

2023 SENATE APPROPRIATIONS

SB 2025

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2025
1/13/2023

A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; and to declare an emergency.
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10:30 AM Acting Chairman Wanzek opened the hearing on SB 2025.

Members present : Senators Krebsbach, Burckhard, Davison, Dever, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.

Members absent: Senators Dwyer and Bekkedahl

Discussion Topics:

- Overview / introduction
- OMB request
- Attorney General
- Ethics Commission
- University of North Dakota
- Dakota College at Bottineau
- Dept of Health and Human Services
- Adjutant General
- Agriculture Commissioner
- Deficiency appropriation application
- Fraudulent activity
- Education program reimbursement

10:30 AM Joe Morrissette, Office of Management and Budget, introduced the bill, testified in favor, testimony # 13454

10:40 AM Karla Mongeon-Stewart, Vice President for Finance & Operations/Chief Operating Officer University of North Dakota, in favor of their request in the bill, explained the details of the request, no written testimony

10:55 AM Alex Cronquist, Legislative Council, explains that CTS (Core Technology Services) is the University's IT system, no written testimony

10:59 AM Dr Carmen Simone, Campus Dean for Dakota College at Bottineau, in favor of their request in the bill, introduced Lisa Mock, no written testimony

11:00 AM Lisa Mock, Business Manager, College at Bottineau, explained the details of their request, no written testimony

Additional written testimony:

- Major General Alan S Dohrmann #13196, # 13193, # 13194, and # 13195

11:04 AM Acting Chairman Wanzek closed the hearing.

Kathleen Hall, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2025
2/15/2023

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

8:12 AM Chairman Bekkedahl opened the hearing.

Members present: **Senators Bekkedahl, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, Mathern; Krebsbach**

Discussion Topics:

- Committee action

8:12 AM Senator Davison moved to adopt amendment LC 23.0279.01001

8:12 AM Senator Schaible seconded.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed 16-0-0

8:14 AM Senator Mathern moved a Do Pass as Amended.

8:14 AM Senator Schaible seconded.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed 16-0-0

8:15 AM Senator Davison will carry.

8:23 AM Chairman Bekkedahl adjourned meeting.

Nathan Liesen on behalf of Kathleen Hall, Committee Clerk

*AG
2-15-23
(1-1)*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2025

Page 1, remove line 24

Page 2, remove lines 1 through 3

Page 2, line 7, replace "6." with "5."

Page 2, line 13, replace "7." with "6."

Page 2, line 18, replace "8." with "7."

Page 2, line 22, replace "9." with "8."

Page 2, replace lines 24 through 26 with:

"Grand total general fund	\$41,529,057
Grand total special funds	<u>285,000,000</u>
Grand total all funds	\$326,529,057"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment removes the \$430,101 general fund deficiency appropriation for the University of North Dakota.

REPORT OF STANDING COMMITTEE

SB 2025: Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2025 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, remove line 24

Page 2, remove lines 1 through 3

Page 2, line 7, replace "6." with "5."

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This amendment removes the \$430,101 general fund deficiency appropriation for the University of North Dakota.

2023 HOUSE APPROPRIATIONS

SB 2025

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Brynhild Haugland Room, State Capitol

SB 2025
3/13/2023

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

10:19 AM Chairman Vigesaa Called the meeting to order and roll call was taken-

Members present; Chairman Vigesaa, Representative Kempenich, Representative B. Anderson, Representative Brandenburg, Representative Hanson, Representative Kreidt, Representative Martinson, Representative Mitskog, Representative Meier, Representative Mock, Representative Monson, Representative Nathe, Representative J. Nelson, Representative O'Brien, Representative Richter, Representative Sanford, Representative Schatz, Representative Schobinger, Representative Strinden, Representative G. Stemen and Representative Swiontek.

Members not Present Representative Bellew and Representative Pyle

Discussion Topics:

- Expenses for Agencies with Deficiencies

Joe Morrissette- OMB- Walks through the Engrossed bill and offers some language for amendments. (Testimony # 24204)

Todd Anderson Director of Risk Management OMB- Testifies in favor of SB 2025 (Testimony #24295)

Becky Keller- Finance Director, Office of Attorney general- Gives testimony for amendment (Testimony # 24135)

Major General Alan Dohrmann- Explains language for amendment (Testimony #24003, #24001 and #24002)

10:38 AM Troy Coons- Chairman Northwest Land -Testifies verbally in favor and offers explanation of amendment.

Rebecca Binstock- ND Ethics Commission- Testifies in favor and offers an amendment (Testimony # 24138)

Kylee Merkel- Business Banker, Bank of ND Testifies in favor and ask for amendment (Testimony #24000)

10:45 AM Chairman Vigesaa Closed the meeting for SB 2025

House Appropriations Committee
SB 2005
March 13, 2023
Page 2

Risa Berube, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

SB 2025
3/16/2023

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

9:32 AM Chairman Vigesaa Called the meeting to order and roll call was taken-

Members present; Chairman Vigesaa, Representative Kempenich, Representative B. Anderson, Representative Bellew, Representative Brandenburg, Representative Hanson, Representative Kreidt, Representative Martinson, Representative Mitskog, Representative Meier, Representative Monson, Representative Nathe, Representative J. Nelson, Representative O'Brien, Representative Pyle, Representative Richter, Representative Sanford, Representative Schobinger, Representative Strinden, Representative G. Stemen and Representative Swiontek.

