

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1233
(Representatives Lefor, Vigesaa)
(Senator Bekkedahl)

AN ACT to amend and reenact sections 15-10-12.1, 48-01.2-25, 54-16-03, 54-16-04, 54-16-04.1, 54-16-09, and 54-16-13 of the North Dakota Century Code, relating to the powers and duties of the emergency commission and budget section; to repeal sections 54-16-04.2, 54-16-08, and 54-16-11.1 of the North Dakota Century Code, relating to the powers and duties of the emergency commission; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-12.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-12.1. Acceptance of buildings and campus improvements - Legislative approval.

The state board of higher education may authorize campus improvements and building maintenance on land under the control of the board which are financed by donations, gifts, grants, and bequests if the cost of the improvement or building maintenance is not more than seven hundred thousand dollars. The consent of the legislative assembly is required for construction of any building or any addition to a building on land under the control of the board which is financed by donations, gifts, grants, and bequests. The consent of the legislative assembly is required for campus improvements or building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvements or maintenance is more than seven hundred thousand dollars. During the time the legislative assembly is not in session, except for the ~~six~~^{three} months preceding the convening of a regular session and the three months following the close of a regular session, and unless otherwise restricted by previous legislative action or other law, the budget section may authorize the use of land under the control of the board and construct buildings financed by donations, gifts, grants, and bequests and campus improvements and building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvement or maintenance is more than seven hundred thousand dollars. Any project request submitted to the budget section for the construction of a building financed by donations, gifts, grants, and bequests must include the removal of a building or buildings with an equivalent or greater total number of square feet compared to the proposed building. The budget section approval must comply with section 54-35-02.9 and must include a specific dollar limit for each building, campus improvement project, or maintenance project. The state board of higher education may authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. The board shall prescribe such conditions for the sale of the property as it determines necessary. The conditions must include requiring an appraisal and public auction or advertisement for bids, unless the gift instrument requires a different process. If the state board of higher education submits a request for campus improvements, building maintenance, or to construct buildings under this section to the budget section for approval, the legislative council shall notify each member of the legislative assembly of the date of the budget section meeting at which the request will be considered and provide a copy of the meeting agenda to each member of the legislative assembly. The chairman of the budget section shall allow any member of the legislative assembly an opportunity to present testimony to the budget section regarding any such request.

SECTION 2. AMENDMENT. Section 48-01.2-25 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-25. Authorization of expansion of public improvements by legislative assembly or budget section.

Notwithstanding any other provision of law, a state agency or institution may not significantly change or expand a public improvement beyond what has been approved by the legislative assembly unless the legislative assembly approves the change or expansion of the project or any additional expenditure for the project. During the time the legislative assembly is not in session, and unless otherwise restricted by previous legislative action or other law, the budget section may approve a change or expansion or any additional expenditure for the project. However, the budget section may not approve a change, expansion, or additional expenditure for the project during the ~~six~~three months preceding the convening of a regular session or during the three months following the close of a regular session except for changes in project scope and related additional expenditures resulting from an unforeseen emergency event. Any request considered by the budget section must comply with section 54-35-02.9. For the purposes of this section, a significant change or expansion includes the construction of an addition to a building, including skywalks or other type of enclosed walkway, or any other substantial increase in the area of the building, but does not include the construction of building entrances and stairwells.

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 - Submission of petition to emergency commission.

1. 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.
2. When an emergency exists, a state officer may submit to the secretary of the emergency commission an itemized petition requesting approval to:
 - a. Transfer money and spending authority between funds or line items pursuant to section 54-16-04;
 - b. ~~Accept and expend~~special funds or federal funds pursuant to section 54-16-04.1;
 - c. ~~Accept and expend state contingency funds~~Transfer appropriation authority from the state contingencies appropriation pursuant to section 54-16-09; or
 - d. ~~Accept and expend other funds~~ pursuant to section ~~54-16-04.2~~; or
 - e. Recommend full-time equivalent positions pursuant to section 54-16-04.3.
3. The secretary of the emergency commission shall provide a copy of each petition submitted under this section to the office of management and budget and legislative council. The office of management and budget may provide an analysis and prioritization of emergency requests to the emergency commission.
4. Any petition to the emergency commission by a state officer must be considered by the emergency commission. A petition under this section must be approved or recommended by the emergency commission before submission for consideration by the budget section.
5. Any debt or deficit created by a state officer in violation of this section is void.

SECTION 4. 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~~Budget section approval.

The emergency commission, upon the advice of the office of management and budget and approval by the budget section of the legislative management, 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, 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, if authorized by the emergency commission, require the approval of the budget section of the legislative management:

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. Any request considered by the budget section must comply with section 54-35-02.9. The budget section, when considering requests under this section, may approve the request in the form received from the emergency commission or may amend and approve the request. A request amended and approved by the budget section is deemed to be approved by the emergency commission. Approval by the budget section 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 5. 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 special funds or federal funds - Budget section approval.

