

STATE GOVERNMENT

CHAPTER 668

HOUSE BILL NO. 1507

(Representative Berg)

(Senator Stenehjem)

(Approved by the Delayed Bills Committee)

LEGISLATOR COMPENSATION AND EXPENSES

AN ACT to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to compensation and expense reimbursement of members of the legislative assembly; to provide an effective date; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of one hundred twenty-five dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred fifty dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed six hundred fifty dollars per month. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.

If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.

In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of two hundred fifty dollars a month, which is payable every six months or monthly, at the member's option. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member. The majority and minority leaders of the house and senate and the chairman of the legislative council, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of two hundred fifty dollars per month during the biennium for their execution of public duties.

Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].

SECTION 2. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

SECTION 3. RETROACTIVE APPLICATION OF ACT. This Act is retroactive in application to May 4, 2003.

Approved May 13, 2003
Filed May 13, 2003

CHAPTER 669

SENATE BILL NO. 2423

(Senator Stenehjem)

(Representative Berg)

(Approved by the Delayed Bills Committee)

STATE EMPLOYEE REDUCTIONS AND COMPENSATION

AN ACT to provide legislative intent regarding state employee reductions; to provide for a report to the budget section; to provide for state employee compensation increases; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT - STATE EMPLOYEE REDUCTIONS - BUDGET SECTION REPORT. It is the intent of the legislative assembly that the number of full-time equivalent state employees be reduced by employee retirements, employee turnover, and vacant employee positions during the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Executive branch agencies and the office of the governor, excluding other offices of state elected officials and higher education	155
State elected officials, excluding the governor	13
Judicial branch	8

It is the intent that one-half of this total reduction be accomplished by December 31, 2003, and the remaining reductions by December 31, 2004. Agencies shall report employee positions eliminated and projected salary and wages and fringe benefit savings for the remainder of the 2003-05 biennium to the office of management and budget. The office of management and budget shall provide periodic reports on the employee positions eliminated by agencies and reported agency budgetary savings to the budget section of the legislative council.

SECTION 2. STATE EMPLOYEE REDUCTIONS - STATE EMPLOYEE COMPENSATION POOLS. The office of management and budget shall establish a state employee compensation pool for executive branch agencies from agency savings resulting from employee reductions under section 1 of this Act and a state employee compensation pool for the judicial branch from agency savings resulting from employee reductions within the judicial branch under section 1 of this Act.

SECTION 3. LEGISLATIVE INTENT - STATE EMPLOYEE COMPENSATION INCREASES - REPORT TO THE BUDGET SECTION. It is the intent of the legislative assembly that funding for state employee salary increases for the biennium beginning July 1, 2003, and ending June 30, 2005, be provided from permanent savings resulting from reductions in full-time equivalent positions and supplemented, if necessary, from accumulated savings from other vacant full-time equivalent positions.

Executive branch agencies may provide state employee salary increases effective January 1, 2004, to be paid in February 2004 of up to one percent from

pooled savings as provided in section 2 of this Act and supplemented, if necessary, from accumulated savings from other vacant full-time equivalent positions of the agency, upon approval of the office of management and budget. At least seventy percent of the funding for the increases provided must be from pooled savings as provided in section 2 of this Act.

The judicial branch may provide state employee salary increases effective January 1, 2004, to be paid in February 2004 of up to one percent from pooled savings as provided in section 2 of this Act and supplemented, if necessary, from accumulated savings from other vacant full-time equivalent positions of the judicial branch. At least seventy percent of the funding for the increases provided must be from pooled savings as provided in section 2 of this Act.

Executive branch agencies may provide state employee salary increases effective January 1, 2005, to be paid in February 2005 of up to two percent from pooled savings as provided in section 2 of this Act and supplemented, if necessary, from accumulated savings from other vacant full-time equivalent positions of the agency, upon approval of the office of management and budget. At least seventy percent of the funding for the increases provided must be from pooled savings as provided in section 2 of this Act.

The judicial branch may provide state employee salary increases effective January 1, 2005, to be paid in February 2005 of up to two percent from pooled savings as provided in section 2 of this Act and supplemented, if necessary, from accumulated savings from other vacant full-time equivalent positions of agencies of the judicial branch. At least seventy percent of the funding for the increases provided must be from pooled savings as provided in section 2 of this Act.

The office of management and budget and the judicial branch shall provide reports to the budget section relating to salary increases provided for each year of the 2003-05 biennium.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 2003.

Approved May 13, 2003
Filed May 13, 2003

CHAPTER 670

SENATE BILL NO. 2422

(Senator Stenehjem)

(Representative Berg)

(Approved by the Delayed Bills Committee)

EMERGENCY COMMISSION REQUESTS AND PROCEDURES

AN ACT to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to the presentation of emergency request petitions to the emergency commission; to amend and reenact subdivision a of subsection 1 of section 10-19.1-63, subsection 1 of section 54-16-00.1, and sections 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, and 54-16-11.1 of the North Dakota Century Code, relating to consideration for issuance of shares of stock and procedures employed by the emergency commission and approvals by the budget section; to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 1 of section 10-19.1-63 of the North Dakota Century Code as amended in section 9 of House Bill No. 1362, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

- a. ~~Shares may be issued for any consideration, including, without limitation:~~
- ~~(1) Money or other tangible or intangible property received by the corporation or to be received by the corporation under a written agreement, or services rendered to the corporation or to be rendered to the corporation, as authorized by resolution approved by the affirmative vote of the directors required by section 10-19.1-46; or~~
 - ~~(2) If provided for in the articles, approved by the affirmative vote of the shareholders required by section 10-19.1-74, establishing a price in money or other consideration, or a minimum price, or a general formula or method by which the price will be determined.~~

The consideration for the issuance of shares may be paid, in whole or in part, in money; in other property, tangible or intangible; or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued is received by the corporation, the shares are considered fully paid and nonassessable. Neither promissory notes nor future services constitute payment or part payment for shares of a corporation.