Members not Present- Representative Mock and Representative Schatz

Discussion Topics:

- Amendment

Chairman Vigesaa- Introduces the amendment 23.0279.02001 (Testimony #25535)

Representative Monson Move to Adopt the Amendment 23.0279.02001

Representative Pyle Second the motion

Committee Discussion- Roll call vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	A
Representative David Monson	Y
Representative Mike Nathe	Y

Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	A
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	Y
Representative Steve Swiontek	Y

Motion Carries 21-0-2

Representative Pyle Move for a Do Pass as Amended

Representative Monson- Second the motion

Committee Discussion- Roll call vote-

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	A
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	A
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	Y
Representative Steve Swiontek	Y

Motion Carries 21-0-2 Chairman Vigesaa will carry the bill

9:38 AM Chairman Vigesaa Closed the meeting for SB 2025

House Appropriations Committee

SB 2025

March 16, 2023

Page 3

Risa Berube, Committee Clerk

AG
3-16-23
(1-2)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2025

Page 1, replace lines 12 and 13 with:

"Judgment expenses	\$277,771
Total general fund	\$277,771"

Page 1, replace lines 16 and 17 with:

"Prosecution witness fees	\$75,000
Statewide litigation funding pool	1,000,000
Total general fund	\$1,075,000"

Page 1, remove lines 19 through 23

Page 2, line 3, replace "5" with "4"

Page 2, line 9, replace "6" with "5"

Page 2, replace lines 11 through 13 with:

"Loan repayment - disaster costs	\$4,695,890
Loan interest repayment - law enforcement costs	1,026,833
Total state disaster relief fund	\$5,722,723"

Page 2, line 14, replace "7" with "6"

Page 2, line 18, replace "8" with "7"

Page 2, replace lines 20 through 22 with:

"Grand total general fund	\$28,152,539
Grand total special funds	290,722,723
Grand total all funds	\$318,875,262

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-eighth legislative assembly that the attorney general seek reimbursement from the federal government for the costs of responding to unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-eighth legislative assembly that these reimbursements be used to repay the Bank of North Dakota loans authorized by the emergency commission and the legislative assembly which were obtained to provide the funding necessary to respond to the unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-eighth legislative assembly that the provisions of section 54-16-13 apply to the loans, except that emergency commission approval does not apply."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Increases funding for court-ordered judgment expenses for the Office of Management and Budget by \$277,006 from the general fund to provide a total of \$277,771;
- Adds \$1 million from the general fund for the statewide litigation funding pool for the Attorney General;
- Removes the \$97,000 general fund appropriation for the Ethics Commission;
- Changes the funding source for the loan repayments relating to disaster costs for the Adjutant General from the general fund to the state disaster relief fund and increases the amount by \$3,791,687 to provide a total of \$4,695,890 from the state disaster relief fund for loan repayments relating to disaster costs;
- Removes funding for repaying the principal balance of the loan relating to protest costs for the Adjutant General and provides \$1,026,833 from the state disaster relief fund for paying the accrued interest on the loan for the 2021-23 biennium; and
- Adds a section of legislative intent regarding the Attorney General seeking reimbursement from the federal government to repay the loan relating to protest costs.

Alx
3-16-23
(2-2)

REPORT OF STANDING COMMITTEE

SB 2025, as engrossed: Appropriations Committee (Rep. Vigesaa, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2025 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 and 13 with:

"Judgment expenses	<u>\$277,771</u>
Total general fund	\$277,771"

Page 1, replace lines 16 and 17 with:

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Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Increases funding for court-ordered judgment expenses for the Office of Management and Budget by \$277,006 from the general fund to provide a total of \$277,771;

- Adds \$1 million from the general fund for the statewide litigation funding pool for the Attorney General;
- Removes the \$97,000 general fund appropriation for the Ethics Commission;
- Changes the funding source for the loan repayments relating to disaster costs for the Adjutant General from the general fund to the state disaster relief fund and increases the amount by \$3,791,687 to provide a total of \$4,695,890 from the state disaster relief fund for loan repayments relating to disaster costs;
- Removes funding for repaying the principal balance of the loan relating to protest costs for the Adjutant General and provides \$1,026,833 from the state disaster relief fund for paying the accrued interest on the loan for the 2021-23 biennium; and
- Adds a section of legislative intent regarding the Attorney General seeking reimbursement from the federal government to repay the loan relating to protest costs.

TESTIMONY

SB 2025

DAPL EXPENDITURES



\$39,342,620

(Total DAPL Expenditures)

— **\$10 Million**

(Federal Department of Justice Emergency Law Enforcement Assistance Grant)

— **\$15 Million** (Donation)

\$14,342,620

(Deficiency request for BND estimated interest through June 30, 2023)

