

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2039

Introduced by

Legislative Management

(Government Finance Committee)

1 A BILL for an Act to create and enact a new section to chapter 15-10, a new section to chapter
2 15.1-27, and ~~at two~~ new ~~section~~sections to chapter 15.1-36 of the North Dakota Century Code,
3 relating to a scholarship endowment fund, uses of the foundation aid stabilization fund, ~~and~~ a
4 school construction assistance loan fund, and school construction loans; to amend and reenact
5 section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of
6 section 57-62-02 of the North Dakota Century Code, relating to school construction approval
7 and loans, bond elections, and the coal development trust fund; to provide a continuing
8 appropriation; to provide for transfers; ~~and~~ to provide for a contingent effective date; and to
9 declare an emergency.

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

11 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Scholarship endowment fund - Rules.**

14 1. The scholarship endowment fund is a special fund in the state treasury. Moneys
15 deposited in the fund must remain in the fund on a permanent basis.

16 2. ~~Any All~~ interest ~~or~~and other earnings of the fund ~~must be used to award~~are dedicated
17 to the awarding of scholarships to residents of this state attending institutions of higher
18 education in the state.

19 3. ~~The state board of higher education shall develop rules and guidelines for the award of~~
20 scholarshipsScholarships may be awarded only from the interest or other earnings of
21 the fund and not from the fund's principal.

22 **SECTION 2.** A new section to chapter 15.1-27 of the North Dakota Century Code is created
23 and enacted as follows:

1 **Uses of the foundation aid stabilization fund.**

2 Any accessible funds that remain in the foundation aid stabilization fund, after completion of
3 the required transfers to other funds, must be used to provide for educationally-related
4 purposes, including state aid to school districts and educationally-related property tax relief to
5 school district patrons.

6 **SECTION 3. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-36-01. School construction projects - Approval.**

9 1. Notwithstanding the powers and duties of school boards provided by law, the
10 superintendent of public instruction shall approve the construction, purchase, repair,
11 improvement, modernization, or renovation of any public school building or facility
12 before commencement of the project if the cost of the project, as estimated by the
13 school board, is in excess of one hundred thousand dollars.

14 2. The superintendent of public instruction may not approve a project unless the school
15 district proposing the project:

16 a. Demonstrates the need for the project and the educational utility of the project or
17 demonstrates potential utilization of the project by a future reorganized school
18 district;

19 b. ~~In the case of new construction or a renovation affecting more than fifty percent~~
20 ~~of an existing structure's square footage, demonstrates that circumstances within~~
21 ~~the district are likely to result in a stable or increasing student population~~

22 (1) Demonstrates that the student population has been stable or has increased
23 during the preceding five school years and is expected to be stable or to
24 increase during the ensuing five school years; or

25 (2) Demonstrates by clear and convincing evidence that, despite a declining
26 student population, there are no feasible alternatives to the proposed
27 project; and

28 c. Demonstrates the capacity to pay for the project under rules adopted by the
29 superintendent of public instruction pursuant to chapter 28-32.

1 3. a. If the superintendent of public instruction denies the project, the school board
2 may appeal the superintendent's decision to the state board of public school
3 education. In considering the appeal, the state board shall review:

- 4 (1) The need for the project;
5 (2) The educational utility of the project;
6 (3) The potential use of the project by a future reorganized school district;
7 (4) The capacity of the district to pay for the project; and
8 (5) Any other objective factors relative to the appeal.

9 b. The decision of the state board is final.

10 4. This section is applicable to any construction, purchase, repair, improvement,
11 renovation, or modernization, even if the school board pays for the project in whole or
12 in part with moneys received on account of the leasing of lands acquired by the United
13 States for flood control, navigation, and allied purposes in accordance with 33 U.S.C.
14 701c-3 or in accordance with moneys received under the American Recovery and
15 Reinvestment Act of 2009.

16 5. For purposes of this chapter, "facility" includes a public school parking lot, public
17 school athletic complex, or any other improvement to real property owned by the
18 school district.

19 **SECTION 4. AMENDMENT.** Subsection 1 of section 15.1-36-02 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 1. In order to provide school construction loans, the board of university and school lands
22 may authorize the use of:

- 23 a. Fifty million dollars, or so much of that amount as may be necessary, from the
24 coal development trust fund, established pursuant to section 21 of article X of the
25 Constitution of North Dakota and subsection 1 of section 57-62-02; and
26 b. One hundred fifty million dollars from the strategic investment and improvements
27 fund, established pursuant to section 15-08.1-08, for the period ending June 30,
28 2015.

29 **SECTION 5.** A new section to chapter 15.1-36 of the North Dakota Century Code is created
30 and enacted as follows:

School construction loans - Bank of North Dakota.

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred million dollars from the school construction assistance loan fund to eligible school districts for school construction loans, except that the total of all loans provided under this section prior to July 1, 2018, may not exceed fifty percent of the total amount authorized under this subsection.

