

2019 SENATE APPROPRIATIONS

SB 2024

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2024
1/14/2019
Job # 30711

- Subcommittee
 Conference Committee

Committee Clerk: Rose Laning/ Dan Johnston

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Testimony Attached # 1 - 4

Legislative Council: Adam Mathiak
OMB: Larry Martin

Chairman Holmberg: Opened the hearing on SB 2024. All members were present.

Joe Morrissette, Director, Office of Management and Budget: See attachment #1 for testimony in support of SB 2024.

Chairman Holmberg: The loan repayment was part of the discussion during the last Session and the Legislature determined what they were going to do, which was wait; and that discussion I'm sure will also occur this Session.

Senator Wanzek: On the lawsuit expenses of \$408,000 for the Historical Society - judgement cost. You said the cost would be \$441,000 on June 1st 2019- doing the math, I assume there is already accrued interest on it already.

Joe Morrissette: That is true, so that is a miss on our part; the amount should have been much higher. There was an additional \$10,000 of costs that were awarded at the time of the judgement and then interest on that total amount through June 1st.

Senator Wanzek: When was the judgement?

Joe Morrissette: December of 2017.

Senator Dever: There is an emergency clause on this, and then the language says for the period beginning with the effective date of this act and ending June 30th, 2021. So can I assume some of these deficiencies are appropriated from the current biennium and some from the coming biennium?

Joe Morrisette: The appropriation authority would be available immediately with the emergency clause, so in those cases like the Comstock judgement that's in our appropriation we would make that payment as soon as we can to avoid any additional interest accruing; anything we didn't spend, we would turn back. In other cases there could be some question as to when those payments would need to be made and if it stretched into the next biennium then it allow that authority to be carried over into the next biennium.

Senator Dever: We do not need to factor that into the agencies budget for the coming biennium.

Joe Morrisette: It would be covered under this in case there was timing issue and the payment was not made by June 30th.

Sandy McMerty, Deputy Tax Commissioner, North Dakota Tax Department: This is a much-anticipated deficiency based on the cuts that were made in the last biennium. These two lines used to have a little bit of cushion, but because of those cuts about 4.7 was removed from those lines, which has created this anticipated deficiency. So we'd appreciate your support- Commissioner Raushenberger did note that we asked you for that continuing authority to transfer between funds into the coming biennium, so we'd appreciate your support on that to because it gives us some flexibility with those dollars.

Chairman Holmberg: And if we didn't appropriate-what would happen?

Sandy McMerty: I am not completely certain. I would have to ask that question back at the office; at this point, I know that we are required to pay out of the funds, but if there are no funds in there, we have no mechanisms to do that.

Karlene Fine, Executive Director, North Dakota State Industrial Commission: we are here because we're involved in litigation, some of this litigation started back at a prior biennium under the prior federal Administration, there was, what we believe to be, overstepping by the federal government in terms of regulation in our environmental area that dealt with fracking, venting and flaring. Therefore, we went to court, but when there was a change in administration, we flip-flopped. So now we're still in that same litigation; so those costs came up higher than we anticipated. In the prior biennium we had thought we projected a sufficient amount of money and now we were drawn into some additional litigation regarding the ordinary high water mark. The legislature, at the end of last Session, directed that we get involved in litigation, trying to get payment for the DAPL costs. So we have just run out of money and we need to have sufficient funds to complete that litigation. Now, if you'd like to have details on each of those environmental cases, we'd have Lynn Helms come and give you that information.

Senator G. Lee: I thought there was some hesitation in paying those loans, because we were trying to get some money out of the feds-Is that still in consideration or have we just given up on our request that the feds pay?

Karlene Fine: I believe the Adjutant General will be talking about that.

Chairman Holmberg: I think what we see hear is the agencies, the executive branch- they have a bill, their job is to come to us and ask that the bill be paid. It was a legislative decision to wait on the feds and that will, I think be a legislative discussion point as to whether or not we should pay off the loan. The discussion last Session was, if we have a loan we might have a little more leverage with the federal folks that we need our loan paid off. However, if we do not owe any money the feds might be less inclined.

Major General Alan S. Dohrmann, North Dakota National Guard: See Attachment #2.

Senator G. Lee: So the total cost for that DAPL protest would be the \$37.7 million, plus the roughly \$13.5 million.

Major General Alan S. Dohrmann: No, I believe the \$13.5 million is within that total amount.

Senator G. Lee: The total federal contribution has been \$10 million, as their share of the \$37.7 million?

Major General Alan S. Dohrmann: That is correct.

Senator Wanzek: I think I know the answer to this question, but I will ask it anyway-The perpetrators that created the mess, has there ever been an investigation into who might have been behind it? Is there any other entity that was responsible here?

Major General Alan S. Dohrmann: Not that I am aware of. Where there was criminal activity, local, state and federal law enforcement officials have investigated those cases from a civil standpoint; from my discussions with the AGs office, it is just the lawsuit with the Corp of Engineers. In addition, there were things we did for the Corp of Engineers toward the end of that event that are arguably federal responsibilities, just because it was their land and we had to do things for them to get that land back to what it was meant to be and that is a flood plain on the Missouri River.

Andrea Wike, Assistant Director, State Historical Society of North Dakota: See Attachment #3

Senator Dever: I am interested in the difference between the lawsuit expenses that OMB is asking for and what the Historical Society is asking for.

Andrea Wike: One is for the lawsuit payment and what we are asking for is the legal fees associated the lawsuit.

Chairman Holmberg: The first part goes to the other folks?

Andrea Wike: Correct.

Kathy Roll, Office administrator, office of the Attorney General: See Attachment #4.

Chairman Holmberg: You are asking for this to be added to your present. Why isn't this coming on Monday when we look at your budget?

Kathy Roll: We've received this grant already and will be expending the funds this biennium, assuming this passes.

Chairman Holmberg: You want authority?

Kathy Roll: Correct.

Meeting adjourned.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2024
1/23/2019
Job # 31279

- Subcommittee
 Conference Committee

Committee Clerk: Rose Laning / Marne Johnson

Explanation or reason for introduction of bill/resolution:

AN ACT to provide an appropriation for defraying the expenses of various state departments and institutions; to provide a statement of legislative intent; and to declare an emergency.

Minutes:

No Attachments

SB 2018 – Historical Society (sub-committee: Erbele, Krebsbach, Mathern)

- \$500,000 in private funds to support historic sites. Heavy lift for local & friend's groups.
- Whitestone Battlefield Monument – more fitting monument for Native Americans – revisit & hoping for \$200,000
- Need \$260,000 – Comstock litigation (legal fees)
- SB 2146 Pioneer Village location. Are they asking to build turnkey museum? New building would not be part of the emergency.

SB 2019 – Parks and Recreation (sub-committee: Sorvaag, Bekkedahl, Mathern)

- Request for \$5M for the Peace Gardens – Canada hasn't contributed much.
- \$1.8 capital projects
- Line item transfer
- Dept manages a lot of land that produces oil revenue. Does the law allow them to put that into their budget and use it? Are we evading the legacy trust fund because it's being sent directly to the agency?

SB 2020 – Water Commission (sub-committee: Lee, Sorvaag, Robinson)

- Hold off on anything with Fargo Diversion – meet with them tomorrow

- New money available for projects with January revenue forecast - \$350.7M.
- Requests were \$700M.
- Governor's recommendations to be added to the executive budget – Authorizes the agency to transfer money between lines (line item transfer). Section 5
- Different purposes of how water is allocated.
- Amount of money being carried over and not being used. \$308.3M carryover

SB 2021 – Workforce Safety and Insurance (sub-committee: Oehlke, Hogue, Grabinger)

- Coverage for volunteer firemen – would like to see in separate bill for policy
- WSI could do better job of letting people know how much coverage they have.
- Shifting 12 FTEs to IT
- Process used in independent reviews – are suspect.

SB 2022 – Retirement and Investment Office (sub-committee: Poolman, Wanzek, Robinson)

- Software Update

SB 2023 – NDPERS (sub-committee: Krebsbach, Poolman, Robinson)

- Restore the program for an FTE at \$186,000
- Discontinuing 2 program areas in order to meet 90% budget reduction, but recommend that at least one be restored and ½ of funding they requested be restored.
- Have some temporary help & dollars restored
- Maybe a self-funded plan.
- Governor's health insurance plan proposal for 3 different options.
- Pension plan recovery

SB 2024 – Deficiency (sub-committee: Dever, Lee, Mathern)

- The legislature has moved away from wanting to pay back DAPL loan.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2024
2/5/2019
JOB # 32169

- Subcommittee
 Conference Committee

Committee Clerk: Alice Delzer and Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing regarding the Deficiency Bill.

Minutes:

1. Fund 305 Litigation Expenses (Karlene Fine)
2. Breakdown from Adam Mathiak, Legislative Council

Senator Dever: Called the subcommittee to order on SB 2024 at 10:30 am in the Harvest Room. Let the record show that all subcommittee members were present: Senator Dever Chair, Senator Gary Lee, Senator Grabinger. Joe Morrisette, OMB and Adam Mathiak. Legislative Council were also present. During the hearing I asked a question regarding the language and ending June 30, 2021 and if that should be reflected in this biennium. That is an amendment we would need to add to the bill. The only other amendment I recall being requested is the Attorney General.

Joe Morrisette, Director, OMB: There was an amendment requested by OMB to add \$33,100 to the deficiency request in our section of the bill for those law suit expenses because the interest that is incurring and will continue to incur until a payment is made was not included in the balance due on that judgement so we asked for that amendment.

Senator Dever: Can we quickly walk through each of these sections again? I understand the OMB was associated with the lawsuit. That was associated with the legal fees.

Joe Morrisette: This subdivision 1 amount for OMB is the remaining balance of the judgment that is due and was awarded in that lawsuit. Part of the judgement amount was paid with money that was being held in reserve for that contract. Part was paid through a mediation agreement with the architects involved. This is the remaining amount with interest.

Senator Dever: The legal costs are requested by the state historical society correct?

Joe Morrisette: That is correct. This is only the judgement part that is in subdivision 1 of the bill.

(2:18) Senator Grabinger: We also have a proposed amendment from the General in raising some of the request that he has in here. You should have a copy of that. He presented it with his testimony.

Senator Dever: \$399,001?

Senator Grabinger: On page 2 line 1, it strikes the 488,822 and raises it up to 887,832 and it raises the other numbers as well. In the third paragraph he explains why he needs that. He says, "To complete the projects in the biennium and additional interest is needed." There would be those two amendments and then if I remember correctly, was the historical society a reduction because we are paying it earlier? Can she come up and address that?

Andrea Wike, Assistant Director, Historical Society: The legal fees we need to complete the law suit will be about \$265,000 and not the \$280,000.

Senator Grabinger: It looks to me like we are going backwards by putting the amendments in. One of them is quite a bit more and two are quite a bit more and one is less.

(5:00) Senator Dever: I made a note on the Tax Department the homestead tax credit would be \$1.2 million instead of \$1,170,000. Did I have that right?

Sandy McMerty, Deputy Tax Commissioner: That \$1.7 is what we need to finish out the biennium. If it would be in a deficiency state, we would have to carry over whatever that deficiency would be into the next biennium and pay it out of the next biennium dollars back. There is nothing in the statute that says we can't pay. We have to pay once the dollars have been in that fund.

