

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED 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 sections 6-09.4-06, 6-09.4-10, and~~
3 ~~15.1-36-06 of the North Dakota Century Code, relating to borrowing and lending authority,~~
4 ~~reserve funds, and school construction loans; to authorize the use of funds; to provide a bond~~
5 ~~issuance limitation; and to provide an appropriation.~~for an Act to provide for a transfer from the
6 foundation aid stabilization fund to the school construction assistance revolving loan fund; and
7 to provide a statement of legislative intent.

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

9 ~~—~~ **SECTION 1. AMENDMENT.** ~~Section 6-09.4-06 of the North Dakota Century Code is~~
10 ~~amended and reenacted as follows:~~

11 ~~—~~ **6-09.4-06. Lending and borrowing powers generally.**

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

1 appears that the securities can be sold through private bond markets without the
2 involvement of the public finance authority, the authorizing resolution must state
3 reasons for the public finance authority's involvement in the bond issue. The public
4 finance authority may hold such municipal securities for any length of time it finds to
5 be necessary. The public finance authority, for the purposes authorized by this chapter
6 or chapter 40-57, may issue its bonds payable solely from the revenues available to
7 the public finance authority which are authorized or pledged for payment of public
8 finance authority obligations, and to otherwise assist political subdivisions or other
9 contracting parties as provided in this chapter or chapter 40-57.

10 ~~2.~~ The public finance authority may lend or transfer money to the Bank of North Dakota
11 under as follows:

12 ~~a.~~ Under terms and conditions requiring the Bank to use the proceeds to make
13 loans for agricultural improvements that qualify for assistance under the revolving
14 loan fund program established by ~~under~~ chapter 61-28.2; and

15 ~~b.~~ Under terms and conditions requiring the Bank to use the proceeds to make
16 ~~loans for school construction projects that qualify for assistance under the school~~
17 ~~construction assistance revolving loan fund established under section~~
18 ~~15.1-36-08. Bonds issued for this purpose are payable in each biennium solely~~
19 ~~from amounts the legislative assembly may appropriate for debt service for any~~
20 ~~biennium or from a reserve fund established for the bonds. This section may not~~
21 ~~be construed to require the state to appropriate funds sufficient to make debt~~
22 ~~service payments with respect to the bonds or replenish a related reserve fund.~~
23 ~~The bonds are not a debt of the Bank of North Dakota or the state, and the full~~
24 ~~faith, credit, and taxing powers of the state are not pledged to the payment of the~~
25 ~~bonds. Upon the date appropriated funds and reserves are no longer sufficient to~~
26 ~~pay debt service on the bonds, the obligation of the public finance authority~~
27 ~~terminates and the bonds are no longer outstanding. In addition to providing~~
28 ~~funds for transfers to the department of transportation, the public finance~~
29 ~~authority may use the bond proceeds to pay the costs of issuance of the bonds~~
30 ~~and establish a reserve fund for the bonds.~~

1 ~~3.~~ Bonds of the public finance authority issued under this chapter or chapter 40-57 are
2 not in any way a debt or liability of the state and do not constitute a loan of the credit of
3 the state or create any debt or debts, liability or liabilities, on behalf of the state, or
4 constitute a pledge of the faith and credit of the state, but all such bonds are payable
5 solely from revenues pledged or available for their payment as authorized in this
6 chapter. Each bond must contain on its face a statement to the effect that the public
7 finance authority is obligated to pay such principal or interest, and redemption
8 premium, if any, and that neither the faith and credit nor the taxing power of the state
9 is pledged to the payment of the principal of or the interest on such bonds. Specific
10 funds pledged to fulfill the public finance authority's obligations are obligations of the
11 public finance authority.

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

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

19 ~~**6-09.4-10. Reserve fund.**~~

20 ~~1.~~ The public finance authority shall establish and maintain a reserve fund in which there
21 must be deposited all moneys appropriated by the state for the purpose of the fund, all
22 proceeds of bonds required to be deposited therein by terms of any contract between
23 the public finance authority and its bondholders or any resolution of the public finance
24 authority with respect to the proceeds of bonds, any other moneys or funds of the
25 public finance authority which it determines to deposit therein, any contractual right to
26 the receipt of moneys by the public finance authority for the purpose of the fund,
27 including a letter of credit or similar instrument, and any other moneys made available
28 to the public finance authority only for the purposes of the fund from any other source
29 or sources. Moneys in the reserve fund must be held and applied solely to the
30 payment of the interest on and the principal of bonds and sinking fund payments as
31 the same become due and payable and for the retirement of bonds, including payment

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

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

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

1 amount in the reserve fund to the required debt service reserve, or to meet such
2 higher or additional reserve as may be fixed by the public finance authority with
3 respect to such fund.