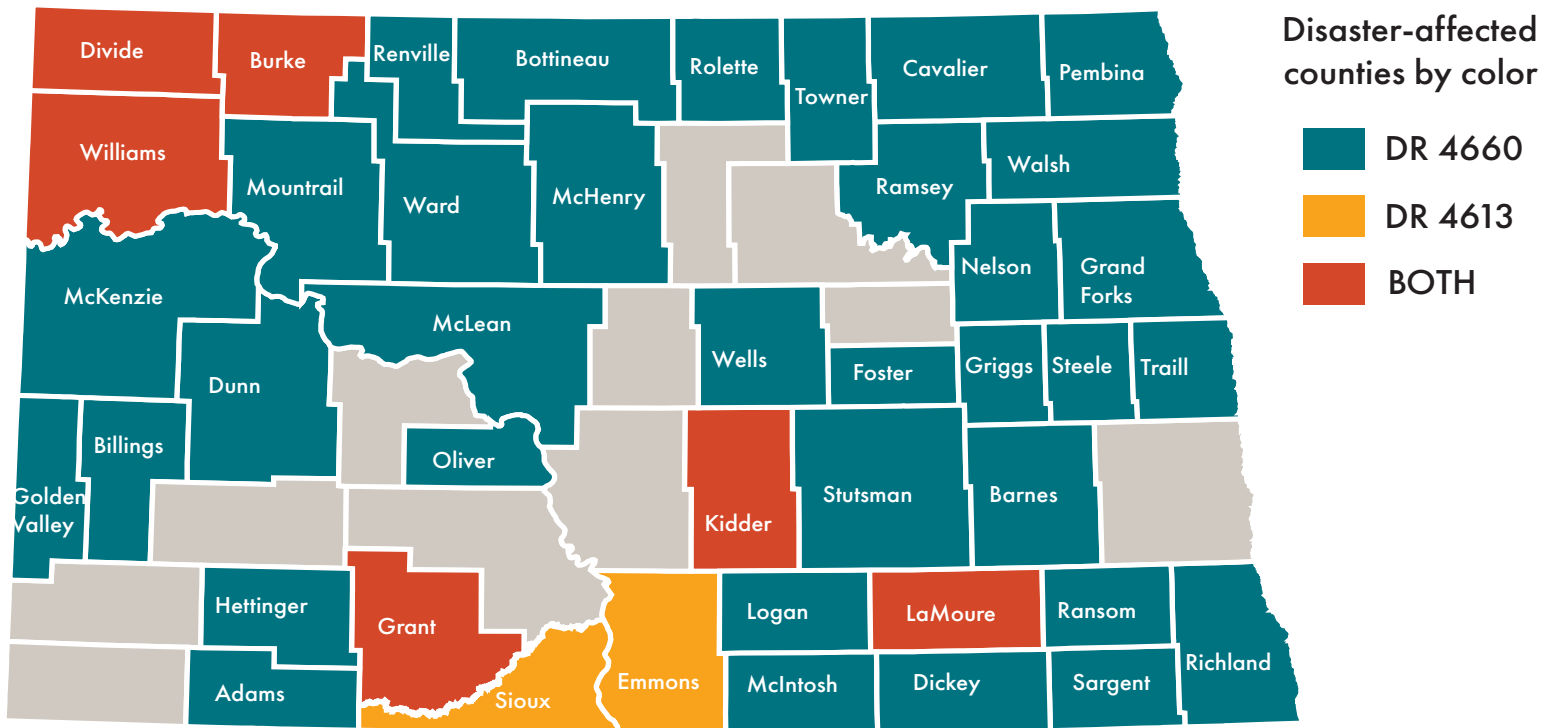
STATE COST SHARE

WILDFIRE
RESPONSE
— \$971,074

COVID-19
HAZARD
MITIGATION
GRANT
— \$22,153



STORM DISASTER DECLARATIONS BY COUNTY • 2021-2023 BIENNIUM



STORM DISASTERS BY YEAR

2021 Summer Storms
DR 4613 - 8 Counties

COST = \$100,209

2022 Spring Storms
DR 4660 - 40 Counties

COST = \$3,602,454

CUMMULATIVE STATE ESTIMATES

DAPL	\$14,342,620
Wildfire Response	\$971,074
COVID	\$22,153
DR 4613	\$100,209
DR 4660	\$3,602,454

TOTAL =
\$19,038,510

TESTIMONY OF
MAJOR GENERAL ALAN S. DOHRMANN
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
SENATE APPROPRIATIONS COMMITTEE
13 JANUARY 2023
SENATE BILL 2025

Good morning Mr. Chairman, members of the committee, I am Al Dohrmann, Adjutant General and Director of Emergency Services for the state of North Dakota. I am here today to testify in support of Subdivision 7 of Senate Bill 2025.

Subdivision 7 provides \$14,556,524 of loan authority from the Bank of North Dakota (BND). I would like to provide updated estimates for the loans we have outstanding. We are asking for \$4,695,890 for projected disaster and fire related cost this biennium, and \$14,342,620 of BND loan authority to pay the remaining balance of the Dakota Access Pipeline protest loans with BND. The sum of these two loan repayments is now \$19,038,510. I will address the DAPL loan and will bring Mr. Hanson, our Director of Homeland Security, up to provide an update on the disaster costs.

Attachment #1 provides a breakdown of the DAPL cost and the payments made against loans totaling \$39,342,620 dating back to the Fall of 2016. As you can see, we have received \$10,000,000 of federal funds from a Department of Justice Emergency Law Enforcement Assistance Grant, along with \$15,000,000 of donations to pay down the principle, leaving us with \$14,342,620 in our deficiency. This amount is comprised of \$13,362,262 in principle and an estimated \$980,358 in interest through June 30, 2023. In previous bienniums, \$1,531,173 in interest has been paid on the outstanding loans, including \$703,432 in last biennium. When including projected interest from the current biennium, the total interest accrued is \$2,511,531.

Also, within Subdivision 7 is \$4,695,890 for the state cost share related to wildfire response and presidentially declared disasters, including the 2021 summer storm (DR4613), the 2022 spring storm (DR4660), and the hazard mitigation grant program made available from the COVID-19 event (DR4509).

With that Mr. Chairman, I will turn it over to Darin to provide an update on the remaining disaster declarations.

Good morning, Mr. Chairman, and members of the committee. I am Darin Hanson, Director of Homeland Security at the Department of Emergency Services. I would like to provide an update on the two storm disasters declared this biennium, along with the loan authority for fire response and hazard mitigation dollars linked to COVID-19.

Beginning on Attachment #2 with the wildfire response, we are asking for \$971,074 to repay principal and interest on a BND loan draw. The wildfire response costs are primarily related to the 2021 fire season and were made available under an emergency clause within the agency's 2021-2023 appropriation bill (HB 1016) in the amount of \$2.5 million. The vast majority of those funds were used for ground and aerial fire suppression performed through both State Active Duty response, as well as response efforts from the

ND Forest Service. The remainder of the appropriation is not expected to be used. Next, we are seeking reimbursement for the state share of the hazard mitigation grant program made available by the COVID-19 event in the amount of \$22,153.

Moving to Attachment #3, there are two storm disasters incurred this biennium. These two disasters involved 40 counties throughout the state with an estimated state cost share of \$3,702,663 to be paid out this biennium. The first storm was the 2021 Summer Storms which resulted in a \$100,209 state share of response and recovery costs. The second storm was the 2022 Spring Storms, causing an estimated \$97 million in total damages and resulting in an estimated state share of disbursed response and recovery funds this biennium of \$3,602,454.

In conclusion, Mr. Chairman, we are requesting a total of \$4,695,890 for the estimated state share of disbursed costs for disaster response, recovery, and mitigation programs. The items identified within Subdivision 7 are estimates and any excess funding will not be expended.

We ask for your support of SB 2025 and will stand by for any questions you may have.

TESTIMONY OF

Joe Morrisette, Director, Office of Management and Budget

Good morning, Chairman Bekkedahl and members of the Senate Appropriations committee. I am Joe Morrisette, the Director of the Office of Management and Budget (OMB) and I am here to ask your support for the deficiency appropriation bill, SB 2025.

The information contained in this bill matches the deficiency appropriation requests known to OMB at the time the executive budget was finalized. Since that time, additional information has become available, and I will be asking you to consider an amendment to the bill as drafted.

