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North Dakota Emergency Management and Homeland Security Authorities Summarized

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Summary

The North Dakota Disaster Act delegates powers to the governor, the state's emergency management agency, and local emergency management agencies. The statute also provides for mutual aid agreements and outlines disaster mitigation requirements. Assistance and funding come primarily from federal aid through the Stafford Act (42 U.S.C. 5121 et seq) and loans to match federal funds. Political subdivisions may enter into mutual aid agreements.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The statute outlines emergency powers of the governor to support national defense or cooperate with agencies of the United States to transport persons or property and to conserve and use vital transportation equipment, materials, and supplies, among other provisions (N.D. Cent. Code §54-07-01.1). During a state of disaster or emergency the governor may commandeer private property, compel evacuation or control movement

of population in affected or threatened areas, and ration life- and property-sustaining commodities (N.D. Cent. Code §37-17.1-05).

Division of Emergency Management: The statute established the division in the office of the adjutant general. The director of the division is appointed by the adjutant general. Staff of the division are required to prepare and maintain a state disaster plan. The plan may include provisions for: mitigation; effective response; emergency relief; identification of vulnerable areas; and means of helping local officials develop emergency plans. The statute mandates that the division coordinate the procurement of supplies; provide planning guidance to state and local officials; organize manpower and chains of command; and coordinate federal, state, and local emergency management activities, among others (N.D. Cent. Code §37-17.1-06).

State Auditor: The state auditor's office must review expenditures transferred or made available by the emergency commission and incorporate findings in financial statements (N.D. Cent. Code §54-10-01.1).

Emergency Commission: The commission is authorized to order the transfer of funds among accounts (with the advice of the office of management and budget) and may order spending authority transfers from the contingencies appropriations. The statute also authorizes the commission to authorize funds to be withdrawn from the state treasury to meet an emergency until the legislative assembly is able to make an appropriation. Certain funding actions require legislative approval (N.D. Cent. Code §54-16 et seq.).

Emergency Response Commission: The commission implements provisions of the federal Emergency Planning and Community Right-to-Know Act, designates local planning committees, and is charged with administering the hazardous chemicals preparedness and response fund (N.D. Cent. Code §37-17. 1-07.1-2).

Political Subdivisions: Each county must maintain an emergency management organization; each city must either provide an emergency management organization of its own, or participate in the countywide plan (N.D. Cent. Code §37-17.1-07).

Preparedness

The Disaster Act of 1985 established a policy to reduce the vulnerability of people and communities to damage, injury, and loss of life and property resulting from natural or manmade disasters or emergencies, or hostile military or paramilitary action. The statute calls for the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters or emergencies. The statute clarifies the roles of the governor, state agencies, and local governments in mitigation of, preparation for, and response to and recovery from disasters or emergencies (N.D. Cent. Code § 37-17.1).

The division of emergency management is to ascertain the means that exist for rapid and efficient communications in times of a disaster or emergency (N.D. Cent. Code §37-17.1-13).

Declaration Procedures

The governor may declare a disaster or emergency, and the legislative assembly, by concurrent resolution, may terminate the declaration at any time. The declaration activates state and local operational plans and authorizes the deployment and use of state forces. The governor is authorized to suspend provisions of any statute or order if strict compliance would impede response management (N.D. Cent. Code §37-17.1-05).

Types of Assistance

The governor may establish temporary housing for disaster victims in cases where such victims are unable to meet their needs through other means. The statute authorizes use of temporary housing units from any federal agency, as well as “pass through” funds to aid victims (N.D. Cent. Code §37-17.1-19).

Consistent with federal law (42 U.S.C. 5121 et seq.), the governor is authorized to enter into agreements to establish, in the event of a presidentially declared “major disaster,” a program of community disaster loans for communities unable to meet or provide for essential governmental functions through other means (N.D. Cent. Code §37-17.1-20). The statute authorizes the governor to order debris and wreckage removal caused by a disaster in cases where removal cannot be provided through other means, and authorizes acceptance of federal funds, indemnifies the state against claims arising from debris removal, and limits liability (N.D. Cent. Code §37-17.1-21).

