

**FIRST ENGROSSMENT  
with House Amendments**

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2137**

Introduced by

Political Subdivisions Committee

(At the request of the Adjutant General)

1 A BILL for an Act to amend and reenact sections 37-17.1-02, 37-17.1-02.1, and 37-17.1-04,  
2 subsections 3 and 6 of section 37-17.1-06, subsections 3 and 4 of section 37-17.1-07,  
3 subsections 1 and 2 of section 37-17.1-07.1, subsection 3 of section 37-17.1-11, subsection 1  
4 of section 37-17.1-12, section 37-17.1-13, subsections 2 and 4 of section 37-17.1-14.2,  
5 sections 37-17.1-19, 37-17.1-20, 37-17.1-21, and 37-17.1-24, subsections 1 and 3 of section  
6 37-17.1-25, and section 57-15-28 of the North Dakota Century Code, relating to the department  
7 of emergency services and the North Dakota Disaster Act of 1985.

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

9 **SECTION 1. AMENDMENT.** Section 37-17.1-02 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **37-17.1-02. Purposes.** The purposes of this chapter are to:

- 12 1. Reduce vulnerability of people and communities of this state to damage, injury,  
13 and loss of life and property resulting from natural or manmade disasters or  
14 emergencies, threats to homeland security, or hostile military or paramilitary  
15 action.
- 16 2. Provide a setting conducive to the rapid and orderly start of restoration and  
17 rehabilitation of persons and property affected by disasters or emergencies.
- 18 3. Clarify the roles of the governor, state agencies, and local governments in  
19 prevention of, in mitigation of, preparation for, ~~and~~ response to, and recovery from  
20 disasters or emergencies.
- 21 4. Authorize and provide for coordination of emergency management activities by  
22 agencies and officers of this state, and similar state-local, interstate, federal-state,  
23 and foreign activities in which the state and its political subdivisions may  
24 participate.

1           5.    Provide for a statewide emergency management system embodying all aspects of  
2                    prevention, mitigation, preparedness, response, and recovery and incorporating  
3                    the principles of the national incident management system and its incident  
4                    command system, as well as other applicable federal mandates.

5           **SECTION 2. AMENDMENT.** Section 37-17.1-02.1 of the North Dakota Century Code  
6 is amended and reenacted as follows:

7           **37-17.1-02.1. Department of emergency services.** The department of emergency  
8 services consists of a division of state radio and a division of homeland security. The adjutant  
9 general is the director of the department. The adjutant general shall provide for shared  
10 administration of both divisions. The division of homeland security consists of the state  
11 emergency operations center section, the disaster recovery section, and the homeland security  
12 section. The adjutant general shall appoint a separate director of each division. A division  
13 director serves at the pleasure of the adjutant general. The adjutant general shall fix the  
14 compensation of a division director within limits of legislative appropriation.

15           **SECTION 3. AMENDMENT.** Section 37-17.1-04 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **37-17.1-04. Definitions.** As used in this chapter:

- 18           1.    "Disaster" means the occurrence of widespread or severe damage, injury, or loss  
19                    of life or property resulting from any natural or manmade cause, including fire,  
20                    flood, earthquake, severe high and low temperatures, tornado storm, wave action,  
21                    ~~or~~ chemical spill, or other water or air contamination, epidemic, blight, drought,  
22                    infestation, explosion, riot, or hostile military or paramilitary action, which is  
23                    determined by the governor to require state or state and federal assistance or  
24                    actions to supplement the recovery efforts of local governments in alleviating the  
25                    damage, loss, hardship, or suffering caused thereby.
- 26           2.    "Disaster or emergency worker" means any person performing disaster or  
27                    emergency responsibilities or duties at any place in this state subject to the order  
28                    or control of, or pursuant to a request of, the state government or any political  
29                    subdivision.
- 30           3.    "Emergency" means any situation that is determined by the governor to require  
31                    state or state and federal response or mitigation actions to immediately