Senator Dever: So the numbers in the original bill were correct. Remind me what those litigation costs were for.

Karlene Fine, Executive Director, Industrial Commission: This is for various cases we have been involved in with the federal government. We have considered to be overstepping during the prior administration. There are a number of cases involved in that as well as we have been involved in litigation about trying to get a claim with the federal government regarding the DAPL costs the state incurred. We had not anticipated but now have been paying out costs for the Sorum versus North Dakota case regarding the ordinary high water mark. There has been one case added about bankruptcy involving oil wells and we wanted to get in line for some of those bankruptcy proceeds. I will pass out the list of the different cases we have been involved in. **Attachment #1.** This was as of December 31. Subsequent to that, we have expended the entire \$49,148.19 balance. We are owing to two sets of attorneys at this time. So we would like an emergency clause in the bill.

Senator Dever: Do I understand correctly that I think in the testimony, everything in the deficiency bill was approved through the emergency commission except for some of the money the Attorney General requested?

Karlene Fine: We have made no request to the emergency commission regarding our costs.

Joe Morrisette: That would be true for the OMB portion as well. There has been no emergency commission request for that. That is the same for tax.

Senator G. Lee: Could you give us the total number?

Senator Dever: The number we have is \$16,386 on the amendment that Adjutant General Dohrmann gave us. I understand the protest costs were something we approved the loan for the bank in the last session.

Adjutant General Dohrmann: All the requests we have, have gone to the emergency commission.

Senator Dever: What are we doing with the Attorney General?

Kathy Roll, Financial Administrator, Office of Attorney General: We had gone to emergency commission for a prosecution witness. He owes \$100,000 we received \$50,000. Our request is for the \$50,000 additional amount. In addition, we received an opioid crisis response award from the Department of Health. That includes \$856,000 worth of equipment that we will need authority for. That will be federal funds. The prosecution witness fees would be general fund money.

Senator Dever: You just need the authority for the federal spending.

Kathy Roll: That is correct.

Senator Grabinger: The \$50,000 is state. So you are asking for an amendment to include the \$50,000 and the authority to use federal funds.

Kathy Roll: That is correct.

Adam Mathiak, Legislative Council: You are looking for the entire total for the bill. It would be a mixture of funding. Previously it was all general fund dollars. If we are authorizing federal funds, then a portion of that is going to be separated out. I'll have to run the numbers to get you the totals including the breakout.

Senator Dever: Is there room in the current biennium budget for these requests?

Joe Morrisette: This would just reduce the amount of the excess General Fund money that would go into the Budget Stabilization Fund. Based on the legislative and executive forecast, we had assumed there would be \$315M that would be excess general fund money that would flow into the Budget Stabilization Fund. This additional amount would reduce that. It would be appropriated out of this biennium and spent this biennium. It would reduce the over reach in the General Fund. Either way the beginning balance is limited to \$65M. Everything over that amount will by law go to the Budget Stabilization Fund. This would reduce that over reach. There is no effect on the next biennium's budget.

Senator Dever: Is there anything additional we need to discuss?

Senator Grabinger: We just need to have the amendments drawn up.

Senator Dever: Do we need to see the amendments?

Senator Grabinger: We will approve them in the subcommittee before we take them to the full committee.

Senator Dever: We can come earlier in the morning and look at them.

Adam Mathiak, Legislative Council: Just to review, (**Attachment #2**) there would be a \$33,000 increase for OMB, a \$688,000 for the Adjutant General, a decrease of \$15,000 for the State Historical Society, and an increase of \$905,000 for the Attorney General's Office. The total increase would be about \$1.6M. We would have a total of \$19.8M of that \$856,000 which would be federal funds. The remaining \$18.96M would be general fund dollars.

Senator Dever: That sounds right. We will close this hearing and we will deal with the motion later.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2024
2/6/2019
JOB # 32245

Subcommittee
 Conference Committee

Committee Clerk: Alice Delzer / Pam Dever

Explanation or reason for introduction of bill/resolution:

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

Minutes:

1.Proposed Amendment # 19.0689.01001.

Chairman Holmberg: called the Committee to order on SB 2024. All committee members were present. Adam Mathiak, Legislative Council and Stephanie Gullickson, OMB were also present.

Senator Dever: submitted Attachment # 1. Amendment # 19.0689.01001. I think that everyone knows that deficiency appropriation are monies to cover unexpected expenses that come up during the biennium and then they come to the next session to request for deficiency appropriations. The first amendment first makes reference to federal funds. There is money in the Attorney General's budget for the opioid crisis and for the purchase of equipment. The second amendment was to replace 2021 with 2019. This is money allocated to the current biennium and not the next one. Under OMB there was an increase of \$33,100 because of accrued interest. The money there is for lawsuit expenses associated with the Comstock Law Suit regarding the Heritage Center. The OMB expenses are increasing in the amount necessary to cover the settlement. The legal fees are the increasing cost. The Adjutant General had an increase in disaster costs and protest costs, so there is an increase up to \$16.386 M. The Attorney General needed \$50,000 additional to cover the cost of prosecution witness fees. \$855,000 is federal funds that come to deal with the opioid crisis. They need to buy 15 true Narcan handheld narcotic analyzers and buy other equipment. **(3.08)** Those are the amendments to the bill.

Chairman Holmberg: I thought we were not going to pay the loan back on the protest costs because if we do there is the fear that, they are trying to get money from the feds and if we paid our bills, the feds would have little to no interest. I thought we were taking that off.

Senator Dever: I think what they argued is we need to keep this in process and that should not stop the negotiations with the feds. They meaning the Adjutant General.

Senator Grabinger: Senator Dever is correct the money needs to be there. So that at some point, it has to be paid by either us or the federal government. We may not necessarily pay it, but the money needs to be there. **(4.25)**

V. Chairman Wanzek: I guess I am wondering the same thing. We need to have the money there, but we will not use it to pay the loan? I was under the understanding that we were going to wait on that, and hopefully recoup that money.

Senator Dever: Senator Hoeven is working on this and it will come to a conclusion one way or the other during the session. If it doesn't work out, we need to have the appropriation there to cover it. If the committee would like to set this aside and ask for clarification, I would be happy to seek that.

Senator Bekkedahl: If it is appropriated for use this biennium, who makes the decision when to spend the appropriation? Is that the Attorney General or Adjutant General?

Senator Dever: The Adjutant General. It has an emergency clause prior to June 30.

Chairman Holmberg: Why don't we get some further clarification. I was under the impression that we were not going to do anything. I know we have a loan from BND.

Senator Hogue: Did the subcommittee got any information from the Attorney General on the status of the federal torte claim that he is pursuing against the federal government for this money.

Senator Dever: I don't think there was any reference to that. Are you talking about Minot flooding?

Senator Hogue: No. The Attorney General had made a decision to initiate a federal torte claim against the federal government to recover this money.

Senator Dever: I think that is what Senator Hoeven is working on. **(7.11)**

Senator Hogue: I think Senator Hoeven would be looking for an appropriation. I thought I heard that the Attorney General had initiated a suit to make a recovery for this

Senator Dever: We will include that on our further inquiry.

Senator Mathern: An alternative to consider would be just to excise this piece from this bill, and move the bill forward. It would leave this portion in limbo.

Chairman Holmberg: Why don't we let them visit a bit about it and pick it up later. Then this would be on the back of the House to put it back in if that was necessary. The hearing was closed on SB 2024.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB2024
2/8/2019
JOB 32439

- Subcommittee
 Conference Committee

Committee Clerk: Alice Delzer

Explanation or reason for introduction of bill/resolution:

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

Minutes:

No testimony submitted

Chairman Holmberg: called the Committee to order on SB 2024. All committee members were present except Senator Gary Lee. Larry Martin, OMB and Levi Kinnischtzke, Legislative Council were also present.

Senator Dever: Concerning the DAPL money at \$13M and some dollars, there are two things in play, one is a law suit by the Attorney General and the other is the possibility that Congress might come through with some money. The BND offered an amendment that would have provided the same language that was in last time that it is the intent of the legislature to pay that at some point. Then the BND came back and offered another amendment to say the same thing expect appropriate a \$1M now to cover the interest so far accrued. I visited with Troy Seibel, the deputy of the Attorney General and he si going to visit with Wayne Stenejhem and then get back to me. but the question in my mind is “Do we think that holding that open continues to provide some effect as a bargaining chip as far as Congress is concerned?” Troy said he didn’t think it had any impact at all on the law suit. The possibility of Congress acting, and as you know, the current session of Congress started last month and ends a year from next December. **(1.28)**

Chairman Holmberg: Any thoughts? I thought we always wanted to hold back and not pay the loan itself.

Senator Mathern: I would agree. This is a lot of money. it’s a little bit of a game of chicken. I think we ought to keep it in as a loan. Interest adds to the loan.

Senator Dever: Regarding Congress, I don’t think it is a question of whether they would support it or not. It’s about the dysfunctionality of whether they do anything. The other thing that Troy mentioned is we have paid \$25M. They don’t think that would affect the law suit, either. **(2.47)**

Chairman Holmberg: I agree with Senator Mathern that we shouldn't pay. They will have an opportunity to make a case if we pass this bill with that money out. It can be dealt with in the House. **(3.07)**

Senator Dever: Can I assume then that it would be the sense of the committee that we should perhaps consider the amendment for the bank that would include the \$1M in accrued interest which otherwise would appear on their accounts as delinquent. I'll ask Adam to draft it that way and then the subcommittee can look at it.

Senator Grabinger: Are we going to separate the protest costs from the disaster costs and the emergency hay operation costs?

Senator Dever: I think the disaster costs and hay operation are separate items. I think the disaster has to do with flooding in the Turtle Mountains, wasn't it?

Senator Grabinger: Right. They are all put together here.

Senator Dever: Because they were under the Adjutant General.

Senator Grabinger: Right. We need to separate them. We're going to pay those two, aren't we?

Senator Dever: Yes. Adam knows how to draft that.

Chairman Holmberg: Any other bills that are ready to go? The hearing was closed on SB 2024.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2024
2/11/2019
Job #32511 (08:01)

- Subcommittee
 Conference Committee

Committee Clerk: Alice Delzer/ Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A subcommittee hearing for the Deficiency Bill.

Minutes:

1. Proposed Amendment #19.0689.01002
2. Email letter from Stan D. Benson

Senator Dever called the subcommittee to order on SB 2024 at 10:30 in the Harvest Room. Let the record show that all subcommittee members were here: Senator Dever, Chairman, Senator Gary Lee and Senator Grabinger. Brady Larson, Legislative Council, and Renae Bloms, OMB, were also present.

Senator Dever: We have only one unresolved issue regarding this bill: the DAPL protest money. We had an amendment prepared before (**see attachment #1**); subsequent to that, we received another email from the bank of North Dakota that asks that the obligation be transferred from the Adjutant General to the Attorney General and that the Bank of ND would like updated \$1M of the interest appropriated in this session (**see attachment #2**). There are two approaches to trying to recoup the total investment. One is a lawsuit involving the Attorney General and the other is congressional action spearheaded by Senator Hoeven. The deficiency appropriation bill came to us asking that we pay it. We considered that, and the sense of the committee is that we should continue it as a negotiating point. The Attorney General says we've already paid \$25M and the \$13M is what we have left unpaid. However, they're suing for the full amount, including any interest. My personal feeling is it doesn't really make a lot of difference as a bargaining chip, but it seems to be the desire of the full appropriations committee that we leave that out there through the Bank of ND and only appropriate that \$1M of interest.

