

2021 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2286

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Room JW216, State Capitol

SB 2286
2/4/2021

Relating to the definition of a state officer.

Chair Vedaa opened the hearing at 10:30 a.m. with Sen Vedaa, Meyer, Elkin, K Roers, Wobbema, Weber, and Marcellais present.

Discussion Topics:

- Emergency Commission membership and Commission history

Sen Oban, Dist 35 - introduced the bill #5361

Al Jaeger – ND Sec. of State – testified opposed #5451

Adjourned at 11:00 a.m.

Pam Dever, Committee Clerk



NORTH DAKOTA SENATE

#5361

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COMMITTEES:
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SB 2286 – Emergency Commission “State Officer”
February 5, 2021 | 10:30 am
Senate GVA Committee, Sen. Vedaa, Chair

Mr. Chairman, members of the Committee. For the record, I’m Erin Oban, Senator for Bismarck’s District 35. Thank you for the opportunity to bring SB 2286 to your committee for consideration. The bill itself and the purpose for it are pretty simple.

We learned a lot during this last interim about the power, authority, and significance – whether we agreed with or liked it or not – of the Emergency Commission. As current law states, only a “state officer” may submit a “petition” (request) to the Emergency Commission for consideration. I’ve pasted below how “state officer” is currently defined and the authority for those state officers to present items for consideration.

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.

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

When an emergency exists, a state officer may present to the emergency commission an itemized petition requesting approval to transfer money and spending authority between funds or line items pursuant to section 54-16-04; accept and expend federal funds pursuant to section 54-16-04.1; accept and expend state contingency funds pursuant to section 54-16-09; accept and expend other funds pursuant to section 54-16-04.2; or recommend full-time equivalent positions pursuant to section 54-16-04.3. Any petition to the emergency commission by a state officer must be approved or recommended by the emergency commission prior to submission for consideration by the budget section.

That gives a whole lot of access to a whole lot of people – elected and unelected – and, if memory serves me correctly, that includes political subdivisions, to present issues and proposals worthy of consideration to that important Emergency Commission.

Do you know, Mr. Chairman, who that term “state officer” doesn’t include? Us. All this bill would do is allow us as legislators the same ability as is given to those other state officers to put forward solutions to issues important to our districts, our constituents, our communities, our state, during the interim. It certainly doesn’t require they approve and move it forward to the Budget Section.

The process to submit a request is streamlined and available on the Secretary of State’s website [here](#). It includes:

- Basic requestor information.
- The purpose of the request: Is it related to a state emergency? Is it requesting an intra-agency line item transfer, an increase in line item spending authority, or seeking other approval?
- Background information: Was any portion of the request presented during the previous legislative session? Is the request a new program? Does the request require an FTE increase? Does the request conform with legislative intent?
- Other information: Statutory provisions that relate to the request; An explanation as to how the request supports state priorities, improves state efficiencies, and promotes effective government; Any other relevant information.
- And a confirmation/signature.

Even when (hopefully) very rare situations like those we faced during this past interim arise, if we don’t have remaining days to come back for a special session, or when we choose not to call ourselves back in even if we do, or if some of our colleagues make the choice for the rest of us not to allow ALL of us to engage in these critical conversations, each of us is elected to represent and make decisions on behalf of North Dakotans. This is a reasonable way to ensure an appropriate avenue to engage in those critical conversations.

Mr. Chairman, your committee and our entire Senate has already approved one proposal to amend current law regarding the Emergency Commission. I’ve heard of others out there as well. This change is modest, reasonable, and allows all of us access to put forth ideas, respond to emergencies, and do our jobs during times when we’re not in session.

I appreciate the Committee’s consideration of SB 2286 and will stand for questions.

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54-16-01. Emergency commission - Members - Organization - Quorum - Meetings.

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.

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 - May secure approval from commission for use of other funds - Deficit void.

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 or expenditure authorization as provided in this chapter. The office of management and budget shall provide information to the emergency commission with respect to all emergency requests. Any debt or deficit created by a state officer in violation of this section is void.

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2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Room JW216, State Capitol

SB 2286
2/11/2021

Relating to the duties of the Attorney General

Chair Vedaa called to order at 3:36 p.m. with Sen Vedaa, Meyer, Elkin, K Roers, Wobbema, Weber, and Marcellais present.

Discussion Topics:

- Committee Work

Sen Meyer: I move a **Do Not Pass**

Sen Weber: I second

Roll Call Vote: 6 -- YES 1 -- NO -0-ab Motion Passed

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	N
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

Sen Vedaa will carry the bill

Adjourned at 3:42 p.m.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2286: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)
recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB
2286 was placed on the Eleventh order on the calendar.