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Lo Costa Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE APPROPRIATIONS

HB 1421

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Salvatore Riccardi
Operator's Signature

10/6/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1421

House Appropriations Committee

☐ Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
1		X	
Committee Clerk Signature <i>Chris S. Nyhus</i>			

Minutes:

Chairman Svedjan opens discussion on HB 1421. This is a bill that has to do with recommended changes to code as it relates to the workings of the emergency commission. It was brought to us at the recommendation of the secretary of state. The prime sponsor of the bill is Representative Belter. In the secretary of state's testimony, he did provide a suggested amendment, and what I did was take that suggested amendment and asked legislative council to draft that. We have that in front of us numbered 0302. You also have 0301. There will be two sets of amendments here. We will first go to 0301, Representative Delzer's suggested amendment, which also relates to the amendment suggested by the secretary of state.

Rep. Delzer What this amendment does is it adds in what was recommended by the secretary of state. The amendment that I offer takes care of the amendment from the secretary of state but also adds a line that anything over \$50,000 requires the approval of the budget section to expend.

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Richard
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10/6/03
Date

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House Appropriations Committee
Bill/Resolution Number 1421
Hearing Date February 5, 2003

The emergency commission can accept it, but it can't be put into line item and expended without budget section approval. I would move the amendment 0301.

Chairman Svedjan Seconded by Rep. Timm, moved by Rep. Delzer. Just for clarification, if you put these two amendments side by side, 0302 is handled in this amendment except that in 0302, approval by the budget section of the legislative council is not required if the acceptance and expenditure is necessary to avoid imminent threat. The difference with the amendment that has just been moved is that approval by the budget section of the legislative council is not required for the acceptance, it doesn't include the words expenditure, but it does require that the expenditure be authorized by approval of the budget section.

Rep. Delzer The purpose of my amendment is to make sure that the budget section approves the expenditures. They would approve the acceptance by approving the expenditures. The acceptance can be done by the emergency commission.

Chairman Svedjan Is there any further discussion on the amendment?

Rep. Aarsvold I have a little problem when we use words like imminent. Who would make that definition under the language proposed here?

Chairman Svedjan I suspect definition would be provided by the chief executive, in this case the governor, depending upon the nature of the threat.

Rep. Delzer That is the reason why I was concerned about this. Who defines the imminent loss of funds to the state? That is why I would like to make sure that the budget section is aware of everything that goes on.

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House Appropriations Committee

Bill/Resolution Number 1421

Hearing Date February 5, 2003

Chairman Svedjan If an imminent threat were to happen, there would very likely have to be an emergency budget section meeting called to approve the expenditure. The emergency commission could accept the funds, the budget section would have to authorize expenditure.

Rep. Warner My question has to do with the grant that we nearly missed out on last summer in human services because the expiration date of the grant was so short after the offer that there wasn't a chance for the budget section to meet. Because it is an imminent financial loss to the state, would that be covered by this?

Chairman Svedjan I can't answer that specifically. My recall of the Department of Labor grant had a lot to do with the requirements of the Department of Labor and less with North Dakota's rules and regulations. What this is saying is that that money could be accepted by the emergency commission, so to me it would handle that but it would require that the emergency commission meet to take it up. The assumption would be that they would have to meet by any deadline set up by the funding agency.

Rep. Delzer The problems seem to be that the deadline for the grant was before the emergency commission would set it. Simply because of that time line, the granting agency said no. This bill really has nothing to do with that. The emergency commission or the budget section can have a conference to take up either of these situations if that needs to be done. If they had known that, all they had to do was have an emergency commission meeting.

Rep. Warner My recollection is slightly different, but I thought it took budget section approval.

Chairman Svedjan Is there further discussion on the amendment? Hearing none, we will take a voice vote on adopting amendment 0301. Motion carries. We also need to take up the amendment that was offered by the secretary of state. This is a situation now where we can't

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House Appropriations Committee
Bill/Resolution Number 1421
Hearing Date February 5, 2003

have both amendments. The one we just adopted authorizes the receipt of money that expenditure requires budget section approval. This amendment would authorize receipt and expenditure by the emergency commission with no review by the budget section. Rep. Aarsvold moves amendment 0302 and it is seconded by Rep. Kempenich. Any discussion?

