

2009 HOUSE APPROPRIATIONS

HB 1487

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1487

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: January 28, 2009

Recorder Job Number: 7952 and 7953

Committee Clerk Signature

Holly N. Sand

Minutes:

Chm. Svedjan called the meeting of the Full House Appropriations Committee to order. Clerk, Holly Sand, called the roll.

Chm. Svedjan explained that we will be hearing eight bills today. Chm. Svedjan opened the hearing on HB 1487.

Rep. Al Carlson, District 41, Fargo approached the podium. Rep. Carlson read from a letter he received from U. S. Rep. David Obey, House Appropriations Committee Chairman. (2:39)

The letter says that "In the next two weeks Congress will be considering the American Recovery and Reinvestment Bill of 2009. This package is the first crucial step in a concerted effort to save three to four million jobs, jumpstart our economy and begin the process of transforming into the 21st century with \$275 billion in economic recovery cuts and \$550 billion in thoughtful and careful targeted prior investments with unprecedented accountability measures." The areas the package would contain that we would see for North Dakota include clean, efficient American energy, science and technology, modernizing roads, bridges, transit and waterways, education for the 21st Century Code, tax cuts to make work pay and create jobs, lowering health care costs, helping workers hurt by the economy and saving public sector jobs and protecting vital services.

Rep. Carlson also said that he has received a blueprint as to what this means to North Dakota in terms of dollars. (4:03) The latest package indicates that North Dakota would receive \$634, 494, 000. The categories are fiscal stabilization, Title I, special education, educational technology, K-12 construction, childcare, highways, clean water, drinking water, weatherization, and state energy program. Each of these has various amounts of money. There is also a Medicaid FMAP hold harmless clause that gives \$2.5 million the first year and \$4.7 million the second year. There's a 4.9 percent increase in FMAP which amounts to \$29 million the first year and \$31 million the second year. The numbers are still in flux as discussions continue in DC. The money will come as soon as two weeks from now. The target date in Feb. 14, 2009.

Rep. Carlson read Section 1 of the bill to the Committee. The money cannot be spent until appropriated by the legislature. The problem is creating programs that cannot be kept up after the money goes away. Rep. Carlson said there may be people who say that the money has to come directly to them, but he said the money should still be appropriated by this assembly. He explained that he receives updates on the stimulus package which is changing all the time.

Chm. Svedjan: We have some idea as to the dollars coming in, target receipt dates, and both of those things may happen or there may be changes made.

Rep. Carlson: I think we should be prepared and have legislation in place to properly be able to handle the money when it shows up. (7:08)

Chm. Svedjan: This bill requires that the legislature appropriate that money before it can be used. Do you have any sense as to whether or not there will be strings attached to that money? Will there be requirements that say you can't supplant state spending that's already being spent for a particular purpose among that list of things you gave us?

Rep. Carlson: It doesn't say that, but this (referring to the document he referenced) is just a summary. Their intent is to enhance and stimulate the economy.

Rep. Meyer: If we get done with session March 15 and the stimulus package doesn't come until April, then in reality we couldn't do anything with the money until next session. (9:27)

Rep. Carlson: If we had excess days and we anticipated this coming there are procedures where we could recess and come back. The Governor could call us in. He also said that there are tax cuts built in.

Rep. Carlson concluded his testimony.

William Goetz, Chancellor, North Dakota University System approached the podium and distributed written testimony (Attachment A). Mr. Goetz prefaced his testimony by saying that we are not only dealing with fiscal implications in terms of how we address them – and there are a lot of ifs – but as important are the policy issues that come with this, or the policy issues that I think present opportunity that I think we need to be looking at as well. Mr. Goetz reviewed his written testimony. (10:50)

Rep. Ekstrom: We've watched the increasing costs of construction over the years. I would suspect that with this influx of money for improvements and repairs coming from the federal government we're going to see a like increase. I would urge the University System to use caution in terms of estimating the costs of these projects. We don't want to get to the next biennium and have things falling short and no federal government to go back to. (14:30)

Mr. Goetz: I think we are sensitive to the costs when we plan, but I heed your advice.

