

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1431**

Introduced by

Representatives Pollert, Schmidt

Senators Sorvaag, Wardner

1 A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota
2 Century Code, relating to bonded debt repayments; to amend and reenact sections 6-09.4-06
3 and 6-09.4-10 of the North Dakota Century Code, relating to borrowing and lending authority of
4 the public finance authority and reserve funds associated with bonds; to repeal chapter 6-09.5
5 and section 61-02-78 of the North Dakota Century Code, relating to a community water
6 development fund and an infrastructure revolving loan fund within the resources trust fund; to
7 provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to
8 provide for a contingent transfer; to provide a bond issue limit; to provide a loan repayment; to
9 provide an exemption; to provide a statement of legislative intent; and to provide a report.

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

11 **SECTION 1. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **6-09.4-06. Lending and borrowing powers generally.**

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

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

12 2. The public finance authority may lend money to the Bank of North Dakota under terms
13 and conditions requiring the Bank to use the proceeds to make loans for agricultural
14 improvements that qualify for assistance under the revolving loan fund program
15 established by chapter 61-28.2.

16 3. The public finance authority may transfer money to the Bank of North Dakota for
17 allocations to infrastructure projects and programs and the clean sustainable energy
18 fund. Bonds issued for these purposes are payable in each biennium solely from
19 amounts the legislative assembly may appropriate for debt service for any biennium or
20 from a reserve fund established for the bonds. Neither the obligation of the state to
21 pay the bonds nor the obligation of the issuer to pay debt service will constitute a debt
22 of the state or any agency or political subdivision of the state within the meaning of
23 any constitutional or statutory provision. The issuance of the bond does not directly or
24 contingently obligate the state to pay the bond payments beyond the appropriation for
25 the current biennium of the state. The issuer has no taxing power. In addition to
26 providing funds for the transfers, the public finance authority may use the bond
27 proceeds to pay the costs of issuance of the bonds, capitalized interest, and establish
28 a reserve fund for the bonds.

29 4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are
30 not in any way a debt or liability of the state and do not constitute a loan of the credit of
31 the state or create any debt or debts, liability or liabilities, on behalf of the state, or

1 constitute a pledge of the faith and credit of the state, but all such bonds are payable
2 solely from revenues pledged or available for their payment as authorized in this
3 chapter. Each bond must contain on its face a statement to the effect that the public
4 finance authority is obligated to pay such principal or interest, and redemption
5 premium, if any, and that neither the faith and credit nor the taxing power of the state
6 is pledged to the payment of the principal of or the interest on such bonds. Specific
7 funds pledged to fulfill the public finance authority's obligations are obligations of the
8 public finance authority.

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

14 **SECTION 2. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **6-09.4-10. Reserve fund.**

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

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

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

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

- 1 4. In order to assure the maintenance of the required debt service reserve, there shall be
2 appropriated by the legislative assembly and paid to the public finance authority for
3 deposit in the reserve fund, such sum, if any, as shall be certified by the industrial
4 commission as necessary to restore the reserve fund to an amount equal to the
5 required debt service reserve. However, the commission may approve a resolution for
6 the issuance of bonds, as provided by section 6-09.4-06, which states in substance
7 that this subsection is not applicable to the required debt service reserve for bonds
8 issued under that resolution.
- 9 5. If the maturity of a series of bonds of the public finance authority is three years or less
10 from the date of issuance of the bonds, the public finance authority may determine that
11 no reserve fund need be established for that respective series of bonds. If such a
12 determination is made, holders of that respective series of bonds may have no interest
13 in or claim on existing reserve funds established for the security of the holders of
14 previously issued public finance authority bonds, and may have no interest in or claim
15 on reserve funds established for the holders of subsequent issues of bonds of the
16 public finance authority.
- 17 6. The industrial commission may determine ~~that this section is inapplicable in whole or~~
18 in part for bonds issued under ~~section~~;
19 a. Section 6-09.4-06;
20 b. Section 6-09.4-24; or ~~under the~~
21 c. The public finance authority's state revolving fund program.

