

Introduced by

Senators Mathern, Heckaman, Oban

Representatives Boschee, Dobervich, Mitskog

1 A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota
2 Century Code, relating to bonded debt repayments; to amend and reenact sections 6-09.4-06,
3 6-09.4-10, and 15.1-36-08 of the North Dakota Century Code, relating to borrowing and lending
4 authority of the public finance authority, reserve funds associated with bonds, and the school
5 construction assistance revolving loan fund; to provide an appropriation; and to provide a bond
6 issue limit.

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

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

10 **6-09.4-06. Lending and borrowing powers generally.**

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

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

9 2. The public finance authority may lend money to the Bank of North Dakota under terms
10 and conditions requiring the Bank to use the proceeds to make loans for agricultural
11 improvements that qualify for assistance under the revolving loan fund program
12 established by chapter 61-28.2.

13 3. The public finance authority may transfer money to the municipal infrastructure fund
14 under section 57-51.1-07.7, the county and township infrastructure fund under section
15 57-51.1-07.8, the school construction assistance revolving loan fund under section
16 15.1-36-08, the housing incentive fund under section 54-17-40, and the state treasurer
17 for road and bridge infrastructure project grants. Bonds issued for these purposes are
18 payable in each biennium solely from amounts the legislative assembly may
19 appropriate for debt service for any biennium or from a reserve fund established for
20 the bonds. This section may not be construed to require the state to appropriate funds
21 sufficient to make debt service payments with respect to the bonds or replenish a
22 related reserve fund. The bonds are not a debt of the municipal infrastructure fund, the
23 county and township infrastructure fund, the school construction assistance revolving
24 loan fund, the housing incentive fund, the state treasurer, or the state. The full faith,
25 credit, and taxing powers of the state are not pledged to the payment of the bonds. As
26 of the date appropriated funds and reserves are not sufficient to pay debt service on
27 the bonds, the obligation of the public finance authority with respect to the bonds must
28 terminate, and the bonds are no longer outstanding. In addition to providing funds for
29 the transfers, the public finance authority may use the bond proceeds to pay the costs
30 of issuance of the bonds and establish a reserve fund for the bonds.

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

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

17 **SECTION 2. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **6-09.4-10. Reserve fund.**

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

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

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

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

1 amount in the reserve fund to the required debt service reserve, or to meet such
2 higher or additional reserve as may be fixed by the public finance authority with
3 respect to such fund.

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

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

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

22 a. Under section 6-09.4-06;

23 b. Under section 6-09.4-24; or under

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

25 **SECTION 3.** A new section to chapter 6-09.4 of the North Dakota Century Code is created
26 and enacted as follows:

27 **Debt service requirements - Municipal infrastructure fund - County and township**
28 **infrastructure fund - School construction assistance revolving loan fund - Housing**
29 **incentive fund - Road and bridge infrastructure project grants.**

30 Each biennium, the public finance authority shall request from the legislative assembly an
31 appropriation from the general fund, derived from legacy fund earnings, Bank of North Dakota

1 profits, or other sources, to meet the debt service requirements for evidences of indebtedness
2 issued by the authority to support the municipal infrastructure fund under section 57-51.1-07.7,
3 the county and township infrastructure fund under section 57-51.1-07.8, the school construction
4 assistance revolving loan fund under section 15.1-36-08, the housing incentive fund under
5 section 54-17-40, and road and bridge infrastructure project grants distributed by the state
6 treasurer.

