

**SENATE BILL NO. 2422
with House Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2422

Introduced by

Senator Stenehjem

Representative Berg

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 54-16 of the North Dakota
2 Century Code, relating to the presentation of emergency request petitions to the emergency
3 commission; to amend and reenact subdivision a of subsection 1 of section 10-19.1-63,
4 subsection 1 of section 54-16-00.1, and sections 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2,
5 54-16-09, and 54-16-11.1 of the North Dakota Century Code, relating to consideration for
6 issuance of shares of stock and procedures employed by the emergency commission and
7 approvals by the budget section; to repeal sections 54-16-10 and 54-16-11 of the North Dakota
8 Century Code, relating to departmental emergency funds; and to provide an effective date.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 10-19.1-63 of the
11 North Dakota Century Code as amended in section 9 of House Bill No. 1362, as approved by
12 the fifty-eighth legislative assembly, is amended and reenacted as follows:

- 13 a. ~~Shares may be issued for any consideration, including, without limitation:~~
14 ~~(1) Money or other tangible or intangible property received by the~~
15 ~~corporation or to be received by the corporation under a written~~
16 ~~agreement, or services rendered to the corporation or to be rendered to~~
17 ~~the corporation, as authorized by resolution approved by the affirmative~~
18 ~~vote of the directors required by section 10-19.1-46; or~~
19 ~~(2) If provided for in the articles, approved by the affirmative vote of the~~
20 ~~shareholders required by section 10-19.1-74, establishing a price in~~
21 ~~money or other consideration, or a minimum price, or a general formula~~
22 ~~or method by which the price will be determined.~~

23 The consideration for the issuance of shares may be paid, in whole or in part,
24 in money; in other property, tangible or intangible; or in labor or services

1 actually performed for the corporation. When payment of the consideration
2 for which shares are to be issued is received by the corporation, the shares
3 are considered fully paid and nonassessable. Neither promissory notes nor
4 future services constitute payment or part payment for shares of a
5 corporation.

6 **SECTION 2. AMENDMENT.** Subsection 1 of section 54-16-00.1 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. "Emergency" means either a calamity or an unforeseen happening subsequent to
9 the time the appropriation was made and which was clearly not within the
10 contemplation of the legislative assembly and the governor.

11 **SECTION 3. AMENDMENT.** Section 54-16-03 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-16-03. Unlawful to expend more than appropriated - May secure approval from**
14 **commission for use of other funds - Deficit void.** A state officer may not expend, or agree
15 or contract to expend, any amount in excess of the sum appropriated for that expenditure, and
16 may not expend an amount appropriated for any specific purpose or fund or for any other
17 purpose without prior approval in the form of a transfer approval or expenditure authorization as
18 provided in this chapter. The office of management and budget shall provide information to the
19 emergency commission with respect to all emergency requests. Any debt or deficit created by
20 a state officer in violation of this section is void. ~~The emergency commission may not approve~~
21 ~~an expenditure of institutional income, other than gifts or grants, in excess of the institutional~~
22 ~~income appropriated to the institution by the legislative assembly.~~

23 **SECTION 4.** A new section to chapter 54-16 of the North Dakota Century Code is
24 created and enacted as follows:

25 **Submission of petition to emergency commission.** When an emergency exists, a
26 state officer may present to the emergency commission an itemized, verified petition requesting
27 approval to transfer money and spending authority between funds or line items pursuant to
28 section 54-16-04; accept and expend federal funds pursuant to section 54-16-04.1; accept and
29 expend state contingency funds pursuant to section 54-16-09; or accept and expend other
30 funds pursuant to section 54-16-04.2.

