

GOVERNMENTAL FINANCE

CHAPTER 309

HOUSE BILL NO. 1578
(Gunsch)

CERTIFICATES OF INDEBTEDNESS

AN ACT to amend and reenact sections 21-02-02, 21-02-03, 21-02-06, 21-02-07, 21-02-08, and 21-02-10 of the North Dakota Century Code, to allow political subdivisions to borrow against funds due them under federal contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 21-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-02. CERTIFICATES OF INDEBTEDNESS - BY WHOM ISSUED - TERM - INTEREST - TAX WHEN DEEMED LEVIED.) Counties, cities, townships, school districts, park districts, irrigation districts, water conservation and flood control districts, Garrison Diversion Conservancy District, county park districts, or joint park districts shall have power to borrow in anticipation of revenues to be derived from proceeds to be received under currently existing contracts with the bureau of Indian affairs and from taxes already levied. The aggregate amount of such borrowings at any time shall not exceed the amount of uncollected taxes which have been levied during the year in which the borrowing is made, plus uncollected taxes remaining upon the tax lists of the four preceding years, exclusive of levies for the purpose of retiring bond issues and the interest thereon, plus funds to be received under currently existing bureau of Indian affairs contracts. For the purpose of borrowing, all such taxing districts may issue certificates of indebtedness. A certificate of indebtedness shall consist of an agreement on the part of the taxing district to pay a stated sum on a specified date, or on or before a specified date not more than twenty-four months in the future, together with interest thereon at a rate or rates resulting in an average annual net interest cost not exceeding eight percent per annum if they are sold privately, which may be made payable semiannually. Such certificate shall be signed on behalf of the district by its president or chairman and also by its auditor or secretary, and shall be payable out of funds derived from uncollected taxes levied for the current tax year and four previous years which have not been set aside for the payment of other

certificates of indebtedness pursuant to sections 21-02-07, 21-02-08, and 21-02-09 and from funds received under bureau of Indian affairs contracts currently existing. However, a certificate of indebtedness shall be the general obligation of the issuing taxing district.

SECTION 2. AMENDMENT.) Section 21-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-03. CERTIFICATE OF COUNTY AUDITOR - CERTIFICATE OF INDEBTEDNESS - WHEN INCONTESTABLE.) A tax shall be deemed to have been levied when it has been voted by the tax levying board and certified to the county auditor. Each certificate of indebtedness shall bear the certificate of the county auditor to the effect that it, together with all other outstanding certificates, is within the amount of uncollected taxes which have been levied lawfully in the then present year, plus uncollected taxes of the four preceding years plus amounts to be received under currently existing bureau of Indian affairs contracts. Such certificate of indebtedness shall possess no validity unless it bears such certificate of the county auditor. The county auditor shall make such certificate according to the facts. When so executed with the prescribed certificate signed by the county auditor, a certificate of indebtedness shall be fully negotiable and shall be incontestable, except upon the ground of fraud on the part of the holder or original payee or connivance between the holder or the original payee and an officer or officers of the taxing district concerned. In the hands of a holder in due course, the execution of a certificate of indebtedness by the proper officials shall be conclusive evidence that the issuance thereof was duly authorized by the governing board of the taxing district.

SECTION 3. AMENDMENT.) Section 21-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-06. CERTIFYING AMOUNT OF UNCOLLECTED TAXES AND MONEYS UNDER FEDERAL CONTRACTS.) The county auditor at any time, upon request of the officers of any taxing district, shall certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of such district and the amount still owed to the county under currently existing bureau of Indian affairs contracts on the last day of the preceding month, and annually shall certify such information to the clerk of each township on February fifteenth, to the auditor of each city on September tenth, and to the clerk of each school board on June tenth. The county auditor also shall certify to the clerk, auditor, or secretary of each such taxing district monthly, at the time of making the monthly apportionment of funds, the amount of cash collections apportioned for that month to such taxing district and the amount derived from levies of each tax year.