- 1 supplement local governments to protect lives and property, to provide for public  
2 health and safety, or to avert or lessen the threat of a disaster.
- 3 4. "Emergency management" means a comprehensive integrated system at all levels  
4 of government and in the private sector which provides for the development and  
5 maintenance of an effective capability to prevent, mitigate, prepare for, respond to,  
6 and recover from known and unforeseen hazards or situations, caused by an act of  
7 nature or man, which may threaten, injure, damage, or destroy lives, property, or  
8 our environment.
- 9 5. "Homeland security" means a concerted national effort to prevent terrorist attacks  
10 within the United States, reduce America's vulnerability to terrorism, and minimize  
11 the damage and recover from attacks in the United States.
- 12 6. "Incident command system" means a standardized on-scene incident management  
13 concept designated specifically to allow responders to adopt an integrated  
14 organizational structure equal to the complexity and demands of any single  
15 incident or multiple incidents without being hindered by jurisdictional boundaries.
- 16 7. "Mass care" means food, clothing, shelter, and other necessary and essential  
17 assistance provided to a large number of affected people in response to, or  
18 recovery from, a disaster or emergency.
- 19 8. "National incident management system" means a system that provides a  
20 consistent nationwide approach for federal, state, and local governments to work  
21 effectively and efficiently together to prepare for, respond to, and recover from  
22 domestic incidents regardless of cause, size, or complexity.

23 **SECTION 4. AMENDMENT.** Subsections 3 and 6 of section 37-17.1-06 of the North  
24 Dakota Century Code are amended and reenacted as follows:

- 25 3. The division of homeland security shall ~~take an integral part in~~ provide technical  
26 assistance for the development and revision of local disaster or emergency  
27 operations plans prepared under section 37-17.1-07. ~~To this end it shall employ or~~  
28 ~~otherwise secure the services of professional and technical personnel capable of~~  
29 ~~providing expert assistance to local emergency management organizations.~~  
30 ~~These personnel shall consult with local emergency management organizations on~~  
31 ~~a regularly scheduled basis and shall make field examinations of the areas,~~

- 1 ~~circumstances, and conditions to which particular local disaster or emergency~~  
2 ~~plans are intended to apply and may suggest or require revisions.~~
- 3 6. The division of homeland security, in coordination with lead and support agencies,  
4 shall:
- 5 a. Coordinate the procurement ~~and prepositioning~~ of supplies, materials, and  
6 equipment ~~for~~ during disaster or emergency operations.
- 7 b. Provide guidance and standards for local disaster or emergency operational  
8 plans.
- 9 c. Periodically review local disaster or emergency operational plans.
- 10 d. Coordinate state or state and federal assistance to local emergency  
11 management organizations.
- 12 e. Establish and operate or assist local emergency management organizations  
13 to establish and operate training programs and programs for emergency  
14 public information.
- 15 f. Make surveys of industries, resources, and facilities, within the state, both  
16 public and private, as are necessary to carry out the purposes of this chapter.  
17 The use of sensitive and proprietary logistical data submitted to the state in  
18 confidence by individual industries and suppliers must be accorded full  
19 confidentiality and will be released only in aggregate form.
- 20 g. Plan and make arrangements for the availability and use of any private  
21 facilities, services, and property, and, if necessary and if in fact used,  
22 coordinate payment for that use under terms and conditions agreed upon.
- 23 h. Establish access to a register of persons with types of training and skills  
24 important in prevention, mitigation, preparedness, response, and recovery.
- 25 i. Establish access to a register of equipment and facilities available for use in a  
26 disaster or emergency.
- 27 j. Prepare, for issuance by the governor, executive orders, proclamations, and  
28 guidance as necessary or appropriate in managing a disaster or emergency.
- 29 k. Coordinate and may enter agreements with the federal government and any  
30 public or private agency or entity in achieving any purpose of this chapter and

1 in implementing programs for disaster mitigation, preparation, response, and  
2 recovery.

3 l. Be the state search and rescue coordinating agency, establish access to a  
4 register of search and rescue equipment and personnel in the state, and plan  
5 for its effective utilization ~~in carrying out the search for and rescue of persons~~  
6 ~~when no violation of criminal laws exists.~~

7 m. Do other things necessary, incidental, or appropriate for the implementation of  
8 this chapter.

9 **SECTION 5. AMENDMENT.** Subsections 3 and 4 of section 37-17.1-07 of the North  
10 Dakota Century Code are amended and reenacted as follows:

11 3. Each city shall provide an emergency management organization of its own, or it  
12 shall participate in the countywide emergency management organization. Each  
13 governing board of a city shall make its determination on the basis of the city's  
14 emergency management requirements, hazards, capabilities, and resources. ~~The~~  
15 ~~division of homeland security shall publish and keep current a list of cities desiring~~  
16 ~~to have an emergency management organization of their own.~~ If a city provides an  
17 emergency management organization of its own, the city and county shall  
18 coordinate the city and county emergency plans.

