

CHAPTER 54-16

EMERGENCY COMMISSION

54-16-00.1. Definitions.

As used in this chapter, unless the context otherwise requires:

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.
2. "State officer" means an elected or appointed officer, board, commission, director, or employee of the state having the authority to transfer or expend any money appropriated by the legislative assembly.

54-16-01. Emergency commission - Members - Organization - Quorum - Meetings - Pledge of allegiance.

The emergency commission consists of the governor, the majority leaders of the senate and house of representatives of the legislative assembly, 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. If a majority leader ceases to be a member of the legislative assembly, the respective house's assistant majority leader succeeds to that position on the commission. A majority leader's assistant majority leader may serve as a member of the commission in the place of the majority leader at the request of the majority leader if that majority leader is serving 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. At the beginning of each regularly scheduled meeting of the emergency commission, members must be given the opportunity to participate in a voluntary recitation of the pledge of allegiance.

54-16-02. Proceedings not valid unless entered in minutes.

The proceedings of the emergency commission are not valid unless entered in the commission's minutes.

54-16-03. Unlawful to expend more than appropriated - 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 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 special funds or federal funds pursuant to section 54-16-04.1;
 - c. Transfer appropriation authority from the state contingencies appropriation pursuant to section 54-16-09; or
 - d. 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.

54-16-03.1. Submission of petition to emergency commission.

Repealed by S.L. 2021, ch. 400, § 2.

54-16-04. May order transfer of moneys between funds - Line item transfers - 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. 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.

54-16-04.1. May authorize acceptance 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 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. Any special funds or federal funds made available to this state which 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.
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.
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.

54-16-04.2. Commission may authorize acceptance and expenditure of state special funds and other sources.

Repealed by S.L. 2025, ch. 486, § 8.

54-16-04.3. Commission may recommend full-time equivalent positions - Budget section approval.

On the advice of the office of management and budget and upon the recommendation of the emergency commission, the budget section of the legislative management may authorize a state officer to employ full-time equivalent positions in addition to those authorized by the legislative assembly. The authority to employ a full-time equivalent position under this section is

effective only for the remainder of the biennium during which the authority is granted by the budget section.

54-16-05. Penalty for expending more than appropriated.

Any state officer who violates section 54-16-03 is guilty of a class B misdemeanor.

54-16-06. Report to emergency commission and legislative audit and fiscal review committee by board or officer when expenditure authorized.

Repealed by S.L. 1977, ch. 483, § 2.

54-16-07. Failure to make report - False report - Penalty.

Repealed by S.L. 1975, ch. 106, § 673.

54-16-08. State contingencies appropriation.

Repealed by S.L. 2025, ch. 486, § 8.

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

54-16-10. Departmental emergency funds - Penalty.

Repealed by S.L. 2003, ch. 670, § 10.

54-16-11. Departmental emergency fund consideration.

Repealed by S.L. 2003, ch. 670, § 10.

54-16-11.1. Emergency commission may increase revenues and appropriation authority for intergovernmental service fund agencies.

Repealed by S.L. 2025, ch. 486, § 8.

54-16-12. Board of higher education land acquisition approval.

The emergency commission may approve the acquisition of property near one of the state institutions of higher education, and if requested and found necessary may make funds available from the state contingencies appropriation to the board of higher education for the purpose of acquiring the property if the emergency commission finds that:

1. The property is needed for expansion in the foreseeable future;
2. The property in all probability will not again be offered for sale at a similar price in the foreseeable future; and
3. The legislative assembly has not previously rejected a similar request and the time during which the purchase must be consummated does not permit obtaining a legislative appropriation.

Determination that an emergency exists is not a condition precedent to the approval of a purchase or a grant of funds from the state contingencies appropriation under this section.

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 transferred to the agency from the state contingencies appropriation as authorized by the emergency commission and budget section. Any moneys borrowed from the Bank of North Dakota pursuant to this section are 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.