FIRST ENGROSSMENT

Sixty-fifth Legislative Assembly of North Dakota

ENGROSSED HOUSE BILL NO. 1161

Introduced by

Representatives Kempenich, Brandenburg, Headland, Louser, D. Ruby, Schmidt Senators Bowman, Rust

- 1 A BILL for an Act to amend and reenact sections 54-27-23, 54-44.1-03, 54-44.1-12, and
- 2 54-44.1-12.1 of the North Dakota Century Code, relating to the control over the rate of
- 3 expenditures.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 SECTION 1. AMENDMENT. Section 54-27-23 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 54-27-23. Cash flow financing.

8 In order to effectively meet the cyclical cash flow needs of state government, the office of 9 management and budget upon approval of the emergency commission is hereby authorized to 10 issue certificates in anticipation of revenue, notes, or bonds, to special funds on deposit in the 11 state treasury. Any issue of such certificates, notes, or bonds must be approved by the 12 emergency commission and are to be used for cash flow financing only, and not to offset 13 projected deficits in state finances unless first approved by the budget section of the legislative 14 management. The budget section may approve additional cash flow financing not to exceed 15 eighty percent of estimated general fund revenues relating to sales or production occurring prior 16 to June thirtieth, to be collected in July and August after the end of the biennium. Such 17 additional cash flow financing is only effective for sixty days unless an extension or reapproval 18 is received from the budget section. If a revenue shortfall of greater than five percent occurs, 19 the office of management and budget shall order budget allotments reductions under section 20 54-44.1-12 prior to approval by the budget section of such additional cash flow financing. It is 21 the intent of the legislative assembly that all borrowing must be repaid by the end of the 22 biennium. The terms of any specific issue of such certificates, notes, or bonds may not exceed 23 one hundred eighty days from the date of issuance whereupon the principal and interest on the 24 certificates, notes, or bonds must be paid in full from the state general fund or from another

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1 issue of a similar nature. All principal and interest on such issues made during a biennial period 2 must be repaid in full at the close of the biennial period from the state general fund. When 3 certificates, notes, or bonds are issued for cash flow purposes to funds which otherwise would 4 be invested, with the investment income accruing to the special fund, the certificate must bear 5 an investment rate of return which must be agreed upon by the state investment board, and 6 must be at a level commensurate with the yield to be reasonably expected by such fund if 7 invested in alternate securities. 8 SECTION 2. AMENDMENT. Section 54-44.1-03 of the North Dakota Century Code is 9 amended and reenacted as follows: 10 54-44.1-03. Powers and duties of the director of the budget. 11 The director of the budget, or such subordinate officer as the director of the budget shall 12 designate, shall: 13 1. Be vested with the duties, powers, and responsibilities involved in securing budget 14 estimates and work programs from the several departments and agencies of the state 15 government. 16 2. Be vested with the duties, powers, and responsibilities involved in the preparation of 17 revenue and fixed expense estimates. 18 3. Develop financial policies and plans as the basis for budget recommendations to the 19 legislative assembly, and prepare detailed documents in accordance with such 20 financial policies and plans for presentation to the legislative assembly. 21 4. Coordinate the fiscal affairs and procedures of the state to assure the carrying out of 22 the financial plans and policies approved by the legislative assembly. 23 5. Exercise continual control over the execution of the budget affecting the departments, 24 institutions, and agencies of the executive branch of the state government involving 25 approval of all commitments for conformity with the program provided in the budget, 26 frequent comparison of actual revenues and budget estimates, and control of the rate 27 of expenditures through a system of semiannual, quarterly, or monthly 28 allotments budget reductions. 29 Investigate, examine, and make exhaustive studies: 6. 30 Of the structure and operation of the entire executive branch of government and a. 31 of every office, institution, and agency thereof.

