

**2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1499**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1499 (8:19 a.m.)  
2/5/2021

Relating to election requirements for bonds

**Chairman Kasper** opened the hearing at 8:19 a.m.

<b>Representatives</b>	<b>Roll Call</b>
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### **Discussion Topics:**

- Two-thirds voter approval prior to issuing state bonds

**Rep. Ertelt** introduced and testified in favor, #5644.

**David Flohr, Executive Director, ND Housing Finance Agency**, testified in opposition, #5565.

**Rick Clayburgh, President and CEO, ND Bankers' Association**, testified in opposition.

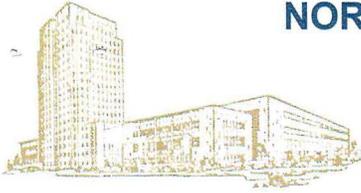
**Barry Haugen, Independent Community Banks of ND**, testified in opposition.

**Karlene Fine, ND Industrial Commission**, testified in opposition.

**Additional written testimony:** #5578

**Chairman Kasper** closed the hearing at 9:04 a.m.

*Carmen Hart, Committee Clerk*



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Sebastian Ertelt

District 26  
906 Ash Street  
Lisbon, ND 58054-4316  
[sertelt@nd.gov](mailto:sertelt@nd.gov)

**COMMITTEES:**  
Finance and Taxation  
Political Subdivisions

February 5, 2021

Chairman Kasper and Members of the House Government and Veterans Affairs Committee,

I bring to you today, House Bill 1499, and urge a unanimous DO PASS recommendation.

House Bill 1499 would require the state to receive two-thirds voter approval prior to issuing state bonds.

As you are well aware, a bond is a debt instrument. For bonds issued by the state, they are debts owed by North Dakota taxpayers. Indeed, they place both present and future generations in bondage.

The legislature provides some protection against indebtedness for the citizens of political subdivisions in the state by requiring their approval after certain thresholds of debt are reached. I have included several references from the century code where you will see requirements of two-thirds and sixty percent qualified voter approval to proceed with bonding and requirements of one-third and even as little as five percent to protest and effectively prevent taxation decisions. Why should the legislature not be subject to similar checks and balances?

The decision place oneself in debt should not be taken lightly. The decision to place others in bondage should be undertaken with even greater hesitation. We read in St. Paul's Epistle to the Romans Chapter 13 Verse 8, "Owe no man any thing, but to love one another. For he that loveth his neighbor, hath fulfilled the law." In Proverbs Chapter 22 Verse 7 we hear "The rich ruleth over the poor: and the borrower is servant to him that lendeth."

Let us give our citizens the ability to weigh in directly on issues of their own servitude and that of their children and grandchildren.

## BONDING

### 21-03-04. Grant of power to borrow General limitations of indebtedness.

Every municipality may borrow money and issue municipal obligations thereof for the purpose specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as otherwise provided in section 21-03-02. No municipality may incur indebtedness in any manner or for any purpose in an amount which, with all other outstanding indebtedness of the municipality, exceeds five percent of the assessed value of the taxable property therein, except:

1. Any incorporated city, by a **two-thirds** vote of the qualified voters thereof voting upon said question at a general or special election, may increase such limit of indebtedness three percent on such assessed value beyond said five percent limit, and a school district, by a majority vote of the qualified voters thereof voting upon said question at a general or special election, may increase such limitation of indebtedness five percent on such assessed value beyond the said five percent limit.

### 21-03-07. Election required - Exceptions.

No municipality, and no governing board thereof, may issue bonds without being first authorized to do so by a vote equal to **sixty percent** of all the qualified voters of such municipality voting upon the question of such issue except:

1. As otherwise provided in section 21-03-04.
2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by subdivision e of subsection 1 of section 21-03-06, subdivision g of subsection 2 of section 21-03-06, and subsections 4.1 and 7 of section 21-03-06 without an election.
3. The governing body of any municipality may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any highway project undertaken under an agreement entered into by the governing body with the United States government, the director of the department of transportation, the board of county commissioners, or any of them, including the cost of any construction, improvement, financing, planning, and acquisition of right of way of a bridge eligible for matching funds, highway routed through the municipality and of any bridges and controlled access facilities thereon and any necessary additional width or capacity of the bridge or roadway thereof greater than that required for federal or state bridge or highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and streetlights. The portion of the total cost of the project to be paid by the municipality under the agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, may not exceed a sum equal to thirty percent of

the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right of way to be acquired in connection therewith. The initial resolution authorizing issuance of bonds under this subsection must be published in the official newspaper of the municipality. Within sixty days after publication, an owner of taxable property within the municipality may file with the auditor or chief fiscal officer of the municipality a written protest against adoption of the resolution. A protest must describe the property that is the subject of the protest. If the governing body finds protests have been signed by the owners of taxable property having an assessed valuation equal to **five percent** or more of the assessed valuation of all taxable property in the municipality, as most recently finally equalized, all further proceedings under the initial resolution are barred. Nothing herein may be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed may not be included in computing the portion of the project cost payable by the municipality, within the meaning of this subsection, unless the work is actually called for by the agreement between the municipality and the other governmental agencies involved.