Senator Grabinger: That's what I'm thinking too. I don't necessarily agree with the committee because I don't think the bargaining chip is there anymore. We paid \$25M of it already; we're just accruing interest. If we don't get a settlement from the federal government, we're going to pay that interest whereas we can pay it off now and not have that added debt.

Senator Dever: We should put forward what the full committee can support.

Senator Gary Lee: We're looking at the last paragraph, to add a section of statement of legislative intent and then change the dollar amounts?

Senator Dever: I am looking at the email.

Senator Grabinger: Essentially it would be amendment two with an additional million dollars and a move from the Adjutant to the Attorney.

Senator Dever: Kelvin, have I accurately expressed this?

(4:35) Kelvin Hullet, Market Manager for Government Programs, Bank of ND

Hullet: Yes, I believe you have accurately portrayed what we have provided to you. We had talked with the Adjutant General's office about the amendment, and they were not sure they had the authorization to pursue repayment from the federal government which is why we had put the Attorney General into that line as opposed to the Adjutant General. Second if you look at deferring the DAPL repayment of that note then we would need to bring the interest current on that. Then we can carry it into the following biennium as a deficiency appropriation in the 2021-23 biennium.

Senator Dever: My understanding is the Adjutant General requested that it be transferred to the Attorney General. I visited with the Deputy Attorney General, and he did not express any opposition to that.

Hullet: Yes, I believe that would make sense as we're thinking about who's pursuing repayment of the loan.

Senator Grabinger: Made the motion to move the amendment as recommended.

Senator Gary Lee: Seconds.

Senator Dever: Brady, if we just substitute this language into the amendment that has already been drafted, 01002, that should do it. That was confirmed.

A Roll Call vote was taken: 3 yeas, 0 nays, 0 absent. Amendment is adopted.

Senator Dever ends the subcommittee's discussion on SB 2024.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2024
2/13/2019
Job # 32641

- Subcommittee
 Conference Committee

Committee Clerk: Rose Laning

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Amendment 19.0689.01003

Legislative Council: Adam Mathiak
OMB: Larry Martin

Chairman Holmberg: called the committee to order on SB 2024.

Senator Dever: moved and explained amendment 19.0689.01003.

He said the bill had been discussed previously, but the amendments drafted since involved the \$13,224,000 from the DAPL related costs that are being placed in litigation by the Attorney General. The desire is to continue to leave that but the BND has requested a million dollars from the general fund in the deficiency appropriation bill to cover accrued interest to this point. The AG, in their lawsuit, is including the cost of interest in the lawsuit so that it could possibly be recovered as well. It moves the obligation from the Adjutant General to the Attorney General. Section 2 was added of legislative intent. The AG is seeking reimbursement from the federal government and it is a loan authorized by the emergency commission. That is language that the BND needs to have on the books.

Senator G. Lee: Seconded the motion.

Voice vote carried.

Senator Dever: Moved Do Pass on SB 2024 as Amended.

Senator Bekkedahl: Seconded the motion.

A Roll Call Vote was taken: Yes: 14 No: 0 Absent: 0.

Senator Dever: will carry the bill.

Chairman Holmberg: Closed the hearing on SB 2024.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2024
2/15/2019
Job # 32830

- Subcommittee
 Conference Committee

Committee Clerk: Rose Laning

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Amendment 19.0689.01004

Legislative Council: Adam Mathiak
OMB: Larry Martin

Chairman Holmberg: Opened the hearing on SB 2024.

Senator Dever: moved to reconsider the committee's previous action.

Senator Robinson: seconded the motion.

Voice vote carried.

Senator Dever: (Handed out amendment 19.0689.01004) After we passed the bill, Legislative Council determined that there was some minor language change in section 2 which is on the back side of the amendment regarding legislative intent and cost reimbursements. I will let Adam explain the change.

Adam Mathiak: When we prepared the amendment originally, the very last sentence of section 2 was not included. As we look back at last times deficiency bill which included similar language, the sentence didn't specifically identify a legislative assembly, so we thought that there was an implied assumption that the intent carried through so this sentence is kind of duplicative and the century code exists as well so we basically had to remove it or not include it. The bank felt it was necessary to have that last sentence added to section 2 so at their request, we added that in.

Senator Dever: moved amendment 19.0689.01004.

Senator G. Lee: seconded the motion.

Voice vote carried.

Senator Mathern: Expressed concern that an appropriation of \$1M to the Bank of ND would be lost in a lawsuit? How necessary is it to pay that? The bank won't go bankrupt if we don't pay that.

Senator Dever: The deputy attorney general told me that they're including interest in the lawsuit and they expect that if they're successful that would be included. The concern of the bank is that if they do not collect that interest, it will reflect in a negative way as it pertains to bank examiners. We own the bank but it's still subject to regulation.

Senator Mathern: A federal bank examiner will question the solvency of our bank?

Senator Dever: If they have a loan out there that is not collecting interest.

Senator Dever: Moved Do Pass on SB 2024 as Amended.

Senator G. Lee: seconded the motion.

A Roll Call Vote was taken: Yes: 14 No: 0 Absent: 0.

Senator Dever carry the bill.

Chairman Holmberg: Closed the hearing on SB 2024.

19.0689.01003
Title.

Prepared by the Legislative Council staff for
Senator Dever

February 11, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after the semicolon insert "to provide a statement of legislative intent;"

Page 1, line 6, after the second comma insert "and from special funds derived from federal funds,"

Page 1, line 8, replace "2021" with "2019"

Page 1, replace lines 11 and 12 with:

"Lawsuit expenses	<u>\$441,100</u>
Total general fund	<u>\$441,100"</u>

Page 1, after line 22 insert:

"BANK OF NORTH DAKOTA

Loan interest payments - protest costs	<u>\$1,000,000</u>
Total general fund	<u>\$1,000,000</u>

Subdivision 5."

Page 2, replace lines 1 through 4 with:

"Loan repayment - disaster costs	<u>\$887,823</u>
Loan repayment - emergency hay operation	<u>1,586,061</u>
Total general fund	<u>\$2,473,884"</u>

Page 2, line 5, replace "5." with "6."

Page 2, replace lines 7 and 8 with:

"Litigation costs	<u>\$265,000</u>
Total general fund	<u>\$265,000</u>

Subdivision 7.

ATTORNEY GENERAL

Prosecution witness fees	<u>\$50,000</u>
Capital assets	<u>855,910</u>
Total all funds	<u>\$905,910</u>
Less federal funds	<u>855,910</u>
Total general fund	<u>\$50,000</u>

Subdivision 8."

Page 2, replace line 10 with:

"Grand total general fund	<u>\$6,049,984</u>
Grand total federal funds	<u>855,910</u>
Grand total all funds	<u>\$6,905,894</u>

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth 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-sixth 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."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides for the following changes:

- Increases the appropriation from the general fund to the Office of Management and Budget for lawsuit expenses by \$33,100, from \$408,000 to \$441,100;
- Appropriates \$1,000,000 from the general fund to the Bank of North Dakota to pay the accrued interest on loans related to the unlawful activity associated with the construction of the Dakota Access Pipeline;
- Decreases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$13,224,205, from \$15,698,089 to \$2,473,884;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000;
- Provides an appropriation from the general fund to the Attorney General for prosecution witness fees (\$50,000) and provides an appropriation from federal funds to the Attorney General for narcotics analyzers and other equipment (\$855,910); and
- Adds a section to provide a statement of legislative intent related to repayment sources for loans obtained to provide the necessary funding to respond to the unlawful activity associated with the construction of the Dakota Access Pipeline.

In total, the changes decrease the deficiency appropriations from the general fund by \$12,156,105, from \$18,206,089 to \$6,049,984.

SLC
10/2/19
2115

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after the semicolon insert "to provide a statement of legislative intent;"

Page 1, line 6, after the second comma insert "and from special funds derived from federal funds,"

Page 1, line 8, replace "2021" with "2019"

Page 1, replace lines 11 and 12 with:

"Lawsuit expenses	<u>\$441,100</u>
Total general fund	\$441,100"

Page 1, after line 22 insert:

"BANK OF NORTH DAKOTA

Loan interest payments - protest costs	<u>\$1,000,000</u>
Total general fund	\$1,000,000

Subdivision 5."

Page 2, replace lines 1 through 4 with:

"Loan repayment - disaster costs	<u>\$887,823</u>
Loan repayment - emergency hay operation	<u>1,586,061</u>
Total general fund	\$2,473,884"

Page 2, line 5, replace "5." with "6."

Page 2, replace lines 7 and 8 with:

"Litigation costs	<u>\$265,000</u>
Total general fund	\$265,000

Subdivision 7.

ATTORNEY GENERAL

Prosecution witness fees	<u>\$50,000</u>
Capital assets	<u>855,910</u>
Total all funds	\$905,910
Less federal funds	<u>855,910</u>
Total general fund	\$50,000

Subdivision 8."

Page 2, replace line 10 with:

"Grand total general fund	<u>\$6,049,984</u>
Grand total federal funds	<u>855,910</u>
Grand total all funds	\$6,905,894

202

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth 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-sixth 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-sixth 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 provides for the following changes:

- Increases the appropriation from the general fund to the Office of Management and Budget for lawsuit expenses by \$33,100, from \$408,000 to \$441,100;
- Appropriates \$1,000,000 from the general fund to the Bank of North Dakota to pay the accrued interest on loans related to the unlawful activity associated with the construction of the Dakota Access Pipeline;
- Decreases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$13,224,205, from \$15,698,089 to \$2,473,884;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000;
- Provides an appropriation from the general fund to the Attorney General for prosecution witness fees (\$50,000) and provides an appropriation from federal funds to the Attorney General for narcotics analyzers and other equipment (\$855,910); and
- Adds a section to provide a statement of legislative intent related to repayment sources for loans obtained to provide the necessary funding to respond to the unlawful activity associated with the construction of the Dakota Access Pipeline.

In total, the changes decrease the deficiency appropriations from the general fund by \$12,156,105, from \$18,206,089 to \$6,049,984.

Date: 2-11-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 19.0689.01002 plus \$1 million + Adjutant to the Attorney.

- 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 Sen Grabinger Seconded By Sen G Lee

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger	✓	
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee	✓				
Senator Dever	✓				
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) 3 No 0

Absent 0

Floor Assignment Amendment to be prepared

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

Date: 2-13-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 19.0689.01003

- 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 Dever Seconded By Lee

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

it carried voice vote

Date: 2-13-19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate 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 Dever Seconded By Bekkedahl

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator Grabinger	✓	
Senator Wanzek	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Poolman	✓				
Senator Bekkedahl	✓				
Senator G. Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Dever

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

Date: 2-15-19

Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate 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 Dever Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried

Date: 2-15-2019

Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 19.0689.01004

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 Dever Seconded By G. Lee

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
Carried*

Date: 2-15-2019

Roll Call Vote #: 3

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate 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 Dever Seconded By G. Lee

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator Grabinger	✓	
Senator Wanzek	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Poolman	✓				
Senator Bekkedahl	✓				
Senator G. Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Dever

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

REPORT OF STANDING COMMITTEE

SB 2024: 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). SB 2024 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to provide a statement of legislative intent;"

Page 1, line 6, after the second comma insert "and from special funds derived from federal funds,"

Page 1, line 8, replace "2021" with "2019"

Page 1, replace lines 11 and 12 with:

"Lawsuit expenses	<u>\$441,100</u>
Total general fund	\$441,100"

Page 1, after line 22 insert:

"BANK OF NORTH DAKOTA

Loan interest payments - protest costs	<u>\$1,000,000</u>
Total general fund	\$1,000,000

Subdivision 5."

