

2017 HOUSE APPROPRIATIONS

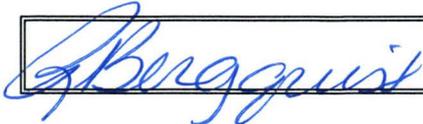
HB 1107

2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1107
1/17/2017
27015

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to disaster and emergency response and recovery costs; and to declare an emergency.

Minutes:

Attachments 1-2

Chairman **Delzer:** We will call the meeting to order for HB 1107

**0:50-5:00 Greg Wilz, Deputy Director, Department of Emergency Services
(see attachment 1)**

Chairman **Delzer:** Are you talking about the amendment or are you talking about the bill as you put it forward?

Mr. Wilz: The bill as we put it forward isn't worth anything. (see attachment 2)

Chairman **Delzer:** This should have been brought forward sooner so we could have read through this.

5:35-6:45 Mr. Wilz: I agree, could I just read 1 paragraph (see page 1 of attachment 2)

Chairman **Delzer:** These were listed in the current language that was passed two years ago, they are listed as such that they can only happen if you're at a certain level and can only be reimbursed up to 1 million dollars per occurrence to a total of 3 million, and you don't have that anywhere in this bill.

Mr. Wilz: Correct, that language was set to sunset 30 June on 2017,

Chairman **Delzer:** So then you would have had nothing available.

Mr. Wilz: Correct, except but unstated, we've always had the ability to come to the emergency commission when we've had an emergency or a disaster. We just want to put in law common practice that we do.

Chairman **Delzer**: But again why have it worded as “governor shall” instead of “may”?

Mr. Wilz: I am sure you could all tweak this to make it better, this is just our stab at it.

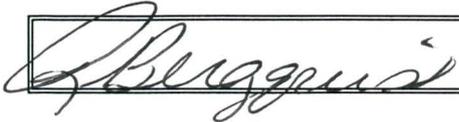
Chairman **Delzer**: Questions by the committee.

2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB1107
2/2/2017
27787

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to disaster and emergency responses and recovery cost; and to declare an emergency

Minutes:

Chairman Delzer: Meeting called to order, starting with HB 1107 came from the department of emergency services. This will change the way we had set up emergency services to have opportunity to use up to 1 million dollars up to three times per biennium for non-federal disasters, they did have to meet the Stafford Act, they brought this in with changes that opens it up. We probably have seen the largest emergency that we should have look at, I think everything is in place to handle those. I'm very uncomfortable about both of these bills. I really don't believe in the hog house, seems like DS wants it wide open so they can do whatever they want to do without any restrictions or letting anyone else know what they are working on. Anything when they have true emergencies, they already have the opportunity with the governor to go ahead and take care of the situation. They did come in and ask for the hog house amendment, we should definitely change the wording from the governor "shall" to the governor "may".

5:00 Representative Schmidt: Isn't "may" as good as "shall"?

Chairman Delzer: It maybe but "shall" is much more forceful than "may" "May" still leaves them a way to get around it if they wanted to.

6:15 Representative Streyle: I think it works fine now, there's no need to expand this.
I make a motion to Do Not Pass

Representative Brandenburg seconded that motion

Discussion?

Representative J. Nelson: What is the Stafford act?

Chairman Delzer: I believe it is a dollar amount, it's when they don't get a federal disaster but in some cases the monetary issue might be close enough. They can do things already it's more about how they can go after the money to repay it.

A Roll Call vote was taken. Yea: 20 Nay: 0 Absent: 1

Representative Meier will carry the bill

Date: 2/2/2017
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1107**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Representative Streyle Seconded By Representative Brandenburg

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------------|-----|----|
| Chairman Delzer | X | | | | |
| Representative Kempenich | X | | Representative Streyle | X | |
| Representative: Boehning | X | | Representative Vigesaa | X | |
| Representative: Brabandt | X | | | | |
| Representative Brandenburg | X | | | | |
| Representative Kading | X | | Representative Boe | X | |
| Representative Kreidt | A | | Representative Delmore | X | |
| Representative Martinson | X | | Representative Holman | X | |
| Representative Meier | X | | | | |
| Representative Monson | X | | | | |
| Representative Nathe | X | | | | |
| Representative J. Nelson | X | | | | |
| Representative Pollert | X | | | | |
| Representative Sanford | X | | | | |
| Representative Schatz | X | | | | |
| Representative Schmidt | X | | | | |

Total (Yes) 20 No 0

Absent 1

Floor Assignment Representative Meier

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

REPORT OF STANDING COMMITTEE

HB 1107: Appropriations Committee (Rep. Delzer, Chairman) recommends **DO NOT PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1107 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1107

TESTIMONY – HB 1107
HOUSE APPROPRIATIONS COMMITTEE
JANUARY 17, 2017
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am Deputy Director of the Department of Emergency Services (DES), and Director of the Homeland Security Division.