I will provide a brief overview of each request. Representatives from each agency are here to provide additional detail or answer specific questions.

Office of Management and Budget

The appropriation in subdivision 1 is to pay the court-ordered judgement in the case of Hendrix, et al. v. Jaeger, relating to an initiated measure for term limits. The judgement of \$765 was entered on Sept. 19, 2022.

I ask that you to amend this amount to \$277,771, an increase of \$277,006. This increase is to pay the court-ordered judgement, plus accrued interest, in the case of Northwest Landowners Association v. State of North Dakota, relating to pore space rights. The judgement of \$265,767.32 was entered on October 7, 2022. With interest accrued through the end of May 2023, the amount required to pay the total judgement plus accrued interest is estimated to be \$277,006.

Attorney General

The appropriation of \$75,000 in subdivision 2 is to cover costs to reimbursement to counties for prosecution witness fees. The original appropriation for this purpose is \$95,000 and \$111,257 has been spent through Dec. 31.

Ethics Commission

The appropriation of \$97,000 in subdivision 3 is to cover the following estimated costs:

- \$72,000 for the services of a special assistant attorney general (SAAG).
- \$25,000 for estimated office relocation and renovation costs.

University of North Dakota

The appropriation of \$430,101 in subdivision 4 is to reimburse the University of North Dakota for unrecovered payments made to a fraudulent bank account, which resulted in the invoice being paid twice and shortfall of that amount for the university's 2021-23 budget.

Dakota College at Bottineau

The appropriation of \$99,768 in subdivision 5 is to reimburse Dakota College at Bottineau for expenses incurred for the College Ready English and Math program. This reimbursement was intended to come from the Department of Public Instruction (DPI) during the 2021-23 biennium. However, the claim for reimbursement was made after July 1, 2021, at which time the DPI appropriation was no longer available.

Department of Health and Human Services (DHHS)

The appropriation of \$310 million in subdivision 6 is to cover the additional 6.2% in Federal Medical Assistance Percentage (FMAP) reimbursement during the public health emergency (PHE). A requirement of receiving the additional 6.2% is to maintain current enrollment in the program and not remove anyone from the Medicaid roles despite eligibility changes. The additional 6.2% FMAP results in an overall general fund savings. However, Section 7 of 2021 HB 1012 prohibits the DHHS from spending the general fund savings during this biennium. Offsetting the requested general fund appropriation of \$25 million in this bill is expected general fund turnback of \$120 million.

Adjutant General

The appropriation of \$14.6 million in subdivision 7 is to cover the cost of loans from the Bank of North Dakota for the state response to the Dakota Access Pipeline (DAPL) protest in the amount of \$13,362,262, and various other disaster costs in the amount of \$904,203. Representatives of the Office of the Adjutant General and the Department of Emergency Services are here to ask for an amendment to these amounts: \$14,342,620 for DAPL loan repayment and \$4,695,890 for disaster response costs.

Agriculture Commission

The appropriation of \$1.7 million in subdivision 8 is to repay a loan at the Bank of North Dakota for the Emergency Feed Transportation Assistance Program.

Mr. Chairman and committee members, this concludes my testimony. I ask your support for SB 2025. I would be happy to answer any questions.

DAPL EXPENDITURES



\$39,355,095
(Total DAPL Expenditures)

— **\$10 Million**
(Federal Department of Justice Emergency
Law Enforcement Assistance Grant)

— **\$15 Million** (Donation)

\$14,355,095
(Deficiency request for BND estimated
interest through June 30, 2023)

