

OPINION
63-133(Aug 13)

August 13, 1963 (OPINION)

EMERGENCY COMMISSION - Director of Accounts and Purchases - Duties

RE:

This is in response to your letter in which you ask for an opinion on certain transfers made by the Emergency Commission.

The question on the transfer of various funds to various departments was considered in an opinion addressed jointly to the Governor and you. However, in your letter you also asked for an opinion whether or not you are required to follow the directions of the Emergency Commission in making entries on your appropriation control accounts.

Section 54-16-08 of the North Dakota Century Code specifically provides that the Department of Accounts and Purchases shall prepare, and the State Auditor shall sign, warrants upon such fund at the direction of the Emergency Commission as provided in this chapter. The duties of the Accounts and Purchases Department are generally set out in Chapter 54-44 of the North Dakota Century Code. Said chapter does not employ any language which can be construed to direct or authorize the Department of Accounts and Purchases to supervise or act as a reviewing authority over the Emergency Commission. The Director of Accounts and Purchases in this respect is mainly a ministerial officer performing the duties set forth by the legislature. The Department in this respect does not have the authority to substitute its judgment in place of the Emergency Commission.

Section 54-16-08 seems to contemplate that the Department of Accounts and Purchases is to treat valid transfer of funds in the same manner as if the transfers were made by the legislative assembly.

It is therefore our opinion that the Department of Accounts and Purchases is by law required to follow the directions of the Emergency Commission, except where the Director is advised to the contrary by the proper legal authority.

HELGI JOHANNESON

Attorney General