

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2425
(Senator Krauter)
(Representative Nicholas)

AN ACT to create and enact a new chapter to title 4 of the North Dakota Century Code, relating to the establishment of a livestock production loan program and the issuance of revenue bonds or other evidences of indebtedness by the industrial commission of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 4 of the North Dakota Century Code is created and enacted as follows:

Declaration of intent. It is hereby found and declared that:

1. The high costs of financing associated with livestock production make it difficult for livestock producers to continue existing livestock production operations and facilities, and also make it difficult to establish a livestock production operation or facility.
2. The high costs of access to capital for livestock production are a contributing factor in the continuing decline in the number of family farms in the state and the opportunity for employment in rural areas.
3. As a result of these conditions, the state is experiencing structural economic weaknesses which can be alleviated, in part, through action by the state designed to provide affordable financing for new and existing livestock production operations and facilities.
4. The encouragement and promotion of livestock production through a loan program as established by this chapter is a public purpose for which the use of public funds provided through the issuance and sale of bonds is a proper governmental function which can best be accomplished by the industrial commission.

Definitions. For purposes of this chapter, unless the context otherwise requires:

1. "Bank" means the Bank of North Dakota.
2. "Bonds" means revenue bonds or other evidences of indebtedness issued by the commission under this chapter.
3. "Commission" means the industrial commission of North Dakota.
4. "Cooperative" means an association incorporated under chapter 10-15, and an association incorporated under the laws of South Dakota which has members residing within this state.
5. "Livestock producer" means an individual or cooperative organized for the purpose of livestock production.
6. "Livestock production" means the business of acquiring, raising, and processing livestock, including real and personal property necessary for all activities related to such production.

Powers. The commission is granted all powers necessary to carry out the purpose and intent of this chapter, including the power to:

1. Enter into contracts or other instruments or agreements necessary or incidental for the performance of its duties and functions under this chapter, including contracts,

instruments, or agreements with any department, agency, or instrumentality of the United States of America or this state.

2. Sue and be sued.
3. Borrow money through the issuance and sale of bonds as provided in this chapter.
4. Invest proceeds of its bonds not needed for immediate disbursement, including any reserve funds, in such securities as the commission determines to be prudent, subject to any agreements with the holders of the commission's bonds.
5. Procure insurance, a guaranty, or a letter of credit for the payment of its bonds, including the payment of premiums or other fees, from any public or private entity.
6. Make loans to livestock producers through the loan program established under this chapter and charge any reasonable fees to such borrowers as the commission may determine to be appropriate.
7. Prescribe and approve the forms and procedures for applications by livestock producers for loans to be made under this chapter.
8. Prescribe the terms and other conditions of loans to be made to a livestock producer under this chapter.
9. Consent to any modification, amendment, or other revision with respect to the terms and provisions of its bonds, or of any other contract, instrument, or other agreement to which the commission is a party, subject to any agreements with the holders of the commission's bonds.
10. Purchase bonds issued under this chapter out of any funds available to the commission for such purpose and not pledged to or necessary for some other purpose, and hold, cancel, or sell such bonds, subject to any agreements with its bondholders.

Bank of North Dakota. The commission may delegate to the Bank, and the Bank is authorized to exercise, all administrative powers granted to the commission under this chapter, including processing and reviewing applications for, and closing and servicing loans made to, livestock producers. The Bank may not issue a letter of credit for bonds issued under this Act.

Issuance and sale of bonds - Use of bond proceeds. The commission has the authority to issue its bonds in such principal amounts as the commission determines is necessary to provide sufficient funds to carry out its duties and functions under this chapter. The proceeds must be used solely to make loans, pay costs of issuance of the bonds, pay accrued or capitalized interest or capitalized principal, and provide any reasonably required reserve funds. The bonds must be authorized by resolution of the commission and must bear such date, mature at such times, bear interest at such rates, be in such denominations, be payable from such sources, and be subject to such terms of redemption as may be provided by such resolution. The bonds may be sold by the commission at public or private sale at such times and at such prices as may be agreed to by the commission. The commission may provide for the refunding or refinancing of the bonds from time to time.

Agreement with bondholders. Any resolution of the commission authorizing the issuance of bonds under this chapter may contain provisions or covenants, which will be a contract or agreement with the bondholders, as to:

1. The setting aside of reserves or sinking funds.
2. Limitations on the purposes to which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds.
3. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds.

4. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to such amendment or abrogation, and the manner in which the consent may be given.
5. Vesting in a trustee such property, rights, powers, and duties in trust as the commission may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers, and duties of the trustee.
6. Defining the acts, or omissions to act, which constitute a default of the obligations and duties of the commission to the bondholders, and providing for the rights and remedies of the bondholders in the event of a default, provided that the rights and remedies must be consistent with the general laws of the state and other provisions of this chapter.
7. Any other matter, of like or different character, which in any way affects the security or protection of the bondholders.

Reserve fund. The commission must establish and maintain a reserve fund for bonds issued under this chapter. There must be deposited in the reserve fund:

1. All bond proceeds required to be deposited in the reserve fund by the terms of any contract between the commission and the bondholders or by the terms of any resolution of the commission concerning the use of bond proceeds.
2. Any moneys from any other source made available to the commission for deposit in the reserve fund.

Moneys in the reserve fund may be used only to make payments of the principal of and interest on bonds, including any premium required to be paid when bonds are redeemed prior to maturity, and sinking fund installments as they become due and payable. Moneys in the reserve fund may only be withdrawn in conformity with the terms of any contract between the commission and the bondholders or any resolution of the commission concerning the use of bond proceeds.

Exemption from state and local taxes. All bonds issued under this chapter and the interest or other income payable to and received by bondholders are exempt from taxation by the state or any political subdivision of the state.

Payment of bonds. Bonds issued under the authority of this chapter by the commission are not obligations or debt of the state, and are payable solely from revenues or other funds available to the commission under this chapter. The bonds do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the commission or the Bank other than the revenues and property pledged under this chapter. Each bond issued under this chapter must contain a statement that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or interest on the bond.

Legal investments. Bonds issued under the authority of this chapter by the commission are legal investments in which all public officers or public bodies of the state, its political subdivisions, and all banks organized under the laws of the state and engaged in the business of banking may invest funds.

Validity. Bonds issued under the authority of this chapter must be executed by a member of the commission or by facsimile signature and the manual signature of an authenticating agent. Any bond bearing the signature of a member of the commission in office on the date of execution is valid and binding for all purposes for which it was issued. After issuance, all bonds issued under the authority of this chapter by the commission are conclusively presumed to be fully authorized and issued under the laws of the state, and any person or entity is estopped from questioning their authorization, issuance, execution, sale, or delivery by the commission.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2425.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 70 Nays 21 Absent 7

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State