Chm. Svedjan: In the last paragraph of your testimony, you're not saying that your expectation is that the funds should flow to the University System without an appropriation, are you?

Mr. Goetz: I think this is something that we're contrasting. Currently when federal funds do come there is a process that allows the University System the flexibility to spend and in turn report to the budget section.

Chm. Svedjan: The only thing this bill says is that the legislature needs to appropriate the funds received.

Mr. Goetz: I'm just contrasting that with what we are currently able to do and drawing your attention to that.

Rep. Kaldor: In Section 9302 (in paragraph 2 of Attachment A), part of this money could be used for student housing facilities. Those are typically considered non-state funds or other

Funds? (16:54)

Mr. Goetz: Yes.

Rep. Kaldor: How has that been handled? It seems that we provide authority to the campuses but does that go through an appropriation process typically?

Mr. Goetz: Yes. It goes through the authorization process at a stated amount.

Chm. Svedjan: In your second paragraph you indicate that there's a requirement that the funds be obligated within six months; that doesn't mean spent. It just means that any funds you receive would have to be targeted or dedicated to a project to the extent that funds are available.

Mr. Goetz: That's as I understand it.

Rep. Berg: Maybe we should eliminate some of the one-time spending in the Governor's budget if we have these federal dollars coming in to cover that. (18:12)

Mr. Goetz: I think it's a matter of responsible way of looking at this. This is a policy issue and a matter of timing. When there is a source of money coming in we need to look at the big picture. The responsible thing to do is look at the purpose of what the funds might be used for.

Rep. Berg: My point was a little tongue in cheek. The reality is they want things that are shovel-ready. From my perspective, if we can inject this federal money, that might be the way to do it. Some of the state dollars that are not spent right now could be held in reserve for future capital projects.

Mr. Goetz: There are a lot of ifs. We do not know the directive of these funds. Until we get good information, all issues and debate remains on the table.

Chm. Svedjan: That's why I asked the question of supplantation. Will we be able to do that kind of thing?

Rep. Onstad: In looking at all the agencies, in the planning process of your projects and other agency projects, these dollars were not known to be coming. So you planned your projects accordingly and then to make it a true stimulus, stimulus is new projects above and beyond that. Any comments? (20:45)

Mr. Goetz: I think we have to see what evolves over the next weeks. You make a good point. There are so many ifs to this yet and how it will be directed and what is expected.

Chancellor Goetz concluded his remarks.

There was no testimony in opposition to HB 1487. There was no neutral testimony.

Chm. Svedjan closed the hearing on HB 1487.

Rep. Kempenich: I think we've got to move very slow with this. I think this is the only process to slow this down – to bring it through the legislature. A lot of the critics are worried that the stimulus package is becoming a fiscal piñata and it's whoever can shake enough money out of it. I think this is a prudent move on our part.

Rep. Delzer moved a Do Pass. Rep. Skarphol seconded the motion. The motion carried with a roll call vote of 21 ayes, 0 nays and 4 absent and not voting. Rep. Delzer will carry the bill.

Chm. Svedjan recessed until 9 am.

Date: 1-28-09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1487

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Delzer

Seconded By

Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 21 No 0

Absent 4

Floor Assignment Delzer

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

REPORT OF STANDING COMMITTEE (410)
January 29, 2009 9:36 a.m.

Module No: HR-17-1178
Carrier: Delzer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1487: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS**
(21 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1487 was placed on the
Eleventh order on the calendar.

2009 SENATE APPROPRIATIONS

HB 1487

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1487

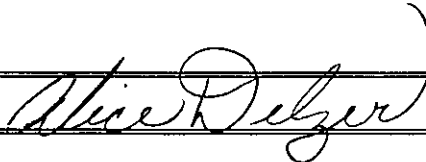
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-02-09

Recorder Job Number: 9976

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1487 at 2:00 pm in regards to the receipt of federal economic stimulus or fiscal relief funding; and to declare an emergency.

