

Sixty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2214

Introduced by

Senators Schaible, Rust

Representative Owens

1 A BILL for an Act to create and enact section 6-09.4-29 of the North Dakota Century Code,
2 relating to debt service payments; to amend and reenact subdivision c of subsection 5 of
3 section 6-09.4-03 and sections 6-09.4-06, 6-09.4-10, and 15.1-36-06 of the North Dakota
4 Century Code, relating to public finance agency definitions, borrowing and lending authority,
5 reserve funds, and school construction loans; to authorize the use of funds; to provide a bond
6 issuance limitation; to provide an effective date; and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Subdivision c of subsection 5 of section 6-09.4-03 of the North
9 Dakota Century Code is amended and reenacted as follows:

- 10 c. The Bank of North Dakota for the following purposes of the:
11 (1) The revolving loan fund program established by~~under~~ chapter 61-28.2; and
12 (2) The school construction assistance revolving loan fund established under
13 section 15.1-36-08.

14 **SECTION 2. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **6-09.4-06. Lending and borrowing powers generally.**

- 17 1. The public finance authority may lend money to political subdivisions or other
18 contracting parties through the purchase or holding of municipal securities which, in
19 the opinion of the attorney general, are properly eligible for purchase or holding by the
20 public finance authority under this chapter or chapter 40-57 and for purposes of the
21 public finance authority's capital financing program the principal amount of any one
22 issue does not exceed five hundred thousand dollars. However, the public finance
23 authority may lend money to political subdivisions through the purchase of securities
24 issued by the political subdivisions through the capital financing program without

1 regard to the principal amount of the bonds issued, if the industrial commission
2 approves a resolution that authorizes the public finance authority to purchase the
3 securities. The capital financing program authorizing resolution must state that the
4 industrial commission has determined that private bond markets will not be responsive
5 to the needs of the issuing political subdivision concerning the securities or, if it
6 appears that the securities can be sold through private bond markets without the
7 involvement of the public finance authority, the authorizing resolution must state
8 reasons for the public finance authority's involvement in the bond issue. The public
9 finance authority may hold such municipal securities for any length of time it finds to
10 be necessary. The public finance authority, for the purposes authorized by this chapter
11 or chapter 40-57, may issue its bonds payable solely from the revenues available to
12 the public finance authority which are authorized or pledged for payment of public
13 finance authority obligations, and to otherwise assist political subdivisions or other
14 contracting parties as provided in this chapter or chapter 40-57.

15 2. The public finance authority may lend money to the Bank of North Dakota under
16 as follows:

- 17 a. Under terms and conditions requiring the Bank to use the proceeds to make
18 loans for agricultural improvements that qualify for assistance under the revolving
19 loan fund program established byunder chapter 61-28.2; and
20 b. Under terms and conditions requiring the Bank to use the proceeds to make
21 loans for school construction projects that qualify for assistance under the school
22 construction assistance revolving loan fund established under section
23 15.1-36-08.

24 3. Bonds of the public finance authority issued under this chapter or chapter 40-57 are
25 not in any way a debt or liability of the state and do not constitute a loan of the credit of
26 the state or create any debt or debts, liability or liabilities, on behalf of the state, or
27 constitute a pledge of the faith and credit of the state, but all such bonds are payable
28 solely from revenues pledged or available for their payment as authorized in this
29 chapter. Each bond must contain on its face a statement to the effect that the public
30 finance authority is obligated to pay such principal or interest, and redemption
31 premium, if any, and that neither the faith and credit nor the taxing power of the state

1 is pledged to the payment of the principal of or the interest on such bonds. Specific
2 funds pledged to fulfill the public finance authority's obligations are obligations of the
3 public finance authority.

4 4. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are
5 payable solely from revenues or funds provided or to be provided under this chapter or
6 chapter 40-57 and nothing in this chapter may be construed to authorize the public
7 finance authority to incur any indebtedness or liability on behalf of or payable by the
8 state.

