

# INTERIM SENATE APPROPRIATIONS COMMITTEE

The Chairman of the Legislative Management appointed an Interim Senate Appropriations Committee and assigned the committee the following duties:

- Review proposals to use funding from the federal State Fiscal Recovery Fund established through the federal American Rescue Plan Act of 2021 and develop recommendations for the use of funds.
- Review legislative appropriations from the federal Coronavirus Capital Projects Fund and recommend any necessary changes to existing appropriations from the fund and develop recommendations regarding the use of any remaining available funding.
- Consider any other budget adjustments requiring legislation that are necessary before the 2023 regular legislative session.

Committee members were Senators Ray Holmberg (Chairman), Brad Bekkedahl, Kyle Davison, Dick Dever, Robert Erbele, Joan Heckaman, David Hogue, Karen K. Krebsbach, Tim Mathern, Dave Oehlke, Nicole Poolman, David S. Rust, Ronald Sorvaag, and Terry M. Wanzek.

## STATE FISCAL RECOVERY FUND

### Background

The American Rescue Plan Act of 2021 included \$219.8 billion for the State Fiscal Recovery Fund. Of this amount, \$195.3 billion is available to states, \$25.5 billion will be distributed equally to the states and District of Columbia, resulting in \$500 million allocated to each state. After an additional \$755 million is distributed to the District of Columbia, the remaining \$169 billion will be distributed to the states based on each state's share of seasonally adjusted unemployed persons for the 3-month period ending December 2020. North Dakota's allocation from the State Fiscal Recovery Fund is \$1,007,502,515. The funds have been received and are on deposit in the Bank of North Dakota.

### Allowable Uses

Allowable uses of funding from the State Fiscal Recovery Fund, which must be obligated by December 31, 2024, and spent by December 31, 2026, are as follows:

- Costs related to the Coronavirus (COVID-19) pandemic, including assistance to households, small businesses, nonprofits, and affected industries, such as tourism, travel, and hospitality;
- Provide premium pay of up to \$13 per hour in addition to base pay, up to a maximum of \$25,000, to state, territory, or tribal government workers who perform essential work during the COVID-19 pandemic, or provide grants to employers with employees who perform essential work, which is defined as work needed to maintain continuity of operations of critical infrastructure and other sectors designated by the Governor as critical to protect the health and well-being of residents;
- The cost of providing government services to the extent there was lost revenue as a result of the COVID-19 pandemic; and
- Investment costs in water, sewer, and broadband infrastructure.

States may not use the funding to reduce taxes directly or indirectly between March 3, 2021, and the last day of the fiscal year in which funds received have been spent or returned. States cannot use funds to make payments to pension plans. The Office of Management and Budget submitted \$1.8 billion of revenue loss as of December 2020; therefore, the funds should be able to be used for the cost of government services.

## CORONAVIRUS CAPITAL PROJECTS FUND

### Background

The American Rescue Plan Act of 2021 appropriated \$10 billion to the United States Department of the Treasury for a Coronavirus Capital Projects Fund to provide payments to states, territories, freely associated states, and tribal governments "to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19)."

North Dakota received an initial allocation of \$112,473,563 from the Coronavirus Capital Projects Fund. North Dakota's allocation was later increased to \$113,276,228. The Legislative Assembly, based on initial information provided regarding the fund, approved using \$106,474,000 of the funding for the following projects for the 2021-23 biennium:

Agency	Project	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Department of Career and Technical Education	Statewide area career center initiative grant program	70,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
Total - 2021-23 appropriations		\$106,474,000

### Eligible Uses Based on September 2021 Guidance

The September 2021 guidance provides grant funds may be used for critical capital projects that directly enable work, education, and health monitoring in response to COVID-19. To be eligible for funding, a project must meet all of the following criteria:

1. The capital project invests in capital assets designed to directly enable work, education, and health monitoring;
2. The capital project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
3. The capital project is designed to address a critical need of the community to be served by it.

### PROPOSALS RECEIVED

The committee reviewed proposals from members of the Legislative Assembly and the Governor for the use of American Rescue Plan Act funds and for other budget adjustments as detailed in this section.