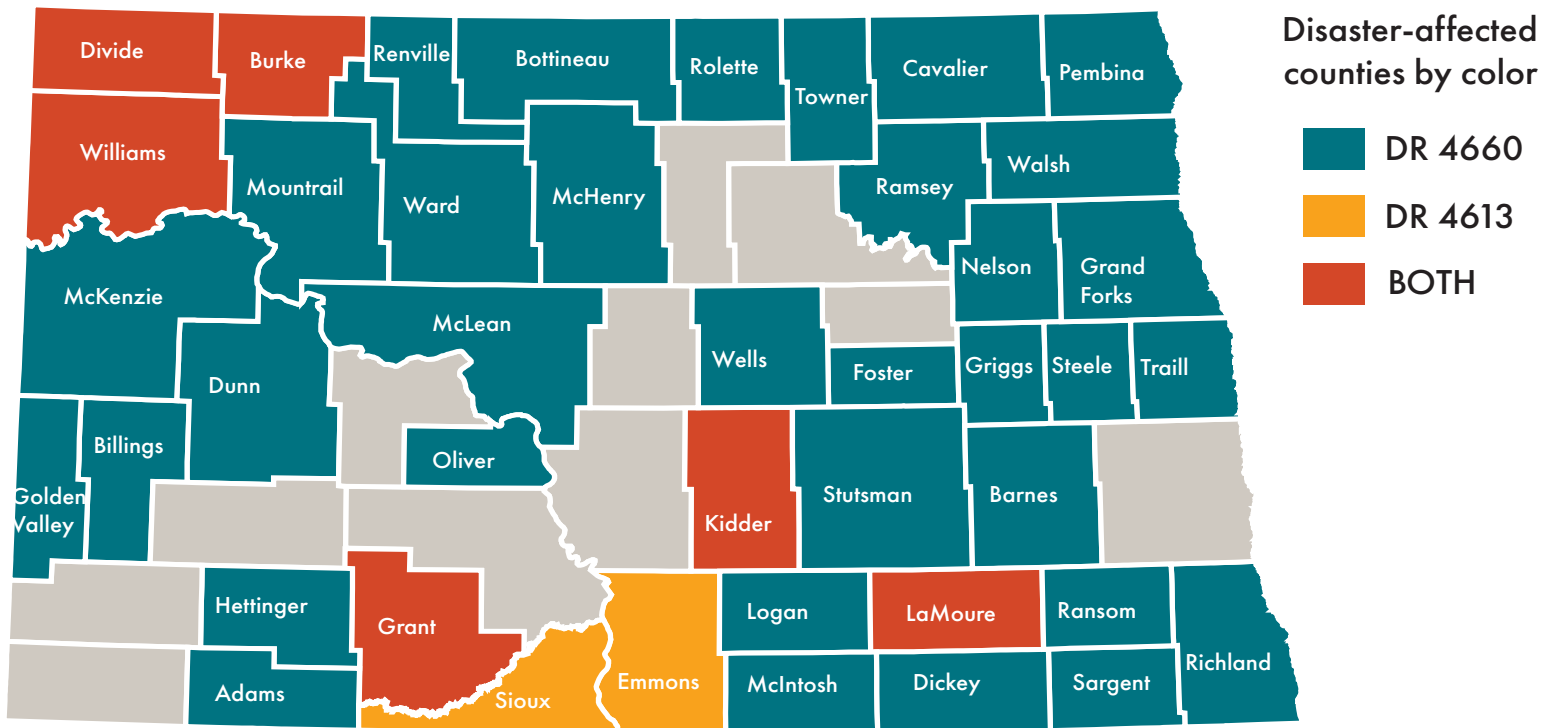
STATE COST SHARE

WILDFIRE
RESPONSE
— \$971,074

COVID-19
HAZARD
MITIGATION
GRANT
— \$22,153



STORM DISASTER DECLARATIONS BY COUNTY • 2021-2023 BIENNIUM



STORM DISASTERS BY YEAR

2021 Summer Storms
DR 4613 - 8 Counties

COST = \$100,209

2022 Spring Storms
DR 4660 - 40 Counties

COST = \$3,602,454

CUMMULATIVE STATE ESTIMATES

DAPL	\$14,355,095
Wildfire Response	\$971,074
COVID	\$22,153
DR 4613	\$100,209
DR 4660	\$3,602,454

TOTAL =

\$19,050,985

TESTIMONY OF
MAJOR GENERAL ALAN S. DOHRMANN
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
HOUSE APPROPRIATIONS COMMITTEE
13 MARCH 2023
SENATE BILL 2025

Good morning Mr. Chairman, members of the committee, I am Al Dohrmann, Adjutant General and Director of Emergency Services for the state of North Dakota. I am here today to testify in support of Subdivision 6 of Senate Bill 2025.

Subdivision 6 provides \$14,556,524 of loan authority from the Bank of North Dakota (BND). I would like to provide updated estimates for the loans we have outstanding. We are asking for \$4,695,890 for projected disaster and fire related cost this biennium, and \$14,355,095 of BND loan authority to pay the remaining balance of the Dakota Access Pipeline protest loans with BND. The sum of these two loan repayments is now \$19,050,985. I will address the DAPL loan and will bring Mr. Hanson, our Director of Homeland Security, up to provide an update on the disaster costs.

Attachment #1 provides a breakdown of the DAPL cost and the payments made against loans totaling \$39,355,095 dating back to the Fall of 2016. As you can see, we have received \$10,000,000 of federal funds from a Department of Justice Emergency Law Enforcement Assistance Grant, along with \$15,000,000 of donations to pay down the principle, leaving us with \$14,355,095 in our deficiency. This amount is comprised of \$13,362,262 in principle and an estimated \$992,833 in interest through June 30, 2023. In previous bienniums, \$1,531,173 in interest has been paid on the outstanding loans, including \$703,432 in last biennium. When including projected interest from the current biennium, the total interest accrued is \$2,524,007.

Also, within Subdivision 6 is \$4,695,890 for the state cost share related to wildfire response and presidentially declared disasters, including the 2021 summer storm (DR4613), the 2022 spring storm (DR4660), and the hazard mitigation grant program made available from the COVID-19 event (DR4509).

With that Mr. Chairman, I will turn it over to Darin to provide an update on the remaining disaster declarations.

Good morning, Mr. Chairman, and members of the committee. I am Darin Hanson, Director of Homeland Security at the Department of Emergency Services. I would like to provide an update on the two storm disasters declared this biennium, along with the loan authority for fire response and hazard mitigation dollars linked to COVID-19.

Beginning on Attachment #2 with the wildfire response, we are asking for \$971,074 to repay principal and interest on a BND loan draw. The wildfire response costs are primarily related to the 2021 fire season and were made available under an emergency clause within the agency's 2021-2023 appropriation bill (HB 1016) in the amount of \$2.5 million. The vast majority of those funds were used for ground and aerial fire suppression performed through both State Active Duty response, as well as response efforts from the

ND Forest Service. The remainder of the appropriation is not expected to be used. Next, we are seeking reimbursement for the state share of the hazard mitigation grant program made available by the COVID-19 event in the amount of \$22,153.

Moving to Attachment #3, there are two storm disasters incurred this biennium. These two disasters involved 40 counties throughout the state with an estimated state cost share of \$3,702,663 to be paid out this biennium. The first storm was the 2021 Summer Storms which resulted in a \$100,209 state share of response and recovery costs. The second storm was the 2022 Spring Storms, causing an estimated \$97 million in total damages and resulting in an estimated state share of disbursed response and recovery funds this biennium of \$3,602,454.

In conclusion, Mr. Chairman, we are requesting a total of \$4,695,890 for the estimated state share of disbursed costs for disaster response, recovery, and mitigation programs. The items identified within Subdivision 6 are estimates and any excess funding will not be expended.

We ask for your support of SB 2025 and will stand by for any questions you may have.

March 13, 2023

Becky Keller – Finance Director, Office of Attorney General

Proposed Amendments for Engrossed SB 2025 – House Appropriations

Page 1, replace lines 16 and 17 with:

“Prosecution witness fees	\$75,000
Litigation pool	<u>1,000,000</u>
Total general fund	\$1,075,000”

North Dakota Ethics Commission
Senate Bill 2025
Testimony presented by
Executive Director, Rebecca Binstock
Before the House Appropriations Committee
March 13, 2023

Good morning, Mr. Chairman and Committee members, my name is Rebecca Binstock. I serve as the Executive Director of the North Dakota Ethics Commission.

