

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

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

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 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.

- 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:

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

- 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

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.