

**2019 SENATE EDUCATION COMMITTEE**

**SB 2214**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2214  
1/22/2019  
31165

- Subcommittee  
 Conference Committee

Committee Clerk Signature Lynn Wolf

## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

Att. #1-Schaible; Att. #2, 3-Hullet; Att. #4-Ament

Vice-Chairman Fors: Called the hearing to order and recognized Senator Schaible.

**Senator Schaible: See Attachment #1.**

**Senator Rust:** Could we get a section by section summary of the bill?

(14:43) **Vice-Chairman Fors:** Any others that wish to support SB 2214?

(15:08) **Eric Hardmeyer, President of the North Dakota:** We are in support of this as we have been administrating the SCALF program.

**Chairman Schaible:** Could you explain to the committee the gap scholarship that we created using BND money that you loaned out money from your assets and explain that a little bit.

**Eric Hardmeyer:** Back in 2015, as money was starting to dry up a little bit and so Senate leadership came to BND and asked if the BND could step in and provide funding on a gap type basis until this measure is passed. BND sat down with leadership and devised a way the BND could provide directing for school construction. The limit was set at \$250,000,000 and we ended up funding \$123,000,000. The buy down Senator Schaible is talking about is the difference between the market rate of interest vs. what the schools should pay. Now the schools are paying two percent as part of the SCALF. What we wanted to do was to make a consistent interest rate that schools would pay either from the BND or the SCALF fund. We agreed to provide funding up to \$250,000,000 at five percent-that the BND would yield five percent on those loans, but we would buy the percent down to two percent so the schools would pay two percent consistent with the funding in the SCALF program. We wanted it to be transparent and equal if you were borrowing from SCALF or BND. BND provided that buy down differential (the interest rate difference from five to two percent) as part of our earnings or capital transfers that came out of the BND capital. That was \$6,000,000 last biennium and proposed to be \$5,000,000 this biennium as those loans work down from \$123,000,000 down to \$83,000,000 it takes

less money to buy those down. The intent was that this was going to provide gap financing until the bigger issue was resolved with the measure that was passed allowing some of the money in the foundation aid to be utilized. Mr. Chairman, does that answer that question?

**Chairman Schaible:** One other question: The schools that took advantage of the program during that gap period, we can only guarantee the money for ten years.

**Eric Hardmeyer:** Yes, that is correct. What we committed to the legislature is that we would put that five percent rate out there for 10 years knowing that these loans could possibly have a different interest rate depending on the interest rate climate at the time. Understanding also, the schools are subject to getting funding for the buy down so they can continue to pay too. It made them a little nervous and that interest rate gets reset in the year 2025. They are saying for us as a school district, does that mean the two percent that we pay does that go up? They have a real interest in seeing that they have some commitment to paying two percent in the long term. That was the idea that BND gets paid out of this and those loans revert to the SCALF fund and therefore taking away the school's uncertainty of what happens in 2025 with the interest rate.

**Chairman Schaible:** So this bill does that? Example of Carrington, which is the one that is really worried, they are guaranteed until 2025, but have a 20year commitment and if this passes, they will be absorbed into the SCALF fund and we will be paying off the BND.

(21:47) **Eric Hardmeyer:** Yes. The other thing that changes with the bill, is that the BND paying the interest buy down, from five to two percent, instead of coming out of the BNDs capital, it comes out of the foundation aid which was more appropriate anyways.

**Chairman Schaible:** In theory, right now, this bill asks for \$30,000,000 out of the foundation aid, but it goes down so much so eventually, it will be down to just \$25,000,000 infusions. Other questions? Thank you.

**Kelvin Hullet: See Attachment #2, #3.** Over the past six months, we have been working with the public finance agency and the other bound councils associated with the Industrial Commission and the BND to figure out how this works. You will see in the bill you have before you, we will propose some amendments to you directly related to how we would implement a bonding mechanism to move this forward. Starting on page two, when you look at lines 23 through 32 and following on to page three, you'll see that is actually the language that implements the bond mechanism. This will be an appropriations bond that DeAnn will explain to you. If you flip back to page five- an outline of how we will make the payment on the bond. Each biennium the public finance authority will request from the assembly an appropriation to make the payment on this bond that we are proposing. On page six, as Eric referenced, you will see there is a date change at the top. Instead of sun setting, the BND program fully in 2023, we moved that date out to 2038, allowing us to do the buy down for those school districts through the term of those loans that we have on our books. On page seven, you will see on line 25 and 26, as Eric noted, we have made an amendment as the buy down is \$5,000,000 per biennium currently, so you can see we have proposed to move that from \$4,000,000 to \$5,000,000 over the course of the next biennium, a course to be re-evaluated based on what our need would be in the following biennium as the Chairman indicated that number will continue to come down. We have not put into the bill is the cap that we currently have in place in legislation related to school construction. Today that cap is at \$10 million. Our total appropriation that we have each year is \$30 million, so we have \$60 million a biennium that we can provide out in new school construction loans. If we anticipate that we are going to move forward with the bond and we have more money available we will have about \$86 million a biennium, so we will have more money available. The question for the policy is what would you like the cap to be? Would you like the cap to be 15 to 25 – that will be a policy decision that the legislature will make to provide direction on the program. There

is one more slide in the back of your packet. It is a little easier to read than the previous slide. We worked with OMB on to determine what is the foundation aid stabilization transfer look like over the period the next couple of biennia? As you can see, in the next two biennia, there would be \$155-\$156 million, roughly, and then \$133 million that could be appropriated if we take that bond amount out, you can see what the net is for appropriation in those green numbers which would be \$131 million this biennium and \$108 million next biennium. To give you some insight into how the numbers would payout if you move forward with this plan.

(28:04) **DeAnn Ament, Exec. Director. ND Public Finance Authority:** *See Attachment #4.* The bonding process is explained on page ten of the attachment.

**Chairman Schaible:** If you have too much bonding going on, does that affect your debt ratio or how much debt you can carry over and starts to affect the interest rate?

**DeAnn Ament:** It can. At this point in time every comparison on a national basis, ND is in the bottom – we are the lowest net taxable debt, we are one of the lowest (bottom five), so there is a lot of room for the state of ND to issue debt and not have any impact on that.

**Chairman Schaible:** So we are one of the best for financial outlook?

**DeAnn Ament:** Actually in December both Moodys and Standard and Poors looked at our ratings – they do that annually – and Moodys put our outlook to stable. That has helped the state with the rebound of the energy sector.

**Chairman Schaible:** Other questions. Thank you. Let's go with other testimony in favor of the bill.

**Karlene Fine: Exec. Director of the Industrial Commission:** I just wanted to note for you that in the information that DeAnn handed out there is some information on page four about the rating scales so you can get that kind of information. On page five, some of those page numbers came off, but it shows the net supported that she provided you with. Within the document we put together all the proposed bonding that is in this session. That is on page six. That is there to do some comparisons.

**Chairman Schaible:** Other questions. Thank you. Other agency testimony. Kelvin, could you return to the podium? The question I have is: We are proposing \$25 million into the foundation aid stabilization fund for years up to 2035.

**Kelvin Hullet:** We have run two different scenarios – under the first scenario, the one you have before you – it would be a \$25 million payment for 30 years or 15 biennia that would give us about \$200 million that we could influx into the fund. We also ran a scenario where we had a 20year bond or 10 biennia that allowed about \$160 million to \$170 million that we could influx into the construction fund. Back to the policy question for the committee – Do you want to commit for 20 years and have a slightly lower number or 30 years and have that higher number to put into the fund at this point.

**Chairman Schaible:** We can't designate future legislation, we can only suggest, so what happens if at some point they say that is enough?

**Kelvin Hullet:** Mr. Chairman, I would refer that back to DeAnn. You would be obligating the state on a longer term basis and I would turn for her to answer that question.

**DeAnn Ament:** Really, if the legislative assembly would not appropriate the funds to repay the bonds, that would be devastating to the state of ND's bond rating. Any future bonds could safely be considered junk.

**Chairman Schaible:** So, as strongly as we can, we are suggesting that we do a twenty or thirty-year commitment out of foundation aid stabilization fund. I wanted to make that clear to these legislators.

**Karlene Fine:** I just want to point out that we have done appropriations bonds before – The ND building authority that has been on the books since the 80s – we have done that, we've done construction projects all across the state of ND. This is not a new concept, but the funding source, coming from the foundation aid stabilization is different. The amendment is not a debt of the state, it is an appropriation bond and so that is what the bond buyer is looking at.

**Chairman Schaible:** Any testimony in opposition. Seeing none, the hearing for SB 2214 is closed.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2214  
1/28/2019  
31582

- Subcommittee  
 Conference Committee

Committee Clerk Signature Lynn Wolf

## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

Att. #1-LC-19.0425.01001

Senator Rust introduced the amendment to SB 2214. **See Att. # 1.**

Discussion regarding what the wording on the amendment meant and if the wording was what was intended in the amendment. It was decided to seek additional input from the Legislative Council.

Discussion closed on the bill.

# 2019 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Sheyenne River Room, State Capitol

SB 2214  
1/30/2019  
31761

- Subcommittee  
 Conference Committee

Committee Clerk Signature: Lynn Wolf

## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

Att. #1-Rust(19.0425.01002)

**Chairman Schaible:** Committee, let's look at SB 2214, School Construction. Senator Rust has an amendment to pass out.

**Senator Rust: See Attachment #1.** This has to do with the pecking order for schools that want to borrow money for school construction projects. Upon talking with the BND, we looked at this amendment and made one change. The change was trying to get this open to more schools. There is \$43 million available per year of the biennium. If you go with \$15 million, you have three. The idea is to go to \$10 million. The maximum amount was at \$15 million and we went back to \$10 million for a bond issue. A school may borrow an additional \$10 million if they exceed that \$10 million threshold – subject to availability funds. According to the BND, it is. We fund schools – as many applications as we can. Now if there is money left over, you can get an extra \$10 million – but, not until we fund the apps we get. So, if we get \$43 million per year, you get three apps, \$30 million. Now there is money left over and one of those schools could actually get another \$10 million. Let's suppose you get \$43 million and you get five apps. Not enough money to go around and they wouldn't get an extra \$10 million because there is no money available. That is the way it is administered.

**Chairman Schaible:** Questions or discussion.

**Senator Rust: I move to adopt amendment 19.0425.01002.**

**Vice-Chairman Fors: Second.**

**Roll Call vote taken: 7 Yeas; 0 Nays; 0 Absent.**

**Amendment 19.0425.01002 adopted.**

Senate Education Committee

SB 2214

1/30/2019

Page 2

**Davison moves Do Pass as Amended SB 2214 and refer to Appropriations.**

**Second by Rust.**

**Roll Call taken: 7 Yeas; 0 Nays, 0 Absent.**

**Motion Carries.**

**Schaible will carry the bill.**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2214  
2/4/2019  
32105

- Subcommittee  
 Conference Committee

Committee Clerk Signature: Lynn Wolf

## **Explanation or reason for introduction of bill/resolution:**

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## **Minutes:**

Att. #1-Schaible(19.0425.01003)

Chairman Schaible: Committee, we are going to look at SB 2214. That bill had already been passed out of committee, but there is some language that it was suggested needed fixing. I spoke with Appropriations and they said it would be best to do it here rather than try to do it there.

**Senator Davison: I move to reconsider SB 2214.**

**Senator Rust: Second.**

**Chairman Schaible: Those are the original mover and second.**

**Roll Call vote: 7 Yeas; 0 Nays; 0 Absent.**

**Motion to Reconsider SB 2214 is passes.**

**Chairman Schaible:** I have passed out the amendment (19.0425.0100).

**Kelvin Hueltt, BND:** You have a series of amendments before you. We have been working with a bond counsel. There are three bills within the legislative session, so we are trying to get all the language standardized across the bills so that we all have consistent understanding of what we are doing. I will explain the bills and how the funds get into the School Construction Assisting Fund and how we will be able to guarantee the 2% interest rate for the schools.

Chairman Schaible: Other questions.

Senate Education Committee

"Click here to type Bill or Resolution Number"

"Click here to type date"

Page 2

**Motion by Rust to approve amendment 19.0425.01003.**

**Second by Davison.**

**Roll Call taken: 7 Yeas; 0 Nays; 0 Absent.**

**Motion to adopt the amendment passes.**

**Do Pass as Amended SB 2214 and refer to Appropriations. By Rust, second by Davison.**

**Roll Call taken: 7 Yeas; 0 Nays; 0 Absent.**

**Motion carries.**

January 28, 2019

*Handwritten:*  
1/28/19  
1/28/19  
1/28/19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2214

Page 1, line 3, remove the second "and"

Page 1, line 3, after "15.1-36-06" insert ", and 15.1-36-08"

Page 7, after line 23, insert:

**"SECTION 6. AMENDMENT.** Section 15.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-08. School construction assistance revolving loan fund - Bank of North Dakota - School construction projects - Continuing appropriation.**

1. The school construction assistance revolving loan fund is a special revolving loan fund administered by the Bank of North Dakota. The fund consists of all moneys appropriated or transferred to the fund by the legislative assembly, all interest or other earnings of the fund, and all repayments of loans made from the fund.
2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank of North Dakota on a continuing basis for the purpose of providing low-interest school construction loans and for paying administrative costs, in accordance with this section.
3. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Publish in the official newspaper of the district the information regarding the proposed estimated additional millage and the dollar increase per one thousand dollars of taxable valuation in accordance with section 21-03-13 along with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and  
(2) Post the information on the school district's website preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.

2/2/22

4. The superintendent of public instruction shall review loan applications based on a prioritization system that includes a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
  
5. If the superintendent of public instruction approves the loan, the Bank of North Dakota shall issue a loan from the school construction assistance revolving loan fund. For a loan made under this section:
  - a. The maximum loan amount for which a school district may qualify is ten million dollars for a bond issued pursuant to chapter 21-03, except a school district may borrow an additional ten million dollars from the fund for projects that exceed the ten million dollar threshold, subject to the availability of funds in the school construction assistance revolving loan fund. However, if a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the loan amount under this section may not exceed eighty percent of the project's cost up to a maximum loan amount of eight million dollars;
  - b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
  - c. The interest rate of the loan may not exceed two percent per year.
  
6. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with this section. The Bank of North Dakota may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administration costs which may not exceed one-half of one percent of the amount of the interest payment. The Bank of North Dakota shall deposit principal and interest payments made by school districts for loans under this section in the school construction assistance revolving loan fund. The Bank of North Dakota shall arrange for the conduct of an annual audit of the school construction assistance revolving loan fund, the cost of which must be paid from the fund and which must be conducted by an independent accounting firm."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2214

Page 1, line 2, remove "subdivision c of subsection 5 of"

Page 1, line 3, remove "section 6-09.4-03 and"

Page 1, line 4, remove "public finance agency definitions,"

Page 1, line 5, after the second semicolon insert "and"

Page 1, line 6, remove "; to provide an effective date; and to declare an emergency"

Page 1, remove lines 8 through 13

Page 2, line 15, after "lend" insert "or transfer"

Page 2, line 23, after "15.1-36-08" insert ". Bonds issued for this purpose are payable in each biennium solely from amounts that the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds, and nothing in this section may be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds or replenish a related reserve fund. The bonds are not a debt of the Bank of North Dakota or the state, and the full faith, credit, and taxing powers of the state are not pledged to the payment of the bonds. The obligation of the public finance authority with respect to the bonds shall terminate and the bonds shall no longer be outstanding as of the date appropriated funds and reserves are not sufficient to pay debt service on the bonds. In addition to providing funds for transfers to the department of transportation, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds and establish a reserve fund for the bonds"

Page 7, line 26, replace "\$4,000,000" with "\$5,000,000"

Page 8, replace lines 4 and 5 with:

**"SECTION 7. APPROPRIATION - FOUNDATION AID STABILIZATION FUND.**

There is appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the public finance authority for the purpose of debt service repayments associated with bonds issued to support the school construction assistance revolving loan fund, for the biennium beginning July 1, 2019, and ending June 30, 2021."

Renumber accordingly

88  
102

PROPOSED AMENDMENTS TO SENATE BILL NO. 2214

Page 1, line 2, remove "subdivision c of subsection 5 of"

Page 1, line 3, remove "section 6-09.4-03 and"

Page 1, line 4, remove "public finance agency definitions,"

Page 1, line 6, replace "to provide an effective date; and to declare an emergency" with "and to provide an appropriation"

Page 1, remove lines 8 through 13

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Renumber accordingly

Date: 1-30-19  
Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2214**

Senate Education Committee

Subcommittee

Amendment LC# or Description: 19.0425.01002

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:     Reconsider     \_\_\_\_\_

Motion Made By Sen Rust    Seconded By Sen Fors

Senators	Yes	No	Senators	Yes	No
Chairman Schaible:	✓		Senator Marcellais:	✓	
Vice-Chairman Fors:	✓		Senator Oban:	✓	
Senator Davison	✓				
Senator Elkin:	✓				
Senator Rust:	✓				

Total (Yes) 7    No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Motion Carries*





**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2214**

Senate Education Committee

Subcommittee

Amendment LC# or Description: 19.0425.01 063

- Recommendation:  **Adopt Amendment**  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rust    Seconded By Davison

Senators	Yes	No	Senators	Yes	No
Chairman Schaible:	✓		Senator Marcellais:	✓	
Vice-Chairman Fors:	✓		Senator Oban:	✓	
Senator Davison	✓				
Senator Elkin:	✓				
Senator Rust:	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**SB 2214: Education Committee (Sen. Schaible, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2214 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "subdivision c of subsection 5 of"

Page 1, line 3, remove "section 6-09.4-03 and"

Page 1, line 4, remove "public finance agency definitions,"

Page 1, line 6, replace "to provide an effective date; and to declare an emergency" with "and to provide an appropriation"

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Renumber accordingly

**2019 HOUSE EDUCATION**

**SB 2214**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

SB 2214  
3/12/2019  
33558

- Subcommittee  
 Conference Committee

Committee Clerk: Bev Monroe

## **Explanation or reason for introduction of bill/resolution:**

A bill relating to debt service payments; relating to borrowing and lending authority, reserve funds and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; and to provide an appropriation

## **Minutes:**

Attachment 1, 2

**Chairman Owens:** Opened the hearing on SB 2214.

**Sen. Don Schaible: (Attachment 1)** There is an amendment that the Bank of North Dakota will be offering which I am in full support of. It does propose some cleanup language. The other thing it does for this is that if there is money left over in a year, they could go up to a \$20M loan. If they go through the priority list of who needs the loans and we have more money than schools, a school can then apply for a \$20M loan and that would be given to that school. That is only available if there is money left over. We have heard a lot that some of our larger school in some of our higher areas that this helps, but they need a little more help. Part of the amendment also suggested that if we don't need the money right away it helps the financing structure and provides a better transferring of how we want to do this.

**Chairman Owens:** Any further questions from the committee?

**Kelvin Hullet, Marketing Director, Bank of North Dakota: (Attachment 2)** I'm here today with two purposes. One is to answer any technical questions that you might have related to the current SCALF program or what we anticipate implementing if this bill were to pass. The second is we do have some cleanup amendments that we are providing to you. End 20:10

**Chairman Owens:** Any questions from the committee? We're still working on this 75/75/75, this is just an alternative based on what we have done and what we are doing now. We are still growing what we are calling a split dollar plan?

**Kelvin Hullet:** Yes. With this alternative, instead of doing the 75 three times, what we are going to do is utilize the \$25M bond against that, do the capital influx and utilize that for the projects going out. We are going to disconnect the repayment of the bond from how we utilize the funds. At some point we will have that curve. End 21:10

**Chairman Owens:** 'The bonds are not a debt of the Bank of North Dakota or the state, and the full faith, credit, and taxing powers of the state are not pledged to the payment of the bonds. Upon the date appropriated funds and reserves are no longer sufficient to pay debt service on the bonds, the obligation of the public finance authority terminates and the bonds are no longer outstanding.' Will that not have an effect on the bond's ratings?

**Kelvin Hullet:** Yes that would. What is proposed in this bill and when you look at the language, this is an appropriation bond. There are bonds that can be issued by the state. There are the revenue bonds that we use for a variety of things related to some of the higher education projects. General obligation bonds are a bond that is an obligation of the state that is limited by the constitution to \$2M; it's all of the general obligation bonds that we can issue as a state and this is what is considered an appropriation bond. This would go to market with the idea that the legislature will appropriate the idea that the legislature will appropriate the funding for this bond over the course of the term. If the state were to default on this bond, it would impact the credit rating of the state.

**Chairman Owens:** With the different types of bonds, you were referring to the requirement of one-half of one percent limit on bonding, and that was the general revenue bond?

**Kelvin Hullet:** In the Constitution, the State of North Dakota may only issue up to \$2M in general obligation bonds. It can go higher than that if it pledges the assets of the Bank of North Dakota and a couple other things. The ability to utilize the general obligation bonds is very limited. Appropriation bonds are what the state has used for a variety of projects including higher education over the course of time. It is a mechanism to allow the state legislature to appropriate the funding for the payment on an ongoing basis. It would be very similar to what you see in the higher ed bill that is proposed this session for \$151M using the sales tax as a repayment.

**Chairman Owens:** Is that what we did for the Heritage Center?

**Rep. Pat D. Heinert:** On top of page 9 of your proposed amendment talking about the \$10M and the option to go to \$20M, the way this is written sounds different to me than how Sen. Schaible presented it.

**Kelvin Hullet:** I would let the chairman clarify if he would like to, but I believe that when we worked together on the amendment that was the intent that we would have a \$10M cap. If we have extra money, then we could do another \$10M to that specific school district to get to a total of \$20M for an individual school.

**Rep. Pat D. Heinert:** When is that decision going to be made? It sounds like it would be after the first year of the biennium, so it would be in the second year of the biennium, but that isn't really spelled out in here. I'm thinking about school bond issues and they are going to come for \$20M on day one.

**Kelvin Hullet:** The Department of Public Instruction is here and administer the program. I would ask Don to answer that.

**Don Williams, Assistant Director of School Finance and Organization, Department of Public Instruction:** The application process is a one-year increment, so April 1 of each year all student loan applications need to be in. Those are capped at \$10M. My understanding of the amendment is – if we only receive a limited number of applications at that \$10M dollar cap – if there is money left over we can revisit it based on our prioritization matrix. Based on that we can look at funding additional projects past that \$10M.

**Chairman Owens:** Anyone else in support of SB 2214?

**Elroy Burkle, ND Small Organized Schools:** We support this construction program. As a former superintendent I really like page 7 on version .03000, the interest rate on the loan under this section may not exceed 2%, and it's for the duration of the loan is my understanding.

**Vice Chairman Cynthia Schreiber-Beck:** Any questions for Mr. Burkle? Continue with support of SB 2214? Any opposition? Any neutral testimony? We will close the hearing on SB 2214.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

SB 2214  
3/19/2019  
33924

Subcommittee  
 Conference Committee

Committee Clerk: Bev Monroe

By: Elaine Stromme

## Explanation or reason for introduction of bill/resolution:

Informational presentation

## Minutes:

Attachment 1, 2

**Chairman Owens:** Opened the Meeting on SB2214.

**Kelvin Hullet, Bank of North Dakota:** (Attachment 1) Foundation Aid Stabilization – Bonding Concept to Support School Construction Revolving Loan Fund. The Sunset clause is for the buy down. We need \$150,000,000 more now.

**Eric Hardmeyer, Bank of North Dakota:** (Attachment 2) This is 2019-2021 Proposed Bonding. How we create revolving loan funds.

**DeAnn Ament, ND Public Finance Authority:** refers to (Attachment 1), page 9, 10, 11, 12, 13, 14. On the slide of Common Bond Structures; and your question about General Obligation Bonds Verses Appropriation Bonds. We are talking about Appropriation Bonds; every session the Legislature has to authorize the bonds payment. This is the system used for many years, to build various building projects, from Universities, to Job Service, to the Correctional facilities. For the General Obligation Bonds for the state of North Dakota, there is a limitation of \$2,000,000. We all know that won't go very far. The other difference is that it is backed by the full faith and credit of the state, you have to make that payment, whether you have to raise some sort of tax or whatever you need to do. That is the big difference between a General Obligation and an Appropriation Bond. There is currently \$7,000,000 of bonds outstanding, and their biannual payment will need to be approved by the legislature. There are no General Obligation Bonds outstanding at this time. Other types of Bonds are State Agency Revenue Bonds, these do not have the full faith and credit of the state. So the state would not be on the hook for these. You will see Housing Finance Authority; those are payable through the mortgages that are financed through the Housing Finance Agency. They have the largest amount with \$1,000,000,000. outstanding. The next is the Public Finance Authority, we have two different programs that we issue bonds for, we have \$500,000,000. Outstanding, we repay those with the State Revolving Fund Program that we issue bonds for. (That is for water and sewer projects) So cities come to our agency and borrow money and they use their water rates, sewer rates, sales tax, or special assessments to repay us. There is \$1,000,000 outstanding for the student loan trust and \$270,000,000 that the University System has outstanding. There is \$1.7 Billion of revenue bonds outstanding.

Those payments are not coming from the legislature, they are coming from the University Systems, the mortgages, the home owners, and the cities. The net tax supported debt per capita shows North Dakota as coming in third to the last state at \$133. per person.

**Rep. Hoverson:** If this bill is passed it would move ND from \$133 to \$1296 per capita?

**DeAnn Ament:** That would be all of the Appropriations Bonding. That would include the Building Authority, the Infrastructure fund, the Corridors of Commerce, and this SB2214.

**Rep. Hoverson:** We are currently at \$133 and if everything passes this biennium it would move that to \$1296 per person?

**DeAnn Ament:** Yes.

**Rep. Hoverson:** Can Appropriation Bonds and General Obligation Bonds, be used for something other than construction?

**DeAnn Ament:** There really aren't any limitations to what they can be used for, these are the general norms of what they are used for. The General Obligation Bonds require a vote, whereas, the revenue bond does not require the city to vote.

**Rep. Heinert:** In reference to the ratings, if all these proposed bills pass, would that affect our state rating at all from a double A 1?

**DeAnn Ament:** No. If all of these bills pass we don't anticipate that there would be any impact to the rating for our state. 30:05

**Rep. Mary Johnson:** How do you see that if in 2020; they would put all of the earnings into the principle, and it takes a 2/3 vote for expenditures. How do you see this working with that?

**DeAnn Ament:** The School Construction Assistance Loan Fund, (SCALF) isn't tied to the Legacy Fund so that wouldn't be a concern for what we are talking about.

**Chairman Owens:** So the question is; does this require a 2/3 vote, I think is what you are saying, right? So this comes from earnings, this does not come out of the principle. To spend the principle, you need a 2/3 vote.

**Eric Hardmeyer:** I would like to show you one slide that would be of interest to you. It is called Foundation Aid Stabilization Fund, if you look at this page, it really shows you the amount of debt that is required to pay this bond for this particular bill, verses what the gross transfer might be. The grey bar is the net afterwards. 35:37

**Chairman Owens:** You talked about this was an alternative to the \$75,000,000. plan. Are we are still continuing to build this \$75,000,000 plan?

**Eric Hardmeyer:** This would replace the need to put \$75,000,000 in it for this biennium and the next, this would give it a shot of up to 200 to 250 which then would replace the need to

make continuing \$75,000,000 appropriations. What you would need to do then is make a \$25,000,000 bond payment out of there.

**Chairman Owens:** Is that going to affect the earnings of the fund, because now instead of it perpetuating itself once it had the \$75,000,000 now we are only putting in \$25,000,000?

**Eric Hardmeyer:** This bill really disconnects the payment of the bonds from the school repayment. So they are two different things.

**Eric Hardmeyer:** (Attachment 1) pages 17, 18

**Rep. Brandy Pyle:** Where do we get our funds for the Foundation Aid Stabilization?

**Eric Hardmeyer:** I think that comes off of the tax revenue, 10% of the oil production tax.

**Rep. Pat D. Heinert:** About the HCR 3035, have you looked at that? How does that change your thought process about what's going on with these other ones?

**Kelvin Hullet:** In looking at that proposed constitutional amendment; what it says is that the legislature would be required to provide a 2/3 vote to access the earnings or the principle of the Legacy Fund. First of all, this comes from Foundation and Stabilization. This would not be impacted by this constitutional amendment. So if the legislature moves forward with appropriation bonds on those projects, right now the identified source of funds would be the Legacy Fund. However, should SB 2275 pass and bonds have been issued for the infrastructure revolving loan fund, then the Legislature would need to find another revenue source to pay those bonds.

**Chairman Owens:** Any more questions?

**Rep. Ron Guggisberg:** What is the total cost of all these interest buy downs that we do in the state?

**Kelvin Hullet:** If you look at HB1014, which is the Industrial Commission Bill, and it has the Bank of North Dakota. You will see that we have proposed \$36,000,000 in buy down for this biennium, and that includes our pace program, then we propose \$5,000,000 in buy down from Foundation Aid Stabilization for school construction loans. So it's about \$41,000,000 for buy down programs, of which \$36,000,000 would come from the Bank of North Dakota profits appropriated by the Legislature, and then \$5,000,000 from Foundation Aid.

**Rep. Ron Guggisberg:** How common is this in other states, to do these buy down programs for interest?

**Eric Hardmeyer:** There is a couple of other states that do it, but no one does it like we do. The reason for that is that you have the Bank of North Dakota where you can take the appropriation from. It is an effort with a public private partnership that engages our local banks, they have to initiate the loan, also we can look at our pace programs. The local entities have to provide a share of the buy down. We have a factor every year, it is a 35 to 15% factor and depending on size and the number of economic inputs it makes a determination about

how much does a community have to put into the buy down program to access the state funding. So a bigger community would put more of their money in and use less of the state's money. So Fargo, for instance, is a 65 - 35 community, so when we do the buy down they put in 65% and we put in 35%.

**Rep. Ron Guggisberg:** So using 2% interest rate for a lot of these loans, is that a bit risky? Have you ever considered using the Federal Rate?

**Kelvin Hullet:** Yes, there is two different ways to look at this; I will use school construction as the first example; so we have an on balance sheet and an off balance sheet program, the school construction assistance revolving loan fund and the infrastructure revolving loan fund or both balance sheet programs. So those are programs created by the legislature, they are funds that are created by the legislature and the Bank of North Dakota administers those funds on behalf of the legislature. Those funds do not count towards the Bank of North Dakotas balance sheet. These are separate funds that belong to the Legislature, and that is how come we can offer them at a 2% buy down rate. (Attachment 1) page 20 -- 23 Bond terminology.

**Eric Hardmeyer:** Both of these bills will help the tax payer, and even out the construction loan process.

**Chairman Owens:** Meeting adjourned.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

SB 2214  
3/20/2019  
34022

- Subcommittee
- Conference Committee

Committee Clerk: Bev Monroe

By: Elaine Stromme

**Explanation or reason for introduction of bill/resolution:** A bill relating to debt service payments; relating to borrowing and lending authority, reserve funds and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; and to provide an appropriation.