Rep. Aarsvold Given the amendment we just passed, should the emergency commission accept the funds under the imminent loss criteria, and the budget section refused to expend the funds for whatever reason, what would be the circumstances of that?

Chairman Svedjan I don't know. I have never seen that happen. Every federal fund that we have got our hands on we have spent. It is hard to imagine what circumstance would cause that.

Rep. Delzer My thought on that would be that it would sit there until the end of the biennium, and if it was still available could be used by the next legislative session. I am going to resist this amendment because if this amendment passes, it deletes everything we did in the last one.

Chairman Svedjan Further discussion?

Rep. Carlisle We don't need this amendment now because we passed the other one.

Chairman Svedjan Any further discussion? A voice vote on adopting amendment 0302 was taken. Motion failed. What are your wishes with the amended bill before us?

Rep. Delzer I move a do pass as amended.

Chairman Svedjan Seconded by Rep. Wald. Any discussion? A roll call vote was taken on a do pass as amended recommendation on HB 1421.

ROLL CALL VOTE ON A DO PASS AS AMENDED

___ YES ___ NO ___ ABSENT

Chairman Svedjan ends discussion on HB 1421. Rep. Delzer will carry this bill.

FISCAL NOTE
Requested by Legislative Council
01/21/2003

Bill/Resolution No.: HB 1421

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No fiscal impact

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Pam Sharp	Agency:	OMB
Phone Number:	328-4606	Date Prepared:	01/23/2003

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Richard Costa
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
February 6, 2003 7:06 p.m.

Module No: HR-23-1932
Carrier: Delzer
Insert LC: 38313.0303 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1421: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1421 was placed on the Sixth order on the calendar.

Page 2, line 7, replace the underscored colon with "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."

Page 2, remove lines 8 through 11

Page 2, line 26, overstrike "may not be" and insert immediately thereafter ", if"

Page 2, line 27, overstrike "without" and insert immediately thereafter ", require the" and overstrike "by" and insert immediately thereafter "of"

Page 3, line 19, replace "if" with "for" and replace "and expenditure" with "of federal funds if the acceptance"

Page 3, line 21, after the underscored period insert "Budget section approval is required before the expenditure of any funds accepted under these conditions."

Page 4, line 10, after the period insert "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."

Renumber accordingly

2003 SENATE APPROPRIATIONS

HD 1421

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Yolanda Richardson
Operator's Signature

10/16/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1421

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-26-03

Tape Number	Side A	Side B	Meter #
1		X	6.5 - 29.3
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: Chairman Holmberg called the meeting to order. Emergency Commission to make procedural process consistent is the issue.

Testimony in Support of HB 1421

Rep. Wes Belter - Dist 22, Introduced the bill (meter 6.7)

Al Jaeger - Secretary of the State of ND (meter 7.6) Read Exhibit #1. I am representing the Emergency Commission on behalf of this bill. Discussed inaccuracy of bill in its present state. Went through line items on bill in detail. Sen. Holmberg discussed (meter 22) conflict of repealing sections. The repeal is with OMB in put and there analysis and where they apply. discussion.

Sen Christmann questioned Section 8 and why do we allow the emergency commission to increase the appropriation for certain agencies and not others (meter 23). It is due to the nature of the agency (meter 24)

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Ja Costa Richardson
Operator's Signature

10/16/03
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1421

Hearing Date 02/26/03

Sen Tallackson discussed who authorizes the conference call meetings? (meter 25.5) When a member is not present we call them where they are and include them in the meeting.

Sen Mathern discussed section 8 further (meter 27)

Sandy Paulsen (meter 27) discussed funds received from other factors/entities..

Testimony in Opposition of HB 1421

None

Senator Ray Holmberg, Chairman closed the hearing.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1421 Vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 4-3-03

Tape Number	Side A	Side B	Meter #
1		X	2998-3830
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes: CHAIRMAN HOLMBERG opened the hearing to vote on HB 1421. A bill relating to the presentation of emergency request petitions to the emergency commission; relating to procedures employed by the emergency commission and approvals by the budget section; relating to departmental emergency funds.