4. The governing body of any city may also by resolution adopted by a **two-thirds** vote authorize and issue general obligation bonds of the city for the purpose of providing funds to pay the cost of any improvement of the types stated below, to the extent that the governing body determines that such cost should be paid by the city and should not be assessed upon property specially benefited thereby; provided that the initial resolution authorizing such bonds must be published in the official newspaper, and any owner of taxable property within the city may, within sixty days after such publication, file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to **five percent** or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution are barred. This procedure is authorized for the financing of the following types of improvements:

- a. Any street improvement, as defined in subsection 2 of section 40-22-01, to be made in or upon any federal or state highway or any other street designated by ordinance as an arterial street.
- b. The construction of a bridge, culvert, overpass, or underpass at the intersection of any street with a stream, watercourse, drain, or railway, and the acquisition of any land or easement required for that purpose.
- c. Any improvement incidental to the carrying out of an urban renewal project, the issuance of bonds for which is authorized by subsection 4 of section 40-58-13. Nothing herein may be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such improvement, in the manner and to the extent otherwise permitted by law.

5. The governing body of any city may also by resolution adopted by a **two-thirds** vote dedicate the mill levy authorized by section 57-15-42 and may authorize and issue general obligation bonds to be paid by the dedicated levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public buildings or fire stations; provided, that the initial resolution authorizing the mill levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the city

may, within sixty days after publication, file with the city auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to **five percent** or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

6. The governing body of any county may also by resolution adopted by a **two-thirds** vote dedicate the tax levy authorized by section 57-15-06.6 and may authorize and issue general obligation bonds to be paid by the dedicated levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of regional or county correction centers, or parks and recreational facilities; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the county may, within sixty days after publication, file with the county auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to **five percent** or more of the assessed valuation of all taxable property within the county, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

7. The governing body of any public school district may also by resolution adopted by a **two-thirds** vote dedicate the tax levies as authorized by section 15.1-09-47, 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public school buildings or for the construction or improvement of a project under section 15.1-36-02 or 15.1-36-08. The initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper of the school district, and any owner of taxable property within the school district may, within sixty days after publication, file with the business manager of the school district a protest against the adoption of the resolution. Protests must be in writing and must describe the property that is the subject of the protest. If the governing body finds the protests have been signed by the owners of taxable property having an assessed valuation equal to **five percent** or more of the assessed valuation of all taxable property within the school district, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

8. The governing body of any city having a population of twenty-five thousand persons or more may use the provisions of subsection 3 to provide funds to participate in the cost of any construction, improvement, financing, and planning of any bypass routes, interchanges, or other intersection improvements on a federal or state highway system which is situated in whole or in part outside of the corporate limits of the city; provided, that the governing body thereof shall determine by resolution that the undertaking of such work is in the best interest of the city for the purpose of providing access and relieving congestion or improving traffic flow on municipal streets.

9. The governing body of a municipality or other political subdivision, located at least in part within a county that is included within a disaster or emergency executive order or proclamation of the governor under chapter

37-17.1, may by resolution adopted by a **two-thirds** vote authorize and issue general obligation bonds of the political subdivision without an election for the purpose of providing funds to pay costs associated with the emergency condition. The political subdivision may dedicate and levy taxes for retirement of bonds under this subsection and such levies are not subject to limitations as otherwise provided by law.

10. The governing board of any county, city, public school district, park district, or township may by resolution adopted by a **two-thirds** vote dedicate the tax levy authorized by section 57-15-41 and authorize and issue general obligation bonds to be paid by the dedicated levy for the purpose of providing funds to prepay outstanding special assessments made in accordance with the provisions of title 40 against property owned by the county, city, public school district, park district, or township.

11. The governing body of any park district that constitutes a distinct municipality may issue general obligation bonds of the park district for the purpose of providing funds to acquire, lay out, and improve parks, parkways, boulevards, and pleasure drives, and to acquire land for these purposes, but the indebtedness may not at any time exceed one percent of the assessed valuation of the taxable property in the park district. The initial resolution authorizing the issuance of general obligation bonds under this subsection must be published in the official newspaper of the park district, and any owner of taxable property within the park district may, within sixty days after publication, file with the clerk of the park district a protest against the adoption of the resolution. Protests must be in writing and must describe the property that is the subject of the protest. If the governing body finds the protests have been signed by the owners of taxable property having an assessed valuation equal to **five percent** or more of the assessed valuation of all taxable property within the park district, as last finally equalized, all further proceedings under the initial resolution are barred.