#### Coronavirus Capital Projects Fund

The committee reviewed a proposal to adjust the funding source of certain projects that received an appropriation from the Coronavirus Capital Projects Fund during the 2021 regular legislative session. The proposal would change the funding source of nine projects from the Coronavirus Capital Projects Fund to federal state fiscal recovery funds.

#### Federal State Fiscal Recovery Funds

The committee reviewed 156 proposals to use federal state fiscal recovery funds as follows:

Category	Proposals Received
Infrastructure	The committee reviewed 15 proposals to use federal state fiscal recovery funds for infrastructure projects, including natural gas pipelines, roads, water control, and other projects.
Aid to political subdivisions	The committee reviewed 33 proposals to use federal state fiscal recovery funds to provide aid to political subdivisions for road and bridge projects, local park district infrastructure projects, water and sewer projects, and other purposes.
Capital improvements	The committee reviewed 34 proposals to use federal state fiscal recovery funds for capital projects for state agency and institution building projects, deferred maintenance, and other purposes.
Information technology	The committee reviewed 19 proposals to use federal state fiscal recovery funds for information technology projects, including cybersecurity enhancements, state agency software projects, and other purposes.
Economic Development	The committee reviewed 29 proposals to use federal state fiscal recovery funds for economic development, including research programs, workforce initiatives, business incentives, and other purposes.
Other proposals	The committee reviewed 26 proposals to use federal state fiscal recovery funds for other purposes, including human service programs, long-term care facility assistance, child care programs, and other purposes.

#### Other Budget Adjustments

The committee reviewed 27 proposals for other budget adjustments. The proposals included adjustments to federal spending authority for agencies, the authorization of new full-time equivalent (FTE) positions, additional authority to allow for the distribution of federal local fiscal recovery funds, and other purposes.

## COMMITTEE RECOMMENDATIONS

The committee recommends the following bill drafts:

1. A bill draft [\[21.1108.03000\]](#) to:

- Adjust the funding source of the following projects from the Coronavirus Capital Projects Fund to federal state fiscal recovery funds:

Agency	Project	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
<b>Total</b>		<b>\$36,474,000</b>

- Provide for the Coronavirus Capital Projects Fund to be allocated for career and technical education center projects (\$53.3 million) and rural broadband projects (\$60 million). In addition, \$30 million is provided from state fiscal recovery funds for career and technical education projects.
- Appropriate \$317 million of state fiscal recovery funds to the Department of Transportation for state road and bridge projects (\$200 million), county bridge projects (\$100 million), and transportation funding distributions to townships (\$17 million).
- Authorize any unused federal coronavirus relief funds to be used for salary costs of the Highway Patrol, Department of Corrections and Rehabilitation, and Adjutant General.

2. A bill draft [\[21.1131.04000\]](#) to:

- Provide federal funds authorization of \$3,014,975 to the State Treasurer for additional local fiscal recovery fund allocations to political subdivisions.
- Continue the authorization for the University of North Dakota to use \$750,000 of Bank of North Dakota profits for campus network upgrades.
- Provide an appropriation of \$537,297 to the Attorney General from the Attorney General refund fund for salary equity increases for State Crime Laboratory employees.
- Provide an appropriation of \$10 million to the Department of Public Instruction from withheld integrated formula payments for information technology upgrades.
- Authorize 16 FTE positions for the Department of Human Services for the county social and human services project.
- Authorize the Department of Human Services to transfer funding between line items in House Bill Nos. 1394 and 1395 (2021).
- Provide federal funds authority of \$92,453,608 to the Department of Human Services for federal medical assistance percentage adjustments and for other various programs.
- Provide an appropriation from the Bank of North Dakota operating fund to the bank for salaries and wages.
- Provide funding of \$1,806,862 from the Retirement and Investment Office operating fund to the agency for six new FTE positions and other salary adjustments.
- Provide an appropriation of \$10 million from the Department of Public Instruction operating fund from withheld integrated formula payments and \$100,000 from the State Fiscal Recovery Fund to the department for information technology upgrades and for information technology upgrade funding in lieu of withholding from schools ineligible to receive allocations from the federal Elementary and Secondary School Emergency Relief Fund.
- Amend Section 9 of Chapter 46 of the 2021 Session Laws relating to grant requirements for the beyond visual line of sight unmanned aircraft system program.

