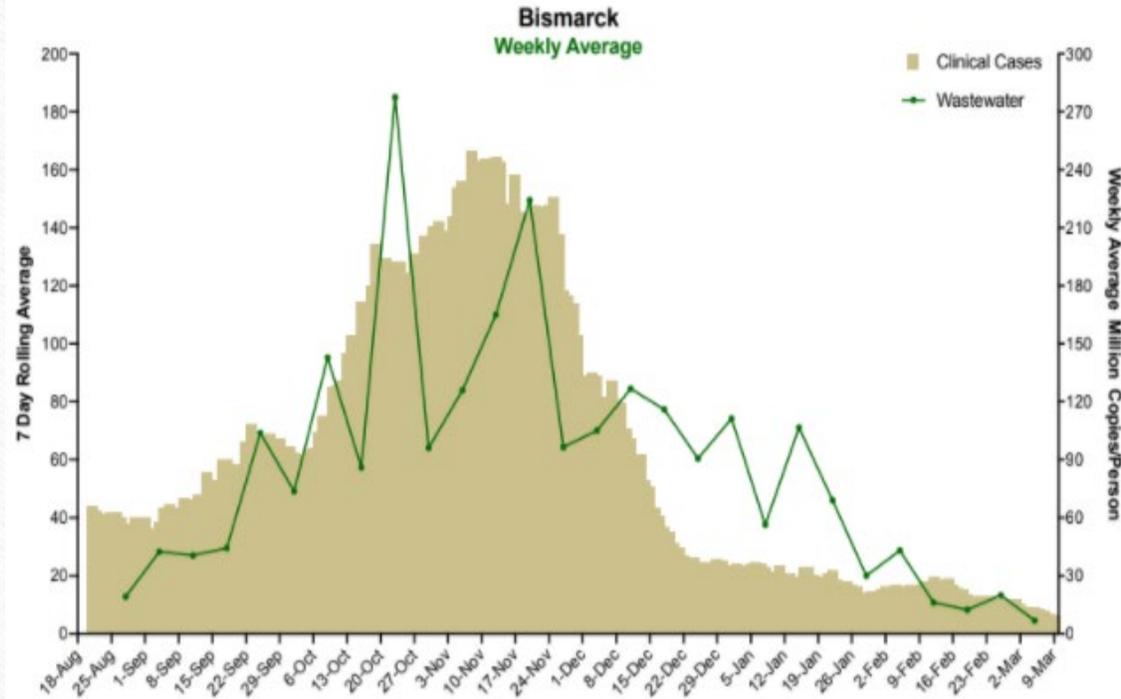
Samples are to be taken with a composite sampler over a 24-hour period

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A special sample bottle is used to minimize exposure in the Lab





# Lessons Learned

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- COV-2 can be detected and quantified in wastewater
- Identified Community Infection
- Data is sensitive to collection system design, sample location and use
- Potential to be used as another tool to identify community/statewide infection

# Future Project

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- Variant Testing
- Assist in determining Vaccine effectiveness
- Monitor for Virus Spike

# Funding Needs

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- Funding needed to keep sample collection and analysis active until June 30, 2021
- Desire to keep project active till end of year
  - Ongoing monitoring of virus response to vaccines
  - Ongoing monitoring of variant virus strains

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1025

Page 1, line 3, after "intent" add "; to provide for transfers"

Page 2, after line 22, insert:

### **"SECTION 4. FUNDING TRANSFERS - EXCEPTION -**

**AUTHORIZATION.** Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of 2019 Senate Bill No. 2012 for the biennium beginning July 1, 2019, and ending June 30, 2021, as requested by the department of human services for the continuation of the community behavior health program payments pursuant to subsection 2 of section 54-23.3-10 of the North Dakota Century Code."