(Meter 2998) CHAIRMAN HOLMBERG handed out an amendment (38313.0401) and explained the this bill was worked on for a long time by the Secretary of State. The Secretary worked on trying to make the process that the emergency commission has been using conform to what they have been doing for years. He asked that this bill was proposed. The amendment proposed makes a change in the membership. It removes the chairman of the legislative council as a member of the emergency commission and replaces that person with the majority leaders of the Senate and the House. There is no guarantee that the chairman of the legislative council would be a majority leader.

Sal Costa
Operator's Signature

10/16/03
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1421

Hearing Date 4-3-03

(Meter 3189) There was a motion to adopt the amendment by SENATOR BOWMAN and seconded by SENATOR GRINDBERG.

(Meter 3205) SENATOR ROBINSON asked if there was representation from the minority on this commission? CHAIRMAN HOLMBERG stated he believed that years ago the Ag commissioner was on the emergency commission and it was changed to add the legislature.

(Meter 3374) SENATOR MATHERN is concerned with this legislation that it is not pre approved because this commission could only get together with conference calls. CHAIRMAN HOLMBERG stated the emergency commission does a lot of business by conference calls. He stated a few people who were on the commission that was not a chairman or chairperson.

(Meter 3586) SENATOR KRAUTER inquired about line 4th, the chairmen, is the language wrong? (Meter 3657) CHAIRMAN HOLMBERG stated the current law talks about the chairman of the commission. STEPHANIE JOHNSON, Legislative Council stated that the language is correct. A voice vote of the amendment passed.

(Meter 3729) A motion of DO PASS AS AMENDED was made by SENATOR GRINDBERG and seconded by SENATOR CHRISTMANN. A roll call vote of 13 yeas, 0 nays and 1 absent. The bill was carried by CHAIRMAN HOLMBERG.

The hearing was closed by CHAIRMAN HOLMBERG (Meter 3830).

Salvatore Riccardi
Operator's Signature

10/16/03
Date

38313.0401
Title.0500

Prepared by the Legislative Council staff for
Senator Holmberg
February 27, 2003

JCB
4-3-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1421

Page 1, line 3, after "sections" Insert "54-16-01,"

Page 1, line 5, after "to" Insert "emergency commission members," and after "commission"
insert a comma

Page 1, after line 13, Insert:

"SECTION 2. AMENDMENT. Section 54-16-01 of the North Dakota Century
Code is amended and reenacted as follows:

54-16-01. Emergency commission - Members - Organization - Quorum - Meetings. The emergency commission consists of the governor, the ~~chairman of the legislative council~~ majority leaders of the senate and house of representatives, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ An assistant majority leader may serve as a member of the commission in the place of ~~the chairman of the legislative council~~ a majority leader at the request of the ~~chairman of the legislative council~~ majority leader if that individual is ~~serving on the commission in another capacity or is unable to attend a commission meeting~~. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment changes the membership of the Emergency Commission to include the Senate majority leader and the House majority leader instead of the chairman of the Legislative Council.

Richard Costa
Operator's Signature

10/16/03
Date

Amend
Bowman
Grindberg
38313.0401

Date: 4-3-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1421

Senate Appropriations

Committee
CC 38313.0400
Amend-0401
Title-0.500

☐ Check here for Conference Committee

Legislative Council Amendment Number 38313.0401

Action Taken Do PASS As Amend

Motion Made By Grindberg Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Holmberg

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

REPORT OF STANDING COMMITTEE (410)
April 4, 2003 7:44 a.m.

Module No: SR-61-6724
Carrier: Holmberg
Insert LC: 38313.0401 Title: .0500

REPORT OF STANDING COMMITTEE

HB 1421, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1421 was placed on the Sixth order on the calendar.

Page 1, line 3, after "sections" Insert "54-16-01,"

Page 1, line 5, after "to" Insert "emergency commission members," and after "commission" Insert a comma

Page 1, after line 13, Insert:

"SECTION 2. AMENDMENT. Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

54-16-01. Emergency commission - Members - Organization - Quorum - Meetings. The emergency commission consists of the governor, the ~~chairman of the legislative council~~ majority leaders of the senate and house of representatives, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ An assistant majority leader may serve as a member of the commission in the place of ~~the chairman of the legislative council~~ a majority leader at the request of the ~~chairman of the legislative council~~ majority leader if that individual is ~~serving on the commission in another capacity or is~~ unable to attend a commission meeting. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment changes the membership of the Emergency Commission to include the Senate majority leader and the House majority leader instead of the chairman of the Legislative Council.