19 4. The mayor of or the president of the board of city commissioners in a city ~~or~~ with  
20 an emergency management organization and the chairman of the board of county  
21 commissioners shall notify the division of homeland security of the manner in  
22 which the city ~~or~~ and the county ~~is~~ are providing or securing emergency  
23 management activities, identify ~~the person~~ each individual who will coordinate the  
24 activities of the local emergency management organization, and furnish additional  
25 information relating thereto as the division requires.

26 **SECTION 6. AMENDMENT.** Subsections 1 and 2 of section 37-17.1-07.1 of the North  
27 Dakota Century Code are amended and reenacted as follows:

28 1. Program components.

29 a. The governor shall appoint members of the state emergency response  
30 commission to carry out the commission's responsibilities as outlined in Public  
31 Law 99-499, 42 U.S.C. 11001, et seq., also referred to as SARA title III, and

- 1 the responsibilities of the commission members as outlined in the North  
2 Dakota emergency operations plan.
- 3 b. In conjunction with the state emergency response commission, the local  
4 emergency planning committees, as appointed by the boards of county  
5 commissioners, and the local emergency management organizations, ~~the~~  
6 ~~division of homeland security~~ shall coordinate the development and  
7 maintenance of a state hazardous chemicals preparedness and response  
8 program.
- 9 c. The director of the division of homeland security shall serve as the chairman  
10 of the state emergency response commission. In the absence of the  
11 chairman, the designated vice chairman shall serve as chairman. The state  
12 emergency response commission by vote will select the vice chairman to fulfill  
13 a two-year term. The chairman shall recognize the assignment of  
14 representatives to the commission who are designated through a delegation  
15 of authority by a member. The chairman shall designate a commission  
16 secretary, solely for the purpose of documenting and distributing clerical  
17 proceedings, from the staff of the division of homeland security.
- 18 d. For the purpose of complying with the reporting requirements set forth in  
19 sections 302, 304, 311, 312, and 313 of Public Law 99-499, 42 U.S.C. 11001,  
20 et seq., also referred to as SARA title III, the owner and operator of any  
21 facility, as defined in SARA title III, shall submit those reports to the North  
22 Dakota division of homeland security as required by SARA title III, which shall  
23 establish and maintain the state repository for these reports.
- 24 2. Establishment of funds.
- 25 a. There is created in the state treasury a nonlapsing restricted account to be  
26 known as a state hazardous chemicals preparedness and response fund.  
27 The fund consists of revenue collected from the state hazardous chemical fee  
28 system and funds appropriated by the general assembly. Moneys in the fund  
29 shall be appropriated biennially to the division of homeland security for  
30 carrying out the purposes, goals, and objectives of SARA title III, and the  
31 state hazardous chemicals preparedness and response program.

- 1           b. The county treasurer of each county shall establish a nonlapsing restricted  
2           account, to be known as the county hazardous chemicals preparedness and  
3           response account. The county hazardous chemicals preparedness and  
4           response account consists of revenue from the state hazardous chemicals  
5           fee system, county, federal or state funds, grants, and any private donations  
6           provided to finance the county hazardous chemicals preparedness and  
7           response program.
- 8           c. Each owner and operator of a facility, as defined in SARA title III, shall pay an  
9           annual hazardous chemicals fee to the division of homeland security by  
10          March first of each year. The fee is twenty-five dollars for each chemical  
11          within the meaning of 40 CFR 355.20 or its successor which is required under  
12          section 312 of SARA title III, to be listed on the hazardous chemical inventory  
13          form (tier II) which the owner or operator must submit to the division. The  
14          federal requirements must be used for completing the tier II form, including  
15          the threshold amounts, as outlined in 40 CFR 370.20. The maximum fee for  
16          a facility under this section is one hundred fifty dollars. The division of  
17          homeland security shall transfer to the county hazardous chemicals  
18          preparedness and response account one-half of the funds collected from the  
19          state's hazardous chemicals fee system.
- 20          d. The owners or operators of family farm enterprises that are not engaged in  
21          the retail or wholesale of hazardous chemicals and facilities owned by the  
22          state or local governments are exempt from the fee under subdivision c. For  
23          purposes of this section, the terms "family farm" and "farmer" have the same  
24          meaning as set forth in section 6-09.11-01.
- 25          e. The state and county governments are authorized to accept and may deposit  
26          grants, gifts, and federal funds into the hazardous chemicals preparedness  
27          and response fund and accounts for the purpose of carrying out the  
28          hazardous chemicals preparedness and response ~~program~~ programs to  
29          include training, exercising, equipment, response, and salaries.
- 30          f. "Hazardous chemical" means as defined in 40 CFR 355.20 and 29 CFR  
31          1910.1200.