Renumber accordingly

Testimony – HB 1025  
Senate Appropriations Committee  
March 12, 2021  
By Cody Schulz  
Deputy Director, Department of Emergency Services  
Director, Division of Homeland Security

Chairman Holmberg and members of the Senate Appropriations Committee, my name is Cody Schulz. I am the Deputy Director of the Department of Emergency Services (DES) and Director of the Homeland Security Division. I offer this testimony in support of HB 1025 with the addition of \$750,000 for payment of interest to the Bank of ND on the outstanding loans for the Dakota Access Pipeline protest response.

Subdivision 2 provides \$3,130,540 to repay loans from the Bank of North Dakota (BND) for multiple flood disaster related cost this biennium. The original version of HB 1025 additionally identified \$14,064,916 to pay the remaining balance of the DAPL protest loans, including interest. The House did remove the DAPL portion in its entirety due to ongoing litigation, however in discussions with BND, the accrued interest through June 30, 2021 does need to be brought current. We are asking for an additional \$750,000 to cover the estimated interest on the DAPL loans. The sum of these two loan repayments is now \$3,880,540.

Attachment #1 provides a breakdown of the DAPL cost and the payments made against loans totaling \$39,064,916 dating back to the Fall of 2016. As you can see, we have received \$10,000,000 of federal funds from a Department of Justice Emergency Law Enforcement Assistance Grant, along with \$15,000,000 of donations to pay down the principal, leaving us with \$14,064,916 in our deficiency. This amount is comprised of \$13,362,262 in principal and an estimated \$702,654 in interest through June 30, 2021. We are asking for \$750,000 of funds due to variable interest rates between now and June 30, 2021. Any funds not utilized for the pay down of accrued interest will be turned back.

Subdivision 2 also identifies \$3,130,540 for the state cost share related to four presidentially declared disasters including the 2019 Spring flood (DR4444), the 2019 Fall flood (DR4475), the 2020 Spring flood (DR4553) and the 2020 Summer flood (DR4565).

The four flood disasters incurred this biennium involved 30 counties throughout the state and have a total federal and state cost of \$42,241,560 with an estimated state cost share of \$5,750,160. Of this amount, we are estimating a need for \$3,130,540 to be paid out this biennium. This includes both principal and interest payments for the BND loan draws. The remainder, or difference between the two state cost share figures, we do expect to be paid out in the 2021-2023 biennium and is part of our appropriations request contained in HB 1016.

Mr Chairman, both the amount identified within Subdivision 2, and the \$750,000 for DAPL loan interest are estimates and any excess funding will not be expended.

I ask for your support of HB 1025 with the noted addition and will stand by for any questions you may have.