1. The emergency commission, upon the advice and counsel of the office of management and budget and approval by the budget section of the legislative management, may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and a state officer to accept any special funds or federal funds not appropriated by the legislative assembly which the legislative assembly has not indicated an intent to reject.
2. The emergency commission may authorize passthrough federal funds from one state agency to another state agency. A request to expend federal funds received by a state agency and passed through to any other state agency may be approved only under this section.
3. ~~The emergency commission, with approval of the budget section of the legislative management if the amount under consideration exceeds fifty thousand dollars but does not exceed three million 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.~~
4. ~~The emergency commission, with approval of the budget section of the legislative management if the amount under consideration exceeds three million 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. The budget section may approve a request under this subsection in the form received from the emergency~~

~~commission or may amend and approve a request. A request amended and approved by the budget section is deemed to be approved by the emergency commission. Any request considered by the budget section must comply with section 54-35-02.9.~~

5. Any special funds or federal funds made available to this state which ~~are~~ have not been appropriated by the legislative assembly for a specific purpose or program and which are not required to be spent prior to the next regular legislative session, upon the approval for acceptance by the emergency commission and the budget section of the legislative management, must be deposited into a separate fund until the legislative assembly appropriates the funds.
- 6.a.3. Approval by the budget section of the legislative management is not required for the acceptance of special funds or 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.
 - b. ~~Budget section approval is required under this section before the expenditure of any funds accepted under these conditions.~~
7. ~~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.~~
- 8.4. 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.
9. ~~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.~~
10. ~~The cumulative amount of requests to expend funds that may be approved each biennium under this section may not exceed fifty million dollars. Any request received under this section which, if approved, would result in more than fifty million dollars of funds being approved for expenditure under this section during the biennium may be approved only by the legislative assembly during a regular legislative session or during a special legislative session called by the governor. The director of the office of management and budget shall notify the members of the legislative assembly of any requests submitted which, if approved, would exceed the limit under this subsection.~~
11. ~~Any request received under this section to expend funds received through a federal act that makes available to the state more than fifty million dollars may be approved only by the legislative assembly during a regular legislative session or a special legislative session called by the governor.~~
12. ~~Subsections 10 and 11 do not apply to federal highway administration emergency relief funding received by the state or to disaster or emergency recovery funding received by the state pursuant to chapter 37-17.1.~~

SECTION 6. 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 - Budget section approval.

~~The emergency commission, upon the advice of the office of management and budget, may order a transfer of spending authority from the state contingencies appropriation, 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 management 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. Approval by the budget section of the legislative management 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.~~

1. The emergency commission, upon the advice and counsel of the office of management and budget and approval by the budget section of the legislative management, may order a transfer of general fund, special funds, or federal funds appropriation authority from the state contingencies appropriation, which must be deducted from the state contingencies appropriation to the office of management and budget and added to the appropriate line item in the appropriation of the state officer approved for the transfer.
2. Any request considered by the budget section must comply with section 54-35-02.9. The budget section, when considering requests under this section, may approve the request in the form received from the emergency commission or may amend and approve the request. A request amended and approved by the budget section is deemed to be approved by the emergency commission.
3. Approval by the budget section is not required if the transfer of appropriation authority 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 7. AMENDMENT. Section 54-16-13 of the North Dakota Century Code is amended and reenacted as follows:

54-16-13. Authority to borrow funds for a disaster - Continuing appropriation.

Any board, agency, commission, or officer of the state, subject to the approval of the emergency commission and the budget section of the legislative management, may borrow moneys from the Bank of North Dakota for the purpose of responding to a disaster within the state as declared by the governor pursuant to chapter 37-17.1. The amount of moneys borrowed is limited to the amount of any estimated federal reimbursement for repair, recovery, or response relating to a disaster within the state, unless the state contingencies appropriation is inadequate to pay the estimated state share of the costs, then moneys may be borrowed up to one hundred percent of the costs incurred by the agency. Any interest payments on the funds borrowed must be paid from funds available~~transferred~~ to the agency from the state contingencies appropriation as authorized by the emergency commission ~~or other funds as authorized by the emergency commission and budget section~~. Any moneys borrowed from the Bank of North Dakota pursuant to this section are hereby appropriated and may be spent by the board, agency, commission, or officer of this state for the repair, recovery, or response relating to a disaster within the state. If it appears to the borrower that at the end of the biennium the amount available to repay the amount borrowed plus interest is insufficient to totally repay the Bank of North Dakota, the borrower shall request from the legislative assembly a deficiency appropriation sufficient for the repayment of the amount borrowed plus interest.

SECTION 8. REPEAL. Sections 54-16-04.2, 54-16-08, and 54-16-11.1 of the North Dakota Century Code are repealed.

SECTION 9. APPROPRIATION. The funds appropriated in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, and from other funds derived from special funds and federal funds, to the office of management and budget for the purpose of making funds available to the emergency commission for state contingencies, for the biennium beginning July 1, 2025, and ending June 30, 2027, as follows:

State contingencies - General fund	\$750,000
State contingencies - Special funds	20,000,000
State contingencies - Federal funds	<u>50,000,000</u>
Total all funds	\$70,750,000
Less other funds	<u>70,000,000</u>
Total general fund	\$750,000

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1233.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 45 Nays 1 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State