1		b.	Of all the functions, duties, and services of all executive branch offices,				
2			departments, institutions, industries, boards, bureaus, and commissions.				
3		C.	Of all the books, records, and methods of accounting of each office or agency of				
4			the executive branch to ascertain and determine whether their policies, practices,				
5			and systems of accounting are sound, necessary, practical, and efficient.				
6	7.	Dev	elop a long-term capital improvements budget for consideration by the legislative				
7		asse	embly.				
8	8.	Hav	lave the authority to procure from the various officers, departments, agencies, and				
9		emp	loyees such information as may be necessary for the preparation and execution of				
10		the l	budget.				
11	9.	Pro	vide such assistance as the legislative assembly may request and be available to				
12		assi	st its appropriations committees with any needed information or material and make				
13		its re	ecords and information available at all times to the legislative assembly and its				
14		com	mittees and designees.				
15	10.	Perf	form all other necessary duties to carry out the provisions of this chapter and of				
16		chap	oter 54-14.				
17	SEC	CTION 3. AMENDMENT. Section 54-44.1-12 of the North Dakota Century Code is					
18	18 amended and reenacted as follows:						
19	9 54-44.1-12. Control over rate of expenditures <u>- Report</u> .						
20	1.	The	director of the budget shall exercise continual control over the execution of the				
21		bud	get affecting the departments and agencies of state government, with the				
22		exce	eption of the legislative and judicial branches. Execution means the analysis and				
23		аррі	roval of all commitments for conformity with the program provided in the budget,				
24		freq	uent comparison of actual revenues and budget estimates, and on the basis of				
25		thes	e analyses and comparisons control the rate of expenditures through a system of				
26		allot	ments<u>budget</u> reductions . The allotment<u>budget</u> reductions must be made by				
27		spec	cific fund and all departments and agencies that receive moneys from that fund				
28		mus	t be allottedreduced on a uniform percentage basis, except that appropriations to				
29		the o	department of public instruction for state school aid, transportation aid, and special				
30		eduo	cation aid may only be allottedreduced to the extent that the allotmentreduction				
31		can	be offset by transfers from the foundation aid stabilization fund as follows:				

1		a.	The f	first two and one-half percent allotment<u>budget reduction</u> from the general		
2			fund	must be offset with a transfer from the foundation aid stabilization fund.		
3		b.	Any g	general fund allotment<u>budget reduction</u> in excess of two and one-half		
4			perce	ent that is necessary, after all moneys available in the budget stabilization		
5			fund	have been transferred to the general fund under section 54-27.2-03, may be		
6			offse	t with a transfer from the foundation aid stabilization fund.		
7	2.	Before an allotmenta budget reduction is made which will reduce the amount of funds				
8		which can be disbursed pursuant to an appropriation or before an allotmenta budget				
9		reduction disallowing a specific expenditure is made, the director shall find one or				
10		more of the following circumstances to exist:				
11		a.	The	moneys and estimated revenues in a specific fund from which the		
12			appro	opriation is made are insufficient to meet all legislative appropriations from		
13			the fu	und.		
14		b.	The	payment or the obligation incurred is not authorized by law.		
15		C.	The e	expenditure or obligation is contrary to legislative intent as recorded in any		
16			reliat	ble legislative records, including:		
17			(1)	Statements of legislative intent expressed in enacted appropriation		
18				measures or other measures enacted by the legislative assembly; and		
19			(2)	Statements of purpose of amendment explaining amendments to enacted		
20				appropriation measures, as recorded in the journals of the legislative		
21				assembly.		
22		d.	Circu	imstances or availability of facts not previously known or foreseen by the		
23			legis	lative assembly which make possible the accomplishment of the purpose of		
24			the a	ppropriation at a lesser amount than that appropriated.		
25	<u>3.</u>	If a general fund budget reduction is made under this section, each state agency and				
26		institution that received state special fund appropriation authority for the same time				
27		period shall prepare a report detailing how the agency or institution would reduce its				
28		state special fund appropriation authority by the same percentage as the general fund				
29		budget reduction. Each state agency and institution shall submit its report to the office				
30		<u>of n</u>	nanage	ement and budget and legislative council within sixty days of the date of the		
31		general fund budget reduction.				

- 1 SECTION 4. AMENDMENT. Section 54-44.1-12.1 of the North Dakota Century Code is
- 2 amended and reenacted as follows:

54-44.1-12.1. Implementation of legislative intent - Legislative objection to execution of budget - Effect of objection.

- 5 1. The budget section of the legislative management may object to any allotmentbudget 6 reduction made under section 54-44.1-12, any expenditure of a budget unit, or any 7 failure to make an allotmenta budget reduction or expenditure if the budget section 8 determines that the allotmentbudget reduction or expenditure or the failure to make an-9 allotmenta budget reduction or expenditure is contrary to legislative intent as recorded 10 in any reliable legislative records. The budget section shall file that objection in 11 certified form with the legislative council. The filed objection must contain a concise 12 statement of the budget section's reasons for the objection.
- 13 2. The legislative council shall attach to each objection a certification of the time and date
 14 of the filing of the objection and, as soon as possible, shall transmit a copy of the
 15 objection and the certification to the director of the budget and the affected budget
 16 unit. The legislative council shall maintain a permanent register of all objections under
 17 this section.
- Within fourteen days after the filing of an objection, the affected budget unit shall
 respond in writing to the budget section. After receipt of that response, the budget
 section may withdraw or modify its objection.
- After the filing of an objection, the burden of persuasion is upon the budget unit in any action for judicial review of whether the allotmentbudget reduction or expenditure or
 the failure to make an allotmenta budget reduction or expenditure is contrary to law. If
 the budget unit fails to meet its burden of persuasion, the court shall render judgment
 against the budget unit for court costs. These court costs must include reasonable
 attorney's fees and must be payable from the appropriation of the budget unit.