## SCHOOL DISTRICTS

57-15-16. Tax levy for building fund in school districts.

1. The governing body of any school district shall levy taxes annually for a school building fund, not in excess of twenty mills, which levy is in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by **sixty percent** of the qualified electors voting upon the question at a regular or special election in any school district. The governing body of the school district may create the building fund by appropriating and setting up in its budget for an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law. If a portion or all of the proceeds of the levy have been allocated by contract to the payment of rentals upon contracts with the state board of public school education as administrator of the state school construction fund, the levy must be made annually by the governing body of the school district until the full amount of all such obligations is fully paid. Any portion of a levy for a school building fund which has not been allocated by contract with the state board of public school education must be allocated by the governing body pursuant to section 57-15-17. Upon the completion of all payments to the state school construction fund, or upon payment and cancellation or defeasance of the bonds, the levy may

be discontinued at the discretion of the governing body of the school district, or upon petition of twenty percent of the qualified electors who voted in the last school election, the question of discontinuance of the levy must be submitted to the qualified electors of the school district at any regular or special election and, upon a favorable vote of sixty percent of the qualified electors voting, the levy must be discontinued. Any school district, executing a contract or lease with the state board of public school education or issuing general obligation bonds, which contract or lease or bond issue requires the maintenance of the levy provided in this section, shall immediately file a certified copy of the contract, lease, or bond issue with the county auditor or auditors of the county or counties in which the school district is located. The county auditor or auditors shall register the contract, lease, or bond issue in the bond register in substantially the manner provided in section 21-03-23. Upon the filing of the contract, lease, or bond issue with the county auditor or auditors, the school district may not discontinue the levy and the levy must automatically be included in the tax levy of the school district from year to year by the county auditor or auditors until a sufficient sum of money has been collected to pay to the state treasurer for the retirement of all obligations of the school district with the state board of public school education or to pay to the custodian of the bond sinking fund all amounts due or to become due on the bonds.

#### TOWNSHIP PROTEST OF IMPROVEMENTS BY SPECIAL ASSESSMENT

58-18-05. Election for proceeding.

At the special township meeting for public disclosure of the findings of the engineer, the freeholders of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by **sixty percent** or more of the votes cast at the meeting or votes filed with the township clerk within fifteen days after the meeting, the improvement project may proceed. A freeholder affected by the project is entitled to one vote for each dollar of the proposed special assessment against the freeholder's property within the proposed improvement district. If there is more than one owner of a parcel of property, the votes available for the parcel must be prorated among the owners in accordance with each owner's percentage interest in the property. If fewer than **sixty percent** of the votes cast or filed on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does not preclude the payment of any costs incurred in developing the plans, specifications, cost estimates, or other costs which must be paid from the general fund of the township. If the costs incurred pose a financial burden on the general levy of a township of forty percent or more, the board of township supervisors may levy and collect assessments from the improvement district in yearly assessments not exceeding five years. If under forty percent, the township may use methods approved by law.

#### PROTEST OF IMPROVEMENTS BY SPECIAL ASSESSMENT FOR THE PROMOTION OF BUSINESS ACTIVITY

40-22.1-08. Protest bar to proceeding — Invalid or insufficient protest — Payment of costs — Tax levy.

If the governing body finds the protest to contain the names of the owners of **one-third** or more of the area of the property included within the business improvement district, the protest bars proceeding further with the improvement project described in the plans and specifications. If the governing body finds the protest to contain the names of the owners of **one-third** or more of any separate property area included within the district, the protest bars proceeding with the applicable portion of the improvement project, but does not bar proceeding with the remainder of the improvement project or assessing the cost of the improvement project against other areas within the district, unless the protest represents **one-third** or more of the area of the entire district. Termination of proceedings does not relieve the municipality of responsibility for payment of costs incurred. The municipality is not responsible for payment of costs incurred if the improvement project is proposed by any person, group, or entity that is not an officer, board, or agency of the municipality. Payment of the costs incurred for such a barred improvement project must be as provided in section 40-22.1-02. For payment of costs incurred for a barred improvement project proposed by a municipality, the municipality may, if available funds are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the costs of a special improvement project by general taxation within the meaning of section 57-15-10. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made, levy and collect necessary assessments, and contract for the improvement and acquisition of necessary property or services.