Sheila Peterson, Director of the Fiscal management Division of the Office of Management and Budget testified on HB 1487 and provided written testimony # 1. (06.49)

V. Chair Grindberg stated I think what might be the intent of this, some will have to be amended so the one time funding is maximized. Is there a way to separate this out so clearly the one time is one time 4 years from now. Has there been discussion in OMB so that these are truly 1 time and then proceed through each agency. But if it has any indication of sustaining these programs that could be expanding then I think that is a valid concern.

Sheila Peterson stated that has been a major part of our discussions with the agencies. For example the fiscal stabilization dollars to local school districts, there is an opportunity to suggest and encourage that these be used for building renovations, modernization, energy efficiency type projects to whatever extend we cannot build these in to ongoing costs, these dollars won't be here after two years.

Chairman Holmberg stated the bill was clearly put together before many of these issues were flushed out. I like what they are doing. They are trying to get their legislative arms around this but there is some work that needs to be done. This bill will be held for awhile.

Senator Krauter stated there are two ends here, one we are doing or appropriate every dollar made available to this state. There is a lot of dollars we don't have control of. Getting to those dollars that we do control, if this bill wasn't here today, you would basically beef up the special funds and we would pass the appropriation and that would be enough to take care of it in your prospective, is that right?

Sheila Peterson said that along with the emergency commission authority to accept and expand unexpected federal funds is also an important component because between now and April 30th, the 80th legislative day, I don't know that we will know the exact amount we will have for every single program. We are going to give it our best shot and yes we do want those appropriated to the respective agencies, but as I said our estimates may be off, there may be competitive grants, right now we would use the emergency commission process to accept those funds and the budget section discussion beyond the emergency commission but this bill seems to eliminate that for the stimulus dollars.

Senator Krauter asked on the emergency measure, the timing of section 2 the emergency if for some reason, it wouldn't go into effect until July 1, so you would continue business as usual until July 1st? I would think we would know what we are up against by July 1st.

Sheila Peterson stated I don't think in all cases that will be a possibility. I know the federal agencies are working fast and furious to get things done.

Chairman Holmberg had questions regarding one of the phrases that need some further explanation. The statute starts, or the bill starts with not withstanding any other provision of the law, does that preclude even the emergency commission from accepting because it goes on to say that someone may accept the money but they can't spend it. Is this clear enough that the emergency commission is still involved or because it says not withstanding any other provisions of law?. Are we starting out from a position that whoever wants to accept this can

say yes? He then asked Legal Council to look at the language and how that can be interrupted.

Senator Seymour asked what North Dakota track record is when it comes to competitive grants.

Sheila Peterson: I think it is excellent. She shared more concerning this matter and stated we are highly competitive.(14.39)

Senator Krauter asked back in 2002 or 03 we had that medical stimulus, how was that handled?

Sheila Peterson I do remember ND received money for two years in a row unrestrictive and it came after the session so we just put it in the general fund and then you considered it during the next legislative session. I don't remember a specific enhancement.

Chairman Holmberg said that money will have a sunset on it and if we don't utilize it, it will go back to the feds.

V. Chair Bowman asked if they will get a list of what this money is going to be used for. For example cell phone use down in Rhame. How do we know if we can use it for something like that?

Sheila Peterson stated the OMB office is trying to figure out this issue. The governor's office is also working in this area, making sure everyone has what they need to use these funds.

Chairman Holmberg stated we will have a briefing later this week.

Bill Goetz, Chancellor, North Dakota University System (NDUS) testified in opposition of HB 1487 and provided written testimony # 2.(19.55) It is with these concerns that under the current language of the bill, the NDUS opposes HB 1487 as it is written currently but would be open to any modifications that would address concerns of the NDUS.