22 **SECTION 3.** A new section to chapter 6-09.4 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Debt service requirements - Bonds for infrastructure projects and programs and**
25 **clean sustainable energy fund.**

26 Each biennium, the public finance authority shall request from the legislative assembly an
27 appropriation from the general fund, derived from legacy fund earnings, Bank of North Dakota
28 profits, or other sources to meet the debt service requirements for bonds issued by the authority
29 for allocations to infrastructure projects and programs and the clean sustainable energy fund.

30 **SECTION 4. REPEAL.** Chapter 6-09.5 and section 61-02-78 of the North Dakota Century
31 Code are repealed.

1 **SECTION 5. PUBLIC FINANCE AUTHORITY - BOND ISSUE LIMITATION - BANK OF**
2 **NORTH DAKOTA - APPROPRIATION.**

- 3 1. Pursuant to the bonding authority under section 6-09.4-06, the public finance authority
4 may only issue bonds under this Act to provide up to \$1,110,000,000 in funds for
5 transfer to the Bank of North Dakota for allocations to infrastructure projects and
6 programs and the clean sustainable energy fund as authorized in this Act, for the
7 biennium beginning July 1, 2021, and ending June 30, 2023.
- 8 2. The term of any bonds issued under this section may not exceed thirty years. The
9 public finance authority may issue bond anticipation notes or borrow from the Bank to
10 support the allocations to infrastructure projects and programs and the clean
11 sustainable energy fund prior to a bond issue. The state investment board may
12 purchase the bonds as investments for the funds under its management.
- 13 3. After payment of any issuance costs, capitalized interest, or any transfers to a reserve
14 fund, \$1,110,000,000 from the bond proceeds issued by the public finance authority is
15 appropriated to the Bank of North Dakota for allocations to infrastructure projects and
16 programs and the clean sustainable energy fund, for the biennium beginning July 1,
17 2021, and ending June 30, 2023, as follows:
- 18 a. \$435,500,000 for the Fargo diversion project;
 - 19 b. \$74,500,000 to the resources trust fund;
 - 20 c. \$50,000,000 to the infrastructure revolving loan fund under section 6-09-49;
 - 21 d. \$70,000,000 to the highway fund;
 - 22 e. \$50,000,000 to North Dakota state university, which is appropriated to North
23 Dakota state university, for an agriculture products development center including
24 a northern crops institute project;
 - 25 f. \$250,000,000 to the clean sustainable energy fund;
 - 26 g. \$30,000,000 to the township highway aid fund;
 - 27 h. \$60,000,000 to the department of career and technical education operating fund;
 - 28 i. \$71,000,000 to the strategic investment and improvements fund;
 - 29 j. \$10,000,000 to the state park fund;

- 1 k. \$4,000,000 to Dickinson state university, which is appropriated to Dickinson state
2 university for a Pulver hall project, a meat processing laboratory remodel, a
3 digitization project, and other projects;
- 4 l. \$4,000,000 to the university of North Dakota, which is appropriated to the
5 university of North Dakota for a space command initiative and related technical
6 programs at the university of North Dakota, including equipment, renovation, a
7 sensitive compartmental information facility, and other expenses; and
- 8 m. \$1,000,000 to the cultural endowment fund under section 54-54-08.1.

9 **SECTION 6. RESOURCES TRUST FUND - LOAN REPAYMENT.** The state water
10 commission shall use the bond proceeds allocated to the resources trust fund under section 5
11 of this Act to repay loans issued to the western area water supply authority from the resources
12 trust fund.

13 **SECTION 7. APPROPRIATION - RESOURCES TRUST FUND.** There is appropriated out
14 of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the
15 sum of \$74,500,000, or so much of the sum as may be necessary, to the state water
16 commission for Mouse River flood control, for the biennium beginning July 1, 2021, and ending
17 June 30, 2023.