Most recently, there has been an increase in the level of activity with the Ethics Commission:

- In 2022, there were 14 complaints filed with the Commission, compared to 9 complaints filed in 2021, 3 complaints in 2020, and 2 complaints in 2019. To date in 2023, the Commission has had two (2) complaints filed. The Commission has 11 pending complaints as of March 13, 2023.
- Meeting notice forms filed with the Commission exponentially increased near the end of 2022. To date, in 2023, we have had 55 meeting notices filed. The Commission anticipates level of activity will be sustained through the remainder of this biennium.
- With the adoption of gift rules, quasi-judicial bias rules, and conflict of interest rules, the Commission has increased education to those individuals subject to the rules. Part of this educational component includes providing guidance to other agencies, commissions, and boards on how to integrate policies and procedures with adopted rules.
- The Commission's activity statistics are attached (**Attachment No. 1**).

The 2021-23 biennial budget for the Ethics Commission is \$623,984 in general funds. As of January 31, 2023, the Commission has spent \$466,085 leaving a remaining balance for the biennium of \$157,899 (**Attachment No. 2**). The Commission projects the remaining \$157,899 will not cover projected expenditures of the biennium. The Commission is requesting a deficiency appropriation of \$97,000 to cover expenditures.

The increase in activity has led to significant budgetary challenges for the Commission:

1. An overall increase in temporary staff hours and an increase in special meetings.
2. The Commission anticipates a continual steady increase in activity and travel as additional rules are implemented and the Commission provides education to those impacted by rules.

3. The Ethics Commission had to hire a Special Assistant Attorney General (SAAG) in November of 2022 to address nine (9) complaints that have been filed with the Commission due to the recusal of the Office of the Attorney General.
4. Anticipation of remodel costs (to ensure separation from other agencies) for relocation of the office to the capitol in the Summer of 2023.

The Commission has worked to offset the increased costs in several ways:

- The Commission vacated its office space in November 2022, in hopes of finding a space within the capitol in the upcoming months.
- The Commission has continued to limit its in-person meetings and reduce travel.
- The Commission did not attend the annual COGEL (Council on Governmental Ethics Laws) conference.

With these off-sets, the Commission has been able to fund the cost of increased temporary staff hours and special meetings, along with other operational costs. However, the off-sets and savings the Commission was able to make (with an already lean budget) do not provide enough funding to cover the \$72,000 cost of hiring a SAAG for Complaints (as well as other investigation costs) through June 30, 2023, and \$25,000 in estimated office relocation costs.

In light of the above, the Ethics Commission is requesting a deficiency appropriation of \$97,000, which consists of \$72,000 in Special Assistant Attorney General ("SAAG") costs and \$25,000 in remodel costs.

Pursuant to N.D.C.C. § 54-66-14, the Office of the Attorney General is to provide legal services to the Commission. However, this past year, the Commission hired attorney Patricia Monson (Fargo) to serve as SAAG to advise the Commission as to Complaint Nos. 22-003 through 22-010 and 22-012, from which the Office of the Attorney General recused. The \$72,000 requested is based on a cost of \$9,000 per month for SAAG costs for the remainder of the biennium. This amount may also cover potential additional investigation costs. This estimate does not include any additional costs the Commission may incur if it needs to retain a SAAG for additional complaints during this biennium.

The Commission has estimated remodel costs of an office space within the capitol at \$75,000 to ensure secure access to the space and sufficient privacy, including NDIT line and equipment installation and furniture. This estimate is based on recently completed projects and estimates for similar projects as provided by John Boyle with OMB. However, the Commission is only requesting \$25,000 for a potential move-in date of June 1, 2023, with the remaining \$50,000 being covered by OMB's facilities improvement budget to be available July 1, 2023.

The Commission is also requesting an amendment to SB 2025 to carry over the \$97,000 as the Commission is unsure 100% of expenditures will be incurred for these two items by June 30, 2023. **(Attachment No. 3)**.

Mr. Chairman, that concludes my testimony and I will gladly stand for any questions you may have.

ND Ethics Commission - SB 2025

Level of Activity - Statistical Data

ATTACHMENT #1

Complaints Filed:

<u>Year</u>	<u>Number of Complaints</u>	
2019	2	
2020	3	
2021	9	
2022	14	(12 of 14 had been filed between Sept 1 and Dec 31, 2022)
2023	2	

Gift Rule Meeting Notices (Effective Oct 6, 2020):

<u>Year</u>	<u>Number of Meeting Notices</u>	
2019	0	
2020	0	
2021	52	
2022	130	(103 of 130 had been filed between Sept 1 and Dec 31, 2022)
2023	55	

Advisory Opinion Requests (Authorized Effective Aug 1, 2021):

<u>Year</u>	<u>Number of Advisory Opinion Req</u>	
2019	0	
2020	0	
2021	0	
2022	2	(Both requests were made after September 1, 2022)
2023	1	

Number of Special Meetings:

<u>Year</u>	<u>Number of Special Meetings</u>	
2019	2	
2020	0	
2021	0	
2022	5	(All five (5) were filed after September 1, 2022)
2023	5	

Number of Quasi-Judicial Disclosures:

<u>Year</u>	<u>Number of Quasi-Judicial Disclosures</u>	
2022	8	(All eight (8) were filed after September 1, 2022)
2023	4	

Number of General Conflict Disclosures:

<u>Year</u>	<u>Number of General Conflict Disclosures</u>
2022	0
2023	4

**ND Ethics Commission (Senate Bill 2025)
2021 - 23 Budget Status as of January 31, 2023**

ATTACHMENT #2

SUMMARIZED

	<u>2021-23 Base Budget</u>	<u>Expenditures as of January 31, 2023</u>	<u>Remaining Balance</u>
Salaries and Benefits	\$ 477,518.00	\$ 372,046.00	\$ 105,472.00
Operating Expenses	\$ 146,466.00	\$ 94,039.00	\$ 52,427.00
Total General Funds	\$ 623,984.00	\$ 466,085.00	\$ 157,899.00

