

**SENATE BILL NO. 2422**

Introduced by

Senator Stenehjem

Representative Berg

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 54-16 of the North Dakota  
2 Century Code, relating to the presentation of emergency request petitions to the emergency  
3 commission; to amend and reenact subsection 1 of section 54-16-00.1 and sections 54-16-03,  
4 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,  
5 relating to procedures employed by the emergency commission and approvals by the budget  
6 section; to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating  
7 to departmental emergency funds; and to provide an effective date.

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

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

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

14 **SECTION 2. AMENDMENT.** Section 54-16-03 of the North Dakota Century Code is  
15 amended and reenacted as follows:

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

1 ~~an expenditure of institutional income, other than gifts or grants, in excess of the institutional~~  
2 ~~income appropriated to the institution by the legislative assembly.~~

3 **SECTION 3.** A new section to chapter 54-16 of the North Dakota Century Code is  
4 created and enacted as follows:

5 **Submission of petition to emergency commission.** When an emergency exists, a  
6 state officer may present to the emergency commission an itemized, verified petition requesting  
7 approval to transfer money and spending authority between funds or line items pursuant to  
8 section 54-16-04; accept and expend federal funds pursuant to section 54-16-04.1; accept and  
9 expend state contingency funds pursuant to section 54-16-09; or accept and expend other  
10 funds pursuant to section 54-16-04.2.

11 **SECTION 4. AMENDMENT.** Section 54-16-04 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **54-16-04. May order transfer of moneys between funds - Line item transfers -**  
14 **Order may draw from state treasury.** ~~A state officer may present to the emergency~~  
15 ~~commission an itemized, verified petition requesting approval of a transfer of spending authority~~  
16 ~~from the state contingencies appropriation, a transfer of money or spending authority between~~  
17 ~~funds or line items, or expenditure of federal funds. The emergency commission shall request~~  
18 ~~and receive information from, upon the director advice of the office of management and budget~~  
19 ~~regarding the petition. If the emergency commission finds that an emergency exists, the~~  
20 ~~emergency commission may order money or spending authority transferred from one fund or~~  
21 ~~line item to another fund or line item belonging to or appropriated for the same institution or~~  
22 ~~board or the same state enterprise, may order a transfer of spending authority from the state~~  
23 ~~contingencies appropriation, may authorize expenditure of federal funds, or, in an extremity,~~  
24 ~~may authorize money to be drawn from the state treasury to meet the emergency until the~~  
25 ~~legislative assembly can make an appropriation available. The following transfers may not be,~~  
26 ~~if authorized by the emergency commission without, require the approval by of the budget~~  
27 ~~section of the legislative council:~~

28 1. A transfer of moneys or spending authority which would eliminate or make  
29 impossible the accomplishment of a program or objective funded by the legislative  
30 assembly.

- 1           2.    A transfer exceeding fifty thousand dollars from one fund or line item to another  
2                    fund or line item, unless the transfer is necessary to comply with a court order or to  
3                    avoid:  
4                    a.    An imminent threat to the safety of people or property due to a natural  
5                            disaster or war crisis; or  
6                    b.    An imminent financial loss to the state.

7           **SECTION 5. AMENDMENT.** Section 54-16-04.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **54-16-04.1. May authorize acceptance and disbursement of federal funds.** The  
10 emergency commission ~~with, upon~~ the advice and counsel of the ~~executive~~ office of ~~the~~  
11 ~~management and budget,~~ may authorize the state treasurer to receive any moneys not  
12 appropriated by the legislative assembly which are made available by any federal agency and  
13 which the legislative assembly has not indicated an intent to reject. The emergency  
14 commission may authorize passthrough federal funds from one state agency to another state  
15 agency. The emergency commission, with approval of the budget section of the legislative  
16 council if the amount under consideration exceeds fifty thousand dollars, may authorize any  
17 state officer to receive and expend federal moneys from the date such moneys become  
18 available until June thirtieth following the next regular legislative session. Approval by the  
19 budget section of the legislative council is not required for the acceptance of federal funds if the  
20 acceptance is necessary to avoid an imminent threat to the safety of people or property due to  
21 a natural disaster or war crisis or an imminent financial loss to the state. Budget section  
22 approval is required before the expenditure of any funds accepted under these conditions. The  
23 expenditures must be consistent with state law and with the terms of the grant and the program  
24 may not commit the legislative assembly for matching funds in the future unless the program  
25 has first been approved by the legislative assembly. A state officer may not expend funds  
26 received from the federal government which have not been specifically appropriated by the  
27 legislative assembly except as provided in this chapter. A state officer shall submit an  
28 expenditure plan with a request for approval under this section of expenditure of federal funds  
29 combined with or as part of a block grant for a new or existing program.