Mutual Aid

Counties, cities and other political subdivisions are encouraged to enter into mutual aid agreements with other public and private agencies. Arrangements must include provision of aid by public employees. Staff of the division of emergency management must review emergency plans to determine whether they contain adequate provisions for mutual aid (N.D. Cent. Code §37-17.1-14, 37-17.1-14.1).

The statute authorizes interstate mutual aid agreements or compacts with any state that has enacted or shall enact a compact substantially similar to the Interstate Mutual Aid Compact. Interstate mutual aid compacts must be reviewed every four years. The governor may also enter into intergovernmental arrangements with neighboring provinces of Canada (N.D. Cent. Code §37-17.1-14.2).

The Interstate Mutual Aid Agreement or Compact is codified (N.D. Cent. Code §37-17.1-14.5).

Funding

The statute gives counties and cities the authority to make appropriations for expenses of local emergency management organizations. When the federal government or others offer services, supplies, or funds for emergency management, the state may accept such offers (N.D. Cent. Code §37-17.1-18).

The director of the division of emergency management is to determine and record the costs of state response and recovery operations. The governor is to apply to the state emergency commission for grants equal to response and recovery costs (N.D. Cent. Code §37-17.1-22).

The statute authorizes the division of emergency management, with approval of the state emergency commission, to borrow, from the Bank of North Dakota, funds to match federal funds awarded under the Stafford Act. The statute specifies that the Bank of North Dakota is to receive interest on the loan, obligates the emergency commission to repay any loan, and requires that a deficiency appropriation be requested if necessary (N.D. Cent. Code §37-17.1-23).

State boards, agencies or commissions, with the approval of the emergency commission, may borrow from the Bank of North Dakota to respond to a disaster (N.D. Cent. Code §54-16-13).

The director of the state historical society is to administer the historical impact emergency fund for the purpose of emergency mitigation of adverse effects on cultural resources and historical buildings in the state. The fund may only be used after the emergency commission has authorized the proposed use and expenditure of money. The statute authorizes the acceptance of money by gift, grant, devise, or bequest (N.D. Cent. Code §55-02-09).

Hazard Mitigation

The governor shall consider steps to mitigate or reduce the harmful consequences of disasters or emergencies. State agencies with specified responsibilities (floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards) shall make studies of disaster or emergency mitigation-related matters. The governor is to make recommendations to the legislature and local governments, undertake other measures for mitigation, and may place a new standard or control in effect. The governor's action is subject to judicial review (N.D. Cent. Code §37-17.1-11).

Continuity of Government Operations

The statute gives the legislature authority to provide for prompt and temporary succession for public offices. During an emergency, the statute allows for the waiver of constitutional restrictions regarding: location of governmental business; calling of legislative sessions; length of sessions; quorum and voting requirements; subjects of legislation and appropriations bill requirements; eligibility of legislators to hold other offices; residence requirements for legislators; and upon expenditures, loans or donations of public money (N.D. Constitution, Article XI, Section 7).

Other

The statute grants leaves of absence to full-time employees of the state and its political subdivisions who are certified as disaster services volunteers who provide disaster relief services. Workers' compensation provisions are suspended during leave. The statute limits a leave of absence to five working days during any calendar year and protects seniority and benefits (N.D. Cent. Code §54-06-14.3, 54-06-27).

The statute grants temporary short-term leave with compensation to any full-time employee of governmental entities if the employee is a volunteer emergency medical service provider, firefighter, emergency radio operator, or a member of the civil air patrol (N.D. Cent. Code §54-06-28).

The statute prohibits the use of public funds for crisis relocation planning or mass evacuations in the event of the threat of a nuclear war (N.D. Cent. Code §37-17.1-18.1).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in North Dakota Statutes, with Citations

Terms	Citations
Disaster	N.D. Cent. Code §37-17.1-04(1)
Disaster or emergency worker	N.D. Cent. Code §37-17.1-04(2)
Emergency	N.D. Cent. Code §37-17.1-04(3) N.D. Cent. Code §54-16-00.1(1)
Emergency management	N.D. Cent. Code §37-17.1-04(4)
Mass care	N.D. Cent. Code §37-17.1-04(5)

For Further Research

The citations noted above and other elements of the state code for North Dakota may be searched at: [<http://www.state.nd.us/lr/information/statutes/cent-code.html>].