Page 2, replace lines 1 through 4 with:

"Loan repayment - disaster costs	<u>\$887,823</u>
Loan repayment - emergency hay operation	<u>1,586,061</u>
Total general fund	\$2,473,884"

Page 2, line 5, replace "5." with "6."

Page 2, replace lines 7 and 8 with:

"Litigation costs	<u>\$265,000</u>
Total general fund	\$265,000

Subdivision 7.

ATTORNEY GENERAL

Prosecution witness fees	\$50,000
Capital assets	<u>855,910</u>
Total all funds	\$905,910
Less federal funds	<u>855,910</u>
Total general fund	\$50,000

Subdivision 8."

Page 2, replace line 10 with:

"Grand total general fund	\$6,049,984
Grand total federal funds	<u>855,910</u>
Grand total all funds	\$6,905,894

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth 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-sixth 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-sixth 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 provides for the following changes:

- Increases the appropriation from the general fund to the Office of Management and Budget for lawsuit expenses by \$33,100, from \$408,000 to \$441,100;
- Appropriates \$1,000,000 from the general fund to the Bank of North Dakota to pay the accrued interest on loans related to the unlawful activity associated with the construction of the Dakota Access Pipeline;
- Decreases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$13,224,205, from \$15,698,089 to \$2,473,884;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000;
- Provides an appropriation from the general fund to the Attorney General for prosecution witness fees (\$50,000) and provides an appropriation from federal funds to the Attorney General for narcotics analyzers and other equipment (\$855,910); and
- Adds a section to provide a statement of legislative intent related to repayment sources for loans obtained to provide the necessary funding to respond to the unlawful activity associated with the construction of the Dakota Access Pipeline.

In total, the changes decrease the deficiency appropriations from the general fund by \$12,156,105, from \$18,206,089 to \$6,049,984.

2019 HOUSE APPROPRIATIONS

SB 2024

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2024
3/4/2019
33135

- Subcommittee
 Conference Committee

Committee Clerk: Risa Bergquist

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; to provide a statement of legislative intent.

Minutes:

Attachments 1-3

Chairman Delzer: Called the meeting to order, roll was taken and the bill's title was read. First we will have the office of Management and Budget.

Joe Morrissette, Director of Office of Management & Budget: I will address the items in subdivision 1 and subdivision 6 relating to the State Historical Society because they are related. The 441 thousand that is in subdivision 1 is to pay the remaining balance on the judgment that was awarded to Comstock construction against the state of North Dakota relating to the Heritage Center expansion project.

Chairman Delzer: Wasn't there money in the budget for that?

Mr. Morrissette: There was not, the judgment was 1.4 million awarded in November, there was 337 thousand that had been retained, that was paid to Comstock in January 2018, there is a remaining balance of 408 thousand. Century Code 32-12-04 anytime there's a judgement against that state OMB will make the payment but it has to be from an appropriation for that purpose.

Chairman Delzer: What is the balance that you said?

Mr. Morrissette: 441 thousand is the remaining balance, it's 408 thousand and then there is interest of 2 ¼ percent. We figured it out to June 1st so if payment was made then it would be 441 thousand and we would make that payment as soon as possible and any interest saved would stay in the general fund.

4:00 Section 6 for the Historical Society; it's related because the 265 thousand that they are asking for is for legal fees and fees related to the arbitration that they have incurred.

Chairman Delzer: Was there ever any turn back for that for the project?

Mr. Morrissette: There was 337 thousand, but that was held from the appropriation and then paid to Comstock at the time that the judgment was awarded.

6:20 Chairman Delzer: The 441 is the first of June? How much a day is it?

Mr. Morrisette: I will get that for you.

Representative J. Nelson: Is the 265 that the historical society is asking for is that the extent of the legal work or is that in addition to work that is already been done?

Mr. Morrisette: I think there was a small appropriation in the prior biennium and this is the remaining balance. There was an appropriation of 50 thousand last biennia.

Chairman Delzer: Is this the total or is there interest on that as well?

Mr. Morrisette: I will have to have someone from the Historical Society address that.

Chairman Delzer: Next Tax Department.

8:00-9:50 Sandy McMerty, Deputy Commission, Office of State Tax Commission: (see attachment 1)

Chairman Delzer: What happens is you are high or low?

Mrs. McMerty: If we are high those dollars would roll into the next biennium if we are low....

Chairman Delzer: How would they roll in? Is that in your tax commissioner's budget?

Mrs. McMerty: I would assume if there was a deficiency those two programs are individual lines I would have ask that question, right now if we short we would have to carry anything forward into the next year and pay that out.

Chairman Delzer: If you were long I don't think that would carry forward.

10:30 Representative Kempenich: What was the numbers on the homestead tax credit?

Mrs. McMerty: For applicants? There were 8,373 applicants in that program about 7.2 million in 2017

Representative Kempenich: And for the veterans?

Mrs. McMerty: 3,433 applicants in 2017, 4.1 million in that program.

Chairman Delzer: What was the number for Homestead?

Mrs. McMerty: 7.2, what happens in that one is if someone qualifies in the current year they often qualified the year prior and if they are new to the program they'll ask for the prior year so it is a little harder to estimate. The upcoming biennium governor's budget has 15.8 in the homestead line, we had asked for 16 million. Veterans' we had asked for 9 million and the governor's budget has 8.4 in it and that is how it was passed out of senate.

Chairman Delzer: Further questions by the committee? Next up is the Industrial Commission.

12:00 Robyn Loumer, Accounting Budget Specialist, Department of Mineral Resources: The industrial commission has ongoing litigation costs that started in the prior biennium, 1 million dollars was funded for the 2017/2019 biennium. The costs where higher than we anticipated and so the 1

million dollars was spent by January 2019, currently we do have outstanding bills that are waiting to be paid.

Chairman Delzer: What are your outstanding bills?

Mrs. Loumer: The bills haven't been passed down to me yet from the attorney general's office.

Chairman Delzer: I would like to see those bills and find out if there is more outstanding litigation that there will be more bills for. Next is the bank of North Dakota.

13:30 Kelvin Hullet, Market Manager, Bank of North Dakota: Today is need to talk about subdivision 4 and then also section 2. These costs relate to the expenses related to the Dakota Asses Pipeline activities from two years ago. During the last session the adjutant general was authorized to take out a series of loans that totaled around 40 million dollars. There was a decision during the last legislative session to wait to repay those loans based on the thinking that there would be some money coming in from the federal level and some other sources. In fact, over the course of the biennium there was 25 million dollars that came in, 15 million of that from energy transfer partners and another 10 million was provided as a federal grant to the adjutant general to help pay these costs. Today we have about 13 million dollars that are outstanding related to these expenses. In subdivision 4 we have requested 1 million dollars and in section 2 you will see is the legislative intent, in the senate appropriation committee it was discussed to carry these loans for two more years through this biennium in anticipation of any additional money being received and then we would pay them down at that point. The million dollars to the bring those loans current on the interest payments.

15:25 Chairman Delzer: What is your interest rate on that?

Mr. Hullet: It is what we call the government rate, which is 3.98.

Chairman Delzer: Of that 25 you didn't use any on interest?

Mr. Hullet: on the 25 million we used 426 thousand related to interest.

Chairman Delzer: If that was two years how is it that you are only at a million dollars now? When you were doing this 13 million compared to the 43?

Mr. Hullet: We are doing an exact calculation, today it would be about 828 thousand dollars.

Chairman Delzer: I would like to see the print out on how you find that, now the adjutant general.

17:00-18:40 Cody Schulz, Deputy Director Department of Emergency Services: (see attachment 2)

Chairman Delzer: Do you have a list for the 491 recipients?

Mr. Schulz: I would be able to get that to you.

20:15-22:00 Kathy Roll, Financial administrator, Office of the Attorney General (see attachment 3)

Chairman Delzer: Did you not have any room in your federal authority for the Opioid response?

Mrs. Roll: We didn't anticipate that grant at all so to get such a large amount we have not planned for that.

Chairman Delzer: You're asking for 67.3 thousand instead of the 50?

Mrs. Roll: That is correct.

Chairman Delzer: And what do you have in your bill this time?

Mrs. Roll: I believe it is the same, \$95,056.

Chairman Delzer: Should that be increased? Questions by the committee? Further testimony for SB 2024? Any opposition? Seeing none we will close the hearing on SB 2024.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2024
3/4/2019
33193

- Subcommittee
 Conference Committee

Committee Clerk: Risa Bergquist

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; to provide a statement of legislative intent.

Minutes:

Chairman Delzer: Representative Schmidt I know you have something for SB 2024? Allen, could you research and see what is in URP and see if any of that could be used to repay the hay transport?

Representative Schmidt: When we had the ag commissioner budget hearing we asked for some benefits to the program. He did have a hand out, it's got 493 applications, 1 was denied, but we didn't get any names of those recipients. Also with that I was under the understanding we were just paying for hay transport and but we also paid to transport livestock. Total miles of 43,562, eligible expense 175 thousand 521 at \$4.02 per mile average. I thought this was only for hay?

Chairman Delzer: I did too. What did the ag commissioner have to say?

Representative Schmidt: We will have to ask him further on that.

Chairman Delzer: Did you ask him what the average pay for transporting hay was before the program and after?

Representative Schmidt: We did, I informed him that for my constituents the price of hay went up from \$4 to \$5/mile, the response was in some cases there was a lot of advantage taken and some cases there wasn't. We did also discuss the value in that, I think we will take more of that when we dig deeper into his budget. The last part is I asked him how are we going to pay for this and he didn't have an answer for me.

Chairman Delzer: He didn't even have to show up and ask for the coverage in the deficiency appropriation.

Representative Schmidt: With respect to the environmental range protection fund, the 2019/2021 biennium, the estimated ending balance is 4.2 million dollars. Since this benefited range land protection, I can't see why we can't use the ERP funds to pay these 1.5 million dollars.

Chairman Delzer: Allen can you check and see if there are restrictions on that fund?

House Appropriations Committee

SB 2024

March 4th 2019

Page 2

Allen Knudson, LC: The way that is set up you can use it for whatever you want.

Chairman Delzer: Representative Schmidt, you'll get an amendment drafted for that? With that we will close this meeting.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2024
March 14th 2019
33743

- Subcommittee
 Conference Committee

Committee Clerk: Risa Bergquist

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; to provide a statement of legislative intent.

Minutes:

Attachment 1

Chairman Delzer: SB 2024 is the deficiency bill, the Office Management Budget was 408, Senate amended it and made it 441 thousand. The tax department is asking for 1.320 million, for Homestead Tax Credit and Disabled Veterans credit. Industrial Commission has litigation costs 500 million. **(see attachment 1)** They now think they would be able to make it with 269,408.04, I guess we will have to short them 4 cents because we don't ever go that far. Bank of North Dakota the loan interest payment for the protest costs at a million dollars, interest rate at 3.18. Adjutant General is the disaster cost and the loan repayment for the emergency hay operation.