1           g. The state hazardous chemicals fee system does not supersede a city fee  
2           system for hazardous chemicals.

3           **SECTION 7. AMENDMENT.** Subsection 3 of section 37-17.1-11 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5           3. If the division of homeland security determines, in coordination with lead and  
6           support agencies, on the basis of the studies or other competent evidence, that an  
7           area is susceptible to a disaster of catastrophic proportions without adequate  
8           warning; existing building standards and land use controls in that area are  
9           inadequate and could add substantially to the magnitude of the disaster or  
10          emergency; and changes in zoning regulations, other land use regulations, or  
11          building requirements are needed in order to further the purposes of this section, it  
12          shall specify the essential changes to the governor. If the governor, upon review  
13          of the determination, finds after public hearing, that the changes are essential, the  
14          governor shall so recommend to the agencies or local governments with  
15          jurisdiction over that area and subject matter. If no action or insufficient action  
16          pursuant to the governor's recommendations is taken within the time specified by  
17          the governor, the governor shall so inform the legislative assembly and request  
18          legislative action appropriate to mitigate the impact of the disaster or emergency.

19          **SECTION 8. AMENDMENT.** Subsection 1 of section 37-17.1-12 of the North Dakota  
20 Century Code is amended and reenacted as follows:

21          1. Persons within this state shall conduct themselves and keep and manage their  
22          affairs and property in ways that will reasonably assist and will not unreasonably  
23          detract from the ability of the state and the public to effectively prevent, mitigate,  
24          prepare for, respond to, and recover from a disaster or emergency. This obligation  
25          includes appropriate personal service and use or restriction on the use of property  
26          in time of disaster or emergency. This chapter neither increases nor decreases  
27          these obligations but recognizes their existence under the Constitution of North  
28          Dakota and statutes of this state and the common law. Compensation for services  
29          or for the taking or use of property must be only to the extent that obligations  
30          recognized herein are exceeded in a particular case and then only to the extent

1           that the claimant may not be deemed to have volunteered that person's services or  
2           property without compensation.

3           **SECTION 9. AMENDMENT.** Section 37-17.1-13 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **37-17.1-13. Communications.** ~~The division of homeland security~~ department of  
6 emergency services shall ascertain what means exist for rapid and efficient communications in  
7 times of a disaster or emergency. ~~The division~~ department shall consider the desirability of  
8 supplementing these communications resources or of integrating them into a comprehensive  
9 state or state and federal telecommunications or other communications system or network,  
10 including the military installations. In studying the character and feasibility of any system or its  
11 several parts, ~~the division~~ department shall evaluate the possibility of multipurpose use thereof  
12 for general state and local governmental purposes. ~~The division~~ department shall make  
13 recommendations to the governor as appropriate.

14           **SECTION 10. AMENDMENT.** Subsections 2 and 4 of section 37-17.1-14.2 of the  
15 North Dakota Century Code are amended and reenacted as follows:

16           2. The governor may enter into an interstate agreement with any state if the governor  
17 finds that joint action with that state is desirable in meeting common  
18 intergovernmental problems of emergency or disaster prevention, preparedness,  
19 mitigation, response, and recovery.

20           4. All interstate mutual aid compacts and other interstate agreements to which this  
21 state is a party dealing with disaster or emergency prevention, preparedness,  
22 response, recovery, or mitigation must be reviewed and made current every four  
23 years.

24           **SECTION 11. AMENDMENT.** Section 37-17.1-19 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **37-17.1-19. Temporary housing for disaster victims and site acquisition and**  
27 **preparation.** ~~In accordance with the provisions of the United States Disaster Relief Act of~~  
28 ~~1974 [Pub. L. 93-288; 88 Stat. 143], the~~ The governor is authorized to enter into such  
29 agreements and execute such assurances on behalf of the state of North Dakota as may be  
30 necessary to establish, in the event of a disaster or emergency, a program of temporary  
31 housing for disaster victims adversely affected by a disaster or emergency ~~in those cases when~~

1 ~~such disaster or emergency victims are unable to meet their needs through assistance under~~  
2 ~~provisions other than section 404 of the Disaster Relief Act or through other means.~~ The  
3 governor is authorized:

- 4 1. To receive temporary housing units to be occupied by disaster or emergency  
5 victims from any agency of the United States and to make such units available to  
6 any county or city of the state.
- 7 2. To assist any county or city of this state which is the site of temporary housing for  
8 disaster or emergency victims, to acquire and to prepare sites necessary for such  
9 temporary housing, and to "pass through" funds made available by any agency,  
10 public or private.

