

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1026

2001 HOUSE APPROPRIATIONS

HB 1026

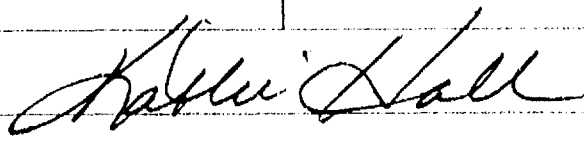
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1026

House Appropriations Committee

☐ Conference Committee

Hearing Date January 8, 2001

Tape Number	Side A	Side B	Meter #
01/08/01 tape 3	0 - 6215	0 - 4089	
Committee Clerk Signature 			

Minutes:

Vice Chairman Wald called the meeting to order. Roll call taken - do have enough persons for a quorum. The bill was read.

OMB representative explained that this is a deficiency appropriation bill - for unexpected and unknown demands since the legislature was last in session.

Kathy Roll : Office of Attorney General. She had a prepared handout. She appears to request an amendment to bill relating to funds needed relating to Arrest and Return of Fugitives and Prosecution Witness Fees expenses.

Rep. Skarphol: Why do these costs exceed previous biennium needs?

Response: Their needs for returning fugitives were more this year, and insufficient moneys were appropriated last session.

Rep. Aarsvold moved and Rep. Byerly seconded a motion to amend the bill to include the request of the AG's office.

Allen Hoberg: Director of OAH (Office of Administrative Hearings). He had a prepared handout. Originally OAH was funded by both general and special funds. These funds were obtained by billing state/local agencies. They have had a declining case load, but have tried to keep even by increasing their billing rate. The 55th legislative assembly removed all their federal funds, and OAH had to bill all agencies for hearing officer work. OAH had to borrow from the general fund for startup funds until agencies began to pay their bills. Then it was changed that OAH had to borrow from the Bank of North Dakota, not the general fund.

This is a one-time request of general fund deficiency appropriations for the purpose of paying of the OAH's unrecoverable interest expense from the 1999-2001 biennium. Without this appropriation, OAH will not be able to pay back the Bank of North Dakota for the interest already incurred, and will incur more interest on this money.

James M. Hughes: Superintendent, North Dakota Highway Patrol. He had a prepared handout. The motor pool rate charged to the Highway Patrol has increased due to gas price increases. Rates and prices have not gone down and went up to \$.50 mile, or 39% increase. The Highway Patrol tried various changes to save their budget, however, the rate is still higher than originally predicted, and they need \$254,000 for the remainder of the 6 months of this biennium. They have requested in the deficiency bill \$200,000, and will try to find the balance elsewhere in their budget.

Rep. Wald: Asked how the motor pool arrives at this rate.

Response: Fuel costs, depreciation, and other issues are involved.

Rep. Byerly: Asked why the request was partially administrative, and partially in field operations.

Response: It is all the same motor pool rate, and all patrol miles, however, it is apportioned this way.

Rep. Monson: Does the motor pool charge all agencies the same rate? Are other agencies going to be having similar problems?

Response: Paul Friesen (sp?), from the state motor pool - different types of vehicles are charged a different rate. Probably, gas prices have dramatically increased.

Douglas Friez: Director, Emergency Management. Has provided a handout. There have been 10 major disaster declarations in the last 8 years. This is totally unprecedented. It is in the state law for his division to borrow money from the Bank of North Dakota during the crisis, and then come back to the legislature for funds. There is a federal cost share program, as noted on page 2 of his handout.

Rep. Wald: Are there any more federal agencies to bill?

Response: Not really, he is very confident that all federal programs have been fully used.

Rep. Wald: Have the future expenses noted been anticipated in the new budget?

Response: By OMB staff - yes.

Bob Gallagher: Vice President of Finance at University of North Dakota (UND). He has prepared testimony. UND is seeking a deficiency appropriation to close their FEMA loan, and reduce the interest expense that is continually accruing, and to cover ongoing projects from flood recovery. Gave a brief overview of the history and current standing of the collection effort from Western Ins. Jury trial in UND's favor, and the lawsuit now in appeal.

Rep. Wald: What did State Fire and Tornado Ins. Cover?

Response by Peggy Lucke: We recovered \$10,000 per building.

Rep. Wald: On page 4, on August 31, deficiency was what was requested in the bill. However, as of December 31, the deficiency was actually \$3,385,584. Is this right?

Response: The interest keeps accruing. We would like to receive the full amount, however, asking only the amount in the bill.

Rep. Delzer: Concerning the lawsuit with Western Ins. Are we covering that in this deficiency appropriation? Are we paying the Bank of North Dakota back this money?

Response: You are covering a part of it, that is to say that FEMA did not cover this because of the other insurance coverage, so we had to borrow this, and we have to pay this back to the Bank of North Dakota. We are not paying the principal amount back, no sir.

Rep. Wald: If you loose your appeal to Western Ins. On payment of insurance moneys, will you be back here for more deficiency?

Response: We may, but any amounts not covered by Western Ins. Should be covered by FEMA and maybe just some from the state.

Rep. Wald: If your interest expense is a moving target, and has gone up in the last 3 months, where are you making this up?

Response: We may be back in 2 years from now, for the next deficiency bill.

Rep. Delzer: Can you give your best estimate of the deficiency in the next biennium?

Response: That is a good question. I cannot answer this. It depends on what all happens with this deficiency, because the interest at the Bank of North Dakota is still running, and other factors. I would guess it would be several hundred thousand dollars. We won't be able to pay the principal until everything is all settled up. The principal is \$7,090,549. That is the current loan balance.

Rep. Delzer: Is this deficiency going to pay any of the principal of the loan balance?

Response: No. None. It is just to pay the interest on the loan, some of the federal match on the loan, and some ongoing projects.

Rep. Kempenich: Of the 7 million, if you prevail with the Western Ins. Lawsuit, are you going to pay the principal down. So you might be back with some smaller number in the future.

Response: Yes we would.

Rep. Wald: I think the committee should reduce as much as it can.

Rep. Glassheim: I move to amend the bill to add the deficiency request to the 3.3 million number, as of the interest at December.

Rep. Kliniske: Second.

Rep. Byerly: Notes that the board of higher ed has not requested the higher amount. Other persons may want some additional funds too.

Larry Isaak: Chancellor of UND. States that the Board would like the deficiency allotment of the higher funds, but at the time the bill was drafted, they did not know the higher amount. The interest keeps accruing on a daily basis. Pay it now, or pay it later, and pay interest on the interest. Saves a bigger bill later.

Rep. Byerly: Will everyone, like NDSU, have similar requests? Will everyone else want more money, too? The budget is built in the dollars requested in this bill, how can we increase what it says in the bill?

Response: I cannot say for the others, if they have similar requests or not. Could note that UND has paid for some expenses out of their own cash, and trying to help as much as possible.

Rep. Aarsvold: Is the moving target going up, or can it possibly go down?

Response: What comes in from FEMA and the insurance companies determines the final payment. FEMA will not pay more than the costs incurred.

Discussion regarding procedures in voting on amendments, and waiting until Tuesday, and the authority to vote before Tuesday. Administrative Rules committee in pre-session made this decision.

Dick Raele: Vice President of Business and Finance at NDSU. He had a prepared handout. One June 19 and 20, Fargo, ND received approximately 8 inches of rain in a 5 hour period. With the exception of 3 buildings, NDSU is above the 500 year flood plain. Natural flooding is not a problem, so the flooding this spring was quite unusual. Our disaster numbers are not as bad as those from UND. Therefore we are experiencing tremendous difficulties with FEMA in regard to the dollars in PW's, or project worksheets. We are meeting with the Denver region tomorrow. I want to call your attention to the first page. We are anticipating a total cost of about 15.6 million dollars. Our best current estimate is to max out at about 20 million dollars. When we get all the PW's at the correct amount. He gave an example of the library basement. The estimate to replace 2 levels is about 2 million. Were told by a hygienist give recommendations, not approved by FEMA representative, and disallowed some expenses, but the health department agreed with the hygienist as to what needed to be done. We are still in the infancy of what we are doing, about 6 months into a multi year process. The reimbursement rates right now are at 75% - 25%, but the budget calculations are on a 90% - 10% basis. We hope that eventually the costs will raise this all to the 90/10 rate.

FEMA will pay for a disaster once, and in receiving payment, they require proof of insurance. We had to go to the London market to obtain flood insurance, at the cost of \$71,000.

This is not included in the deficiency bill. We will have to absorb this. We will have the same problems as UND has, and may be chasing and suing insurance carriers in the years to come.

Rep. Wald: Did you have flood insurance in place, is that where this 2.4 insurance recovery is from?

Response: No, the 2.4 is what FEMA has indicated that from State Farm Tornado, and our boiler and machinery coverage, that we should be able to recover. There is flood exclusion in this policy. We do not have that money in hand. We do not get reimbursement, so we have to borrow the money first. If we sue the insurance carrier and win, we get paid attorney costs. If we lose, we pay attorney costs.

Rep. Wald: I would expect that you will be here next session, as UND is this year.

Response: We will be back, as to how much we will be seeking I cannot tell you at this time.

Doug Prehal - Director of North Dakota Parks and Recreation: The deficiency request before you relates to a boat ramp that was constructed on Devils Lake, in a state park that we operate. The cost was a \$132,000, which includes the planning and associated engineering construction costs and then construction for access road, parking lot and lighting, and the ramp itself, and a dock for the boats. The project came about as a result in the rising levels of Devils Lake and FEMA found we were chasing water. FEMA came up with the plan, and wrapped this up as a package with associated compensation. The total package was approved and they proceeded ahead with urgency, because this ramp was the only one on the west end of Devils Lake. For reasons of safety and responsibility this was a priority. We worked through FEMA and time tables in front of us, and dealt with the concept of spend the money or lose it. We worked with the land owners and did the proper planning and clearances. Finally we found out

from FEMA that we did not follow their procedures and so they denied the reimbursement for this project. We believed we followed the right planning, but after appeals, they still have denied the funding. We are requesting the deficiency to help balance the books not funded by FEMA.

Rep. Wald: Since boat ramps are under the responsibility of Game and Fish and their budget, can we tap into Game and Fish funds.

Response: There is a possibility to request some assistance through the Game and Fish dept. It has not been explored as of yet.

Rep. Byerly: Is the boat ramp within the borders of the state park? If park is within borders of a state park, its the responsibility of Parks and Rec, and not game and fish.

Response: That is correct. Parks and Rec believe FEMA should have paid, and the responsibility is not Game and Fish's responsibility.

Rep. Wald: We are going to take a vote on this bill, section by section. The first one before us in on the amendment by the A.G's office to amend a request into the bill. That motion was made and seconded.

Roll call - Vote #1, January 8, 2001 - 15 yes, 0 no, 6 absent and not voting. Motion carries.

Representative Wald: The next one is on the Office of Administrative Hearings. Motion made by Rep. Wentz to approve the request, seconded by Rep. Carlisle.

Roll call - Vote #2, January 8, 2001 - 12 yes, 4 no, 5 absent and not voting.. Motion carries.

Rep. Wald: The next one is the Highway Patrol.

Rep. Byerly: Move to amend the deficiency request to \$254,000 from \$200,000.

Seconded by Rep. Huetter.

Roll call on motion to amend - Vote #3, January 8, 2001 - 14 yes, 2 no, 5 absent and not voting.

Motion carries.

Roll call on Highway Patrol section as amended. Vote #4, January 8, 2001 - 16 yes, 0 no, 5 absent and not voting. Motion carries.

Rep. Wald: Have vote on Division of Emergency Management section. Motion by Rep. Byerly and seconded by Rep. Glassheim.

Roll call - Vote #5, January 8, 2001 - 16 yes, 0 no, 5 absent and not voting. Motion carries.

Rep. Wald: Department of Parks and Rec. Motion to approve made by Rep. Carlisle, and seconded by Rep. Aarsvold.

Roll call - Vote #6, January 8, 2001 - 16 yes, 0 no, 5 absent and not voting. Motion carries.

Rep. Wald: University of North Dakota section, still have a motion open to amend that to an amount of \$3,385,584, made by Rep. Glassheim, and seconded by Rep. Kliniske.

Vote on the amendment, vote # 7, January 8, 2001, 11 yes, 5 no, 5 absent and not voting. Motion carries.

Rep. Wald: Now we'll vote on the UND section as amended.

Roll call - Vote #8, January 8, 2001 - 14 yes, 2 no, 5 absent and not voting. Motion carries.

Rep. Wald: On the NDSU section, no amendments.

Roll call - Vote #9, January 8, 2001, 14 yes, 2 no, 5 absent and not voting. Motion carries.

Rep. Wald: We now have HB 1026 before us as amended. Motion for DO PASS by Rep. Wentz, seconded by Rep. Glassheim.

Rep. Delzer: I don't feel comfortable on voting on this at this time. I would like to have some more time, but the thing that really scares me about this is that we are going to be looking at another 10-15 million next year. I would hope that this committee remembers this, that these things are never built into the budget. It is unique with the floods, and we can't do much about this.

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House Appropriations Committee
Bill/Resolution Number HB 1026
Hearing Date January 8, 2001

Rep. Byerly: On a point of order, I feel like Rep. Martinson that we do not have the power to act on this bill at this time. I would like a ruling by the Speaker that we could actually vote on this at this time.

Rep. Wald: Do you want to do that now.

Rep. Carlisle: I feel the same. I would like to vote tomorrow, and not today.

Rep. Wald: I believe that at the pre-session, at the request of the Senate, we amended the rules to allow early meeting and voting. The House agreed reluctantly, but I believe it is the opinion of the Rules Committee that we could vote today. We can postpone this.

(Some quick discussion on postponement of the vote follows.)

Rep. Wald: Unofficial hand vote to wait on the final vote. Consensus of committee to wait on the vote.

(Some discussion of the committee regarding when to meet back on this vote.)

Hearing adjourned.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1026

House Appropriations Committee

☐ Conference Committee

Hearing Date January 19, 2000

Tape Number	Side A	Side B	Meter #
1	2892 - 3850		
Committee Clerk Signature <i>J. L. Osburn</i>			

Minutes:

Chairman M. Timm, Vice-Chair F. Wald, Rep. Aarsvold, Rep. Boehm, Rep. Byerly, Rep. Carlisle, Rep. Delzer, Rep. Glasshelm, Rep. Gulleason, Rep. Heuther, Rep. Kempenich, Rep. Kerzman, Rep. Kliniske, Rep. Martinson,

Rep. Monson, Rep. Skarphol, Rep. Svedjan, Rep. Thoreson, Rep. Warner, Rep. Wentz

Rep. Mike Timm: We will take up HB1026, this bill was heard and worked on January 8th on Monday before the session started. I was not here but I think all of the committee members were here participating in the hearing when the action was taken after the hearing.

Rep. Francis Wald: I would move that we reconsider our action where we pass HB1026 as amended.

Rep. Mike Timm: Rep. Wald the bill was never passed so the motion should be to reconsider the action for amending the bill. Rep. Wald moves that reconsider our action by which HB1026 was amended. Is there a second? Seconded by Rep. Skarphol.

All those in favor of the motion signify by saying aye. Voice vote yeas and nays. Motion is carried. We have the bill in front of us and we have just removed 3 amendments. The bill is sitting in front of us now with the 3 amendments removed. The Office of Administrative hearing section has been approved, the Division of Emergency Management has been approved, The Department of Parks and Recreation has been approved, The North Dakota State University has been approved. Two of the requests that are still open and we also removed the amendment to add the AT offices into the bill. We will start off with the Attorney General's request to be added to the bill. I am requesting a motion to put that back into the bill.

Rep. Francis Wald: I would move that we include \$47,000 for Attorney General's office which would have been item 1. Seconded by Rep. Thereon.