2003 TESTIMONY

HB 1421

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Yolanda Rickford
Operator's Signature

10/16/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.state.nd.us/sec



SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL: sos@state.nd.us

January 28, 2003

TO: Rep. Svedjan, Chairman, and Members of the House Appropriations Committee

FR: Al Jaeger, Secretary of State, and Secretary to the Emergency Commission

RE: HB 1421 – Emergency Commission

For the past ten years, I have been a member of the Emergency Commission as well as its Secretary. In my Secretarial role, I am directly involved with the processing of requests submitted by agencies and preparing the agenda for meetings of the Emergency Commission. Therefore, I have become very familiar with how the present law relates to that process.

The purpose of this bill is to amend certain sections of Chapter 54-16 to make the chapter's procedural process consistent among the four types of requests that are submitted to the Emergency Commission, to clarify and improve text, to delete obsolete wording, and to repeal two sections of the law that are no longer applicable.

Page 1, Section 1: Almost all of the requests submitted to the Emergency Commission are related to an unforeseen happening, e.g., unanticipated federal funds, unexpected expenses etc. Therefore, the underlined additions in line 11 more accurately define an emergency as either a calamity or an unforeseen happening.

Page 1, Section 2: On line 23, and in the two lines on top of the next page, the text is removed that no longer is relevant to any particular situation and which actually could result in unintended consequences if not removed. For example, the university system now operates under a "flexibility with accountability" budgeting system. In addition, an institution may experience "an unforeseen happening" because of the availability of unanticipated federal funds. Therefore, the present text may actually prohibit approval of increased spending authority even though it is allowed under the provisions of N.D.C.C. § 54-16-04.1 and 54-16-04.2.

Page 2, Section 3: Beginning on line 5, a new section of law is created in Chapter 54-16. It identifies who can submit a request to the Emergency Commission and lists the four types of requests that can be submitted. Currently, only N.D.C.C. § 54-16-04, which pertains to line item transfers, identifies who can submit requests to the Emergency Commission.

Page 2, Section 4: N.D.C.C. § 54-16-04 pertains to line item transfers. Beginning on line 15, the removed text will now appear in the new section of law created by section 3. On line 24, the reference to federal funds is removed because the expenditure of federal funds is covered in N.D.C.C. § 54-16-04 in section 5.

Continued on reverse side

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Richard Costa
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10/16/03
Date

Testimony
HB 1421
Page two

Page 3, Section 5: On line 9, the caption for this section states that it pertains to the acceptance and disbursement of federal funds. However, the acceptance of federal funds is not specifically referred to in N.D.C.C. § 54-16-04.1. This is being corrected by the addition of the underlined words in line 17. On line 18, the underlined text inserts the same "emergency" provisions adopted by the 1995 Legislative Assembly (Session Law, Chapter 508) that currently are only referenced in N.D.C.C. § 54-16-04, which pertains to line item transfers.

Page 4, Section 6: The provisions in N.D.C.C. § 54-16-04.2 pertain to the acceptance and expenditure of other funds. However, in the drafting of the bill, the "emergency" provision included with the other three types of requests was inadvertently omitted. Therefore, I have prepared an amendment that would insert the same "emergency" language, which would then establish the same emergency guidelines for all four types of requests to make them consistent.

Page 4, Section 7: This section pertains to the contingency fund appropriated in OMB's budget for use by the Emergency Commission. The changes add the Budget Section to the approval process, which makes it consistent with the existing requirements for the other three types of requests in N.D.C.C. § 54-16-04, 54-16-04.1, and 54-16-04.2. In addition, the same "emergency" provisions are added that either exist or are being added in Sections 4, 5, and 6.

Page 4, Section 8: The changes clarify the submission process for intergovernmental service agency requests.