**Minutes:**

**Chairman Owens:** Opened the Meeting on SB2214.

We know we have some school construction needs out there, we also know that the bonding bill is not going to pass the house. Last session we had set up and agreed to 3 biennium at \$75,000,000 to create the perpetual school construction loan program. We only did it once, so now what I am doing is I am returning to that with this amendment and putting in the second payment of the \$75,000,000. There is one little change, because of the demand currently, I would like to make, if you look in there it says; revolving loan fund up to \$250,000,000 must be used to repay the Bank of North Dakota. I would like to change that to \$225,000,000 all this does is, there is no bonding in here, continues what we started last time about transferring \$75,000,000 from The Foundation Aid Stabilization Fund, which is for schools, into a school construction revolving loan program that we set last time, with the first \$75,000,000. The focus is to do \$75,000,000 for 3 biennium's, at that point the Bank as it keeps moving other construction loans through and we develop new ones it will start funding itself after that, as it grows it will create perpetual motion. Hopefully, we might decide to add money to it in the future. We are consolidating these programs. The bonding right now is an Appropriations Bond, not a General Obligations bond.

**Kevin Hullet, Market Manager for the Bank of North Dakota:** I am looking at the amendment. Last session we created the perpetual school construction loan program. We have on the Bank of North Dakota books about \$83,000,000 remaining, that we are holding to utilize a buy down, to get to the 2%. We had requested over in our budget bill 1014, \$5,000,000 to buy down those loans over this biennium, that \$5,000,000 has been removed out of 1014 so there was \$5,000,000 that was put into 2214 that would come from Foundation Aid to buy down those loans. So that would be a point of discussion that we need to have, is to buy down those loans in this interim, the legislature will have to make a determination if they are going to use \$5,000,000 in earnings from the Bank of North Dakota or if we are going to utilize \$5,000,000 of the \$75,000,000 from the Foundation Aid Stabilization Fund. So right now that \$5,000,000 is kind of nowhere. We would need to say that.

**Chairman Owens:** So you said you had \$83,000,000 that is currently on the balance sheet, as you move those over will you eliminate the buy down because the loans are with you?

**Kevin Hullet:** Yes

**Rep. Heinert:** You made the comment that \$25,000,000 in buy down would ultimately save the money in the buyback program. Would we not have that money to utilize for future buy backs?

**Kevin Hullet:** So what happens is we have \$83,000,000 of loans on our books, out to various school districts across the state. So if the Legislature says we are going to allow the Bank of North Dakota \$20,000,000 to buy loans back into the school construction loan program. So we move them from our balance sheet into the program, that does a couple of things, number one that guarantees that those school districts are going to have the 2% interest rate out beyond 2025, which is one of their concerns. The second thing it does, is as we look at that buy down number, which is \$5,000,000 for this biennium. As we move that \$20,000,000 in the next biennium yes that \$5,000,000 will become \$3,000,000 or 4,000,000. Then if the legislature says we are going to appropriate \$75,000,000 in the next biennium we could do the \$20,000,000 again, but then we would only need \$3,500,000 for the buy down. So the buy down number will go down as we move through the biennium's.

**Rep. Zubke:** So how do you know which loans to pick? By age?

**Kevin Hullet:** Yes, we have worked out a schedule, and have a whole spread sheet we put together, some of it is based on size, so we are bringing in as many as we can with that number. Some of it is based on when we issued the loan. We have a whole tiered structure that we base it on.

**Chairman Owens:** I will take this amendment upstairs to LC and bring it back this afternoon.

Meeting adjourned.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

SB 2214  
3/20/2019  
34052

- Subcommittee  
 Conference Committee

Committee Clerk: Bev Monroe

By: Elaine Stromme

**Explanation or reason for introduction of bill/resolution:**

A bill relating to debt service payments; relating to borrowing and lending authority, reserve funds and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; and to provide an appropriation.

**Minutes:**

**Chairman Owens:** Opened the Meeting on SB2214.

**Rep. Zubke:** made the motion to adopt the amendment for SB 2214

**Rep. Longmuir:** Seconded

A voice vote was taken; Motion carried

**Rep. M. Johnson:** made a motion for a Do Pass as Amended SB2214  
And Rerefer to Appropriations

**Rep. Pyle:** Seconded

A roll call vote was taken: Yes 11 No 0 Absent 3

Vote carried on SB2214 as amended

**Rep. Longmuir** will carry SB2214

Meeting Adjourned

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2214

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund.

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

**SECTION 1. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Pursuant to the continuing appropriation authority under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06. In addition, provided sufficient funding is available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund. The remaining amount transferred to the school construction assistance revolving loan fund is available for new school construction loans."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO.   SB2214**

House   Education   Committee

Subcommittee

Amendment LC# or Description:   19.0425.03002  

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Zubke   Seconded By   Rep. Longmuir  

Representatives	Yes	No	Representatives	Yes	No
Chairman M. Owens			Rep. Guggisberg		
V. Chair. Schreiber-Beck			Rep. Hager		
Rep. Heinert					
Rep. Hoverson					
Rep. D. Johnson					
Rep. M. Johnson					
Rep. Johnston					
Rep. Longmuir					
Rep. Marschall					
Rep. Pyle					
Rep. Strinden					
Rep. Zubke					

Total   (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
**Voice Vote   Motion carried**

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO.   SB2214**

House   Education   Committee

Subcommittee

Amendment LC# or Description:   19.0425.03002  

Recommendation:    Adopt Amendment  
                           Do Pass    Do Not Pass    Without Committee Recommendation  
                           As Amended                    Rerefer to Appropriations  
                           Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. M. Johnson   Seconded By   Rep. Pyle  

Representatives	Yes	No	Representatives	Yes	No
Chairman M. Owens	X		Rep. Guggisberg	X	
V. Chair. Schreiber-Beck	X		Rep. Hager	X	
Rep. Heinert	A				
Rep. Hoverson	A				
Rep. D. Johnson	X				
Rep. M. Johnson	X				
Rep. Johnston	A				
Rep. Longmuir	X				
Rep. Marschall	X				
Rep. Pyle	X				
Rep. Strinden	X				
Rep. Zubke	X				

Total   (Yes)   11                             No   0  

Absent   3  

Floor Assignment   Rep. Longmuir  

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2214, as engrossed: Education Committee (Rep. Owens, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2214 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund.

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

**SECTION 1. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Pursuant to the continuing appropriation authority under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06. In addition, provided sufficient funding is available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund. The remaining amount transferred to the school construction assistance revolving loan fund is available for new school construction loans."

Renumber accordingly

**2019 HOUSE APPROPRIATIONS**

**SB 2214**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

SB 2214  
3/27/2019  
34280

- Subcommittee  
 Conference Committee

Committee Clerk: Risa Bergquist

## Explanation or reason for introduction of bill/resolution:

**For a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund.**

## Minutes:

**Chairman Delzer:** This is a bonding bill; house education took the bonding out. They are trying to expand the foundation aid fund for school construction assistance. Four years ago we used 75 million, we thought it would take 3 biennia of 75 million into a revolving fund that should be self-sustaining. When we had the big cutback last session we weren't able to put any more money in it. The education committee looks like they want to put 75 million in there, unfortunately we don't have 75 million.

**Representative Owens:** The committee saw the bonding and the bank came before us and told us per capita 133 dollars in North Dakota, after passing all four bonding bills it would be just under 1200 dollars per capita. We felt like that was a little too high of an increase. Last session we took the 75 million and what that does over three biennia it creates a self-funding fund. This would consolidate all the current construction loans and provides an amount after the third year, so much per year to fund new construction loans and the payments from the current in that one feed the fund and it's self-perpetuating from there on out.

**Chairman Delzer:** There's a line in here for 5 million for interest buy downs, did you have the discussion on what that is trying to do? Is that something to continue or should we just leave the interest at the government rate?

**Representative Owens:** I don't remember the rate before the buy down, this is buying down the construction loans that are at 2% right now. The bank is currently taking money from its earnings buying down to 2% on the purchase of funds. When you purchase fund there is a cost and they are using this to buy them down. The bank is looking to refund that pot that they used to buy down these loans.

**Representative Brandenburg:** What happens for the responsibility of the loans? Does that fall on the state or does it fall on those schools?

**Chairman Delzer:** If there's a default it would fall on the bank and then the state.

**Representative Owens:** This doesn't change anything; this is just the financial component.

**Chairman Delzer:** In SB 2065 and in HB 1365 we are doing this sinking interest changes. This is a big difference to the local school districts on construction loans and what their bonding payments are. They also have to bond for a certain portion of this the same as they borrow. But that other issue is going to make it much easier for them to go after the bond, the bond will be considerably smaller than what it would have been.

**Representative Owens:** Correct, by zeroing out the sinking and interest fund, based on the number of mills that will free them up to get smaller bonds and they will have the funds to pay those bonds.

**Chairman Delzer:** We also have to remember it's the cost to the state for 12 million dollars, one time I would guess.

**Representative Owens:** SB 2265 and HB 1365, they are identical now. What I fully expect they will go to conference committee or they will cross into the other houses and whichever passes first the other one can be destroyed.

**Chairman Delzer:** They put all of 2065 into 1365?

**Representative Owens:** Other way around except for the amendment that we added in this committee. In 2065 we changed that to stretch it out over 6 biennia. They just added those two items.

**Chairman Delzer:** Any further questions? I will be asking for an amendment on SB 2214, when you look at the numbers of what we have in the financial aid stabilization fund, when you take the 25 million that this bills originally asked for bonding and the 9 million we have in excess, I've been told some of that is spent in 2065, the best we can do is 35. I would ask for intent language that next time we would ask for 110 for ongoing education and 75 into this fund. That doesn't do it in three biennia but in the end it would be a self-sustaining fund.

**Representative Owens:** I have seen this work; I know this designs functions the way it's supposed to. I think we could apply it to a few of our other issues we have in the state.

**Chairman Delzer:** That's what we are trying to do for infrastructure also. Further questions by the committee? Seeing none we will close this hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

SB 2214  
3/29/2019  
34366

- Subcommittee  
 Conference Committee

Committee Clerk: Risa Bergquist

## Explanation or reason for introduction of bill/resolution:

**For a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund.**

## Minutes:

**Chairman Delzer:** Calls the meeting to order for SB 2214. I have an amendment for us to consider. The amendment would remove the 75 million down to 35 million. The idea of having this fund is not a bad idea but I think all we can afford this time is 35 million. It changes the authority of the bank to only use 2.5 instead of 5 million for interest buy down. It also puts in legislative intent that next biennium we will put 110 million on ongoing and try to put the 75 million in here to get this fund up to where it's self-sustaining.

**Representative Monson: Make a motion to amend with amendment 19.0425.03004**

**Representative Beadle: Second**

**Representative J. Nelson:** Is there any money in the school construction fund now that is remaining from the previous biennium?

**Chairman Delzer:** There is probably a little bit that is probably committed but not used. There should be some returning every year because we did do that. When we did that we also rolled in the other school construction loans that were out there.

**Representative J. Nelson:** There was a number of bond issues last fall and the reason for those bond issues was because of the availability of this fund before the construction.

**Chairman Delzer:** We can hold this until we find out more if we need to but I don't think we'd be able to change the 35 million regardless.

**Representative Monson:** I am not sure if we need this at all, but at least amending it down takes some of the pressure off the budget stabilization fund. Keep in mind with SB 2065 we

are taking away the sinking interest as in lieu, that is way bigger than this. They won't have to bond for nearly as much but they will pay higher interest rate.

**Chairman Delzer:** Further discussion? Seeing none. **Voice vote all in favor, motion carries.** We have the amended bill before us, is there any more amendments?

**Representative Monson: DO Pass as Amended**

**Representative Vigesaa: Second**

**Chairman Delzer:** Motion for a do pass as amended, any further discussion? Seeing one we will call the roll.

**A Roll Call vote was taken. Yea: 19      Nay: 0      Absent: 2**

**Motion Carries, Representative Monson will carry**

**Chairman Delzer:** With that we will close this meeting.

DP 4/1/19

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2214

In lieu of the amendments adopted by the House as printed on pages 1258 and 1259 of the House Journal, Engrossed Senate Bill No. 2214 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund; and to provide a statement of legislative intent.

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

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

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

Renumber accordingly

Date: 3/29/2019  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2214**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 19.0425.03004

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Representative Monson    Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

**Voice Vote/Motion Carries**

Date: 3/29/2019  
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2214**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Representative Monson Seconded By Representative Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	X				
Representative Anderson	X		Representative Schobinger	X	
Representative Beadle	X		Representative Vigesaa	X	
Representative Bellew	A				
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	A	
Representative Kreidt	X		Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	X				

Total (Yes) 19 No 0

Absent 2

Floor Assignment Representative Monson

**Motion Carries**

**REPORT OF STANDING COMMITTEE**

**SB 2214, as engrossed and amended: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (19 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).** Engrossed SB 2214, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 1258 and 1259 of the House Journal, Engrossed Senate Bill No. 2214 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund; and to provide a statement of legislative intent.

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

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

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

Renumber accordingly

**2019 CONFERENCE COMMITTEE**

**SB 2214**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2214  
4/12/2019  
34711 (23:31)

Subcommittee  
 Conference Committee

Committee Clerk: Lynn Wolf
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## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

Att. #1-Schaible; Att. #2-Hardmeyer
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**Chairman Schaible** calls the Conference Committee to order on SB 2214. All members were present: Senator Schaible, Senator Rust, Senator Marcellais, Representative Owens, Representative Monson and Representative Sanford.

**Chairman Schaible: (See Att. #1)** We are looking at SB 2214. I would ask the House members to explain their suggested changes to the bill.

**Representative Owens:** The Bank of North Dakota (BND) came in and explained to the committee exactly how much all this bonding would cost per capita. There was no way it was going to pass the committee at that point. We returned to what we had started last session with the \$75 million for three biennia to create revolving fund. After that, Appropriations got a hold of it. The committee passed that to continue the process we had started last time with the \$75 million. The \$5 million added in there was to reimburse the BND – from their own funds – but, to reimburse it specifically for their interest buy down on some other loans where they were – quite frankly – eating the interest buy down. That is what we did to it in the House Education Committee.

(1:52) **Representative Monson:** We took it from House Education as Representative Owens explained it and took it down to \$35 million from the \$75 million and we cut the \$5 million in interest buy down money down to \$2.5 million. Mainly, we were just looking at how much money is being spent from the foundation aid stabilization fund and thought that was about all we could afford to do. Another factor in there is in the SB 2265, K12 funding, there is no in lieu of or mill deduct anymore for the Sinking and Interest if this all passes. Any school district that is going into a new school construction and does some bonding and has payments – Sinking and Interest payments – they are going to see more money coming into their coffers and staying there because if that sticks – SB 2265 – the way it is and in SB 2013

– we felt that they probably wouldn't have to borrow quite as much money through this one since they would have more money left over – if you will – from their per pupil payments that don't have the deduct.

(3:58) **Chairman Schaible:** The first thing I would like to discuss is that \$5 million going to \$2.5 million. The \$5 million that we did in the 2013 session where the BND did \$125 million worth of loans – they created that fund – the school construction fund – that we loaned out, they could only secure ten years of interest rates – because of banking rules and whatever. We had a 2% on there, but it was only guaranteed for ten years. What this \$5 million is to do is to extend that – pay that off and roll that into this fund and do that so that we can get those schools – and I believe one of them is Carrington – so that we protect that 2% interest. If we can't do that, their interest rates might go from 2% to 5% and that is what the \$5 million does. The idea behind all of this – when we started six years ago – and school construction started way beyond that was we decided to take an avenue that we are going to go into school construction and get into a fund that would eventually be self-sufficient, but we would also have to have a plan to roll all these other school construction loans into that plan. This \$5 million is to roll those schools that we paid for in 2014-15 – to get them on board. By not funding that now, we are saying to them we are not sure we are going to guarantee 2% for 20 years – which everybody else would be. I kind of see that as not doing what had been intended. The intent started quite a while ago that we were going to go down the road of school construction. We have done that and actually, made some pretty good progress and now we are going to say by intent that we are not going to do that. I don't think that is appropriate. I think we need to make sure that the \$5 million goes in there because we have schools that ask questions of me and I tell them we are sure that the plan was to roll these schools into the same plan and treat everybody the same. By doing this now, it looks like we are saying maybe we will treat you the same and maybe we won't. Would you have a response to that?

(6:30) **Representative Monson:** If we made that commitment, we are going to have to live up to that commitment. It doesn't have to be made whole at this time though. Do we have to move all \$5 million or set that aside right now? Is \$2.5 million adequate to buy down the interest rate? Hopefully, we will have more money coming available in the future. It would never be our intent to renege on that promise to provide them with low interest loans, but do we need to make that statement in this one or can we put that off for a few years?

**Chairman Schaible:** In my opinion, I guess it just an idea of money management and efficiency. It would buy down the interest. Could we have the BND come up and explain that?

**Eric Hardmeyer: (See Att. #2)** Thank you Senator Schaible. Let me just talk a little bit about this buy down first. As you recall, in 2015, the commitment to go forward with school construction was provided in legislation where the BND would make loans for school construction as we worked it through the legislature, we were up front and said we don't have 2% money. We have 5% money that we can do this with and we will commit to that for a 10-year period. The schools will pay 2% - the bank will receive 5% - that 3% difference will be made up by what was called a school construction buy down. For the first two biennia, the BND made those loans and we provided the buy down out of our capital. At this point, the idea was that those loans would eventually – the \$120 million – the intent was that eventually, those would revolve into the SCALF fund. As it stands today, that \$120 million is paid down

to \$80 million. That is what is on our books, that is what is at this point projected to stay on our books and pay down. Let me just talk about the buy down and why it is essential that you don't reduce it from \$5 million to \$2.4 or \$2.5 million. That is the amount of money on the \$80 million that we hold on our books for school construction. To pay it down from 5% to 2% - 3% for two years - \$80 million is \$2.4 million a year times two is \$4.8. That is what it takes for two years to make the BND whole on the \$80 million that we are holding to make sure that the schools only pay 2%. The arbitrariness of the cutting it in half just simply the math doesn't work there. Either the schools have to pay a higher price or BND takes a haircut on a rate that was committed to us for this program. We feel pretty strongly that that \$4.8 million needs to be there and instead of BND paying for it, it probably should come out of the foundation aid stabilization fund where school construction originated. That is our math on it and why we feel pretty strongly that the \$2.4 million is half of what is needed.

(10:47) **Representative Monson:** Eric, is that 5% a fixed rate that was set at that time? You don't float that? Because last I heard, you're going rate was like 4.0 something – 4.1 – it floats up and down – basically weekly.

**Eric Hardmeyer:** That is a variable rate. What we committed to was a fixed rate of 5% for ten years. We did that in 2015. We committed to a fixed rate of 5% for that ten-year period. I think what we said now is that as long as those are on our books, we will continue to provide a 5% rate.

**Chairman Schaible:** If my memory serves me correctly, you couldn't go more than 10-years?

**Eric Hardmeyer:** That was our source of money at the time.

**Chairman Schaible:** At that point, the plan was to roll these over before that happened, because after the 10-years, the interest rates could be quite higher. So the plan was to make sure we rolled this into this fund so that we also protect that 2% and treat everybody the same.

**Eric Hardmeyer:** Right. And just to continue on, that was the idea last biennium was that we were going to get \$75 million for each of the next two bienniums. At that point, all of this would be rolled out of the bank into the SCALF fund. That is how that works.

(12:31) **Representative Monson:** I guess we are not going to short the interest rates that the schools are getting reimbursed, I mean we a commitment to them. The BND is our asset, the state of ND's asset, so if we short them, they are not going to get the kind of profits we keep raiding every time. It is our asset that we can do with as we need to. I guess I was thinking we were maybe a bit of a flexible – I wasn't sure about the 5% being that solid, but that makes sense. That is something that we can sure consider to look at, but –

**Chairman Schaible:** I guess then, I would move into the discussion that we discussed that we can afford more out of the foundation aid and then we will go into the intent language next. Two years ago, the intent language was that we would make three infusions of \$75 million over the next three sessions – biennium – last session being the first one. I understand that, but I am confused – we were in much shape with foundation aid and what our budget

situation then we are now. I am just trying to rationalize why we can't afford the same amount or even looking at other options to make that more efficient than what we are doing.

(14:44) **Representative Monson:** We looked at the total budget – not just what is coming out of the foundation aid stabilization fund, but we are looking at all the money.

**Chairman Schaible:** The problem is that if we look at all the money, and you say what you can afford and what you can't afford, it seems to me that we have to prioritize. I am wondering why some things are at a higher priority than this. The other comment that I would have with that is that when Measure 2 was passed that gave us authority to use foundation aid for other issues, I understand that we need to move some of that to shore up our budget. I don't think that the intent at that time was ever to continue using foundation aid to be a supplement to a budget. I think the language that was there and the intent that we put into the bills after the measure passed was that this was for educational purposes, but it wasn't really intended to be just a certain percentage of the budget. I agree that we have to do some of this because of situations we were in and still are, but I think by continuing to look down the road and using this just for a budget of K12, that was never the intent and I think we should be moving away from that idea. I understand that the House is rejecting the idea of bonding and I am not talking the whole picture, I am just talking school construction bonding. Maybe you can explain to me why that is so distasteful to the House.

(16:57) **Representative Owens:** Mr. Chairman, I am just going to tell you what happened in the committee that sent them down that road. It wasn't just about this bonding at that point when this bill was heard. The BND told the committee there was \$133 per capita in current bonding in the state of ND. If we did all the bonding – not just school bonding – but all the bonding that was out there, it would be just under \$1200 per capita. That sudden increase – and I realize that was only – that was all the bonding that was being submitted as far as bills. That is what sent the committee in a direction where they weren't interested in doing any bonding all of the sudden even though it was just this one. It was the only one that we are caring about. That is what sent over the – or let me put it this way – it sent enough of them over to do a Do Not Pass in the committee. I brought an amendment to bring it back to our original agreement.

**Chairman Schaible:** I understand that. We have to be cognizant of our debt limit and extending our debt beyond what our means are, but the other thing is what are we asking – there are \$84 million of asked for school construction loans this year – right now. It might have dropped down some – I think Williston failed – but we are looking with the plan we had of the three infusion of \$75 million – that is \$30 million of loans we put out a year. The request for this year is close to \$80 million. The other concept is - are we looking at that slowing down or increasing? I think for a while; we are going to see that increase. There is a priority list on that so – The other question I brought up is if the idea of bonding is just off the table, that we can't afford it, then the additional deposits that are going into the correction deposit or the tribal taxable collection going into the foundation aid is going to - just that more infusion is going to generate over \$25.7 million per biennium more than we didn't have before and going forward would have that. It seems to me, if we are looking to say that – and the other thing is if we would go down that bonding path, we would generate \$84 million worth of school construction every two-years which is \$24 million than what our current plan is and in the end of that it creates some really big positives. The idea is that we would be building more schools

– which if we build them sooner – would be cheaper. We would be providing more property tax relief and if we are looking at job force development – I don't know if you are going to get people to come here if their schools are full or if their kids have to go to portables and that kind of stuff. I am just struggling with the thought that this is a bad idea.

(20:00) **Representative Monson:** Are you saying that it is a bad idea to not bond?

**Chairman Schaible:** I think to not to consider the idea of doing the best we can to promote this – of course we can't fund everybody, but I think – the idea of putting \$35 million into this section would really limit that. It doesn't grow the fund, it is not accomplishing what we need and we are throttling back on the idea of school construction in a time which – I think – we should be accelerating.

**Representative Monson:** I can give you the House Appropriations take on bonding and we feel if all the bonding that has been proposed this time were to be put in place, we would be looking at \$122.5 million biennium payments for the next twenty years. That is the big picture. We have trimmed that way back, obviously, but I have been here a lot of years and let me tell you when we first got here, we had a lot of bond payments and it was tough to make them when we had small revenues and tight budget. It is really a breath of fresh air to not have to have big bond payments every biennium because that is debt. That is just – it has been really, really refreshing to have gotten that number down. Now, all the sudden, we have gotten requests for college campus buildings – which are sorely needed. We know that. We in the House have tried to cut down on some of the bonding by using cash payments whenever we could. Even with our attempts to try to limit the amount of bonding – even now, we have some bills out there still could affect how much we are going to pay in the next – usually, those bonds are 20 years. 10 biennia and we don't want to max out our bonding, so that is why we are really cautious about bonding.

**Chairman Schaible:** And I don't disagree with that. But what is on the table here before us today is a small portion of that. In my opinion, and being the chair of education, I think education should rise to a level of priority. I am not suggesting that we do all of them. It just seems to me that education is a priority – workforce is a priority – I think our immediate needs and what we are looking at in the near future would suggest that is a fair solution. We can visit more about that as we go. I guess we have had enough discussion for today unless there is other questions or suggestions. We will meet again.

The conference committee meeting was closed.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2214  
4/16/2019  
34786 (23:06)

- Subcommittee  
 Conference Committee

Committee Clerk: Lynn Wolf

## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

Att. #1-Schaible

**Chairman Schaible** calls the Conference Committee to order on SB 2214. All members were present: **Senator Schaible, Senator Rust, Senator Marcellais, Representative Owens, Representative Monson and Representative Sanford.**

**Chairman Schaible:** (See Att. #1) Today, we are continuing the discussion on school construction. I did pass out a list of the projected 2018-19 requests for – that were asked – I guess that there are some of these that were prioritized for. When schools put in a request, they are prioritized after April 1<sup>st</sup> and then out of the requests, these were prioritized for the 2019 year that we are currently in. We have them on there and I think you guys have copies of that. The rest of them are still subject to – the money has been spent for the 2019 year and now what we are talking about is moving forward in the future. What we have an offer for is to infuse \$25 million and pay half of the interest on a prior construction plan. Is there any changes on that or- is that still where we are at?

**Representative Owens:** It should be \$35 million not \$25 million.

**Chairman Schaible:** Excuse me, it is \$35 million not \$25 million. It was \$35 million and 2.5 is what it was. I guess the Senate position is still that we were looking at – we still thinking that if we can't afford to put more infusions in it, we still think the bonding request of \$25 million a year and that is where the \$25 million came from – would still be a good idea and also to fully fund that \$5 million of that interest of that interest for the existing projects that we did in the past. I understand that if bonding is not palatable even though since last meeting we have done \$100 million of bonding for higher education, I guess that then I would suggest that we would be probably looking at \$75 million infusion with a \$5 million payment of what the intent language was two-years ago.

(2:46) **Representative Monson:** For the rest of the committee, Senator Schaible and I talked a little bit about he wanted to see this list. That is how you got that. I still have a little bit of

confusion about in 2019-20 school year and then in 2020-21 school year how you – April was the cutoff for the applications, so how does it get on the list and get funded? We were talking here in a sidebar here before we started with the Department of Public Instruction and I am starting to get a handle on this –

**Chairman Schaible:** That is probably a good review, so what I will do is have the Department of Public Instruction come up with Don and then the BND and go through the syniarios of how the money would flow with the suggested plans.

(4:05) **Don Williams, Assistant Director of School Finance and Organization, Department of Public Instruction:** As we were speaking earlier, the April 1<sup>st</sup> deadline – so we have April 1<sup>st</sup> until the subsequent April 1<sup>st</sup> to collect all the student loan construction program applications. To be considered eligible for the program, schools will have to be approved for their project and subsequently pass a bond vote to be on that prioritized list. We collect all those applications and if they have met all the criteria, we prioritize them in order and then forward that to the BND. Then, we start, basically, all over – we start collecting these applications for the next school year. We just got done with that period – April 1<sup>st</sup> – we sent a prioritized list which consisted of five districts that met all the criteria meaning they passed the bond vote – those five schools were prioritized in order – sent to the BND and those are the ones that will be considered for allocation of funding for their projects.

**Representative Monson:** These are going to be funded in this order if the money is available in 2019-2020. Is that correct or are these already approved? They have requested it, if you take Williston and Devils Lake off – which I understand their votes failed, so they don't qualify here – so it is just shy of \$70 million that the rest of these total up to. You have \$85 million minus \$10 million is \$75 million and then you have a \$68 million that comes off, so, \$68 million in requests. You have those prioritized and how much money do you have available?

(6:28) **Don Williams:** That is probably a better question for the BND, but from what I understand, there is probably only be enough to fund possibly the top two of the five that were prioritized. One came in at just over \$5 million was the number one prioritized project and one coming at just over \$8 million was second on the prioritized list. I don't think beyond that the BND will be able to look at funding any projects beyond that, but I would defer to them for more clarification on that.

**Representative Monson:** The Department of Public Instruction gets the applications, they sort through them and prioritize them and decide that these should be funded and then you go to the BND and the BND says we have this number of dollars and we can fund New England - \$5.6 million, we can fund Bottineau – let's say they only have \$6 million for that, so Bottineau would only be eligible for \$6 million – is that how it would work?

**Don Williams:** That is pretty accurate representation, yes.

**Representative Monson:** That would be assuming that no new money goes in if we don't make this. We have \$35 million in our version, the Senate \$75 million. So, if we put \$35 million in for starters – that gets added to the available amount of money, so we would start funding then – Bottineau would get their full \$8 million, McKenzie County would get \$10 million – is that how that works? You just keep going until the money is used up?

(8:21) **Don Williams:** I don't want to answer for the BND, but, I believe the intent for the infusion of the dollars is for the upcoming biennium. Again, that would be a decision for the BND to see if they want to entertain funding projects that have already been approved in districts that have passed their bond vote. I believe the intent is to take that money and look at projects for the upcoming biennium. We have had some discussion on that, but –

**Chairman Schaible:** Just to clarify some – what the plan was two years ago when we did this. It was three infusions of \$75 million. That was the plan. Also, part of the plan was we would be able to loan out \$30 million per year of new money – per year. This actually – 2019 – April 1<sup>st</sup> of 2019 is the second year of this biennium, so but the monies that are in this bill is actually for the next biennium going forward. This is just a continuation of what we already did. But, the plan was – that was the idea of having that money to roll in there so that we could generate \$30 million of new money per year for the schools. The prioritized list was – there is also criteria of need is part of the basis of why schools are selected and how they are selected. What we are talking about on this list and the money for this year is actually part of last biennium's bill. The bill we are talking about today going forward is for next year going forward. We are not talking about funding these right now – we are actually talking about continuing the program into the future. Is that pretty much correct?

(10:14) **Don Williams:** That is exactly the intent that I believed it to be.

**Chairman Schaible:** Do we have any more questions for Don? If not, I will have the BND come over and explain the money part as we go forward. Thank You.

(10:33) **Kylee Merkel, Bank of North Dakota:** Of the 2017-19 biennium, that \$60 million there were two projects from the April 1<sup>st</sup> of 2017 application window that got funded out of that.

**Chairman Schaible:** Say that again. You had \$60 million that was for 2018 and 2019. Two schools out of the seventeen here got funded out of that.

**Kylee Merkel:** Of the application period. They weren't approved until the 2017-19 biennium. After July 1<sup>st</sup>, they were on the April 1, 2017 list.

**Chairman Schaible:** They weren't approved until April 1, 2018 then? That is the deadline – right?

**Kylee Merkel:** The loans weren't approved until the 2017-19 biennium.

**Chairman Schaible:** That is what I'm –

**Kylee Merkel:** Yes, correct. Of that \$60 million for the 2017-2019 biennium, we have approved \$54 million. So, there is about \$6 million left of that \$60 million list that you have in front of you.

**Chairman Schaible:** That is just to finish out this biennium. This list that we have – there is only \$6 million left to do these schools?

