

OPINION
75-7

February 10, 1975 (OPINION)

The Honorable Robert F. Reimers
Speaker of the House of Representatives
Forty-fourth Legislative Assembly
State Capitol
Bismarck, ND 58505

Dear Mr. Speaker:

This is in reply to your letter of February 7, 1975, in which you state the following:

House Bill 1567 which would appropriate \$5,000,000 for construction of a Heritage Center is currently pending in the House. In 1973 the Legislature enacted Chapter 16 of the 1973 Session Laws which appropriated \$500,000 for the construction of a Heritage Center. That appropriation was contingent upon the receipt of \$1,500,000 in contributions, donations, federal grants or other sources not appropriated from state general or specific funds. Would the enactment of House Bill 1567 of this Legislative Assembly affect the status of Chapter 16 of the 1973 Session Laws?

Chapter 16 of the 1973 Session Laws provide for a \$500,000 appropriation from the general fund and \$1,500,000 or such greater amount as may become available in federal grants, donations, contributions, or other sources not appropriated from the state general or special funds toward the construction of a heritage center on the State Capitol grounds. Section 2 of that act provides in part: "Such amounts and interest earned on such amounts shall not become available for construction of the heritage center unless the heritage commission has certified that not less than \$1,500,000 in contributions, donations, federal grants, or other sources not appropriated from state general or special funds is available."

The 1973 legislation places no effective date on the termination of the appropriation, i.e., it is not made for the biennium ending June 30, 1975 as are most appropriations. However we note the provisions of Section 54-44.1-11 of the N.D.C.C. which provides:

DEPARTMENT OF ACCOUNTS AND PURCHASES TO CANCEL UNEXPENDED APPROPRIATIONS - WHEN THEY MAY CONTINUE. - The department of accounts and purchases, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force of the budget may continue appropriations or balances in force for new construction projects and for major repair or improvement projects for not more than two years after the expiration of

the biennial period during which they became available upon recommendation of the director of the budget.

In those instances in which the specific appropriation indicates it is for a longer period than the biennium, we do not believe the above-quoted statute would apply since the specific appropriation provision would prevail over the more general provision quoted above. In those instances, however, where the appropriation indicates it is only for a biennial period or in which the appropriation is silent as to the period of duration, we believe the above statute would apply.

In this instance, as noted above, there is no specific provision that the appropriation would continue in force beyond the biennium (except by approval of the chairmen of the appropriations committees and the office of the budget with the recommendation of the office of the budget as provided in 54-44.1-11). Thus whether or not House Bill 1567 is enacted by this Legislative Assembly it would appear that Chapter 16 of the 1973 Session Laws would expire on July 1, 1975, unless continued in force as provided in Section 54-44.1-11. The portion of the appropriation which is not from the general fund would not revert however.

Sincerely,

ALLEN I. OLSON

Attorney General