

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1421

Introduced by

Representatives Belter, Svedjan, Timm

Senators Holmberg, Nething

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 subsection 1 of section 54-16-00.1 and sections 54-16-01,
4 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, and 54-16-11.1 of the North Dakota
5 Century Code, relating to emergency commission members, procedures employed by the
6 emergency commission, and approvals by the budget section; and to repeal sections 54-16-10
7 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds.

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

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

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

14 **SECTION 2. AMENDMENT.** Section 54-16-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.**

17 The emergency commission consists of the governor, the ~~chairman of the legislative council~~
18 majority leaders of the senate and house of representatives, the secretary of state, and the
19 chairmen of the senate and house of representatives appropriations committees. If the
20 chairman of an appropriations committee ceases to be a member of the legislative assembly,
21 the vice chairman of that committee succeeds to that position on the commission. An
22 appropriations committee vice chairman may serve in the place of the appropriations committee
23 chairman as a member of the commission at the request of the appropriate appropriations
24 committee chairman, if the appropriations committee chairman is unable to attend a

1 commission meeting. ~~The vice chairman of the legislative council~~ An assistant majority leader
2 may serve as a member of the commission in the place of ~~the chairman of the legislative~~
3 ~~council~~ a majority leader at the request of the ~~chairman of the legislative council~~ majority leader
4 if that individual is ~~servng on the commission in another capacity or is unable to attend a~~
5 commission meeting. Four members of the commission constitute a quorum. The governor is
6 the chairman and the secretary of state is the secretary of the commission. The commission
7 shall meet at the call of the chairman.

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

10 **54-16-03. Unlawful to expend more than appropriated - May secure approval from**
11 **commission for use of other funds - Deficit void.** A state officer may not expend, or agree
12 or contract to expend, any amount in excess of the sum appropriated for that expenditure, and
13 may not expend an amount appropriated for any specific purpose or fund or for any other
14 purpose without prior approval in the form of a transfer approval or expenditure authorization as
15 provided in this chapter. The office of management and budget shall provide information to the
16 emergency commission with respect to all emergency requests. Any debt or deficit created by
17 a state officer in violation of this section is void. ~~The emergency commission may not approve~~
18 ~~an expenditure of institutional income, other than gifts or grants, in excess of the institutional~~
19 ~~income appropriated to the institution by the legislative assembly.~~

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

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

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

30 **54-16-04. May order transfer of moneys between funds - Line item transfers -**
31 **Order may draw from state treasury.** ~~A state officer may present to the emergency~~

1 ~~commission an itemized, verified petition requesting approval of a transfer of spending authority~~
2 ~~from the state contingencies appropriation, a transfer of money or spending authority between~~
3 ~~funds or line items, or expenditure of federal funds.~~ The emergency commission shall request
4 and receive information from, upon the director advice of the office of management and budget
5 regarding the petition. ~~If the emergency commission finds that an emergency exists, the~~
6 ~~emergency commission~~ may order money or spending authority transferred from one fund or
7 line item to another fund or line item belonging to or appropriated for the same institution or
8 board or the same state enterprise, may order a transfer of spending authority from the state
9 contingencies appropriation, ~~may authorize expenditure of federal funds,~~ or, in an extremity,
10 may authorize money to be drawn from the state treasury to meet the emergency until the
11 legislative assembly can make an appropriation available. The following transfers ~~may not be,~~
12 if authorized by the emergency commission without, require the approval by of the budget
13 section of the legislative council:

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

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

25 **54-16-04.1. May authorize acceptance and disbursement of federal funds.** The
26 emergency commission ~~with,~~ upon the advice and counsel of the ~~executive~~ office of the
27 management and budget, may authorize the state treasurer to receive any moneys not
28 appropriated by the legislative assembly which are made available by any federal agency and
29 which the legislative assembly has not indicated an intent to reject. The emergency
30 commission may authorize passthrough federal funds from one state agency to another state
31 agency. The emergency commission, with approval of the budget section of the legislative

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

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

17 **54-16-04.2. Commission may authorize acceptance and expenditure of moneys.**
18 ~~The~~ Upon a finding that an emergency exists, the emergency commission, upon the advice of
19 the office of management and budget, with approval of the budget section of the legislative
20 council if the amount under consideration exceeds fifty thousand dollars, may authorize a state
21 officer to receive moneys from gifts, grants, donations, or other sources, not otherwise
22 appropriated by the legislative assembly, for new or existing programs if the legislative
23 assembly has not indicated an intent to reject the moneys or the program. The emergency
24 commission may authorize the state officer to expend money received under this section from
25 the date the money becomes available until June thirtieth following the next regular legislative
26 session. Approval by the budget section of the legislative council is not required for the
27 acceptance of moneys under this section if the acceptance is necessary to avoid an imminent
28 threat to the safety of people or property due to a natural disaster or war crisis or an imminent
29 financial loss to the state. Budget section approval is required before the expenditure of any
30 funds accepted under these conditions.

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

3 **54-16-09. Transfer of spending authority from state contingencies appropriation.**

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

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

20 **54-16-11.1. Emergency commission may increase revenues and appropriation**
21 **authority for intergovernmental service fund agencies.** Upon presentation of ~~the~~ a verified
22 petition ~~under section 54-16-10~~ establishing that an emergency exists and the necessity for
23 increased appropriation authority, the emergency commission shall meet to determine if
24 additional demand from state agencies requires an increase in appropriation authority and
25 revenue receipts for the information technology department, central duplicating, surplus
26 property, or roughrider industries division of the department of corrections and rehabilitation.

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