3. A bill draft [\[21.1123.01000\]](#) to:

- Appropriate federal state fiscal recovery funds to the following state agencies:

<b>Agency</b>	<b>Purpose</b>	<b>Amount</b>
Industrial Commission	Grants for a natural gas pipeline project to transport natural gas from western to eastern North Dakota	\$150,000,000
Industrial Commission	Abandoned oil well conversion to water supply grant program	3,200,000
Department of Water Resources	Water infrastructure projects	75,000,000
Department of Corrections and Rehabilitation	Stipends to county jails for costs to house inmates sentenced to the department but deferred admission	4,800,000
Parks and Recreation Department	Grants to local park districts to renovate and upgrade existing outdoor facilities with a \$1 to \$1 matching requirement	5,000,000
Main Research Center	Capital projects at the Carrington, Dickinson, Hettinger, and Central Grasslands Research Extension Centers	8,029,000
State Department of Health	State health laboratory project	15,000,000
Department of Corrections and Rehabilitation	Free through recovery program increase in capacity	2,995,200
Parks and Recreation Department	State park projects with a minimum of \$100,000 spent on projects at each park	10,000,000
Office of Management and Budget	State facility critical maintenance projects	10,000,000
Office of Management and Budget	Heating and cooling upgrades in the legislative wing of the Capitol	7,000,000
State Historical Society	State historic site repairs	950,000
North Dakota State University	Higher performance computing	2,200,000
Minot State University	Harnett Hall project	25,000,000
University of North Dakota	Merrifield Hall project	50,000,000
Bismarck State University	Polytechnic building project	38,000,000
University of North Dakota School of Medicine and Health Science	Hyperbaric oxygen therapy project	2,104,121
North Dakota University System	Dakota Digital Academy	475,000
Attorney General	Missing persons database	75,000
Attorney General	Prosecuting case management system replacement	1,000,000
Highway Patrol	Radios compatible with the statewide interoperable radio network	2,612,000
Department of Corrections and Rehabilitation	Radios compatible with the statewide interoperable radio network	2,057,384
Information Technology Department	Grant to North Dakota Stockmen's Association for brand inspection program software	401,000
Adjutant General	State active duty software replacement	450,000
Judicial branch	Replace docket system	2,020,000
Office of Administrative Hearings	Web-based document management system	20,000
Department of Human Services	Retention bonuses for direct service professionals	2,500,000
Department of Human Services	Funding to assist long-term care facilities	25,000,000
Department of Human Services	Funding for western North Dakota behavioral health (\$4 million), Medicaid eligibility system upgrade (\$5 million), child care services (\$17 million), and substance use disorder voucher program (\$3 million)	29,000,000
Department of Human Services	Grant to organization providing alternatives to abortion services	1,500,000
Adjutant General	Camp Grafton housing upgrades	2,000,000
Department of Veterans' Affairs	Grant to assist in Fisher House construction	500,000
Department of Veterans' Affairs	Improve and expand veterans' medical transportation	147,000
Bank of North Dakota	Fuel production facility grant program	21,000,000
Department of Commerce	Transfer to the innovation technology loan fund	5,000,000
Department of Commerce	Hydrogen development grants	20,000,000
Department of Commerce	Autonomous agriculture matching grant program	10,000,000

<b>Agency</b>	<b>Purpose</b>	<b>Amount</b>
Department of Commerce	Local workforce development incentive grant program with 25 percent local match requirement	15,000,000
Department of Commerce	Technical skills training grant program	5,000,000
University of North Dakota	Space education and research	10,000,000
Aeronautics Commission	Airport grants	5,000,000
Total		\$570,035,705

- Appropriate \$100 million of additional federal funds to the Department of Transportation. The funds are not subject to the excess federal funds requirements in House Bill Nos. 1015 and 1431 (2021).
4. A bill draft [\[21.1132.02000\]](#) to authorize the Department of Public Instruction to withhold integrated formula payments to school districts to be used for information technology project upgrades to the state automated reporting system and the statewide longitudinal data system.