Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2233

Introduced by

Senators Klein, Bekkedahl, Hogue

Representatives Lefor, Vigesaa

A BILL for an Act to amend and reenact subsection 3 of section 4.1-01.1-07, subsection 6 of section 6-09-15.5, section 6-09-29, subsection 4 of section 6-09-46.2, subsection 5 of section 6-09-49.2, sections 6-09.8-03, 6-09.13-04, 6-09.14-02, 6-09.15-02, 6-09.16-03, and 6-09.18-05, subsection 6 of section 15.1-36-08, section 17-03-02, and subsection 2 of section 54-63.1-07 of the North Dakota Century Code, relating to the audit of loan programs administered by the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 4.1-01.1-07 of the North Dakota Century Code is amended and reenacted as follows:

3. The Bank of North Dakota shall develop policies in consultation with the agriculture diversification and development committee. The Bank shall review loan applications. To be eligible for a loan under this section, an entity shall agree to provide the Bank with information as requested. The Bank may develop policies for loan participation with local financial institutions. The Bank shall deposit in the fund all principal and interest paid on the outstanding loans. The Bank may use a portion of the interest paid as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans. ~~The Bank shall contract with a certified public accounting firm to audit the fund if the fund has any loans.~~ The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 2. AMENDMENT. Subsection 6 of section 6-09-15.5 of the North Dakota Century Code is amended and reenacted as follows:

6. ~~The industrial commission shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit,~~The fund must be audited annually

pursuant to section 6-09-29, and the cost of the audit and any other actual costs incurred by the Bank on behalf of the fund, must be paid for by the fund.

SECTION 3. AMENDMENT. Section 6-09-29 of the North Dakota Century Code is amended and reenacted as follows:

6-09-29. Examinations and audit reports.

1. The state auditor shall contract with an independent certified public accounting firm for an annual audit of the Bank of North Dakota in accordance with generally accepted government auditing standards. ~~The state auditor shall audit annually or contract for an annual audit of the separate programs and funds administered by the Bank of North Dakota.~~ On request of the state auditor, the industrial commission shall assist the state auditor in the auditing firm selection process, but the selection of the auditing firm is the state auditor's responsibility. The auditor selected shall prepare an audit report that includes financial statements presented in accordance with the audit and accounting guide for banks and savings institutions issued by the American institute of certified public accountants. The auditor also shall prepare audited financial statements for inclusion in the comprehensive annual financial report for the state.
2. The separate programs and funds administered by the Bank must be audited annually. The audits may be conducted by the state auditor or an independent certified public accounting firm. The audits of the separate programs and funds administered by the Bank may be combined into one comprehensive audit if combining the audits provides cost savings and efficiencies.
3. The state auditor may conduct performance audits of the Bank of North Dakota, including the separate programs and funds administered by the Bank. The auditor shall report the results of the audit to the industrial commission and to the legislative assembly. The Bank of North Dakota or its separate programs and funds shall pay the costs of the performance audit.
4. The department of financial institutions, through the commissioner, shall examine the Bank of North Dakota at least once each twenty-four months and conduct any investigation of the Bank which may be necessary. The commissioner shall report the examination results, and the results of any necessary investigation, to the industrial commission as soon as practicable and to the legislative assembly. The department of

financial institutions shall charge a fee for any examination or investigation at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations and investigations provided for by this section.

SECTION 4. AMENDMENT. Subsection 4 of section 6-09-46.2 of the North Dakota Century Code is amended and reenacted as follows:

4. Excluding the rebuilders and rebuilders home loans transferred to the fund, the Bank of North Dakota shall deposit in the fund all principal and interest paid on the loans made from the fund. The Bank may deduct from interest payments received on a loan under the program a service fee for administering the fund for the Bank and the originating financial institution. ~~The Bank shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit,~~The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit and any other actual costs incurred by the Bank on behalf of the fund, must be paid by the fund.

SECTION 5. AMENDMENT. Subsection 5 of section 6-09-49.2 of the North Dakota Century Code is amended and reenacted as follows:

5. The Bank of North Dakota shall manage and administer loans from the water infrastructure loan fund. The Bank shall deposit in the fund all principal and interest paid on loans made from the fund. Annually, the Bank may deduct one-half of one percent of the outstanding loan balance as a service fee for administering the water infrastructure revolving loan fund. ~~The Bank shall contract with a certified public accounting firm to audit the fund.~~ The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 6. AMENDMENT. Section 6-09.8-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.8-03. Loan guarantee fund - Administrative charges.