Rep. Mike Timm: Any Discussion? Voice vote taken on the amendment. All Aye. Motion is carried. Now we have the request by the Highway Patrol for \$200,000. Rep. Wald makes a motion to leave it at \$200,000. Seconded by Rep. Delzer. Any discussion? Voice vote on the amendment. Aye's and Nay's. Motion carried. We have the request for the University of North Dakota for \$3,115,908. Rep. Delzer: I would move we accept that as printed. Seconded by Rep. Skarphol. Any Discussion? All in favor of the motion say aye. All Aye. Motion carried. Now we have the bill as printed with the addition of the \$47,000 for the attorney general's office amended into the bill. Is that correct? I need a motion to approve the bill. Rep. Wald moves the bill be adopted as amended. Seconded by Rep. Delzer. Any discussion? If not the clerk will take the roll on Do Pass as amended. The motion passes the bill is adopted. Chairman Timm will carry the bill to the floor of the House.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1026

Page 1, line 17, replace "7,000" with "8,890"

Page 1, line 18, replace "193,000" with "245,110"

Page 1, line 19, replace "200,000" with "254,000"

Page 2, line 6, replace "3,115,908" with "3,385,584"

Page 2, line 7, replace "3,115,908" with "3,385,584"

Page 2, after line 11, Insert:

"Subdivision 7.

ATTORNEY GENERAL

Operating expenses	\$40,000
Arrest and return of fugitives	7,000
Total general fund appropriation	\$47,000"

Page 2, line 12, replace "19,177,108" with "19,547,784"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1026 - Summary of House Action

This amendment increases general fund deficiency appropriations for the 1999-2001 biennium by \$370,676 for the following:

	SCHAFER EXECUTIVE BUDGET RECOMMENDATION	HOUSE VERSION	HOUSE VERSION INCREASE (DECREASE)
Office of Administrative Hearings	\$120,000	\$120,000	
Highway Patrol ¹	200,000	254,000	\$54,000
Division of Emergency Management	14,000,000	14,000,000	
Parks and Recreation Department	132,000	132,000	
University of North Dakota ²	3,115,908	3,385,584	269,676
North Dakota State University	1,809,200	1,809,200	
Attorney General ³		<u>47,000</u>	<u>47,000</u>
Total	\$19,177,108	\$19,547,784	\$370,676

¹ Increased motor pool rates resulting from higher than anticipated fuel costs.

² Currently payable portion of 1997 flood recovery costs, including interest on Bank of North Dakota loan (the loan principal balance is approximately \$7 million).

³ Higher than anticipated costs relating to payments to counties for the arrest and return of fugitives (\$7,000) and the payment of district court prosecution witness fees (\$40,000).

Date: 1-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1026

House APPROPRIATIONS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED & PRINTED.

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman	✓	
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byerly	✓		Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol	✓	
Rep - Delzer	✓		Rep - Svedjan	✓	
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Gulleeson	✓		Rep - Warner	✓	
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich	✓				
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 21 No 0

Absent _____

Floor Assignment Rep. Timm

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

AMENDMENT TO INCLUDE \$47,000 FOR ATTORNEY
Gould's Office

SECOND READING OF SENATE BILL

SB 2137: A BILL for an Act to provide an appropriation and authorization for the construction of a student housing apartment building and for the renovation of Robinson Hall on the campus of North Dakota State University; and to declare an emergency.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 97 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Cadishe; Carlson; Clark; Cleary; Dekrey; Delmore; Delzer; Devin; Distudt; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grande; Gross; Grunbo; Gulleston; Gunter; Haas; Hanson; Hawken; Herbst; Huether; Hunsaker; Jensen; Johnson, D.; Johnson, N.; Kasper; Kelsch; Kelsch, R.; Kelsch, S.; Kempenich; Kerzmann; Kingsbury; Klein, F.; Klein, M.; Klemm; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Merer; Metcalf; Monson; Mueller; Nelson; Niemeyer; Notestad; Orstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Sandvig; Schmidt; Severson; Skarphod; Solberg; Svedjian; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Waldt; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winnich; Wrangham; Speaker Bernstein

ABSENT AND NOT VOTING: Nicholas

SB 2137 passed, the title was agreed to, and the emergency clause was declared carried.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2154.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2061, SB 2080, SB 2083, SB 2084, SB 2110, SB 2162.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)
MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1075, HB 1186.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2048.

REPORT OF STANDING COMMITTEE

HB 1026, as amended, Appropriations Committee (Rep. Timm, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING), placed on the Sixth order on the calendar.

Page 1, line 5, remove "and from special funds derived"

Page 1, line 6, remove "from federal funds and other income."

Page 2, after line 11, insert

Subdivision 7

ATTORNEY GENERAL

Operating expenses
Arrest and return of fugitives
Total general fund appropriation

\$40,000
7,000
\$47,000

Page 2, line 12, replace "19,177,108" with "19,224,108"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1026 - Summary of House Action

This amendment adds a 1999-2001 premium general fund deficiency appropriation of \$47,000 to the Attorney General for payments to counties for the arrest and return of fugitives (\$7,000) and the payment of district court prosecution witness fees (\$40,000).

REPORT OF STANDING COMMITTEE

HB 1068: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1068 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1197, as amended, Appropriations Committee (Rep. Timm, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (17 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING), placed on the Sixth order on the calendar.

Page 1, line 2, after "employees" insert "and to declare an emergency."

Page 2, line 19, overstrike "one" and insert immediately thereafter "three" overstrike "two" and overstrike "241.40" and insert immediately thereafter "582.80"

Page 2, line 21, overstrike "the out-of-state portion of the travel beyond the first one hundred miles"

Page 2, line 22, overstrike "241.40 kilometers" and insert immediately thereafter "within an excess of six hundred miles (565.60 kilometers) of rounding trip out-of-state travel"

Page 3, line 4, overstrike "one hundred fifty mile"

Page 3, line 5, overstrike "241.40 kilometers" and insert immediately thereafter "three hundred mile (482.80 kilometers)"

Page 3, after line 15, insert

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1197 - House Action

The bill increases the state mileage reimbursement rate from 25 cents to 31 cents per mile. Current law provides that out-of-state travel in excess of 150 miles beyond the state border is reimbursed at the rate of 18 cents per mile. This amendment extends the range for reimbursement at the regular rate to 300 miles beyond the state border and clarifies the language that the 300 miles refers to one-way, not round trip miles. This amendment also adds an emergency clause to the bill.

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

Reps. West, Dekrey, Nelson and Sen. Klein introduced

HCR 3015: A concurrent resolution directing the Legislative Council to study the separation of powers between the legislative and judicial branches and the distinction between the responsibilities of each branch.

Was read the first time and referred to the Government and Veterans Affairs Committee.

Reps. Kempenich, Brandenburg, Lemieux and Sens. Tolson, Unsworth introduced

HCR 3016: A concurrent resolution urging Congress to make grain grading for federal crop insurance more equivalent to industry standards.

Was read the first time and referred to the Agriculture Committee.

Reps. Carlisle, Dekrey, Maroney and Sens. C. Nelson, Traynor introduced

HCR 3017: A concurrent resolution directing the Legislative Council to study the method of providing legal representation for indigent criminal defendants and the feasibility and desirability of establishing a public defender system.

Was read the first time and referred to the Judiciary Committee.

Reps. Aarsvold, Kingsbury, Lloyd, Monson and Sens. Tolson, Traynor introduced

2001 SENATE APPROPRIATIONS

HB 1026

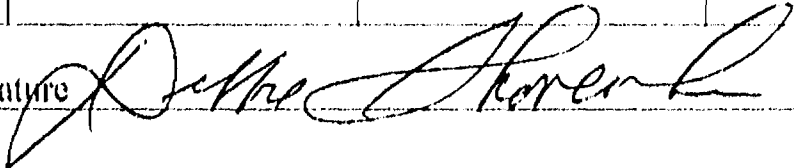
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1026

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
2		X	0.0-48.0
3	X		0.0-4.0
Committee Clerk Signature 			

Minutes:

Senator Solberg opened the hearing on HB 1026.

Allen C. Hoberg, Director of Office of Administrative Hearings, testified (testimony attached), urging the committee to include this \$120,000 deficiency appropriation and to pass HB 1026.

Colonel James Hughes, ND Highway Patrol, explained (handout chart on mileage) current and past situation of patrol mileage and deficiency needed of \$254,000 to the motor pool.

Douglas C. Friez, Director, ND Division of Emergency Management, (testimony attached), recommend approval of this appropriation.

Senator Solberg: There has been little costs to Pierce County, my concern is that counties are getting in hot water and crying wolf too often.

Douglas Friez: I don't know what the costs in Pierce County have been; since 1993 we have had difficult situations with waster water and other areas. Each County we had to make an assessment; Field agency was brought in to evaluate.

Senator Solberg: Where are we headed? Not back but looking ahead?

Douglas Friez: Costs are involved and looking at all areas to show what has happened in ND with disasters; we need to call ourselves and local governments on damages.

Senator Grindberg: Is the process better; confusing projects back in 1993; better with Federal Government?

Douglas Friez: We are gaining ground; Federal Government looking at infrastructures for new and old.

Senator Bowman: Studies have been done on wetlands; now road repairs, figuring costs; are we sending a message to Washington?

Douglas Friez: Always talking damage sites; discussion and difficulty is the right thing to do.

Doug Prehal, Director, ND Parks and Recreation Dept., testified (testimony attached), asked for consideration of this appropriation.

Senator Tallackson: Are there height restrictions on boat ramps?

Doug Prehal: Elevation for ramps are 1460; all but two were above that.

Senator Kringstad: Are you \$132,000 off?

Doug Prehal: Yes, \$132,000 will provide the department to balance the books.

Senator Heitkamp: Haven't you dealt with FEMA in the past? Or did you lack experience with them and this caused the shortage?

Doug Prehal: This was our first big project in Devils Lake with FEMA. We had a hard time getting responses from FEMA and didn't follow their process.

Bob Gallagher, University of North Dakota, (attached testimony and chart).

Senator Robinson: Is this the total impact for costs and repairs?

Bob Gallagher: Exact number for the flood; ballpark of \$20,000,000 to University; 10% match by FEMA for \$28,000,000 for steam line, and 10% from state.

Senator Grindberg: Insurance and FEMA to pay off loans plus you are requesting \$3.3 million from the state?

Bob Gallagher: If you look at the chart it will explain the breakdown of requests for the flood in all areas.

Senator Grindberg: When will you receive the \$3.5 million settlement from the insurance company?

Bob Gallagher: We hope to settle this in the 2001-2003 biennium.

Dick Rayl, NDSU, testified (breakdown attached) on deficiency.

Mike Renk, NDSCS, testified (testimony attached) and requested amendment to be added to the bill, as they were not listed per Legislative Council.

End Tape 2, Side B, meter 48.0

Start Tape #3, Side A, 0.0

Senator Robinson: Why don't you go to coal?

Mike Renk: Not sure where coal came from; can go to coal for \$250,000 to get started as it has been idle for 11 years.

Steve Bensen, Vice President for Business Affairs, Mayville State University, testified (testimony attached) and stated they were excluded from the bill per Legislative Council and ask this be amended for payment of their deficiency for utilities.

The hearing was closed, as hearing were running late. Remainder of testimony on the bill would be rescheduled at a later date

Tape #3, Side A, meter 4.0.

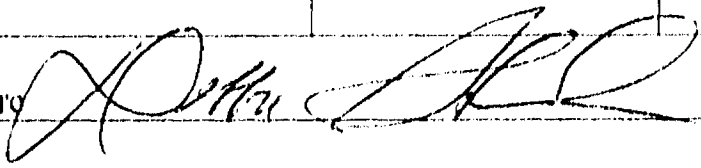
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1026

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 20, 2001

Tape Number	Side A	Side B	Meter #
2		X	4.6-14.4
Committee Clerk Signature 			

Minutes:

Senator Nething reopened the hearing on HB 1026.

Kathy Roll, Attorney General's Office, testified (testimony attached) Subdivision 7 of the bill is for a deficiency to the Attorney General's office in the amount of \$47,000 for operating expenses and arrest and return of fugitives for the biennium 1999-2001.

Rod Backman, OMB, (testimony from Sheila Peterson, attached and dated from hearing 2/9/01) and deals with expenses of CO2 pipeline. The tax payment is due to five counties, \$783,413 (proposed amendment attached by March 1, 2001 as statute requires.

Dave Krabbenhoft, OMB, explained Corrections special funds needed. The funds needed are for \$250,000 for Victims Services Program. Special funds were used to cover deficit for last biennium and no money to start new biennium, deficiency needed to cover this amount or would be in rears. The authority is to pay this period to reset and to pay crime victims compensation claims that have been and will be presented for the balance of the biennium..

Senator Nething: Is this important to the Domestic Violence Program?

Dave Krabbenhoff: Able to take from general fund but need to keep match. Special Funds to be used more collected for deficit.

Senator Nething: We have heard Corrections budget; this developed since then? Is the amendment going to cure it?

Dave Krabbenhoff: No. Special funds available with increase.

Senator Nething: We will have the subcommittee look at this.

Senator Thane: Just a comment; the first appropriation for this was in 1975 and it has been around for quite a while.

Warren Emmer, Director Department of Corrections and Rehabilitation Field Services Division, appeared but did not testify (testimony attached) as OMB had answered questions to the committee.

With no opposition, the hearing was closed. Tape #2, Side B, meter 15.0

3-28-01 Full Committee Action (Tape #2, Side A, Metger # 19.9-30.0)

Senator Nething reopened the hearing on HB1026 - Deficiency Bill.

Senator Holmberg, Subcommittee Chair, presented the review and Subcommittee's response. He submitted proposed amendments # 18026.0202; discussion followed.

Senator Holmberg moved for the adoption of amendments; Senator Robinson seconded.

Discussion; Call for vote: voice vote carried. Discussion.

Senator Holmberg moved DO PASS AS AMENDED; second by Senator Robinson. Discussion; call for the vote. Roll Call Vote: 14 yes; 0 no; 0 absent and not voting.

Senator Holmberg accepted the floor assignment.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1026

Page 1, line 5, after "appropriated" insert ", and from special funds derived from other income"

Page 1, line 6, replace "general fund" with "appropriation"

Page 2, after line 15, insert:

"MAYVILLE STATE UNIVERSITY"		
Operating expenses		\$14,630
Total general fund appropriation		\$14,630
STATE COLLEGE OF SCIENCE		
Operating expenses		\$279,945
Capital improvements		<u>32,745</u>
Total general fund appropriation		\$312,690
STATE TREASURER		
In lieu of tax payments		\$783,413
Total general fund appropriation		\$783,413
DEPARTMENT OF CORRECTIONS AND REHABILITATION		
Victims services		\$250,000
Total special funds appropriation		\$250,000"

Page 2, line 16, replace "19,224,108" with "20,334,841"

Page 2, after line 16, insert:

"Grand total special funds appropriation H.B. 1026	\$250,000
Grand total all funds appropriation H.B. 1026	\$20,584,841"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

SENATE ACTION - This amendment adds the following deficiency appropriations:

	PURPOSE	GENERAL FUND	OTHER FUNDS	TOTAL
Mayville State University	Higher than anticipated utilities costs	\$14,630		\$14,630
State College of Science	Higher than anticipated utilities costs	\$279,945		\$279,945
	Emergency steamline repairs	<u>32,745</u>		<u>32,745</u>
	Total State College of Science	\$312,690		\$312,690
State Treasurer	In lieu of tax payments to counties for carbon dioxide pipeline property, pursuant to North Dakota Century Code Section 57-06-17.2	\$783,413		\$783,413

Department of Corrections
and Rehabilitation

Additional crime victims'
compensation grants

\$250,000

\$250,000

Total additional deficiency
appropriations

\$1,110,733

\$250,000

\$1,360,733

Date: 3-28-01

Roll Call Vote #: _____

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. LB 1026

Senate Appropriations Committee

☐ Subcommittee on _____
or

☐ Conference Committee

Legislative Council Amendment Number 180260202

Action Taken On passage

Motion Made By Senator Holmberg Seconded By Senator Johnson

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Senator Holmberg

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

REPORT OF STANDING COMMITTEE

HB 1026, as engrossed: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1026 was placed on the Sixth order on the calendar.

Page 1, line 5, after "appropriated" insert ", and from special funds derived from other income"

Page 1, line 6, replace "general fund" with "appropriation"

Page 2, after line 15, insert:

"Subdivision 8.