#5565

David A. Flohr Executive Director

INDUSTRIAL COMMISSION

Doug Burgum Governor

Wayne Stenehjem Attorney General

Doug Goehring Agriculture Commissioner

North Dakota Housing Finance Agency  
Division of the State Industrial Commission  
HB 1499 – Testimony of David A. Flohr, Executive Director  
House Government and Veterans Affairs Committee  
Recommended- Do Not Pass

February 5, 2021

North Dakota Housing Finance Agency (NDHFA) was created as an initiated state statute in 1980, receiving 60.4 percent of the public vote. It is a self-funded state agency and does not use any general fund dollars. NDHFA is overseen by a six-member advisory board and the state's Industrial Commission. The initiated measure provided NDHFA the authority to issue Mortgage Revenue Bonds to provide first-time homebuyers with below-market interest rates, and down payment and closing cost assistance.

Bonds issued by NDHFA are not a general or moral obligation of the State of North Dakota and are exempt from federal income tax. The bonds are purchased by private investors who receive a federal tax break for their investment that benefits the State of North Dakota. NDHFA uses the sale proceeds to purchase mortgages originated by private sector lending institutions through our FirstHome programs. Since its inception, NDHFA has issued over \$5 billion in Mortgage Revenue Bonds with no defaults and the issues are currently rated Aa1. More than 47,000 low- to moderate-income households in the state have utilized NDHFA's FirstHome programs to purchase a home. NDHFA has recently issued over \$15 million in bonds to raise capital for two multifamily housing projects.

HB 1499 would severely restrict the ability of NDHFA to issue bonds. Typically, the agency issues bonds twice a year with recent issuances between \$100 to \$125 million each. If NDHFA could only receive approval to issue bonds after statewide elections, we would be forced to issue a larger amount of bonds that would result in increased costs, would prohibit leveraging favorable market conditions, and create barriers to sell the bonds. If North Dakotan's voted down a bond issuance, citizens needing lower interest rates to purchase a home would be deprived access to this resource.

Because of its long history of sound business practices with the investment community, strong balance sheet, and relationship with our North Dakota lending partners, NDHFA has achieved great success in its almost 40 years of conducting business. HB 1499 would severely impact the programs the agency offers and in turn, the citizens of our state, therefore we urge you to recommend a DO NOT PASS on HB 1499.

Thank you.



North Dakota Association of REALTORS®

To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

## TESTIMONY IN OPPOSITION OF HB 1499

February 5, 2021

### HOUSE Government and Veterans Affairs

Chairman Kasper and Members of the House Government and Veterans Affairs Committee, my name is Jill Beck and I represent the North Dakota Association of REALTORS® (NDAR).

The North Dakota Association of REALTORS® represents more than 2,100 REALTORS® and more than 250 Business Partner members.

We are in opposition of HB 1499 as it would severely restrict the ability of North Dakota Housing Finance Agency (NDHFA) to issue bonds and deliver the programs relied upon by citizens and our private lending institution partners for purchasing homes in North Dakota. Our industry has had an excellent relationship with the NDHFA over the years and has a great working relationship.

Over 47,000 low to moderate income citizens have utilized NDHFA programs to purchase their homes. This bill would hinder or eliminate a source of funding that is needed by first time homebuyers in our state and more often than not restrict their ability to purchase. These home purchases add to the state's economy and we don't want that hindered if even slightly.

The citizens of North Dakota already voted to allow the issuance of mortgage bonds on an ongoing basis when the HFA was created so it seems a bit crazy to have to go back each time bonds are needed and only allowed to purchase every two years in a statewide election. If the only time NDHFA could receive approval to purchase loans was at a statewide election there would be a large amount of bonds being bought if the electors approved. Plus, would the citizens understand what they are voting on or would they be making uninformed decisions which could possibly be not getting the votes needed to purchase the bonds and help further low to moderate income homebuyers. Where would the funding come from to inform citizens in a statewide election?

The number of homes on the market at times is very cyclical and varies by season, interest rates and supply and demand. If this were to pass there could be added costs due to timing and availability as interest rates play a huge part in home purchases, availability of homes on the market and what if funds weren't available at a time such as now.

We ask for a **DO NOT PASS** on HB 1499 and would be happy to answer any questions you may have. My contact info is below.

**Jill Beck, CEO and Lisa Feldner, Lobbyist**  
**North Dakota Association of REALTORS®**

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# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1499 (10:55 a.m.)  
2/5/2021

Relating to election requirements for bonds

**Chairman Kasper** opened the committee work meeting at 10:55 a.m.

<b>Representatives</b>	<b>Roll Call</b>
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- Two-thirds voter approval prior to issuing state bonds

**Rep. P. Anderson** moved a **Do Not Pass**. **Rep. Stemen** seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	N
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	N
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Greg Stemen	Y
Representative Steve Vetter	Y

**Motion passes.** 12-2-0 **Rep. Stemen** is the carrier.

**Chairman Kasper** closed the meeting at 11:03 a.m.

*Carmen Hart, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1499: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1499 was placed on the Eleventh order on the calendar.