**Kylee Merkel:** That is correct.

**Chairman Schaible:** Now going forward with the suggestions that we have had, how would each one of them work going forward if they put in \$35 million of infusions – how much money would be available to loan out per year for the next two years?

**Kylee Merkel:** I can run the synarios, but I think it was about per year about \$25 million with a \$35 million infusion. I think we could do about \$25 million because the repayments coming in.

**Chairman Schaible:** Right, so the next question is how much money would be available to loan out if we do a \$75 million infusion.

**Kylee Merkel:** With a \$75 million – if we didn't transfer any more of those State School Construction into the SCALF fund, we could probably do – I would - \$60 million a biennium.

**Chairman Schaible:** If we would go down the bonding path of what was projected in the original bill, how much money would be available to loan out in the next two years?

**Kylee Merkel:** With the bonding path, we were forecasting \$86 million a biennium.

**Chairman Schaible:** So, it would be about \$43 million?

**Kylee Merkel:** Correct, per year.

(13:04) **Representative Monson:** Why would you have so much more money available if we bonded instead of just the cash in?

**Kylee Merkel:** Because with the bonding, it would get us about \$250 million that would go in on day one. Between that \$250 being allocated, what we did is try to figure out a consistent amount we could do per year. If we wanted to consistently fund \$86 million, that \$250 million plus the repayments coming in would allow us to \$86 million per biennium.

**Representative Monson:** So, how much money were you looking at bonding?

**Kylee Merkel:** The bill was for up to \$250 million or \$25 million – is what we could get for a \$25 million biennial debt service payment.

**Chairman Schaible:** So, is that like infusing \$250 million right away? Is that kind of what that – instead of the \$35 million or the \$75 million – we would be infusing \$250 million and that result would be having \$86 million per biennium or \$43 million per year for construction.

**Representative Owens:** \$225 million infusion all together if you did the full bonding. \$75 million per year for three years?

**Chairman Schaible:** Not that is just – that's- we are talking – you are talking your version of \$35 million infusion which slows down the original intention of what we did two years ago. The intent language that we had two years ago was \$75 million of infusions for two more

sessions which should produce – my understanding - \$30 million a year or \$60 million a biennium for new construction. Or, the new plan was the bonding which would put an infusion of \$250 million by bonding for \$25 million a biennium and would produce \$86 million of loan available for two years. That is the three synareos that we are looking at. My contention with that is that I think our needs are more immediate now. I see smaller infusions than what was planned as actually, a throttling back of school construction and these ideas. I guess we can have discussions. Are there any more questions for the BND?

(15:40) **Representative Owens:** I just wanted to be clear though with the \$35 million that slows down – in the original plan, it was \$75 million, \$75 million, \$75 million. With that, you were going to buy up the loans that were there already and of course those payments would start growing this revolving fund. If – right now – if it is only, \$75 million – because you talked about having \$60 million – so were you slowing down the purchase of the existing loans to do that – in order to have the \$60 million?

**Kylee Merkel:** For the \$75 million, the intent was to do \$60 million of new construction a year. That would allow us to buy out those existing loans over the course of the biennia. Those existing loans – that interest buy down is set until July 1<sup>st</sup> of 2025. That would allow us to buy out all of those loans by July 1<sup>st</sup> of 2025 date with that \$75 million over the course of three biennia.

**Representative Owens:** So, I was trying to buy them faster than you is what is going on. I had envisioned that because I was looking for them to start paying in and generate that income sooner to do that. So, \$35 million obviously shrinks that opportunity and then the bonding. Okay, thank you.

(17:14) **Chairman Schaible:** I guess that is the position of the Senate. Our needs are more immediate now. That is why we were looking at as an option of taking less direct money out of Foundation Aid per biennium, but creating more return on that money. I thought we were doing the best thing – whether bonding is palatable or not, I guess I was looking at a better solution. I think actually infusing less money is counterproductive to even our school construction plan. That is the view of the Senate. I guess if we have nothing left to talk about today, we can try again – are we going to have more to talk about tomorrow or should we postpone it for two days?

**Representative Monson:** Maybe two days. I have an appointment with Sheila here shortly to get some clarification on some things. I went to Sheila, she gave me some numbers and then we checked them over – Allen Knutson did them and then they came back with a whole different bunch of numbers, so then I went to chairman Delzer and he gives me a whole different set of numbers. (Laughter) I mean it is just how much money do you want to spend now or commit ourselves to down the road. If you want to – anyway, at 3:30, I am going to go up and talk to Sheila and have her explain how the numbers changed from when she worked them the first time and then when she had Allen help her work them. She sent some emails out and I need to get some clarification on them. I would like to get them into a chart so they are easy to see instead of in the middle of an email.

**Senator Rust:** I just want to kind of remind somebody – everybody of one thing. When we have a construction loan fund and those are low interest loans, the amount of dollars that

taxpayers save in paying that off is substantial amount. So, I look sometimes at those as being direct property tax relief.

**Representative Owens:** I am sorry, I just remembered the other question I have for the BND. Could I?

**Chairman Schaible:** Please.

**Representative Owens:** It is my old age – I remember one and then forget the other one. How are we paying for the bonds – if they were bonded?

**Kylee Merkel:** The bond payment would be from Foundation Aid. That was the intent – that would be \$25 million per biennium from Foundation Aid.

**Chairman Schaible:** For how long?

**Kylee Merkel:** We were doing a 20-year repayment on that.

**Representative Owens:** I misunderstood. I thought you were going to take the \$25 million out of the revolving.

**Kylee Merkel:** In our runs, we were disconnecting the repayment of the bond from the loan fund. If we took the repayment of the bond –

**Representative Owens:** Yes, I see that now. And I wasn't thinking that –

**Representative Monson:** I guess in response to Senator Rust, you save the taxpayer money, but it doesn't save all the taxpayers money. It only saves those that are building and you know- yes, if you are one that is building and on the list and benefiting, your taxpayers in that district are being – saving money. If you are in most of my districts, they are not saving any money because they are not going to be building with that. It isn't necessarily equitable.

**Chairman Schaible:** I guess if we would go down that bonding path and we would – by 2035, we would have loaned out \$780 million to local school districts. You assume 4.25% market rate – taxpayers would save over \$204 million dollars. The savings that you could do by the accelerated construction schedules against inflation and increase the cost would be much more. The other thing is that if we go down this road, by 2035, the money is not really going away. It would be there yet. We would have created a half of billion-dollar revolving loan fund that would be there for the future. It is not like this money being spent and gone away, it does return to us and it would stay for the state. We would have half a billion dollars revolving loan fund in 2035 at \$43 million dollars a year, we wouldn't have to put any more money into it and it would be self-sustaining and probably would be able to grow.

**Representative Monson:** Can you share that with us?

**Chairman Schaible:** I absolutely would.

The meeting was closed.

# 2019 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Sheyenne River Room, State Capitol

SB 2214  
4/22/2019  
34894 1(18:48)

Subcommittee  
 Conference Committee

Committee Clerk: Lynn Wolf
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## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

No Attachments.
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**Chairman Schaible** calls the Conference Committee to order on SB 2214. All members were present: **Senator Schaible, Senator Rust, Senator Marcellais, Representative Owens, Representative Monson and Representative Sanford.**

**Chairman Schaible:** I have an amendment that I had hoped to have for you. It has not been completed as yet, but I will explain the amendment that is being drafted and I will submit. This was some work that was done with this prior to this meeting. The amendment will say that we will get \$35 million of infusion out of this money right now. There would be \$40 million that would come from the foundation aid stabilization going into the future after 2019, and only if that money – first we have to account for the 15% that we have to protect – that would be first. As money becomes available, that next \$40 million would come out of there. We would get the \$75 million - \$35 million upfront, and then the other \$40 million would come from the foundation aid stabilization as it comes into that fund after the 15% is protected.

**Representative Monson:** So, there would be \$75 million this time, but it would be a blend of two places. And then, \$75 million next time, the intention would be that it would be foundation aid stabilization funds.

**Chairman Schaible:** And the language that would be included in that would be yes – this is the second infusion of \$75 million. We are getting the \$35 million up front and then the \$40 million as it comes into the foundation aid stabilization fund. That is the second – where we are at right now. The intent language for that would be – yes, we would take another \$75 million out of the foundation aid stabilization and there is also intent language in there that says that it should be a priority and it should come out of that fund first rather than last like it did this time, so we don't run out of money and we don't have enough to do this.

**Representative Monson:** So, the \$110 million that is being used last time and this time for a – per pupil payments. Is that going to be coming out of there again next time?

**Chairman Schaible:** I guess that my amendment – the one I am drafting – would say the \$75 million would come out first; there is \$100 million after that, that would be second.

**Representative Monson:** I would like to see that reversed, but I think we will have enough for both.

**Chairman Schaible:** I am guessing too, but just what happened this time – is we had intent language for \$75 million for this time and then what happened is that all these other sources to take money out of this fund came up and now we can't afford it out of this, so, my intention was to be sure that school construction bill – that \$75 million for the third infusion, would be on the top of the priority list instead of on the bottom of the list. If we put the \$110 as second on the list, of course it is intent language, but the intent language is the idea of a – we had intent language two years ago that we were going to do three infusions of \$75 million and of course that got changed. I am just trying to make sure that the intent language is if we are going to finish doing this project, that we have the right intent language to do it.

**Representative Monson:** I see where you are coming from Mr. Chairman. I guess my highest priority is make sure we make our per pupil payments. That is why I like the \$110 million coming absolutely first. I think we will figure out a way to get your \$75 million next time if we might have to dance a little bit, but we will find it. Just to let you know, there are a couple of small items in a couple other bills – like – I don't think the total comes to even a million bucks that we are looking at this time to come out of foundation aid stabilization fund as well. I know we are –

**Chairman Schaible:** There is \$3 million that goes into the rapid enrollment grants, there is \$5 million that goes for that interest buy down –

**Representative Monson:** There are couple of things that are like two hundred and some thousand – three hundred thousand. Couple here, couple there, I think the total is less than a million that we suggested that we could maybe do. In fact, I think one of them might be some music things and –

(05:17) **Chairman Schaible:** I wonder where that came from – (Laughter) I wonder where that came from. And that is kind of my point, I know there is – this is a work in progress and there is a lot of moving parts to all this stuff. That is my intention – that we have gone down this school construction road and I think we are trying to make this work. It seems to me that we had intent language that got sidetracked this last time. We are making it work and I am trying to foresee that. Now, do you want the \$110 million for the per pupil payment – yes, I agree with you 100%. The best think that we can do for all schools is get as much to our schools through the per pupil payment because it helps every school – it helps every district. I don't know if we should be relying on that fund as something to stabilize the budget. I don't think that was the intent of that. I agree we have to do it, but I don't think continuing we should be counting on that as an ongoing – is that going to be a certain percent of our budget? I think we need to fund our what we can afford by our general fund.

**Representative Monson:** From the very first superintendent job I ever had, we had the money coming out of the reapportionment fund. That has been forever and forever and we treated as a de facto foundation aid payment. It got to the point where it kept growing all the time and now we are substituting that for this.

**Chairman Schaible:** You go back to the intent on what they were created for and that was created for that rational. I am not quite sure of that, but I know what the foundation aid stabilization fund is for because I was part of writing the bill for that. I know the intent was not to be an ongoing budget deal.

**Representative Monson:** That was lands – Common Schools Trust Fund.

**Senator Rust:** Couple of things – now that gives about \$800 or more dollars per year to the foundation aid program. It is about \$1600 of the foundation aid money is Common Schools Trust Fund money. For the sake of clarification – this money out of the foundation aid stabilization fund – that I part of the “drill baby, drill” program.

**Chairman Schaible:** Is there an alternative mention in that, or is that –

**Senator Rust:** Just a reminder where that money comes from.

(08:21) **Representative Monson:** One other thing that just come to mind- we are working on the CTE budget and CTE was part of the funds that could be used from the foundation aid stabilization fund. We are looking at a couple of little ones in there, too, that might have to come this time. I don't know if I would want to keep that going down the road. I think the two ones I want to keep are this one – the \$75 million and the \$110 million. We can argue about the order they come out, but beyond that, I would say we are close to agreeing.

**Chairman Schaible:** I agree with you and like I said, I am trying to avoid the problems we are having now. We made a commitment to go down school construction and we had a plan in place to do this and I think it is smart just to finish the plan and get on with it and if we do another infusion of \$75 million, we are done – as far as that goes.

**Representative Monson:** Promise?

**Chairman Schaible:** Just like the House does. (Laughter)

**Representative Monson:** Can we get that in writing? (More laughter)

**Chairman Schaible:** You can have the whole statement in writing – yes, if the House does it, then the Senate will do it too. (Laughter) That is the amendment I have drafted and I was hoping to have it today. The other thing is to mention that \$5 million for that interest buy down was in there. I don't care what we think about that, regardless what we do, I think we have to do that \$5 million first because that shores up loans we have.

(10:03) **Representative Monson:** So that \$5 million you are thinking is going to be every time? There more than \$5 million.

**Chairman Schaible:** No, we have two options. As more of those loans get paid back, it will get less every time. The other thing is if there is a possibility somewhere in the future, to buy those loans out, they would just disappear and we'd have them all in the fund and the fund would grow faster. That is – obviously, we can't do that, but because right now we are paying the interest.

**Representative Monson:** How many are you planning on buying back now?

**Chairman Schaible:** I think there is \$84 million on the BND's books that do that. As they become due, that lowers and that is the difference between the 2% and the current rate is the \$5 million.

**Representative Monson:** So the current is \$5 million? And, you are thinking as they get paid back into this fund, instead of from the bank, that number will go down, but we are going to be looking at that number for a number of years. Not necessarily \$5 million, but \$4.5 million and whatever.

**Chairman Schaible:** It should go down.

(11:08) **Representative Monson:** We will need to think about that –

**Chairman Schaible:** You have to remember – you want me to tell you where that came from – that plan? It was your former leader. (Laughter)

**Representative Monson:** Heavy on the former, though.

**Chairman Schaible:** Well, at the time, it was – so we accepted it, so now we accepted it and have to take care of it. That is the amendment I am having drafted and I certainly will give it to you as soon as I get it. You can review it and go from there. With that, is there any other discussion? We will try to meet tomorrow then.

Conference Committee meeting adjourned.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2214  
4/23/2019  
34945 (10:03)

Subcommittee  
 Conference Committee

Committee Clerk: Lynn Wolf
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## Explanation or reason for introduction of bill/resolution:

A bill relating to debt service payments; relating to public finance agency definitions, borrowing and lending authority, reserve funds, and school construction loans; to authorize the use of funds; to provide a bond issuance limitation; to provide an effective date; and to declare an emergency.

## Minutes:

Att. #1-Schaible
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**Chairman Schaible** calls the Conference Committee to order on SB 2214. All members were present: Senator Schaible, Senator Rust, Senator Marcellais, Representative Owens, Representative Monson and Representative Sanford.

**Chairman Schaible: (See Att. #1)** I passed out an amendment 19.0425.03006. This is the wording that we talked about at our last meeting. I will go over it a little bit so we are clear on it. For this year, we are taking \$35 million out of what is in the foundation aid stabilization fund, making an infusion into the SCALF fund for that which is our ongoing school construction fund. Any funds available after June 30, 2019, another \$40 million of earnings will be taken out of the foundation aid stabilization fund as it comes in. The biggest thing with that fund is that 15% of our school payments have to be accounted for in that fund first. After that – December or January of 2019-20, then whatever comes into that fund – foundation aid stabilization – could be used to make this \$40 million infusion into the construction loan fund. That is what happens with that money. On the \$5 million there were questions on that before. What happens with that \$5 million – and it took Kalvin some time to explain it to me – what happens with any money that – right now we are putting in \$75 million and loaning out \$60 million in the biennium. There are \$15 million that can be used that they can buy up these existing loans that are in this SCEF funds which are the ones we did in the 2014-15 year that we didn't have a fund set up for. What they do is any money that is left over – including the money that comes in from payments from schools that are making payments they roll the lowest amounts of funds into the fund. That is how we buy those loans. By doing that, and if it goes as planned, without any big surprises, the interest cost on that is \$4.951 million. That is what that is based on. Next session, if things go as planned and projected, that interest cost would be only be \$1.6 million for the next biennium. It would be \$1.4 million the biennium after that unless we would roll the funds in faster – than that would go away. As we are planning right now with the projections – that \$5 million next session would be \$1.6 million

and if it continues, it would be \$1.49. Section two is intent language and I guess this is what I also told you on that. The idea behind this is I figured that the plan we were going down on school construction. We said two years ago, we would make three infusions of \$75 million and I just figured it that was our intention, that we should reaffirm that with section 2.

(10:03) **Representative Monson:** I think we can agree to everything, but we do want to add one thing to your section 2 – to your intent. After “loan fund,” we add “\$110 million to the Department of Public Instruction for state school aid integrated fund formula payments.” That would be included in the intent so we would have two things in the intent - \$75 million and \$110 million for the integrated payments. If we can put that all together, I think we have a deal.

**Chairman Schaible:** Just to make sure, it is just adding the \$110 million integrated payment at the end of the sentence.

**Representative Monson:** Yes.

**Chairman Schaible:** And it says \$110 million dollars to the Department of Public Instruction for state school aid integrated formula payments. Everybody understands that?

**Representative Monson:** That is what we have been doing the last two sessions.

**Chairman Schaible:** Since the \$75 million is first, I am happy with that.

**Representative Monson:** I move amendment 19.0425.03006 with the addition of \$110 million dollars to the Department of Public Instruction for state school aid integrated formula payments to it.

**Chairman Schaible:** In other words, the House recedes and that is the motion then.

**Representative Sanford:** Second.

**Roll Call Vote:** 6 Yeas; 0 Nays; 0 Absent.

**Motion Carries.**

**Senator Schaible will carry the bill in the Senate.**

**Representative Monson will carry the bill in the House.**

Conference committee adjourned.

SK  
1001  
4/2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2214

That the House recede from its amendments as printed on pages 1269 and 1270 of the Senate Journal and pages 1472 and 1473 of the House Journal and that Engrossed Senate Bill No. 2214 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund; and to provide a statement of legislative intent.

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

**SECTION 1. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USES.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Of the \$75,000,000 transferred from the foundation aid stabilization fund, \$35,000,000 is from funding available in the fund on June 30, 2019, and \$40,000,000 is from earnings anticipated to be deposited into the fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Pursuant to the continuing appropriation authority under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06. In addition, provided sufficient funding is available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund. The remaining amount transferred to the school construction assistance revolving loan fund is available for new school construction loans.

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

Renumber accordingly

Date: \_\_\_\_\_

Roll Call Vote #: \_\_\_\_\_

**2019 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2214 as (re) engrossed

**Senate Education Committee**

- Action Taken**
- SENATE accede to House Amendments**
  - SENATE accede to House Amendments and further amend**
  - HOUSE recede from House amendments**
  - HOUSE recede from House amendments and amend as follows**
  
  - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Senators	4-12	4-16	4-22	Yes	No	Representatives	4-12	4-16	4-22	Yes	No
Chairman Schaible	x	✓	✓			Representative Monson	x	✓	✓		
Senator Rust	x	✓	✓			Representative Sanford	x	✓	✓		
Senator Marcellais	x	✓	✓			Representative Owens	x	✓	✓		
Total Senate Vote						Total Rep. Vote					

Vote Count      Yes: \_\_\_\_\_      No: \_\_\_\_\_      Absent: \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4-23-19

Roll Call Vote #: 1

**2019 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2214 as (re) engrossed

**Senate Education Committee**

- Action Taken**
- SENATE accede to House Amendments
  - SENATE accede to House Amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Monson Seconded by: Sanford

Senators	4-23		Yes	No	Representatives	4-23		Yes	No
Chairman Schaible	x		✓		Representative Monson	x		✓	
Senator Rust	x		✓		Representative Sanford	x		✓	
Senator Marcellais	x		✓		Representative Owens	x		✓	
Total Senate Vote					Total Rep. Vote				

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Schaible House Carrier Rep. Monson

LC Number 19.0425. 03007 of amendment

LC Number 19,0425. 06000 of engrossment

Emergency clause added or deleted  
Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2214, as engrossed:** Your conference committee (Sens. Schaible, Rust, Marcellais and Reps. Monson, Sanford, Owens) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1269-1270, adopt amendments as follows, and place SB 2214 on the Seventh order:

That the House recede from its amendments as printed on pages 1269 and 1270 of the Senate Journal and pages 1472 and 1473 of the House Journal and that Engrossed Senate Bill No. 2214 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund; and to provide a statement of legislative intent.

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

**SECTION 1. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USES.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Of the \$75,000,000 transferred from the foundation aid stabilization fund, \$35,000,000 is from funding available in the fund on June 30, 2019, and \$40,000,000 is from earnings anticipated to be deposited into the fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Pursuant to the continuing appropriation authority under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06. In addition, provided sufficient funding is available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund. The remaining amount transferred to the school construction assistance revolving loan fund is available for new school construction loans.

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

Renumber accordingly

Engrossed SB 2214 was placed on the Seventh order of business on the calendar.

**2019 TESTIMONY**

**SB 2214**

SB 2214  
1-22-19  
Att #1  
P. 1 of 6

Senator Don Schaible

District 31

SB 2214

Members of the Committee, I am here today to introduce SB 2214. This legislation continues on our efforts to provide low-cost construction loans for school districts in North Dakota. I want to take just a few minutes and provide a background of Legislative Actions on this issue.

- In the late 1990's the legislature amended the Coal Development Trust Fund and created a school construction fund of Fifty Million Dollars. The first loans were distributed in 1997.
- In the 2013 session, with pressing demands for school construction due to rapid population growth, the legislature expanded its loan programs. In the 2013 session, one hundred fifty million dollars was appropriated from the Strategic Investments Investment Fund to the Department of Land Trust for a school construction program. This funding was administered with the same program guidelines as the Coal Development Trust Fund program.
- In the 2015 Session BND was directed to provide up to <sup>\$250,000,000</sup> \$250,000 in loans to school districts. BND utilized its profits to "buy down" the interest rate to 2%. Through this program, BND lent \$123,000,000 to school districts for construction projects utilizing Six Million Dollars a biennium from BND's profits to buy down these loans. BND's ability to initiate new loans in its program sunset in June of 2017.
- The BND program was considered a "Stop Gap" while waiting on a vote on "Measure 2" which enabled legislative discretion for a portion of the Resources Trust Fund balance to support education.

Senate Bill 2272 in the 2017 Legislative session, took a series of steps to consolidate the various school construction loan programs into one fund, (School Construction Assistance Loan Fund) centralized the administration and provided \$75,000,000 into SCALF to provide \$30,000,000 in low interest loans each year to school districts. Today, the SCALF Fund has loans of \$218,375,000 with assets of \$229,772,000.

In addition, SB2272 authorized Bank of North Dakota to sell up to \$50,000,000 of school construction loans from their portfolio into SCALF. As noted earlier, BND is utilizing its profits to provide a 2% rate to schools through an interest rate buy-down similar to a PACE program loan. School districts in the program are concerned about interest rate increases as this buydown program is slated to sunset in June 2025.

At the end of the 2017-2019 biennium, BND will have transferred in \$40,000,000 in loans from its fund to the SCALF. BND continues to hold about \$83,000,000 in school construction loans on its books. As you will see in the proposed bill, there is an intent to authorize the BND buy down program for the life of the loans.

Last session, the concept developed for SCALF was to provide three, \$75,000,000 transfers into the fund over three sessions from the Foundation Aid Stabilization Fund. These capital influxes would allow the fund to grow and provide \$30,000,000 per year in construction funds for an indefinite basis.

This brief history brings us to today and Senate Bill 2214 and a different set of economic circumstances than in 2017. While the need for school construction continues, the economic downturn and its impact on state tax revenues creates a need to revise the plan and that is what we are proposing today.

### **Future Construction Demand**

Before I go into bill specifics, let me provide some insight on anticipated demand for school construction. Bank of North Dakota in cooperation with the Department of Public Instruction did an evaluation of the last 10-years of school construction in North Dakota. As you can see on the slide, when the highs and lows were eliminated, there was about just under \$125,000,000 in school construction per year in the last decade.

There is some discussion that the “height” of school construction is over. However, the numbers provided by the department of public instruction dispute that conclusion. DPI’s projections indicate the current estimated public-school enrollment is 110,842 in grades kindergarten through 12. Enrollment is projected to grow by almost 5 percent, to 116,347, by 2021. In various parts of the state, there will be pressing needs for school construction.

And, as we all know, one of the biggest concerns of voters across North Dakota is property taxes. I believe in some of the high growth areas, there is a growing sense of bond fatigue in the community. The question is how does the state help?

The school construction program is proving successful and SB2214 seeks to build on that success.

## A Dynamic Plan To Fund School Construction

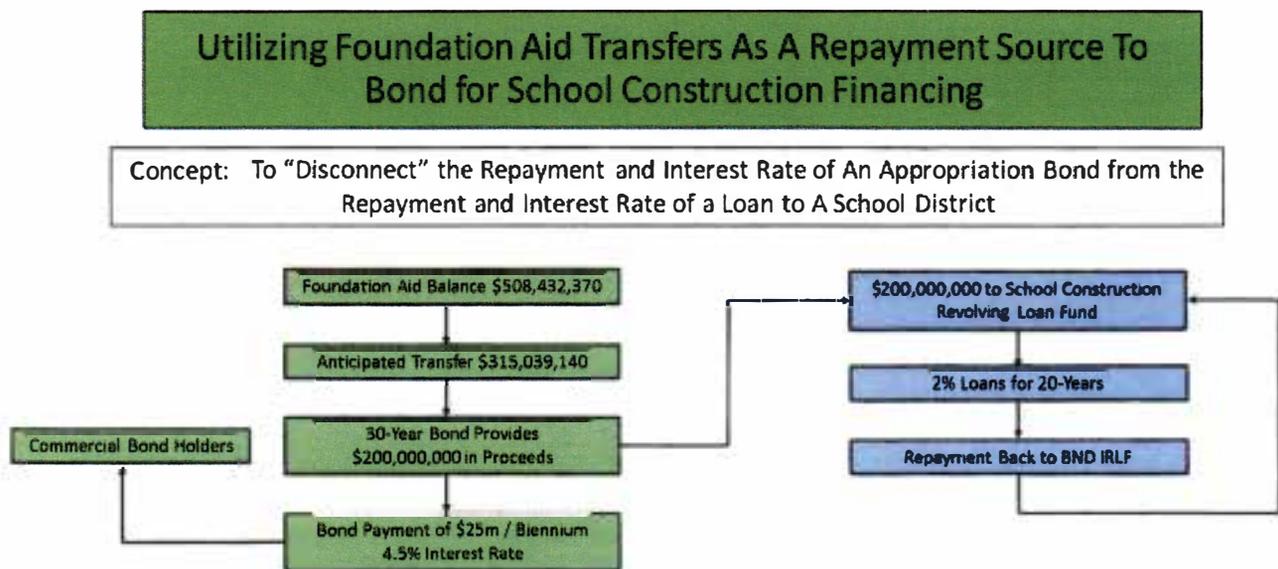
As I noted earlier, the original plan for SCALF was to provide a \$75,000,000 capital infusion this session from the Foundation Aid Stabilization Fund. Unfortunately, the economic circumstances will not allow this infusion. In the 2017-2019 biennium, Foundation Aid contribute 15% of the \$1.9B in "Formula payments" to school districts. That percentage could grow to 18% in this biennium.

What does seem feasible is utilizing of \$25,000,000 in funds to support SCALF. Based on this funding level, there are two policy options.

- First, to simply put the money into the fund for additional loans to school districts. Based on the current parameters of the fund \$25,000,000 is not quite an allocation for one year of loans.
- The second option is to utilize the allocation and consider it part of a long-term payment option to allow the Bank of North Dakota to direct the North Dakota Public Finance Agency to bond for a larger amount with repayment over a 20 or 30-year term.

What is proposed in SB2214 is the second alternative, to enable BND to bond for an amount up to \$250,000,000 to capitalize SCALF. This proposal is quite a deviation from past actions by the Legislature and I want to provide some insight into how this might work.

As you can see from the following graphic, the concept is to utilize a small portion of the Foundation Aid Transfer as payment for a long-term bond. The bond proceeds would be placed in SCALF and lent out at 2%.



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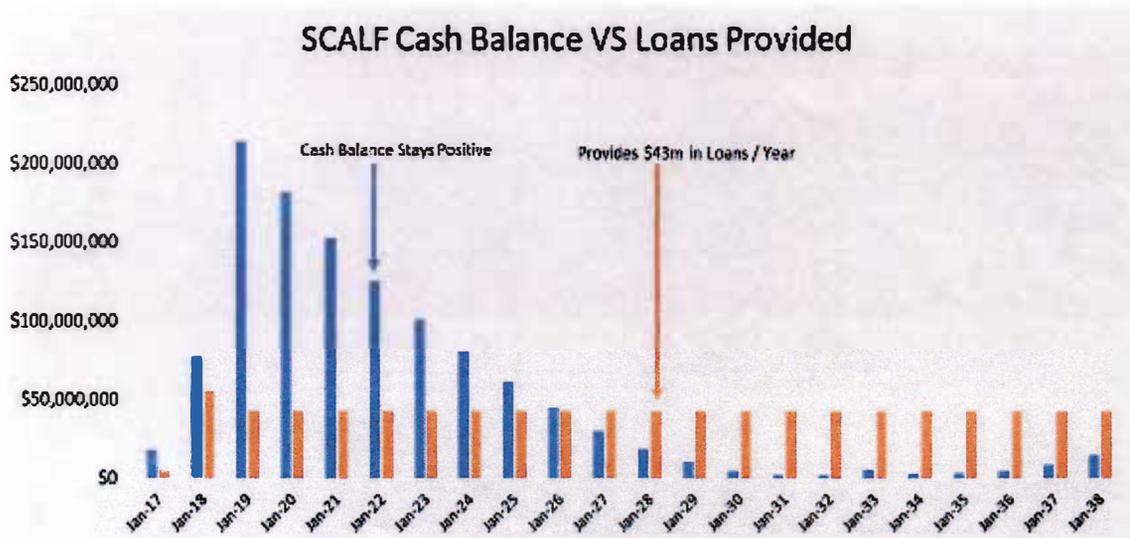
Utilizing this model enables the Legislature to accomplish the following objectives.

1. It creates an injection of \$200,000,000 into SCALF that can be used to fund near-term school construction projects.
2. It spreads the repayment for the bond out over a long-term matching the life of an asset with a generation repayment strategy.
3. It allows the Legislature to increase the loan cap to \$15,000,000 per voter approved bond issue and up to \$25,000,000 for larger projects assuming funding is available.
4. It increases the amount available for school construction from \$60,000,000 per biennium to \$83,000,000 per biennium.
5. It creates a long-term revolving fund that is sustainable without additional capital injections from the Legislature or the Foundation Aid Stabilization Fund.

## Impact of \$200m On School Construction Revolving Loan Fund

Enables Total Loans / Biennium to Increase from \$60m to \$86m

Loans Remaining at BND (\$83m) Maintain a 2% Interest Rate with Buy-Down Through 2038



## Positive Impact To North Dakota Tax Payers

Below, you will find a graphic that provides some insight into the positive impact SCALF will have on North Dakota taxpayers. The highlights include:

- By 2035, the IRLF will have Loaned \$780,000,000 to local School Districts.
- Assuming a 4.25% Market Rate, Tax Payers Will Save \$204,819,174 in Interest costs by 2035.
- Accelerated construction schedules protect against inflation and increasing costs of construction.
- By 2035, total assets in the fund exceed \$500,000,000 creating an on-going sustainable revolving loan fund for future generations.