7 **SECTION 4. AMENDMENT.** Section 15.1-36-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-36-08. School construction assistance revolving loan fund - Bank of North**
10 **Dakota - School construction projects - Continuing appropriation.**

- 11 1. The school construction assistance revolving loan fund is a special revolving loan fund
12 administered by the Bank of North Dakota. The fund consists of all moneys
13 appropriated or transferred to the fund by the legislative assembly, all interest or other
14 earnings of the fund, and all repayments of loans made from the fund.
- 15 2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of
16 principal and interest are appropriated to the Bank of North Dakota on a continuing
17 basis for the purpose of providing low-interest school construction loans and for paying
18 administrative costs, in accordance with this section.
- 19 3. To be eligible for a school district loan under this section, the board of a school district
20 shall:
- 21 a. Propose a new construction or remodeling project with a cost of at least
22 one million dollars and an expected utilization of at least thirty years;
- 23 b. Obtain the approval of the superintendent of public instruction for the project
24 under section 15.1-36-01;
- 25 c. (1) Publish in the official newspaper of the district the information regarding the
26 proposed estimated additional millage and the dollar increase per one
27 thousand dollars of taxable valuation in accordance with section 21-03-13
28 along with the notice of the election to authorize the school construction
29 bond issuance in accordance with section 21-03-12; and

- 1 (2) Post the information on the school district's website preceding the date of
2 the election to authorize the school construction bond issuance in
3 accordance with chapter 21-03;
- 4 d. Receive authorization for a bond issue in accordance with chapter 21-03; and
5 e. Submit a completed application to the Bank of North Dakota.
- 6 4. The superintendent of public instruction shall review school district loan applications
7 based on a prioritization system that includes a review of all applications filed during
8 the twelve-month period preceding April first and gives consideration to:
- 9 a. Student occupancy and academic needs in the district;
10 b. The age of existing structures to be replaced or remodeled;
11 c. Building design proposals that are based on safety and vulnerability
12 assessments;
13 d. Community support;
14 e. Cost; and
15 f. Any other criteria established by the superintendent of public instruction, after
16 consultation with an interim committee appointed by the legislative management.
- 17 5. If the superintendent of public instruction approves the school district loan, the Bank of
18 North Dakota shall issue a loan from the school construction assistance revolving loan
19 fund. For a loan made to a school district under this section:
- 20 a. The maximum loan amount for which a school district may qualify is ten million
21 dollars. However, if a school district's unobligated general fund balance on the
22 preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the
23 loan amount under this section may not exceed eighty percent of the project's
24 cost up to a maximum loan amount of eight million dollars;
25 b. The term of the loan is twenty years, unless the board of the school district
26 requests a shorter term in the written loan application; and
27 c. The interest rate of the loan may not exceed two percent per year.
- 28 6. To be eligible for an area career and technology center loan under this section, the
29 board of an area career and technology center shall:
- 30 a. Propose a new construction or remodeling project with a cost of at least
31 one million dollars and an expected utilization of at least thirty years;

- 1 b. Obtain the approval of the department of career and technical education; and
2 c. Submit a completed application to the Bank of North Dakota.
- 3 7. To be eligible for a higher education institution loan under this section, the state board
4 of higher education shall:
- 5 a. Propose a new construction or remodeling project with a cost of at least
6 one million dollars and an expected utilization of at least thirty years;
7 b. Obtain approval of the legislative assembly or budget section under section
8 15-10-12.1; and
9 c. Submit a completed application to the Bank of North Dakota.
- 10 8. Subject to the approvals required under subsections 6 or 7 of this section, the Bank of
11 North Dakota shall issue a loan from the school construction assistance revolving loan
12 fund. For a loan made to an area career and technology center or an institution under
13 the control of the state board of higher education:
- 14 a. The maximum loan amount is fifty million dollars;
15 b. The term of the loan is twenty years, unless the board of an area career and
16 technology center or the state board of higher education requests a shorter term
17 in the written loan application; and
18 c. The interest rate of the loan may not exceed two percent per year.
- 19 9. The Bank may adopt policies and establish guidelines to administer this loan program
20 in accordance with this section. The Bank of North Dakota may use a portion of the
21 interest paid on the outstanding loans as a servicing fee to pay for administration costs
22 which may not exceed one-half of one percent of the amount of the interest payment.
23 The Bank of North Dakota shall deposit principal and interest payments made by
24 school districts, area career and technology centers, and institutions under the control
25 of the state board of higher education for loans under this section in the school
26 construction assistance revolving loan fund. The Bank of North Dakota shall arrange
27 for the conduct of an annual audit of the school construction assistance revolving loan
28 fund, the cost of which must be paid from the fund and which must be conducted by
29 an independent accounting firm.