Page 5, Section 9: The repeal of the following two sections are proposed because they are a duplication of the requirements of N.D.C.C. § 54-16-04 in section 4. If an agency does have a contingency line in their appropriation, they must already secure approval from the Emergency Commission for a line item transfer. In addition, OMB has drafted the appropriation bills (where these two sections of law might be applicable) to allow the governing board (e.g., banking board) to make the decision whether or not to allow the transfer from a department's contingency fund (e.g. Department of Financial Institutions).

54-16-10. Departmental emergency funds - Penalty. Moneys appropriated by the legislative assembly to be used for emergency purposes by any state officer may not be expended until such moneys as may be necessary have been transferred to the subdivision of the regular appropriation in which the emergency exists. A transfer of emergency funds may not be made until an itemized, verified petition establishing that an emergency exists and the necessity for the transfer has been presented to the emergency commission by the state officer desiring the transfer, and has been approved in writing by a majority of the commission. Any person who violates this section is guilty of a class A misdemeanor.

54-16-11. Departmental emergency fund consideration. The emergency commission, as soon as possible after presentation of the verified petition under section 54-16-10, shall meet and determine the question of the existence of the emergency and the necessity for the transfer of emergency funds, and shall promptly approve or reject the petition.

Richard Costa
Operator's Signature

10/10/03
Date

House Bill 1421

Page 4, after period on line 10, add "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."

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John Costa Richardson
Operator's Signature

10/16/03
Date

president and vice-president, judges of the supreme and district courts, members of the legislative assembly and for amendments to the Constitution or proposition submitted by the legislative assembly; *provided*, that the County Auditor shall make a separate certified abstract of the votes cast for persons for electors of president and vice-president of the United States. He shall send up such separate abstract and endorse it: "Presidential Election Returns" and without delay transmit it to the Secretary of State by registered mail. It is also hereby made the duty of the County Auditor to file with the Secretary of State, at the same time as he transmits the certified abstract of the votes cast in his county, a certificate showing the names and addresses of the persons who were elected to the various county offices in his county.

§ 2. AMENDMENT. That Section 1015 of the Compiled Laws of 1913 be and is hereby amended to read as follows:

§ 1015. STATE CANVASSING BOARD, MEETING OF. For the purpose of canvassing and ascertaining the result of such election, the State Board of Canvassers shall meet at the office of the Secretary of State on the first Tuesday in December next after a general election and within thirty days after a special election, and the Secretary of State shall notify the other members of the board of the same.

Approved, February 20, 1915.

1915
Session laws

A. Ch. 152
S. ch. 34, 1915
See ch. 2, 1913

EMERGENCY COMMISSION

CHAPTER 152.

[H. B. No. 216--Smith of Ward.]

POWERS OF EMERGENCY COMMISSION.

AN ACT Relating to an Emergency Board, and to Repeal Sections 1821, 1823 and 1824 of the Compiled Laws of 1913.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. EMERGENCY COMMISSION. An Emergency Commission consisting of the Governor, the Secretary of State, and the State Auditor is hereby established which shall exercise the powers and perform the duties hereinafter specified. The Governor shall be chairman of the board, and the Secretary of State the secretary. The Emergency Commission shall meet upon the call of the chairman thereof. The proceedings of the Emergency Commission shall be entered in a record book, or a minute book and no order of the Emergency Commission shall be valid unless so entered.

§ 2. Whenever it shall be made to appear to the Emergency Commission by an itemized, verified petition of any board of control, board of regents, commission or officer authorized to expend public funds that an emergency exists, the Emergency Commission shall assume that an emergency exists demanding such action and may order money transferred from one fund to another fund belonging to or appropriated for the same institution or board or the same state enterprise, or in an extremity to authorize money to be drawn from the state treasury to meet the emergency until such time as the legislative assembly can make appropriation available therefor. An endorsement by the Emergency Commission of the itemized petition of a board of control, board of regents, commission or person heretofore mentioned shall be sufficient authority for the forming of any of the acts hereby delegated to the Emergency Commission; *provided*, however, the term emergency shall be limited to calamities or unforeseen happenings subsequent to the time of the making of appropriations to be effected by such transfer and which were clearly not within the contemplation of the legislative assembly and the Governor at the time of making such appropriation. And in no event shall it be within the authority of the Emergency Commission to increase the amounts to be expended for any specific purpose by more than ten per cent., and this shall only be done to meet a deficiency arising in an attempt to carry out the purpose of the appropriation.