Chairman Holmberg is having Legislative Council check regarding National Science Foundation (NSF) and Title III if there would be problems associated with this bill that might cause us some alarm.

Senator Krauter said last week we were given a document which included information from all the 50 states and in there it broke out all the numbers (26.05) and when it got to the education proponent it also talked about tuition. Is that something you would consider?

Chancellor Goetz stated that my assumption North Dakota will not realize any dollars in this area. We have been able to keep up in terms of our budget and financial support from the state to address spending and growth in this area and we have not received the down turn in financial support as has most states in the US. As a result, according to the legislation, I don't see that North Dakota qualifies for assistance in these areas.

Sheila Peterson said that is correct. The criteria in ARRA is that first of all with the education fiscal stabilization money, the 81.8% that must go to education, first of all you restore any cuts you have made in either K/12 or Higher Ed. North Dakota hasn't made any cuts so then we go to step 2. Step 2 if you had any automatic allocation, inflation, for example in what you provide to Higher Ed or K/12, we don't have any of those so we go to step 3, which then says any excess money, which in our case is all of it, it is then distributed using the Title 1 formula out to local school districts, effectively cutting off Higher Ed entirely. We have questions into the Secretary of Education, into the National Governor's Association, we have contacted Senator Conrad's office and all of them are saying we are reading this right. So the dollars that in other states where they're restoring cuts or have automatic inflation clauses for Higher Ed that could be used to hold down tuition are literally not available in North Dakota

She stated all 81.8% of the money will go to K/12 and not any to Higher Ed

Chairman Holmberg closed the hearing on HB 1487.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1487

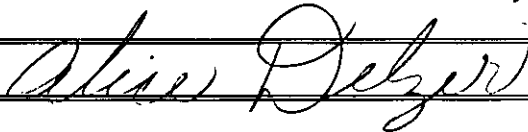
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-07-09

Recorder Job Number: 11763 (HB 1350 starts at 8.58 and ends at 12.06) (1487 starts again at 12.24 and ends at 19.58) (there is also unrelated discussion on this job.)

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee to order on HB 1487. **He moved the amendments. Seconded by Senator Wardner.** He explained the amendment # .0102. (The job was started during his explanation) It has to do with the appropriating of the stimulus package. At the same time we are not wading in the areas that we haven't been involved in the past. I'll give you an example, the legislature has never approved competitive grants for NDSU to do some research from the Ag.Department to get a grant. We have never been involved in that and the people up at the council drafted this language that OMB is comfortable with, as I understand, Pam and Sheila from OMB have reviewed it, the language just says that the legislature shall be involved in it and the appropriation authority and when we're gone, the emergency commission and the budget section, if there are grants that come in later, and the only prohibition on that is that if the legislature has said that there is a competitive grant that we do not want accepted, in other words, we have to do something, and if we do something, for example we say there shall be no study of genetics at UND but then they couldn't accept that because the legislature had intended to reject it. Otherwise, business would be as usual for all competitive grants. We would not be wading into that area. (2.04)

Senator Mathern I think that last sentence is nothing but trouble. "Indicated an intent to reject" that's just going to get into all kinds of disputes. They already have the emergency commission and the budget section. First of all there is kind of a question whether the emergency commission and the budget section are they constitutional in itself and then you have this content language in there, raises another problem. I can see there are issues that are unclear. You are going to have somebody challenging this part of the constitution or the Attorney General. That is how the prison got stopped. To me you are just adding a red flag.

Chairman Holmberg We only move ground, as I understand it, and this was drafted by the legal and the fiscal staff to insure that the language in the bill left things as they are. They are not breaking new ground. The only thing, the bill, under this amendment, would do. It would assure that the legislature when we are in session does the appropriating of the stimulus money that's coming under this act. And once we leave town that money would be parched out the way it always has been through the emergency commission and the budget section.