Representative Schmidt: I have some amendments for that.

Chairman Delzer: Historical society litigation costs of 265 thousand, Attorney General; Representative Vigesaa, do you know how much they are asking for in the prosecution witness fees this time?

Representative Vigesaa: We hear that bill in the morning.

Chairman Delzer: Capital Assets is 855. We can take this bill up, let's do two separate ones.

Representative Vigesaa: Motion

Representative Brandenburg: Second

Chairman Delzer: We have a motion at amend SB 2024, the 0300 version, line 22 is going from 500 thousand to 269,408. Any further discussion?

Voice vote All in favor, Motion carries

6:15 Representative Schmidt: I have amendment number 19.0689.03001 and what this amendment is doing is using the Environmental and Range Protection fund, which is a balance of about 4.6 million dollars to make the payment for the hay transport that the emergency commission approved from the request of the governor and the ag commissioner. Legislative council put this together for me, page 1 line 7 after the second “funds” insert “and other income”. Page 2 replace line 8 with “Total all funds 2,473,844 less special funds 1,586,061 for a total general fund of 887,823. Page replace line 22-24 with “grand total general fund of 4,233,331 grand total special funds of 2,441,971 for a total all funds of 6,675,302. Section 2 special funds Environmental and Rangeland Protection Fund less special funds line items sub division 5 of section 1 of this act includes 1.586 from that fund. That is the amendment.

Chairman Delzer: Have you guys looked far enough into the budget to see if any of this could come out of their budget, or are you open to reducing their budget some on this and still use ERP money?

Representative Schmidt: I asked the commissioner how do they plan to pay for this? Rather than discussing it we just proceeded to use those funds.

Representative Monson: We did work on the Ag commissioners budget today, that’s something we can look at.

Representative Brandenburg: When you take that much money out of the fund what are we taking out?

Representative Schmidt: What we found is that we had 4.6 in the budget, so they would have 3.1 remaining.

Chairman Delzer: This comes from fees mostly on chemical, Representative Schmidt statement also helps protect the range land.

Representative Brandenburg: Somebody is going to get shorted.

Chairman Delzer: I don’t think this will short anything, the 4.6 was after everything they asked for in the budget.

Representative Brandenburg: What was used last biennium of that fund?

Brady Larson, Legislative Council: last biennium there was approximately 7 million dollars used from that fund. Beginning balance was 4.5 million and the ending was 4.4, so it’s generating about the same amount as what’s being spent.

Chairman Delzer: The requested usage for his biennium is about the same?

Mr. Larson, LC: Yes, 7.1 million.

Chairman Delzer: I have a real hard time with us having to use general fund and that ag commissioner got this without having to ask for the deficiency appropriation.

Representative Schmidt: The other part is that we used the State Water Commission and Resources Trust fund money to provide pasture caps at 35 hundred dollars for each of those wells. So there was more than just the one program that helped the ranchers of North Dakota through the drought.

Chairman Delzer: There are also other programs out there through commerce and other places to get help.

12:35 Representative J. Nelson: The water taps that came out of the Resource Trust fund that program has been around awhile, in previous drought years, has that always been drawn from the trust fund or was that once taken from the Disaster Relief fund?

Chairman Delzer: I think it was always in the water commission

Representative Schmidt: The state water commission has increased that cost share from 35 hundred 45 hundred. **With that I move to adopt the amendment.**

Representative Monson: Second

Chairman Delzer: Is there any further discussion of the motion to adopt the amendment?

Voice vote All in Favor, Motion Carries.

Representative Schmidt: Move Do Pass as Amended

Representative Monson: Second

Chairman Delzer: Any further discussion on the motion to move the amended bill. Seeing none we will call the roll.

A Roll Call vote was taken. Yea: 19 Nay: 0 Absent: 2

Motion carries, Representative Schmidt will carry the bill.

Chairman Delzer: With that we will close the meeting on SB 2024

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2024

Page 1, line 7, after the second "funds" insert "and other income"

Page 2, replace line 8 with:

"Total all funds	\$2,473,884
Less special funds	<u>1,586,061</u>
Total general fund	\$887,823"

Page 2, replace lines 22 through 24 with:

"Grand total general fund	\$4,463,923
Grand total special funds	<u>2,441,971</u>
Grand total all funds	\$6,905,894

SECTION 2. SPECIAL FUNDS - ENVIRONMENT AND RANGELAND PROTECTION FUND. The less special funds line item in subdivision 5 of section 1 of this Act includes \$1,586,061 from the environment and rangeland protection fund."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment changes the funding source for the loan repayment associated with an emergency hay operation from the general fund to the environment and rangeland protection fund.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2024

Page 1, line 7, after the second "funds" insert "and other income"

Page 1, replace lines 22 through 23 with:

"Litigation costs	<u>\$269,408</u>
Total general fund	\$269,408"

Page 2, replace line 8 with:

"Total all funds	\$2,473,884
Less special funds	<u>1,586,061</u>
Total general fund	\$887,823"

Page 2, replace lines 22 through 24 with:

"Grand total general fund	\$4,233,331
Grand total special funds	<u>2,441,971</u>
Grand total all funds	\$6,675,302

SECTION 2. SPECIAL FUNDS - ENVIRONMENT AND RANGELAND PROTECTION FUND. The less special funds line item in subdivision 5 of section 1 of this Act includes \$1,586,061 from the environment and rangeland protection fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Decreases the appropriation from the general fund to the Industrial Commission for litigation costs by \$230,592, from \$500,000 to \$269,408.
- Changes the funding source for the loan repayment associated with an emergency hay operation from the general fund to the environment and rangeland protection fund.

Date: 3/14/2019
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2024**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 3000 Line 22; 500 thousand to 269.408 thousand

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 Vigesaa Seconded By Representative Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 3/14/2019
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2024**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 19.0689.03001

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 Schmidt Seconded By Representative Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 3/14/2019
 Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2024**

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 Schmidt Seconded By Representative Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	A				
Representative Anderson	X		Representative Schobinger	X	
Representative Beadle	X		Representative Vigesaa	X	
Representative Bellew	X				
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	A	
Representative Kreidt	X		Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	X				

Total (Yes) 19 No 0

Absent 2

Floor Assignment Representative Schmidt

Motion Carries

REPORT OF STANDING COMMITTEE

SB 2024, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2024 was placed on the Sixth order on the calendar.

Page 1, line 7, after the second "funds" insert "and other income"

Page 1, replace lines 22 through 23 with:

"Litigation costs	<u>\$269,408</u>
Total general fund	\$269,408"

Page 2, replace line 8 with:

"Total all funds	\$2,473,884
Less special funds	<u>1,586,061</u>
Total general fund	\$887,823"

Page 2, replace lines 22 through 24 with:

"Grand total general fund	\$4,233,331
Grand total special funds	<u>2,441,971</u>
Grand total all funds	\$6,675,302

SECTION 2. SPECIAL FUNDS - ENVIRONMENT AND RANGELAND PROTECTION FUND. The less special funds line item in subdivision 5 of section 1 of this Act includes \$1,586,061 from the environment and rangeland protection fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Decreases the appropriation from the general fund to the Industrial Commission for litigation costs by \$230,592, from \$500,000 to \$269,408.
- Changes the funding source for the loan repayment associated with an emergency hay operation from the general fund to the environment and rangeland protection fund.

2019 TESTIMONY

SB 2024

#1 SB 2024
1-14-2019
pg 1

Testimony in Support of Senate Bill No. 2024
Joe Morrisette, Director
Office of Management and Budget
January 14, 2019

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 Senate Bill No. 2024 which provides deficiency appropriations to five different agencies. I will provide an overview of each request. Representatives from each agency are here to provide more detail and answer specific questions.

Office of Management and Budget

The appropriation in subdivision 1 is \$408,000 for the remaining balance in the judgement awarded to Comstock Construction against the state of North Dakota. North Dakota Century Code Section 32-12-04 requires that for any final judgement against the state, the Office of Management and Budget will make payment from funds specifically appropriated for the payment. This deficiency request is for the appropriation to satisfy the judgement awarded to Comstock.

In November 2017, a jury awarded Comstock Construction \$1,395,264 relating to a dispute over the installation costs for limestone panels that were part of the Heritage Center expansion project. Pursuant to the judgement, Comstock was initially paid \$337,204 in January 2018 from moneys that had been retained by the state.

The state then initiated legal proceedings against the architectural firms involved in the project. In January 2018, the parties enlisted the assistance of a mediator and in July 2018 the architectural firms agreed to a settlement of \$650,000. The funds were received and distributed to Comstock in August 2018. The remaining balance is about \$408,000, not including interest. The judgement requires interest to be accrued at the annual rate of 2.25%.

The amount included in this draft is incorrect as it does not include accrued interest. Consequently, the requested amount will need to be adjusted to reflect interest due at the annual rate of 2.25%. The exact date payment will be made is unknown but will be as soon as possible once the bill is passed and signed. If interest is accrued through May 31, 2019 and payment is made on June 1, 2019, the estimated total amount due will be \$441,100.

I request an amendment to SB 2024 to increase the deficiency appropriation amount by \$33,100, to a total of \$441,100. Any interest amount not used because payment is made prior to June 1 will be returned to the general fund.

#1 SB 2024
1-14-2019

pg 2

Tax Department

This request 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 the 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.

It was anticipated by the 2017 legislature that these amounts could be insufficient, and to help mitigate that risk the agency was given authority to transfer between the two lines to help address a shortfall in one program. Unfortunately, current estimates indicate a shortfall in both programs.

The Homestead Tax Credit appropriation for 2017-19 is \$14.8 million and just under \$8 million was spent in the first year. The Tax Department is anticipating total 2017-19 expenditures of approximately \$16 million. The deficiency request for the Homestead Tax Credit program is \$1.17 million.

The Disabled Veterans' Credit appropriation for 2017-19 is \$8,110,200 and just over \$4 million was spent in the first year. The Tax Department is anticipating total 2017-19 expenditures of approximately \$8.3 million. The deficiency request for the Disabled Veterans Credit program is \$150,000.

Industrial Commission

The litigation appropriation to the Industrial Commission was \$1 million for 2017-19 biennium. Through December 31, 2018, \$950,852 has been spent for legal costs incurred in various legal proceedings against the federal government related to the regulation of oil and gas development and production, a case regarding the state's costs related to the Dakota Access Pipeline protests, Sorum vs. North Dakota regarding 2017 House Bill 2134 and a bankruptcy proceeding involving an oil operator. The Attorney General's Office has reported to the Budget Section throughout the biennium on these costs. An additional invoice for over \$57,000 has been received and not yet paid because the remaining balance in the appropriation is only \$49,148.

The Industrial Commission deficiency request is for an additional \$500,000.

Adjutant General

The deficiency request for the Office of the Adjutant General is to repay Bank of North Dakota loans and accrued interest relating to DAPL protest costs, the Emergency Hay Transportation program, and 2017 flood costs not included in 2017-19 appropriations from the State Disaster Relief Fund. The Adjutant General is here to discuss proposed

#1 SB 2024
1-14-2019

pg 3

amendments to subdivision 4 based on recent loan interest rate increases and additional expenses for disaster related projects that are expected to be completed this biennium but were not known at the time SB 2024 was submitted.