MAYVILLE STATE UNIVERSITY

Operating expenses	\$14,630
Total general fund appropriation	\$14,630

Subdivision 9.

STATE COLLEGE OF SCIENCE

Operating expenses	\$279,945
Capital improvements	<u>32,745</u>
Total general fund appropriation	\$312,690

Subdivision 10.

STATE TREASURER

In lieu of tax payments	\$783,413
Total general fund appropriation	\$783,413

Subdivision 11.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Victims services	\$250,000
Total special funds appropriation	\$250,000"

Page 2, line 16, replace "19,224,108" with "20,334,841"

Page 2, after line 16, insert:

"Grand total special funds appropriation H.B. 1026	\$250,000
Grand total all funds appropriation H.B. 1026	\$20,584,841"

Renumber accordingly

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	Emergency steamline repairs	<u>32,745</u>		<u>32,745</u>
	Total State College of Science	\$312,690		\$312,690
State Treasurer	In lieu of tax payments to counties for carbon dioxide pipeline property, pursuant to North Dakota Century	\$783,413		\$783,413

REPORT OF STANDING COMMITTEE (410)
March 29, 2001 9:29 a.m.

Module No: SR-55-7081
Carrier: Holmberg
Insert LC: 18026.0202 Title: .0300

Code Section 57-06-17.2

Department of Corrections
and Rehabilitation

Additional crime victims'
compensation grants

\$250,000 \$250,000

Total additional deficiency
appropriations

\$1,110,733 \$250,000 \$1,360,733

2001 TESTIMONY

HB 1026

HB 1026

666

**Presentation by the University of North Dakota
to the Senate Appropriations Committee (HB1026)
February 9, 2001**

**University of North Dakota - Flood Recovery Update
99-01 Deficiency Appropriation Request**

► **Deficiency Appropriation** (Attachment 1)

The net estimated 1999-2001 deficiency appropriation request as of August 31, 2000, is \$3,115,908. The request is based upon categories of cost approved to be submitted by the State Board of Higher Education. Based on data available through December 31, 2000, the net estimated deficiency is \$3,385,584.

Efforts are focused on completing all flood related projects prior to June 30, 2001 and expediting the FEMA close out and payment process. However, it is possible activity will occur after June 30, 2001 resulting in the need for a deficiency appropriation request for the 2001-2003 biennium.

► **Bank of North Dakota Loan**

The current loan balance is \$7,090,549. Interest costs on the loan will continue to accrue until final payments are received from FEMA and insurance. Also, project close out and audit of the federal funds may result in unreimbursed costs. Variations between actual costs incurred and original cost estimates may also result in over or under recovery which will be resolved after the final close out with FEMA.

► **Ongoing Projects**

There are two flood recovery projects ongoing at this time: steam line replacement and sewer restoration.

Steam Line Replacement Project (Attachment 2)

Projected total cost to replace the steam line is \$28,000,000. Phase I of the project began in the spring of 1999 and Phase II in the spring of 2000. Work is expected to continue through the spring of 2001 with substantial completion by June 2001. **The state match for the steam line replacement is included with the deficiency appropriation request.**

Sewer Restoration

Assessment of the storm water and sanitary sewer system damage as a result of the 1997 flood disaster has been completed. The information obtained through inspection of the sewer systems by both manual inspection and remote video taping operations has allowed the engineering consultant to determine what damage is attributed to the flood and what

can be considered prior damage or damage not related to the flood. The evaluation process used to determine the causation is the same as used for the City of Grand Forks sewer systems and has been accepted by FEMA as an approved method for determining FEMA eligible costs.

Based on the above assessment, plans and specifications have been developed that indicate the scope of work and methods to be used for repairs. Cost estimates for both FEMA eligible and non eligible work are being developed to assist in determining what amount of repair can be completed with available funding sources.

► Flood Insurance

North Dakota Fire and Tornado: To our knowledge, all issues have been resolved between State Fire and Tornado and FEMA. As projects close out, additional insurance may be received if actual expenses exceed estimates and the "per building" maximum has not been reached.

Flood Insurance Summary: FEMA has taken substantial insurance deductions, which we are told will be reinstated upon project closeout:

Insurance Deductions (as of 11/15/00)	\$7,866,193
Less: Insurance Received	
State Fire and Tornado	(1,208,822)
Other Insurance Carriers	(1,562,580)
Anticipated Award from Western National	<u>(3,358,533)</u>
Anticipated Reinstatement/Payment by FEMA	\$1,736,258

Since all Disaster Survey Reports (DSRs) have not been closed out, the insurance amounts may vary depending on the final closeout. The total insurance received from all sources to date is \$2,771,402.

Boiler and Machinery: The following is an update on the Western National Mutual Insurance Company (WNMIC) versus the University of North Dakota case. The trial commenced on October 24, 2000 and ended on November 6, 2000. The University prevailed and Judgment was entered in our favor on November 27, 2000. The case was bifurcated with two jury verdicts: the first on October 31, 2000, in which the jury found that there was coverage under the policy, thus the University prevailed in the declaratory judgment action; and the second on November 6, 2000, in which the jury awarded damages for breach of contract in the amount of \$3,358,533.18 plus interest from and after July 8, 1998.

The current status of the case is as follows: The University moved the trial court for an amended judgment awarding interest from September 29, 1997 instead of the July 8, 1998 date awarded by the jury and for an award of attorney's fees and costs. To date, attorneys fees, \$227,380.50, and costs, \$41,317.53, have been expended; however these are not the final figures. The University is still expending sums to fight for the recovery of this money. Our attorney is writing motions and briefs in support of the motions as well as

appearing at hearings such as the one scheduled on the motions above.

Western National Mutual Insurance Company has moved the trial court for Judgment as a Matter of Law seeking the trial court to declare that the jury was wrong and that WNMIC should have prevailed. In the alternative, WNMIC has asked for a new trial based on misconduct, insufficient evidence to justify the jury's verdict, and errors of law.

The trial court heard oral arguments on these issues on January 23, 2001 and we are awaiting a ruling.

University of North Dakota - Flood Recovery Update: Attachment 1
Deficiency Appropriation Summary-Flood 1997

Description	(1) June, 1998 Original Request to BHE	(2) Board Authorized Request	(3) Senate Amended SB2026 (Actual)
1. 10% Cost Share (Note A)	\$3,860,581	\$3,860,581	\$2,302,892
2. Interest on Bank Loan	\$140,798	\$140,798	\$330,059
3. Labor Charges not Reimbursed by FEMA	\$1,116,098	\$855,770	\$654,431
4. Service and Supply Charges not Reimbursed by FEMA	\$20,453	\$20,453	\$25,403
5. Disaster Grants Management Consultant (DMG-Maximus)	\$456,274	\$456,274	\$546,559
6. Projects Under \$1,000	\$1,853	\$1,853	\$6,335
7. Simulated Flood Insurance Deductions	\$6,335	\$6,335	\$32,550
8. Sewer Line Videotaping	\$32,550	\$32,550	\$125,446
9. Cost to Obtain and Maintain Flood Insurance	\$125,446	\$125,446	\$253,299
10. Refunds on Room and Board Contracts	\$253,299	\$253,299	\$18,600
11. Biology Research	\$18,600	\$16,084	\$28,456
12. Swanson Hall Mitigation	\$16,084	\$8,270,711	\$5,817,284
13. Memorial Union Alternate Project	\$28,456		
14. Revenue Loss	\$8,270,711		
15. Tuition Shortfall	\$5,817,284		
	\$20,164,822	\$5,753,359	\$3,898,228

Revised information as of 8/31/00 for
99-01 deficiency appropriation

(4) Estimates As Of 8/00 (Total Cost)	(5) Expenses From 6/30/99 Deficiency Funding	(6) Net Deficiency For 99-01 (7)-(8)
\$4,284,383	\$2,302,892	\$1,981,491
\$1,188,229	\$330,059	\$858,170
\$755,588	\$654,431	\$101,157
\$37,414	\$25,403	\$12,011
\$650,361	\$546,559	\$103,802
\$6,335	\$6,335	
\$91,826	\$32,550	\$59,276
\$7,014,136	\$3,898,228	\$3,115,908

Note B
Note C
Note D
Note E

Revised information as of 12/31/00 for
99-01 deficiency appropriation

(7) Estimates As Of 12/00 (Total Cost)	(8) Expenses From 6/30/99 Deficiency Funding	(9) Net Deficiency For 99-01 (7)-(8)
\$4,376,685	\$2,302,892	\$2,073,793
\$1,352,835	\$330,059	\$1,022,776
\$767,785	\$654,431	\$113,354
\$37,985	\$25,403	\$12,582
\$650,361	\$546,559	\$103,802
\$6,335	\$6,335	
\$91,826	\$32,550	\$59,276
\$7,283,812	\$3,898,228	\$3,385,584

Note A: Changes will occur in the 10% cost share due to variances between the actual cost and the original Disaster Survey Report (DSR) amount. Resolution of insurance claims resulting in denial of insurance and subsequent coverage by FEMA may also impact the cost share total.

Note B: Reflects changes as detailed in the request for additional spending authorization for the Steam Line Replacement Project submitted to the Board at the September, 2000 meeting.

Note C: The current outstanding loan balance remains at \$7,090,548.51. The interest amount is through 8/31/00. The cost will continue to increase as interest continues to accrue.

Note D: Includes estimate through 6/30/01.

Note E: The increased cost of the sewer line video taping is based on a total cost of \$141,270 and an estimated split of 35 percent FEMA (\$49,444) and 65 percent state (\$91,826)

PLEASE SEE ATTACHED NARRATIVE EXPLANATION FOR EACH LINE ITEM

University of North Dakota - Flood Recovery Update: Attachment 1
Deficiency Appropriation Summary - Flood 1997
Narrative Description of Amounts in Deficiency Appropriation Summary

1. **10% Cost Share:** FEMA funding will cover approximately 90% of the University's eligible recovery costs for permanent repairs. Based on the University's projected FEMA recovery as of 8/31/00, the state's cost share is estimated to be \$4,284,383. Of this total, \$2,302,892 was funded through a deficiency appropriation for the 97-99 biennium. **The remaining \$1,981,491 will be incurred after 6/30/99 and is included in the total to be submitted for deficiency funding for the 99-01 biennium.** The total amount may increase (or decrease) based on the level of funding that is recovered from FEMA and/or through insurance and has been adjusted to reflect changes as detailed in the request for additional spending authorization for the Steam Line Replacement Project submitted to the Board at its September 2000 meeting. The University anticipates that most of the projects will be completed by 6/30/01, however, the close out process including final payment may extend beyond that date.

Note: Based on data available through 12/31/00, the net estimated deficiency has increased by \$92,302 for a revised total of \$4,376,685 and a revised net deficiency of \$2,073,793.

2. **Interest on Bank Loan:** Interest expense accrued on the loan with the Bank of North Dakota through August 31, 2000 was \$1,188,229. Of this total, \$330,059 was paid through the 97-99 deficiency appropriation leaving an **unfunded balance of \$858,170 which has been included in the 99-01 deficiency request.** On July 1, 1999, the unfunded accrued interest of \$258,895 was added to the outstanding loan balance. The current loan balance is \$7,090,549. Interest will continue to accrue until sufficient cash is received from FEMA and insurance to pay off the loan. The uncertainty of timing and amount of payments to be received from insurance and/or FEMA present significant challenges in estimating the total interest cost that may accrue over the life of the loan. Although cash will be received from FEMA and/or insurance, the steam line replacement creates an additional cash draw.

Note: An additional \$164,606 of interest has accrued through 12/31/00 for a revised cumulative total of \$1,352,835 and a revised net deficiency of \$1,022,776.

Assuming interest costs that accrue in the current biennium, including those carried from the 97-99 biennium, are funded through a deficiency appropriation for the 99-01 biennium, interest costs beyond 6/30/01 would be submitted for deficiency funding to the next legislative assembly.

3. **Labor Charges not Reimbursed by FEMA:** A. The University incurred \$370,599 in administrative leave payments during the period that the University was closed. These costs are not eligible for FEMA reimbursement. These costs are related to 4 DSR's that FEMA wrote to cover campus wide emergency response and debris removal and were directly identified to the flood funds anticipating FEMA reimbursement. Salary costs for which alternative sources of funds were available (grant, contract, other appropriated) were excluded from this amount. The total University payroll for the period that the institution was closed is estimated at about \$7.5 million.

B. The University of North Dakota utilizes costing methods in its Facilities and Telecommunications departments which are consistent with generally accepted accounting principles and qualify for reimbursement by all federal agencies except FEMA. FEMA operates under a different set of regulations which provide for reimbursement of actual cost, not recognizing the concept of average rates commonly used for recharge centers. Based on labor costs identified through August 31, 2000 for flood recovery projects, \$361,093 (\$348,588 for Facilities and \$12,505 for Telecommunications) does not qualify for reimbursement by FEMA. The \$361,093 has been reduced by \$55,658 for a **net total of \$305,435**. This reduction removes the costs associated with buildings identified as auxiliary (housing and dining) and is consistent with the reduction made in the funding provided in SB2026 for the 97-99 deficiency.

Note: Based on costs incurred through 12/31/00, the deficiency for labor costs has increased by \$12,197 (net) for a revised total of \$317,632.

C. In the initial deficiency request presented to the Board in September, 1998, the University requested funding for straight time labor worked during the University closure in the amount of \$64,379. FEMA had disallowed the payment and the University was pursuing the issue through the appeal process. Since the appeal was pending, the Board did not include this amount in the 97-99 deficiency request. The appeal process resulted in the disallowance standing. Therefore, **this amount is now included in the deficiency request for 99-01 in the amount of \$79,554.**

4. **Service and Supply Charges not Reimbursed by FEMA:** FEMA will not pay the overhead charges applied to inventory items. Based on inventory items identified through August 31, 2000, the difference between the recharge inventory amount and the amount to be recovered from FEMA is **\$37,414** (\$34,529 for Facilities and \$2,885 for Telecommunications).

Note: Based on costs incurred through 12/31/00, the deficiency for service and supply costs has increased by \$571 for a revised total of \$37,985.

5. **Disaster Grants Management Consultant (DMG-Maximus):** FEMA will only pay a small percentage of any costs associated with requesting, obtaining, or maintaining the grant funds. The University anticipates that administrative costs for this project will be approximately \$875,711 through June 2001. About \$225,360 will be covered through the administrative allowance paid on FEMA assistance, leaving an unfunded balance of \$650,361. **The 97-99 deficiency funding covered \$546,559 leaving a net unfunded balance of \$103,802.**

6. **Projects under \$1,000 (total actual cost \$1,978):** Although approved by the Board and included in the 97-99 deficiency appropriation request, this cost was not funded in SB2026.

7. **Simulated Flood Insurance Deductions:** This cost was fully funded in the 97-99 deficiency appropriation.

8. **Sewer Line Videotaping:** The University has completed the process of videotape inspecting the sewer lines for damage. Although amounts have been included in the deficiency request for both the videotaping and the cleaning/repair to date, action by FEMA could have an impact on the unfunded total. The current estimate for sewer line videotaping is based on a total

cost of \$141,270 and an estimated split of 35 percent FEMA (\$49,444) and 65 percent state (\$91,826).

Although efforts will focus on completing all flood related projects prior to 6/30/01 and expediting the close out and payment process, it is possible that activity will occur after 6/30/01 resulting in the need for requesting a deficiency appropriation for the 01-03 biennium. Interest costs on the bank loan will continue to accrue until final payments are received from FEMA and insurance. Litigation related to insurance claims is in process. Project close out and audit of the federal funds may result in unreimbursed costs. Variations between actual costs incurred and original cost estimates may also result in over or under recovery to be resolved after final close out.

University of North Dakota - Flood Recovery Update: Attachment 2 Steam Line Replacement Project

Project Description and History:

The University of North Dakota operates a direct-buried steam distribution system that provides steam to both University-owned and other facilities that include Altru Health Systems, a local elementary school, the North Dakota School for the Blind, and a number of Greek housing units. The steam originates from a centrally located steam plant and is distributed through approximately 12 miles of underground piping.