The reason for the last sentence was because the way the bill was originally drafted there was a fear that we would be inserting ourselves into those competitive grants that are campus level, particularly, and we have never been involved there. As I understand it the way that the bill was originally drafted we could have been drawn in to.

Senator Mathern Let's take an example of a program that the Senate and the House voted against it, because they all decided there wasn't enough money. So let's say, build road from the capitol to WSI out of stimulus money, and that bill had been here, and we rejected the bill, basically because we didn't have enough money for the road, but now on record is legislative intent that we are against that road. But if somebody came with that money we would have said if we had known that we would have approved that bill.

Chairman Holmberg But it was a competitive grant only.

Senator Mathern Right. We would want our department out there applying for competitive grants. I am not making this up. This is serious. We are voting no on many bills that I don't think we are really opposed to. We vote no for another reason. And to me, this last sentence can say if anybody finds some money about those item (inaudible word 6.43) the budget section and the emergency commission can't approve it.

Chairman Holmberg The point you made is one that we do need someone to come down from council because I could envision what Senator Mathern is saying has merit from this standpoint. For example, first of all, would this preclude number 1, and secondly, should it preclude. If for example, the legislature did not put money into preschool program which is on the floor today, and the department got a competitive grant for the preschool, would this preclude them from accepting the money because the legislature had actually indicated an intent to reject the idea, so we need some further clarification.

Senator Mathern That is an excellent example. That is better than my road example..

Senator Kilzer On the sentence before that where you end it on June 30th, 2011, in the Attorney General's office some of those run 4 years, so would you want to run it another two years or is there some reason that you just want to run it to the end of the next biennium.

Chairman Holmberg We appropriated only until 2011 that money would have to be appropriated again next session. So I don't know if this would be a problem because we have to appropriate it anyway for the next budget cycle. Let's go to HB 1350.

(They opened up discussion on HB 1350 at this time and voted on that bill. It is recorded on this job #11763 starting at (8:58) and ending at (12.06).

(They then resumed 1487 at (12.24)

Chairman Holmberg asked Allen Knudson about a question that Senator Mathern raised.

What would be the effect of this bill, I'll use an example because it is a concrete example, on

the floor today is final passage in the Senate of 1013, DPI, 1400 is what it was, because that is where it was, it was taken out, the Legislature took out preschool. Then the question actually revolves around what happens if 6 months from now the Department of Public Instruction (DPI) gets a grant for preschool. Can that be accepted under this language? (13.29)

Allen Knudson, Legislative Council Yes, this language is similar to what's in the emergency commission section now. What this would relate to would be if for instance, Title 1 money in DPI in federal stimulus funds, if for some reason legislature decided not accept that money then 6 months down the road DPI can come and request the budget section to accept the Title 1 money from the federal stimulus dollars they should no, the budget section could not do that because the legislators rejected that money during the session. It would need to be from the same source. The pre k money is requested from general funds, but down the road if there would be federal stimulus money available, that could be approved because It is a different source of funds. This would just say that it needed to be from the same source. If the legislature rejects some federal money under the stimulus program during the session (inaudible) (14.32)

Senator Mathern I have a question. This last sentence, I heard you say, did you say if we reject a program that would have been funded by federal stimulus money as our appropriation we voted no on that, then later that money became available, we cannot accept it?

Allen Knudson If it was the same money. Like I mentioned if you are in the session those federal stimulus dollars to Title 1 funding going to schools, and for some reason the legislature decided no we are not going to accept that, those federal funds.

Senator Mathern We just had a bill here that just passed out. Tioga or Wildrose, the water department, federal stimulus money and if that bill gets killed and then later, we find out there is some federal stimulus money left, and Wildrose comes to the budget section and says we'd

like that money, the budget section would have to say, " Gosh, look at this here. We can't approve it". That is the problem with this amendment as I see it. It seems to me it ties our hands.