18 **SECTION 8. APPROPRIATION - HIGHWAY FUND - CONTINGENT TRANSFER.** There is
19 appropriated out of any moneys in the highway fund in the state treasury, not otherwise
20 appropriated, the sum of \$70,000,000, or so much of the sum as may be necessary, derived
21 from bond proceeds to the department of transportation for state highway bridge projects and
22 for matching federal funds that may become available, for the biennium beginning July 1, 2021,
23 and ending June 30, 2023. Of the \$70,000,000, \$35,000,000 is designated for state highway
24 bridge projects, and \$35,000,000 is designated for matching federal funds that may become
25 available for state highway projects in excess of the federal funds appropriated to the
26 department of transportation as part of its 2021-23 biennial budget. By October 1, 2022, the
27 director of the department of transportation shall certify to the office of management and budget
28 the amount of funding committed to matching excess federal funds from the \$35,000,000
29 provided under this section. If the amount committed is less than \$35,000,000, the office of
30 management and budget shall transfer any uncommitted amounts to the infrastructure revolving
31 loan fund under section 6-09-49.

1 **SECTION 9. APPROPRIATION - TOWNSHIP HIGHWAY AID FUND - EXEMPTION -**

2 **REPORT.** There is appropriated out of any moneys in the township highway aid fund in the state
3 treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be
4 necessary, derived from bond proceeds to the department of transportation for distributions to
5 townships for road and bridge infrastructure needs for the biennium beginning July 1, 2021, and
6 ending June 30, 2023, as follows:

7 1. Notwithstanding section 54-27-19.1, the department of transportation shall distribute
8 \$10,000,000 to non-oil-producing townships based on township roadway miles without
9 a matching requirement.

10 2. a. Notwithstanding section 54-27-19.1, the department of transportation shall make
11 available \$20,000,000 for grants to townships. The department shall award
12 grants with preference given to grant applications for projects that:

- 13 (1) Leverage available state, local, or federal funding;
14 (2) Coordinate with state, county, and other township projects;
15 (3) Focus on flood control and infrastructure resilience;
16 (4) Reduce road restrictions, improve mobility, and improve safety;
17 (5) Improve the agricultural economy and goods movement; and
18 (6) Confirm participating townships' ability to maintain the improvements.

19 b. The department shall establish an application process that must include the
20 following eligibility requirements:

- 21 (1) The roadways or bridges associated with the project must provide continuity
22 and connectivity to efficiently integrate and improve paved and unpaved
23 corridors within the township and across township borders;
24 (2) The project must be consistent with applicable township long-range
25 planning;
26 (3) The project must result in the roadway segment meeting an appropriate
27 legal load limit; and
28 (4) The project must comply with the American association of state highway
29 transportation officials pavement and bridge design procedures and
30 standards developed by the department of transportation in conjunction with
31 the local jurisdiction.

- 1 c. For approved projects, the department shall initially distribute the portion of the
2 approved grant funding for engineering and plan development costs. Upon
3 execution of a construction contract by the township, the department shall
4 distribute the remainder of the approved funding. Townships shall report to the
5 department upon awarding of each contract and upon completion of each project.
- 6 d. Grants may be awarded for construction, engineering, and plan development
7 costs, but may not be used for routine maintenance. Grants awarded may be
8 applied to engineering, design, and construction costs incurred on related
9 projects as of January 1, 2021. Section 54-44.1-11 does not apply to funding
10 under this subsection and any funds not spent by June 30, 2023, must be
11 continued into the biennium beginning July 1, 2023, and ending June 30, 2025,
12 and may be expended only for the purposes authorized by this subsection.
- 13 3. For the purposes of this section, a "non-oil-producing county" means a county that has
14 received no allocation of funding or a total allocation of funding under subsection 2 of
15 section 57-51-15 of less than \$5,000,000 for the period beginning September 1, 2019,
16 and ending August 31, 2020.
- 17 4. The funding provided in this section is considered a one-time funding item and the
18 department shall report to the budget section and to the appropriations committees of
19 the sixty-eighth legislative assembly on the use of this one-time funding, including the
20 amounts awarded and distributed to each township, the amounts spent to date, and
21 the amounts anticipated to be continued into the 2023-25 biennium.