As a result of the flood disaster of 1997, the steam distribution system was inundated by flood waters that seeped into the insulated cavity that surrounds the steam pipe. The insulation was damaged by the flood waters, allowing excessive heat to reach the outer containment pipe that is protected from soil acids by an asphalt-like coating. Because the coating has limited resistance to heat, the loss of insulation resulted in a loss of protection from soil acids. The resulting corrosion causes perforations in the outer pipe cover, with the subsequent water intrusion that will eventually destroy the inner steam pipe.

After exhaustive research by both local engineers and FEMA engineering consultants, it was determined that the steam line was damaged beyond repair and therefore qualified for replacement as a FEMA supported disaster project.

Project Costs and Schedule

Phase I of the project began in the spring of 1999 and included replacement of the steam distribution system on the east half of the campus and the Greek steam line. Work continued through the spring of 2000 with substantial completion reached in the summer of 2000. Phase I of the project was contracted for significantly less than the original project estimate.

Phase II of the project began in the Spring of 2000, and included replacement of the steam line on the west half of the campus and the Medical Park Steam Line. Work is expected to continue through the spring of 2001 with substantial completion by June, 2001. The bids for Phase II of the project revealed several conditions that resulted in costs in excess of the original Phase II project estimate:

- Costs for placing the steam line under the existing railroad tracks and four-lane highway by "boring" were greater than anticipated.
- The amount of paving required for surface restoration was greater per linear foot of steam line than that of Phase I.
- Asbestos abatement costs for Phase II were higher than anticipated, including the entombment of the abandoned steam tunnel system.
- Infrastructure congestion was greater than anticipated, resulting in a greater amount of utility relocation or rerouting.

To date, Phase II of the project has revealed that the primary cause for cost inflation is a result of the

relative unknown condition of existing buried utilities. Although the designed placement of the steam line included the aforementioned infrastructure, the amount of congestion present in Phase II required substantial rerouting. Excavation proved that the actual locations of existing utilities were very close to the estimated locations, but beyond the margin of error that would allow placement of the steam line. As a result, change orders to the steam line pipe fabricator and installer are required to relocate the utilities or modify the replacement line to avoid conflicts.

Estimated Project Costs:

Phase I Project Costs:	\$10,600,000
Phase II Project Costs (To Date):	\$15,900,000
Projected Additional Costs:	<u>\$1,500,000</u>

Total Project Costs:	\$28,000,000
----------------------	--------------

Source of Funding

The FEMA Damage Survey Report calculation sheet describes the total project costs as follows:

Construction costs:	\$25,000,000
Engineering fees:	\$1,700,000
Project management:	<u>\$1,375,000</u>

Total Project Estimate:	\$28,075,000
-------------------------	--------------

Less Insurance Adjustment:	\$1,025,179
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Total less insurance:	<u>\$27,049,821</u>
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FEMA Share (90%)	\$24,344,839
State Match (10%)	\$2,704,982

The state match share of the project cost for replacing the steam line has been included with the deficiency appropriation request for the flood disaster.

H.B. 1026

NORTH DAKOTA STATE UNIVERSITY
DEFICIENCY APPROPRIATION REQUEST

11/1/00

	FEMA ELIGIBLE	
Buildings	\$8,843,374.49	See Attachment 1
Contents	\$8,602,091.00	See Attachment 2
Architect/Engineer	<u>\$250,000.00</u>	Not in PW's currently being added
Subtotal	\$15,695,465.49	
Less Insurance Reduction	<u>\$2,453,092.00</u>	See Attachment 3
Total	\$13,242,373.49	
NDSU 25% Share	\$3,310,593.37	

	NON-FEMA ELIGIBLE	
25% NDSU Share	\$3,310,593.37	
Flood Insurance Premium	\$70,799.00	Annually* See Attachment 4
Consultant Fees	\$71,916.45	See Attachment 5
Interest on Line of Credit	<u>\$213,045.00</u>	See Attachment 6
	\$3,666,353.82	

Recommended 12
H.B. 1026

\$1,609,200

* FEMA requires that we purchase flood insurance covering the buildings and contents damaged by flood surface water. The current premium for this coverage is \$ 70,799.00

11/1/00

11-1-00

Attachment 2

North Dakota State University

Flood Content Summary

	<u>Building Name</u>	<u>Insurance Reduction</u>	<u>Contents</u>
1	Old Main		\$0.00
2	Presidents House		\$0.00
4	Nelson Health Center		\$9,080.00
6	Memorial Union	\$10,000.00	\$73,177.00
7	E Morrow Lebedeff		\$7,380.00
8	Churchill Hall		\$34,741.00
9	Dinan Hall		\$0.00
11	Putnam Hall		\$4,000.00
12	Library		\$10,000,000.00
16	Ladd Dunbar		\$13,626.00
18	Dolve Hall		\$25,000.00
20	Bentson Bunker Fieldhouse		\$8,500.00
21	Minard		\$3,163.00
22	Heating Plant		\$0.00
23	Morrill Hall		\$4,000.00
25	IACC	\$1,539,607.00	\$2,200,000.00
28	Harris Hall		\$0.00
31	Thorson Maintenance Center		\$3,500.00
42	Stockbridge Hall		\$0.00
52	Sudro Hall		\$0.00
55	Reed Hall		\$0.00
56	Burgum Hall		\$1,045.00
57	North Weible Hall		\$490.00
	Johnson Hall		\$5,461.00
	Residence Dining Center		\$0.00
61	South Weible Hall		\$630.00
63	Engineering & Architecture		\$0.00
65	Electrical Engineering		\$350.00
66	Civil & Industrial Engineering		\$0.00
67	Sevrinson Hall		\$0.00
68	Thompson Hall		\$0.00
69	Askanase Hall		\$5,250.00
70	Stevens		\$35,000.00
76	Selm Hall		\$200.00
77	Pavek Hall		\$125.00
80	West Dining Center		\$40,157.00
83	Family Life Center		\$127,256.00
93	NCI		\$0.00

Total \$1,549,607.00 \$12,602,091.00

Less \$4,000,000 of Library Books that
will not be replaced until next fiscal year \$4,000,000.00

Total \$8,602,091.00

COMPLETED PWS

<u>PW #</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
24	Debris Removal	\$ 7,914
39	Heating Plant (\$16,405 Ins)	- 0 -
110	Category B	\$ 661,800
155	Steam Tunnel (\$192,618 Ins)	\$ 441,667
189	Memorial Union - Contents (\$10,000 Ins)	\$ 63,177
287	IACC - Tele Com (\$1,539,607 Ins)	- 0 -
300	Mitigation Study	- 0 -
555	IACC - Bldg, Mech, Elec (\$ 503,289 Ins)	- 0 -
710	Putnam	\$ 79,756
718-1	EML - Bldg	\$ 171,608
808	Library - Book Cleaning	\$1,491,187
926	Churchill	\$ 74,712
1095	President's House (\$720 Ins)	\$ 27,439
1130	Mem Union - Bldg, Mech, Elec (\$3668 Ins)	\$ 213,675
1135	FLC (\$20,387 Ins)	\$ 58,914
1137	West Dining (\$149,998 Ins)	\$ 57,210
1154	NDSU Equip @ FargoDome	\$ 35,952
1242	Memorial Union - Clean up (\$16,400 Ins)	\$ 385,495
1303	Pavek Hall	- 0 -
1304	Animal Science Building	- 0 -
1305	Selm Hall	- 0 -
1306	Minard Hall	- 0 -
1307	Residence Dining Center	- 0 -
1308	Campus Roads	- 0 -
1309	Art Building	- 0 -
1313	Professional Services Costs	\$ 128,013
1314	Ladd/Dunbar - Bldg, Mech, Cont. (? Ins)	\$ 50,774
	16 Buildings (? Ins)	\$ 85,531
	Library - Books & Periodicals (? Ins)	\$4,236,280
	Agricultural Research	- 0 -
	Sub-Totals (\$2,453,092 Ins)	\$8,271,104
	Total	\$10,724,196

Unnumbered PWs have been written but have not been entered in NEMIS.

10/25/2000 13:56

11-1-00

Attachment 4

LED ID #45-6002439

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An infrared survey of the direct-buried steam lines was performed by Perma-Pipe, Inc. Inspection Services. An assessment of the lines was necessary to identify damage caused by the flood. Emergency repairs are being made to avoid failures during the current heating season which would jeopardize the integrity of many of the buildings. Permanent repairs will be made at the end of the current heating season.

\$18,469

\$1,840.90 (\$2,454.53 FEMA allowance but only 75% is eligible)

\$16,628.10 Deficiency

Direct buried steam line support and steam tunnel profile. The steam tunnel profile was necessary to determine how the flood waters entered the tunnel from the Fargo Dome and ultimately IACC and the Heating Plant. This water caused the loss of our telephone switches in IACC and damage to the basement of the Heating Plant. This work was necessary to provide justification for insurance purposes. The work was performed by Henning, Metz, Hartford & Assoc.:

\$444.60 direct buried

\$7,748 steam profile

\$8,192.60 total (no FEMA reimbursement)

A structural survey of the upper floors of library was performed to determine whether relocating the collections from the basement to these floors was feasible. It was determined that they are not structurally able to handle the loads, so decisions need to be made regarding what collections will go into the basement or some other location. The survey was performed by Sollen & Larson Engineering:

\$600 (no FEMA reimbursement)

The collections from the basement of the library were relocated to the Sun-Mart and Skills Center. The space in these buildings was not acceptable for storing the collections. An independent consultant was hired to identify the environmental needs for the collection and the safety/code issues for occupancy by staff and public. The work was performed by Upper Midwest Conservation Assoc.

\$3,150 estimate

A survey of campus elevators was necessary to identify mechanical, electrical and safety problems that were caused by the flood. An independent consultant was required to be hired and not our elevator contractor because of conflict of interest issues. The survey was performed by Lerch Bates North America, Inc.

\$7,959.55

A consultant was hired to provide advice and expertise regarding documentation, recordkeeping, assistance in completing surveys and forms. The person was a former FEMA employee and provided assistance regarding the processes required by FEMA. These services were provided by Infracoord.

\$31,379.89

A consultant was hired at the beginning of the disaster to provide advice and assistance during the emergency phase. This expertise was based on the Grand Forks flood and how it affected UND and what lessons were learned from that event. These services were provided by Modern Building Management.

\$4,006.41

11-1-00 Attachment 6

From: Gary Wawers
To: Tom Akers
Date: Tue, Oct 31, 2000 9:10 AM
Subject: Interest Expense Estimate for Deficiency Approp

Tom,
An estimate you may want to use is \$213,054. This is based on borrowing \$661800 for 2 months at 7% interest, plus \$4400000 for 8 months at 7% interest. Good Luck. Let me know if you need anything else.
Gary

HB 1026

**The Senate
Appropriations
Committee**

**Hearing on HB1026
Deficiency Appropriation**

February 9

HB
1026
C. J. ...
...

North Dakota State College of Science Utility Shortfall

Utility Increase Justification for 2000-01 Heating Season

- ❖ NDSCS has experienced a dramatic increase in its costs of heating during the 2000-01 heating season.
- ❖ The gas rate that NDSCS receives is based on an "interruptible discounted rate." In the event of an interruption, the boilers are switched to fuel oil.
- ❖ NDSCS is anticipating that its natural gas cost this heating season will be increased approximately 200%. This will result in a projected combined heating fuel shortfall this heating season of \$491,500 based on the current natural gas and fuel oil rates.
- ❖ Projected Natural Gas Budget Shortfall:
 - September, 2000 – January, 2001 Heating Costs \$603,000
 - Estimates for February, 2001 \$6.92 (\$64,024) = \$443,046
 - $\$603,000 + 443,046 = \$1,046,046 - \$554,464$ (Utility Heating Budget) = \$491,500 (Projected Shortfall)
- ❖ Our 99 – 01 utility budget is \$1,108,928
- ❖ 99 – 01 estimated costs will be \$1,600,428
- ❖ Projected 01 – 03 utility budget (\$5.53) gas would be \$1,744,000
- ❖ If we move to coal the 01 – 03 utility budget would be \$1,354,000
- ❖ NDSCS has multi-fuel capacity.

❖ **Historical Natural Gas Costing Data (yearly cost includes fuel oil):**

	Mcf Price	Yearly Heating Cost
99-00	\$2.59-\$3.53	\$426,045
98-99	\$2.34-\$3.14	\$404,640
97-98	\$3.00-\$3.93	\$480,019
96-97	\$2.36-\$5.46	\$653,687
95-96	\$2.17-\$2.88	\$513,168

❖ **Current Natural Gas Costing Data:**

		Mcf Price	Monthly Heating Cost
September	2000	\$5.68/Mcf	\$16,923
October	2000	\$6.03/Mcf	\$50,683
November	2000	\$5.18/Mcf	\$96,635
December	2000	\$6.71/Mcf	\$185,980(includes\$17,100 for oil)
January	2001	\$10.86/Mcf	\$226,000(includes\$16,000 for oil)
February	2001	\$6.92/Mcf	

❖ **Four-Year Average of Remaining Consumption (February - May)**

64,024 Mcf

Current rate of natural gas February 2001 = \$6.92

❖ We anticipate a 15% savings in electricity above the contract.
Projected savings = \$30,000

❖ We anticipate savings in natural gas of 3% above the contract.

NDSCS Emergency Steam Line Break Narrative:

On December 17, 2000, a steam line break was identified on the north end of the NDSCS campus directly south of the North West Complex (NW Complex). The NW Complex has 50 apartments with 44 normally occupied. Earlier this fall, the line had been temporarily repaired in several spots. The attached drawing illustrates the steam line running diagonally from Manhole #11 northwest to the complex.

The steam line was 21 years old, approximately 600 feet long, constructed out of 2" schedule 40 steel pipe, surrounded by insulation, and enclosed in a galvanized metal jacket. The condition of the line prior to the repair showed that the line had deteriorated from its original wall thickness of .170" to a wall thickness of .028" in many areas. The outer casing was severely eroded and the insulation was completely deteriorated. In addition to the leaking steam line, the condensate return line was leaking approximately 2000 gallons of treated water per hour. Several test holes confirmed that a temporary replacement of the entire line would be necessary.