Historical Society

The deficiency request for the State Historical Society is \$280,000 for legal costs incurred in relation to the Comstock Construction lawsuit and related mediation expenses.

Mr. Chairman and committee members, this concludes my testimony. I ask your support for Senate Bill 2024 with the requested amendments. I would be happy to answer any questions.

TESTIMONY OF
MAJOR GENERAL ALAN S. DOHRMANN
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
SENATE APPROPRIATIONS COMMITTEE
14 JANUARY 2019
SENATE BILL 2024

2 SB 2024
1-14-2019
Pg 1

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 4 of Senate Bill 2024, which contains three deficiency appropriations for the Office of the Adjutant General (OTAG) for loans obtained through the Bank of North Dakota (BND).

First, we will be asking that all three amounts in Subdivision 4 be revised based on recent loan interest rate increases and additional expenses for disaster related projects that we expect to be completed yet this biennium. These changes were identified after SB 2024 was drafted. I will address these changes as I address our three loans in Subdivision 4.

The first amount of \$488,822 is for the state cost share for the presidentially declared disaster for 2017 spring flooding (DR 4323). This disaster included the Turtle Mountain Chippewa Reservation and the counties of Benson, Bottineau, Cavalier, McHenry, Renville, Rolette, Pierce, Towner and Walsh. The total cost of this disaster is \$6,749,833 with an estimated state cost share of \$1,061,504. Of this amount, we believe an additional state share of \$399,001 will be needed to pay for projects expected to be completed this biennium and additional interest. Therefore, we are requesting that SB 2024, page 2, line 1 be increased by \$399,001 to a total of \$887,823.

The second item in Subdivision 4 is \$1,584,619 for funding of the North Dakota Department of Agriculture's (NDDOA) Emergency Hay Transportation Program. This program provided grants to livestock producers experiencing hardship due to severe drought conditions in the state. The Emergency Commission approved funding of this program in August 2017 in the amount of \$1.5 million in loan authority from the Bank of North Dakota. The entire loan amount was transferred to NDDOA. According to NDDOA, 491 grants were awarded to producers for a total of \$1.5 million. We ask that the amount in line 2 of page 2 of the bill be increased by \$1,442 to reflect additional interest that will accrue through the end of the biennium. The new amount is \$1,586,061.

The third amount in Subdivision 4 is \$13,624,648 for Dakota Access Pipeline (DAPL) response costs. This amount reflects the remaining balance for the State agency and local response cost for the DAPL response from August 2016 to March 2017. All costs for political subdivisions, state agencies, and out of state agencies were processed through the OTAG. A total of \$37.7 million was spent. Repayments totaling \$25 million (\$10 million from a federal grant; \$15 million from Energy Transfer Partners) were made to the BND. We have just recently received two final billings totaling \$271,378.19 (from Supreme Court and Indigent Defense); this along with additional interest caused by the rate increase, has increased our expense in line 4 of page 2 of SB 2024 to \$13,912,806.

I ask for your support of SB 2024 and will stand by for any questions that you may have.

2 SB 2024

1-14-2019

pg 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 2, line 1, strike through "\$488,822", insert \$887,823

Page 2, line 2, strike through "1,584,619", insert \$1,586,061

Page 2, line 3, strike through "13,624,648", insert \$13,912,806

Page 2, line 4, strike through "\$15,698,089", insert \$16,386,690

Renumber accordingly

Testimony for Senate Bill 2024
Senate Appropriations Committee
Monday, January 14 – 10:00 a.m.
State Historical Society of North Dakota
Andrea Wike, Assistant Director of the State Historical Society

#3 SB 2024
1-14-2019
PW

Chairman Holmberg and members of the committee, my name is Andrea Wike and I am the Assistant Director of the State Historical Society. I am here today to present testimony regarding a deficiency appropriation to the State Historical Society of North Dakota.

Heritage Center Expansion Litigation

Senate Bill 2024 provides a deficiency appropriation of \$280,000 for legal fees associated with litigation related to the Heritage Center Expansion Project. The general contractor, Comstock Construction, sued the state for their contract retainage and other expenses, which in the state lost the case and now owes Comstock. In the 2017-19 biennium, a deficiency appropriation of \$50,000 was given in House Bill 1024 to the State Historical Society. As of December 31, 2018, the agency has expended a total of \$287,173.77 in litigation fees from fiscal year 2017 to present. The agency is requesting \$260,000 of deficiency appropriation authority in Senate Bill 2024 in order to allow for any revisions to that amount that may come up.

#4 SB 2024
1-14-2019

pg 1

2019 SENATE BILL 2024 – DEFICIENCY APPROPRIATION

SENATE APPROPRIATIONS COMMITTEE

OFFICE OF ATTORNEY GENERAL

PROSECUTION WITNESS FEES AND CAPITAL ASSETS

KATHY ROLL, FINANCIAL ADMINISTRATOR

NDCC Sections 27-20-49(2) and 31-01-16 require this office to reimburse prosecution witness fees and expenses for district court criminal cases and juvenile court cases. In July 2018, this office requested \$100,000 from the Emergency Commission because the \$95,056 appropriated for the 2017-19 biennium was completely spent. The Emergency Commission approved \$50,000 of the \$100,000 request. This resulted in a new total for prosecution witness fee reimbursements of \$145,056 for the 2017-19 biennium.

As of January 10, 2019, the office has reimbursed prosecution witness fees of about \$129,885, and had on hand another \$21,435 in prosecution witness fee reimbursement requests. The number and amount of requested reimbursements for these costs have significantly exceeded the appropriated amounts. This request to be added to the deficiency bill is for \$50,000 from the general fund for the remainder of the 2017-19 biennium.

The office received a Public Health Opioid Crisis Response sub-award from the Department of Health for purchasing 15 Tru-Narc handheld narcotics analyzers (total cost is \$455,910) for each the Bureau of Criminal Investigation offices in the state and one for the Crime Laboratory. In addition the Crime Laboratory will be purchasing a Liquid Chromatography Mass Spectrometer (\$400,000) which analyzes the components of narcotics evidence submitted by law enforcement. This federal funds request is to add \$855,910 to the Office of Attorney General's capital assets line item for the 2017-19 biennium.

FUND 305 LITIGATION EXPENSES *From Carlene Fine*
 As of December 31, 2018
 75.00% Biennium Completed

	Hickey & Evans Federal Environmental Regulation	Greenberg Traurig BLM HF Rule	Greenberg Traurig BLM VF Rule	Greenberg Traurig ND Methane Rule	Greenberg Traurig RCRA Oilfield Wastes	Greenberg Traurig ND FTCA Claim	Pearson Christensen & Clapp Sorum vs. ND	Ballard Spahr, LLC Enduro Resources	Monthly Total	Litigation Balance
Jul-17										\$1,000,000.00
Aug-17	\$120.00								\$120.00	\$999,880.00
Sep-17		\$22,075.03	\$16,347.50	\$17,274.83	\$9,307.50	\$340.00			\$65,344.86	\$934,535.14
Oct-17		\$66.30	\$24,982.90	\$10,790.60	\$30,498.87	\$2,787.50			\$69,126.17	\$865,408.97
Nov-17		\$13,277.50	\$34,059.69		\$1,718.38	\$765.00			\$49,820.57	\$815,588.40
Dec-17	\$840.00	\$46,336.22	\$34,244.07	\$470.00	\$44,746.29	\$11,717.50			\$138,354.08	\$677,234.32
Jan-18									\$0.00	\$677,234.32
Feb-18		\$2,307.34	\$50,813.82	\$6,014.90	\$4,342.50	\$5,083.34			\$68,561.90	\$608,672.42
Mar-18		\$14,796.39	\$58,324.44		\$683.67	\$19,998.50	\$14,581.64		\$108,384.64	\$500,287.78
Apr-18	\$240.00	\$11,974.04	\$35,131.88		\$3,303.91	\$10,509.59	\$23,690.67		\$84,850.09	\$415,437.69
May-18							\$36,828.50		\$36,828.50	\$378,609.19
Jun-18		\$4,034.20	\$64,135.69	\$1,657.50	\$8,260.00	\$37,881.20	\$40,171.26		\$156,139.85	\$222,469.34
Jul-18									\$0.00	\$222,469.34
Aug-18		\$1,573.39	\$3,991.88			\$19,789.58		\$8,679.18	\$34,034.03	\$188,435.31
Sep-18		\$468.30	\$1,917.10	\$467.50		\$30,150.00	\$13,907.24	\$545.68	\$47,455.82	\$140,979.49
Oct-18									\$0.00	\$140,979.49
Nov-18		\$425.00	\$32,596.40	\$1,105.00		\$1,723.00	\$34,985.74	\$7,971.16	\$78,806.30	\$62,173.19
Dec-18		\$1,275.00	\$3,515.00	\$4,892.50		\$3,342.50			\$13,025.00	\$49,148.19
Jan-19									\$0.00	\$49,148.19
Feb-19									\$0.00	\$49,148.19
Mar-19									\$0.00	\$49,148.19
Apr-19									\$0.00	\$49,148.19
May-19									\$0.00	\$49,148.19
Jun-19									\$0.00	\$49,148.19
	\$1,200.00	\$118,608.71	\$360,060.37	\$42,672.83	\$102,861.12	\$144,087.71	\$164,165.05	\$17,196.02	\$950,851.81	\$49,148.19 Balance to Date

P1

P1
 #1
 Subcom
 2-5-19
 562024

SB 2024
2-5-19
2
p1

from Adam
Breakdown
on SB 2024
subcom.

	Original	New	Change
OMB	408,000	441,100	33,100
Tax	1,320,000	1,320,000	0
Industrial	500,000	500,000	0
Adjutant	15,698,089	16,386,690	688,601
Historical	280,000	265,000	(15,000)
Attorney General		905,910	905,910
Total funds	18,206,089	19,818,700	1,612,611
Federal funds		855,910	855,910
General fund	18,206,089	18,962,790	756,701

p1

19.0689.01001
Title.

Prepared by the Legislative Council staff for
Senator Dever

February 5, 2019

SB 2024

2-6-19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 6, after the second comma insert "and from special funds derived from federal funds,"

Page 1, line 8, replace "2021" with "2019"

Page 1, replace lines 11 and 12 with:

"Lawsuit expenses	<u>\$441,100</u>
Total general fund	\$441,100"

Page 2, replace lines 1 through 4 with:

"Loan repayment - disaster costs	\$887,823
Loan repayment - emergency hay operation	1,586,061
Loan repayment - protest costs	<u>13,912,806</u>
Total general fund	\$16,386,690"

Page 2, replace lines 7 and 8 with:

"Litigation costs	<u>\$265,000</u>
Total general fund	\$265,000"

Subdivision 6.

ATTORNEY GENERAL

Prosecution witness fees	\$50,000
Capital assets	<u>855,910</u>
Total all funds	\$905,910
Less federal funds	<u>855,910</u>
Total general fund	\$50,000"

Page 2, replace line 10 with:

"Grand total general fund	\$18,962,790
Grand total federal funds	<u>855,910</u>
Grand total all funds	\$19,818,700"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides for the following changes to agency deficiency appropriations:

- Increases the appropriation from the general fund to the Office of Management and Budget for lawsuit expenses by \$33,100, from \$408,000 to \$441,100;
- Increases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$688,601, from \$15,698,089 to \$16,386,690;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000; and

#1
P1

SB2024
2-6-19

- Provides an appropriation from the general fund to the Attorney General for prosecution witness fees (\$50,000) and provides an appropriation from federal funds to the Attorney General for narcotics analyzers and other equipment (\$855,910).