§ 3. It shall be the duty of the chairman of any board of control, board of regents, or other board or officer, authorized by the Emergency Commission to make extraordinary expenditures or use of funds transferred or made available through an order of the Emergency Commission, to make an itemized report to the Governor under oath, within two weeks after the close of each month during which any money shall have been expended or liability incurred pursuant to the order of the Emergency Commission showing the amount of money expended and for what purpose and showing what contracts have been made involving the expenditure of money in the future. The time covered by such report shall be the calendar month next preceding the date of said report.

§ 4. It shall be unlawful for any board of control, board of regents, commissioners, directors or other officers having the control or management of any public institution or institutions of the state or any state activity or enterprise or having in any manner whatsoever the responsibility of disbursing or expending any money appropriated by the state, either directly or indirectly, or in any manner whatsoever to expend or agree or contract to expend in connection therewith any amount in excess of the sum appropriated therefor, or to use an amount appropriated for any specific purpose or fund or for any other purpose without first having secured from the Emergency Commission an order duly made and entered, authorizing such use of such fund.

§ 5. This Act shall not be construed as a legislative construction that any existing law gives to said Emergency Commission any broader or different powers than are herein declared. *Provided*, that all acts of the present and prior Emergency Commissions of this state authorizing the transference of money appropriated for one purpose to another purpose or from one fund to another fund are hereby validated and legalized.

§ 6. Any officers mentioned in this Act who shall fail to make the report specified in Section 3 of this Act or who shall in any report made to the Governor willfully make a misrepresentation or misstatement of the facts regarding such expenditures or other facts embodied in the report shall be guilty of a misdemeanor.

§ 7. REPEAL.] Sections 1821, 1823 and 1824 of the Compiled Laws of 1913 are hereby repealed, and all other Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved, March 13, 1915.

EMINENT DOMAIN

CHAPTER 153.

[H. B. No. 203—Harrison.]

RIGHT OF EMINENT DOMAIN TO ELECTRIC LIGHT PLANTS.

AN ACT to Amend and Re-enact Section 8203 of the Compiled Laws of North Dakota for 1913, Relating to the Eminent Domain.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 8203 of the Compiled Laws of North Dakota for 1913, be and the same is hereby amended to read as follows:

§ 8203. EXERCISED FOR WHAT PUBLIC USES.] Subject to the provisions of this Chapter, the right of eminent domain may be exercised in behalf of the following public uses:

1. All public uses authorized by the government of the United States.
2. Public buildings and grounds for the use of the state and all other public uses authorized by the legislative assembly of this state.
3. Public buildings and grounds for the use of any county, incorporated city, village, town or school; canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city, village or town; or for draining any county, incorporated city, village or town; raising the banks of streams, removing obstructions therefrom and widening, deepening or straightening their channels; roads, streets and alleys

ALVIN A. JAEGER
SECRETARY OF STATE

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February 26, 2003

Exhibit 10

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TO: Senator Holmberg and Members – Senate Appropriations Committee

FR: Al Jaeger, Secretary of State

RE: HB 1421 – Emergency Commission

According to the provisions of the Century Code, the Secretary of State serves as a member of the Emergency Commission. In addition, the Secretary of State also serves as its Secretary. In my Secretarial role, I am directly involved with the processing of each of the requests submitted by agencies and in the preparation of the agenda for each Emergency Commission meeting. Therefore, I am very familiar with how the present law procedurally relates to that process.

The purpose of this bill is to amend certain sections of Chapter 54-16 to: (a) make the chapter's procedural process consistent among the four types of requests that are submitted to the Emergency Commission; (b) to clarify and improve text; (c) to delete obsolete provisions; and (d) to repeal two sections of the law that are no longer applicable.

Page 1, Section 1: Almost all of the requests submitted to the Emergency Commission are related to an unforeseen happening, e.g., unanticipated federal funds, unexpected expenses etc. Therefore, the underlined addition in line 11 more accurately defines an emergency as either a calamity or an unforeseen happening.