## Overview of School Construction Assistance Revolving Loan Fund Return on Investment

### Current Status SCALF

Beginning Loans:	
School Lands:	\$143,012,155
BND Loans Purchased	\$39,474,241
Loan Advances	\$60,000,000
Principal Repayments:	\$24,111,114
Current Cash Balance:	\$13,581,308
<b>Fund Balance</b>	<b>\$229,772,837</b>

### Assumptions

Bond	\$250,000,000
(Total Amount Advanced In 5-Years)	

### SCALF Evolution Through 2035

Biennium Ending 2021		Biennium Ending 2025		Biennium Ending 2035	
Loans Funded:	\$90,000,000	Loans Funded:	\$90,000,000	Loans Funded:	\$780,000,000
Outstanding	\$284,597,490	Outstanding	\$391,898,175	Outstanding	\$513,730,377
Repayments	\$28,648,409	Repayments	\$49,548,932	Repayments:	\$537,078,367
Loan Loss Res.	\$2,183,753	Loan Loss Res.	\$3,918,983	Loan Loss Res.	\$5,137,306
Cash	\$198,442,645	Cash	\$99,448,927	Cash	\$23,968,722
<b>Total Assets</b>	<b>\$491,932,746</b>	<b>Total Assets</b>	<b>\$487,428,119</b>	<b>Total Assets</b>	<b>\$532,561,793</b>

### Highlights:

- Under the Assumptions, by 2035, the IRLF will have Loaned \$780,000,000 to local School Districts.
- Assuming a 4.25% Market Rate, Tax Payers Will Save \$204,819,174 in Interest costs by 2035.
- Accelerated construction schedule protect against inflation and increasing costs of construction.

Note (Interest on \$780M / 20 Years @ 4.25% = \$369,510,599) (Interest on \$780M / 20 Years @ 2% = \$164,691,425)

## Addressing School Loans In the BND School Construction Fund

In the 2015 Legislative Session, the Bank of North Dakota was instructed to implement a short-term school construction program. This program resembled the PACE program in that BND "Bought Down" the interest rate to 2% for the schools. Under this program, BND put on loans of \$123,000,000 to school districts.

The buy down amount was appropriated from BND earnings and is anticipated to be \$5,000,000 in the 2019-2021 biennium. As this program was anticipated to be short-term, the 2015 Legislation put a sunset on the buy down program of 2025.

Obviously, this sunset of a lower interest rate is making school districts in the BND program nervous as to what happens when the sunset clause is initiated. To address this issue, in the current biennium, legislation allowed BND to sell up to \$50,000,000 of its \$123,000,000 in loans to SCALF. BND has transferred \$40,000,000 in loans leaving \$83,000,000 as part of its loan portfolio. The goal was to transfer the remaining loans into SCALF by 2025.

The challenge is if BND continues to transfer loans into SCALF, it utilizes \$83,000,000 in funding that is needed for new construction projects. To address this issue, SB2214 has two provisions.

1. It removes the sunset clause on the BND program enabling BND to carry to school construction loans to term with a guaranteed 2% interest rate to those school districts.
2. Instead of using BND earnings to buy down the interest rate, the buy down is secured from the Foundation Aid Stabilization transfer.

### Summary

In closing, let me say I know this is a lot to digest and is a substantial change from the previous approach to funding school construction. However, North Dakota is in a new era and growth is projected to continue. To meet the needs of our communities in attracting and retaining talent, a quality school district is essential. This plan enables the state to participate with the school districts by providing longer-term low interest loans.

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Sixty-sixth  
Legislative Assembly  
of North Dakota

**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 ~~subdivision c of subsection 5 of~~  
3 ~~section 6-09.4-03~~ and sections 6-09.4-06, 6-09.4-10, and 15.1-36-06 of the North Dakota  
4 Century Code, relating to public finance agency definitions, borrowing and lending authority,  
5 reserve funds, and school construction loans; to authorize the use of funds; to provide a bond  
6 issuance limitation; to provide an effective date; and to declare an emergency.

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

8 ~~SECTION 1. AMENDMENT. Subdivision c of subsection 5 of section 6-09.4-03 of the North~~  
9 ~~Dakota Century Code is amended and reenacted as follows:~~

10 ~~c. The Bank of North Dakota for the following purposes of the:~~

11 ~~(1) The revolving loan fund program established by under chapter 61-28.2; and~~

12 ~~(2) The school construction assistance revolving loan fund established under~~

13 ~~section 15.1-36-08.~~

14 **SECTION 2. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **6-09.4-06. Lending and borrowing powers generally.**

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

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

- 15 2. The public finance authority may lend or transfer money to the Bank of North Dakota  
16 underas follows:
- 17 a. Under terms and conditions requiring the Bank to use the proceeds to make  
18 loans for agricultural improvements that qualify for assistance under the revolving  
19 loan fund program established byunder chapter 61-28.2; and
- 20 b. Under terms and conditions requiring the Bank to use the transferred proceeds to  
21 make loans for school construction projects that qualify for assistance under the  
22 school construction assistance revolving loan fund established under section  
23 15.1-36-08. Bonds issued for this purpose are payable in each biennium solely  
24 from amounts that the legislative assembly may appropriate for debt service for  
25 any biennium or from a reserve fund established for the bonds and nothing in this  
26 section shall be construed to require the state to appropriate funds sufficient to  
27 make debt service payments with respect to the bonds or replenish a related  
28 reserve fund. The bonds are not a debt of the Bank or the state and the full faith,  
29 credit and taxing powers of the state are not pledged to the payment of the bonds  
30 and the obligation of the public finance authority with respect to the bonds shall  
31 terminate and the bonds shall no longer be outstanding as of the date appropriated  
32 funds and reserves are not sufficient to pay debt service on the bonds. In addition

1 [to providing funds to transfer to the Bank, proceeds of the bonds may be used by](#)  
2 [the public finance authority to pay the costs of issuance of the bonds and establish](#)  
3 [a reserve fund for the bonds.](#)

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

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

20 **SECTION 3. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **6-09.4-10. Reserve fund.**

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

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

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

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

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1 higher or additional reserve as may be fixed by the public finance authority with  
2 respect to such fund.

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

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

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

- 21 a. Under section 6-09.4-06;
- 22 b. Under section 6-09.4-24; or under
- 23 c. Under the public finance authority's state revolving fund program.

24 **SECTION 4.** Section 6-09.4-29 of the North Dakota Century Code is created and enacted  
25 as follows:

26 **6-09.4-29. Debt service requirements - School construction assistance revolving loan**  
27 **fund - Foundation aid stabilization fund.**

28 Each biennium, the public finance authority shall request from the legislative assembly an  
29 appropriation from the foundation aid stabilization fund to meet the debt service requirements  
30 for evidences of indebtedness issued by the authority to support the school construction  
31 assistance revolving loan fund.

32 **SECTION 5. AMENDMENT.** Section 15.1-36-06 of the North Dakota Century Code is  
33 amended and reenacted as follows:

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

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

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

8           a. Propose a new construction or remodeling project with a cost of at least  
9 one million dollars and an expected utilization of at least thirty years;

10           b. Obtain the approval of the superintendent of public instruction for the project  
11 under section 15.1-36-01;

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

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

24           (3) Publish in the official newspaper of the district the information from the  
25 statements required by this subdivision with the notice of the election to  
26 authorize the school construction bond issuance in accordance with section  
27                           21-03-12; and

28           (4) Post on the school district's website the information from the statements  
29 preceding the date of the election to authorize the school construction bond  
30 issuance in accordance with chapter 21-03;

31           d. Receive authorization for a bond issue in accordance with chapter 21-03; and

32           e. Submit a completed application to the Bank of North Dakota.

33           3. With the advice and consent of the superintendent of public instruction, the Bank of

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

**25 SECTION 6. SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USE**

**26 OF FUNDS - BANK OF NORTH DAKOTA.** Pursuant to the continuing appropriation authority  
27 under section 15.1-36-08, ~~\$4,000,000~~ \$5,000,000, or so much of the sum as may be necessary,  
28 is available from the school construction assistance revolving loan fund to the Bank of North  
29 Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06,  
30 for the biennium beginning July 1, 2019, and ending June 30, 2021.

**31 SECTION 7. PUBLIC FINANCE AUTHORITY - BOND ISSUANCE LIMITATION -**

**32 FOUNDATION AID STABILIZATION FUND.** Pursuant to the bonding authority under section

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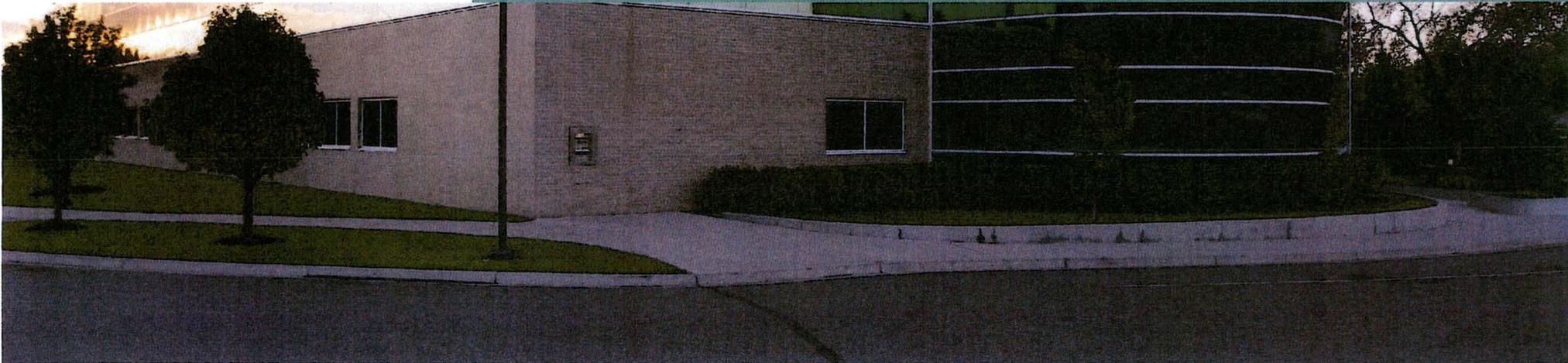
1 6-09.4-06, the public finance authority may issue up to \$250,000,000 of evidences of  
2 indebtedness for the purpose of supporting the school construction assistance revolving loan  
3 fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

4 **SECTION 8. EFFECTIVE DATE.** This Act becomes effective on July 1, 2019.

5 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.



## Foundation Aid Stabilization—Bonding Concept To Support School Construction Revolving Loan Fund



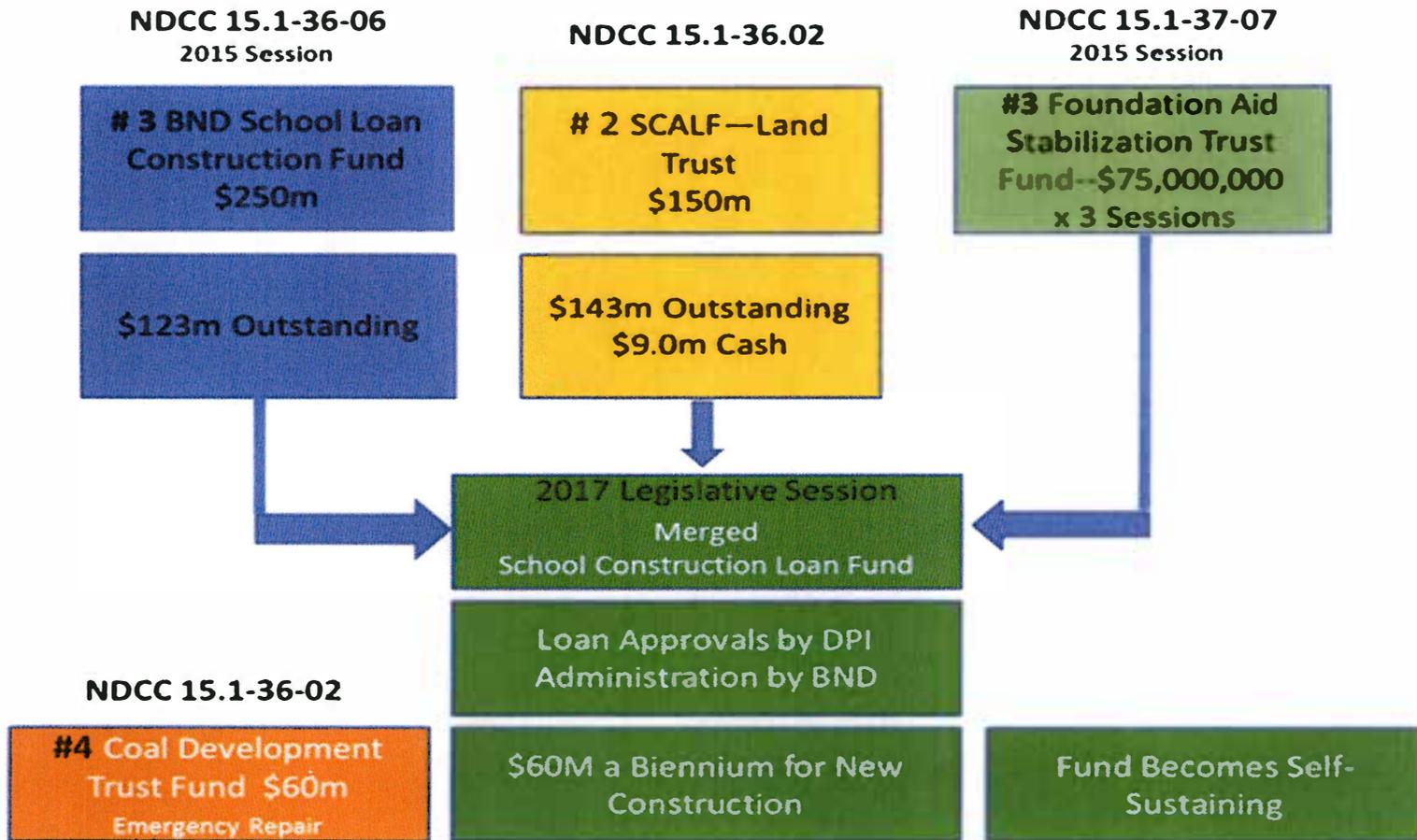
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# Constitutional Governing Language

- The Foundation Aid Stabilization Fund was created by a constitutional amendment adopted by North Dakota's voters in 1994. Article X, § 24 of the North Dakota Constitution requires the State Treasurer to deposit 10% of the Oil Extraction Taxes collected each month into the Foundation Aid Stabilization Fund.
- The interest income earned is deposited to the State's General Fund. The principal may only be expended upon order of the Governor and only for the purpose of offsetting foundation aid reductions made by executive action pursuant to law due to a revenue shortage.
- If the balance of the fund exceeds fifteen percent of the most recent general fund appropriation for state aid to school districts, the excess balance may be used for other education-related purposes.

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# Actions In The 2017 Legislative Session



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# Current School Construction Revolving Loan Fund Balances

School District	Date Funded	Final Payment	Outstanding Balance
WILLISTON PUBLIC SCHOOL DIST#1	09/25/2015	10/01/2034	\$17,977,690.53
MINOT PUBLIC SCHOOL DIST #1	11/13/2014	06/01/2034	\$16,518,142.62
WAHPETON PUBLIC SCHOOL DIST#37	01/22/2014	06/01/2033	\$15,356,718.24
BISMARCK PUBLIC SCHOOL DIST	06/30/2014	06/01/2034	\$12,539,214.21
GRAND FORKS PUB SCHOOL DIST #1	12/02/2013	06/01/2033	\$11,772,885.84
GRAFTON PUBLIC SCHOOL DIST #3	04/01/2014	06/01/2033	\$11,267,668.33

School District	Date Funded	Final Payment	Outstanding Balance
POWERS LAKE PUB SCHOOL DIST#27	07/01/2014	06/01/2034	\$1,627,797.87
TURTLE LAKE-MERCER DIST #72	11/01/2013	06/01/2033	\$1,411,083.03
NORTHERN CASS PUB SCHOOL #97	08/01/2013	06/01/2033	\$1,366,717.72
HILLSBORO PUBLIC SCHOOL DIST#9	08/11/2016	02/01/2036	\$1,011,473.00

School District	Date Funded	Final Payment	Outstanding Balance
MANDAN PUBLIC SCHOOL DIST	08/01/2013	06/01/2033	\$8,640,128.34
WEST FARGO PUB SCHOOL DIST #6	04/01/2014	06/01/2033	\$7,597,734.30
SOUTH PRAIRIE SCHOOL DIST. 70	11/14/2014	06/01/2034	\$7,234,623.76
STANLEY PUBLIC SCHOOL DIST #2	06/25/2015	12/01/2035	\$7,197,825.98
WEST FARGO PUB SCHOOL DIST #6	08/01/2013	06/01/2033	\$6,945,338.36
MCKENZIE COUNTY SCHOOL DIST #1	01/28/2015	06/01/2034	\$5,978,171.34
TIOGA PUBLIC SCHOOL DIST #15	12/01/2014	06/01/2034	\$5,695,559.57

School District	Date Funded	Final Payment	Outstanding Balance
NEW ENGLAND PUB SCHOOL DIS #9	08/15/2013	06/01/2032	\$870,465.20
SURREY PUBLIC SCHOOL DIST #41	08/15/2013	06/01/2033	\$719,014.92
NEW ROCKFORD SHEYENNE SCHOOL 2	06/30/2018	05/01/2038	\$481,482.30
UNITED PUBLIC SCHOOL DISTRICT	06/30/2018	08/01/2037	\$195,437.00
EIGHT MILE PUBLIC SCHOOL DIST 6	06/01/2018	05/01/2038	\$304,121.00
HATTON EIELSON DISTRICT 7	08/01/2018	05/01/2038	\$0.00

School District	Date Funded	Final Payment	Outstanding Balance
FLASHER PUBLIC SCHOOL DIST #39	12/01/2016	08/01/2036	\$4,878,457.60
MAPLETON PUBLIC SCHOOL DIST	02/22/2017	08/01/2037	\$4,842,287.55
MINOT PUBLIC SCH DISTRICT #20	08/07/2015	08/01/2035	\$4,688,163.24
CENTRAL CASS PUBLIC SCHOOL	06/30/2018	11/01/2037	\$4,251,598.77
KULM PUBLIC SCHOOL DISTRICT #7	09/15/2015	09/01/2035	\$3,424,472.00
RICHLAND PUBLIC SCHOOL DIS #44	08/01/2013	06/01/2033	\$3,297,542.46
STRASBURG PUBLIC SCHOOL DIST	10/12/2016	08/01/2036	\$2,592,468.16
WESTHOPE PUB SCHOOL DIST #17	12/01/2014	06/01/2034	\$2,569,688.30

Principal Outstanding 8/20/2018	\$173,253,971.54
Committed as of 8/20/2018	\$47,113,536.86
Still Available for 17-19 Biennium	\$6,045,000.00
Principal Payments Remaining 17-19 Biennium	(\$9,220,202.32)
Loans Outstanding 6/30/2019	\$217,192,306.08

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# Projecting School Construction Needs



Notes on School Construction

10-Year Construction Total = \$1,664,571,919  
10-Year Average = \$166,457,197

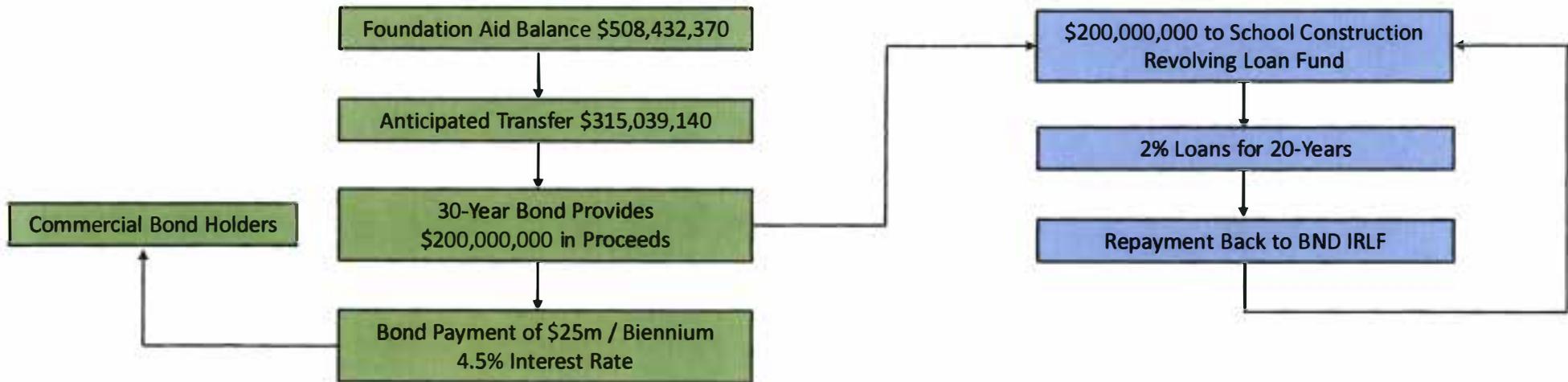
12 Projects Totaled \$759,886,736  
Total Minus Major Projects = \$904,685,183  
10-Year Average = \$90,468,518 / Year

Remove High and Low Years = \$1,247,292,742  
10-Year Average = \$124,729,274 / Year

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# Utilizing Foundation Aid Transfers As A Repayment Source To Bond for School Construction Financing

Concept: To “Disconnect” the Repayment and Interest Rate of An Appropriation Bond from the Repayment and Interest Rate of a Loan to A School District

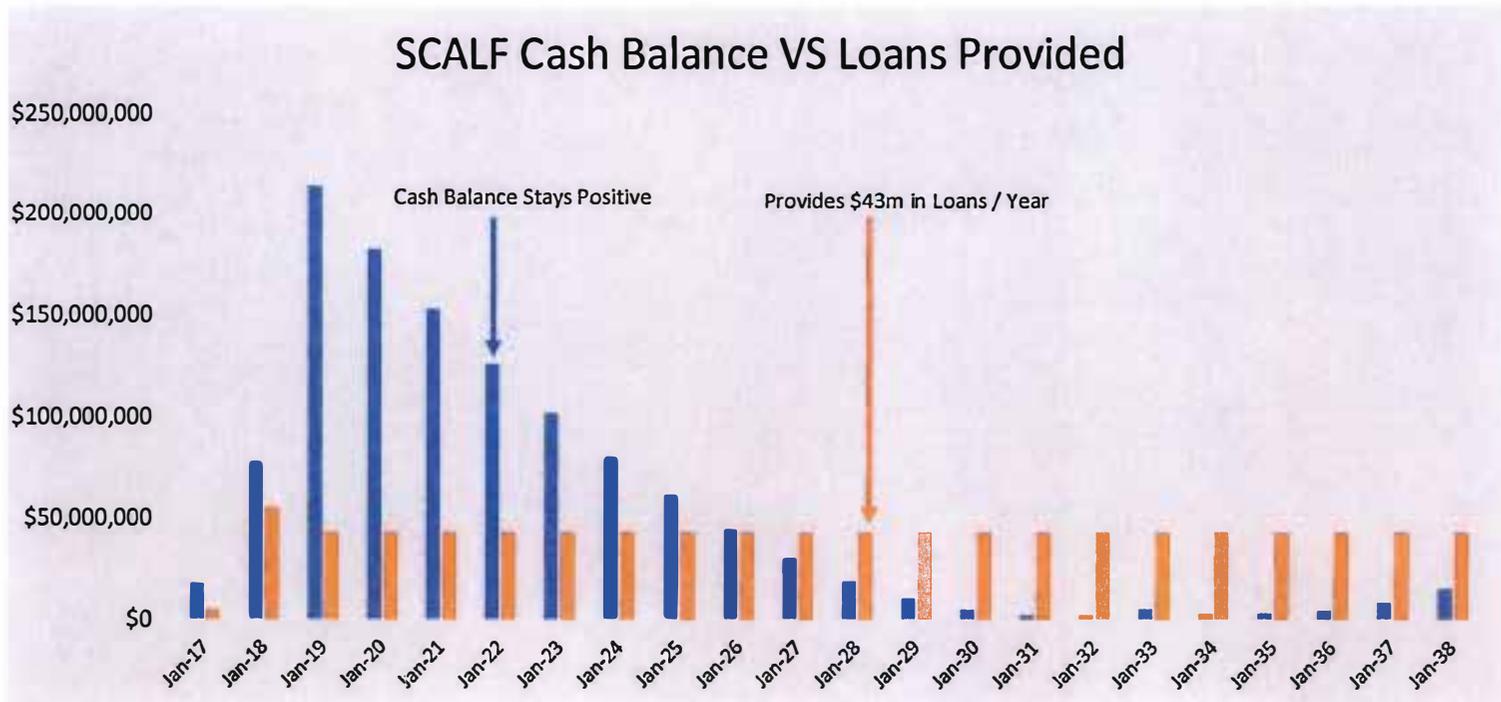


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# Impact of \$200m On School Construction Revolving Loan Fund

Enables Total Loans / Biennium to Increase from \$60m to \$86m

Loans Remaining at BND (\$83m) Maintain a 2% Interest Rate with Buy-Down Through 2038



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# Overview of School Construction Assistance Revolving Loan Fund Return on Investment

## Current Status SCALF

Beginning Loans:	
School Lands:	\$143,012,155
BND Loans Purchased	\$39,474,241
Loan Advances	\$60,000,000
Principal Repayments:	\$24,111,114
Current Cash Balance:	\$13,581,308
Fund Balance	
\$229,772,837	

## Assumptions

Bond	\$250,000,000
(Total Amount Advanced in 5-Years.)	

## SCALF Evolution Through 2035

<u>Biennium Ending 2021</u>		<u>Biennium Ending 2025</u>		<u>Biennium Ending 2035</u>	
Loans Funded: \$90,000,000		Loans Funded: \$90,000,000		Loans Funded: \$780,000,000	
Outstanding	\$284,597,490	Outstanding	\$391,898,175	Outstanding	\$513,730,377
Repayments	\$28,648,409	Repayments	\$49,548,932	Repayments:	\$537,078,367
Loan Loss Res.	\$2,183,753	Loan Loss Res.	\$3,918,983	Loan Loss Res.	\$5,137,306
Cash	\$198,442,645	Cash	\$99,448,927	Cash	\$23,968,722
Total Assets		Total Assets		Total Assets	
\$491,932,746		\$487,428,119		\$532,561,793	

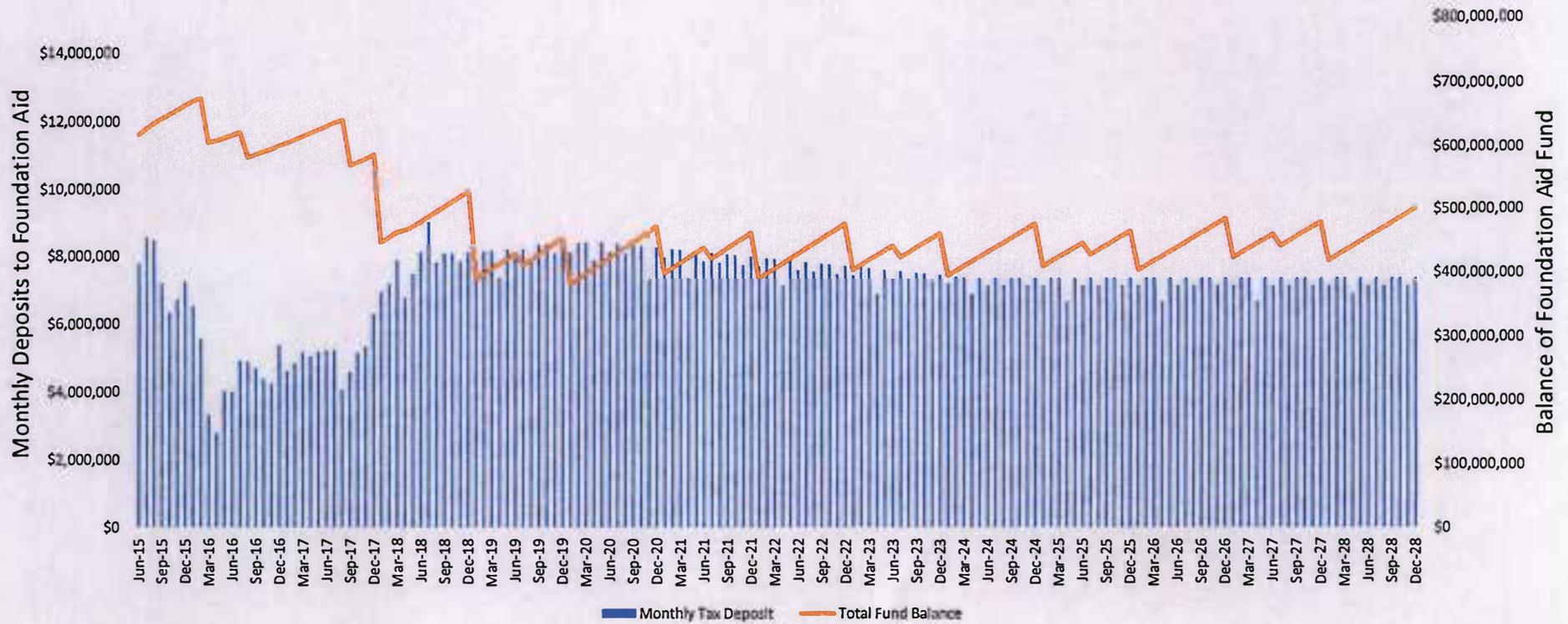
### Highlights:

- Under the Assumptions, by 2035, the IRLF will have Loaned \$780,000,000 to local School Districts.
- Assuming a 4.25% Market Rate, Tax Payers Will Save \$204,819,174 in Interest costs by 2035.
- Accelerated construction schedule protect against inflation and increasing costs of construction.

Note (Interest on \$780M / 20 Years @ 4.25% = \$369,510,599) (Interest on \$780M / 20 Years @ 2% = \$164,691,425)

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# Foundation Aid Stabilization Fund Deposits and Fund Balance Through 2028



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# Foundation Aid Stabilization Fund

Analysis of Foundation Aid Stabilization Fund with \$25,000,000 Appropriated for  
\$200,000,000 Bond to Fund School Construction Revolving Loan Fund

Principal Balance	Tax Revenue Deposit	Required Min. Balance	Can Be Appropriated	Biennium Bonding Amt.	Net for Appropriation	Biennium
\$633,793,830						
\$429,745,348	\$171,570,512	\$269,168,800	\$149,371,116	(17-19 Approp)		2017-2019
\$439,631,185	\$195,462,385	\$214,831,704	\$155,943,349	25,000,000	<b>\$130,943,349</b>	2019-2021
\$442,046,610	\$184,419,370	\$231,233,589	\$132,864,480	25,000,000	<b>\$107,864,480</b>	2021-2023

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# Bonding

State of North Dakota



## Bonding Topics

- ND Bonding
- Common Bond Structures
- State Agency Debt
- Moral Obligation
- Ratings & Rating Scales
- General Obligation Debt Nation-wide
- Net Tax Supported Debt
- Relative Debt Ratios
- 2019-2021 Proposed Bonding Bills
- Utilization of Legacy Fund Earnings
- Moody's
- Standard & Poor's
- Bond Terminology
- Who Buys Bonds?
- Bond Issue Process
- Taxable vs Tax-Exempt Bonds
- Competitive vs. Negotiated Bond Sales
- Bond Issue Expenses
- Required Reserves
- Post Issuance Requirements

## ND Bonding Article X, Section 13 of the North Dakota Constitution

The State may not incur general obligation debt unless evidenced by a bond issue authorized by law for clearly defined purposes.