# DAPL EXPENDITURES



**\$39,064,916**  
(Total DAPL Expenditures)

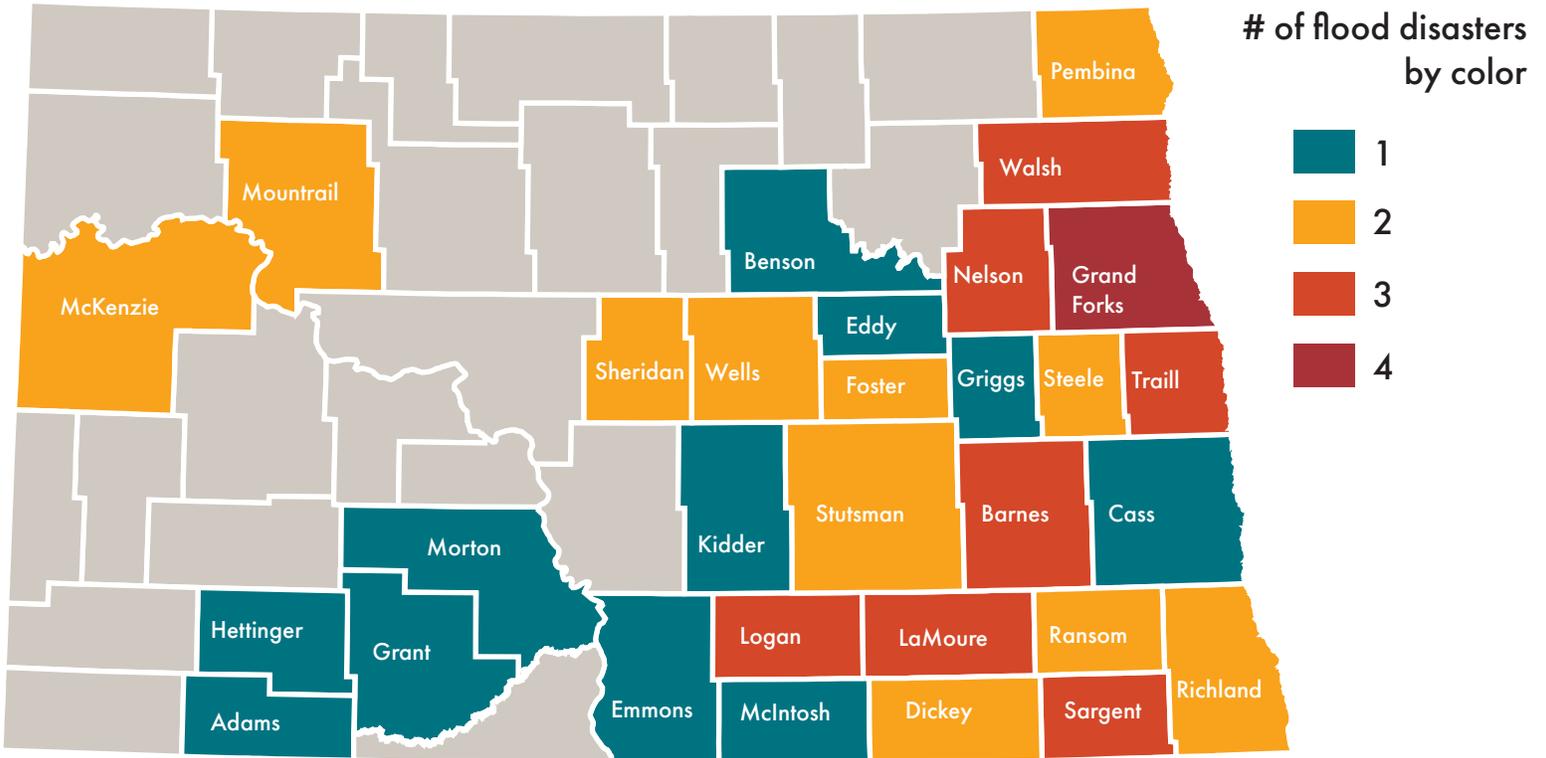
— **\$10 Million**  
(Federal Department of Justice Emergency  
Law Enforcement Assistance Grant)

— **\$15 Million** (Donation)

**\$14,064,916**  
(BND Loan Balance and estimated interest  
through June 30, 2021)

**\$750,000**  
(Deficiency request for BND estimated  
interest through June 30, 2021)

# FLOOD DISASTER DECLARATIONS BY COUNTY • 2019-2021 BIENNIUM



## FLOOD DISASTERS BY YEAR

- 2019 Spring Flood - DR4444 - 19 Counties
- 2019 Fall Flood - DR4475 - 16 Counties
- 2020 Spring Flood - DR4553 - 18 Counties
- 2021 Summer Flood - DR4565 - 6 Counties

## 2019-2021 BIENNIUM PAYMENTS (ESTIMATES)

|                   |                     |
|-------------------|---------------------|
| Federal .....     | \$15,437,431        |
| <b>State ....</b> | <b>\$3,130,540</b>  |
| <b>TOTAL =</b>    | <b>\$18,567,971</b> |

## CUMMULATIVE DAMAGE ESTIMATES

|               |              |
|---------------|--------------|
| Federal ..... | \$36,491,400 |
| State .....   | \$5,750,160  |
| Local .....   | \$7,298,280  |

**TOTAL =**  
**\$49,539,840**

March 12, 2021

Kylee Merkel, Business Banker for Large Projects and Administrated Programs  
Bank of North Dakota  
HB1025

Position: Support

Kylee Merkel will not have formal testimony. She will be available for questions related to the Office of the Adjutant General loans for disaster costs and the Dakota Access Pipeline.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1025  
3/29/2021

### Senate Appropriations Committee

A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; to provide for payment of court-ordered judgments; to provide a statement of legislative intent; and to declare an emergency.