Page 1, Section 2: On line 23, and in the two lines on top of the next page, the text is removed because it is no longer relevant to any particular situation and it could actually result in unintended consequences if not removed. For example, the university system now operates under a "flexibility with accountability" budgeting system. In addition, an institution may experience "an unforeseen happening" because of the availability of unanticipated federal funds. Therefore, the present text may actually prohibit approval of increased spending authority to accept those funds even though such acceptance is allowed in two other subsections (N.D.C.C. § 54-16-04.1 and 54-16-04.2) of the same chapter.

Page 2, Section 3: Currently, only N.D.C.C. § 54-16-04 (the section of the Century Code that pertains to line item transfers) identifies who can submit requests to the Emergency Commission. Therefore, beginning on line 5, a new section of law is created in Chapter 54-16. It identifies who can submit a request to the Emergency Commission and lists the four types of requests that can be submitted. This applies the same process to each type of request.

Page 2, Section 4: N.D.C.C. § 54-16-04 pertains to line item transfers. Beginning on line 16, the intent of the removed text will now appear in the new Century Code text created by section 3. On line 23, since this section of the Century Code pertains only to line item transfers, the reference to federal funds is being removed. The provisions for the expenditure of federal funds are covered in N.D.C.C. § 54-16-04, which is in section 5 of this bill.

Continued on reverse side

Al Costa Richardson
Operator's Signature

10/16/03
Date

Testimony
HB 1421
Page two

Page 3, Section 5: On line 9, the caption for this section states that it pertains to the acceptance and disbursement of federal funds. However, the "acceptance" of federal funds is not specifically referenced anywhere in N.D.C.C. § 54-16-04.1. That omission is being corrected by the addition of the underlined words in line 17. On line 18, the underlined text inserts the same "emergency" provisions adopted by the 1995 Legislative Assembly (Session Law, Chapter 508) that currently are only referenced in N.D.C.C. § 54-16-04, which pertains to line item transfers. Although the Emergency Commission is authorized to accept funds under these circumstances, the House amended line 22 to add the provision that those accepted federal funds (in excess of \$50,000) cannot be expended without budget section approval.

Page 4, Section 6: The provisions in N.D.C.C. § 54-16-04.2 pertain to the acceptance and expenditure of other funds. On line 10, the underlined text inserts the same "emergency" provisions adopted by the 1995 Legislative Assembly (Session Law, Chapter 508) that currently are only referenced in N.D.C.C. § 54-16-04, which pertains to line item transfers. Again, this is to adopt the same standards for each type of request.

Page 4, Section 7: This section pertains to the contingency fund appropriated in OMB's budget for use by the Emergency Commission. The changes add the Budget Section to the approval process, which makes it consistent with the existing requirements for the other three types of requests in N.D.C.C. § 54-16-04, 54-16-04.1, and 54-16-04.2. In addition, the same "emergency" provisions are added that either exist or are being added in Sections 4, 5, and 6 of this bill.

Page 4, Section 8: The changes in this section clarify the submission process for intergovernmental service agency requests.

Page 5, Section 9: The repeal of the following two sections are proposed because they are a duplication of the requirements of N.D.C.C. § 54-16-04 in section 4 of this bill. If an agency does have a contingency line in their appropriation, they must already secure approval from the Emergency Commission for a line item transfer. In addition, it is my understanding that OMB has drafted the appropriation bills (where these two sections of law might be applicable) to allow the governing board (e.g., banking board) to make the decision whether or not to allow the transfer from a department's contingency fund (e.g. Department of Financial Institutions).

54-16-10. Departmental emergency funds - Penalty. Moneys appropriated by the legislative assembly to be used for emergency purposes by any state officer may not be expended until such moneys as may be necessary have been transferred to the subdivision of the regular appropriation in which the emergency exists. A transfer of emergency funds may not be made until an itemized, verified petition establishing that an emergency exists and the necessity for the transfer has been presented to the emergency commission by the state officer desiring the transfer, and has been approved in writing by a majority of the commission. Any person who violates this section is guilty of a class A misdemeanor.

54-16-11. Departmental emergency fund consideration. The emergency commission, as soon as possible after presentation of the verified petition under section 54-16-10, shall meet and determine the question of the existence of the emergency and the necessity for the transfer of emergency funds, and shall promptly approve or reject the petition.

Richard Costa
Operator's Signature

10/16/03
Date