Every law authorizing a general obligation bond issue must:

- Provide for a levying of an annual tax, or make some other provision, sufficient to pay the interest semiannually and the principal within 30 years from the date of issuance.
- Specifically appropriate the proceeds of the tax levy, or such other provision, to the repayment of the principal of and interest on the bonds.

The appropriation referred to above may not be repealed, or the tax or other provision discontinued, until both the principal of and interest on the bonds have been paid.

General obligations bonds in excess of \$2,000,000 must be secured by a first mortgage upon either of the following:

- A first mortgage on real estate for no more than 65% of the value of the real estate.
- A first mortgage on real or personal property of State-owned utilities, enterprises or industries for no more than the value of the utilities, enterprises or industries. The State may not issue or guarantee bonds secured by property of State-owned utilities, enterprises or industries in excess of \$10,000,000.

The State may not issue debt in excess of the limit set out in this section except for one of the following purposes: a) repelling invasion, b) suppressing insurrection, c) defending the State in time of war, and d) providing for the public defense in case of threatened hostilities.

*Currently, there are no outstanding General Obligation Bonds of the State.*

## Common Bond Structures

### General Obligation Bonds

- Full Faith and Credit Pledge
- All legally Available Revenues
- Taxing Power
- Not Subject to Appropriation

### Appropriation (Lease) Bonds

- Special Obligation Pledge
- All legally Available Revenues
- No Taxing Power
- Subject to Appropriation

### Revenue Bonds

- Revenue Pledge
- Specifically Defined Revenue Source
- No Property Taxing Power
- Covenants to Ensure Revenue Sufficiency
- Not Subject to Appropriation

### Grant Anticipation Bonds

- Pledge of Future Grant Funding
- Specifically Defined Revenue Source
- No Taxing Power
- Not Subject to Appropriation

### Pooled Bonds

- Pledge of Composite Revenues
- Diversified Payments from Various Entities
- No Taxing Power
- Covenants to Ensure Revenue Sufficiency
  - Diversity and Lack of Concentration
- Not Subject to Appropriation
- Leveraging Front Loads Funding Capacity of Future Revenues

## State Agency Debt

State Agency	Bond Type	Source of Repayment	Outstanding Amount 12-31-18
Building Authority	Lease Revenue/ Appropriation	Biennial appropriations (including General Fund, Local Match Funds, Federal Funds & Lease income)	\$20,855,000
State Fair Association	Revenue Bonds	Fair Revenues	1,565,000
Housing Finance Agency	Revenue Bonds	Mortgage Loan Repayments	1,021,915,000
Public Finance Authority	Revenue Bonds	Loan repayments from political subdivisions (\$154,715,000 has moral obligation)	497,705,000
Student Loan Trust	Revenue Bonds	Student Loan payments	1,000,000
Dept of Transportation	Grant Anticipation	Anticipated Federal Highway Grants & Revenue Funds & appropriated State Highway Fund revenues	9,880,000
University System	Revenue Bonds	Parking Fees, Housing Fees, Student Fees	239,208,920 (12-31-16)
<b>Total</b>			<b>\$1,792,128,920</b>

## Moral Obligation

Generally requires that the state agency issuing the bonds must notify the Governor or other executive branch office by a certain date in the fiscal year that a bond reserve fund deficiency exists or is expected to occur.

The Governor or other executive officer is then required to submit in the executive budget a request for an appropriation that will be sufficient to restore or cover the reserve fund deficiency.

The State Legislature then has a moral (but not legal) obligation to provide the requested appropriation to replenish the reserve fund.

# Ratings

- Rating Agencies (Moody's, Standard & Poor's and Fitch) rate both G.O. and Revenue bond credits on a scale in order to rank or categorize the credit worthiness and proximity to default of an Issuer and their obligations
- While many sophisticated Investors do their own credit research, ratings play a critical role in the minds of most market participants and are perceived by the market as a guide of an Issuer's credit worthiness
- Ultimately, credit ratings play a significant role in broadening the investor base for an issuer and usually having a strong rating enhances an Issuer's access to Investors, helping to lower their cost of capital

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# Rating Scales

- Rating agencies have different rating scales
- Ratings below Baa3/BBB- (Moody's/S&P/Fitch, respectively) are considered "below investment grade" and generally Issuers with such ratings are not considered credit worthy enough for most municipal investors

## Investment Grade Rating Scales

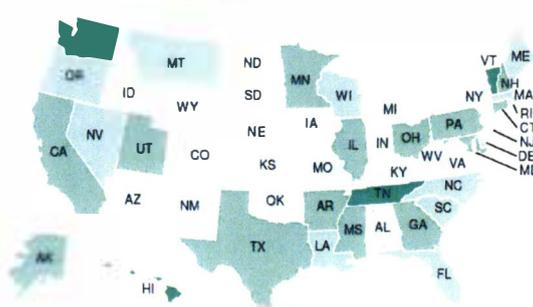
Moody's	Aaa	Aa1	Aa2	Aa3	A1	A2	A3	Baa1	Baa2	Baa3
S&P/Fitch	AAA	AA+	AA	AA-	A+	A	A-	BBB+	BBB	BBB-

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# General Obligation Debt Nationwide

Use of general obligation (GO) debt varies widely by state  
GO debt as % of NTSD

0% 1% - 30% 31% - 60% 61% - 90% More than 90%



Source: Moody's Investors Service

# Net Tax-Supported Debt

Per Capita & Percentage of Personal Income per Moody's

Net Tax-Supported Debt Per Capita	Rating	Net Tax-Supported Debt as a % of 2016 Personal Income
1 Connecticut	\$6,544 A1	1 Hawaii 10.4%
2 Massachusetts	\$6,085 Aa1	2 Massachusetts 9.5%
3 Hawaii	\$5,257 Aa1	3 Connecticut 9.5%
4 New Jersey	\$4,281 A3	4 New Jersey 7.0%
5 New York	\$3,082 Aa1	5 Illinois 5.6%
46 Iowa	\$219 Aaa'	46 Iowa 0.5%
47 Montana	\$177 Aa1	47 Montana 0.4%
48 North Dakota	\$133 Aa1'	48 North Dakota 0.2%
49 Wyoming	\$38 NGO**	49 Wyoming 0.1%
50 Nebraska	\$20 Aa1'	50 Nebraska 0.0%

## Relative Debt Ratios

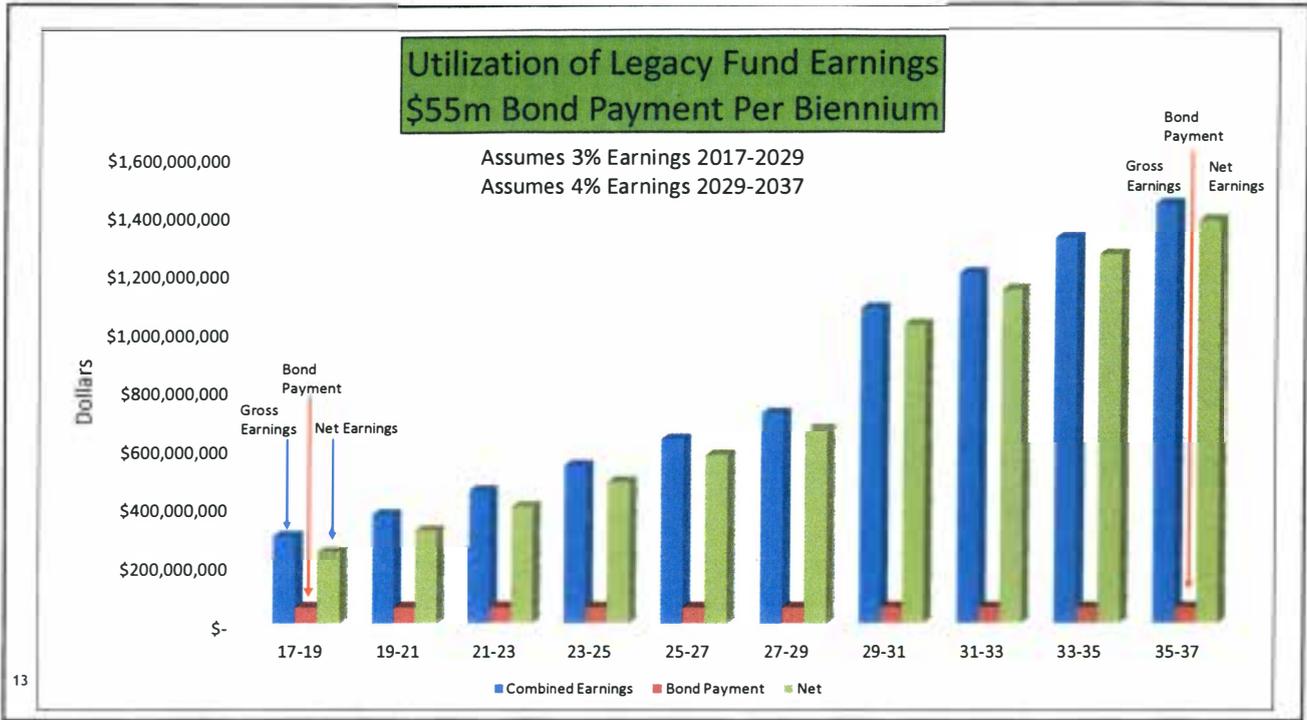
- Moody's calculated ND's Net-Tax Supported Debt (NTSD) as \$100,763,000 in 2017
- Based upon Moody's comparative analysis of state NTSD the following provides what ND's NTSD would be based upon metrics for surrounding states

State	Moody's Rating	Debt Per Capita	ND Equivalent (in \$000s)	As a % of Personal Income	ND Equivalent (in \$000s)	As a % of State GDP	ND Equivalent (in \$000s)
North Dakota	Aa1*	\$133	\$100,763	0.2%	\$100,763	0.19%	\$100,763
Minnesota	Aa1	\$1,430	\$1,083,392	2.8%	\$1,410,682	2.35%	\$1,246,279
South Dakota	Aaa*	\$694	\$525,786	1.5%	\$755,723	1.25%	\$662,914
Wisconsin	Aa1	\$1,660	\$1,257,643	3.6%	\$1,813,734	3.07%	\$1,628,118
Montana	Aa1	\$177	\$134,098	0.4%	\$201,526	0.40%	\$212,133
Indiana	Aaa*	\$295	\$223,497	0.7%	\$352,671	0.57%	\$302,289
Iowa	Aaa*	\$219	\$165,918	0.5%	\$251,908	0.37%	\$196,223
Idaho	Aa1*	\$482	\$365,171	1.2%	\$604,578	1.21%	\$641,701
Median		\$987	\$747,768	2.3%	\$1,158,775	2.57%	\$1,362,952

\* Issuer credit rating (No GO debt outstanding)

## 2019-2021 Proposed Bonding

Bill	SB 2214	SB 2268	SB 2275	SB 2297
Program Name	School Construction Assistance Revolving Loan Fund	Corridors of Commerce	Infrastructure Revolving Loan Fund	North Dakota Building Authority
Amount of Bonding	\$250,000,000	\$100,000,000	\$500,000,000	\$151,700,000
Biennial Debt Service Maximum	Not Specified	\$16,000,000	\$55,000,000	Not Specified (legislative limit of 10% of \$.01 sales tax)
Repayment Source	Appropriation from Foundation Aid Stabilization Fund (new source of repayment)	General Fund monies derived from Legacy Fund Earnings	General Fund monies derived from Legacy Fund Earnings	Lease Rental Payments from Funding Recipients
Use of Proceeds	School Construction Projects	State Highway Projects that improve freight transportation and facilitate commerce	Essential Infrastructure Projects for Political Subdivisions and Institutes of Higher Education	Specific Projects listed: NDSU Dunbar Hall, VCSU Communications and Fine Arts Building, NDSU Agriculture Products Development Center and DSU Pulver Hall
Existing Program NDCC	15.1-36-08	New	6-09-49	54-17.2
Determines Projects	Department of Public Instruction	Department of Transportation	Bank of North Dakota	Defined in Bill
Administers the Fund	Bank of North Dakota	Department of Transportation	Bank of North Dakota	ND Building Authority
Issues the Bonds	Public Finance Authority	Public Finance Authority	Public Finance Authority	ND Building Authority



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## Moody's ND Credit Opinion December 20, 2018

Rating: Aa1 Stable

### Credit strengths

- » Conservative state fiscal management practices, most recently highlighted by the state's return to structural balance and restoration of budget stabilization funds
- » Substantial reserves, which are budgeted to grow over the next biennium
- » Very low debt, pension and OPEB liabilities lead to low fixed costs that will support continued financial flexibility

### Credit challenges

- » Narrow economy that is concentrated in the energy and agricultural sectors, which are vulnerably to commodity price volatility
- » Very tight labor market
- » Increased reliance on oil and gas tax revenues to support general fund operations
- » Ownership of a bank brings vulnerability to losses, particularly in the event of steep economic deterioration like the recent energy sector contraction

### Rating outlook

The stable outlook reflects the state's progress towards structural balance and rapid restoration of reserves as the economy and revenues continue to recover from the 2016 energy recession. Recent declines in oil prices will likely result in some economic and revenue volatility, however the state's energy economy and financial reserves are well-positioned to weather some short term disruptions at this time.

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## Moody's ND Credit Opinion December 20, 2018

### Factors that could lead to an upgrade

- » Meaningful diversification of state economy
- » Reduced general fund exposure to oil and gas tax revenues
- » Reduced exposure to Bank of North Dakota

### Factors that could lead to a downgrade

- » Failure to restore structural balance and replenish the budget stabilization fund as currently planned
- » Renewed economic volatility that results in revenue underperformance
- » Depletion of reserves below the previous low
- » A move away from conservative fiscal management

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## Standard & Poor's ND Rating December 20, 2018

Rating: AA+ Stable

### What We're Watching

- Although the economy is currently showing signs of growth and stability, as a large energy producer, the state is vulnerable to boom-and-bust cycles.
- The continued softness in the agricultural sector, partly due to trade tensions, will also likely limit personal income and economic growth.
- Pension underfunding has increased net pension liabilities; however, the state's proportionate share is manageable, in our view.

### Credit Fundamentals

- Strong executive ability to reduce expenditures and demonstrated willingness of the legislature to realign appropriations with estimated revenue collections.
- Very strong budgetary reserves, including a legacy fund at \$5.86 billion, providing North Dakota with sufficient flexibility to weather economic cycles.
- Low debt burden with rapid amortization and no plans to issue new debt within the current biennium.

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# Bond Terminology

Bond—Evidence of a Loan	<ul style="list-style-type: none"><li>– Buyer of the Bond is the lender or investor</li><li>– Seller of the Bond is the borrower or issuer</li></ul>
Principal or Face Amount or Par Amount	<ul style="list-style-type: none"><li>– Amount of loan</li></ul>
Maturity Date	<ul style="list-style-type: none"><li>– Repayment date of loan</li></ul>
Nominal or Coupon Rate	<ul style="list-style-type: none"><li>– Interest rate paid periodically on the loan</li><li>– Usually expressed as a percentage of par amount</li></ul>
Price	<ul style="list-style-type: none"><li>– Amount a lender will lend in consideration of future receipt of principal and interest payments</li></ul>
Yield	<ul style="list-style-type: none"><li>– Single rate that sets the present value of the principal and interest payments equal to the price</li></ul>

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# Who Buys Bonds?

## Retail Investors

- Wealthy Individuals—“Mom & Pop”
- Retail Proxies
  - Investment/Financial Advisors
  - Bank Trust Departments

## Institutional Investors

- Mutual Funds—Fidelity Investments, Vanguard
- Insurance Companies—AIG, Allstate, State Farm, USAA
- Banks
- Corporations

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# Bond Issue Process

- Kick-off meeting or conference calls
- Working group calls to discuss
  - Document drafts, e.g., POS/NOS/OS
  - Ratings presentation (if applicable)
  - Pricing scales
- Rating agency calls
- Publish Preliminary Official Statement (POS) & Notice of Sale (NOS)
- Receive rating
- Pre-Pricing Book (only on negotiated sales)
- Bond marketing and pricing period
- Sell bonds - either competitive or negotiated
- Publish the final Official Statement (OS) (and closing certificates)
- Close the issuance
- Issue closing certificates
- Produce the Financial Advisor Memorandum (FAM)
- Transcript produced and distributed by bond counsel

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# Taxable vs Tax-Exempt Bonds

## Benefit of Tax-Exempt Bonds

- Cost of financing is generally lower for issuers
- Interest paid to bondholders is not includable in their gross income for federal income tax purposes
- *This tax-exempt status remains throughout the life of the bonds provided that all applicable federal tax laws are satisfied both at the time the bonds are issued and throughout the term of the bonds*
- Interest rate is approximately .5% less than taxable bonds

## Primary Objectives of Federal Laws

- No private activity
- No arbitrage

## Benefit of Taxable Bonds

- No private activity restrictions
- No arbitrage calculations or compliance with other complex regulations

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## Taxable vs. Tax-Exempt Bonds

Appropriation Bonds are most likely considered:

- *taxable* if the appropriation is tied specifically to invest earnings of the Fund (Legacy Fund, Foundation Stabilization Fund, etc.).
- *tax-exempt* if the appropriation is from the General Fund.

Bond Counsel determines the taxability of the bonds

## Bond Sales Competitive vs. Negotiated

**Competitive Sales:** An Issuer and their Financial Advisor procure bids from a variety of Underwriters on the obligations they are planning to issue and select one bid (i.e., the lowest costing bid)

**Negotiated Solicitation:** An Issuer selects an Underwriter or a group of underwriting firms and works with the selected Underwriter(s) to price obligations through negotiation with the Underwriter(s) and Investors

The issuer and financial adviser look at factors such as security type and transaction size typically to help determine the best method of sale to utilize.

## Bond Issue Expenses

### Cost of Issuance

- Ratings
- Bond/Tax Counsel
- Financial Advisor
- Registrar/Paying Agent/Trustee
- Printer
- Miscellaneous
- Verification Agent
- Escrow Agent
- Escrow Bidding Agent

### Underwriter's Discount

- Management Fee
- Takedown
- Underwriting Risk
- Expenses
  - Underwriter's Counsel
  - Bond Desk
  - CUSIP
  - DTC
  - Out-of-Pocket

Cost of issuance and underwriter's discount can range from 5 to 7% of the bond issue.

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## Required Reserves

### General Obligation Bonds

- Reserves are not required

### Appropriation

- Reserve may be required

### Revenue Bonds

- Reserve fund is required
- IRS limits the reserve to the lesser of:
  - 10% of par
  - 125% average annual payment
  - Maximum annual principal and interest payment

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## Post-Issuance Compliance

### Spend Down Requirements

Pooled bond issuers are required to spend 30% of bond proceeds within 1 year and 95% within 3 years.

### Continuing Disclosure

Issuer covenants to provide ongoing disclosure of both routine financial information on an annual basis and periodic notification upon certain events, e.g., defeasance of bonds

### Arbitrage Rebate

If the bonds are tax-exempt, the Issuer may be required to rebate investment earnings in excess of the bond yield to the federal government every five years

### Rating Maintenance

Issuer may be required to provide ongoing updates to the rating agencies and may be required to pay ongoing surveillance fees for variable rate transactions

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## Contact Information

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2214

Page 1, line 3, remove the second "and"

Page 1, line 3, after "15.1-36-06" insert ", and 15.1-36-08"

Page 7, after line 23, insert:

**"SECTION 6. AMENDMENT.** Section 15.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-08. School construction assistance revolving loan fund - Bank of North Dakota - School construction projects - Continuing appropriation.**

1. The school construction assistance revolving loan fund is a special revolving loan fund administered by the Bank of North Dakota. The fund consists of all moneys appropriated or transferred to the fund by the legislative assembly, all interest or other earnings of the fund, and all repayments of loans made from the fund.
2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank of North Dakota on a continuing basis for the purpose of providing low-interest school construction loans and for paying administrative costs, in accordance with this section.
3. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Publish in the official newspaper of the district the information regarding the proposed estimated additional millage and the dollar increase per one thousand dollars of taxable valuation in accordance with section 21-03-13 along with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and  
(2) Post the information on the school district's website preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.

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4. The superintendent of public instruction shall review loan applications based on a prioritization system that includes a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
5. If the superintendent of public instruction approves the loan, the Bank of North Dakota shall issue a loan from the school construction assistance revolving loan fund. For a loan made under this section:
  - a. The maximum loan amount for which a school district may qualify is tenfifteen million dollars for a bond issued pursuant to chapter 21-03, except a school district may borrow an additional ten million dollars from the fund for projects that exceed the fifteen million dollar threshold, subject to the availability of funds in the school construction assistance revolving loan fund. However, if a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the loan amount under this section may not exceed eighty percent of the project's cost up to a maximum loan amount of eight million dollars;
  - b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
  - c. The interest rate of the loan may not exceed two percent per year.
6. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with this section. The Bank of North Dakota may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administration costs which may not exceed one-half of one percent of the amount of the interest payment. The Bank of North Dakota shall deposit principal and interest payments made by school districts for loans under this section in the school construction assistance revolving loan fund. The Bank of North Dakota shall arrange for the conduct of an annual audit of the school construction assistance revolving loan fund, the cost of which must be paid from the fund and which must be conducted by an independent accounting firm."

Renumber accordingly

January 28, 2019

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1-30-19  
Att #1  
p. 1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2214

Page 1, line 3, remove the second "and"

Page 1, line 3, after "15.1-36-06" insert ", and 15.1-36-08"

Page 7, after line 23, insert:

**"SECTION 6. AMENDMENT.** Section 15.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-08. School construction assistance revolving loan fund - Bank of North Dakota - School construction projects - Continuing appropriation.**

1. The school construction assistance revolving loan fund is a special revolving loan fund administered by the Bank of North Dakota. The fund consists of all moneys appropriated or transferred to the fund by the legislative assembly, all interest or other earnings of the fund, and all repayments of loans made from the fund.
2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank of North Dakota on a continuing basis for the purpose of providing low-interest school construction loans and for paying administrative costs, in accordance with this section.
3. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Publish in the official newspaper of the district the information regarding the proposed estimated additional millage and the dollar increase per one thousand dollars of taxable valuation in accordance with section 21-03-13 along with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and  
(2) Post the information on the school district's website preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.

4. The superintendent of public instruction shall review loan applications based on a prioritization system that includes a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
5. If the superintendent of public instruction approves the loan, the Bank of North Dakota shall issue a loan from the school construction assistance revolving loan fund. For a loan made under this section:
  - a. The maximum loan amount for which a school district may qualify is ten million dollars for a bond issued pursuant to chapter 21-03, except a school district may borrow an additional ten million dollars from the fund for projects that exceed the ten million dollar threshold, subject to the availability of funds in the school construction assistance revolving loan fund. However, if a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the loan amount under this section may not exceed eighty percent of the project's cost up to a maximum loan amount of eight million dollars;
  - b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
  - c. The interest rate of the loan may not exceed two percent per year.
6. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with this section. The Bank of North Dakota may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administration costs which may not exceed one-half of one percent of the amount of the interest payment. The Bank of North Dakota shall deposit principal and interest payments made by school districts for loans under this section in the school construction assistance revolving loan fund. The Bank of North Dakota shall arrange for the conduct of an annual audit of the school construction assistance revolving loan fund, the cost of which must be paid from the fund and which must be conducted by an independent accounting firm."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2214

Page 1, line 2, remove "subdivision c of subsection 5 of"

Page 1, line 3, remove "section 6-09.4-03 and"

Page 1, line 4, remove "public finance agency definitions,"

Page 1, line 5, after the second semicolon insert "and"

Page 1, line 6, remove "; to provide an effective date; and to declare an emergency"

Page 1, remove lines 8 through 13

Page 2, line 15, after "lend" insert "or transfer"

Page 2, line 23, after "15.1-36-08" insert ". Bonds issued for this purpose are payable in each biennium solely from amounts that the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds, and nothing in this section may be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds or replenish a related reserve fund. The bonds are not a debt of the Bank of North Dakota or the state, and the full faith, credit, and taxing powers of the state are not pledged to the payment of the bonds. The obligation of the public finance authority with respect to the bonds shall terminate and the bonds shall no longer be outstanding as of the date appropriated funds and reserves are not sufficient to pay debt service on the bonds. In addition to providing funds for transfers to the department of transportation, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds and establish a reserve fund for the bonds"

Page 7, line 26, replace "\$4,000,000" with "\$5,000,000"

Page 8, replace lines 4 and 5 with:

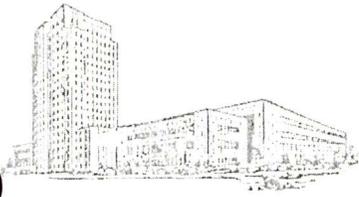
**"SECTION 7. APPROPRIATION - FOUNDATION AID STABILIZATION FUND.**

There is appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the public finance authority for the purpose of debt service repayments associated with bonds issued to support the school construction assistance revolving loan fund, for the biennium beginning July 1, 2019, and ending June 30, 2021."

Renumber accordingly

# NORTH DAKOTA SENATE

SB 2214  
3-12-19  
#1



STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

## Senator Donald Schaible

District 31  
9115 Highway 21  
Mott, ND 58646-9200

R: 701-824-3168  
[dgschaible@nd.gov](mailto:dgschaible@nd.gov)

**COMMITTEES:**  
Education, Chairman  
Energy and Natural Resources

Members of the Committee, I am here today to introduce SB 2214. This legislation continues on our efforts to provide low-cost construction loans for school districts in North Dakota. I want to take just a few minutes and provide a background of Legislative Actions on this issue.

- In the late 1990's the legislature amended the Coal Development Trust Fund and created a school construction fund of Fifty Million Dollars. The first loans were distributed in 1997.
- In the 2013 session, with pressing demands for school construction due to rapid population growth, the legislature expanded its loan programs. In the 2013 session, one hundred fifty million dollars was appropriated from the Strategic Investments Investment Fund to the Department of Land Trust for a school construction program. This funding was administered with the same program guidelines as the Coal Development Trust Fund program.
- In the 2015 Session BND was directed to provide up to \$250,000,000 in loans to school districts. BND utilized its profits to "buy down" the interest rate to 2%. Through this program, BND lent \$123,000,000 to school districts for construction projects utilizing Six Million Dollars a biennium from BND's profits to buy down these loans. BND's ability to initiate new loans in its program sunset in June of 2017.
- The BND program was considered a "Stop Gap" while waiting on a vote on "Measure 2" which enabled legislative discretion for a portion of the Foundation Aid Stabilization Fund balance to support education.

Senate Bill 2272 in the 2017 Legislative session, took a series of steps to consolidate the various school construction loan programs into one fund, (School Construction Assistance Loan Fund) centralized the administration and provided \$75,000,000 infusion into SCALF to provide \$30,000,000 in low interest loans each year to school districts. Today, the SCALF Fund has loans of \$218,375,000 with assets of \$229,772,000.

In addition, SB2272 authorized Bank of North Dakota to sell up to \$50,000,000 of school construction loans from their portfolio into SCALF. As noted earlier, BND is utilizing its profits to provide a 2% rate to schools through an interest rate buy-down similar to a PACE program loan. School districts in the program are concerned about interest rate increases as this buydown program is slated to sunset in June 2025.

At the end of the 2017-2019 biennium, BND will have transferred in \$40,000,000 in loans from its fund to the SCALF. BND continues to hold about \$83,000,000 in school construction loans on its books. As you will see in the proposed bill, there is an intent to authorize the BND buy down program for the life of the loans.

Last session, the concept developed for SCALF was to provide three, \$75,000,000 transfers into the fund over three sessions from the Foundation Aid Stabilization Fund. These capital influxes would allow the fund to grow and provide \$30,000,000 per year in construction funds for an indefinite basis.

This brief history brings us to today and Senate Bill 2214 and a different set of economic circumstances than in 2017. While the need for school construction continues, the economic downturn of the past few years and its impact on state tax revenues creates a need to revise the plan and that is what we are proposing today.

### **Future Construction Demand**

Before I go into bill specifics, let me provide some insight on anticipated demand for school construction. Bank of North Dakota in cooperation with the Department of Public Instruction did an evaluation of the last 10-years of school construction in North Dakota. When the highs and lows were eliminated, there was about just under \$125,000,000 in school construction per year in the last decade.

There is some discussion that the "height" of school construction is over. However, the numbers provided by the department of public instruction dispute that conclusion. DPI's projections indicate the current estimated public-school enrollment is 110,842 in grades kindergarten through 12.

Enrollment is projected to grow by almost 5 percent, to 116,347, by 2021. In various parts of the state, there will be pressing needs for school construction.

And, as we all know, one of the biggest concerns of voters across North Dakota is property taxes. I believe in some of the high growth areas, there is a growing sense of bond fatigue in the community. The question is how does the state help?

The school construction program is proving successful and SB2214 seeks to build on that success.

### **A Dynamic Plan To Fund School Construction**

As I noted earlier, the original plan for SCALF was to provide a \$75,000,000 capital infusion this session from the Foundation Aid Stabilization Fund. Unfortunately, the economic circumstances will not allow this infusion. In the 2017-2019 biennium, Foundation Aid contribute 15% of the \$1.9B in "Formula payments" to school districts. That percentage could grow to 18% in this biennium.

What does seem feasible is utilizing of \$25,000,000 in funds to support SCALF. Based on this funding level, there are two policy options.

- First, to simply put the money into the fund for additional loans to school districts. Based on the current parameters of the fund \$25,000,000 is not quite an allocation for one year of loans.
- The second option is to utilize the allocation and consider it part of a long-term payment option to allow the Bank of North Dakota to direct the North Dakota Public Finance Agency to bond for a larger amount with repayment over a 20 or 30-year term.