30           **SECTION 6. AMENDMENT.** Section 54-16-04.2 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **54-16-04.2. Commission may authorize acceptance and expenditure of moneys.**  
2   ~~The~~ Upon a finding that an emergency exists, the emergency commission, upon the advice of  
3 the office of management and budget, with approval of the budget section of the legislative  
4 council if the amount under consideration exceeds fifty thousand dollars, may authorize a state  
5 officer to receive moneys from gifts, grants, donations, or other sources, not otherwise  
6 appropriated by the legislative assembly, for new or existing programs if the legislative  
7 assembly has not indicated an intent to reject the moneys or the program. The emergency  
8 commission may authorize the state officer to expend money received under this section from  
9 the date the money becomes available until June thirtieth following the next regular legislative  
10 session. Approval by the budget section of the legislative council is not required for the  
11 acceptance of moneys under this section if the acceptance is necessary to avoid an imminent  
12 threat to the safety of people or property due to a natural disaster or war crisis or an imminent  
13 financial loss to the state. Budget section approval is required before the expenditure of any  
14 funds accepted under these conditions.

15           **SECTION 7. AMENDMENT.** Section 54-16-09 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **54-16-09. Transfer of spending authority from state contingencies appropriation.**  
18 ~~If the~~ The emergency commission ~~orders,~~ upon the advice of the office of management and  
19 budget, may order a transfer of spending authority from the state contingencies appropriation,  
20 ~~the amount ordered which~~ must be deducted from the state contingencies line item in the  
21 appropriation to the office of management and budget and added to the appropriate line item in  
22 the appropriation of the state officer who requested the transfer. The emergency commission,  
23 with approval of the budget section of the legislative council if the amount under consideration  
24 exceeds fifty thousand dollars, shall certify, by an approved motion recorded in its minutes, that  
25 the material, services, or purposes for which the authority was transferred are necessary and  
26 proper expenditures and, if an appropriation for that purpose was made by the legislative  
27 assembly, that the appropriation for that purpose is insufficient. ~~The office of management and~~  
28 ~~budget and the emergency commission shall file the certificate as authority for a transfer under~~  
29 ~~this section.~~ Approval by the budget section of the legislative council is not required if the  
30 transfer is necessary to avoid an imminent threat to the safety of people or property due to a  
31 natural disaster or war crisis or an imminent financial loss to the state.

1           **SECTION 8. AMENDMENT.** Section 54-16-11.1 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-16-11.1. Emergency commission may increase revenues and appropriation**  
4 **authority for intergovernmental service fund agencies.** Upon presentation of ~~the~~ a verified  
5 petition ~~under section 54-16-10~~ establishing that an emergency exists and the necessity for  
6 increased appropriation authority, the emergency commission shall meet to determine if  
7 additional demand from state agencies requires an increase in appropriation authority and  
8 revenue receipts for the information technology department, central duplicating, surplus  
9 property, or roughrider industries division of the department of corrections and rehabilitation.

10           **SECTION 9. REPEAL.** Sections 54-16-10 and 54-16-11 of the North Dakota Century  
11 Code are repealed.

12           **SECTION 10. EFFECTIVE DATE.** This Act becomes effective on August 1, 2003.