4 ~~4. In order to assure the maintenance of the required debt service reserve, there shall be~~
5 ~~appropriated by the legislative assembly and paid to the public finance authority for~~
6 ~~deposit in the reserve fund, such sum, if any, as shall be certified by the industrial~~
7 ~~commission as necessary to restore the reserve fund to an amount equal to the~~
8 ~~required debt service reserve. However, the commission may approve a resolution for~~
9 ~~the issuance of bonds, as provided by section 6-09.4-06, which states in substance~~
10 ~~that this subsection is not applicable to the required debt service reserve for bonds~~
11 ~~issued under that resolution.~~

12 ~~5. If the maturity of a series of bonds of the public finance authority is three years or less~~
13 ~~from the date of issuance of the bonds, the public finance authority may determine that~~
14 ~~no reserve fund need be established for that respective series of bonds. If such a~~
15 ~~determination is made, holders of that respective series of bonds may have no interest~~
16 ~~in or claim on existing reserve funds established for the security of the holders of~~
17 ~~previously issued public finance authority bonds, and may have no interest in or claim~~
18 ~~on reserve funds established for the holders of subsequent issues of bonds of the~~
19 ~~public finance authority.~~

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

22 ~~a. Under section 6-09.4-06;~~

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

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

25 ~~SECTION 3. Section 6-09.4-29 of the North Dakota Century Code is created and enacted~~
26 ~~as follows:~~

27 ~~**6-09.4-29. Debt service requirements – School construction assistance revolving loan**~~
28 ~~**fund – Foundation aid stabilization fund.**~~

29 ~~Each biennium, the public finance authority shall request from the legislative assembly an~~
30 ~~appropriation from the foundation aid stabilization fund to meet the debt service requirements.~~

1 ~~for evidences of indebtedness issued by the authority to support the school construction~~
2 ~~assistance revolving loan fund.~~

3 ~~—~~ **SECTION 4. AMENDMENT.** ~~Section 15.1-36-06 of the North Dakota Century Code is~~
4 ~~amended and reenacted as follows:~~

5 ~~—~~ **15.1-36-06. School construction loans -- Bank of North Dakota. (Repealed effective**
6 **July 1, 2023~~2038~~)**

7 ~~—~~ 1. ~~In addition to any construction loans made available under section 15.1-36-02, the~~
8 ~~Bank of North Dakota may provide up to two hundred fifty million dollars to eligible~~
9 ~~school districts for school construction loans until June 30, 2017. After June 30, 2017,~~
10 ~~no new loans may be provided under this section.~~

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

12 ~~—~~ a. ~~Propose a new construction or remodeling project with a cost of at least~~
13 ~~one million dollars and an expected utilization of at least thirty years;~~

14 ~~—~~ b. ~~Obtain the approval of the superintendent of public instruction for the project~~
15 ~~under section 15.1-36-01;~~

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

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

28 ~~—~~ (3) ~~Publish in the official newspaper of the district the information from the~~
29 ~~statements required by this subdivision with the notice of the election to~~
30 ~~authorize the school construction bond issuance in accordance with section~~
31 ~~21-03-12; and~~