SECTION 5. AMENDMENT. Section 54-16-04 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04. May order transfer of moneys between funds - Line item transfers - Order may draw from state treasury. ~~A state officer may present to the emergency commission an itemized, verified petition requesting approval of a transfer of spending authority from the state contingencies appropriation, a transfer of money or spending authority between funds or line items, or expenditure of federal funds. The emergency commission shall request and receive information from, upon the director advice of the office of management and budget regarding the petition. If the emergency commission finds that an emergency exists, the emergency commission may order money or spending authority transferred from one fund or line item to another fund or line item belonging to or appropriated for the same institution or board or the same state enterprise, may order a transfer of spending authority from the state contingencies appropriation, may authorize expenditure of federal funds, or, in an extremity, may authorize money to be drawn from the state treasury to meet the emergency until the legislative assembly can make an appropriation available. The following transfers may not be, if authorized by the emergency commission without, require the approval by of the budget section of the legislative council:~~

1. A transfer of moneys or spending authority which would eliminate or make impossible the accomplishment of a program or objective funded by the legislative assembly.
2. A transfer exceeding fifty thousand dollars from one fund or line item to another fund or line item, unless the transfer is necessary to comply with a court order or to avoid:
 - a. An imminent threat to the safety of people or property due to a natural disaster or war crisis; or
 - b. An imminent financial loss to the state.

SECTION 6. AMENDMENT. Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.1. May authorize acceptance and disbursement of federal funds. The emergency commission ~~with, upon~~ the advice and counsel of the ~~executive office of the management and budget,~~ may authorize the state treasurer to receive any moneys not

appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize passthrough federal funds from one state agency to another state agency. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative council is not required for the acceptance of federal funds if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions. The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly. A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.

SECTION 7. AMENDMENT. Section 54-16-04.2 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.2. Commission may authorize acceptance and expenditure of moneys.
~~The~~ Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative council is not required for the acceptance of moneys under this section if the acceptance is necessary to avoid an imminent

1 threat to the safety of people or property due to a natural disaster or war crisis or an imminent
2 financial loss to the state. Budget section approval is required before the expenditure of any
3 funds accepted under these conditions.

4 **SECTION 8. AMENDMENT.** Section 54-16-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-16-09. Transfer of spending authority from state contingencies appropriation.**

7 ~~If the~~ The emergency commission orders, upon the advice of the office of management and
8 budget, may order a transfer of spending authority from the state contingencies appropriation,
9 ~~the amount ordered which~~ must be deducted from the state contingencies line item in the
10 appropriation to the office of management and budget and added to the appropriate line item in
11 the appropriation of the state officer who requested the transfer. The emergency commission,
12 with approval of the budget section of the legislative council if the amount under consideration
13 exceeds fifty thousand dollars, shall certify, by an approved motion recorded in its minutes, that
14 the material, services, or purposes for which the authority was transferred are necessary and
15 proper expenditures and, if an appropriation for that purpose was made by the legislative
16 assembly, that the appropriation for that purpose is insufficient. The office of management and
17 budget and the emergency commission shall file the certificate as authority for a transfer under
18 ~~this section.~~ Approval by the budget section of the legislative council is not required if the
19 transfer is necessary to avoid an imminent threat to the safety of people or property due to a
20 natural disaster or war crisis or an imminent financial loss to the state.

21 **SECTION 9. AMENDMENT.** Section 54-16-11.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **54-16-11.1. Emergency commission may increase revenues and appropriation**
24 **authority for intergovernmental service fund agencies.** Upon presentation of ~~the~~ a verified
25 ~~petition under section 54-16-10~~ establishing that an emergency exists and the necessity for
26 increased appropriation authority, the emergency commission shall meet to determine if
27 additional demand from state agencies requires an increase in appropriation authority and
28 revenue receipts for the information technology department, central duplicating, surplus
29 property, or roughrider industries division of the department of corrections and rehabilitation.

30 **SECTION 10. REPEAL.** Sections 54-16-10 and 54-16-11 of the North Dakota Century
31 Code are repealed.

1 **SECTION 11. EFFECTIVE DATE.** This Act becomes effective on August 1, 2003.