The changes increase the deficiency appropriations from the general fund by \$756,701, from \$18,206,089 to \$18,962,790.

#1
P2

Sullivan 2024
2-11-19
1
P1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after the semicolon insert "to provide a statement of legislative intent;"

Page 1, line 6, after the second comma insert "and from special funds derived from federal funds,"

Page 1, line 8, replace "2021" with "2019"

Page 1, replace lines 11 and 12 with:

"Lawsuit expenses	<u>\$441,100</u>
Total general fund	\$441,100"

Page 2, replace lines 1 through 4 with:

"Loan repayment - disaster costs	\$887,823
Loan repayment - emergency hay operation	<u>1,586,061</u>
Total general fund	\$2,473,884"

Page 2, replace lines 7 and 8 with:

"Litigation costs	<u>\$265,000</u>
Total general fund	\$265,000

Subdivision 6.

ATTORNEY GENERAL

Prosecution witness fees	\$50,000
Capital assets	<u>855,910</u>
Total all funds	\$905,910
Less federal funds	<u>855,910</u>
Total general fund	\$50,000"

Page 2, replace line 10 with:

"Grand total general fund	\$5,049,984
Grand total federal funds	<u>855,910</u>
Grand total all funds	\$5,905,894

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth legislative assembly that the department of emergency services 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-sixth 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."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides for the following changes:

- Increases the appropriation from the general fund to the Office of Management and Budget for lawsuit expenses by \$33,100, from \$408,000 to \$441,100;
- Decreases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$13,224,205, from \$15,698,089 to \$2,473,884;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000;
- Provides an appropriation from the general fund to the Attorney General for prosecution witness fees (\$50,000) and provides an appropriation from federal funds to the Attorney General for narcotics analyzers and other equipment (\$855,910); and
- Adds a section to provide a statement of legislative intent related to repayment sources for loans obtained to provide the necessary funding to respond to the unlawful activity associated with the construction of the Dakota Access Pipeline.

In total, the changes decrease the deficiency appropriations from the general fund by \$13,156,105, from \$18,206,089 to \$5,049,984.

SB 2024
Subcomm
2-11-19

Dever, Dick D.

From: Benson, Stan D.
Sent: Thursday, February 7, 2019 3:20 PM
To: Dever, Dick D.
Cc: Hardmeyer, Eric A.; Steinwand, Todd J.; Hullet, Kelvin L.; Fine, Karlene K.; Dohrmann, Alan S.; Evanger, Kirby L.
Subject: RE: SB 2024

#2 P 1

Dick,

If the 2019 legislature chooses to defer full payment of loans pending federal reimbursement, the ND Department of Financial Institutions recommends to BND that any unpaid interest be paid or brought current prior to renewing the outstanding loans for the 2019-21 biennium. As you will see below, the Bank is also recommending for consideration an appropriation clause for OMB to transfer \$1,000,000 or as much as may be needed to bring accrued interest current no later than June 30, 2019. Also in the Legislative Intent section below we have changed the wording slightly from what was sent yesterday so that the ND Attorney General is the entity seeking reimbursement on behalf of the Department of Emergency Services. This change was made as General Dohrmann has advised the Bank that the Department of Emergency Services does not have the authority to seek reimbursement from the federal government. As your sub-committee reviews this proposed language, BND is always available to assist or attend meetings at the sub-committees request.

Thank you.

Stanley Benson
BND Legislative Coordinator

Recommendations Follow:

LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth legislative assembly that the North Dakota 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-sixth legislative assembly that these reimbursements be used to repay the Bank of North Dakota loans authorized by the emergency commission and the legislative assembly, including all outstanding loans previously authorized by the emergency commission. It is further the intent of the legislative assembly that provisions of NDCC section 54-16-13 apply to the loans, except that emergency commission approval does not apply.

Section 2. APPROPRIATION. The Office of Management and Budget shall transfer \$1,000,000 towards accrued interest or so much as may be required from the state's general fund, not otherwise appropriated, to the Bank of North Dakota should reimbursement by the federal government not be received by June 30, 2019.

From: Dever, Dick D.
Sent: Thursday, February 7, 2019 11:22 AM
To: Benson, Stan D. <sbenson@nd.gov>
Cc: Hardmeyer, Eric A. <ehardmeyer@nd.gov>; Fine, Karlene K. <kfine@nd.gov>; Steinwand, Todd J. <tsteinwand@nd.gov>; Hullet, Kelvin L. <klhullet@nd.gov>; Merkel, Kylee <kmerkel@nd.gov>; Evanger, Kirby L. <kevanger@nd.gov>; Porter, Tim C. <tcporter@nd.gov>; Larsen, Rebecca <rlarsen@nd.gov>
Subject: RE: SB 2024

February 11, 2019

#1 SB2024

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

2-13-19

AG1

Page 1, line 2, after the semicolon insert "to provide a statement of legislative intent;"

Page 1, line 6, after the second comma insert "and from special funds derived from federal funds,"

Page 1, line 8, replace "2021" with "2019"

Page 1, replace lines 11 and 12 with:

"Lawsuit expenses	<u>\$441,100</u>
Total general fund	\$441,100"

Page 1, after line 22 insert:

"BANK OF NORTH DAKOTA

Loan interest payments - protest costs	<u>\$1,000,000</u>
Total general fund	\$1,000,000

Subdivision 5."

Page 2, replace lines 1 through 4 with:

"Loan repayment - disaster costs	<u>\$887,823</u>
Loan repayment - emergency hay operation	<u>1,586,061</u>
Total general fund	\$2,473,884"

Page 2, line 5, replace "5." with "6."

Page 2, replace lines 7 and 8 with:

"Litigation costs	<u>\$265,000</u>
Total general fund	\$265,000

Subdivision 7.

ATTORNEY GENERAL

Prosecution witness fees	\$50,000
Capital assets	<u>855,910</u>
Total all funds	\$905,910
Less federal funds	<u>855,910</u>
Total general fund	\$50,000

Subdivision 8."

Page 2, replace line 10 with:

"Grand total general fund	\$6,049,984
Grand total federal funds	<u>855,910</u>
Grand total all funds	\$6,905,894

#1 SB2024
2-13-19
Pg 2

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth 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-sixth 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."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides for the following changes:

- Increases the appropriation from the general fund to the Office of Management and Budget for lawsuit expenses by \$33,100, from \$408,000 to \$441,100;
- Appropriates \$1,000,000 from the general fund to the Bank of North Dakota to pay the accrued interest on loans related to the unlawful activity associated with the construction of the Dakota Access Pipeline;
- Decreases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$13,224,205, from \$15,698,089 to \$2,473,884;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000;
- Provides an appropriation from the general fund to the Attorney General for prosecution witness fees (\$50,000) and provides an appropriation from federal funds to the Attorney General for narcotics analyzers and other equipment (\$855,910); and
- Adds a section to provide a statement of legislative intent related to repayment sources for loans obtained to provide the necessary funding to respond to the unlawful activity associated with the construction of the Dakota Access Pipeline.

In total, the changes decrease the deficiency appropriations from the general fund by \$12,156,105, from \$18,206,089 to \$6,049,984.

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Less federal funds	<u>855,910</u>
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Subdivision 8."

Page 2, replace line 10 with:

"Grand total general fund	<u>\$6,049,984</u>
Grand total federal funds	<u>855,910</u>
Grand total all funds	\$6,905,894

|

SB 2024
2-15-19

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-sixth 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-sixth 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-sixth 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:

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- Appropriates \$1,000,000 from the general fund to the Bank of North Dakota to pay the accrued interest on loans related to the unlawful activity associated with the construction of the Dakota Access Pipeline;
- Decreases the appropriation from the general fund to the Adjutant General for loan repayments for disaster-related costs by \$13,224,205, from \$15,698,089 to \$2,473,884;
- Decreases the appropriation from the general fund to the State Historical Society for litigation costs by \$15,000, from \$280,000 to \$265,000;
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In total, the changes decrease the deficiency appropriations from the general fund by \$12,156,105, from \$18,206,089 to \$6,049,984.



Att 1
SB 2024
3/4/19

**Office of State Tax Commissioner Testimony on SB2024
March 4, 2019
House Appropriations Committee
Rep. Jeff Delzer, Chairman**

Sandy McMerty – Deputy Commissioner, Office of State Tax Commissioner

Good afternoon, Mr. Chairman and members of the committee, my name is Sandy McMerty and I serve as Deputy Commissioner for the Office of State Tax Commissioner. I am here today to speak in favor of SB2024 with regards to the requests for the Homestead Tax Credit and Disabled Veteran's Credit programs which provide property tax relief to qualifying individuals.

The Office of State Tax Commissioner has a responsibility to reimburse the counties for property tax reductions granted pursuant to the programs. We have no authority to withhold reimbursement or prorate the appropriated amount, so we must request a deficiency if actual program costs exceed appropriations.

It was anticipated by the 2017 legislature that these programs may have insufficient funding, and to help mitigate that risk we were given authority to transfer between the two lines to help address a shortfall in one program. Unfortunately, current estimates indicate a shortfall in both programs.

The Homestead Tax Credit appropriation for 2017-19 is \$14.8 million and just under \$8 million was spent in the first year. We are anticipating a total of approximately \$16 million for the 2017-2019 biennium for this program. The deficiency request for the Homestead Tax Credit program is \$1.17 million.

The Disabled Veterans' Credit appropriation for 2017-2019 is \$8,110,200 and just over \$4 million was spent in the first year. We are anticipating total 2017-2019 expenditures of approximately \$8.3 million. The deficiency request for the Disabled Veterans' Credit program is \$150,000.

We ask for your continued support of these programs, and your support of the deficiency request for \$1.17 million for the Homestead Tax Credit program, and an additional \$150,000 for the Disabled Veteran's Credit program.

Mr. Chairman and members of the Committee, thank you for allowing me to visit with you today. This concludes my testimony and I am happy to answer any questions.

AH 2
SB 2024
3/4/19

Testimony – SB 2024
House Appropriations Committee
March 4, 2019
By Cody Schulz
Deputy Director, Department of Emergency Services
Director, Division of Homeland Security

Chairman Delzer and members of the House 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 Subdivision 5 of Senate Bill 2024, which contains two deficiency appropriations for the Office of the Adjutant General (OTAG) for loans obtained through the Bank of North Dakota (BND).

The first amount of \$887,823 is for the state cost share for the presidentially declared disaster for 2017 spring flooding (DR 4323). This disaster included the Turtle Mountain Chippewa Reservation and the counties of Benson, Bottineau, Cavalier, McHenry, Renville, Rolette, Pierce, Towner and Walsh. The total cost of this disaster is \$6,749,833 with an estimated state cost share of \$1,078,473. Of this amount, we are estimating approximately \$887,823 will be paid in this biennium to include interest.

The second item in Subdivision 5 is \$1,586,061 for funding of the North Dakota Department of Agriculture's (NDDOA) Emergency Hay Transportation Program. This program provided grants to livestock producers experiencing hardship due to severe drought conditions in the state. The Emergency Commission approved funding of this program in August 2017 in the amount of \$1.5 million in loan authority from the Bank of North Dakota. The entire loan amount was transferred to NDDOA. According to NDDOA, 491 grants were awarded to producers for a total of \$1.5 million.