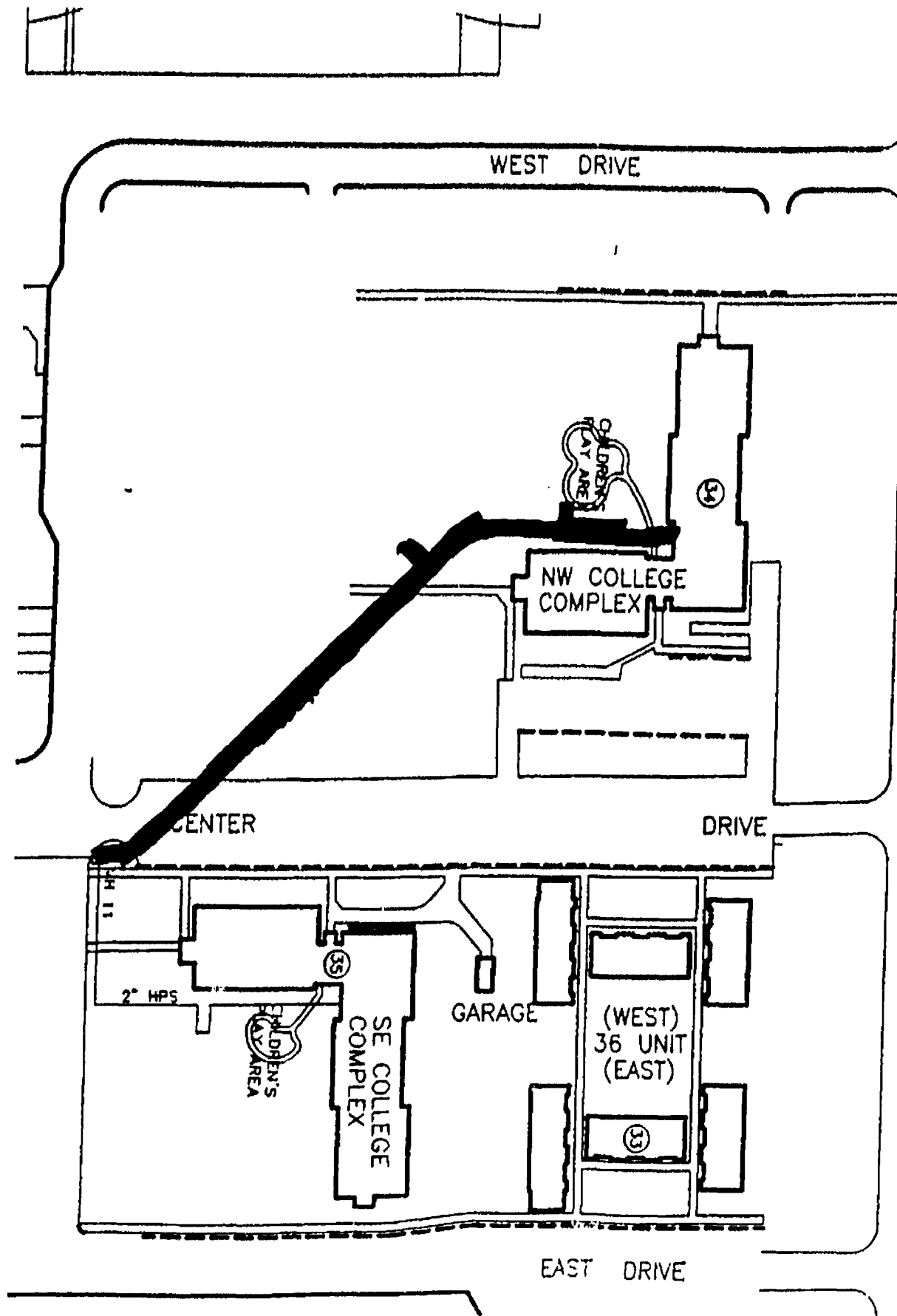
A decision was made to delay the replacement until later in the week when less students would be impacted as the building heat would need to be shut down. In addition, the materials necessary for the repair had to be ordered. On Wednesday, December 21, 2000, the replacement of line was started. The original intent of the project was to prefabricate the replacement line and then shut down the steam for a limited period of time for the terminations. The line continued to deteriorate throughout the week; on December 24th a determination was made that the building had to be evacuated and temporary heat used to keep the building above freezing temperature. The repairs were postponed until Monday, December 29, 2000. At the time of the evacuation, only eleven families were displaced. Seven families moved into other campus housing and four families moved in with relatives off campus.

The repairs were completed on Wednesday, December 31, 2000. The scope of work associated with the temporary repair involved complete replacement of the entire run of high pressure steam line and numerous repairs to the return condensate line. The replacement line is not insulated and does not incorporate in the necessary engineering constraints associated with proper slope, anchoring and support. The estimate for a permanent line which has to be installed during the summer of 2001 is \$210,000. The total estimated cost of the temporary repair (\$32,744.63). Reference attached spreadsheet.

NDSCS EMERGENCY STEAM LINE REPAIR
JOB 54320

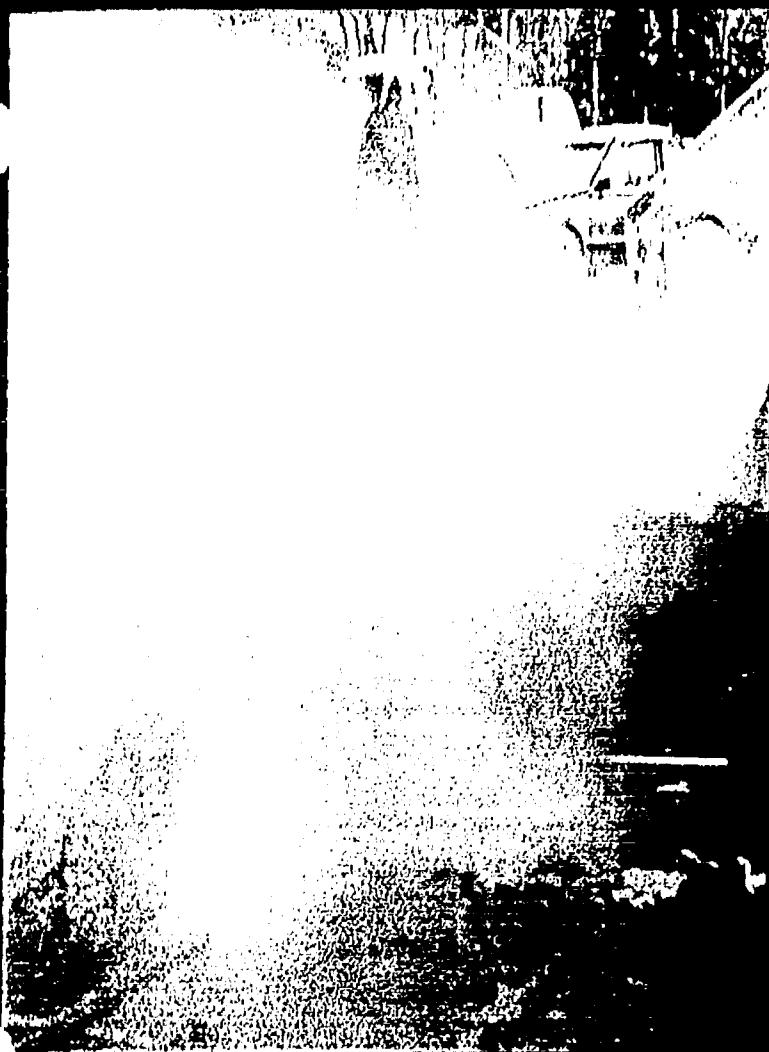
Vendor	Descriptions	Vendor Cost	Cost
Contracted Labor & Business			
Comstock Construction	Backhoe/truck	\$3,984.00	
Peterson Construction	Pipe/fittings 101.5hr labor	\$8,038.76	
Heitkamp Construction	290 yards hauling trucks	\$2,058.00	
Comstock Construction	Equipment rental	\$685.25	
Total Contracted Labor & Business			\$14,739.01
Fill & Material (Contracted)			
Aggregate	Class 5/backfill	\$342.72	
Aggregate	Selected backfill	\$84.00	
Aggregate	Class 5	\$241.92	
Total Fill & Material (Contracted)			\$668.64
Temporary Heat			
Farmers Union	Banjo coupler, coupler, hose	\$256.47	
Stop N Go	2 propane	\$80.98	
Millers True Value-RFP 249139	150 3/8 x 600 rope	\$28.50	
Millers True Value-RFP 249139	Kerosene, heaters, thermoco	\$139.90	
Farmers Union	3 heaters/lp	\$1,053.97	
Propane - refill NDSCS tanks	2 20# tanks	\$25.00	
Total Temporary Heat			\$1,584.82
NDSCS Labor	Overtime		\$5,726.57
Motor Pool Truck Costs	3 hours truck rental @ \$22		\$66.00
NDSCS - Repair Materials	Equipment & Tools		\$6,934.59
Related Heating Plant Costs			
Chemical		\$2,400.00	
Water		\$625.00	
Total Related Heating Plant Costs			\$3025.00
Total Expenses			\$32,744.63

600 Feet

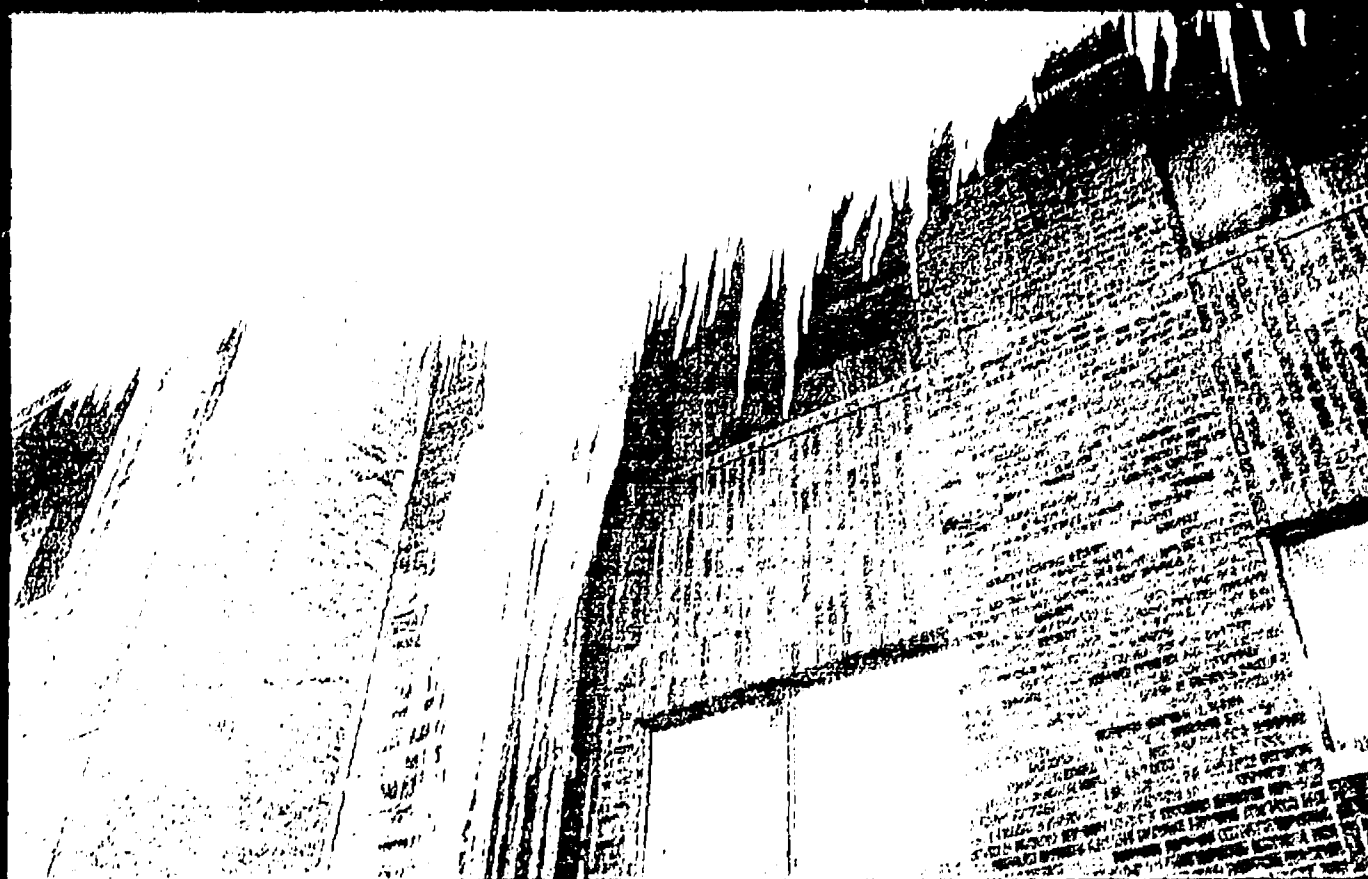


Steam Line Break

December 20, 2000



Stream Line Break December 2000



Stream Line Break December 2000



Steam Line Repair December 2000



HB 1026



Office of Business Affairs

Testimony on House Bill No. 1026 – A Bill for an Act making an appropriation for defraying the expenses of various state departments and institutions; and to declare an emergency.

Mr. Chairman, members of the Committee, my name is Steven Bensen. I am the Vice President for Business Affairs serving Mayville State University and Valley City State University. Thank you for the opportunity to speak to House Bill No. 1026. I am speaking in support of the legislation.

This legislation provides Mayville State University \$18,844 in general fund appropriation to defray costs projected to exceed the 1999-01 appropriation for utilities. The attached Utility Appropriation and Projection Schedule provides biennial appropriation, 1999-00 expense, and 2000-01 projections by utility category.

A review of the schedule shows spending greater than budget for heating fuel, gas, and electricity. Gas is the least significant of the excesses and will not be reviewed specifically. Mayville State installed a new boiler system last fall, and converted from #6 to #2 fuel oil. The average price to date is \$1.067 per gallon, which will result in excess costs of \$16,404. The average electricity fuel adjustment clause to date is .004134 @ kwh. I project the fuel adjustment clause will result in \$5,974 of excess costs. The total excess costs, offset against water and telephone projections estimated to be slightly under budget, equal the \$18,844 request for additional general fund appropriation.

Facility repair and maintenance budgets, which are extremely limited, will be used to fund excess utility costs, if this legislation is not approved. Mayville State will not have excess institutional collections to apply toward the budget shortfall.

Thank you for your attention.

MAYVILLE STATE UNIVERSITY
Utility Appropriation and Projections
For the 1999-01 Biennium

Utility Category:	1999-01	1999-00	2000-01		
	Adjust. Biennial Appropriation	Actual Exp.	Budget	Projection	Projection > Budget Dollars Percentage
Coal	\$ -	\$ -	\$ -	\$ -	-
Heating Fuel	358,000	107,604	250,396	266,800	16,404 107%
Natural Gas	3,652	1,620	2,032	3,100	1,068 153%
Electricity	250,500	125,074	125,426	131,400	5,974 105%
Water/Sewer/Solid Waste Removal	110,000	48,698	61,302	57,600	(3,702) 94%
Telephone - Total Cost	193,000	103,000	90,000	89,100	(900) 99%
Total Utilities	\$ 915,152	\$ 385,996	\$ 529,156	\$ 548,000	18,844 104%

Notes:

Projection: 2000-01 projection is actual expenses to date, plus an average of the actual for the balance of the year.
 Fuel oil: 1999-00 is #6 at .45 @ gal. for approx. 234,000 gal.; 2000-01 is #2 at 1.067 avg for 250,000 gal.; Current year price range is .8875 to 1.155 per gal.
 Electricity: 2000-01 Fuel Adjustment Clause average is .004134 @kwh. Current year range is .00285 @kwh to .0061 @kwh.

HB 1026



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C. Hoberg
Director

701-328-3260
FAX 701-328-3254

MEMORANDUM

TO: Fifty-seventh Legislative Assembly
State of North Dakota
Senate Appropriations Committee

FROM: Allen C. Hoberg, Director
Office of Administrative Hearings

AK

RE: OAH Deficiency Appropriation
House Bill No. 1026 (Subdivision 1)

DATE: February 9, 2001

Originally, when the Office of Administrative Hearings was established in 1991, it was funded by both general funds and special funds. OAH obtained its special funds by billing certain state user agencies for hearing officer work. It did not bill other "general fund" user agencies. OAH received a general fund appropriation to cover the expense of conducting hearings for these general fund agencies. This method of funding OAH worked well and continued until the beginning of the 1997-99 biennium. The Fifty-fifth Legislative Assembly removed all of OAH's general funds from its appropriation, to be replaced by the same amount of special fund moneys from billing agencies. (See 1997 SB No. 2018; \$224,473 in general fund moneys was removed from OAH's budget). Accordingly, beginning

July 1, 1997, OAH begin billing all agencies for hearing officer work, including all of the former general fund agencies.

Therefore, beginning with the 1997-99 biennium, because OAH did not have any general funds to spend at the beginning of the biennium and because, historically, agency payments for billings are not received by OAH until 2-3 months after the actual work is done (1-2 months after OAH sends out to the agencies its bill for services), OAH needed start-up financing until payments on billings were received from the agencies. Beginning in July 1997, OAH was authorized to borrow from the general fund for these start-up funds. OAH was required to pay back these borrowed general funds before the end of the biennium, without interest.

However, beginning with the 1999-2001 biennium OAH's borrowing authority was changed and OAH was required to borrow from the Bank of North Dakota rather than from the general fund for its beginning of the biennium start-up funds. OAH pays the Bank interest on these borrowed moneys. See 1999 HB No. 1018. The intent of this change was that OAH would bill its user agencies to recover this interest cost. It was also anticipated that this increased interest cost would provide incentive to some user agencies to make payments on OAH billings

sooner. However, just before this biennium started OAH learned that it could not bill any agencies receiving federal moneys for this interest cost. After learning this, the advice OAH received from its billing consultant and OMB was not to set up separate billing rates for state agencies that received federal funds and those that did not. OAH took this advice and it has not been billing any agencies for its Bank of North Dakota interest costs for this biennium. To date that interest cost has been \$15,221.16. *See attachment.* For the biennium it is expected to be about \$19,400.00.