Last session, NDCC 37-17.1.22 was amended to remedy local financial strain resulting from the president's refusal to sign disaster declarations for states that suffered damages amounts exceeding the Stafford Act minimum. North Dakota's last disaster request in 2013 was declined leaving local jurisdictions with huge recovery costs. As amended, current law allows the state to assist in recovery costs by authorizing the governor to make application to the emergency commission for a maximum of one million dollars per event. This seemed reasonable since there was hope future presidential denials would only impact smaller events. Fortunately, there has been no need to request available funds since 2013.

Without a disaster this past biennium, it seemed prudent to ask for removal of the sunset clause. The bill eliminates the clause and provides language clarification.

Over the years, this section of code has evolved into poorly written law, a fact highlighted during discussions with legislative leadership concerning authority to cover Morton County emergency costs in addition to state costs for the NoDAPL protest. It became evident a complete rewrite was needed to provide common understanding. Committee members are being asked to consider abandoning current language and to adopt the amendment, which may be introduced into the hog house bill process.

The language explains the processes followed for events the state supports. There are essentially four scenarios for which the state may incur costs and request or seek emergency funding. First, is a governor's emergency declaration; second, is a governor's emergency declaration supported with a federal emergency declaration; third, is a governor's disaster declaration; and fourth, is a governor's disaster declaration supported with a federal declaration. While subtle, the differences are significant so each needs to be addressed in law.

HB 1107 simply codifies current process using exact terminology. It should be noted the legislature or emergency commission retains borrowing authority for emergencies and disasters when the legislature is not in session.

I hope members agree the new language removes ambiguity. On behalf of the Department of Emergency Services, I recommend HB 1107 with amendment offered or hog house version receives a due pass.

Thank you for your time; I will answer questions committee members may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1107

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to Chapter 37-17.1 of the North Dakota Century Code, relating to disaster or emergency response and recovery costs; to repeal section 37-17.1-22 of the North Dakota Century Code, relating to disaster or emergency response and recovery costs; and to declare an emergency."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-17.1 of the North Dakota Century Code is created and enacted as follows:

Emergency and disaster preparedness, mitigation, response, and recovery costs and how funded.

1. State declared emergencies. Whenever the governor declares a state of emergency in accordance with section 37-17.1-05, the director of the department of emergency services shall initiate state and local cost tracking. All state agencies shall track personnel and resources costs tasked or assigned to the emergency in accordance with the states emergency operations plans. During anytime within or after an emergency declared by the governor, the governor will determine if the costs of supporting the event exceeds an amount participating agencies budgets may support. If budgets are stressed at a level agencies cannot perform regular and emergency responsibilities, the governor shall make application to the state emergency commission for a grant of funds in an amount estimated to be equal to the emergency preparedness, mitigation, and response costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that the emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative an amount equal to that certified in such application by the governor.

2. State declared disasters. Whenever the governor declares a disaster in accordance with section 37-17.1-05, the director of the department of emergency services shall initiate state and local cost tracking. All state agencies shall track personnel and resources costs tasked or assigned in the response to the disaster in accordance with the states emergency operations plans. During anytime within the response or after a disaster declared by the governor, the governor will determine if the costs of supporting the event exceeds an amount participating agencies budgets may support. If budgets are stressed at a level agencies cannot perform regular and disaster responsibilities and absorb the costs of the disaster, the governor shall make application to the state emergency commission for a grant of funds in an amount estimated to be equal to the response costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency

commission of such application from the governor that a disaster occurred, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative an amount equal to that certified in such application by the governor.

3. State declared emergencies eligible for or supported by a federal emergency declaration. Whenever the governor declares a state of emergency in accordance with section 37-17.1-05 and the emergency is expected to exceed state and local resources or has meet the federal minimum threshold to request a federal emergency declaration, the governor shall make application for a federal emergency declaration for federal assistance including any eligible costs for emergency preparedness, mitigation, and response costs of the state and local government affected. If a federal emergency declaration is approved, the governor shall make application to the state emergency commission for a grant of funds in an amount estimated to be equal to emergency preparedness, mitigation, and response costs of the state and state cost share of local governments affected. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that the emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative an amount equal to that certified in such application by the governor. If denied by the federal government, the state declared emergency process will take effect.

4. State declared disasters eligible for or supported by a federal disaster declaration. Whenever the governor declares a disaster in accordance with section 37-17.1-05 and the disaster is expected to exceed state and local resources or estimated disaster damage has met the federal minimum threshold to request a federal disaster declaration, the governor shall request an immediate preliminary damage assessment from the federal government. Upon validation that the damage exceeds the minimum federal threshold, the governor shall make application for a federal disaster declaration and include a request for direct federal assistance and any costs for emergency preparedness, mitigation, response, and recovery costs of the state and local government affected. If a federal disaster declaration is approved, the governor shall make application to the state emergency commission for a grant of funds in an amount estimated to be equal to emergency preparedness, mitigation, response, and recovery costs of the state and state cost share of local governments affected. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that the disaster occurred, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative an amount equal to that certified in such application by the governor. If denied by the federal government, the state declared disaster process will take effect.

SECTION 2. REPEAL. Section 37-17.1-22 of the North Dakota Century Code is repealed.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Renumber accordingly