2. To be eligible for a loan under this section, the board of a school district shall:

a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;

b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;

c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

(2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

(3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and

(4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;

d. Receive authorization for a bond issuance 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. The
18 legislative assembly shall, however, conduct a biennial review of interest rates
19 applicable to new loans.
- 20 6. If a school district's unobligated general fund balance on the preceding June thirtieth
21 exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which
22 that district is entitled under this section may not exceed eighty percent of the project's
23 cost.
- 24 7. The maximum loan amount to which a school district is entitled under this section is
25 twenty million dollars.
- 26 8. a. The Bank of North Dakota shall manage and service each loan under this section
27 and shall execute all necessary loan instruments. The Bank may charge a school
28 district a fee for managing and servicing the loan.
- 29 b. The Bank shall receive payments of principal and interest from school districts
30 and shall deposit such payments in the school construction assistance loan fund.

1 **SECTION 6.** A new section to chapter 15.1-36 of the North Dakota Century Code is created
2 and enacted as follows:

3 **School construction assistance loan fund - Continuing appropriation.**

4 1. The school construction assistance loan fund is a special revolving loan fund in the
5 state treasury. The fund consists of:

6 a. All moneys appropriated or transferred to the fund by the legislative assembly;

7 b. One hundred fifty million dollars from the strategic investment and improvements
8 fund, which had been allocated by the sixty-third legislative assembly for school
9 construction loans in accordance with section 15.1-36-02;

10 c. The income, including interest payments on loans from the coal development
11 trust fund, as authorized in accordance with section 57-62-02; and

12 d. All interest or other earnings of the fund, and all repayments of loans made from
13 the fund.

14 2. Moneys in the fund are appropriated on a continuing basis for the purpose of providing
15 low-interest school construction loans. ~~Any interest or other earnings of the fund must~~
16 ~~be deposited in the fund, in accordance with this chapter.~~

17 **SECTION 7. AMENDMENT.** Section 16.1-01-11 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **16.1-01-11. Certain questions not to be voted upon for three months.**

20 1. Whenever at any election a bond issue or mill levy question has failed to receive the
21 required number of votes for approval by the electors, the matter may not again be
22 submitted to a vote until a period of at least three months has expired, ~~and in no event~~
23 ~~may more.~~

24 2. a. More than two elections on the same general matter may not be held within
25 twelve consecutive calendar months.

26 b. If the matter to be placed before the electors for a third or subsequent time
27 involves authorization for a school construction bond issuance in accordance with
28 chapter 21-03, the board of the school district shall resubmit its school
29 construction proposal to the superintendent of public instruction for the purpose
30 of obtaining the superintendent's approval, in the same manner as required for an
31 initial approval in accordance with section 15.1-36-01.

1 **SECTION 8. AMENDMENT.** Subsection 1 of section 57-62-02 of the North Dakota Century
2 Code is amended and reenacted as follows:

- 3 1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be
4 known as the coal development trust fund, pursuant to section 21 of article X of the
5 Constitution of North Dakota. Those funds held in trust and administered by the board
6 of university and school lands on March 5, 1981, pursuant to section 12, chapter 563,
7 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 13,
8 chapter 626, 1979 Session Laws must also be deposited in the trust fund created
9 pursuant to this subsection. The fund must be held in trust and administered by the
10 board of university and school lands for loans to coal-impacted counties, cities, and
11 school districts as provided in section 57-62-03 and for loans to school districts
12 pursuant to chapter 15.1-36. The board of university and school lands may invest such
13 funds as are not loaned out as provided in this chapter and may consult with the state
14 investment board as provided by law. The income, including interest payments on
15 loans, from the trust must be used first to replace uncollectible loans made from the
16 fund and the balance must be deposited in the ~~state's general~~school construction
17 assistance loan fund. Loan principal payments must be redeposited in the trust fund.
18 The trust fund must be perpetual and held in trust as a replacement for depleted
19 natural resources subject to the provisions of this chapter and chapter 15.1-36.

20 **SECTION 9. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL**
21 **CONSTRUCTION ASSISTANCE LOAN FUND.** During the period beginning ~~July 1, 2016~~with
22 the effective date of this section, and ending June 30, 2017, the office of management and
23 budget shall transfer an amount equal to the lesser of ~~\$300,000,000~~\$200,000,000 or fifty
24 percent of the balance of the foundation aid stabilization fund on ~~July~~December 1, 2016, from
25 the foundation aid stabilization fund to the school construction assistance loan fund.

26 **SECTION 10. TRANSFER - FOUNDATION AID STABILIZATION FUND TO**
27 **SCHOLARSHIP ENDOWMENT FUND.** During the period beginning ~~July 1, 2016~~with the
28 effective date of this section, and ending June 30, 2017, the office of management and budget
29 shall transfer an amount equal to the lesser of ~~\$300,000,000~~\$200,000,000 or fifty percent of the
30 balance of the foundation aid stabilization fund on ~~July~~December 1, 2016, from the foundation
31 aid stabilization fund to the scholarship endowment fund.

1 **SECTION 11. CONTINGENT EFFECTIVE DATE.** Sections 2, ~~4, and~~ 5, 9, and 10 of this Act
2 are contingent on the passage of Senate Concurrent Resolution No. 4003 by the sixty-fourth
3 legislative assembly and approval of that measure by the voters of this state. If sections 2, ~~4,~~
4 ~~and 5, 9, and 10~~ of this Act take effect, the sections become effective on ~~July~~December 1, 2016.

5 **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.