When the Legislative Assembly removed general funds from OAH's budget, OAH experienced a further drop in the use of hearing officer services by the former general fund agencies. (For the calendar years 1997-2000, OAH received only 42, 35, 33, and 30 requests, respectively, for hearing officer services from the former general fund agencies. For the calendar years 1991-1996 OAH had received 102, 184, 122, 113, 80, and 58 requests, respectively, for hearing officer services from the former general fund agencies.) This decline in usage by former general fund agencies, which appears to have finally leveled off, hurt OAH substantially, especially in the 1997-99 budget, when OAH ended up with about a \$57,000 deficiency.

OAH has recently experienced a declining caseload in workers compensation cases, too. OAH began to conduct all of the Bureau's hearings in September 1995. The Bureau had a substantial backlog in cases and OAH helped them dispose of that backlog in about a year and a half. Because of the extra Workers Compensation cases, OAH's caseload increased from 531 cases in 1994 to 732 and 834 in 1995 and 1996. However, beginning early in 1997 the Bureau's hearings caseload too began to decrease significantly. In 1996, 516 of OAH's 834 cases were WCB cases (61%); by 2000, 171 of OAH's 445 were WCB cases (39%). This decreasing workers compensation caseload also contributed to OAH's deficiency in the 1997-1999 biennium and this current biennium.

Although OAH substantially increased its billing rates for the 1999-2001 biennium to recover this deficiency (from \$60.34/hour to \$79.52/hour and from \$85.00/hour to \$95.00/hour for temporary ALJs conducting Workers Compensation Bureau hearings), OAH has not recovered that deficiency this biennium.

Part of OAH's administrative overhead is paid by billing the Workers Compensation Bureau for cases that OAH temporary part-time ALJs conduct. Because the number of WCB cases is down so considerably, OAH has not been able to make up its administrative overhead attributable to these workers

compensation cases, despite increased billing rates. Because of the increased WCB caseload in 1995, 1996, and early 1997, OAH hired two new support staff in 1997. Already, by January 1, 1998, OAH had to reduce its support staff by one because of declining caseloads. Although further declining caseloads have put pressure on OAH's administrative overhead, it would not be wise to reduce OAH support staff further. At least one person is required to manage the WCB caseload, especially considering that OAH uses, at the Bureau's request, 10 temporary, part-time ALJs to conduct those hearings.

Again, OAH substantially increased its billing rates in the 1999-2001 biennium. It will likely increase its billing rates again for the 2001-2003 biennium. Unfortunately, OAH's billing rates are always based on the previous two years actual operating expenses. In the situation of declining caseloads this is difficult to deal with.

OAH is not proposing that any of the \$120,000 general fund deficiency appropriation contained in this bill substitute for billing agencies. OAH will still bill all agencies during the 2001-2003 biennium. OAH may make up for the deficiencies it has experienced in the last two biennia. Certainly it would be

easier to make up the difference should the number of requests for hearings it receives increase instead of decrease.

What this deficiency appropriation will allow OAH to do, then, is to pay off the interest expense it owes to the Bank of North Dakota. OAH will never recover this interest expense amount from the agencies through agency billings. The interest expense amount is estimated to be between \$18,000 and \$20,000, if it is not entirely paid off before the end of the biennium. It will also allow OAH to pay off earlier the remainder that OAH will owe the Bank in principal. Although OAH owes the Bank \$110,000 in principal, by the end of the biennium OAH estimates that amount will be between \$65,000 and \$75,000. It could be more if the number of cases continues to decrease further during the last six months of this biennium, especially if workers compensation cases continue to decrease. However, because of this deficiency appropriation, most, if not all, of this amount will be able to be paid off sooner, thus avoiding some additional interest costs. This \$65,000 to \$75,000 deficiency OAH plans to recoup with increased billings in the 2001-2003 biennium.

You should also know that OAH, as part of its regular appropriation (SB No. 2018), is again seeking general fund borrowing authority for beginning of the

biennium loans to start a new biennium billing cycle. It is seeking \$100,000 in borrowing authority. However, OAH actually borrowed \$150,000 from the Bank of North Dakota during the first two months of the 1999-2001 biennium to begin operating. Without the general fund appropriation OAH previously had, it must borrow at the beginning of every biennium to begin a new billing cycle. The remainder of this deficiency appropriation, if any, coupled with OAH general fund borrowing authority, will allow OAH cash flow to begin operating in the first two months of each biennium.

In summary, OAH respectfully requests a general fund deficiency appropriation for the purpose of paying off OAH's unrecoverable interest expense from the 1999-2001 biennium, for the purpose of recovering from a period of declining caseloads and declining billings, *i.e.*, pay off the remaining bank loan before the end of this biennium and if any moneys are remaining, coupled with OAH borrowing authority, to allow OAH to operate at the beginning of each new biennium until agency payments began. (Even if \$20,000 remained in this deficiency appropriation coupled with OAH's \$100,000 borrowing authority, it is still less than the \$150,000 OAH actually borrowed from the Bank this year.)

OAH took two big hits during 1997. First, it lost its general funds, a loss from which, because of agency reductions, it has never really recovered. Second, it decided to help WCB reduce its caseload backlog but then got caught beginning in 1997 with a declining caseload squeeze. It has not yet recovered from that, either. Then, in 1999, OAH took another hit and was the victim of a mistake regarding billing for interest. OAH will never be able to recover those moneys.

Unfortunately, OAH does not have the option of adjusting its billing rate throughout the biennium when situations change. It may only do so after the fact, at the beginning of each new biennium and, then, based on the previous two years actual expenditures. In effect, though OAH operates much like a business, it is unable to adjust quickly, like other businesses can, at least not by changing its income through billing increases or decreases. We do always carefully watch our expenditures, however.

Without this \$120,000 deficiency appropriation OAH will not be able to pay back the Bank of North Dakota for the interest expense it incurred this biennium; it will not be able to pay back in this biennium at least a portion of the Bank of North Dakota principal amounts borrowed (it will not be able to pay back at least \$65,000 to \$75,000 until, at the earliest, sometime later in the next biennium

Fifty-seventh Legislative Assembly
State of North Dakota
Senate Appropriations Committee
February 9, 2001
Page 9

when it would recover the amounts through billings). Thus, OAH would likely be required to make further interest payments on this money, and it would, therefore, not have enough funding or cash flow for beginning of the biennium expenditures.

OAH urges the Senate to include this \$120,000 deficiency appropriation in HB No. 1026 and to pass HB No. 1026.

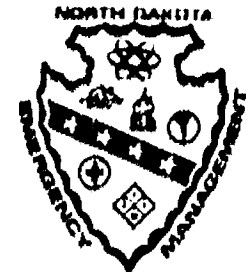
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Office of Administrative Hearings
Bank of North Dakota Loan
Interest Payments

Principal				Interest			
Date	Principal Borrowed	Principal Payments	Principal Balance	Interest Payments CC 1000	Interest Payments CC 1485	Total Interest This Payment	Total Interest Paid to Date
07/20/1999	\$ 100,000.00		\$ 100,000.00			\$ -	\$ -
08/24/1999	\$ 50,000.00		\$ 150,000.00			\$ -	\$ -
08/31/1999			\$ 150,000.00	\$ 409.97	444.13	\$ 854.10	\$ 854.10
09/28/1999			\$ 150,000.00	\$ 486.74	527.31	\$ 1,014.05	\$ 1,868.15
10/20/1999			\$ 150,000.00	\$ 458.63	496.84	\$ 955.47	\$ 2,823.62
11/24/1999			\$ 150,000.00	\$ 443.84	480.82	\$ 924.66	\$ 3,748.28
12/28/1999			\$ 150,000.00	\$ 473.92	513.41	\$ 987.33	\$ 4,735.61
01/24/2000		\$ 30,000.00	\$ 120,000.00			\$ -	\$ 4,735.61
02/28/2000			\$ 120,000.00	\$ 473.92	513.41	\$ 987.33	\$ 5,722.94
02/28/2000			\$ 120,000.00	\$ 333.27	361.04	\$ 694.31	\$ 6,417.25
03/30/2000			\$ 120,000.00	\$ 391.37	423.98	\$ 815.35	\$ 7,232.60
04/05/2000		\$ 10,000.00	\$ 110,000.00			\$ -	\$ 7,232.60
05/32/2000			\$ 110,000.00	\$ 363.45	393.74	\$ 757.19	\$ 7,989.79
06/01/2000			\$ 110,000.00	\$ 369.96	400.79	\$ 770.75	\$ 8,760.54
06/20/2000			\$ 110,000.00	\$ 379.73	411.37	\$ 791.10	\$ 9,551.64
07/20/2000			\$ 110,000.00	\$ 392.38	425.08	\$ 817.46	\$ 10,369.10
08/25/2000			\$ 110,000.00	\$ 392.39	425.08	\$ 817.47	\$ 11,186.57
09/28/2000			\$ 110,000.00	\$ 379.72	411.37	\$ 791.09	\$ 11,977.66
10/31/2000			\$ 110,000.00	\$ 392.39	425.08	\$ 817.47	\$ 12,795.13
12/01/2000			\$ 110,000.00	\$ 379.72	411.37	\$ 791.09	\$ 13,586.22
12/27/2000			\$ 110,000.00	\$ 392.39	425.08	\$ 817.47	\$ 14,403.69
02/01/2001			\$ 110,000.00	\$ 392.39	425.08	\$ 817.47	\$ 15,221.16
			\$ 110,000.00			\$ -	\$ 15,221.16
			\$ 110,000.00			\$ -	\$ 15,221.16
			\$ 110,000.00			\$ -	\$ 15,221.16

North Dakota

Division of Emergency Management



JOHN HOLVEN
GOVERNOR

MAJ GEN (S) MICHAEL J. HAUGEN
ADJUTANT GENERAL

DOUGLAS C. FRIEZ
STATE DIRECTOR

To: Senator David Nethling
Chairman, Senate Appropriations Committee

From: *D. Friez* Douglas C. Friez, Director
Director, North Dakota Division of Emergency Management

Subject: Division of Emergency Management's Request for a Deficiency
Appropriation HB 1026.

Date: February 9, 2001

Following are comments on behalf of HB 1026, the deficiency appropriation for the Division of Emergency Management.

I. Introduction

The Division's request is for authority to repay a portion of the State disaster response and recovery loan with the Bank of North Dakota as provided under Chapter 37-17, 1-23 of the North Dakota Century Code.

Our current loan authority is \$19,387,080. By the end of this current biennium, we anticipate we will have borrowed a total of \$14 million to meet state obligation for cost share from flood disasters for 1993, 1994, 1995, 1996, 1997, 1998, 1999 and 2000 and the snow disaster of 1997. These expenditures will represent final closeout of flood events from 1993 to 1996 and the snow event of 1997. Significant costs for the 1997 through 2000 flood events will also be paid prior to the end of the current biennium.

In previous biennia, the total loan repayments through the deficiency appropriation process have totaled about \$19 million.

II. Background

During the 93-95, 95-97, 97-99 and 99-01 Biennia, North Dakota was impacted by serious flood disasters. As well, we experienced an extremely difficult winter in 1996-97. These major events resulted in nine presidential disaster declarations that began during the summer of 1993 and continued on through the summer of 2000. In fact, on December 29, 2000 we requested and received our 10th major Presidential Disaster Declaration in eight years to help cover losses incurred by Rural Electric Cooperatives in early November 2000. This type of disaster activity is a phenomenon unprecedented in a state like North Dakota. In the past 35 years, less than 20 states have had more than 10 major Presidential Disaster Declarations.

The Division of Emergency Management, with approval by the Emergency Commission, has secured appropriate loan authority from the Bank of North Dakota to cover the state's share of the costs.

Along with Presidential Disaster Declarations comes the implementation of various FEMA disaster programs requiring non-federal cost sharing. These programs include the Individual and Family Grant (IFG) Program, Public Assistance (PA) Program and Hazard Mitigation Grant (HMGP) Program, all of which, are cost sharing programs with state participation. The cost share for these programs is as follows:

IFG – 75% federal share – 25% state share

PA – 75% federal share – 15% local share – 10% state share

HMGP – 75% federal share – 15% local share – 10% state share

Due to the magnitude of the 1993, 1997 and 1999 flood disasters, the federal government changed the cost share for the Public Assistance Program to a 90% federal and 10% non-federal (5% state & 5% local). It appears the 2000 flood may also reach the threshold required to change the cost share from 75/25 to 90/10. Additionally, in response to the 1997 flood, the federal government changed the cost share on emergency work performed by federal agencies to 100%. Also, Governor Schafer, in response to the 1997 catastrophic flood, declared that the state pick up the local share for all Public Assistance Program recovery work for all public entities within the city of Grand Forks.

Since the disasters began in 1993, North Dakota has received about \$800 million in federal disaster assistance through the FEMA Presidential Disaster Declaration process. Of this amount, we have identified \$426.8 million from FEMA's Individual and Family Grant (IFG), Public Assistance (PA) and Hazard Mitigation Grant Program (HMGP) on attachment I.

Additional federal assistance sources from these disaster declarations include over \$225 million in SBA loans to businesses and individuals and about \$150 million in direct federal agency response and recovery expenditures to help communities and individuals.

Agricultural assistance programs through Farm Service Agency (FSA) are administered directly by FSA and the user.

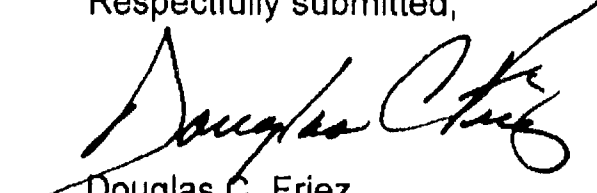
III. Conclusion

This deficiency appropriation will allow the State, through the Division of Emergency Management to repay the Bank of North Dakota for funds used as of the end of the 99-01 Biennium. As previously indicated, these funds were used to cover portions of the state's share of the 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 floods and the 1997 snow Presidential Disaster Declarations that will have been paid out during this biennium.

Currently, our staff has closed out the PA and IFG Programs for the 1993, 1994, 1995 and 1996 flood disasters and the PA Program for the 1997 snow disaster. We expect closeout of the 1997 and 1998 disasters within the next biennium. Closeout of the 1999 and 2000 disasters are expected within about 2 to 3 years. Disaster closeouts often time take several years to complete because of the complexity of repair projects which are dependent on seasonal construction limitations, additional flooding, national environmental assessment requirements, as well as availability of contractors, materials and supplies.

In the future we expect the state costs for final closeout of all existing disasters to be an additional \$10 million.