SECTION 4. AMENDMENT.) Section 21-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-07. TAXES AND FEDERAL CONTRACT MONEYS CONSTITUTE SPECIAL FUND TO PAY CERTIFICATES.) When any taxing district has issued certificates of indebtedness pursuant to the terms of this chapter, the county auditor shall set aside all money from bureau of Indian affairs contracts and taxes collected from levies for the respective years against which such certificates have been issued, except those for sinking and interest funds thereafter accruing to the credit of such district. The same shall be held by the county treasurer in a special fund to be used only for the purpose of retiring such certificates of indebtedness and paying interest thereon until sufficient funds shall have been accumulated from the bureau of Indian affairs contract moneys, or collection of levies of any year or years against which certificates of indebtedness have been issued to retire the certificates of that year.

SECTION 5. AMENDMENT.) Section 21-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-08. PERCENTAGE OF CURRENT TAXES USED TO PAY DELINQUENT CERTIFICATES OF INDEBTEDNESS.) If sufficient ~~taxes~~ funds are not collected under currently existing bureau of Indian affairs contracts or from levies against which certificates of indebtedness are issued to retire such certificates, both principal and interest, within two months after their due date, there shall be set aside from current tax collections not less than ten percent nor more than thirty percent of the amount of such collections until such past due certificates have been paid. Within one month after the due date of a certificate of indebtedness, the governing board of the issuing taxing district shall transmit to the county auditor its duly authenticated resolution directing the percentage of tax collections which shall be retained by the county treasurer to retire such certificate within the foregoing limitations. If such resolution is not received within two months after the due date of such certificate, the county auditor shall retain thirty percent of such collections.

SECTION 6. AMENDMENT.) Section 21-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-10. MUNICIPALITIES HAVING POPULATION OVER FOUR THOUSAND EXEMPT FROM CERTAIN PROVISIONS.) Any city, school district, or park district having a population of over four thousand may issue certificates of indebtedness in any amount not in excess of uncollected taxes of the current year, plus uncollected taxes of prior years standing to the credit of the district, plus amounts still owed it under currently existing bureau of Indian affairs contracts, in such form and manner and subject to such terms and conditions as the governing board may prescribe, and need not comply with nor conform to any of the other provisions of this chapter pertaining to the issuance of certificates of indebtedness unless such board shall choose to avail itself of such provisions.

Approved March 15, 1979

CHAPTER 310

HOUSE BILL NO. 1572
(Winkjer)

FLOOD CONTROL LAND LEASE MONEY DISTRIBUTION

AN ACT to amend and reenact section 21-06-10 of the North Dakota Century Code, relating to distribution of moneys received for flood control lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 21-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-10. MONEYS RECEIVED THROUGH LEASING OF LANDS ACQUIRED BY UNITED STATES FOR FLOOD CONTROL DISTRIBUTED TO COUNTIES FOR SCHOOLS AND ROADS.) The funds so received, as in said Public Law 79-526 [60 Stat. 642; 33 U.S.C. 701c-3] set forth, by any county in this state, the treasurer of the state of North Dakota shall pay over to the county or counties entitled thereto as in said public law set forth. The first one-half of such funds shall be distributed to the school districts which have lost land subject to taxation by reason of the acquisition of lands by the United States on the basis of the proportionate amount of such lands acquired by the United States. If all of the land in any such district shall have been acquired by the United States the share of such funds assignable to such district shall be paid into, and disbursed in the manner provided by law for the county tuition fund. The ~~remaining~~ half next quarter of such funds shall be paid to such counties for road purposes to be expended as the county commissioners shall determine. The final quarter of such funds shall be distributed to the organized townships, if any, within each county for road purposes to be expended as the township supervisors shall determine. This amount shall be allocated among the various organized townships which have lost lands subject to taxation by reason of the acquisition of such lands by the United States on the basis of the proportionate amount of such lands within that county. If any area of a county does not lie within an organized township, a portion of the final quarter of such funds shall be allocated to the county on the basis of the proportionate amount of such lands within that county. This section shall apply to all funds heretofore received or to be received by the counties entitled thereto.

Approved March 3, 1979