9 **SECTION 3. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **6-09.4-10. Reserve fund.**

12 1. The public finance authority shall establish and maintain a reserve fund in which there
13 must be deposited all moneys appropriated by the state for the purpose of the fund, all
14 proceeds of bonds required to be deposited therein by terms of any contract between
15 the public finance authority and its bondholders or any resolution of the public finance
16 authority with respect to the proceeds of bonds, any other moneys or funds of the
17 public finance authority which it determines to deposit therein, any contractual right to
18 the receipt of moneys by the public finance authority for the purpose of the fund,
19 including a letter of credit or similar instrument, and any other moneys made available
20 to the public finance authority only for the purposes of the fund from any other source
21 or sources. Moneys in the reserve fund must be held and applied solely to the
22 payment of the interest on and the principal of bonds and sinking fund payments as
23 the same become due and payable and for the retirement of bonds, including payment
24 of any redemption premium required to be paid when any bonds are redeemed or
25 retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if
26 the withdrawal would reduce the amount in the reserve fund to an amount less than
27 the required debt service reserve, except for payment of interest then due and payable
28 on bonds and the principal of bonds then maturing and payable and sinking fund
29 payments and for the retirement of bonds in accordance with the terms of any contract
30 between the public finance authority and its bondholders and for the payments on
31 account of which interest or principal or sinking fund payments or retirement of bonds,

1 other moneys of the public finance authority are not then available in accordance with
2 the terms of the contract. The required debt service reserve must be an aggregate
3 amount equal to at least the largest amount of money required by the terms of all
4 contracts between the public finance authority and its bondholders to be raised in the
5 then current or any succeeding calendar year for the payment of interest on and
6 maturing principal of outstanding bonds, and sinking fund payments required by the
7 terms of any contracts to sinking funds established for the payment or redemption of
8 the bonds.

9 2. If the establishment of the reserve fund for an issue or the maintenance of an existing
10 reserve fund at a required level under this section would necessitate the investment of
11 all or any portion of a new reserve fund or all or any portion of an existing reserve fund
12 at a restricted yield, because to not restrict the yield may cause the bonds to be
13 taxable under the Internal Revenue Code, then at the discretion of the public finance
14 authority no reserve fund need be established prior to the issuance of bonds or the
15 reserve fund need not be funded to the levels required by other subsections of this
16 section or an existing reserve fund may be reduced.

17 3. No bonds may be issued by the public finance authority unless there is in the reserve
18 fund the required debt service reserve for all bonds then issued and outstanding and
19 the bonds to be issued. Nothing in this chapter prevents or precludes the public
20 finance authority from satisfying the foregoing requirement by depositing so much of
21 the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve
22 the required debt service reserve. The public finance authority may at any time issue
23 its bonds or notes for the purpose of providing any amount necessary to increase the
24 amount in the reserve fund to the required debt service reserve, or to meet such
25 higher or additional reserve as may be fixed by the public finance authority with
26 respect to such fund.

27 4. In order to assure the maintenance of the required debt service reserve, there shall be
28 appropriated by the legislative assembly and paid to the public finance authority for
29 deposit in the reserve fund, such sum, if any, as shall be certified by the industrial
30 commission as necessary to restore the reserve fund to an amount equal to the
31 required debt service reserve. However, the commission may approve a resolution for

1 the issuance of bonds, as provided by section 6-09.4-06, which states in substance
2 that this subsection is not applicable to the required debt service reserve for bonds
3 issued under that resolution.

4 5. If the maturity of a series of bonds of the public finance authority is three years or less
5 from the date of issuance of the bonds, the public finance authority may determine that
6 no reserve fund need be established for that respective series of bonds. If such a
7 determination is made, holders of that respective series of bonds may have no interest
8 in or claim on existing reserve funds established for the security of the holders of
9 previously issued public finance authority bonds, and may have no interest in or claim
10 on reserve funds established for the holders of subsequent issues of bonds of the
11 public finance authority.

12 6. The industrial commission may determine that this section is inapplicable in whole or
13 in part for bonds issued ~~under section~~ as follows:

14 a. Under section 6-09.4-06;

15 b. Under section 6-09.4-24; or ~~under~~

16 c. Under the public finance authority's state revolving fund program.

17 **SECTION 4.** Section 6-09.4-29 of the North Dakota Century Code is created and enacted
18 as follows:

19 **6-09.4-29. Debt service requirements - School construction assistance revolving loan**
20 **fund - Foundation aid stabilization fund.**

21 Each biennium, the public finance authority shall request from the legislative assembly an
22 appropriation from the foundation aid stabilization fund to meet the debt service requirements
23 for evidences of indebtedness issued by the authority to support the school construction
24 assistance revolving loan fund.