Both of these items are funded with general funds and are estimated. Any remaining funding not used to repay these two loans will be returned to the general fund.

I ask for your support of SB 2024 and will stand by for any questions that you may have.

AH 3
3/4/19
SB 2024

2019 ENGROSSED SENATE BILL 2024 – DEFICIENCY APPROPRIATION

HOUSE APPROPRIATIONS COMMITTEE

OFFICE OF ATTORNEY GENERAL

PROSECUTION WITNESS FEES AND CAPITAL ASSETS

KATHY ROLL, FINANCIAL ADMINISTRATOR

NDCC Sections 27-20-49(2) and 31-01-16 require this office to reimburse prosecution witness fees and expenses for district court criminal cases and juvenile court cases. In July 2018, this office requested \$100,000 from the Emergency Commission because the \$95,056 appropriated for the 2017-19 biennium was completely spent. The Emergency Commission approved \$50,000 of the \$100,000 request. This resulted in a new total for prosecution witness fee reimbursements of \$145,056 for the 2017-19 biennium.

As of March 1, 2019, the office has reimbursed prosecution witness fees of \$129,885, and had on hand another \$50,000 in prosecution witness fee reimbursement requests. The number and amount of requested reimbursements for these costs have significantly exceeded the appropriated amounts. This request is to increase the deficiency bill request to \$67,300 from the general fund for the remainder of the 2017-19 biennium.

The office received a federal Public Health Opioid Crisis Response sub-award from the Department of Health for purchasing 15 handheld narcotics analyzers (total cost is \$455,910) for each the Bureau of Criminal Investigation offices in the state and one for the Crime Laboratory. In addition the Crime Laboratory will be purchasing a Liquid Chromatography Mass Spectrometer (\$400,000) which analyzes the components of narcotics evidence submitted by law enforcement. This federal funds request is to add \$855,910 to the Office of Attorney General's capital assets line item for the 2017-19 biennium.

**2017-19 Biennium Industrial Commission Litigation Costs
 Quarterly Report for the Budget Section - Office of Attorney General
 December 3, 2018**

CAPTION	SUMMARY	STATUS	COURT
Bureau of Land Management Hydraulic Fracturing Rule	State of Wyoming; State of Colorado, Independent Petroleum Association of America, Western Energy Alliance v. U.S. Department of Interior, and U.S. Bureau of Land Management	North Dakota intervened in a complaint Wyoming filed against the DOI and BLM wherein Wyoming is seeking an Order from the court declaring the Final Rule entitled "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands," 80 Fed. Reg. 16128 (Mar. 26, 2015) (to be codified at 43 C.F.R. Part 3160) ("Fracking Rule") violates the APA and SDWA and asks the court to vacate the Final Rule. All of the Plaintiffs, including North Dakota, have filed motions for temporary restraining orders to halt the BLM's final rule regulating Fracking. This case is proceeding two-fold. The Defendants appealed the granting of the preliminary injunction to the 10th Circuit, and this issue is being briefed. The Industry Appellees' alternative Motion for a Stay was denied.	U.S. District Court for the District of Wyoming, No. 5:15-cv-00043 and the 10th Circuit Court of Appeals, No. 16-8068
		On September 21, 2017, 10th Circuit Court of Appeals issued a decision that, "dismissed these appeals as prudentially unripe, VACATED the district court's judgment invalidating the Fracking Regulation, and REMANDED with instructions to dismiss the underlying action without prejudice." On November 3, 2017, ND along with Utah, Colorado & Wyoming, filed a request for panel rehearing and/or rehearing en banc of the September 21, 2017, decision - specifically, the states requested the court review whether the Court properly ordered vacatur of the district court decision. The request for en banc review was denied. On December 29, 2017 BLM promulgated a final rule rescinding the Hydraulic Fracturing Rule. On February 7, 2018 North Dakota filed a motion to dismiss the appeal on the ground that it is now moot and for lack of jurisdiction.	
		In June 2018, the 10th Circuit Court of Appeals denied North Dakota's motion to dismiss. In December 2017, the Bureau of Land Management finalized a rule to rescind the 2015 rule. As predicted, the rescission has challenged by California/NGOs. Wyoming, IPAA, API, and WEA have already intervened on the side of BLM, defending the rescission. The scheduling order has CA/NGOs' motions for summary judgment due on Wednesday, February 6, 2019, with BLM's response due April 8, 2019, and defendant-intervenor's response due April 29, 2019.	
RCRA Oilfield Wastes Citizen Suit	Environmental Integrity Project; Natural Resources Defense, Earthworks, Center for Health, Environment, and Justice; West Virginia Citizen Action Group d/b/a West Virginia Surface Owners' Rights Organization; Responsible Drilling Alliance; and San Juan Citizens Alliance v. Gina McCarthy, in her official capacity as Administrator, United States Environmental Protection Agency	The Plaintiffs, a group of environmental organizations, filed this suit against EPA to compel EPA to review and revise Subtitle D guidelines of the Resource Conservation and Recovery Act (RCRA) that relate to oil and gas waste. The statutory provisions require EPA to conduct a review of its RCRA solid waste regulations and state solid waste management guidelines. North Dakota has received primacy from EPA to regulate oil and gas waste. This lawsuit threatens to disrupt state regulations over oil and gas waste.	U.S. District Court for the District of Columbia, No. 1:16-cv-00842
		The Court approved a consent decree EPA negotiated with the Plaintiffs. North Dakota has appealed both the approval of the consent decree and the denial of the state's motion to intervene. Oral arguments are scheduled for November 11, 2017. On November 28, 2017 the D.C. Circuit Court of Appeals issued an opinion denying North Dakota's appeal. North Dakota's appeal was denied by the D.C. Circuit of Appeal on November 28, 2017 and North Dakota did not file a writ. This case has concluded.	

2017-19 Biennium Industrial Commission Litigation Costs
 Quarterly Report for the Budget Section - Office of Attorney General
 December 3, 2018

CAPTION	SUMMARY	STATUS	COURT
Litigation Related to Dakota Access Pipeline Protests	"Litigation consultation" related to Dakota Access Pipeline	The State has filed an administrative notice of claim with the United States Corps of Engineers. The U.S. Army Corps acknowledged receipt of North Dakota's FTCA claim as of July 23, 2018. The USACE's six-month response deadline is January 23, 2019.	
Bureau of Land Management Venting/Flaring Rule	State of Wyoming et al North Dakota v. United States Department of Interior et al	<p>State of Wyoming et al North Dakota intervened in a United States complaint filed against the DOI and BLM wherein Wyoming and Montana are seeking an Order from the court declaring the Final Rule entitled "Waste Prevention, Venting and Flaring Rule. Production Subject to Royalties, and Resources Conservation. Final Rule," 81 Fed. Reg. 83,008 (Nov. 18, 2016) ("Venting Rule") on December 11, 2017. The APA and CAA and Industry Groups filed a renewed motion for preliminary injunction. Oral arguments for both the merits arguments and the preliminary injunction are scheduled for December 18, 2017.</p> <p>On December 8, 2017, BLM finalized a rule delaying certain effective dates of the Venting and Flaring Rule requirements. Based on the Delay Rule, Wyoming District Court issued an order staying this case. On February 22, 2018, the Northern District of California preliminarily enjoined BLM's Delay Rule. On February 26, 2018, North Dakota filed a motion for Wyoming District Court requesting that the stay be lifted, merits briefing continue, and the Court decide the case. On February 28, 2018, Wyoming, Montana, and Industry Petitioners filed a motion with the Wyoming District Court to lift the stay, issue a preliminary injunction, or, in the alternative, stay the portions of the rule that were delayed by the Delay Rule until the rule, in its entirety, is replaced or repealed.</p> <p>In February 2018, BLM issued a proposed new rule which would rescind or revise components of the current rule. Wyoming District court stayed the current litigation pending the issuance of the final rule. The district court order staying the litigation was appealed to the 10th Circuit court of appeals. Recently, the Court of Appeals denied a motion for a stay while the appeal is pending which leaves the district court's order intact during the appeal. The Court of Appeals also denied Wyoming and Montana's motion to dismiss the appeal. The parties are currently conferring on a briefing schedule and a joint appendix for the appeal.</p>	U.S. District Court for the District of Wyoming No. 2:16-cv-00285-SWS and the 10th Circuit Court of Appeals No. 18-8068

**2017-19 Biennium Industrial Commission Litigation Costs
 Quarterly Report for the Budget Section - Office of Attorney General
 December 3, 2018**

CAPTION	SUMMARY	STATUS	COURT	
Federal Environmental Regulation	California v. Bureau of Land Management; Sierra Club v. Bureau of Land Management	California and Sierra Club are challenging BLM's temporary postponement of compliance deadlines for the Venting and Flaring rule. Petitioners are alleging the action violates the APA.	ND has filed as an Intervenor defendant. Plaintiffs have filed a motion for summary judgment and BLM has filed a motion to transfer venue to the U.S. District Court in Wyoming where the other action challenging the Venting and Flaring rule is currently pending. ND's motion to intervene was granted. The motion to transfer venue to District Court of Wyoming was denied. The Plaintiffs' motion for summary judgment was granted on October 4, 2017, which vacated the BLM's administrative and temporary postponement of several of the future venting and flaring rule compliance dates/obligations. Case has been terminated. California, New Mexico, and 17 conservation and tribal citizen groups initiated an action in District Court of the Northern District, California for a declaratory judgment to vacate the BLM'S Delay Rule which delays certain requirement deadlines of the Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule (Venting and Flaring Rule). There was also a request for a preliminary injunction. North Dakota, Texas, and three industry groups intervened in the suit opposing the request for a preliminary injunction and requesting the case be transferred to the Wyoming District Court. On February 22, 2018, the motion for a preliminary injunction was granted and the request to transfer the case to Wyoming District Court was denied. This case has been concluded.	Northern District of California, No. 3:17-cv-03804

SB2024

Industrial Commission
Outstanding/Estimated Litigation Billing
As of March 11, 2019

	Actual January Invoices	Actual February Invoices	Estimated March Invoices	Estimated April Invoices	Estimated May Invoices	Estimated June Invoices	Total
ND/BLM VF Rule	\$7,464.16	\$2,655.00	\$20,566.00	\$20,566.00	\$20,566.00	\$20,566.00	\$92,383.16
ND FTCA Claim/Litigation	\$3,295.00	\$4,905.20	\$8,460.00	\$8,460.00	\$8,460.00	\$8,460.00	\$42,040.20
BLM HF Rule Litigation	\$2,835.00	\$0.00	\$6,747.00	\$6,747.00	\$6,747.00	\$6,747.00	\$29,823.00
ND/Methane Rule	\$0.00	\$1,104.70	\$2,432.00	\$2,432.00	\$2,432.00	\$2,432.00	\$10,832.70
Sorum vs State of ND	\$8,261.91	\$4,915.07	\$17,423.00	\$17,423.00	\$17,423.00	\$17,423.00	\$82,868.98
RCRA Oilfield Wastes	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Enduro Resources	\$0.00	\$0.00	\$2,865.00	\$2,865.00	\$2,865.00	\$2,865.00	\$11,460.00

Total Estimated Litigation Expenses: **\$269,408.04**

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