

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 766**

Final Reading

Introduced by Price, 3; Avery, 28; Brasch, 16; Gloor, 35; McCoy, 39;  
Mello, 5.

Read first time January 04, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to emergency management; to amend section  
2 81-829.42, Reissue Revised Statutes of Nebraska; to  
3 authorize the Adjutant General to make certain emergency  
4 expenditures; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 81-829.42, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   81-829.42 (1) The Legislature recognizes that, while  
4 appropriations are adequate to meet the normal needs, the necessity  
5 exists for anticipating and making advance provision to care for the  
6 unusual and extraordinary burdens imposed on the state and its  
7 political subdivisions by disasters, emergencies, or civil defense  
8 emergencies. To meet such situations, it is the intention of the  
9 Legislature to confer emergency powers on the Governor, acting  
10 through the Adjutant General and the Nebraska Emergency Management  
11 Agency, and to vest him or her with adequate power and authority  
12 within the limitation of available funds appropriated to the  
13 Governor's Emergency Program to meet any disaster, emergency, or  
14 civil defense emergency.

15                   (2) There is hereby established the Governor's Emergency  
16 Program. Funds appropriated to the program shall be expended, upon  
17 direction of the Governor, for any state of emergency. The state of  
18 emergency proclamation shall set forth the emergency and shall state  
19 that it requires the expenditure of public funds to furnish immediate  
20 aid and relief. The Adjutant General shall administer the funds  
21 appropriated to the program.

22                   (3) It is the intent of the Legislature that the first  
23 recourse shall be to funds regularly appropriated to state and local  
24 agencies. If the Governor finds that the demands placed upon these  
25 funds are unreasonably great, he or she may make funds available from

1 the Governor's Emergency Program. Expenditures may be made upon the  
2 direction of the Governor for any or all emergency management  
3 functions or to meet the intent of the state emergency operations  
4 plans as outlined in section 81-829.41. Expenditures may also be made  
5 to state and federal agencies to meet the matching requirement of any  
6 applicable assistance programs.

7           (4) Assistance shall be provided from the funds  
8 appropriated to the Governor's Emergency Program to political  
9 subdivisions of this state which have suffered from a disaster,  
10 emergency, or civil defense emergency to such an extent as to impose  
11 a severe financial burden exceeding the ordinary capacity of the  
12 subdivision affected. Applications for aid under this section shall  
13 be made to the Nebraska Emergency Management Agency on such forms as  
14 shall be prescribed and furnished by the agency. The forms shall  
15 require the furnishing of sufficient information to determine  
16 eligibility for aid and the extent of the financial burden incurred.  
17 The agency may call upon other agencies of the state in evaluating  
18 such applications. The Adjutant General shall review each application  
19 for aid under this section and recommend its approval or disapproval,  
20 in whole or in part, to the Governor. If the Governor approves, he or  
21 she shall determine and certify to the Adjutant General the amount of  
22 aid to be furnished. The Adjutant General shall thereupon issue his  
23 or her voucher to the Director of Administrative Services who shall  
24 issue his or her warrants therefor to the applicant.

25           (5) When a state of emergency has been proclaimed by the

1 Governor, the Adjutant General, upon order of the Governor, shall  
2 have authority to expend funds for purposes including, but not  
3 limited to:

4 (a) The purposes of the Emergency Management Act,  
5 including emergency management functions and the responsibilities of  
6 the Governor as outlined in the act;

7 (b) Employing for the duration of the state of emergency  
8 additional personnel and contracting or otherwise procuring all  
9 necessary appliances, supplies, and equipment;

10 (c) Performing services for and furnishing materials and  
11 supplies to state government agencies and local governments with  
12 respect to performance of any duties enjoined by law upon such  
13 agencies and local governments which they are unable to perform  
14 because of extreme climatic phenomena and receiving reimbursement in  
15 whole or in part from such agencies and local governments able to pay  
16 therefor under such terms and conditions as may be agreed upon by the  
17 Adjutant General and any such agency or local government;

18 (d) Performing services for and furnishing materials to  
19 any individual in connection with alleviating hardship and distress  
20 growing out of extreme climatic phenomena and receiving reimbursement  
21 in whole or in part from such individual under such terms as may be  
22 agreed upon by the Adjutant General and such individual;

23 (e) Opening up, repairing, and restoring roads and  
24 highways;

25 (f) Repairing and restoring bridges;

1                   (g) Furnishing transportation for supplies to alleviate  
2 suffering and distress;

3                   (h) Restoring means of communication;

4                   (i) Furnishing medical services and supplies to prevent  
5 the spread of disease and epidemics;

6                   (j) Quelling riots and civil disturbances;

7                   (k) Training individuals or governmental agencies for the  
8 purpose of perfecting the performance of emergency management duties  
9 as provided in the Nebraska emergency operations plans;

10                  (l) Procurement and storage of special emergency supplies  
11 or equipment, determined by the Adjutant General to be required to  
12 provide rapid response by state government to assist local  
13 governments in impending or actual disasters, emergencies, or civil  
14 defense emergencies;

15                  (m) Clearing or removing debris and wreckage which may  
16 threaten public health or safety from publicly owned or privately  
17 owned land or water; and

18                  (n) Such other measures as are customarily necessary to  
19 furnish adequate relief in cases of disaster, emergency, or civil  
20 defense emergency.

21                  (6) If aerial fire suppression or hazardous material  
22 response is immediately required, the Adjutant General may make  
23 expenditures of up to ten thousand dollars per event without a state  
24 of emergency proclamation issued by the Governor.

25                  (7) The Governor may receive such voluntary contributions

1 as may be made from any nonfederal source to aid in carrying out the  
2 purposes of this section and shall credit the same to the Governor's  
3 Emergency Cash Fund.

4 (8) All obligations and expenses incurred by the Governor  
5 in the exercise of the powers and duties vested in the Governor by  
6 this section shall be paid by the State Treasurer out of available  
7 funds appropriated to the Governor's Emergency Program, and the  
8 Director of Administrative Services shall draw his or her warrants  
9 upon the State Treasurer for the payment of such sum, or so much  
10 thereof as may be required, upon receipt by him or her of proper  
11 vouchers duly approved by the Adjutant General.

12 (9) This section shall be liberally construed in order to  
13 accomplish the purposes of the Emergency Management Act and to permit  
14 the Governor to adequately cope with any disaster, emergency, or  
15 civil defense emergency which may arise, and the powers vested in the  
16 Governor by this section shall be construed as being in addition to  
17 all other powers presently vested in him or her and not in derogation  
18 of any existing powers.

19 (10) Such funds as may be made available by the  
20 government of the United States for the purpose of alleviating  
21 distress from disasters, emergencies, and civil defense emergencies  
22 may be accepted by the State Treasurer and shall be credited to a  
23 separate and distinct fund unless otherwise specifically provided in  
24 the act of Congress making such funds available or as otherwise  
25 allowed and provided by state law.

1                   Sec. 2. Original section 81-829.42, Reissue Revised  
2 Statutes of Nebraska, is repealed.