There is hereby created a beginning farmer loan guarantee fund which must be used by the Bank to carry out the provisions of this chapter. The fund must include the moneys appropriated by section 54-17-31 as it existed on June 30, 1983, and all earnings, less any administrative charges, from the investment of those moneys, and such moneys are hereby appropriated to the beginning farmer loan guarantee fund. Any and all administrative charges of the Bank

necessary for the administration of the program established by this chapter may be charged to earnings of the fund. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 7. AMENDMENT. Section 6-09.13-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.13-04. Agriculture partnership in assisting community expansion fund established - Continuing appropriation.

The agriculture partnership in assisting community expansion fund is hereby established and is a revolving fund, and all moneys transferred into the fund, interest upon fund moneys, and payments to the fund are hereby appropriated for the purposes of section 6-09.13-05. After December 31, 1992, moneys may be transferred between this fund and the partnership in assisting community expansion fund established in section 6-09.14-02. This fund is not subject to section 54-44.1-11. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 8. AMENDMENT. Section 6-09.14-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.14-02. Fund - Continuing appropriation - Administration.

A partnership in assisting community expansion fund is hereby established from a transfer of earnings from the Bank of North Dakota. This is a revolving fund, and all moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11. The Bank of North Dakota shall administer the fund. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 9. AMENDMENT. Section 6-09.15-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.15-02. Loan guarantee fund - Administration.

A beginning entrepreneur loan guarantee fund is created to be used by the Bank of North Dakota to administer a beginning entrepreneur loan guarantee program to be used in conjunction with other loan programs. The fund includes moneys appropriated by the legislative assembly for administration of the program and all earnings, less any administrative charges, from the investment of those moneys. The Bank may retain any administrative charges

necessary for the administration of the program established by this chapter. The fund is not subject to section 54-44.1-11. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 10. AMENDMENT. Section 6-09.16-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.16-03. Long-term care facility loan fund.

1. There is created a long-term care facility loan fund. The fund consists of revenue transferred from the North Dakota health care trust fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund.
2. The Bank of North Dakota shall administer the loan fund. Funds in the loan fund may be used for:
   a. Loans as provided in this chapter and as approved by the department under chapter 50-30; and
   b. The costs of administration of the fund. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.
3. Any money in the fund not required for use under subsection 2 must be transferred to the North Dakota health care trust fund.

SECTION 11. AMENDMENT. Section 6-09.18-05 of the North Dakota Century Code is amended and reenacted as follows:

6-09.18-05. Innovation loan fund to support technology advancement - Continuing appropriation.

The innovation loan fund to support technology advancement is a special fund in the state treasury and must be administered by the department of commerce. All moneys in the fund are appropriated to the department of commerce on a continuing basis for the purpose of providing innovation technology loans and for administrative expenses. The department of commerce shall deposit in the innovation loan fund to support technology advancement all principal and interest paid on loans made from the fund. Interest earned on moneys in the fund must be credited to the fund. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 12. AMENDMENT. Subsection 6 of section 15.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

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~~The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 13. AMENDMENT. Section 17-03-02 of the North Dakota Century Code is amended and reenacted as follows:

17-03-02. Biofuel partnership in assisting community expansion fund - Continuing appropriation - Administration.

Effective July 1, 2007, the biodiesel partnership in assisting community expansion fund becomes the biofuel partnership in assisting community expansion fund. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11. The Bank of North Dakota shall administer the fund. Notwithstanding any other provision of law, the Bank may transfer any unobligated moneys between funds that have been appropriated by the legislative assembly for interest buydown in the biofuel partnership in assisting community expansion fund and the partnership in assisting community expansion fund. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.

SECTION 14. AMENDMENT. Subsection 2 of section 54-63.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Any bond proceeds deposited in the fund must be used for loans or loan guarantees. The Bank of North Dakota shall deposit in the fund all principal and interest paid on the loans made from the fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs, not to exceed one-half of one percent of the amount of the interest payment. ~~The Bank shall contract~~

~~with a certified public accounting firm to audit the fund annually if the fund has any outstanding loans.~~ The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.