- 1 ~~————— (4) — Post on the school district's website the information from the statements-~~
2 ~~————— preceding the date of the election to authorize the school construction bond-~~
3 ~~————— issuance in accordance with chapter 21-03;~~
4 ~~————— d. — Receive authorization for a bond issue in accordance with chapter 21-03; and~~
5 ~~————— e. — Submit a completed application to the Bank of North Dakota.~~
6 ~~————— 3. — With the advice and consent of the superintendent of public instruction, the Bank of~~
7 ~~————— North Dakota shall award the loans in accordance with a prioritization system that is-~~
8 ~~————— based on a review of all applications filed during the twelve-month period preceding-~~
9 ~~————— April first and gives consideration to:~~
10 ~~————— a. — Student occupancy and academic needs in the district;~~
11 ~~————— b. — The age of existing structures to be replaced or remodeled;~~
12 ~~————— c. — Building design proposals that are based on safety and vulnerability-~~
13 ~~————— assessments;~~
14 ~~————— d. — Community support;~~
15 ~~————— e. — Cost; and~~
16 ~~————— f. — Any other criteria established in rule by the superintendent of public instruction,-~~
17 ~~————— after consultation with an interim committee appointed by the legislative-~~
18 ~~————— management.~~
19 ~~————— 4. — The term of a loan under this section is twenty years, unless a shorter term is-~~
20 ~~————— requested by the board of a school district in its application.~~
21 ~~————— 5. — The interest rate on a loan under this section may not exceed two percent, until July 1,-~~
22 ~~————— 2025. Thereafter, the interest rate on the remainder of a loan under this section:~~
23 ~~————— a. — May not exceed the Bank of North Dakota's base rate; or~~
24 ~~————— b. — May be a fixed rate per year.~~
25 ~~————— 6. — If a school district's unobligated general fund balance on the preceding June thirtieth-~~
26 ~~————— exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which-~~
27 ~~————— that district is entitled under this section may not exceed eighty percent of the project's-~~
28 ~~————— cost.~~
29 ~~————— 7. — The maximum loan amount to which a school district is entitled under this section is-~~
30 ~~————— twenty million dollars.~~

1 ~~— SECTION 5. SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND—USE~~
2 ~~OF FUNDS—BANK OF NORTH DAKOTA.~~ Pursuant to the continuing appropriation authority
3 under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available
4 from the school construction assistance revolving loan fund to the Bank of North Dakota to
5 provide interest rate buydowns associated with loans issued under section 15.1-36-06, for the
6 biennium beginning July 1, 2019, and ending June 30, 2021.

7 ~~— SECTION 6. PUBLIC FINANCE AUTHORITY—BOND ISSUANCE LIMITATION—~~
8 ~~FOUNDATION AID STABILIZATION FUND.~~ Pursuant to the bonding authority under section
9 6-09.4-06, the public finance authority may issue up to \$250,000,000 of evidences of
10 indebtedness for the purpose of supporting the school construction assistance revolving loan
11 fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

12 ~~— SECTION 7. APPROPRIATION—FOUNDATION AID STABILIZATION FUND.~~ There is
13 appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not
14 otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary,
15 to the public finance authority for the purpose of debt service repayments associated with bonds
16 issued to support the school construction assistance revolving loan fund, for the biennium
17 beginning July 1, 2019, and ending June 30, 2021.

18 **SECTION 1. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL**
19 **CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND.** The office of management and
20 budget shall transfer the sum of \$35,000,000 from the foundation aid stabilization fund to the
21 school construction assistance revolving loan fund during the biennium beginning July 1, 2019,
22 and ending June 30, 2021. Pursuant to the continuing appropriation authority under section
23 15.1-36-08, \$2,500,000, or so much of the sum as may be necessary, is available from the
24 school construction assistance revolving loan fund to the Bank of North Dakota to provide
25 interest rate buydowns associated with loans issued under section 15.1-36-06. In addition,
26 provided sufficient funding is available for loans to local school districts, the Bank of North
27 Dakota may utilize funding from the school construction assistance revolving loan fund to repay
28 a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the
29 purpose of transferring a portion of the loans issued under that section from the Bank of North
30 Dakota to the school construction assistance revolving loan fund. The remaining amount

1 transferred to the school construction assistance revolving loan fund is available for new school
2 construction loans.

3 **SECTION 2. LEGISLATIVE INTENT - FOUNDATION AID STABILIZATION FUND.** It is the
4 intent of the sixty-sixth legislative assembly that, for the biennium beginning July 1, 2021, and
5 ending June 30, 2023, the sixty-seventh legislative assembly appropriate \$110,000,000 from the
6 foundation aid stabilization fund to the department of public instruction for providing ongoing
7 funding for state school aid and transfer \$75,000,000 from the foundation aid stabilization fund
8 to the school construction assistance revolving loan fund.