

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1118**

Introduced by

Representatives Devlin, Becker, Bellew, Delzer, Pollert, M. Ruby, Vigesaa, Weisz

Senator Heckaman

1 A BILL for an Act to create and enact a new subsection to section 37-17.1-05 and a new section
2 to chapter 54-03 of the North Dakota Century Code, relating to the governor's authority to issue
3 executive orders and permitting a virtual meeting of the legislative management and a virtual
4 session of the legislative assembly during a declared disaster or emergency; to amend and
5 reenact subsection 12 of section 23-01-05 and subsection 3 of section 37-17.1-05 of the North
6 Dakota Century Code, relating to the authority of the state health officer and the gubernatorial
7 declaration of disaster or emergency; and to declare an emergency.

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

9 **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 12. Issue ~~any orders~~ a written order relating to a disease control ~~measures-~~
12 ~~deemed~~ measure necessary to prevent the spread of a communicable disease.
13 ~~Disease~~ A disease control ~~measures~~ measure may include a special immunization
14 ~~activities~~ activity and decontamination ~~measures~~ measure. ~~Written orders~~
- 15 a. The state health officer shall limit a written order issued under this section to the
16 geographical area affected by the communicable disease. The state health officer
17 may not issue a statewide order under this section unless the governor has
18 declared a statewide disaster or emergency under chapter 37-17.1 and the
19 governor consents to the order. The statewide order is limited in duration to the
20 duration of the declared disaster or emergency unless terminated earlier
21 pursuant to chapter 37-17.1.
- 22 b. A written order issued under this section ~~shall have~~ has the same effect as a
23 physician's standing medical order.

1 c. The state health officer ~~may~~shall apply to the district court in a judicial district
2 ~~wherein which~~ a communicable disease is present for an injunction canceling a
3 ~~public event~~event or closing ~~places~~a place of business. On application of the
4 state health officer showing the necessity of ~~sue~~the cancellation, the court may
5 issue an ex parte preliminary injunction, pending a full hearing.

6 **SECTION 2. AMENDMENT.** Subsection 3 of section 37-17.1-05 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 3. A disaster or emergency must be declared by executive order or proclamation of the
9 governor if the governor determines a disaster has occurred or a state of emergency
10 exists. The

11 a. ~~Except as provided in subdivision b, the state of disaster or emergency shall~~
12 ~~continue~~continues until the governor determines ~~that~~ the threat of an emergency
13 has passed or the governor determines the disaster has been dealt with to the
14 extent ~~that~~ emergency conditions no longer exist, whichever occurs first.

15 b. If a state of disaster or emergency relating to public health is declared and in
16 effect and the legislative assembly is not in session, the legislative management
17 may meet to vote on whether the legislative management should request the
18 governor call a special session of the legislative assembly. If the governor does
19 not call a special session within seven days after the legislative management
20 sends a request to the governor, the declared state of disaster or emergency
21 relating to public health terminates thirty days after the request from the
22 legislative management was sent to the governor. If the governor calls a special
23 session within seven days after the request from the legislative management was
24 sent, the special session must be held within fifteen days of the governor's call for
25 a special session. If the legislative assembly meets to address a declared state of
26 disaster or emergency, the legislative assembly by concurrent resolution may
27 terminate, extend, or modify the state of disaster or emergency.

28 c. The legislative assembly by concurrent resolution may terminate a state of
29 disaster or emergency at any time.

30 d. All executive orders or proclamations issued under this subsection must indicate
31 the nature of the disaster or emergency, the area or areas threatened, the

1 conditions ~~which~~that have brought it about or which make possible termination of
2 the state of disaster or emergency. An executive order or proclamation must be
3 disseminated promptly by means calculated to bring its contents to the attention
4 of the general public, unless the circumstances attendant upon the disaster or
5 emergency prevent or impede such dissemination, and it must be ~~promptly~~ filed
6 promptly with the department of emergency services, the legislative council, the
7 secretary of state, and the county or city auditor of the jurisdictions affected.

8 **SECTION 3.** A new subsection to section 37-17.1-05 of the North Dakota Century Code is
9 created and enacted as follows:

10 Notwithstanding subsection 3, if a state of disaster or emergency relating to public
11 health is declared and in effect, the governor may not issue an executive order under
12 this section unless the executive order specifically addresses the mitigation of the
13 declared state of disaster or emergency relating to public health.

14 **SECTION 4.** A new section to chapter 54-03 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Virtual session of the legislative management and legislative assembly during**
17 **emergency or disaster.**

- 18 1. If the legislative management meets to vote on whether the legislative management
19 should request the governor call a special session of the legislative assembly, the
20 legislative management may use any technology or electronic means available to
21 conduct meetings and transact legislative business.
- 22 2. If the governor calls a special session of the legislative assembly to address a state of
23 emergency or disaster or if the legislative assembly reconvenes to address a state of
24 emergency or disaster, the legislative assembly may use any technology or electronic
25 means available to conduct meetings and transact legislative business.
- 26 3. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of
27 the legislative assembly which occurs under this section is deemed to have occurred
28 at the seat of the government, and all actions taken during the meeting have the same
29 legal effect as if the members of the legislative assembly were physically present at
30 the seat of government.

31 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.