22 **SECTION 10. APPROPRIATION - DEPARTMENT OF CAREER AND TECHNICAL**

23 **EDUCATION OPERATING FUND.** There is appropriated out of any moneys in the department
24 of career and technical education operating fund in the state treasury, not otherwise
25 appropriated, the sum of \$45,000,000, or so much of the sum as may be necessary, derived
26 from bond proceeds to the department of career and technical education for the purpose of
27 providing grants for buildings and equipment, for the biennium beginning July 1, 2021, and
28 ending June 30, 2023. The department of career and technical education shall distribute up to
29 \$45,000,000 of the grants for the construction of new career and technical education centers
30 with a limit of up to \$15,000,000 per center, and a center must provide one dollar of matching
31 funds for each dollar of grant funding received for the construction of a new career and

1 technical education center. The remaining amount is available for grants for equipment at other
2 career and technical education programs located in the state, which must be distributed by the
3 department of career and technical education through a competitive grant process without a
4 matching requirement.

5 **SECTION 11. APPROPRIATION - STRATEGIC INVESTMENT AND IMPROVEMENTS**

6 **FUND - TRANSFER.** There is appropriated out of any moneys in the strategic investment and
7 improvements fund in the state treasury, not otherwise appropriated, the sum of \$66,300,000, or
8 so much of the sum as may be necessary, derived from bond proceeds to the office of
9 management and budget for deferred maintenance and other improvement projects, for the
10 biennium beginning July 1, 2021, and ending June 30, 2023. The office of management and
11 budget shall use up to \$700,000 for accessibility improvements on the state capitol grounds for
12 costs relating to compliance with the Americans with Disabilities Act of 1990 improvements and
13 other accessibility improvements. In consultation with the legislative management, the office of
14 management and budget shall use up to \$600,000 to remodel the Brynhild Haugland room in
15 the state capitol. The office of management and budget shall use up to \$65,000,000 for deferred
16 maintenance on state buildings with priority given to the most critical maintenance projects
17 based on an assessment conducted during the 2019-20 interim. The office of management and
18 budget may transfer funds from the \$65,000,000 for deferred maintenance under this section to
19 other eligible state agencies for deferred maintenance projects on state buildings, for the
20 biennium beginning July 1, 2021, and ending June 30, 2023.

21 **SECTION 12. APPROPRIATION - STRATEGIC INVESTMENT AND IMPROVEMENTS**

22 **FUND.** There is appropriated out of any moneys in the strategic investment and improvements
23 fund in the state treasury, not otherwise appropriated, the sum of \$4,700,000, or so much of the
24 sum as may be necessary, derived from bond proceeds to the state historical society for the
25 maintenance of state historical buildings, for the biennium beginning July 1, 2021, and ending
26 June 30, 2023.

27 **SECTION 13. TRANSFER - WATER PROJECT LOAN FUNDS.** The Bank of North Dakota

28 shall transfer all outstanding loans and moneys in the community water facility loan fund and all
29 outstanding loans and moneys in the infrastructure revolving loan fund within the resources
30 trust fund to the infrastructure revolving loan fund under section 6-09-49 on July 1, 2021.

1 **SECTION 14. LEGISLATIVE INTENT - CULTURAL ENDOWMENT FUND.** It is the intent of
2 the sixty-seventh legislative assembly that the council on the arts expend up to \$50,000
3 annually from the cultural endowment fund pursuant to the appropriation authority provided in
4 section 2 of Senate Bill No. 2010 during the 2021-23 biennium for the maintenance of the public
5 art projects constructed as part of the North Dakota creative placemaking program. It is further
6 the intent of the legislative assembly that the council on the arts continue to expend \$50,000
7 annually from the cultural endowment fund for the maintenance of the public arts projects
8 constructed as part of the North Dakota creative placemaking program until the moneys derived
9 from the bond proceeds authorized in this Act and deposited in the fund have been fully
10 expended.