TOTAL AUTHORIZED FTE's **1**

DETAIL

	<u>2021-23 Base Budget</u>	<u>Expenditures as of January 31, 2023</u>	<u>Remaining Balance</u>
Salaries and Benefits			
Salaries - Permanent	\$ 271,194.00	\$ 217,037.00	\$ 54,157.00
Salaries -Other (Commissioners)	\$ 32,700.00	\$ 30,324.00	\$ 2,376.00
Temporary Salaries	\$ 103,624.00	\$ 79,261.00	\$ 24,363.00
Fringe Benefits	\$ 70,000.00	\$ 45,424.00	\$ 24,576.00
	\$ 477,518.00	\$ 372,046.00	\$ 105,472.00
Operating Expenses			
Travel	\$ 16,302.00	\$ 3,096.00	\$ 13,206.00
Supply/Material - Professional	\$ 500.00	\$ 341.00	\$ 159.00
Miscellaneous Supplies	\$ 500.00	\$ 16.00	\$ 484.00
Office Supplies	\$ 2,500.00	\$ 553.00	\$ 1,947.00
Printing	\$ 200.00	\$ 88.00	\$ 112.00
IT Equipment under \$5,000	\$ 1,500.00	\$ 638.00	\$ 862.00
Insurance	\$ 250.00	\$ 194.00	\$ 56.00
Rentals/Leases-Equip & Other	\$ 3,552.00	\$ 2,660.00	\$ 892.00
Rentals/Leases - Bldg/Land	\$ 52,416.00	\$ 37,128.00	\$ 15,288.00
IT - Data Processing	\$ 33,026.00	\$ 25,309.00	\$ 7,717.00
IT - Communications	\$ 1,920.00	\$ 1,721.00	\$ 199.00
Professional Development	\$ 3,800.00	\$ 3,327.00	\$ 473.00
Operating Fees and Services	\$ 10,000.00	\$ 6,086.00	\$ 3,914.00
Fees - Professional Services	\$ 20,000.00	\$ 12,882.00	\$ 7,118.00
	\$ 146,466.00	\$ 94,039.00	\$ 52,427.00
Total General Funds	\$ 623,984.00	\$ 466,085.00	\$ 157,899.00

TOTAL AUTHORIZED FTE's **1**

ND Ethics Commission
Carry Over Amendment SB 2025

SECTION XX. EXEMPTION. Section 54-44.1-11 does not apply to the \$97,000 in section 1, subdivision 3 of 2023 SB 2025 and any unexpended funds must be continued into the biennium beginning July 1, 2023, and ending June 30, 2025, and may be expended only for the purpose of special assistant attorney general fees and relocation costs.



Testimony in Support of
Senate Bill No. 2025
Senate Appropriations
January 13, 2023

TESTIMONY OF

Joe Morrisette, Director, Office of Management and Budget

Good morning, Chairman Bekkedahl and members of the Senate Appropriations committee. I am Joe Morrisette, the Director of the Office of Management and Budget (OMB) and I am here to ask your support for the deficiency appropriation bill, SB 2025.

The information contained in this bill matches the deficiency appropriation requests known to OMB at the time the executive budget was finalized. Since that time, additional information has become available, and I will be asking you to consider an amendment to the bill as drafted.

I will provide a brief overview of each request. Representatives from each agency are here to provide additional detail or answer specific questions.

Office of Management and Budget

The appropriation in subdivision 1 is to pay the court-ordered judgement in the case of Hendrix, et al. v. Jaeger, relating to an initiated measure for term limits. The judgement of \$765 was entered on Sept. 19, 2022.

I ask that you to amend this amount to \$277,771, an increase of \$277,006. This increase is to pay the court-ordered judgement, plus accrued interest, in the case of Northwest Landowners Association v. State of North Dakota, relating to pore space rights. The judgement of \$265,767.32 was entered on October 7, 2022. With interest accrued through the end of May 2023, the amount required to pay the total judgement plus accrued interest is estimated to be \$277,006.

Attorney General

The appropriation of \$75,000 in subdivision 2 is to cover costs to reimbursement to counties for prosecution witness fees. The original appropriation for this purpose is \$95,000 and \$111,257 has been spent through Dec. 31.

Ethics Commission

The appropriation of \$97,000 in subdivision 3 is to cover the following estimated costs:

- \$72,000 for the services of a special assistant attorney general (SAAG).
- \$25,000 for estimated office relocation and renovation costs.

University of North Dakota

The appropriation of \$430,101 in subdivision 4 is to reimburse the University of North Dakota for unrecovered payments made to a fraudulent bank account, which resulted in the invoice being paid twice and shortfall of that amount for the university's 2021-23 budget.

Dakota College at Bottineau

The appropriation of \$99,768 in subdivision 5 is to reimburse Dakota College at Bottineau for expenses incurred for the College Ready English and Math program. This reimbursement was intended to come from the Department of Public Instruction (DPI) during the 2021-23 biennium. However, the claim for reimbursement was made after July 1, 2021, at which time the DPI appropriation was no longer available.

Department of Health and Human Services (DHHS)

The appropriation of \$310 million in subdivision 6 is to cover the additional 6.2% in Federal Medical Assistance Percentage (FMAP) reimbursement during the public health emergency (PHE). A requirement of receiving the additional 6.2% is to maintain current enrollment in the program and not remove anyone from the Medicaid roles despite eligibility changes. The additional 6.2% FMAP results in an overall general fund savings. However, Section 7 of 2021 HB 1012 prohibits the DHHS from spending the general fund savings during this biennium. Offsetting the requested general fund appropriation of \$25 million in this bill is expected general fund turnback of \$120 million.

Adjutant General

The appropriation of \$14.6 million in subdivision 7 is to cover the cost of loans from the Bank of North Dakota for the state response to the Dakota Access Pipeline (DAPL) protest in the amount of \$13,362,262, and various other disaster costs in the amount of \$904,203. Representatives of the Office of the Adjutant General and the Department of Emergency Services are here to ask for an amendment to these amounts: \$14,342,620 for DAPL loan repayment and \$4,695,890 for disaster response costs.

Agriculture Commission

The appropriation of \$1.7 million in subdivision 8 is to repay a loan at the Bank of North Dakota for the Emergency Feed Transportation Assistance Program.

Mr. Chairman and committee members, this concludes my testimony. I ask your support for SB 2025. I would be happy to answer any questions.

STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF BOTTINEAU

NORTHEAST JUDICIAL DISTRICT

Northwest Landowners Association,

Plaintiff,

vs.

