

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1155
(Representatives Delzer, Bellew, Carlson, Monson, Streytle)

AN ACT to amend and reenact sections 54-27.2-01, 54-27.2-03, and 54-44.1-12 of the North Dakota Century Code, relating to the balance of the budget stabilization fund, transfers and expenditures from the budget stabilization fund, and the allotment of funds; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-01. Budget stabilization fund.

The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be ~~deposited~~ credited to the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund at the end of any fiscal year to an amount greater than ~~nine and one-half~~ fifteen percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited ~~or retained in~~ or credited to the fund but must be deposited instead in the state general fund.

SECTION 2. AMENDMENT. Section 54-27.2-03 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-03. Transfers and expenditures from budget stabilization fund.

~~If the director of the office of management and budget projects that general fund revenues for the biennium will be at least two and one-half percent less than estimated by the most recently adjourned special or regular session of the legislative assembly, and if the governor orders a transfer, which must be reported to the budget section of the legislative management, the state treasurer shall transfer the appropriate funds from the budget stabilization fund to the state general fund to offset the decrease in general fund revenues. The amount transferred from the budget stabilization fund upon order of the governor may not exceed the difference between an amount two and one-half percent below the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the legislative assembly and the general fund revenue projections for the biennium by the director of the office of management and budget. The amount~~

1. The governor may order transfers from the budget stabilization fund to the general fund as follows:
 - a. After general fund allotments totaling at least three percent have been made during the biennium under section 54-44.1-12, the governor may order a transfer up to an amount equal to three percent of general fund appropriations.
 - b. If the maximum transfer from the budget stabilization fund is made to the general fund under subdivision a and an additional general fund allotment of at least one percent is made under section 54-44.1-12, the governor may order a transfer up to an amount equal to two percent of general fund appropriations.
 - c. If the maximum transfer from the budget stabilization fund is made to the general fund under subdivision b and an additional general fund allotment of at least one percent is

made under section 54-44.1-12, the governor may order a transfer up to an amount equal to three percent of general fund appropriations.

- d. If the maximum transfer from the budget stabilization fund is made to the general fund under subdivision c and an additional general fund allotment of at least one percent is made under section 54-44.1-12, the governor may transfer any remaining funds in the budget stabilization fund to the general fund.
 - e. The amount of a transfer made under any subdivision of this subsection may not exceed the difference between the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the legislative assembly and the revised general fund revenue projections for the biennium, less the amounts of any allotments ordered under section 54-44.1-12 during the biennium, as determined by the director of the office of management and budget. For purposes of this subsection, "general fund revenue projections for the biennium" includes the general fund balance at the beginning of the biennium.
 - f. For purposes of this subsection, the calculation of total percentage general fund allotments made under section 54-44.1-12 must be based on total general fund allotments after any allotment exemption granted by the director of the budget compared to total general fund appropriations.
2. Any amounts transferred from the budget stabilization fund upon order of the governor to the state general fund may be expended within the limits of legislative guidelines and general fund appropriations of the most recently adjourned special or regular session of the legislative assembly. For purposes of this section, "general fund revenues for the biennium" and "general fund revenue projections for the biennium" include the general fund balance at the beginning of the biennium appropriations" includes total biennium general fund appropriations approved by the most recently adjourned special or regular session of the legislative assembly. The director of the office of management and budget must provide a report to the budget section of the legislative management when a transfer is made under this section.

SECTION 3. AMENDMENT. Section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-12. Control over rate of expenditures.

1. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis; ~~except that appropriations to the department of public instruction for state school aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund as follows:~~
 - a. ~~The first two and one-half percent allotment from the general fund must be offset with a transfer from the foundation aid stabilization fund.~~
 - b. ~~Any general fund allotment in excess of two and one-half percent that is necessary, after all moneys available in the budget stabilization fund have been transferred to the general fund under section 54-27.2-03, may be offset with a transfer from the foundation aid stabilization fund~~

- a. The following appropriations may be allotted only to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund:
 - (1) General fund appropriations to the department of public instruction for state school aid, transportation aid, and special education aid; and
 - (2) General fund appropriations to the department of career and technical education for grants to school districts.
 - b. After allotments of two and one-half percent have been ordered during a biennium, the director of the budget may exempt the following appropriations from up to one percent of an allotment each biennium:
 - (1) General fund appropriations to the department of corrections and rehabilitation; and
 - (2) General fund appropriations to the department of human services for direct care programs.
2. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:
- a. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
 - b. The payment or the obligation incurred is not authorized by law.
 - c. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:
 - (1) Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
 - (2) Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.
 - d. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1155 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 1 Absent 5

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,
at _____ o'clock _____ M.

Secretary of State