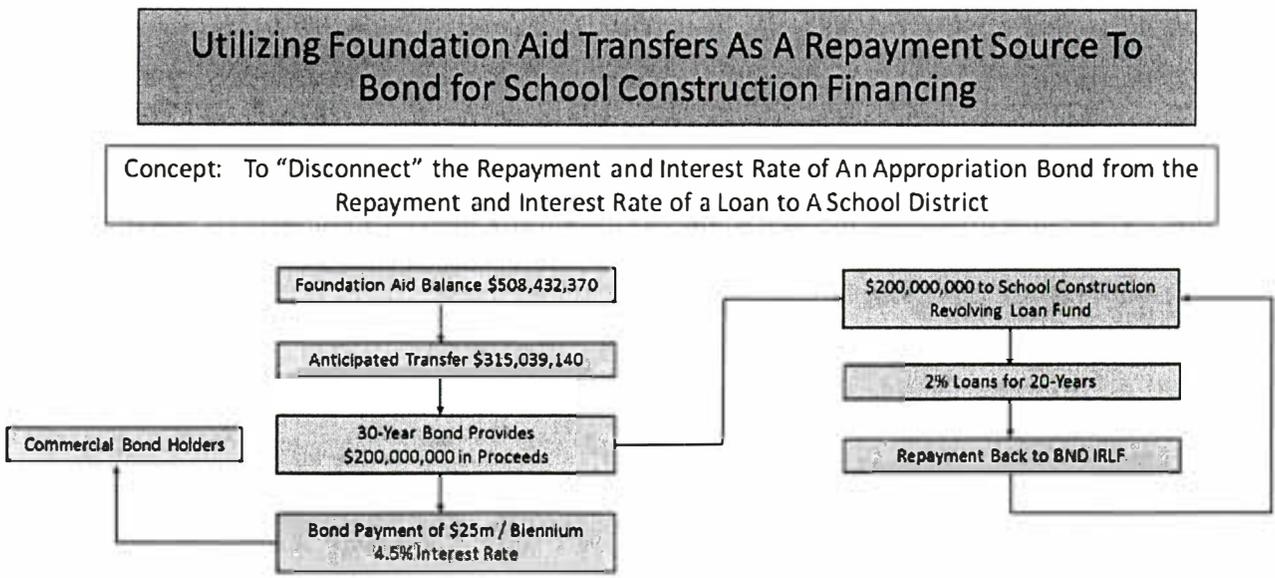
What is proposed in SB2214 is the second alternative, to enable BND to bond for an amount up to \$250,000,000 to capitalize SCALF. This proposal is quite a deviation from past actions by the Legislature and I want to provide some insight into how this might work.

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As you can see from the following graphic, the concept is to utilize a small portion of the Foundation Aid Transfer as payment for a long-term bond. The bond proceeds would be placed in SCALF and lent out at 2%.

Utilizing this model enables the Legislature to accomplish the following objectives.

1. It creates an injection of \$200,000,000 into SCALF that can be used to fund near-term school construction projects.
2. It spreads the repayment for the bond out over a long-term matching the life of an asset with a generation repayment strategy.
3. It maintains the loan cap to \$10,000,000 per voter approved bond issue.
4. It increases the amount available for school construction from \$60,000,000 per biennium to \$83,000,000 per biennium.



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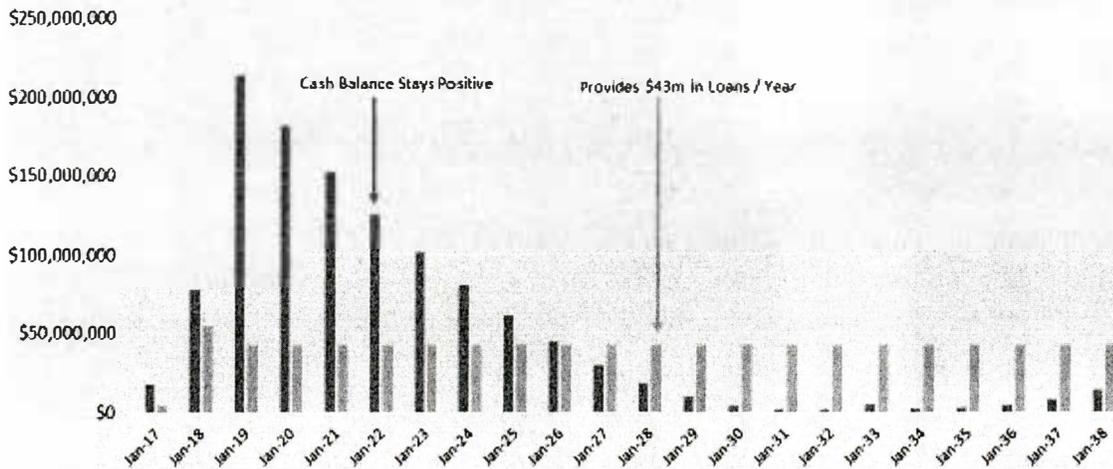
- 5. It creates a long-term revolving fund that is sustainable without additional capital injections from the Legislature or the Foundation Aid Stabilization Fund.

## Impact of \$200m On School Construction Revolving Loan Fund

Enables Total Loans / Biennium to Increase from \$60m to \$86m

Loans Remaining at BND (\$83m) Maintain a 2% Interest Rate with Buy-Down Through 2038

SCALF Cash Balance VS Loans Provided



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### Positive Impact To North Dakota Tax Payers

Below, you will find a graphic that provides some insight into the positive impact SCALF will have on North Dakota taxpayers. The highlights include:

- By 2035, the IRLF will have Loaned \$780,000,000 to local School Districts.
- Assuming a 4.25% Market Rate, Tax Payers Will Save \$204,819,174 in Interest costs by 2035.
- Accelerated construction schedules protect against inflation and increasing costs of construction.
- By 2035, total assets in the fund exceed \$500,000,000 creating an on-going sustainable revolving loan fund for future generations.

## Overview of School Construction Assistance Revolving Loan Fund Return on Investment

### Current Status SCALF

Beginning Loans:	
School Lands:	\$143,012,155
BND Loans Purchased	\$39,474,241
Loan Advances	\$60,000,000
Principal Repayments:	\$24,111,114
Current Cash Balance:	\$13,581,308
<b>Fund Balance</b>	
<b>\$229,772,837</b>	

### SCALF Evolution Through 2035

Biennium Ending 2021		Biennium Ending 2025		Biennium Ending 2035	
Loans Funded:	\$90,000,000	Loans Funded:	\$90,000,000	Loans Funded:	\$780,000,000
Outstanding	\$284,597,490	Outstanding	\$391,898,175	Outstanding	\$513,730,377
Repayments	\$28,648,409	Repayments	\$49,548,932	Repayments	\$537,078,367
Loan Loss Res.	\$2,183,753	Loan Loss Res.	\$3,918,983	Loan Loss Res.	\$5,137,306
Cash	\$198,442,645	Cash	\$99,448,927	Cash	\$23,968,722
<b>Total Assets</b>		<b>Total Assets</b>		<b>Total Assets</b>	
<b>\$491,932,746</b>		<b>\$487,428,119</b>		<b>\$532,561,793</b>	

### Assumptions

Bond	\$250,000,000
(Total Amount Advanced In 5-Years.)	

**Highlights:**

- Under the Assumptions, by 2035, the IRLF will have Loaned \$780,000,000 to local School Districts.
- Assuming a 4.25% Market Rate, Tax Payers Will Save \$204,819,174 in Interest costs by 2035.
- Accelerated construction schedule protect against inflation and increasing costs of construction.

Note (Interest on \$780M / 20 Years @ 4.25% = \$369,510,599) (Interest on \$780M / 20 Years @ 2% = \$164,691,425)

## Addressing School Loans In the BND School Construction Fund

In the 2015 Legislative Session, the Bank of North Dakota was instructed to implement a short-term school construction program. This program resembled the PACE program in that BND "Bought Down" the interest rate to 2% for the schools. Under this program, BND put on loans of \$123,000,000 to school districts.

The buy down amount was appropriated from BND earnings and is anticipated to be \$5,000,000 in the 2019-2021 biennium. As this program was anticipated to be short-term, the 2015 Legislation put a sunset on the buy down program of 2025.

Obviously, this sunset of a lower interest rate is making school districts in the BND program nervous as to what happens when the sunset clause is initiated. To address this issue, in the current biennium, legislation allowed BND to sell up to \$50,000,000 of its \$123,000,000 in loans to SCALF. BND has transferred \$40,000,000 in loans leaving \$83,000,000 as part of its loan portfolio. The goal was to transfer the remaining loans into SCALF by 2025.

The challenge is if BND continues to transfer loans into SCALF, it utilizes \$83,000,000 in funding that is needed for new construction projects. To address this issue, SB2214 has two provisions.

1. It removes the sunset clause on the BND program enabling BND to carry to school construction loans to term with a guaranteed 2% interest rate to those school districts.
2. Instead of using BND earnings to buy down the interest rate, the buy down is secured from the Foundation Aid Stabilization transfer.

### Summary

In closing, let me say I know this is a lot to digest and is a substantial change from the previous approach to funding school construction. However, North Dakota is in a new era and growth is projected to continue. To meet the needs of our communities in attracting and retaining talent, a quality school district is essential. This plan enables the state to participate with the school districts by providing longer-term low interest loans.

Kelvin Hullett  
BND

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#2

### Proposed Amendments to SB2214

- Page 2, Line 13, after "the" insert "transferred"
- Page 2, Line 26, strike "department of transportation" and insert "Bank"
- Page 5, Line 19, Strike "6-09.4-06" and insert "7 of this act"
- Page 9, line 1, insert, "for each bond vote approved via provisions in 15.1-36-08(3)(a-e). For projects over ten million dollars, a school district may apply for additional funding to a maximum loan of twenty million dollars providing funding is available."
- Page 9, Line 24, after "June 30, 2021" insert, "The Bank of North Dakota, may at its discretion, provided it does not interfere with loans to local school districts, utilize funding from the school construction assistance revolving loan fund to repay the Bank of North Dakota for the outstanding principal balance on a portion of the loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under section 15.1-36-06 from the Bank of North Dakota to the school construction assistance revolving loan fund."
- Page 9, Line 26, strike "Pursuant to the bonding authority under section 6-09.4-06". Insert "The" after Foundation Aid Stabilization Fund on line 26.
- Page 9, Line 29, after fund, insert, "as provided in Section 6-09.4-06, subsection 2(b)"
- Page 9, Line 31 insert, "Section 8. Anticipation Financing. The Public Finance Authority may issue bond anticipation notes to allow for financing of loans prior to a bond issuance, under section 7 of this act. Bank of North Dakota may provide an amount, not to exceed, \$100,000,000 to the school construction assistance revolving loan fund, for the purpose of financing loans prior to a bond issuance, which amounts shall be reimbursed from the proceeds of the authority's notes or bonds."

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3-12-19  
#2

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.

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

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

9 **6-09.4-06. Lending and borrowing powers generally.**

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

1 reasons for the public finance authority's involvement in the bond issue. The public  
2 finance authority may hold such municipal securities for any length of time it finds to  
3 be necessary. The public finance authority, for the purposes authorized by this chapter  
4 or chapter 40-57, may issue its bonds payable solely from the revenues available to  
5 the public finance authority which are authorized or pledged for payment of public  
6 finance authority obligations, and to otherwise assist political subdivisions or other  
7 contracting parties as provided in this chapter or chapter 40-57.

8 2. The public finance authority may lend or transfer money to the Bank of North Dakota  
9 underas follows:

10 a. Under terms and conditions requiring the Bank to use the proceeds to make  
11 loans for agricultural improvements that qualify for assistance under the revolving  
12 loan fund program established byunder chapter 61-28.2; and  
13 b. Under terms and conditions requiring the Bank to use the transferred proceeds to  
14 make loans for school construction projects that qualify for assistance under the  
15 school construction assistance revolving loan fund established under section  
16 15.1-36-08. Bonds issued for this purpose are payable in each biennium solely  
17 from amounts the legislative assembly may appropriate for debt service for any  
18 biennium or from a reserve fund established for the bonds. This section may not  
19 be construed to require the state to appropriate funds sufficient to make debt  
20 service payments with respect to the bonds or replenish a related reserve fund.  
21 The bonds are not a debt of the Bank of North Dakota or the state, and the full  
22 faith, credit, and taxing powers of the state are not pledged to the payment of the  
23 bonds. Upon the date appropriated funds and reserves are no longer sufficient to  
24 pay debt service on the bonds, the obligation of the public finance authority  
25 terminates and the bonds are no longer outstanding. In addition to providing  
26 funds for transfers to the ~~department of transportation~~ Bank, the public finance  
27 authority may use the bond proceeds to pay the costs of issuance of the bonds  
28 and establish a reserve fund for the bonds.

29 3. 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 4. 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 anytime 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~~ as follows:

19 a. Under section 7 of this Act ~~6-09.4-06;~~

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

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

22 **SECTION 3.** Section 6-09.4-29 of the North Dakota Century Code is created and enacted  
23 as follows:

24 **6-09.4-29. Debt service requirements - School construction assistance revolving loan**  
25 **fund - Foundation aid stabilization fund.**

26 Each biennium, the public finance authority shall request from the legislative assembly an  
27 appropriation from the foundation aid stabilization fund to meet the debt service requirements  
28 for evidences of indebtedness issued by the authority to support the school construction  
29 assistance revolving loan fund.

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

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

- 3           1. In addition to any construction loans made available under section 15.1-36-02, the  
4 Bank of North Dakota may provide up to two hundred fifty million dollars to eligible  
5 school districts for school construction loans until June 30, 2017. After June 30, 2017,  
6 no new loans may be provided under this section.
- 7           2. To be eligible for a loan under this section, the board of a school district shall:
- 8           a. Propose a new construction or remodeling project with a cost of at least  
9 one million dollars and an expected utilization of at least thirty years;
- 10           b. Obtain the approval of the superintendent of public instruction for the project  
11 under section 15.1-36-01;
- 12           c. (1) Request from the tax commissioner a statement of the estimated tax  
13 increase, in mills and dollars, which would be applicable to a residential  
14 parcel of average true and full value within the county in which the school  
15 district is headquartered, if a loan under this section and any associated  
16 school construction bond issue were to be authorized in accordance with  
17 chapter 21-03;
- 18           (2) Request from the tax commissioner a statement of the estimated tax  
19 increase, in mills and dollars, which would be applicable to an acre of  
20 cropland and to an acre of noncropland, of average true and full value within  
21 the county in which the school district is headquartered, if a loan under this  
22 section and any associated school construction bond issue were to be  
23 authorized in accordance with chapter 21-03;
- 24           (3) Publish in the official newspaper of the district the information from the  
25 statements required by this subdivision with the notice of the election to  
26 authorize the school construction bond issuance in accordance with section  
27 21-03-12; and
- 28           (4) Post on the school district's website the information from the statements  
29 preceding the date of the election to authorize the school construction bond  
30 issuance in accordance with chapter 21-03;
- 31           d. Receive authorization for a bond issue in accordance with chapter 21-03; and

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

27 **SECTION 5. AMENDMENT** Section 15.1-36-06 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **15.1-36-08. School construction assistance revolving loan fund – Bank of North Dakota –**  
30 **School construction projects – Continuing appropriation.**

- 31 1. The school construction assistance revolving loan fund is a special revolving loan fund
- 32 Administered by the Bank of North Dakota. The fund consists of all moneys appropriated or

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- 1 transferred to the fund by the legislative assembly, all interest or other earnings of the fund, and
- 2 all repayments of loans made from the fund.
- 3 2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of
- 4 principal and interest are appropriated to the Bank of North Dakota on a continuing basis for the
- 5 purpose of providing low-interest school construction loans and for paying administrative costs, in
- 6 accordance with this section.
- 7 3. To be eligible for a loan under this section, the board of a school district shall:
- 8 a. Propose a new construction or remodeling project with a cost of at least one million dollars and
- 9 an expected utilization of at least thirty years;
- 10 b. Obtain approval of the superintendent of public instruction for the project under section
- 11 15.1-36-01;
- 12 c. (1) Publish in the official newspaper of the district the information regarding the proposed
- 13 estimated additional millage and the dollar increase per one thousand dollars of taxable
- 14 valuation in accordance with section 21-03-13 along with the notice of the election to
- 15 authorize the school construction bond issuance with section 21-03-12; and
- 16 (2) Post the information on the school district's website preceding the date of the election to
- 17 authorize the school construction bond issuance in accordance with chapter 21-03;
- 18 d. Receive authorization for a bond issue in accordance with chapter 21-03; and
- 19 e. Submit a completed application to the Bank of North Dakota
- 20 4. The superintendent of public instruction shall review loan applications based on a prioritization
- 21 system that includes a review of all applications filed during the twelve-month period preceding
- 22 April first and gives consideration to:
- 23 a. Student occupancy and academic needs of the district;
- 24 b. The age of existing structures to be replaced or remodeled;
- 25 c. Building design proposals that are based on safety and vulnerability assessments;
- 26 d. Community support;
- 27 e. Cost; and
- 28 f. Any other criteria established by the superintendent of public instruction, after consultation with
- 29 an interim committee appointed by the legislative management.
- 30 5. If the superintendent of public instruction approves the loan, the Bank of North Dakota shall
- 31 issue a loan from the school construction assistance revolving loan fund. For a loan made under
- 32 this section:
- 33 a. The maximum loan amount for which a school district may qualify is ten million dollars

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1 for each bond vote approved via provisions in 15.1-36-08(3) (a-e). For projects over ten million  
2 dollars, a school district may apply for additional funding to a maximum loan of twenty million  
3 dollars providing funding is available. However, if a school district's unobligated general fund  
4 balance on the preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the  
5 loan amount under this section may not exceed eighty percent of the project's cost up to a  
6 maximum loan amount of eight million dollars;

7 b. The term of the loan is twenty years, unless the board of the school district requests a shorter  
8 term in the written loan application; and

9 c. The interest rate on the loan may not exceed two percent per year.

10 6. The Bank may adopt policies and establish guidelines to administer this loan program in  
11 accordance with this section. The Bank of North Dakota may use a portion of the interest paid on  
12 the outstanding loans as a servicing fee to pay administration costs which may not exceed one-  
13 half of one percent of the amount of the interest payment. The Bank of North Dakota shall  
14 deposit principal and interest payments made by school districts for loans under this section in  
15 the school construction assistance revolving loan fund. The Bank of North Dakota shall arrange f  
16 or the conduct of an annual audit of the school construction assistance revolving loan fund, the  
17 cost of which must be paid from the fund and which must be conducted by an independent  
18 accounting firm.

19 **SECTION 6. SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USE**  
20 **OF FUNDS - BANK OF NORTH DAKOTA.** Pursuant to the continuing appropriation authority  
21 under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available  
22 from the school construction assistance revolving loan fund to the Bank of North Dakota to  
23 provide interest rate buydowns associated with loans issued under section 15.1-36-06, for the  
24 biennium beginning July 1, 2019, and ending June 30, 2021. The Bank of North Dakota, may at  
25 its discretion, provided it does not interfere with loans to local school districts, utilize funding from  
26 the school construction assistance revolving loan fund to repay the Bank of North Dakota for the  
27 outstanding principal balance on a portion of the loans issued under section 15.1-36-06  
28 for the purpose of transferring a portion of the loans issued under section 15.1-36-06 from the  
29 Bank of North Dakota to the school construction assistance revolving loan fund."

30 **SECTION 7. PUBLIC FINANCE AUTHORITY - BOND ISSUANCE LIMITATION -**

31 **FOUNDATION AID STABILIZATION FUND.** Pursuant to the bonding authority under section  
32 ~~6-09.4-06,~~ the public finance authority may issue up to \$250,000,000 of evidences of  
33 indebtedness for the purpose of supporting the school construction assistance revolving loan

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1 fund, as provided in Section 6-09.4-06, subsection 2(b) during the biennium beginning July 1,  
2 2019, and ending June 30, 2021.

3 **SECTION 8. ANTICIPATION FINANCING** The Public Finance Authority may issue bond  
4 anticipation notes to allow for financing of loans prior to a bond issuance, under section 7 of this  
5 Act. Bank of North Dakota may provide an amount, not to exceed, \$100,000,000, to the school  
6 construction assistance revolving loan fund, for the purpose of financing loans prior to a bond  
7 issuance, which amounts shall be reimbursed from the proceeds of the authority's notes or  
8 bonds.

9 **SECTION 9. APPROPRIATION - FOUNDATION AID STABILIZATION FUND.** There is  
10 appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not  
11 otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary,  
12 to the public finance authority for the purpose of debt service repayments associated with bonds  
13 issued to support the school construction assistance revolving loan fund, for the biennium  
14 beginning July 1, 2019, and ending June 30, 2021.

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Foundation Aid Stabilization—Bonding Concept To Support School Construction Revolving Loan Fund

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# Constitutional Governing Language

- The Foundation Aid Stabilization Fund was created by a constitutional amendment adopted by North Dakota's voters in 1994. Article X, § 24 of the North Dakota Constitution requires the State Treasurer to deposit 10% of the Oil Extraction Taxes collected each month into the Foundation Aid Stabilization Fund.
- The interest income earned is deposited to the State's General Fund. The principal may only be expended upon order of the Governor and only for the purpose of offsetting foundation aid reductions made by executive action pursuant to law due to a revenue shortage.

Current Balance: \$374,602,863

## 2015 Legislative Session

- Proposed Amendment 2 to North Dakota Voters in the November 2016
  - ✓ If the balance of the fund exceeds fifteen percent of the most recent general fund appropriation for state aid to school districts, the excess balance may be used for other education-related purposes.
- While Awaiting the Public Vote, BND was Enabled to Issue Up To \$250,000,000 in School Construction Loans at a 2% Interest Rate using the “Buy Down Method” (NDCC 15.1-36-06)
- Sunset the Buy Down Portion of the Plan in June of 2025.
- ✓ In the 2015-2017 Biennium, BND issued \$123,000,000 in School Loans

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# Bank of North Dakota Buy-Down

- ✓ Buy Down is Utilized For a Variety of BND Economic Development Programs. Normally in Conjunction With A Community
- ✓ Enables A Financial Institution To Receive A “Market Rate” Return on Capital While Providing A Lower, Net, Interest Rate To A Borrower

Example

BND Loan	Market Rate	Buy Down	Net Rate
\$10,000,000	5%	3%	2%
Loan Payment	\$970,602	(\$282,361)	\$688,241

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# 2017 Legislative Session

✓ Measure 2 Was Passed by North Dakota Voters

## Creation of the School Construction Assistance Revolving Loan Fund (SCALF)

**STEP ONE**  
Developed Model to Create a Sustainable Revolving Loan Fund  
✓ \$30,000,000 / Biennium  
✓ 2% Interest Rate  
✓ Up to 20-Year Term  
✓ Must Pass Voter Approval Like a Bond Issuance  
✓ Loan Approved by DPI- Administered by BND  
Determined Need of \$75,000,000 for Three Biennium's

**STEP TWO**  
Consolidated the Land Trust Department School Loan Program into the SCALF Program.  
✓ Fund had \$143,000,000 in outstanding Loans  
✓ \$9,300,000 in Cash

**STEP THREE**  
✓ Enabled Bank of North Dakota to "Sell Into SCALF" up to \$50,000,000 in BND Loans  
✓ BND sold \$40,000,000 into the Fund in the Current Biennium  
✓ Idea is to Create Certainty for the School Districts to Receive a 2% Rate

**Step Four**  
✓ Amended the Funding Available in the Coal Development Trust Fund to Provide for Unanticipated Construction or Replacement Project or Emergency Repair.  
✓ Project must be at least \$150,000,000  
✓ Loan Approved by DPI, School Lands Issues the Loan

Enabled \$60,000,000 a Biennium for Projects

## 2019 Legislative Session

Determined There Is Low Probability of \$75,000,000 Appropriation From Foundation Aid...

### Alternative Plan For 2019 Session

1. Evaluate Bonding To Provide Capitalization of Fund
2. Remove the 2025 Sunset Clause For BND Loans
3. Provide BND Buy-Down From Foundation Aid

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## Current Status SCALF

Principal Outstanding 8/20/2018	\$173,253,971.54
Committed as of 8/20/2018	\$47,113,536.86
Still Available for 17-19 Biennium	\$6,045,000.00
Principal Payments Remaining 17-19 Biennium	(\$9,220,202.32)
Loans Outstanding 6/30/2019	\$217,192,306.08
Available for Loans 7/1/2019	\$13,581,308.25

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# Bonding Overview

# Common Bond Structures

## **General Obligation Bonds**

- Full Faith and Credit Pledge
- All legally Available Revenues
- Taxing Power
- Not Subject to Appropriation

## **Appropriation (Lease) Bonds**

- Special Obligation Pledge
- All legally Available Revenues
- No Taxing Power
- Subject to Appropriation

## **Revenue Bonds**

- Revenue Pledge
- Specifically Defined Revenue Source
- No Property Taxing Power
- Covenants to Ensure Revenue Sufficiency
- Not Subject to Appropriation

## **Grant Anticipation Bonds**

- Pledge of Future Grant Funding
- Specifically Defined Revenue Source
- No Taxing Power
- Not Subject to Appropriation

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## State Agency Debt Paid by Appropriations

State Agency	Rating	Bond Type	Source of Repayment	Outstanding Amount 12-31-18
Building Authority	AA	Lease Revenue/ Appropriation	Biennial appropriations (including General Fund, Local Match Funds, Federal Funds & Lease income)	\$20,855,000
Dept of Transportation	Aa1	Grant Anticipation	Anticipated Federal Highway Grants & Revenue Funds & appropriated State Highway Fund revenues	9,880,000
		Total		\$30,735,000

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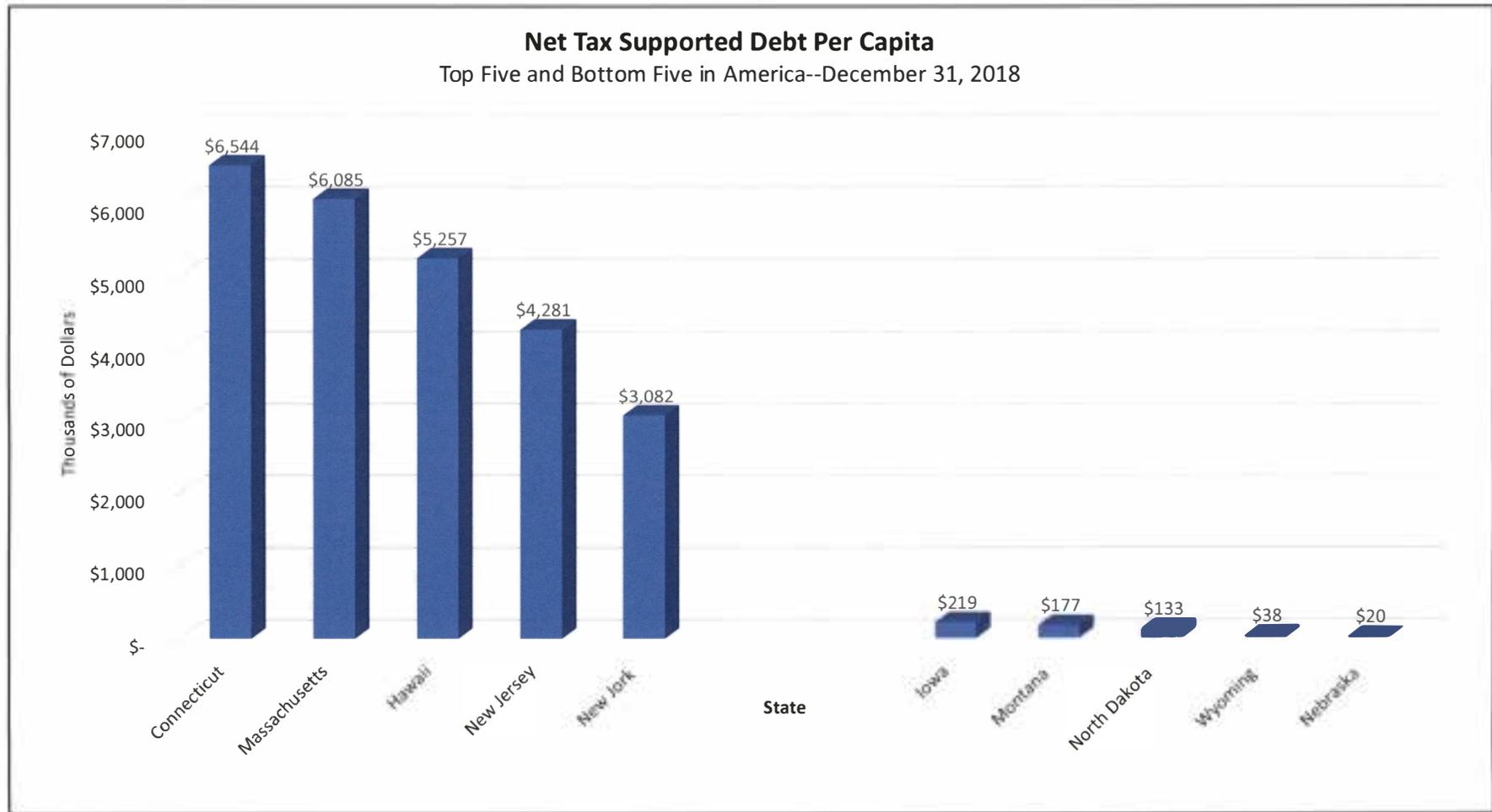
# State Agency Revenue Bonds

These Bonds are not repaid from State appropriations

State Agency	Rating	Source of Repayment	Outstanding Amount 12-31-18
Housing Finance Agency	Aa1	Homeowner Mortgage Loan Repayments	\$1,021,915,000
Public Finance Authority	Aaa SRF AA- CFP	Loan repayments from political subdivisions (\$154,715,000 has moral obligation)	497,705,000
Student Loan Trust	Non-rated	Student Loan payments	1,000,000
University System	Various	Parking Fees, Housing Fees, Student Fees	270,552,548
<b>Total</b>			<b>\$1,791,172,548</b>

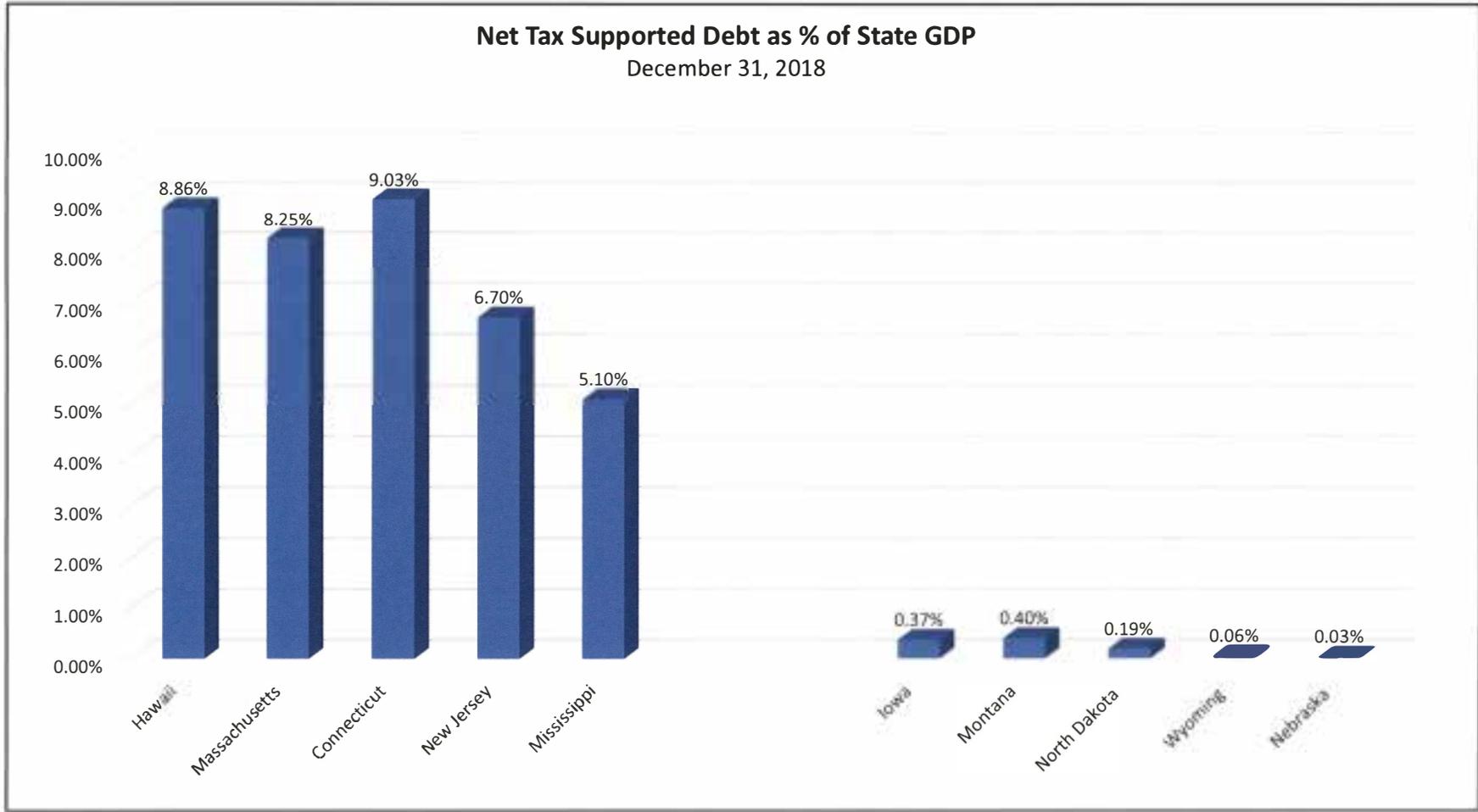
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# Net Tax-Supported Debt Per Capita