Civil No. 05-2019-CV-00085

State of North Dakota, North Dakota
Industrial Commission, Hon. Douglas
Burgum in his official capacity as
Governor of the State of North Dakota, and
Hon. Wayne Stenehjem in his official
capacity as
Attorney General of North Dakota,

SECOND AMENDED JUDGMENT

Defendants,

and,

Continental Resources, Inc.,

Intervenor Defendant.

[¶1] This District Court entered Judgment April 15, 2021 (Index #184) and this District Court Amended Judgment was entered July 7, 2021 (Index #212).

[¶2] An appeal was taken by Defendants on May 20, 2021 (Index #185) with amended notice of appeal on October 7, 2021 (Index #241) and Intervenor Defendant on June 2, 2021 (Index # 189). The Supreme Court issued its Opinion and Judgment on September 9, 2022 in 2022 ND 150. (Index ##257, 258). This Second Amended Judgment is entered in accordance with the Supreme Court Judgment and Mandate (Index ##257, 258).

[¶3] Pursuant to the Court's Supplemental Order to Memorandum Opinion and Order Partially Granting Plaintiff's Motion for Attorneys' Fees and Expenses (Index #239) and the

Court's Memorandum Opinion and Order Granting Plaintiff's Motion for Attorneys' Fees and Expenses on Appeal (Index #261), this Court's prior Amended Judgment entered on July 7, 2021 (Index #212) is hereby amended and judgment is hereby entered consistent with the Supreme Court's Mandate issued through its Opinion and Judgment (Index ## 257, 258).

[¶4] Plaintiff Northwest Landowners Association is awarded a total of \$265,767.32 for its attorneys' fees and expenses to be paid by the Defendant State of North Dakota under applicable law.

Dated this ___ day of _____, 2022.

Signed: 10/7/2022 2:02:41 PM

By: Miranda Brant
Clerk of District Court

xx.xxxx
Title.

March xx, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2025

Page 1, line 12, replace "\$765" with "\$277,771"

Page 1, line 13, replace "\$765" with "\$277,771"

STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF BOTTINEAU

NORTHEAST JUDICIAL DISTRICT

Northwest Landowners Association,

Plaintiff,

vs.

Civil No. 05-2019-CV-00085

State of North Dakota, North Dakota Industrial Commission, Hon. Douglas Burgum in his official capacity as Governor of the State of North Dakota, and Hon. Wayne Stenehjem in his official capacity as Attorney General of North Dakota,

Defendants,

and,

Continental Resources, Inc.,

Intervenor Defendant,

SECOND AMENDED JUDGMENT

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Court's Memorandum Opinion and Order Granting Plaintiff's Motion for Attorneys' Fees and Expenses on Appeal (Index #261), this Court's prior Amended Judgment entered on July 7, 2021 (Index #212) is hereby amended and judgment is hereby entered consistent with the Supreme Court's Mandate issued through its Opinion and Judgment (Index ## 257, 258).

[¶4] Plaintiff Northwest Landowners Association is awarded a total of \$265,767.32 for its attorneys' fees and expenses to be paid by the Defendant State of North Dakota under applicable law.

Dated this ____ day of _____, 2022.

Signed: 10/7/2022 2:02:41 PM

By: Miranda Brandt
Clerk of District Court



STATE OF NORTH DAKOTA } SS IN DISTRICT COURT
County of Bottineau } Northeast Judicial District
I, Tammy Knudson, Clerk of District Court in and for
said County, do hereby certify that the foregoing is a true and
correct copy of the record now in my office.
In Testimony Whereof I have hereunto set my hand and affixed
the seal of the said District Court this 5th day of
November A.D., 2022.
Tammy Knudson
Clerk of the District Court, Bottineau County, North Dakota
By: Miranda Brandt Deputy

23.0279.02001
Title.

Prepared by the Legislative Council staff for
Representative Vigesaa
March 15, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2025

Page 1, replace lines 12 and 13 with:

"Judgment expenses	<u>\$277,771</u>
Total general fund	\$277,771"

Page 1, replace lines 16 and 17 with:

"Prosecution witness fees	\$75,000
Statewide litigation funding pool	<u>1,000,000</u>
Total general fund	\$1,075,000"

Page 1, remove lines 19 through 23

Page 2, line 3, replace "5" with "4"

Page 2, line 9, replace "6" with "5"

Page 2, replace lines 11 through 13 with:

"Loan repayment - disaster costs	\$4,695,890
Loan interest repayment - law enforcement costs	<u>1,026,833</u>
Total state disaster relief fund	\$5,722,723"

Page 2, line 14, replace "7" with "6"

Page 2, line 18, replace "8" with "7"

Page 2, replace lines 20 through 22 with:

"Grand total general fund	\$28,152,539
Grand total special funds	<u>290,722,723</u>
Grand total all funds	\$318,875,262

SECTION 2. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-eighth legislative assembly that the attorney general seek reimbursement from the federal government for the costs of responding to unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-eighth legislative assembly that these reimbursements be used to repay the Bank of North Dakota loans authorized by the emergency commission and the legislative assembly which were obtained to provide the funding necessary to respond to the unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-eighth legislative assembly that the provisions of section 54-16-13 apply to the loans, except that emergency commission approval does not apply."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Increases funding for court-ordered judgment expenses for the Office of Management and Budget by \$277,006 from the general fund to provide a total of \$277,771;
- Adds \$1 million from the general fund for the statewide litigation funding pool for the Attorney General;
- Removes the \$97,000 general fund appropriation for the Ethics Commission;
- Changes the funding source for the loan repayments relating to disaster costs for the Adjutant General from the general fund to the state disaster relief fund and increases the amount by \$3,791,687 to provide a total of \$4,695,890 from the state disaster relief fund for loan repayments relating to disaster costs;
- Removes funding for repaying the principal balance of the loan relating to protest costs for the Adjutant General and provides \$1,026,833 from the state disaster relief fund for paying the accrued interest on the loan for the 2021-23 biennium; and
- Adds a section of legislative intent regarding the Attorney General seeking reimbursement from the federal government to repay the loan relating to protest costs.