

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1421  
(Representatives Belter, Svedjan, Timm)  
(Senators Holmberg, Nething)

AN ACT to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to the presentation of emergency request petitions to the emergency commission; to amend and reenact subsection 1 of section 54-16-00.1 and sections 54-16-01, 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 Century Code, relating to emergency commission members, procedures employed by the emergency commission, and approvals by the budget section; and to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds.

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

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

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

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

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.** The emergency commission consists of the governor, the ~~chairman of the legislative council~~ majority leaders of the senate and house of representatives, the secretary of state, and the chairmen of the senate and house of representatives appropriations committees. If the chairman of an appropriations committee ceases to be a member of the legislative assembly, the vice chairman of that committee succeeds to that position on the commission. An appropriations committee vice chairman may serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a commission meeting. ~~The vice chairman of the legislative council~~ An assistant majority leader may serve as a member of the commission in the place of ~~the chairman of the legislative council~~ a majority leader at the request of the ~~chairman of the legislative council~~ majority leader if that individual is ~~servng on the commission in another capacity or is~~ unable to attend a commission meeting. Four members of the commission constitute a quorum. The governor is the chairman and the secretary of state is the secretary of the commission. The commission shall meet at the call of the chairman.

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

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

~~gifts or grants, in excess of the institutional income appropriated to the institution by the legislative assembly.~~

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

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

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

**54-16-09. Transfer of spending authority from state contingencies appropriation.** ~~If the~~ The emergency commission ~~orders,~~ upon the advice of the office of management and budget, may order a transfer of spending authority from the state contingencies appropriation, ~~the amount ordered which~~ must be deducted from the state contingencies line item in the appropriation to the office of management and budget and added to the appropriate line item in the appropriation of the state officer who requested the transfer. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, shall certify, by an approved motion recorded in its minutes, that the material, services, or purposes for which the authority was transferred are necessary and proper expenditures and, if an appropriation for that purpose was made by the legislative assembly, that the appropriation for that purpose is insufficient. The office of management and budget and the emergency commission shall file the certificate as authority for a transfer under this section. Approval by the budget section of the legislative council is not required if the transfer 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.

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

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

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

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1421.

House Vote:      Yeas    63      Nays    27      Absent    4

Senate Vote:    Yeas    45      Nays    0      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State