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# Relative Debt Ratios



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# Relative Debt Ratio's Per Capita and State As Calculated by Moody's

State	Rating	Per Capita	ND Equivalent *	% of GDP	ND Equivalent*
North Dakota	Aa1	\$ 133	\$ 100,763	0.19%	\$ 100,763
Minnesota	Aa1	\$ 1,430	\$ 1,083,392	2.35%	\$ 1,246,279
South Dakota	Aaa	\$ 694	\$ 525,786	1.25%	\$ 662,914
Wisconsin	Aa1	\$ 1,660	\$ 1,257,643	3.07%	\$ 1,628,118
Montana	Aa1	\$ 177	\$ 134,098	0.40%	\$ 212,133
Indiana	Aaa	\$ 295	\$ 223,497	0.57%	\$ 308,289
Iowa	Aaa	\$ 219	\$ 165,918	0.37%	\$ 196,223
Idaho	Aa1	\$ 482	\$ 365,171	1.21%	\$ 641,701
Median		\$ 987	\$ 747,768	2.57%	\$ 1,362,952
North Dakota		\$ 133	\$ 100,763	0.19%	\$ 100,763
As Proposed		\$ 1,296	\$ 981,763	1.85%	\$ 981,763
To Equal Median		\$ 987	\$ 747,777	1.41%	\$ 747,777

\*Amounts reported in millions

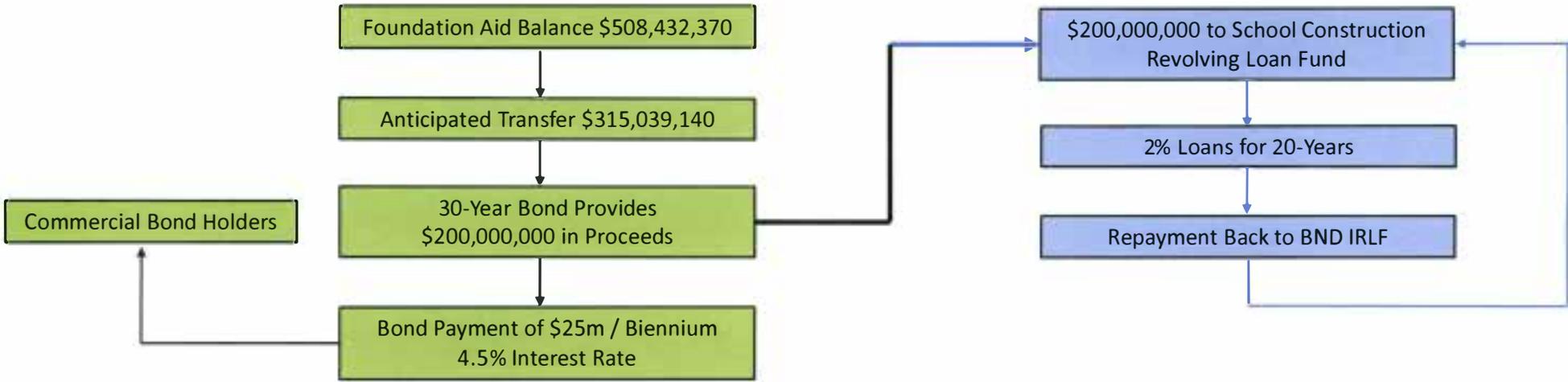
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# Back To Foundation Aid Proposal

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# Utilizing Foundation Aid Transfers As A Repayment Source To Bond for School Construction Financing

Concept: To “Disconnect” the Repayment and Interest Rate of An Appropriation Bond from the Repayment and Interest Rate of a Loan to A School District



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# Foundation Aid Stabilization Fund

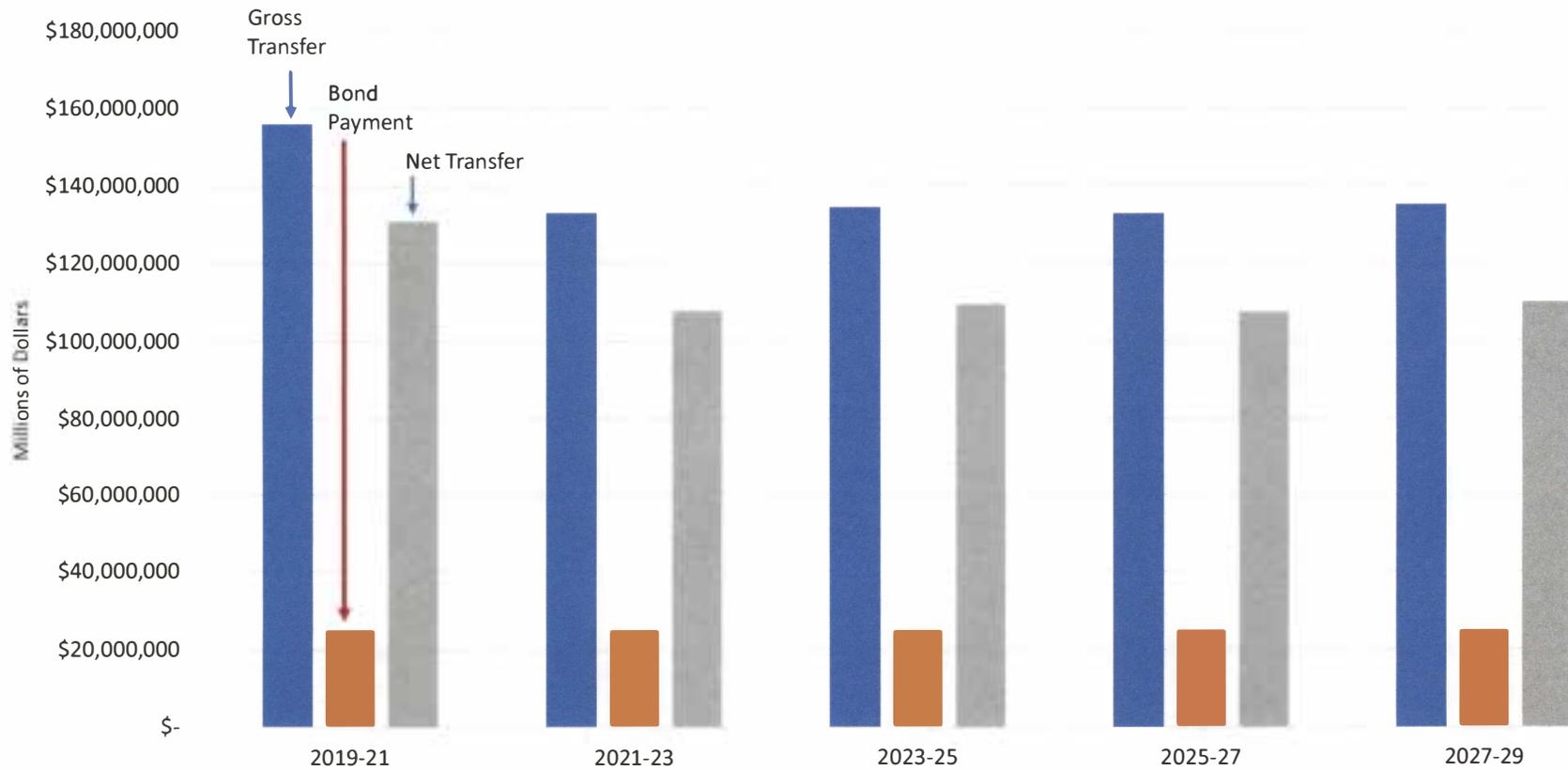
Analysis of Foundation Aid Stabilization Fund with \$25,000,000 Appropriated for  
\$200,000,000 Bond to Fund School Construction Revolving Loan Fund

Principal Balance	Tax Revenue Deposit	Required Min. Balance	Can Be Appropriated	Biennium Bonding Amt.	Net for Appropriation	Biennium
\$633,793,830						
\$429,745,348	\$171,570,512	\$269,168,800	\$149,371,116	75,000,000	74,371,116	2017-2019
\$439,631,185	\$195,462,385	\$214,831,704	\$155,943,349	25,000,000	\$130,943,349	2019-2021
\$442,046,610	\$184,419,370	\$231,233,589	\$132,864,480	25,000,000	\$107,864,480	2021-2023

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# Foundation Aid Stabilization Fund

Amount for Appropriation after \$25,000,000 Bond Payment

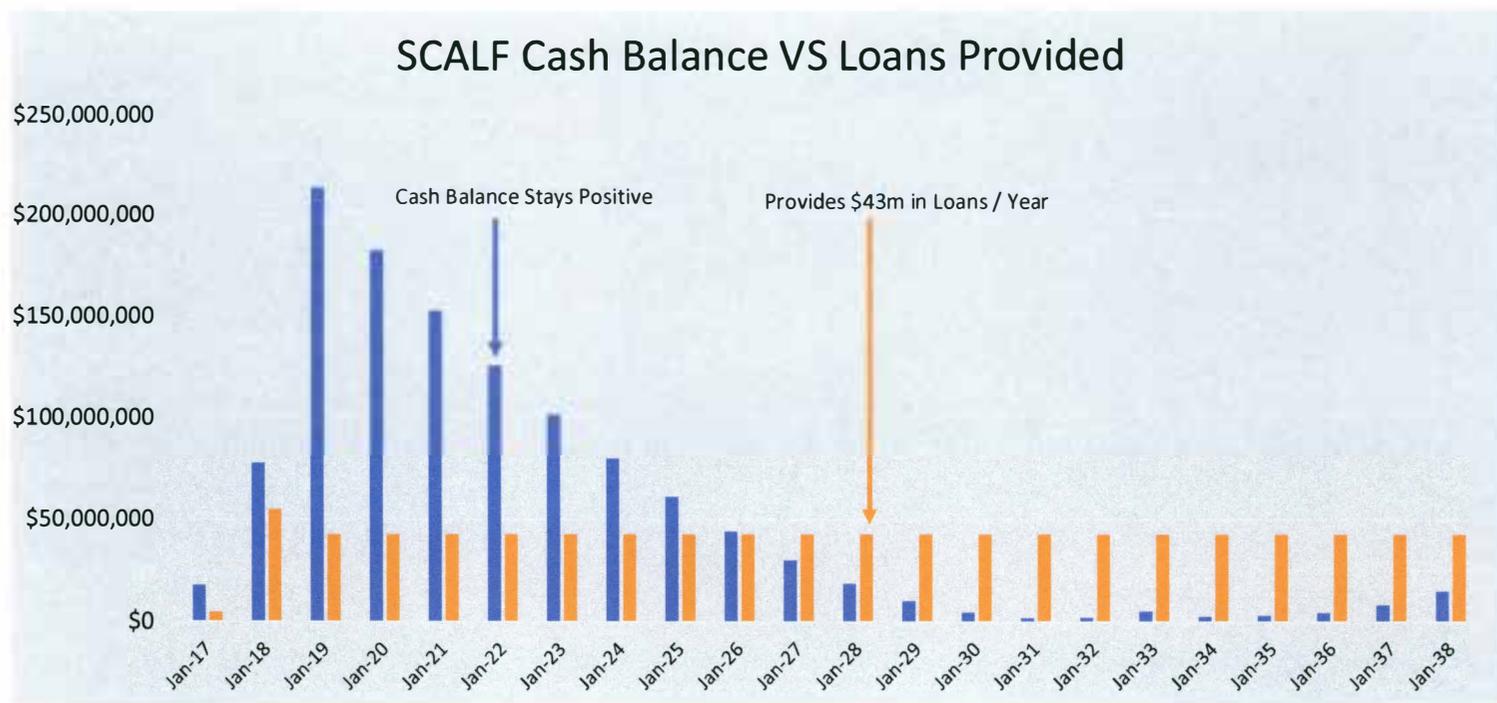


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# Impact of \$200m On School Construction Revolving Loan Fund

Enables Total Loans / Biennium to Increase from \$60m to \$86m

Loans Remaining at BND (\$83m) Maintain a 2% Interest Rate with Buy-Down Through 2038



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# Overview of School Construction Assistance Revolving Loan Fund Return on Investment

## Current Status SCALF

Beginning Loans:	
School Lands:	\$143,012,155
BND Loans Purchased	\$39,474,241
Loan Advances	\$60,000,000
Principal Repayments:	\$24,111,114
Current Cash Balance:	\$13,581,308
Fund Balance \$229,772,837	

## SCALF Evolution Through 2035

Biennium Ending 2021	
Loans Funded:	\$150,000,000
Outstanding	\$284,597,490
Ann. Repayments	\$16,926,878
Loan Loss Res.	\$2,845,975
Cash	\$198,442,645
Total Assets \$480,194,160	

Biennium Ending 2025	
Loans Funded:	\$330,000,000
Outstanding	\$391,898,175
Ann. Repayments	\$27,935,087
Loan Loss Res.	\$3,918,983
Cash	\$99,448,927
Total Assets \$487,428,119	

Biennium Ending 2035	
Loans Funded:	\$780,000,000
Outstanding	\$513,730,377
Ann. Repayments	\$47,079,394
Loan Loss Res.	\$5,137,306
Cash	\$23,968,722
Total Assets \$532,561,793	

## Assumptions

Bond	\$250,000,000
(Total Amount Advanced in 5-Years.)	

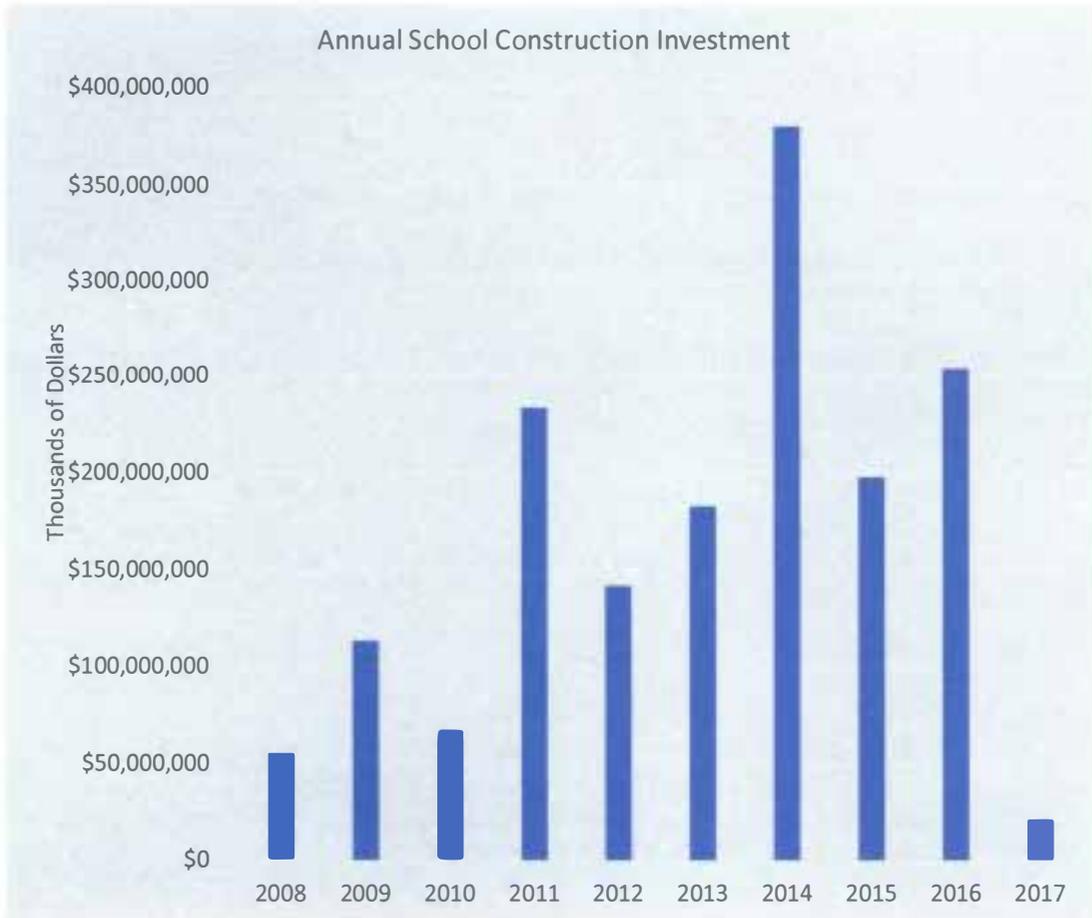
### Highlights:

- Under the Assumptions, by 2035, the IRLF will have Loaned \$780,000,000 to local School Districts.
- Assuming a 4.25% Market Rate, Tax Payers Will Save \$215,475,422 in Interest costs by 2035.
- Accelerated construction schedule protect against inflation and increasing costs of construction.

Note (Interest on \$780M / 20 Years @ 4.25% = \$385,690,088) (Interest on \$780M / 20 Years @ 2% = \$170,214,666)

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# Projecting School Construction Needs



Notes on School Construction

10-Year Construction Total = \$1,664,571,919  
10-Year Average = \$166,457,197

12 Projects Totaled \$759,886,736  
Total Minus Major Projects = \$904,685,183  
10-Year Average = \$90,468,518 / Year

Remove High and Low Years = \$1,247,292,742  
10-Year Average = \$124,729,274 / Year

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## Current School Construction Revolving Loan Fund Balances

School District	Date Funded	Final Payment	Outstanding Balance
WILLISTON PUBLIC SCHOOL DIST#1	09/25/2015	10/01/2034	\$17,977,690.53
MINOT PUBLIC SCHOOL DIST #1	11/13/2014	06/01/2034	\$16,518,142.62
WAHPETON PUBLIC SCHOOL DIST#37	01/22/2014	06/01/2033	\$15,356,718.24
BISMARCK PUBLIC SCHOOL DIST	06/30/2014	06/01/2034	\$12,539,214.21
GRAND FORKS PUB SCHOOL DIST #1	12/02/2013	06/01/2033	\$11,772,885.84
GRAFTON PUBLIC SCHOOL DIST #3	04/01/2014	06/01/2033	\$11,267,668.33

School District	Date Funded	Final Payment	Outstanding Balance
POWERS LAKE PUB SCHOOL DIST#27	07/01/2014	06/01/2034	\$1,627,797.87
TURTLE LAKE-MERCER DIST #72	11/01/2013	06/01/2033	\$1,411,083.03
NORTHERN CASS PUB SCHOOL #97	08/01/2013	06/01/2033	\$1,366,717.72
HILLSBORO PUBLIC SCHOOL DIST#9	08/11/2016	02/01/2036	\$1,011,473.00

School District	Date Funded	Final Payment	Outstanding Balance
MANDAN PUBLIC SCHOOL DIST	08/01/2013	06/01/2033	\$8,640,128.34
WEST FARGO PUB SCHOOL DIST #6	04/01/2014	06/01/2033	\$7,597,734.30
SOUTH PRAIRIE SCHOOL DIST. 70	11/14/2014	06/01/2034	\$7,234,623.76
STANLEY PUBLIC SCHOOL DIST #2	06/25/2015	12/01/2035	\$7,197,825.98
WEST FARGO PUB SCHOOL DIST #6	08/01/2013	06/01/2033	\$6,945,338.36
MCKENZIE COUNTY SCHOOL DIST #1	01/28/2015	06/01/2034	\$5,978,171.34
TIOGA PUBLIC SCHOOL DIST #15	12/01/2014	06/01/2034	\$5,695,559.57

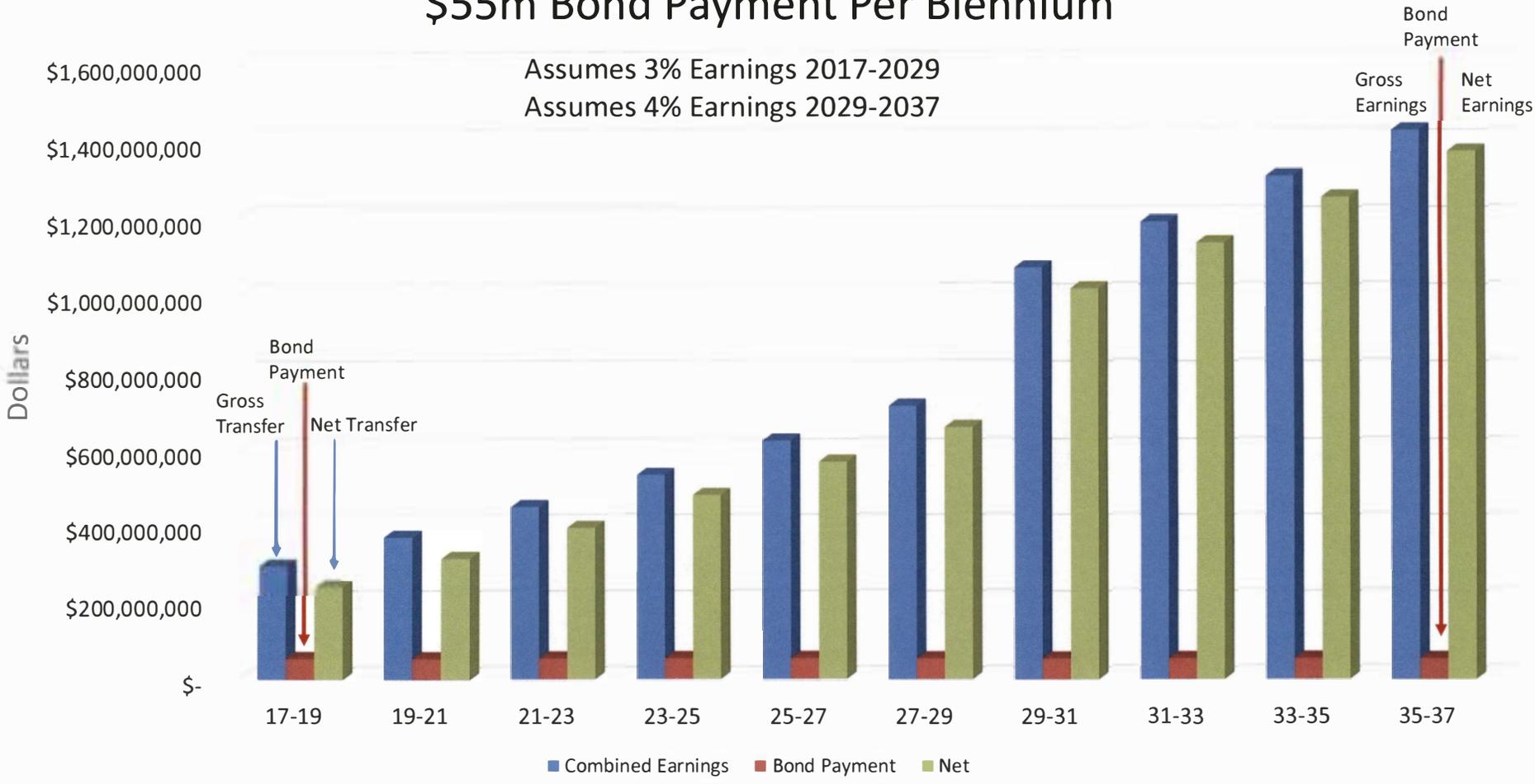
School District	Date Funded	Final Payment	Outstanding Balance
NEW ENGLAND PUB SCHOOL DIS #9	08/15/2013	06/01/2032	\$870,465.20
SURREY PUBLIC SCHOOL DIST #41	08/15/2013	06/01/2033	\$719,014.92
NEW ROCKFORD SHEYENNE SCHOOL 2	06/30/2018	05/01/2038	\$481,482.30
UNITED PUBLIC SCHOOL DISTRICT	06/30/2018	08/01/2037	\$195,437.00
EIGHT MILE PUBLIC SCHOOL DIST 6	06/01/2018	05/01/2038	\$304,121.00
HATTON EIELSON DISTRICT 7	08/01/2018	05/01/2038	\$0.00

School District	Date Funded	Final Payment	Outstanding Balance
FLASHER PUBLIC SCHOOL DIST #39	12/01/2016	08/01/2036	\$4,878,457.60
MAPLETON PUBLIC SCHOOL DIST	02/22/2017	08/01/2037	\$4,842,287.55
MINOT PUBLIC SCH DISTRICT #20	08/07/2015	08/01/2035	\$4,688,163.24
CENTRAL CASS PUBLIC SCHOOL	06/30/2018	11/01/2037	\$4,251,598.77
KULM PUBLIC SCHOOL DISTRICT #7	09/15/2015	09/01/2035	\$3,424,472.00
RICHLAND PUBLIC SCHOOL DIS #44	08/01/2013	06/01/2033	\$3,297,542.46
STRASBURG PUBLIC SCHOOL DIST	10/12/2016	08/01/2036	\$2,592,468.16
WESTHOPE PUB SCHOOL DIST #17	12/01/2014	06/01/2034	\$2,569,688.30

Principal Outstanding 8/20/2018	\$173,253,971.54
Committed as of 8/20/2018	\$47,113,536.86
Still Available for 17-19 Biennium	\$6,045,000.00
Principal Payments Remaining 17-19 Biennium	(\$9,220,202.32)
Loans Outstanding 6/30/2019	\$217,192,306.08

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# Utilization of Legacy Fund Earnings \$55m Bond Payment Per Biennium



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# Extra Slides

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# Moody's ND Credit Opinion December 20, 2018

Rating: Aa1 Stable

## Credit strengths

- » Conservative state fiscal management practices, most recently highlighted by the state's return to structural balance and restoration of budget stabilization funds
- » Substantial reserves, which are budgeted to grow over the next biennium
- » Very low debt, pension and OPEB liabilities lead to low fixed costs that will support continued financial flexibility

## Credit challenges

- » Narrow economy that is concentrated in the energy and agricultural sectors, which are vulnerably to commodity price volatility
- » Very tight labor market
- » Increased reliance on oil and gas tax revenues to support general fund operations
- » Ownership of a bank brings vulnerability to losses, particularly in the event of steep economic deterioration like the recent energy sector contraction

## Rating outlook

The stable outlook reflects the state's progress towards structural balance and rapid restoration of reserves as the economy and revenues continue to recover from the 2016 energy recession. Recent declines in oil prices will likely result in some economic and revenue volatility, however the state's energy economy and financial reserves are well-positioned to weather some short term disruptions at this time.

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# Moody's ND Credit Opinion

December 20, 2018

## Factors that could lead to an upgrade

- » Meaningful diversification of state economy
- » Reduced general fund exposure to oil and gas tax revenues
- » Reduced exposure to Bank of North Dakota

## Factors that could lead to a downgrade

- » Failure to restore structural balance and replenish the budget stabilization fund as currently planned
- » Renewed economic volatility that results in revenue underperformance
- » Depletion of reserves below the previous low
- » A move away from conservative fiscal management

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# Standard & Poor's ND Rating December 20, 2018

Rating: AA+ Stable

## What We're Watching

- Although the economy is currently showing signs of growth and stability, as a large energy producer, the state is vulnerable to boom-and-bust cycles.
- The continued softness in the agricultural sector, partly due to trade tensions, will also likely limit personal income and economic growth.
- Pension underfunding has increased net pension liabilities; however, the state's proportionate share is manageable, in our view.

## Credit Fundamentals

- Strong executive ability to reduce expenditures and demonstrated willingness of the legislature to realign appropriations with estimated revenue collections.
- Very strong budgetary reserves, including a legacy fund at \$5.86 billion, providing North Dakota with sufficient flexibility to weather economic cycles.
- Low debt burden with rapid amortization and no plans to issue new debt within the current biennium.

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# Bond Terminology

<b>Bond—Evidence of a Loan</b>	<ul style="list-style-type: none"><li>– Buyer of the Bond is the lender or investor</li><li>– Seller of the Bond is the borrower or issuer</li></ul>
<b>Principal or Face Amount or Par Amount</b>	<ul style="list-style-type: none"><li>– Amount of loan</li></ul>
<b>Maturity Date</b>	<ul style="list-style-type: none"><li>– Repayment date of loan</li></ul>
<b>Nominal or Coupon Rate</b>	<ul style="list-style-type: none"><li>– Interest rate paid periodically on the loan</li><li>– Usually expressed as a percentage of par amount</li></ul>
<b>Price</b>	<ul style="list-style-type: none"><li>– Amount a lender will lend in consideration of future receipt of principal and interest payments</li></ul>
<b>Yield</b>	<ul style="list-style-type: none"><li>– Single rate that sets the present value of the principal and interest payments equal to the price</li></ul>

# ND General Obligation Bonds

Article X, Section 13 of the North Dakota Constitution

The State may not incur general obligation debt unless evidenced by a bond issue authorized by law for clearly defined purposes.

Every law authorizing a general obligation bond issue must:

- Provide for a levying of an annual tax, or make some other provision, sufficient to pay the interest semiannually and the principal within 30 years from the date of issuance.
- Specifically appropriate the proceeds of the tax levy, or such other provision, to the repayment of the principal of and interest on the bonds.

The appropriation referred to above may not be repealed, or the tax or other provision discontinued, until both the principal of and interest on the bonds have been paid.

General obligations bonds in excess of \$2,000,000 must be secured by a first mortgage upon either of the following:

- A first mortgage on real estate for no more than 65% of the value of the real estate.
- A first mortgage on real or personal property of State-owned utilities, enterprises or industries for no more than the value of the utilities, enterprises or industries. The State may not issue or guarantee bonds secured by property of State-owned utilities, enterprises or industries in excess of \$10,000,000.

The State may not issue debt in excess of the limit set out in this section except for one of the following purposes: a) repelling invasion, b) suppressing insurrection, c) defending the State in time of war, and d) providing for the public defense in case of threatened hostilities.