25 **SECTION 5. AMENDMENT.** Section 15.1-36-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **15.1-36-06. School construction loans - Bank of North Dakota. (Repealed effective**
28 **July 1, 20232038)**

29 1. In addition to any construction loans made available under section 15.1-36-02, the
30 Bank of North Dakota may provide up to two hundred fifty million dollars to eligible

1 school districts for school construction loans until June 30, 2017. After June 30, 2017,
2 no new loans may be provided under this section.

3 2. To be eligible for a loan under this section, the board of a school district shall:

4 a. Propose a new construction or remodeling project with a cost of at least
5 one million dollars and an expected utilization of at least thirty years;

6 b. Obtain the approval of the superintendent of public instruction for the project
7 under section 15.1-36-01;

8 c. (1) Request from the tax commissioner a statement of the estimated tax
9 increase, in mills and dollars, which would be applicable to a residential
10 parcel of average true and full value within the county in which the school
11 district is headquartered, if a loan under this section and any associated
12 school construction bond issue were to be authorized in accordance with
13 chapter 21-03;

14 (2) Request from the tax commissioner a statement of the estimated tax
15 increase, in mills and dollars, which would be applicable to an acre of
16 cropland and to an acre of noncropland, of average true and full value within
17 the county in which the school district is headquartered, if a loan under this
18 section and any associated school construction bond issue were to be
19 authorized in accordance with chapter 21-03;

20 (3) Publish in the official newspaper of the district the information from the
21 statements required by this subdivision with the notice of the election to
22 authorize the school construction bond issuance in accordance with section
23 21-03-12; and

24 (4) Post on the school district's website the information from the statements
25 preceding the date of the election to authorize the school construction bond
26 issuance in accordance with chapter 21-03;

27 d. Receive authorization for a bond issue in accordance with chapter 21-03; and

28 e. Submit a completed application to the Bank of North Dakota.

29 3. With the advice and consent of the superintendent of public instruction, the Bank of
30 North Dakota shall award the loans in accordance with a prioritization system that is

1 based on a review of all applications filed during the twelve-month period preceding
2 April first and gives consideration to:

- 3 a. Student occupancy and academic needs in the district;
4 b. The age of existing structures to be replaced or remodeled;
5 c. Building design proposals that are based on safety and vulnerability
6 assessments;
7 d. Community support;
8 e. Cost; and
9 f. Any other criteria established in rule by the superintendent of public instruction,
10 after consultation with an interim committee appointed by the legislative
11 management.

12 4. The term of a loan under this section is twenty years, unless a shorter term is
13 requested by the board of a school district in its application.

14 5. The interest rate on a loan under this section may not exceed two percent, ~~until July 1,~~
15 ~~2025. Thereafter, the interest rate on the remainder of a loan under this section:~~

- 16 a. ~~May not exceed the Bank of North Dakota's base rate; or~~
17 b. ~~May be a fixed rate per year.~~

18 6. If a school district's unobligated general fund balance on the preceding June thirtieth
19 exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which
20 that district is entitled under this section may not exceed eighty percent of the project's
21 cost.

22 7. The maximum loan amount to which a school district is entitled under this section is
23 twenty million dollars.

24 **SECTION 6. SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USE**
25 **OF FUNDS - BANK OF NORTH DAKOTA.** Pursuant to the continuing appropriation authority
26 under section 15.1-36-08, \$4,000,000, or so much of the sum as may be necessary, is available
27 from the school construction assistance revolving loan fund to the Bank of North Dakota to
28 provide interest rate buydowns associated with loans issued under section 15.1-36-06, for the
29 biennium beginning July 1, 2019, and ending June 30, 2021.

30 **SECTION 7. PUBLIC FINANCE AUTHORITY - BOND ISSUANCE LIMITATION -**
31 **FOUNDATION AID STABILIZATION FUND.** Pursuant to the bonding authority under section

1 6-09.4-06, the public finance authority may issue up to \$250,000,000 of evidences of
2 indebtedness for the purpose of supporting the school construction assistance revolving loan
3 fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

4 **SECTION 8. EFFECTIVE DATE.** This Act becomes effective on July 1, 2019.

5 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.