Allen Knudson In that instance if the bill that came out was spending federal stimulus dollars for water projects, legislature says kill the bill, like you said, having gone down the road the budget section could not approve to do that.

Chairman Holmberg It couldn't approve using stimulus dollars for that but if there was another federal program there would be no restrictions. Or if they went to the water commission and surprisingly they gave them money. All in favor of the amendment say aye. It passed.

SENATOR WARDNER MOVED A DO PASS AS AMENDED. SECONDED BY SENATOR FISCHER.

Chairman Holmberg Now we have a motion on the bill as amended. Call the Roll on a Do Pass as Amended on HB 1487.

Further discussion followed. ((18.34)

A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON HB 1487

RESULTING IN 11 YEAS, 1 NAY, 2 ABSENT. CHAIRMAN HOLMBERG WILL CARRY THE BILL. (The clerk was informed to let the absentees have an opportunity to vote before the report should be done. Senators Robinson and Krauter did vote No, changing the actual count to 11 yeas, 3 nays, 0 absent.)

Chairman Holmberg closed the hearing on HB 1487.(19.58)

Further discussion followed regarding several bills that need action taken.

Date: 4/7/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1487

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment . 0102

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Holmberg Seconded By Wardner

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner			Senator Robinson		
Senator Fischer			Senator Lindaas		
V. Chair Bowman			Senator Warner		
Senator Krebsbach			Senator Krauter		
Senator Christmann			Senator Seymour		
Chairman Holmberg			Senator Mathern		
Senator Kilzer					
V. Chair Grindberg					

Total Yes Once Vote No

Absent

Floor Assignment

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

Date: 4/7/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1487

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Wardner Seconded By Fischer

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	✓		Senator Robinson <u>After hearing</u>	✓	
Senator Fischer	✓		Senator Lindaas	✓	
V. Chair Bowman	✓		Senator Warner	✓	
Senator Krebsbach	✓		Senator Krauter <u>After hearing</u>	✓	✓
Senator Christmann	✓		Senator Seymour	✓	
Chairman Holmberg	✓		Senator Mathern		✓
Senator Kilzer	✓				
V. Chair Grindberg	✓				

Total Yes 11 No 3

Absent 0

Floor Assignment Holmberg

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

The clerk was told to let the absentees vote. They did after the hearing (Robinson + Krauter)

REPORT OF STANDING COMMITTEE

HB 1487: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1487 was placed on the Sixth order on the calendar.

Page 1, replace lines 4 through 9 with:

"SECTION 1. FEDERAL FISCAL STIMULUS FUNDING - LEGISLATIVE ACTION - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL. Any federal funds made available to this state under the federal American Recovery and Reinvestment Act of 2009 may be accepted but may be spent only pursuant to appropriation authority provided by the legislative assembly or the approval of the emergency commission and budget section under provisions of chapter 54-16, for the period beginning with the effective date of this Act and ending June 30, 2011. The emergency commission and budget section may approve only the expenditure of federal American Recovery and Reinvestment Act of 2009 competitive grant awards and other funds that the legislative assembly has not indicated an intent to reject."

Renumber accordingly

2009 TESTIMONY

HB 1487

North Dakota University System

HB 1487 – House Appropriations

January 28, 2009

William Goetz, Chancellor

Mr. Chairman, members of the House Appropriations Committee. Good morning. For the record, my name is William Goetz, Chancellor, North Dakota University System.

HB1487 requires legislative approval of funds received through the federal economic stimulus package. The House version of the stimulus legislation has several components, including a separate pool of funds for capital grants to state higher education agencies (section 9302). Funds must be used to modernize, renovate and repair instruction, research and student housing facilities. These funds must be obligated within six months of receipt, and if not, returned to the federal government. In addition, there are required timelines for entering into binding contracts on the projects. Thus, it is critically important for the NDUS to maintain the needed flexibility to comply with these requirements, or risk putting the funds in jeopardy.