Respectfully submitted,



Douglas C. Friez

Attachment I

Year	Disaster	Federal Funds Authorized	State Match%	State Share	Total State & Federal
93	1001 IFG	\$ 770,708.00	25%	\$ 256,902.00	\$ 1,027,608.00
	1001 PA	\$ 8,010,484.00	5%	\$ 421,804.42	\$ 8,432,088.42
	1001 HM	\$ 4,384,456.00	10%	\$ 484,939.56	\$ 4,849,395.56
		\$ 13,145,648.00		\$ 1,163,445.98	\$ 14,309,091.98
94	1032 PA	\$ 3,385,043.00	10%	\$ 376,115.89	\$ 3,761,158.89
	1032 HM	\$ 540,471.00	10%	\$ 60,052.33	\$ 600,523.33
		\$ 3,925,514.00		\$ 436,168.22	\$ 4,361,682.22
95	1050 PA	\$ 9,603,861.00	10%	\$ 1,087,095.67	\$ 10,670,956.67
	1050 HM	\$ 1,929,451.00	10%	\$ 214,383.44	\$ 2,143,834.44
		\$ 11,533,312.00		\$ 1,281,479.11	\$ 12,814,791.11
96	1118 PA	\$ 9,782,659.00	10%	\$ 1,086,962.11	\$ 10,869,621.11
	1118 HM	\$ 1,326,793.00	10%	\$ 147,421.44	\$ 1,474,214.44
		\$ 11,109,452.00		\$ 1,234,383.56	\$ 12,343,835.56
97	1157 PA	\$ 14,593,993.00	10%	\$ 1,621,554.78	\$ 16,215,547.78
		\$ 14,593,993.00		\$ 1,621,554.78	\$ 16,215,547.78
97	1174 IFG	\$ 12,000,000.00	25%	\$ 4,000,000.00	\$ 16,000,000.00
	1174 PA	\$ 210,624,759.00	5%	\$ 11,085,513.63	\$ 221,710,272.63
	1174 HM	\$ 35,994,370.00	10%	\$ 3,999,374.44	\$ 39,993,744.44
		\$ 258,619,129.00		\$ 19,084,888.08	\$ 277,704,017.08
98	1220 IFG	\$ 311,079.00	25%	\$ 103,693.00	\$ 414,772.00
	1220 PA	\$ 9,677,797.00	10%	\$ 1,075,310.78	\$ 10,753,107.78
	1220 HM	\$ 750,000.00	10%	\$ 83,333.33	\$ 833,333.33
		\$ 10,738,876.00		\$ 1,262,337.11	\$ 12,001,213.11
99	1279 IFG	\$ 1,400,000.00	25%	\$ 466,666.67	\$ 1,866,666.67
	1279 PA	\$ 45,560,000.00	5%	\$ 2,397,894.74	\$ 47,957,894.74
	1279 HM	\$ 4,625,000.00	10%	\$ 513,888.89	\$ 5,138,888.89
		\$ 51,585,000.00		\$ 3,378,450.29	\$ 54,963,450.29
2000	1334 IFG	\$ 2,808,750.00	25%	\$ 936,250.00	\$ 3,745,000.00
	1334 PA	\$ 40,000,000.00	10%	\$ 4,444,444.44	\$ 44,444,444.44
	1334 HM	\$ 8,808,482.00	10%	\$ 978,720.22	\$ 9,787,202.22
		\$ 51,617,232.00		\$ 6,359,414.67	\$ 57,976,646.67
		\$ 426,868,154.00		\$ 35,822,121.79	\$ 462,690,275.79

HB 1026

**HOUSE BILL 1026
SENATE APPROPRIATIONS COMMITTEE
HARVEST ROOM
FRIDAY FEBRUARY 9, 2001 - 10:00 AM**

Mr. Chairman and members of Senate Appropriations, I am Doug Prehal, Director of North Dakota Parks and Recreation Department. My purpose for this testimony is to provide background for the deficiency payment request contained in HB 1026.

The \$132,000 requested relates to relocation and construction of a boat ramp at Grahams Island State Park on Devils Lake. This project was included on a Federal Emergency Management Agency (FEMA) comprehensive list of facilities identified and approved for relocation due to the rising water levels of Devils Lake. These costs include total project scope including access road, parking, lighting, dock and the planning, engineering and construction management fees.

FEMA agreed to fund the relocation of all Devils Lake State Park facilities located below the elevation of 1460 msl. The existing boat ramp was under water during this assessment and an impromptu, temporary steel ramp provided access. When the final approved facility list arrived from FEMA department plans were put into motion for recovery. Contact was first made to FEMA, written and phone calls, inquiring about procedures or requirement prior to initiating facility recovery. They were told the boat ramp was a high priority since no improved access existed on the west lake. No response was received. Engineering and design proceeded along with cultural and environmental clearance for the project due to grant expenditure deadlines. Construction plans and bidding continued as did further contact to FEMA and contracts were awarded but construction start up held. After repeated contact and no response, construction proceeded, the project was built and planning continued for the remainder of the park system.

When the reimbursement requests were submitted to FEMA, project repayment was denied by FEMA on the grounds of improper cultural clearance and an environmental review. FEMA was responsible for initiating the environmental study or deferring to the federal landowner, Bureau of Reclamation (BOR). Repeated documents and testimony from BOR staff would not change the FEMA decision including reference to FEMA failure to reply to agency requests for procedures. Over time, and through many discussions, FEMA held to the denial for reimbursement based on the department proceeding without a federal environmental review prior to development.

The department proceeded with the boat ramp construction in a responsible manner, conducted proper clearances with the federal landowners involvement resulting in a safe facility for park users. At the time of recovery of park facilities many fishermen were using rural approaches and road embankments to launch boats. With the approved funding to provide a safe facility, and with repeated public demand for that facility we appropriately proceeded to replace the ramp.

FEMA did eventually initiate an environmental assessment for the entire park after construction of the ramp and curtailed further construction until the assessment was final. That planning took two years to complete and continued redevelopment of the park finally began this past summer.

We ask for approval of the requested deficiency payment due to the presented circumstance. This payment will enable the department to balance the FEMA grant line drawn upon to fund project construction costs. That grant fund line has a due to the general fund for the requested amount. I will be pleased to answer any questions the committee may have.

Parks
&
Rec



North Dakota Parks & Recreation Department

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Douglas A. Prchal, Director

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• Little Missouri-Killdeer

Devils Lake

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• Black Tiger Bay

• Graham's Island

• The Narrows

• Shelves Grove

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Yorba River

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• Elmwood-Groton

May 18, 1998

Janell Quinlan

Public Assistance Officer

Division of Emergency Management

Box 5511

Bismarck, ND 58506-5511

Subject: Disaster Recovery Projects from 1997 Disaster 1174

Dear Ms. Quinlan:

Earlier this year our agency received the finalized DSR's for projects on state park lands at Devils Lake. The reports were listed under:

DSR # 54246 - Facility Relocation/Shelver's Grove Recreation Area

DSR # 6273 - Facility Relocation/Graham's Island State Park

DSR # 6262 - Facility Relocation/The Narrows Recreation Area

DSR # 6260 - Facility Relocation/Black Tiger Bay Access Area

As per requirements of accessing the re-imbursement funds associated with these DSR's the following is provided regarding the ND Parks and Recreation Departments' plan for relocation or replacement of facilities:

SHELVERS GROVE RECREATION AREA:

Summary of Work: The shop facility at Shelver's Grove will be relocated as part of this project. Additionally, sewer, water and roads will be relocated. The following will be the categories used at Shelver's Grove during the relocation process. Engineering fees will also be incurred during the relocation and infrastructure projects:

- SG - Facility Relocation
- SG - Infrastructure
- SG - Engineering

GRAHAM'S ISLAND STATE PARK:

Summary of Work: Graham's Island projects include construction of a 40 - 50 unit campground, comfort station/shower facility, boat ramp and parking area, relocation of sewer/water/electrical distribution system, camping cabin construction, relocation of one security residence, engineering/archeology and park trail construction. The projects will be listed as follows:

- GISP - Campground construction
- GISP - Boat Ramp/Parking
- GISP - Infrastructure
- GISP - Camping Cabin Construction
- GISP - Security Residence Relocation
- GISP - Engineering/Archeology
- GISP - Park Trail Construction

BLACK TIGER BAY ACCESS AREA:

Summary of Work: The Department will be building up the access road and parking area at this site. Additional rip-rap will be purchased to alleviate erosion on the access road and near the boat ramp. The Department will incur engineering costs associated with survey work, grade staking and analysis of fill and gravel. The ND Game and Fish Dept. had participated in the initial construction of this site through a cost share program. The ND Game and Fish Dept. has notified ND Parks and Recreation that they want the original investment be returned to their Department. Additional signing, waste receptacles, etc. will be included in the project work. In summary the Black Tiger Bay project will be categorized as follows:

- BTB - Roads/Parking
- BTB - Rip - Rap
- BTB - Miscellaneous
- BTB - Engineering
- BTB - ND Game and Fish Department Re-imburement

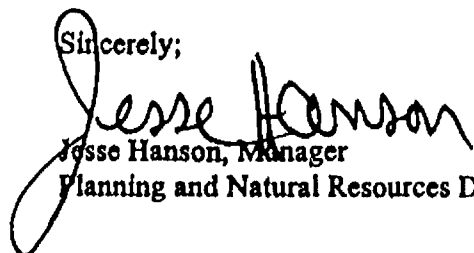
THE NARROWS:

Project Summary: This recreation area is inundated in 10 to 13 feet of water. The agency will not replace any facilities at this site. The re-imburement for The Narrows will be partially transferred to Graham's Island State Park and a portion will be proposed to be transferred to another state park. The amount transferred to another state park is pending upon totaling up the Department's total financial commitment to flood repair and associated Department incurred costs at the Devils Lake recreation sites.

The ND Parks and Recreation Department is currently in the planning stages for relocating the facilities effected by rising water levels at Devils Lake. Some of these relocation of facility projects are schedule to commence early this summer. The magnitude of the facility relocation is such that we are not going to be able to complete the projects by the deadline of October 7, 1998 as per your 3/9/98 letter. Our agency intends to file for an extension on the project work. I will be sending a follow-up letter later regarding the need for an extension.

This sums up the use of the FEMA disaster reimbursement for facility relocation. At this point I will need to know from you if this is sufficient information for you so we may proceed with the projects. If you have any questions on this project summary, do contact me at your convenience. I will await your reply on the proposed dispersion of the relocation funds.

Sincerely;


Jesse Hanson, Manager
Planning and Natural Resources Division



North Dakota Parks & Recreation Department

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Douglas A. Prchal, Director

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• Elmwood-Grafton

July 8, 1998

Janell Quinlan
Public Assistance Officer
ND Division of Emergency Management
Box 5511
Bismarck, ND 58506

Subject: Devils Lake State Parks Disaster Recovery Project

Dear Janell:

This letter is sent to inquire on the status of the approval of the projects sent to your office as per requirements to access FEMA funds associated with DSR's 6260,6262,6273 and 54246 all of which are covered under supplement #8 for reimbursement from FEMA.

Our agency has let and approved bids for relocation of the Graham's Island boat ramp. We had no option for providing lake access in this park and have moved ahead with this project. This is one of the projects which we had sent in for approval last spring. We have progressed with plans for other projects listed in our relocation plan but, are holding off on any further developments until we hear from your office.

I am sending this letter because time is critical for us. The biggest project for us would be the relocation of the camping facilities at Graham's Island. In order to get the campground in place for the summer of 1999 use, we have to initiate construction this fall. Plans, specifications, bid letting and construction have to commence late this summer for us to be able to accommodate the public in 1999.

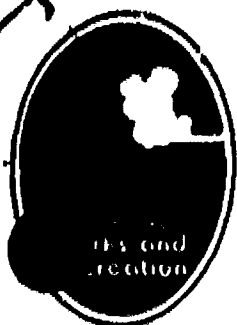
It is urgent that the development plan we submitted be acted upon as soon as possible. I see by the supplement a completion date of October of 1998 accompanys this supplement. Obviously, we will be asking for an extension to this date but, more critical is that we know where we are with approval on these projects from the FEMA office.

Please provide me with any information you may have regarding the status of our relocation plans for this park system. If you need our assistance in contact the FEMA office, do not hesitate to let me know. The Director of the ND Parks and Recreation Department is willing to contact the FEMA representatives to relay our need to be able to move on the remaining projects for this park system.

Sincerely,

Jesse Hanson, Coordinator
Planning and Natural Resources Division

c. Doug Prchal, Director



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• Grandwood-Crofton

October 26, 1998

Janelle Quinlan
ND DEM Public Assistance Officer
ND Division of Emergency Management
Box 5511, Bismarck, ND 58506-5511

Subject: Appeal of FEMA declaration of ineligibility of Boat Ramp-
Parking Area project / Graham's Island State Park

Dear Ms. Quinlan:

I have received your 10/16/98 letter regarding FEMA's response to our agency plans for the improved projects associated with the Devils Lake State Park system. Our request for the improved projects relate to locating the replacement recreational facilities as per Disaster 1174 (1997).

In the 10/16/98 letter from your office, we received notice that FEMA has declared the Graham's Island Boat Ramp and Parking Area project ineligible for FEMA funding due to the project being completed prior to FEMA approval.

The ND Parks and Recreation Department in this letter is requesting an appeal of FEMA's decision related to this project. We ask for reconsideration based on the following background information.

Our agency decision to initiate the construction of this boat ramp and parking facility was determined on the basis of a critical public safety need. During recent years of elevated waters on Devils Lake, the fishing and boating public have lost key access ramps to the lake, especially in the west end. At the same time, the rise in lake levels has produced a tremendous fishery. The vast size of present day Devils Lake presents numerous challenges to the boating public and as well to rescue personnel, law enforcement and public information centers. At the same time as recreational use of Devils Lake expanded, all boat ramps in west end of the lake were inundated by the summer of 1997, including the ramp at Graham's Island. With no public ramps available, boaters were left with the limited options of launching off of road ditches, abandoned roadways and fields.

An accidental drowning in the spring of 1998 on west Devils Lake attributed to lack of lake knowledge by the boaters brought home the need to re-establish the public ramp at Graham's Island. This accident occurred when three people lost control of their fishing boat in rough waters in west Devils Lake. While the individuals launched their boat out of Graham's Island, they launched off of an unauthorized

launching area. Fortunately, our park staff on routine inspections noticed the boaters pickup and trailer and called in a potential problem to local officials. The drowning victim was carried away by strong wave action and was lost. The quick response by our staff resulted in what has been determined the saving of the 2nd person in the accident. This accident prompted our agency to proceed with the ramp re-locating project to provide proper launching, parking, security and public information. While we cannot determine if having a ramp in place would have resulted in different results in this incident we are confident that replacing an official launching ramp provides one more step towards a local network of facilities, public information and coordination to avert an accident of this type happening in the future.

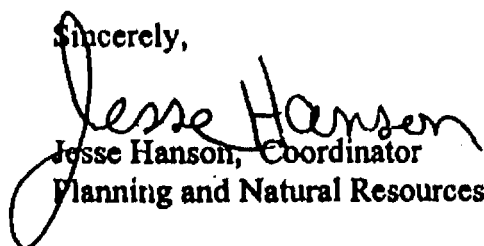
Ramp users at Graham's Island receive access to weather information disseminated by park staff and posted warnings about hazards and obstacles associated with the higher water levels. Staff regularly inspect the numbers of vehicle/boat trailers in parking lots to monitor lake use in times of inclement weather or approaching storm systems.

Our reason for proceeding with the relocation of the ramp facility prior to FEMA approval of the project was in our opinion an emergency need for Devils Lake. We determined re-establishing the ramp while often viewed as a public convenience was more a safety and coordination need in order to provide safe access on west Devils Lake. We see it as a key component to provide launching for rescue and law enforcement individuals and as an advertised public ramp at a central location provides pertinent weather conditions, hazards and other lake information.

As a recreational agency we felt it was our obligation to get this facility up and running as soon as possible to add a reasonable measure of public safety in the west end of the lake. It is for this reason that we request an appeal of the decision by FEMA to reject this project for relocation funding. We believe the relocation and construction should receive funding assistance from FEMA considering circumstances.

I request you consider this appeal and forward it to the proper FEMA representatives. If you have any questions on our appeal, please contact me at your convenience.

Sincerely,


Jesse Hanson, Coordinator
Planning and Natural Resources Division

**House Bill 1026
Senate Appropriation Hearing
Harvest Room
February 9, 2001 ; 10:15AM**

Good morning Mr. Chairman and members of the Senate Appropriations Committee.

I'm Sheila Peterson, Director of the Fiscal Management Division of OMB.

I am here today to request your consideration of an amendment to the deficiency bill.

Attached to my testimony is a copy of two sections of statute regarding a 10 year property tax exemption for carbon dioxide pipelines built after 1996.

As you know, construction of a CO₂ pipeline has been completed and the first in lieu of tax payments are due by March 1.

The State Treasurer's Office is to make these payments. Therefore, the proposed amendment is to add \$783,413 to the appropriation of the State Treasurer's Office for the purpose of making these payments by March 1 of this year, as statute requires.

Mr. Chairman, I'd be happy to answer any questions.

57-06-17.1. Carbon dioxide pipeline exemption.

Property, not including land, is exempt from taxation during construction and for the first ten full taxable years following initial operation if it consists of a pipeline, constructed after 1996, and necessary associated equipment for the transportation or storage of carbon dioxide for use in enhanced recovery of oil or natural gas.

