

Introduced by

Political Subdivisions Committee

(At the request of the Public Finance Authority)

1 A BILL for an Act to amend and reenact section 6-09.4-10 of the North Dakota Century Code,
2 relating to the reserve fund for public finance authority bonds.

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

4 **SECTION 1. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is
5 amended and reenacted as follows:

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

7 1. The public finance authority shall establish and maintain a reserve fund in which there
8 must be deposited all moneys appropriated by the state for the purpose of the fund, all
9 proceeds of bonds required to be deposited therein by terms of any contract between
10 the public finance authority and its bondholders or any resolution of the public finance
11 authority with respect to the proceeds of bonds, any other moneys or funds of the
12 public finance authority which it determines to deposit therein, any contractual right to
13 the receipt of moneys by the public finance authority for the purpose of the fund,
14 including a letter of credit or similar instrument, and any other moneys made available
15 to the public finance authority only for the purposes of the fund from any other source
16 or sources. Moneys in the reserve fund must be held and applied solely to the
17 payment of the interest on and the principal of bonds and sinking fund payments as
18 the same become due and payable and for the retirement of bonds, including payment
19 of any redemption premium required to be paid when any bonds are redeemed or
20 retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if
21 the withdrawal would reduce the amount in the reserve fund to an amount less than
22 the required debt service reserve, except for payment of interest then due and payable
23 on bonds and the principal of bonds then maturing and payable and sinking fund
24 payments and for the retirement of bonds in accordance with the terms of any contract

1 between the public finance authority and its bondholders and for the payments on
2 account of which interest or principal or sinking fund payments or retirement of bonds,
3 other moneys of the public finance authority are not then available in accordance with
4 the terms of the contract. The required debt service reserve must be an aggregate
5 amount equal to at least the largest amount of money required by the terms of all
6 contracts between the public finance authority and its bondholders to be raised in the
7 then current or any succeeding calendar year for the payment of interest on and
8 maturing principal of outstanding bonds, and sinking fund payments required by the
9 terms of any contracts to sinking funds established for the payment or redemption of
10 the bonds.

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

19 3. No bonds may be issued by the public finance authority unless there is in the reserve
20 fund the required debt service reserve for all bonds then issued and outstanding and
21 the bonds to be issued. Nothing in this chapter prevents or precludes the public
22 finance authority from satisfying the foregoing requirement by depositing so much of
23 the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve
24 the required debt service reserve. The public finance authority may at any time issue
25 its bonds or notes for the purpose of providing any amount necessary to increase the
26 amount in the reserve fund to the required debt service reserve, or to meet such
27 higher or additional reserve as may be fixed by the public finance authority with
28 respect to such fund.

29 4. In order to assure the maintenance of the required debt service reserve, there shall be
30 appropriated by the legislative assembly and paid to the public finance authority for
31 deposit in the reserve fund, such sum, if any, as shall be certified by the industrial

1 commission as necessary to restore the reserve fund to an amount equal to the
2 required debt service reserve. However, the commission may approve a resolution for
3 the issuance of bonds, as provided by section 6-09.4-06, which states in substance
4 that this subsection is not applicable to the required debt service reserve for bonds
5 issued under that resolution.

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

14 The industrial commission may determine that this section is inapplicable in whole or in part for
15 bonds issued under section 6-09.4-24 or under the public finance authority's state revolving
16 fund program.