21.1085.01000

Sixty-seventh
Legislative Assembly
of North Dakota

FIRST DRAFT:
Prepared by the Legislative Council staff for the
Government Finance Committee
September 2021

Introduced by

A BILL for an Act to amend and reenact sections 54-16-04.1 and 54-16-04.2 of the North Dakota Century Code, relating to emergency commission and budget section approval to accept and disburse federal funds and state special funds; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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.

1. The emergency commission, upon the advice and counsel of the office of 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.
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 federal funds made available to this state which are not 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 ~~special~~separate fund until the legislative assembly appropriates the funds.

6. a. Approval by the budget section of the legislative management 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.

   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. 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 ~~aggregate~~cumulative amount of requests to expend funds that may be approved each biennium under this section may not exceed ~~fifty million dollars~~an amount equal to two percent of the current biennial state general fund budget as approved by the most recently adjourned special or regular session of the legislative assembly. Any request received under this section which, if approved, would result in more than ~~fifty million dollars of funds~~an amount equal to two percent of the current biennial state

general fund budget 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.

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 to the state~~an amount equal to two percent of the current biennial state general fund budget as approved by the most recently adjourned special or regular session of the legislative assembly 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 section 37-17.1-23.

SECTION 2. 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~~state special funds and other sources.

1. 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 management if the amount under consideration exceeds fifty thousand dollars but does not exceed three million dollars, may authorize a state officer to receive and expend 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.
2. 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 management if the amount under consideration exceeds three million dollars, may authorize a state officer to receive and expend 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 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.

3. A state officer receiving authorization to expend money under this section may expend the money from the date the money becomes available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative management 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.

4. The ~~aggregate~~cumulative amount of requests to expend funds which may be approved each biennium under this section may not exceed ~~five million dollars~~an amount equal to one percent of the current biennial state general fund budget as approved by the most recently adjourned special or regular session of the legislative assembly. Any request received under this section which, if approved, would result in more than ~~five million dollars~~an amount equal to one percent of the current biennial state general fund budget being approved for expenditures 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.

SECTION 3. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.