The SBHE requires campuses to prepare and update comprehensive facility and infrastructure master plans every even-numbered year. The last plan was completed in the spring of 2008. These plans outline deferred maintenance needs, major renovation projects and also projects costing less than \$100,000. It is likely that the Chancellor, and in turn the SBHE, would use these plans as the basis for the use of funds for capital projects.

Additionally, the federal package also includes funds for increased financial aid and research activities, among other things. Again, timely use of these funds will be important to their effective use.

Since at least 1995, the legislature, as part of the appropriation, has provided the NDUS with broad authority to accept and expend all federal and other funds during the biennium (Section 10 of SB2003). As the congress continues to address this issue, I ask that we, the NDUS and the Legislature, cooperatively work together meeting the requirements in a responsible timely fashion.

Thank you. I will be happy to answer any questions.

Testimony on HB 1487
Senate Appropriations Committee
March 2, 2009

Good afternoon Mr. Chairman and members of the Senate Appropriations Committee. I'm Sheila Peterson, Director of the Fiscal Management Division of the Office of Management and Budget.

For the past several months our office has been carefully following the process and content of the American Recovery and Reinvestment Act (ARRA), also known as the federal stimulus package.

The ARRA will have a huge impact on North Dakota State Government as it will affect over 50 state formula and discretionary grants as well as about 15 entitlement and anti-cyclical programs.

HB 1487, as currently written, generates a number of concerns and questions in dealing with the federal stimulus package.

First, we are very quickly attempting to estimate the dollars that will be flowing to North Dakota in various departments and programs so these funds can be considered along with the appropriations bills as they are finalized over the next several months. But these dollar amounts are estimates, not exact known numbers. For example, we estimate that over the 2009-2010 and 2010-2011 school years, our schools will be eligible to receive upwards of \$150 million through the federal stimulus package. If our estimates are off by as little as 1%, that means \$1,500,000 would not be available for our schools.

Second, the funds in education and transportation for example, are "use it or lose it". These funds must be returned to the Secretary of Education or the Secretary of Transportation for reallocation to other states if not used within the allowed timeframe.

Third, many of the federal stimulus dollars are in the form of competitive grants. Several examples in education are Innovation Funds, Teacher Incentive Funds and dollars for statewide data systems. It appears this bill, as currently written, would prevent the Department of Public Instruction from applying for these grants because they are prohibited from spending them within the next two school years. But it's not just DPI. The language in HB 1487 appears to restrict DOT from applying for any possible reallocated fund for roads and infrastructure, or the Transmission Authority or various renewable energy programs from seeking competitive grants.

Fourth, there is the question of substantial research dollars that may be available to NDSU, UND, the Medical School and other campuses. These funds do not pass through the State budget but we question whether these state schools would be prevented from seeking out research dollars.

And finally, for many bienniums, the Legislature has included intent language in appropriation bills of agencies that are funded entirely or in large part with federal dollars. The intent language allows these agencies to accept additional federal dollars if they become available. Examples are Job Service North Dakota, the Housing Finance Agency, Department of Transportation and the State Water Commission. Again, it appears the language in this bill would supersede that long standing intent language as it relates to federal funds through the stimulus package. Let me give you one example. The federal Bureau of Reclamation has been appropriated substantial dollars in the stimulus package. We would fully expect that some of those funds would be made available to the State Water Commission through the MR&I program.

In summary, let me recap. We think there are some necessary improvements that need to be made to HB 1487 including: 1. How the state can address additional formula dollars if initial estimates vary from actual disbursements. 2. How the state is to deal with the "use it or lose it" provisions of ARRA. 3. Whether or not state agencies are prevented from seeking any competitive grants. 4. Whether the University System is prohibited from pursuing research dollars. 5. Whether or not state agencies are prohibited from receiving stimulus dollars appropriated to federal agencies that may pass through to state projects and programs.

