

HOUSE BILL NO. 1125

Introduced by

Representatives Richter, Longmuir, Monson, Nathe

Senators Patten, Schaible

1 A BILL for an Act to amend and reenact section 6-09.4-23 of the North Dakota Century Code,
2 relating to withholding school district state aid payments and the school district credit
3 enhancement program.

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

5 **SECTION 1. AMENDMENT.** Section 6-09.4-23 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **6-09.4-23. Evidences of indebtedness - Authority to withhold school district state aid.**

8 1. If the public finance authority or a paying agent notifies the superintendent of public
9 instruction ~~or the state treasurer~~, in writing, that a school district has failed to pay when
10 due the principal or interest on any evidences of indebtedness issued after July 31,
11 1999, or that the public finance authority, school district, or the paying agent has
12 reason to believe a school district will not be able to make a full payment of the
13 principal and interest when the payment is due, the superintendent of public instruction
14 ~~or the state treasurer~~ shall withhold any funds that are due or payable or appropriated
15 to the school district under chapter 15.1-27 until the payment of the principal or
16 interest has been made to the public finance authority or the paying agent, or until the
17 public finance authority, school district, or the paying agent notifies the superintendent
18 of public instruction ~~or the state treasurer~~ that arrangements satisfactory to the public
19 finance authority or the paying agent have been made for the payment of the principal
20 and interest then due and owing. The notification must include information required by
21 the superintendent of public instruction ~~or the state treasurer~~. State funds available to
22 a school district under chapter 15.1-27 are not subject to withholding under this
23 section unless the withholding is authorized by resolution of the district's school board.

1 2. If the public finance authority or a paying agent notifies the state treasurer, in writing,
2 that a school district has failed to pay when due the principal or interest on any
3 evidence of indebtedness issued after July 31, 2023, or that the public finance
4 authority, school district, or the paying agent has reason to believe a school district will
5 not be able to make a full payment of the principal and interest when the payment is
6 due, the state treasurer shall withhold any funds that are due or payable or
7 appropriated to the school district under chapter 57-51 until the payment of the
8 principal or interest has been made to the public finance authority or the paying agent,
9 or until the public finance authority, school district, or the paying agent notifies the
10 state treasurer that arrangements satisfactory to the public finance authority or the
11 paying agent have been made for the payment of the principal and interest then due
12 and owing. The notification must include information required by the state treasurer.
13 State funds available to a school district under chapter 57-51 are not subject to
14 withholding under this section unless the withholding is authorized by resolution of the
15 district's school board.

16 3. If the public finance authority or a paying agent notifies the county auditor, in writing,
17 that a school district has failed to pay when due the principal or interest on any
18 evidence of indebtedness issued after July 31, 2023, or that the public finance
19 authority, school district, or the paying agent has reason to believe a school district will
20 not be able to make a full payment of the principal and interest when the payment is
21 due, the county auditor shall withhold any funds that are due or payable or
22 appropriated to the school district under chapters 57-33.2, 57-34, and 57-55 and
23 section 21-06-10 until the payment of the principal or interest has been made to the
24 public finance authority or the paying agent, or until the public finance authority, school
25 district, or the paying agent notifies the county auditor that arrangements satisfactory
26 to the public finance authority or the paying agent have been made for the payment of
27 the principal and interest then due and owing. The notification must include
28 information required by the county auditor. State funds available to a school district
29 under chapters 57-33.2, 57-34, and 57-55 and section 21-06-10 are not subject to
30 withholding under this section unless the withholding is authorized by resolution of the
31 district's school board.

1 | 4. Notification by the public finance authority, school district, or the paying agent that
2 | satisfactory arrangements have been made for the payment of the principal and
3 | interest then due and owing under subsection 1, 2, or 3 must be made at least fifteen
4 | working days before the principal or interest is due. The notice must be in writing and
5 | include the name of the school district, an identification of the debt obligation issue,
6 | the date the payment is due, the amount of principal and interest due on the payment
7 | date, the amount of principal or interest the school district will be unable to pay, the
8 | paying agent for the debt obligation, the wire transfer instructions to transfer funds to
9 | the paying agent, and an indication that payment is requested under this section. A
10 | paying agent shall notify the superintendent of public instruction ~~or the state treasurer,~~
11 | and the appropriate county auditor if the paying agent becomes aware of a potential
12 | default. If the superintendent ~~or the state treasurer, or the county auditor~~ receives
13 | notice of a requested payment under this section, the superintendent of public
14 | instruction ~~or the state treasurer, or county auditor~~ shall withhold and transfer funds
15 | due or payable or appropriated to the school district under chapter 15.1-27 or 57-51 to
16 | the paying agent after:
17 | a. Consulting with the school district and the paying agent; and
18 | b. Verifying the accuracy of the provided request information.
19 | ~~3.5.~~ Notwithstanding any withholding of state funds under section 15-39.1-23 or any other
20 | law, the superintendent of public instruction ~~or the state treasurer, and county auditor~~
21 | shall make available any funds withheld under subsection 1, 2, or 3 to the public
22 | finance authority or the paying agent. The public finance authority or the paying agent
23 | shall apply the funds to payments that the school district is required to make to the
24 | public finance authority or the paying agent.
25 | 4.6. If funds are withheld from a school district and made available to the public finance
26 | authority or a paying agent under this section and if tax revenues are received by the
27 | school district during the fiscal year in which the funds are withheld and are deposited
28 | in the district's sinking fund established in accordance with section 21-03-42, the
29 | district, with the consent of the public finance authority or the paying agent, may
30 | withdraw from its sinking fund an amount equal to that withheld ~~by the superintendent~~

1 ~~of public instruction~~ and made available to the public finance authority or a paying
2 agent under this section.

3 ~~5.—Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement~~
4 ~~between the public finance authority and the state board of public school education for~~
5 ~~the benefit of the public finance authority and a school district must be held by the~~
6 ~~Bank. With the approval of the superintendent of public instruction, those funds may~~
7 ~~be used to subsidize the debt service payments on construction loans that are made~~
8 ~~to school districts by the public finance authority and which are subject to the~~
9 ~~withholding provisions of this section or construction loans made to school districts~~
10 ~~under the state school construction program established by section 11 of chapter 2 of~~
11 ~~the 1989 Session Laws. Notwithstanding the existence of an escrow agreement~~
12 ~~between the public finance authority and the state board of public school education,~~
13 ~~those funds must be transferred to the public finance authority upon certification by the~~
14 ~~public finance authority that the funds are in excess of the amount needed to provide~~
15 ~~for the payment in full of the outstanding principal and interest, when due, on the~~
16 ~~public finance authority bonds issued to purchase the municipal securities for which~~
17 ~~the escrow fund was established.~~

18 ~~6-7.~~ The superintendent of public instruction ~~and the, state treasurer, and county auditor~~
19 shall develop detailed procedures for a school districtsdistrict to notify the
20 superintendent of public instruction ~~or the, state treasurer, and the county auditor~~ that
21 they have the school district has obligated themselves the district to be bound by the
22 provisions of this section; procedures for a school districtsdistrict, paying ~~agentsagent,~~
23 and the public finance authority to notify the superintendent of public instruction ~~or the,~~
24 state treasurer, or county auditors of potential defaults and to request payment under
25 this section; and procedures for the state to expedite payments to prevent defaults.