**Senator Holmberg** opened the committee work at 9:10 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

#### Discussion Topics:

- **Vote**

**Senator Holmberg** presented amendment LC 21.0478.02001 – testimony #10836.

**Senator Wanzek** moved amendment LC 21.0478.02001.

**Senator Krebsbach** second.

| <i>Senators</i>   |   | <i>Senators</i>  |   |
|-------------------|---|------------------|---|
| Senator Holmberg  | Y | Senator Hogue    | Y |
| Senator Krebsbach | Y | Senator Oehlke   | Y |
| Senator Wanzek    | Y | Senator Poolman  | Y |
| Senator Bekkedahl | Y | Senator Rust     | Y |
| Senator Davison   | Y | Senator Sorvaag  | Y |
| Senator Dever     | Y | Senator Heckaman | Y |
| Senator Erbele    | Y | Senator Mathern  | Y |

Roll Call vote 14-0-0. Motion passed.

**Senator Wanzek** moved Do Pass as Amended on HB 1025.

**Senator Bekkedahl** second.

| <i>Senators</i>   |   | <i>Senators</i>  |   |
|-------------------|---|------------------|---|
| Senator Holmberg  | Y | Senator Hogue    | Y |
| Senator Krebsbach | Y | Senator Oehlke   | Y |
| Senator Wanzek    | Y | Senator Poolman  | Y |
| Senator Bekkedahl | Y | Senator Rust     | Y |
| Senator Davison   | Y | Senator Sorvaag  | Y |
| Senator Dever     | Y | Senator Heckaman | Y |
| Senator Erbele    | Y | Senator Mathern  | Y |

Roll Call vote 14-0-0. Motion passed.

**Senator Holmberg** will carry the bill.

**Senator Holmberg** closed the committee work at 9:14 AM

Senate Appropriations Committee

HB 1025

3/29/2021

Page 2

*Rose Laning, Committee Clerk*

March 25, 2021

*SX 131  
OK 3/25*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1025

Page 1, line 2, after the second semicolon insert "to provide for a transfer;"

Page 1, replace lines 17 and 18 with:

|   |                |
|---|----------------|
| "Loan repayment - disaster costs                | \$3,130,540    |
| Loan interest repayment - law enforcement costs | <u>750,000</u> |
| Total state disaster relief fund                | \$3,880,540"   |

Page 2, replace lines 2 and 3 with:

|   |                  |
|---|------------------|
| "Grand total state disaster relief fund | <u>3,880,540</u> |
| Grand total all funds                   | \$25,420,540"    |

Page 2, after line 22, insert:

**"SECTION 4. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.**

Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of chapter 37 of the 2019 Session Laws, upon the request of the department of human services for the continuation of the community behavior health program payments under subsection 2 of section 54-23.3-10."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment:

- Adds a \$750,000 appropriation to the Adjutant General from the state disaster relief fund for the 2019-21 biennium to pay accrued interest on an outstanding Bank of North Dakota loan related to law enforcement costs; and
- Adds a section authorizing the Office of Management and Budget to transfer appropriation authority of the Department of Human Services between subdivisions in Section 1 of Senate Bill No. 2012, during the 2019-21 biennium.

**REPORT OF STANDING COMMITTEE**

**HB 1025, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1025 was placed on the Sixth order on the calendar.

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March 25, 2021

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1025

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