11 Any county or city of this state is expressly authorized to acquire, temporarily or  
12 permanently, by purchase, lease, or otherwise, sites required for installation of temporary  
13 housing units for disaster or emergency victims and to enter into whatever arrangements,  
14 including purchase of temporary housing units and payment of transportation charges, which  
15 are necessary to prepare or equip such sites to utilize the housing units.

16 The governor shall establish guidelines necessary to carry out the purposes of sections  
17 37-17.1-19, 37-17.1-20, and 37-17.1-21.

18 **SECTION 12. AMENDMENT.** Section 37-17.1-20 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **37-17.1-20. Community disaster loans.** ~~In accordance with the provisions of the~~  
21 ~~United States Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143], the~~ The governor is  
22 authorized to enter into such agreements and execute such assurances on behalf of the state  
23 of North Dakota as may be necessary to establish, in the event of a presidentially declared  
24 "major disaster", a program of community disaster loans in those cases when communities are  
25 unable to meet or provide for their essential governmental functions ~~through assistance under~~  
26 ~~provisions other than section 414 of the Disaster Relief Act or through other means.~~ Upon the  
27 governor's determination that a local government of the state will suffer a substantial loss of tax  
28 and other revenues from a disaster and has demonstrated a need for financial assistance to  
29 perform its governmental functions, the governor may apply to the federal government, on  
30 behalf of the local government, for a loan and receive and disburse the proceeds of any  
31 approved loan to any applicant local government.

1 The governor may:

- 2 1. Determine the amount needed by any applicant local government to restore or  
3 resume its governmental functions and certify the same to the federal government.  
4 No application amount may exceed twenty-five percent of the annual operating  
5 budget of the applicant for the fiscal year in which the disaster occurs.
- 6 2. Recommend to the federal government, based upon the governor's review, the  
7 cancellation of all or any part of repayment when, within three fiscal years following  
8 the disaster, the revenues of the local government are insufficient to meet its  
9 operating expenses, including additional disaster-related expenses of a county or  
10 city.

11 **SECTION 13. AMENDMENT.** Section 37-17.1-21 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **37-17.1-21. Debris and wreckage removal in disasters or emergencies.** ~~in~~  
14 ~~accordance with the provisions of the United States Disaster Relief Act of 1974 [Pub. L. 93-288;~~  
15 ~~88 Stat. 1443], the~~ The governor is authorized to enter into such agreements and execute such  
16 assurances on behalf of the state of North Dakota as may be necessary to establish, in the  
17 event of a disaster or emergency, a program of debris and wreckage removal caused by a  
18 disaster ~~in those cases when such debris and wreckage removal cannot be provided under~~  
19 ~~provisions other than section 403 of the Disaster Relief Act or through other means.~~ The  
20 governor is authorized:

- 21 1. Notwithstanding any other provision of law, through the use of state departments  
22 or agencies, or the use of any of the state's instrumentalities, to clear or remove  
23 from publicly or privately owned land or water, debris and wreckage which may  
24 threaten public health or safety, or threaten public or private property, in any  
25 disaster or emergency declared by the governor.
- 26 2. To accept funds from the federal government and utilize such funds to make  
27 grants to any local government for the purpose of removing debris or wreckage  
28 from publicly or privately owned land or water.

29 Authority under sections 37-17.1-19, 37-17.1-20, and 37-17.1-21 may not be exercised,  
30 except upon state-owned lands, unless the affected local government, corporation, limited  
31 liability company, organization, or individual first presents an unconditional authorization for

1 removal of such debris or wreckage from public and private property and, in the case of  
2 removal of debris or wreckage from private property, first agrees to indemnify the state  
3 government against any claim arising from such removal.

4 Whenever the governor provides for clearance of debris or wreckage pursuant to  
5 subsection 1 or 2, employees of the designated state agencies or individuals appointed by the  
6 state are authorized to enter upon private land or waters and perform any tasks necessary to  
7 the removal or clearance operation.

8 Except in cases of willful misconduct, gross negligence, or bad faith, any state  
9 employee or agent complying with orders of the governor and performing duties pursuant  
10 thereto under sections 37-17.1-19, 37-17.1-20, and 37-17.1-21 is not liable for death of or injury  
11 to persons or damage to property.