Mr. Chairman that concludes my testimony. I would be happy to answer any questions.

North Dakota University System

HB 1487 – Senate Appropriations

March 2, 2009

William Goetz, Chancellor

Mr. Chairman, members of the Senate Appropriations Committee. For the record, my name is Bill Goetz, Chancellor, North Dakota University System.

HB1487 requires legislative approval of funds received through the federal economic stimulus package. As stated, HB 1487 would pose great difficulty in conducting process of application, timeliness consideration primarily as it relates to the competitive aspects of accessing such funds.

The SBHE requires campuses to prepare and update comprehensive facility and infrastructure master plans every even-numbered year. The last plan was completed in the spring of 2008. These plans outline deferred maintenance needs, major renovation projects and also projects costing less than \$100,000. It is likely that the Chancellor, and in turn the SBHE, would use these plans as the basis for the use of funds for capital projects if in fact such funds could be used for such purpose.

Additionally, the federal package also includes funds for increased financial aid and research activities, among other things. Again, timely use of these funds will be important to their effective use.

Since at least 1995, the legislature, as part of the appropriation, has provided the NDUS with broad authority to accept and expend all federal and other funds during the biennium (Section 10 of SB2003).

Some federal agencies (for example National Institutes of Health and National Science Foundation) have published statements regarding how they plan to administer American Recovery and Reinvestment Act (ARRA) funding. In general these agencies will focus on scientific activities and use their existing peer review process with an accelerated time line to award funds competitively. They may provide new awards or supplement existing awards. Construction, repair and alterations funding for federally funded research institutions may also be awarded. Both the timing of the awards and the expectation of near term performance will be critical.

The following link is to the NIH statement (as an example):

http://www.nih.gov/about/director/02252009statement_arra.htm

These funds are not an allocation to the state (for example a block grant) but rather the result a competitive grant process awarded to a specific institution. It is likely that a number of awards to North Dakota colleges and universities will be funded with ARRA funding from a variety of federal agencies. It is not possible at this time to identify all the variations of process and focus at this time that may occur from agency to agency.

Requiring Legislative approval for these types of awards creates the following questions/concerns:

1. No definition of the criteria or basis on which Legislative approval would be granted
2. Creation of an approval requirement that is an additional filter/barrier
3. Potential loss of opportunity for funds to support education/research
4. Significant work required to submit a competitive proposal with no guarantee that Legislative approval would be forthcoming if the funding is awarded
5. Timeliness of review
6. Timeliness of approval
7. Risk of not submitting projects that may succeed competitively at the federal level
8. Importance of empowering institutions to compete and succeed at the federal level

If passed as currently written, this legislation creates a significant handicap to any department that may apply for federal funding (i.e. Aerospace, EERC, Medical School etc).

Is the legislature going to decide at the system level or at the institutional level what projects will be approved and will it have an impact on already appropriated funds?

Federal stimulus funds that may flow toward the benefit of research. In particular, VCSU has been an active participant in the INBRE (Idea Network of Biomedical Research Excellence) program over the past several years.

The federal government is introducing accountability measures to insure the stimulus funds are used for intended purposes. An additional authorization process at the state level is unnecessary, and could be counter-productive for receiving and allocating funds.

Funding is being distributed through multiple federal agencies and departments to all levels of governmental, city, county, state, school districts, etc. with the intent to "stimulate" economic growth within a relatively short period of time.

Mayville State receives federal funding for student aid, research, and also for a Headstart program that serves families in 5 counties. The federal funding for these programs comes to campus directly from the awarding federal agency, which in the case of Headstart is the Department of Human Services.

Will HB 1487 processes allow proposals to meet the time restraints as established within the American Recovery and Reinvestment Act?

Will currently established agency funding sources, such as NSF and Title III, also be required to have legislative approval according to HB 1487?

It is with these concerns that under the current language of the bill, the NDUS opposes HB 1487.

Thank you. I will be happy to answer any questions.

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