

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 <i>Kelli Hall</i>			

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 Raelle: 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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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.