***Currently, there are no outstanding General Obligation Bonds of the State.***

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# Who Buys Bonds?

## Retail Investors

- Wealthy Individuals—“Mom & Pop”
- Retail Proxies
  - Investment/Financial Advisors
  - Bank Trust Departments

## Institutional Investors

- Mutual Funds—Fidelity Investments, Vanguard
- Insurance Companies—AIG, Allstate, State Farm, USAA
- Banks
- Corporations

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# Bond Issue Process

- Kick-off meeting or conference calls
- Working group calls to discuss
  - Document drafts, e.g., POS/NOS/OS
  - Ratings presentation (if applicable)
  - Pricing scales
- Rating agency calls
- Publish Preliminary Official Statement (POS) & Notice of Sale (NOS)
- Receive rating
- Pre-Pricing Book (only on negotiated sales)
- Bond marketing and pricing period
- Sell bonds – either competitive or negotiated
- Publish the final Official Statement (OS) (and closing certificates)
- Close the issuance
- Issue closing certificates
- Produce the Financial Advisor Memorandum (FAM)
- Transcript produced and distributed by bond counsel

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# Taxable vs Tax-Exempt Bonds

## **Benefit of Tax-Exempt Bonds**

- Cost of financing is generally lower for issuers
- Interest paid to bondholders is not includable in their gross income for federal income tax purposes
- *This tax-exempt status remains throughout the life of the bonds provided that all applicable federal tax laws are satisfied both at the time the bonds are issued and throughout the term of the bonds*
- Interest rate is approximately .5% less than taxable bonds

## **Primary Objectives of Federal Laws**

- No private activity
- No arbitrage

## **Benefit of Taxable Bonds**

- No private activity restrictions
- No arbitrage calculations or compliance with other complex regulations

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## Taxable vs. Tax-Exempt Bonds

### **Appropriation Bonds are most likely considered:**

- *taxable* if the appropriation is tied specifically to investment earnings of the Fund (Legacy Fund, Foundation Stabilization Fund, etc.).
- *tax-exempt* if the appropriation is from the General Fund.

Bond Counsel determines the taxability of the bonds

# Moral Obligation

Generally requires that the state agency issuing the bonds must notify the Governor or other executive branch office by a certain date in the fiscal year that a bond reserve fund deficiency exists or is expected to occur.

The Governor or other executive officer is then required to submit in the executive budget a request for an appropriation that will be sufficient to restore or cover the reserve fund deficiency.

The State Legislature then has a moral (but not legal) obligation to provide the requested appropriation to replenish the reserve fund.

# Bond Sales

## Competitive vs. Negotiated

**Competitive Sales:** An Issuer and their Financial Advisor procure bids from a variety of Underwriters on the obligations they are planning to issue and select one bid (i.e., the lowest costing bid)

**Negotiated Solicitation:** An Issuer selects an Underwriter or a group of underwriting firms and works with the selected Underwriter(s) to price obligations through negotiation with the Underwriter(s) and Investors

The issuer and financial adviser look at factors such as security type and transaction size typically to help determine the best method of sale to utilize.

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# Bond Issue Expenses

## Cost of Issuance

- Ratings
- Bond/Tax Counsel
- Financial Advisor
- Registrar/Paying Agent/Trustee
- Printer
- Miscellaneous
- Verification Agent
- Escrow Agent
- Escrow Bidding Agent

## Underwriter's Discount

- Management Fee
- Takedown
- Underwriting Risk
- Expenses
  - Underwriter's Counsel
  - Bond Desk
  - CUSIP
  - DTC
  - Out-of-Pocket

Cost of issuance and underwriter's discount can range from 5 to 7% of the bond issue.

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# Required Reserves

## **General Obligation Bonds**

- Reserves are not required

## **Appropriation**

- Reserve may be required

## **Revenue Bonds**

- Reserve fund is required
- IRS limits the reserve to the lesser of:
  - 10% of par
  - 125% average annual payment
  - Maximum annual principal and interest payment

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# Post-Issuance Compliance

## **Spend Down Requirements**

Pooled bond issuers are required to spend 30% of bond proceeds within 1 year and 95% within 3 years.

## **Continuing Disclosure**

Issuer covenants to provide ongoing disclosure of both routine financial information on an annual basis and periodic notification upon certain events, e.g., defeasance of bonds

## **Arbitrage Rebate**

If the bonds are tax-exempt, the Issuer may be required to rebate investment earnings in excess of the bond yield to the federal government every five years

## **Rating Maintenance**

Issuer may be required to provide ongoing updates to the rating agencies and may be required to pay ongoing surveillance fees for variable rate transactions

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## Contact Information

Karlene Fine  
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ND Public Finance Authority  
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Kelvin Hullet  
Bank of North Dakota  
[klhullet@nd.gov](mailto:klhullet@nd.gov)

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**LETTER OPINION  
2019-L-02**

March 18, 2019

The Honorable Chet Pollert  
House of Representatives  
151 Crossroads Estates Dr  
Carrington, ND 58421

Dear Representative Pollert:

Thank you for your letter asking whether bonds which are payable from appropriations made by the Legislative Assembly each session implicate the debt limitations in Section 13 of Article X of the Constitution of North Dakota. For the reasons indicated below, it is my opinion that bonds payable from appropriations made by the Legislative Assembly each session do not violate the state constitutional debt limit found in N.D. Const. art. X, § 13.

**ANALYSIS**

The state's constitutional debt limit is contained in N.D. Const. art. X, § 13, which provides, in part:

The state may issue or guarantee the payment of bonds, provided that all bonds in excess of two million dollars shall be secured by first mortgage upon real estate in amounts not to exceed sixty-five percent of its value; or upon real and personal property of state-owned utilities, enterprises, or industries, in amounts not exceeding its value, and provided further, that the state shall not issue or guarantee bonds upon property of state-owned utilities, enterprises, or industries in excess of ten million dollars.

No further indebtedness shall be incurred by the state unless evidenced by a bond issue, which shall be authorized by law for certain purposes, to be clearly defined.<sup>1</sup>

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<sup>1</sup> N.D. Const. art X, § 13.

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The North Dakota Supreme Court, in *State ex rel. Lesmeister v. Olson*, 354 N.W. 2d 690 (N.D. 1984), found that bonds funded by any general state tax constitute a “debt” of the state within the meaning of the constitutional debt limitation.<sup>2</sup> In that case, the court rejected an argument that the legislation in question could be sustained on the theory that payment of the bonds was a “continuing appropriation.”<sup>3</sup> You point out that since the *Lesmeister* case, statutes have created “appropriation bonds,” which you describe as bonds payable from appropriations made by the Legislative Assembly each session. You ask whether such bonds trigger the debt limitations of the constitution.

In *Lesmeister*, the revenue bonds were created to finance the Southwest Pipeline Project. The bonds financing the project were to be repaid from the oil extraction tax and were considered to be irrevocable by statute.<sup>4</sup> In addition, the proposed bonds in *Lesmeister* were to be sold to the investing public.<sup>5</sup> Because the bonds were funded by a state tax, the Court determined that the bonds were a “debt” of the State within the meaning of the constitutional debt limitation.<sup>6</sup>

Despite the use of the oil extraction tax, the respondents in *Lesmeister* argued the legislation in question could be sustained under the “continuing appropriation” theory.<sup>7</sup> The Court reviewed a number of cases from other jurisdictions, and quoted:

An analysis of these decisions reveals that the “continuing appropriations” approved in most of these cases differ significantly from the legislation at issue in this case. With the exception of *Grossman*, which is distinguishable on the basis of the particular [Montana] State constitutional provisions involved, each appropriation in the other cases, although “continuing” in a sense, was nevertheless subject to repeal or modification by future legislative assemblies. However, the “continuing appropriation” in this case [*Lesmeister*] cannot be repealed once the bonds are issued without threat of a breach of contract action by the bond holders until the bonds and interest are paid in full.

Thus, “appropriation bonds” payable from appropriations made by the Legislative Assembly must be subject to modification or repeal by future legislative assemblies.

The *Lesmeister* case should not be read as a prohibition of any “continuing appropriation.” The North Dakota Supreme Court commented in a 1988 case that:

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<sup>2</sup> *State ex rel. Lesmeister v. Olson*, 354 N.W.2d 690 (N.D. 1984).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 699-700.

<sup>5</sup> *Id.* at 700.

<sup>6</sup> *Id.* at 698.

<sup>7</sup> *Id.* at 700.

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Continuing appropriations are nothing new to the legislative process.<sup>8</sup> Continuing appropriations are a valid 'appropriation first made by the legislature.'<sup>9</sup> Moreover, a continuing appropriation is 'continuing' only if future legislative assemblies choose not to repeal or modify it.<sup>10</sup>

The ability to repeal or modify is crucial to the analysis of whether a financing mechanism violates the constitutional debt limit. In an opinion from 2005, I noted several examples of cases that have considered the issue of whether unconstitutional debt is created when borrowed money is to be repaid from future annual or biennial appropriations by the Legislature.<sup>11</sup>

One example highlighted in the 2005 opinion was *In Re Oklahoma Capitol Improvement Authority*, where the court considered the constitutionality of a proposed \$300 million highway improvement bond issue to be funded by annual appropriations.<sup>12</sup> In that opinion I set out the court's position:

Here, the highway bond program is also subject to an annual review by current members of the legislative body. The Legislature will determine on a year-by-year basis in the appropriation process whether road improvements should be funded through the appropriations to the Highway Department. . . . The fact that the Legislature might, under the highway program, feel some moral obligation to continue the agreement or to ensure that highways are provided for all citizens of this state does not mean that it is legally obligated, and therefore, the [constitutional debt limit provisions] are neither implicated nor applicable — the bonds . . . are constitutional.<sup>13</sup>

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<sup>8</sup> *Gange v. Clerk of Burleigh Cnty. Dist. Court*, 429 N.W.2d 429 (N.D. 1988) citing *State v. Sorlie*, 219 N.W. 105 (N.D. 1928).

<sup>9</sup> *Gange* citing e.g., *In re Cont. Approp.*, 32 P. 272 (Colo. 1893), *State v. Burdick*, 33 P. 125 (Wyo. 1893).

<sup>10</sup> *Gange* citing *State ex rel. Lesmeister v. Olson*, 354 N.W.2d 690, 700 (N.D. 1984).

<sup>11</sup> N.D.A.G. 2005-L-02.

<sup>12</sup> *In Re Oklahoma Capitol Imp. Authority*, 958 P.2d 759 (Okla. 1998).

<sup>13</sup> *Id.*

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The court further noted that “this Court said the matter had been settled — multi-year commitments expressly made contingent on future legislative appropriations did not violate constitutional debt limitation provisions.”<sup>14</sup>

Finally, [T]he majority of jurisdictions considering the effect of financing mechanisms comparable to the one mandated by [the state statute], the obligations created are not “debts” within the meaning of constitutional and statutory provisions similar to [Oklahoma's constitutional debt limit provisions]. Under these cases, the financing procedures are not “debts” either because the enacting body is not bound legally to make future appropriations or because it is clear that the legislators did not intend them to be obligations of the states or their subdivisions.<sup>15</sup>

Several previous opinions from this office have determined that multi-year commitments expressly made contingent on future legislative appropriations do not violate the constitutional debt limit.<sup>16</sup> In an opinion from 1997 about long-term financing by state agencies, this office stated “if an agreement by a state agency does not legally obligate appropriations beyond those currently available, the extension of this ‘credit’ does not constitute debt in the constitutional sense.”<sup>17</sup>

The North Dakota Supreme Court has similarly recognized that a state agency's obligation to pay rent under a 30 year lease that is expressly conditioned on the North Dakota Legislature appropriating sufficient funds for the purpose of paying the rent was legally sufficient to permit the agency to escape its lease obligation when the Legislature failed to appropriate sufficient funds.<sup>18</sup>

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<sup>14</sup> *Id.* at 770. See N.D.A.G. 2005-L-02.

<sup>15</sup> N.D.A.G. 2005-L-02 citing *In re Oklahoma* at 773-774 (citing, e.g., *In re Anzai*, 936 P.2d 637, 642 (Haw. 1997); *Wilson v. Kentucky Trans. Cabinet*, 884 S.W.2d 641, 644-45 (Ky. 1994); *Schulz v. State*, 639 N.E.2d 1140, 1148 (N.Y. 1994); *Dieck v. Unified School Dist. of Antigo*, 477 N.W.2d 613, 618 (Wis. 1991); *Dykes v. Northern Virginia Transportation Dist. Comm'n*, 411 S.E.2d 1, 4 (Va. 1991), *cert. denied*, 504 U.S. 941, 942, 112 S. Ct. 2275, 2277, 119 L. Ed.2d 201, 203; *Dept. of Ecology v. State Finance Comm.*, 804 P.2d 1241, 1246 (Wash. 1991); *State v. School Bd. of Sarasota County*, 561 So.2d 549, 552 (Fla. 1990)).

<sup>16</sup> See N.D.A.G. 2005-L-02; N.D.A.G. 97-L-108; N.D.A.G. 97-L-96; N.D.A.G. 94-L-338.

<sup>17</sup> N.D.A.G. 97-L-108.

<sup>18</sup> *Red River Human Svcs. Found. v. Dep't. of Human Svcs.*, 477 N.W.2d 225 (N.D. 1991). See also *Haugland v. City of Bismarck*, 429 N.W.2d 449 (N.D. 1988).

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Financing mechanisms that are subject to repeal or modification by the Legislature are already in operation. For example, under the North Dakota Building Authority, found in N.D.C.C. ch. 54-17.2, state buildings and other projects authorized by the Legislature are paid for by issuing bonds which are ultimately repayable from the general fund, but only to the extent the Legislature provides biennial appropriations for payment of lease rentals, which in turn pay for debt service on the Building Authority bonds.<sup>19</sup> Similar financing arrangements have been upheld against constitutional debt limit challenges in other states.<sup>20</sup> The Building Authority bonds are successfully marketed even though bondholders are aware that the building rentals which support debt service payments are payable only to the extent biennial appropriations by the North Dakota Legislature are made.<sup>21</sup>

Thus, it is my opinion that an "appropriation bond" does not, by its very nature, run afoul of the constitutional debt limit found in N.D. Const. art. X, § 13. There are numerous opinions that explain that "a pledge by the state to pay an obligation out of current revenues which is not a general obligation of the state and which contains a nonappropriation clause does not constitute state debt proscribed by the constitution."<sup>22</sup>

Sincerely,

Wayne Stenehjem  
Attorney General

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>23</sup>

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<sup>19</sup> N.D.A.G. 2005-L-02.

<sup>20</sup> *E.g.*, *Barkley v. City of Rome*, 381 S.E.2d 34 (Ga. 1989); *State v. Brevard Cnty.*, 539 So.2d 461 (Fla. 1989); *Caddell v. Lexington Cnty. Sch. Dist.*, 373 S.E.2d 598 (S.C. 1988).

<sup>21</sup> N.D.A.G. 2005-L-02. (The Official Statement for the bond offering informs bondholders that the building rentals which support debt service payments are payable only to the extent biennial appropriations are made by the North Dakota Legislature.)

<sup>22</sup> N.D.A.G. 97-L-108 citing N.D.A.G. 97-L-96. *See also*, *Red River Human Svcs. Found. v. Dep't of Human Svcs.*, 477 N.W.2d 225 (N.D. 1991). *See also* *Haugland v. City of Bismarck*, 429 N.W.2d 449 (N.D. 1988).

<sup>23</sup> *See State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).

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# 2019-2021 Proposed Bonding

## Create Revolving Loan Funds

Bill	SB 2214	Executive Budget Recommendation	SB 2275	Executive Budget Recommendation
<b>Program Name</b>	School Construction Assistance Revolving Loan Fund	School Construction Assistance Revolving Loan Fund	Infrastructure Revolving Loan Fund	Infrastructure Revolving Loan Fund
<b>Amount of Bonding</b>	\$250,000,000	\$250,000,000	\$500,000,000	\$500,000,000
<b>Biennial Debt Service Maximum</b>	Not Specified	Not Specified	\$55,000,000	\$55,000,000
<b>Repayment Source</b>	Appropriation from Foundation Aid Stabilization Fund (new source of repayment)	General Fund monies derived from Legacy Fund Earnings	General Fund monies derived from Legacy Fund Earnings	General Fund monies derived from Legacy Fund Earnings
<b>Use of Proceeds</b>	School Construction Projects	School Construction Projects	Essential Infrastructure Projects for Political Subdivisions and Institutes of Higher Education	Essential Infrastructure Projects for Political Subdivisions and Institutes of Higher Education
<b>Existing Program NDCC</b>	15.1-36-08	15.1-36-08	6-09-49	6-09-49
<b>Determines Projects</b>	Department of Public Instruction	Department of Public Instruction	Bank of North Dakota	Bank of North Dakota
<b>Administers the Fund</b>	Bank of North Dakota	Bank of North Dakota	Bank of North Dakota	Bank of North Dakota
<b>Issues the Bonds</b>	Public Finance Authority	Public Finance Authority	Public Finance Authority	Public Finance Authority

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# 2019-2021 Proposed Bonding

Bill	SB 2268	SB 2297
Program Name	Corridors of Commerce	North Dakota Building Authority
Amount of Bonding	\$100,000,000	\$151,700,000
Biennial Debt Service Maximum	\$16,000,000	Not Specified (legislative limit of 10% of \$.01 sales tax)
Repayment Source	General Fund monies derived from Legacy Fund Earnings	Lease Rental Payments from Funding Recipients
Use of Proceeds	State Highway Projects that improve freight transportation and facilitate commerce	Specific Projects listed: NDSU Dunbar Hall, VCSU Communications and Fine Arts Building, NDSU Agriculture Products Development Center and DSU Pulver Hall
Existing Program NDCC	New	54-17.2
Determines Projects	Department of Transportation	Defined in Bill
Administers the Fund	Department of Transportation	ND Building Authority
Issues the Bonds	Public Finance Authority	ND Building Authority



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Att #1

19.0425.03000

**FIRST ENGROSSMENT**

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.

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

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

9 **6-09.4-06. Lending and borrowing powers generally.**

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

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AA #1

Sixty-sixth  
Legislative Assembly

1 reasons for the public finance authority's involvement in the bond issue. The public  
2 finance authority may hold such municipal securities for any length of time it finds to  
3 be necessary. The public finance authority, for the purposes authorized by this chapter  
4 or chapter 40-57, may issue its bonds payable solely from the revenues available to  
5 the public finance authority which are authorized or pledged for payment of public  
6 finance authority obligations, and to otherwise assist political subdivisions or other  
7 contracting parties as provided in this chapter or chapter 40-57.

8 2. The public finance authority may lend or transfer money to the Bank of North Dakota  
9 underas follows:

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

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

29 3. 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

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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 4. 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

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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.

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- 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~~ as follows:
- 19             a. Under section 6-09.4-06;
- 20             b. Under section 6-09.4-24; or ~~under~~
- 21             c. Under the public finance authority's state revolving fund program.

22           **SECTION 3.** Section 6-09.4-29 of the North Dakota Century Code is created and enacted  
23 as follows:

24           **6-09.4-29. Debt service requirements - School construction assistance revolving loan**  
25 **fund - Foundation aid stabilization fund.**

26           Each biennium, the public finance authority shall request from the legislative assembly an  
27 appropriation from the foundation aid stabilization fund to meet the debt service requirements  
28 for evidences of indebtedness issued by the authority to support the school construction  
29 assistance revolving loan fund.

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

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1           **15.1-36-06. School construction loans - Bank of North Dakota. (Repealed effective**  
2 **July 1, 20232038)**

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

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

8           a. Propose a new construction or remodeling project with a cost of at least  
9 one million dollars and an expected utilization of at least thirty years;

10           b. Obtain the approval of the superintendent of public instruction for the project  
11 under section 15.1-36-01;

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

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

24           (3) Publish in the official newspaper of the district the information from the  
25 statements required by this subdivision with the notice of the election to  
26 authorize the school construction bond issuance in accordance with section  
27 21-03-12; and

28           (4) Post on the school district's website the information from the statements  
29 preceding the date of the election to authorize the school construction bond  
30 issuance in accordance with chapter 21-03;

31           d. Receive authorization for a bond issue in accordance with chapter 21-03; and

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

27 **SECTION 5. SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USE**  
28 **OF FUNDS - BANK OF NORTH DAKOTA.** Pursuant to the continuing appropriation authority  
29 under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available  
30 from the school construction assistance revolving loan fund to the Bank of North Dakota to

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1 provide interest rate buydowns associated with loans issued under section 15.1-36-06, for the  
2 biennium beginning July 1, 2019, and ending June 30, 2021.

3 **SECTION 6. PUBLIC FINANCE AUTHORITY - BOND ISSUANCE LIMITATION -**  
4 **FOUNDATION AID STABILIZATION FUND.** Pursuant to the bonding authority under section  
5 6-09.4-06, the public finance authority may issue up to \$250,000,000 of evidences of  
6 indebtedness for the purpose of supporting the school construction assistance revolving loan  
7 fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

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

School Construction Assistance Revolving Loan Fund (SCARLF)				
Status as of March 21, 2019				
School District	Date Funded	Final Payment	Outstanding Balance	Committed
WILLISTON PUBLIC SCHOOL DIST#1	9/25/2015	10/1/2034	\$17,046,346.61	
MINOT PUBLIC SCHOOL DIST #1	11/13/2014	6/1/2034	\$16,518,142.62	
WAHPETON PUBLIC SCHOOL DIST#37	1/22/2014	6/1/2033	\$15,356,718.24	
BISMARCK PUBLIC SCHOOL DIST	6/30/2014	6/1/2034	\$12,539,214.21	
GRAND FORKS PUB SCHOOL DIST #1	12/2/2013	6/1/2033	\$11,772,885.84	
GRAFTON PUBLIC SCHOOL DIST #3	4/1/2014	6/1/2033	\$11,267,668.33	
MANDAN PUBLIC SCHOOL DIST	8/1/2013	6/1/2033	\$8,640,128.34	
WEST FARGO PUB SCHOOL DIST #6	8/1/2013	6/1/2033	\$6,945,338.36	
SOUTH PRAIRIE SCHOOL DIST. 70	11/14/2014	6/1/2034	\$7,234,623.76	
STANLEY PUBLIC SCHOOL DIST #2	6/25/2015	12/1/2035	\$7,010,509.03	
MCKENZIE COUNTY SCHOOL DIST #1	1/28/2015	6/1/2034	\$5,978,171.34	
TIOGA PUBLIC SCHOOL DIST #15	12/1/2014	6/1/2034	\$5,695,559.57	
FLASHER PUBLIC SCHOOL DIST #39	12/1/2016	8/1/2036	\$4,762,461.53	
MAPLETON PUBLIC SCHOOL DIST	2/22/2017	8/1/2037	\$4,838,790.35	
MINTO PUBLIC SCH DISTRICT #20	8/7/2015	8/1/2035	\$4,570,748.02	
KULM PUBLIC SCHOOL DISTRICT #7	9/15/2015	9/1/2035	\$3,337,909.55	
RICHLAND PUBLIC SCHOOL DIS #44	8/1/2013	6/1/2033	\$3,297,542.46	
STRASBURG PUBLIC SCHOOL DIST	10/12/2016	8/1/2036	\$2,526,191.35	
WESTHOPE PUB SCHOOL DIST #17	12/1/2014	6/1/2034	\$2,569,688.30	
POWERS LAKE PUB SCHOOL DIST#27	7/1/2014	6/1/2034	\$1,627,797.87	
TURTLE LAKE-MERCER DIST #72	11/1/2013	6/1/2033	\$1,411,083.03	
NORTHERN CASS PUB SCHOOL #97	8/1/2013	6/1/2033	\$1,366,717.72	
HILLSBORO PUBLIC SCHOOL DIST#9	8/11/2016	2/1/2036	\$964,753.26	
NEW ENGLAND PUB SCHOOL DIS #9	8/15/2013	6/1/2032	\$870,465.20	
SURREY PUBLIC SCHOOL DIST #41	8/15/2013	6/1/2033	\$719,014.92	
WEST FARGO PUB SCHOOL DIST #6	4/1/2014	6/1/2033	\$7,597,734.30	
NEW ROCKFORD SHEYENNE SCHOOL 2	6/30/2018	5/1/2038	\$3,015,564.48	\$239,435.52
UNITED PUBLIC SCHOOL DISTRICT *	6/30/2018	8/1/2037	\$6,491,006.07	\$3,505,373.96
EIGHT MILE PUBLIC SCHOOL DIST 6 *	6/1/2018	5/1/2038	\$2,227,655.62	\$6,722,344.38
HATTON EIELSON DISTRICT 7 *	8/1/2018	5/1/2038	\$2,684,811.28	\$3,615,188.72
CENTRAL CASS PUBLIC SCHOOL *	6/30/2018	11/1/2037	\$8,901,573.94	\$535,529.34
PARSHALL SCHOOL DISTRICT *	8/9/2018	8/1/2038	\$0.00	\$5,400,000.00
BISMARCK PUBLIC SCHOOL DIST *	9/19/2018	8/1/2038	\$5,813,950.34	\$4,186,049.66
*Currently Constructing				
Principal Outstanding 3/21/2019			\$195,600,765.84	
Committed as of 3/21/2019			\$24,203,921.58	
Still Available for 17-19 Biennium			\$6,045,000.00	
Principal Payments Remaining 17-19 Biennium			(\$8,514,983.59)	
Loans Outstanding 6/30/2019			\$217,334,703.83	

State School Construction Loan Program at Bank of North Dakota				
Status as of March 21, 2019				
School District	Date Funded	Final Payment	Outstanding Balance	
GRENORA PUBLIC SCHOOL DIST #99	12/2/2015	12/1/2035	\$5,805,365.74	
ALEXANDER PUBLIC SCHL DIS NO 2	12/15/2015	12/1/2035	\$7,509,051.12	
BISMARCK PUBLIC SCHOOL DIST	6/29/2017	8/1/2036	\$5,000,000.00	
CARRINGTON PUBLIC SCHOOL DIST	11/15/2016	8/1/2036	\$9,462,354.92	
DIVIDE COUNTY PUB SCHOOL DIST	2/1/2017	8/1/2036	\$6,608,477.32	
PARK RIVER ARE SCHOOL DIST #8	8/6/2015	8/1/2035	\$7,121,011.36	
SOUTH HEART SCHOOL DIST 9	9/1/2016	8/1/2036	\$6,932,157.93	
DICKINSON PUBLIC SCHOOL DIS #1	4/1/2016	4/1/2036	\$9,273,628.76	
NEDROSE SCHOOL DISTRICT #4	10/27/2015	10/1/2035	\$8,744,207.66	
CENTRAL CASS PUBLIC SCHOOL	6/30/2017	11/1/2037	\$7,751,952.89	
MOTT REGENT SCHOOL DIST #1 *	3/1/2017	8/1/2036	\$5,253,260.12	
EDGELEY PUBLIC SCHOOL DIST #3 *	5/3/2017	8/1/2037	\$2,361,417.56	
*Currently Constructing				
Principal Outstanding 3/21/2019			\$81,822,885.38	
Committed as of 3/21/2019			\$533,201.57	
Principal Payments Remaining 17-19 Biennium			(\$268,534.24)	
Loans Outstanding 6/30/2019			\$82,087,552.71	

School Construction Buydown by Biennium			
	19-21 Biennium	21-23 Biennium	23-25 Biennium
Mott Regent	\$316,082.57	\$287,210.82	\$256,872.68
Edgeley	\$154,481.87	\$142,169.75	\$129,234.33
Park River	\$414,893.22	\$378,264.59	\$337,833.44
Dickinson	\$540,291.89	\$494,508.83	\$443,972.89
Nedrose	\$510,190.68	\$465,148.61	\$415,430.60
Central Cass	\$459,086.38	\$426,972.96	\$391,567.90
Grenora	\$332,696.23	\$301,655.49	\$267,392.33
Alexander	\$427,884.31	\$387,731.25	\$343,409.79
Carrington	\$543,505.01	\$490,732.38	\$435,288.10
Divide County	\$380,303.17	\$343,343.93	\$304,513.61
South Heart	\$421,427.82	\$358,663.57	\$318,140.79
Bismarck	\$450,696.89	\$282,295.14	\$256,680.42
Total Buy Down Required	\$ 4,951,540	\$ 4,358,697	\$ 3,900,337
Assuming No Loans Are Transferred to SCALF			

Transfer Schedule	Amount
BISMARCK PUBLIC SCHOOL DIST	\$5,000,000.00
DIVIDE COUNTY PUB SCHOOL DIST	\$6,608,477.32
SOUTH HEART SCHOOL DIST 9	\$6,932,157.93
PARK RIVER AREA SCHOOL DIST #8	\$7,121,011.36
CENTRAL CASS DISTRICT #17	\$7,751,952.89
NEDROSE SCHOOL DISTRICT #4	\$8,923,150.11
CARRINGTON PUBLIC SCHOOL DIST	\$9,462,354.92
EDGELEY PUBLIC SCHOOL DIST #3	\$2,361,417.56
MOTT REGENT SCHOOL DIST #1	\$5,253,260.12
ALEXANDER PUBLIC SCHL DIS NO 2	\$7,509,051.12
DICKINSON PUBLIC SCHOOL DIS #1	\$9,450,189.56
GRENORA PUBLIC SCHOOL DIST #99	\$5,805,365.74

Mott Regent and Edgeley are still in construction

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## Current Loan Applications School Construction Revolving Loan Fund

List of Loan Applications (2018-19)	Loan Request	Project Cost
Bottineau	\$8,189,700	\$8,189,700
Devils Lake	\$6,850,000	\$7,895,688
Dickinson	\$10,000,000	\$108,600,000
McKenzie Co	\$10,000,000	\$35,296,341
Nesson	\$10,000,000	\$13,166,231
New England	\$5,600,000	\$8,000,000
Northern Cass	\$9,000,000	\$9,000,000
Northwood	\$5,850,000	\$5,850,000
West Fargo	\$10,000,000	\$106,900,000
Williston	\$10,000,000	\$81,776,874
Total	\$85,489,700	\$384,674,834

\* In Alphabetical Order

\* Projects may be pending voter approval

\* Several other project approvals that have not requested loan program at this time

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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2214

That the House recede from its amendments as printed on pages 1269 and 1270 of the Senate Journal and pages 1472 and 1473 of the House Journal and that Engrossed Senate Bill No. 2214 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a transfer from the foundation aid stabilization fund to the school construction assistance revolving loan fund; and to provide a statement of legislative intent.

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

**SECTION 1. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND - USES.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Of the \$75,000,000 transferred from the foundation aid stabilization fund, \$35,000,000 is from funding available in the fund on June 30, 2019, and \$40,000,000 is from earnings anticipated to be deposited into the fund during the biennium beginning July 1, 2019, and ending June 30, 2021. Pursuant to the continuing appropriation authority under section 15.1-36-08, \$5,000,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06. In addition, provided sufficient funding is available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund. The remaining amount transferred to the school construction assistance revolving loan fund is available for new school construction loans.

**SECTION 2. LEGISLATIVE INTENT - FOUNDATION AID STABILIZATION FUND.** It is the intent of the sixty-sixth legislative assembly that, for the biennium beginning July 1, 2021, and ending June 30, 2023, the sixty-seventh legislative assembly transfer \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund."

Renumber accordingly