SECTION 2. AMENDMENT. Subsection 1 of section 54-16-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Emergency" means either a calamity or an unforeseen happening subsequent to the time the appropriation was made and which was clearly not within the contemplation of the legislative assembly and the governor.

SECTION 3. AMENDMENT. Section 54-16-03 of the North Dakota Century Code is amended and reenacted as follows:

54-16-03. Unlawful to expend more than appropriated - May secure approval from commission for use of other funds - Deficit void. A state officer may not expend, or agree or contract to expend, any amount in excess of the sum appropriated for that expenditure, and may not expend an amount appropriated for any specific purpose or fund or for any other purpose without prior approval in the form of a transfer approval or expenditure authorization as provided in this chapter. The office of management and budget shall provide information to the emergency commission with respect to all emergency requests. Any debt or deficit created by a state officer in violation of this section is void. ~~The emergency commission may not approve an expenditure of institutional income, other than gifts or grants, in excess of the institutional income appropriated to the institution by the legislative assembly.~~

SECTION 4. A new section to chapter 54-16 of the North Dakota Century Code is created and enacted as follows:

Submission of petition to emergency commission. When an emergency exists, a state officer may present to the emergency commission an itemized, verified petition requesting approval to transfer money and spending authority between funds or line items pursuant to section 54-16-04; accept and expend federal funds pursuant to section 54-16-04.1; accept and expend state contingency funds pursuant to section 54-16-09; or accept and expend other funds pursuant to section 54-16-04.2.

SECTION 5. AMENDMENT. Section 54-16-04 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04. May order transfer of moneys between funds - Line item transfers - Order may draw from state treasury. ~~A state officer may present to the emergency commission an itemized, verified petition requesting approval of a transfer of spending authority from the state contingencies appropriation, a transfer of money or spending authority between funds or line items, or expenditure of federal funds. The emergency commission shall request and receive information from, upon the director advice of the office of management and budget regarding the petition. If the emergency commission finds that an emergency exists, the emergency commission may order money or spending authority transferred from one fund or line item to another fund or line item belonging to or appropriated for the same institution or board or the same state enterprise, may order a transfer of spending authority from the state contingencies appropriation, may authorize expenditure of federal funds, or, in an extremity, may authorize money to be drawn from the state treasury to meet the emergency until the legislative assembly can make an appropriation available. The following transfers may not be, if authorized by the emergency commission without, require the approval by of the budget section of the legislative council:~~

1. A transfer of moneys or spending authority which would eliminate or make impossible the accomplishment of a program or objective funded by the legislative assembly.
2. A transfer exceeding fifty thousand dollars from one fund or line item to another fund or line item, unless the transfer is necessary to comply with a court order or to avoid:
 - a. An imminent threat to the safety of people or property due to a natural disaster or war crisis; or
 - b. An imminent financial loss to the state.

SECTION 6. AMENDMENT. Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.1. May authorize acceptance and disbursement of federal funds. The emergency commission ~~with, upon~~ upon the advice and counsel of the ~~executive~~ office of ~~the~~ the management and budget, may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize passthrough federal funds from one state agency to another state agency. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative council is not required for the acceptance of federal funds if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions. The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly. A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.

SECTION 7. AMENDMENT. Section 54-16-04.2 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.2. Commission may authorize acceptance and expenditure of moneys. ~~The~~ Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative council is not required for the acceptance of moneys under this section if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war

crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions.

SECTION 8. AMENDMENT. Section 54-16-09 of the North Dakota Century Code is amended and reenacted as follows:

54-16-09. Transfer of spending authority from state contingencies appropriation. ~~If the~~ The emergency commission orders, upon the advice of the office of management and budget, may order a transfer of spending authority from the state contingencies appropriation, the amount ordered which must be deducted from the state contingencies line item in the appropriation to the office of management and budget and added to the appropriate line item in the appropriation of the state officer who requested the transfer. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, shall certify, by an approved motion recorded in its minutes, that the material, services, or purposes for which the authority was transferred are necessary and proper expenditures and, if an appropriation for that purpose was made by the legislative assembly, that the appropriation for that purpose is insufficient. The office of management and budget and the emergency commission shall file the certificate as authority for a transfer under this section. Approval by the budget section of the legislative council is not required if the transfer is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state.

SECTION 9. AMENDMENT. Section 54-16-11.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-11.1. Emergency commission may increase revenues and appropriation authority for intergovernmental service fund agencies. Upon presentation of the a verified petition under section 54-16-10 establishing that an emergency exists and the necessity for increased appropriation authority, the emergency commission shall meet to determine if additional demand from state agencies requires an increase in appropriation authority and revenue receipts for the information technology department, central duplicating, surplus property, or roughrider industries division of the department of corrections and rehabilitation.

SECTION 10. REPEAL. Sections 54-16-10 and 54-16-11 of the North Dakota Century Code are repealed.

SECTION 11. EFFECTIVE DATE. This Act becomes effective on August 1, 2003.

Approved May 13, 2003
Filed May 13, 2003