30 **SECTION 5. PUBLIC FINANCE AUTHORITY - BOND ISSUANCE LIMITATION - STATE**
31 **TREASURER - APPROPRIATION.**

- 1 1. Pursuant to the bonding authority under section 6-09.4-06, the public finance authority
2 may issue up to \$2,000,000,000 of evidences of indebtedness for the purposes of
3 supporting the municipal infrastructure fund under section 57-51.1-07.7, the county
4 and township infrastructure fund under section 57-51.1-07.8, the school construction
5 assistance revolving loan fund under section 15.1-36-08, the housing incentive fund
6 under section 54-17-40, and road and bridge infrastructure project grants distributed
7 by the state treasurer during the biennium beginning July 1, 2021, and ending
8 June 30, 2023.
- 9 2. After payment of any issuance costs or any transfers to a reserve fund, the proceeds
10 of the evidences of indebtedness issued by the public finance authority must be
11 transferred as follows:
 - 12 a. Up to \$115,000,000 to the municipal infrastructure fund, but not in an amount that
13 would cause the total distributions under section 57-51.1-07.7 to exceed the oil
14 and gas tax revenue allocation limits under section 57-51.1-07.5;
 - 15 b. Up to \$115,000,000 to the county and township infrastructure fund, but not in an
16 amount that would cause the total distributions under section 57-51.1-07.8 to
17 exceed the oil and gas tax revenue allocation limits under section 57-51.1-07.5;
 - 18 c. \$750,000,000 to the school construction assistance revolving loan fund under
19 section 15.1-36-08;
 - 20 d. \$250,000,000 to the housing incentive fund under section 54-17-40; and
 - 21 e. The remaining amount to the state treasurer for road and bridge infrastructure
22 project grants. The proceeds of the evidences of indebtedness transferred under
23 this subdivision are appropriated to the state treasurer for road and bridge
24 infrastructure project grants for the biennium beginning July 1, 2021, and ending
25 June 30, 2023. The state treasurer shall distribute the funding to counties based
26 on the most recent data compiled by the upper great plains transportation
27 institute regarding North Dakota's county, township, and tribal road and bridge
28 infrastructure needs. The distribution to each county must be proportional to each
29 county's total estimated road and bridge investment needs relative to the
30 combined total estimated road and bridge investment needs of all the counties.
31 The total estimated road and bridge investment needs for each county is the

1 twenty-year estimate for unpaved and paved road and bridge needs as identified
2 by the upper great plains transportation institute. If the data compiled by the
3 upper great plains transportation institute includes more than one twenty-year
4 estimate for the total needs of each county, the state treasurer shall use an
5 average of the twenty-year estimates for each county. Of the grant funding
6 distributed to each county, twenty-six percent must be allocated to the townships
7 in the county to provide an equal allocation to each organized and unorganized
8 township. The amount allocated to each organized township must be paid by the
9 county treasurer to each organized township. The amount allocated to each
10 unorganized township must be credited by the county treasurer to a special fund
11 for unorganized township roads. A township is not eligible for an allocation of
12 funds under this subdivision if the township does not maintain any township
13 roads. Counties and organized townships must use the grant funding only for the
14 construction of new unpaved and paved road and bridge infrastructure or the
15 maintenance, repair, or replacement of existing unpaved and paved road and
16 bridge infrastructure.

- 17 3. The term of any evidences of indebtedness issued under this section may not exceed
18 twenty-five years. The public finance authority may issue bond anticipation notes or
19 borrow from the Bank of North Dakota for the purpose of supporting the municipal
20 infrastructure fund, the county and township infrastructure fund, the school
21 construction assistance revolving loan fund, the housing incentive fund, and road and
22 bridge infrastructure project grants distributed by the state treasurer prior to a bond
23 issuance.