12 The governor shall establish guidelines to carry out the purposes of sections  
13 37-17.1-19, 37-17.1-20, and 37-17.1-21.

14 **SECTION 14. AMENDMENT.** Section 37-17.1-24 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **37-17.1-24. Definitions.** In this section and section 37-17.1-25, unless the context  
17 otherwise requires:

- 18 1. "Assisting unit" means an emergency response unit that renders mutual aid  
19 assistance to a requesting unit.
- 20 2. "Emergency response unit" includes a fire department, law enforcement agency,  
21 emergency medical services operation, and any other public, tribal, and private  
22 group that responds to a request for assistance at the scene of an incident.
- 23 3. "Incident" means any situation that requires actions to immediately protect lives  
24 and property, to provide for public health and safety, or to avert or lessen the threat  
25 of a disaster.
- 26 4. "Incident command system" means a ~~recognized system adopted by the United~~  
27 ~~States department of homeland security and the division of emergency~~  
28 ~~management for the command, control, and coordination of resources and~~  
29 ~~personnel at the scene of an incident~~ standardized, on-scene incident  
30 management concept designed specifically to allow responders to adopt an  
31 integrated organizational structure equal to the complexity and demands of any

1           single incident or multiple incidents without being hindered by jurisdictional  
2           boundaries.

3           5. "National incident management system" means a system that provides a  
4           consistent nationwide approach for federal, state, and local governments to work  
5           effectively and efficiently together to prepare for, respond to, and recover from  
6           domestic incidents, regardless of cause, size, or complexity.

7           6. "National response plan" means a comprehensive all-hazards approach to  
8           enhance the ability of the United States to manage domestic incidents,  
9           incorporating best practices and procedures from incident management disciplines  
10           and integrating them into a unified structure to guide national support of state and  
11           local governments and the private sector.

12           7. "Requesting unit" means the emergency response unit with responsibility for  
13           responding to an incident which seeks mutual aid assistance from another  
14           emergency response unit.

15           **SECTION 15. AMENDMENT.** Subsections 1 and 3 of section 37-17.1-25 of the North  
16           Dakota Century Code are amended and reenacted as follows:

17           1. An incident ~~command system~~ commander must be designated by the requesting  
18           unit, and the incident command system must be used. The incident commander  
19           may request mutual aid and is responsible for all resources assigned to or  
20           responding to an incident.

21           3. All resources assigned to an incident are under the ~~command~~ operational control  
22           of the incident commander. The individual in charge of an assisting unit may retain  
23           the ability to withdraw personnel or resources upon notification to the incident  
24           commander. An assisting unit withdrawing from an emergency response operation  
25           is not liable for damage to the requesting unit.

26           **SECTION 16. AMENDMENT.** Section 57-15-28 of the North Dakota Century Code is  
27           amended and reenacted as follows:

28           **57-15-28. Emergency fund - County.** The governing body of any county may levy a  
29           tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7.  
30           The emergency fund may not be considered in determining the budget or the amount to be  
31           levied for each fiscal year for normal tax purposes but must be shown in the budget as an

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1 "emergency fund" and may not be deducted from the budget as otherwise provided by law.  
2 Each county may create an emergency fund, and all taxes levied for emergency purposes by  
3 any county, when collected, must be deposited in the emergency fund, and must be used only  
4 for emergency purposes caused by the destruction or impairment of any county property  
5 necessary for the conduct of the affairs of the county, emergencies caused by nature or by the  
6 entry by a court of competent jurisdiction of a judgment for damages against the county. The  
7 emergency fund may not be used for any road construction or maintenance, except for repair of  
8 roads damaged by nature within sixty days preceding ~~such~~ the determination to expend  
9 emergency funds, or for the purchase of road equipment; however, the emergency fund may be  
10 used to match federal funds appropriated to mitigate damage to roads related to a federally  
11 declared disaster that occurred more than sixty days preceding the determination. Any  
12 unexpended balance; remaining in the emergency fund at the end of any fiscal year; must be  
13 kept in ~~such~~ the fund. When the amount of money in the emergency fund, plus the amount of  
14 money due the fund from outstanding taxes, equals the amount produced by a levy of five mills  
15 on the taxable valuation of property in a county with a population of thirty thousand or more, or  
16 ten mills on the taxable valuation of property in a county with a population of less than thirty  
17 thousand, the levy authorized by this section must be discontinued, and no further levy may be  
18 made until required to replenish the emergency fund.