Source: S.L. 1991, ch. 652, § 1; 1997, ch. 484, § 1.

57-06-17.2. Payments in lieu of taxes.

Carbon dioxide pipeline property described in section 57-06-17.1 is subject to payments in lieu of property taxes during the time it is exempt from taxation under section 57-06-17.1. For the purpose of these payments, carbon dioxide pipeline property described in section 57-06-17.1 must be valued annually by the state board of equalization in the manner that other pipeline valuations are certified. The county auditor shall calculate taxes on the carbon dioxide pipeline property described in section 57-06-17.1 in the same manner that taxes are calculated on other pipeline property. Not later than December twenty-sixth of each year, each county auditor shall submit a statement of the amount of taxes that would have been assessed against carbon dioxide pipeline property, exempted under section 57-06-17.1, to the state treasurer for payment. The state treasurer shall make the required payment to each county not later than March first of the following year, and the county auditor shall distribute the payments to the political subdivisions in which the exempt pipeline property is located.

Source: S.L. 1991, ch. 652, § 2.

Office of Management and Budget
February 12, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1026

Page 2, after line 15 insert:

"Subdivision 8.

STATE TREASURER'S OFFICE

Pipeline in Lieu of Taxes	<u>\$783,413</u>
Total general fund appropriation	\$783,413"

Page 2, line 16, replace "\$19,224,108" with "\$20,007,521"

Renumber accordingly

House Bill 1026
Submitted by
James M. Hughes, Superintendent, North Dakota Highway Patrol

Time Frame	Motor Pool Rate	Provides	
99-01 Budget	36 cents per mile	2300 miles per month per officer	On budget – all is going as planned for
April 1, 2000 thru August 31, 2000 (5 months)	36.5 cents per mile 1.4 percent increase	2300 miles per month per officer	<ul style="list-style-type: none">• First increase over Legislature budgeted amount since Gulf War• Understood this may be temporary and go down to 36 cents in July• Absorbed the increase• Did not change mileage (2300)• Busy months (summer)
September 1, 2000 thru November 30, 2000 (3 months)	50 cents per mile 39 percent increase \$380,000 short at 2300 miles per month per officer last 10 months of biennium	Short Term	<ul style="list-style-type: none">• Cut officers to 1800 miles per month (22 percent reduction)• Double up when possible• Car pool• Cut training• Stationary patrol• City response to calls (not proactive)• Weather was good• 60,000 miles of roads not covered per month
Last week of November prior to Thanksgiving	50 cents per mile 39 percent increase		2100 miles per month per officer
CURRENT SITUATION			
January 8 Six months left of this biennium	50 cents per mile 39 percent increase	???	<ul style="list-style-type: none">• If we go back to 2300 miles per officer per month• If the rate stays 50 cents• We need \$254,000

HB 1026

HB 1026

**SENATE APPROPRIATIONS COMMITTEE
SENATOR DAVID E NETHING, CHAIRMAN
FEBRUARY 20, 2001**

**WARREN R. EMMER, DIRECTOR
DEPARTMENT OF CORRECTIONS AND REHABILITATION
FIELD SERVICES DIVISION
PRESENTING TESTIMONY RE: HB 1026**

The Field Services Division is requesting an amendment to HB 1026 to increase line 72, Victim Services Program's budget special fund authority by \$250,000. This additional authority would give the Division the ability to pay Crime Victim's compensation claims that have been and will be presented for the balance of the biennium. This additional special fund authority is needed due to the following:

1. The Crime Victims Compensation grant program has not had an increase in appropriation for a number of sessions. It is currently set at \$426,403.
2. The last three bienniums the Division carried forward claims into the new biennium since we had expended all of our appropriated authority for this program. Amounts carried forward: (95 -97 \$59,000); (97-99 - \$34,000); (99-01 - 56,000).
3. The Division's original appropriation of \$426,403 has been supplemented with a \$100,000 transfer from the Crime Victim Act fund for a total of \$526,403 of authority this biennium. The Division has expended \$515,392 for CVC claims through November 30, 2000. At the rate of expenditures through November 30, 2000 our projected deficit would be \$212,219. Without this additional authority we would be forced to carry that amount forward into the new biennium.
4. The additional special fund authority would be paid for through the utilization of unspent special funds from other lines within the Division.

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Crime Victims

H.C. 1000

2001 ENGROSSED HOUSE BILL NO. 1026
DEFICIENCY APPROPRIATION BILL
ARREST AND RETURN OF FUGITIVES AND PROSECUTION WITNESS FEES
OFFICE OF ATTORNEY GENERAL
KATHY ROLL, FINANCIAL ADMINISTRATOR

The Office of Attorney General is requesting the Senate's support of 2001 Engrossed House Bill No. 1026 relating to Arrest and Return of Fugitives and Prosecution Witness Fees expenses for the 1999-01 biennium. As amended in the House, the bill provides moneys for anticipated Arrest and Return of Fugitives and Prosecution Witness Fees for the remainder of this biennium.

ARREST AND RETURN OF FUGITIVES

For the 1999-01 biennium \$10,000 was appropriated for Arrest and Return of Fugitives expenses. The 1999 Legislative Assembly included the following legislative intent in 1999 Senate Bill No. 2003 concerning Arrest and Return of Fugitives expenses:

"Section 8. LEGISLATIVE INTENT – ARREST AND RETURN OF FUGITIVES – EMERGENCY COMMISSION REQUEST. It is the intent of the fifty-sixth legislative assembly that the attorney general submit a request to the emergency commission for additional appropriation authority from the state contingencies appropriation for reimbursing counties for costs relating to the arrest and return of fugitives if the funding provided for this purpose in section 1 of this Act is not adequate for the biennium beginning July 1, 1999, and ending June 30, 2001. "

As of February 7, 2001, Arrest and Return of Fugitives expenses have totaled \$8,987, leaving \$1,013 to reimburse counties for arrest and return of fugitive expenses for the remainder of the 1999-01 biennium. Arrest and Return of Fugitives expenses vary greatly in each case. Some counties send their own staff to retrieve fugitives, which normally results in minimal expense reimbursement. Other counties are unable to send their staff and utilize a company specializing in retrieval of fugitives. In these cases, the cost of one extradition can range from \$1,000 – 3,000. Arrest and Return of Fugitives expenses totaled \$30,829 for the 1997-99 biennium and \$13,085 for the 1995-97 biennium.

Since the number of extraditions and the associated costs cannot be predicted with accuracy, an average of the current biennium's expenses is used to arrive at the \$7,000 General Fund request before this committee. A copy of the relevant statute requiring these payments is attached.

PROSECUTION WITNESS FEES

Prosecution witness fees and expenses are reimbursed for district court criminal and juvenile court cases. For the 1999-01 biennium \$100,000 was appropriated for this purpose. As of December 30, 2000, there are **no moneys available** to reimburse district court prosecution witness fees and expenses. Based on average usage, it appears an additional \$40,000 in General Fund moneys will be needed to reimburse prosecution witness fees for the remainder of the 1999-01 biennium. Prosecution witness fees totaled \$166,501 for the 1997-99 biennium and \$175,422 for the 1995-97 biennium. A copy of the statutes requiring these payments is attached.

Fugitives
Witness
Fees

Source: S.L. 1985, ch. 364, § 21.

29-30.3-22. (5-102) Confinement. An agent who has custody of a person pursuant to an order to transfer custody issued in any state may request confinement of the person in any detention facility in this state while transporting the person pursuant to the order. Upon production of proper identification of the agent and a copy of the order, the detention facility shall confine the person for that agent. The person is not entitled to another extradition or remission proceeding in this state.

Source: S.L. 1985, ch. 364, § 22.

29-30.3-23. (5-103) Cost of return. Unless the states otherwise agree, the state to which the person is being returned shall pay the cost of returning the person incurred after transfer of custody to its agent.

Source: S.L. 1985, ch. 364, § 23.

29-30.3-24. (5-104) Applicability of other law.

1. A person returned to this state is subject to the law of this state as well as the provisions of law that constituted the basis for the return.
2. This chapter does not limit the powers, rights, or duties of the officials of a demanding, or requesting, state or of this state.

Source: S.L. 1985, ch. 364, § 24.

29-30.3-25. (5-105) Payment of transportation and subsistence costs. If a person returned to this state is found not to have violated the law that constituted the basis for the return, the magistrate may order the county or state to pay the person the cost of transportation and subsistence to:

1. The place of the person's initial arrest; or
2. The person's residence.

Source: S.L. 1985, ch. 364, § 25.

29-30.3-26. Payment of expenses. When the charged offense is a felony, the expenses of returning the demanded person to this state must be paid out of the state treasury, on the certificate of the governor and warrant of the county auditor; and in all other cases they must be paid out of the county treasury in the county in which the crime is alleged to have been committed. The expenses are the fees paid to the officers of the state under sections 44-08-04 and 54-06-09.

Sources: S.L. 1969, ch. 289, § 1; 1973, ch. 257, § 24; 1981, ch. 329, § 2; 1991, ch. 326, § 98; 1999, ch. 292, § 13.

section 13 of chapter 282, S.L. 1999, became effective August 1, 1999.

The 1991 amendment of this section became effective January 2, 1995.

Effective Date.

The 1999 amendment of this section by

27-20-48. Guardian ad litem.

No Duty to appoint.

Where the juvenile's parents were at all relevant times present with the juvenile and represented his interests, the juvenile court

did not have a duty to appoint a guardian ad litem. *Deidwe v. R.I.B.*, 1998 ND 15, 575 N.W.2d 420 (1998).

27-20-48.1. Appointment of legal guardian.

1. In a proceeding under chapter 30.1-27, the court may:
 - a. Without terminating parental rights, appoint a fit and willing relative or other appropriate individual as the child's legal guardian if the court has determined that a lawful basis exists for terminating parental rights, but the child is unlikely to be placed for adoption; or
 - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian if the child has not been placed for adoption within twelve months after a termination of all parental rights.
2. An individual appointed as a legal guardian has:
 - a. If there is a parent with remaining parental rights, the rights of a legal custodian; and
 - b. If there is no parent with remaining parental rights, the rights of a legal custodian and the authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.

Sources: S.L. 1999, ch. 282, § 14.

Effective Date.

This section became effective August 1, 1999.

27-20-46. Costs and expenses for care of child.

1. The following expenses are a charge upon the funds of the county upon certification thereof by the court:
 - a. The cost of medical and other examinations and treatment of a child ordered by the court.
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent.
 - c. The cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court unless the child is in the legal custody of a state agency.
2. The supreme court shall pay reasonable compensation for services and related expenses of counsel appointed by the court for a party and reasonable compensation for a guardian ad litem. The attorney shall pay the witness fees, mileage, and travel expense of witnesses incurred in the proceedings under this chapter in the amount and at the rate provided for in section 31-01-16. Expenses of the state include the cost of any necessary transportation for medical

31-01-15

JUDICIAL PROOF

and case is "material and necessary" justifying issuance of summons directing attendance of witness under Uniform. act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, 16 A.L.R.4th 771.

Court, witnesses (other than expert) in state criminal prosecution, 16 A.L.R.4th 352.

Calling and interrogation of witnesses by court under Rule 11 of the Federal Rules of Evidence, 39 A.L.R. Fed. 498.

31-01-15. Witnesses exempt from suit out of county. A person shall not be liable to be sued in a county in which that person does not reside by being served with a summons in such county while going, returning, or attending as a witness in obedience to a subpoena.

Source: C. Civ. P. 1877, § 480; R.C. 1895, § 5662; R.C. 1899, § 5662; R.C. 1906, § 7285; C.L. 1913, § 7880; R.C. 1942, § 31-0115.

Derivation: Harston's (Cal.) Practice 3087.

Cross-References.

Witness passing through state to reside in other state, see § 31-03-31.

Common-Law Rule Exemption.

A nonresident of the county or state is exempt from the service of all forms of writs process during his attendance before a judicial tribunal and for the time reasonably required in going to or returning from place of trial.

Hicks v. Beauchet, 7 N.D. 428, 15 N.W. 593 (1898).

Collateral References.

Process = 120.

32 Am. Jur. 3d Process, § 146, 144.

72 C.J.S. Process, § 30.

Other than strictly judicial proceedings. Immunity from service of process if nonresident witness appearing in, 36 A.L.R.2d 1353.

Relationship: immunity from service of process is affected by relationship between subject matter of litigation in which process was issued, and litigation which nonresident served with attending, 34 A.L.R.2d 421.

31-01-16. Compensation and mileage and travel expense of witness.

A witness in a civil or criminal case is entitled to receive:

1. A sum of twenty-five dollars for each day necessarily in attendance before the district court or before any other board or tribunal, except municipal court.
2. A sum for mileage and travel expense reimbursement equal to the reimbursement rates provided for state employees in sections 44-08-04 and 54-06-08.

In all criminal cases in district court, the attorney general shall pay prosecution witness fees and expenses, and the supreme court shall pay other witness fees for indigents and expenses. Prisoners may not be compensated as witnesses under this section.

Source: Pol. C. 1877, ch. 89, § 35; R.C. 1906, § 2087; R.C. 1908, § 2087; S.L. 1905, ch. 88, § 1; R.C. 1908, § 2816; C.L. 1913, § 3535; R.C. 1940, § 31-0116; S.L. 1931, ch. 214, § 1; 1937 Supp., § 31-0116; S.L. 1938, ch. 265, § 1; 1973, ch. 259, § 1; 1976, ch. 291, § 1; 1981, ch. 320, § 77; 1987, ch. 74, § 2; 1987, ch. 399, § 1; 1989, ch. 362, § 4; 1991, ch. 326, § 130; 1993, ch. 335, § 1; 1995, ch. 54, § 21.

Effective Date.

Section 21 of chapter 54, S.L. 1995 became effective August 1, 1996.

Cross-References.

Administrative Agencies Practice Act. witness fees and mileage, see § 28-32-09.

Another state, witnesses summoned to or from, see §§ 31-03-27, 31-03-28.

Coroner's inquests, allowance of witness fees in, see § 11-19-06.

Execution, witness fees in proceedings supplementary to, see § 25-26-11.

SI-01-18.1. Witness fees and expenses of municipal police officers. Police officers of municipalities in this state shall be entitled to and be paid the witness fees and expenses allowed by law for other witnesses, when such officers are off duty and are subpoenaed to testify in actions where a plea of guilty was not entered. Police officers of municipalities in this state, appearing as witnesses while on duty, shall be compensated by their employer at the regular rate for their position.

Source: S.L. 1961, ch. 236, § 1; 1976, ch. 291, § 2.

SI-01-18.2. Compensation of municipal court witnesses. A witness in municipal court is entitled to receive compensation for time necessarily spent in municipal court. The governing body of the city shall establish the amount of compensation, but in no instance may compensation be more than twenty-five dollars, or less than five dollars, for each day necessarily spent in municipal court.

Source: S.L. 1975, ch. 301, § 3; 1980, ch. 370, § 1; 1980, ch. 407, § 1.

SI-01-18.3. Duplicate witness fees not permissible. A witness who is subpoenaed in two or more cases of the same party shall be entitled to one compensation only from such party for the same day's attendance or travel.

Source: S.L. 1980, ch. 194, § 1; R.C. 1886, § 2098; R.C. 1886, § 2098; R.C. 1903, § 2619; C.L. 1913, § 3638; R.C. 1943, § 61-0117.

SI-01-18.4. Expenses of witness paid by city or state upon court or in criminal or municipal court action. When a person, as a witness in a criminal or municipal court action, appears before a magistrate, grand jury, or court, upon a subpoena or in pursuance of an undertaking and it appears that the person:

1. Has come from a place outside the county; or
2. Is poor and unable to pay the expenses of such attendance,

the court, if the attendance of the witness is upon a trial, by order upon its minutes, or in any other case, the judge, by a written order, may direct the state in district court cases or the city in municipal court cases to pay the witness a reasonable sum or as specified in the order for the necessary expenses of the witness's attendance. Upon the production of the order or a certified copy thereof, the state or city, to whichever entity the order is directed, must pay the witness the sum specified. In district court cases, the attorney general shall pay prosecution witness expenses and the supreme court shall pay other witness expenses.