

HOUSE BILL NO. 1192

Introduced by

Representative Klemin

1 A BILL for an Act to amend and reenact section 6-09.4-23 of the North Dakota Century Code,
2 relating to authority to withhold school district state aid.

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

4 **SECTION 1. AMENDMENT.** Section 6-09.4-23 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **6-09.4-23. Evidences of indebtedness - Authority to withhold school district state aid.**

- 7 1. If the public finance authority or a paying agent notifies the superintendent of public
8 instruction, in writing, that a school district has failed to pay when due the principal or
9 interest on any evidences of indebtedness issued after July 31, 1999, or that the public
10 finance authority, school district, or the paying agent has reason to believe a school
11 district will not be able to make a full payment of the principal and interest when the
12 payment is due, the superintendent of public instruction shall withhold any funds that
13 are due or payable or appropriated to the school district under chapter 15.1-27 until
14 the payment of the principal or interest has been made to the public finance authority
15 or the paying agent, or until the public finance authority, school district, or the paying
16 agent notifies the superintendent of public instruction that arrangements satisfactory to
17 the public finance authority or the paying agent have been made for the payment of
18 the principal and interest then due and owing. The notification must include
19 information required by the superintendent of public instruction. State funds available
20 to a school district under chapter 15.1-27 are not subject to withholding under this
21 section unless the withholding is authorized by resolution of the district's school board.
- 22 2. Notification by the public finance authority, school district, or the paying agent that
23 satisfactory arrangements have been made for the payment of the principal and
24 interest then due and owing under subsection 1 must be made at least fifteen working

1 days before the principal or interest is due. The notice must be in writing and include
2 the name of the school district, an identification of the debt obligation issue, the date
3 the payment is due, the amount of principal and interest due on the payment date, the
4 amount of principal or interest the school district will be unable to pay, the paying
5 agent for the debt obligation, the wire transfer instructions to transfer funds to the
6 paying agent, and an indication that payment is requested under this section. A paying
7 agent shall notify the superintendent of public instruction if the paying agent becomes
8 aware of a potential default. If the superintendent receives notice of a requested
9 payment under this section, the superintendent of public instruction shall withhold and
10 transfer funds due or payable or appropriated to the school district under chapter
11 15.1-27 to the paying agent after:

- 12 a. Consulting with the school district and the paying agent; and
13 b. Verifying the accuracy of the provided request information.

14 3. Notwithstanding any withholding of state funds under section 15-39.1-23 or any other
15 law, the superintendent of public instruction shall make available any funds withheld
16 under subsection 1 to the public finance authority or the paying agent. The public
17 finance authority or the paying agent shall apply the funds to payments that the school
18 district is required to make to the public finance authority or the paying agent.

19 3.4. If funds are withheld from a school district and made available to the public finance
20 authority or a paying agent under this section and if tax revenues are received by the
21 school district during the fiscal year in which the funds are withheld and are deposited
22 in the district's sinking fund established in accordance with section 21-03-42, the
23 district, with the consent of the public finance authority or the paying agent, may
24 withdraw from its sinking fund an amount equal to that withheld by the superintendent
25 of public instruction and made available to the public finance authority or a paying
26 agent under this section.

27 4.5. Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement
28 between the public finance authority and the state board of public school education for
29 the benefit of the public finance authority and a school district must be held by the
30 Bank. With the approval of the superintendent of public instruction, those funds may
31 be used to subsidize the debt service payments on construction loans that are made

1 to school districts by the public finance authority and which are subject to the
2 withholding provisions of this section or construction loans made to school districts
3 under the state school construction program established by section 11 of chapter 2 of
4 the 1989 Session Laws. Notwithstanding the existence of an escrow agreement
5 between the public finance authority and the state board of public school education,
6 those funds must be transferred to the public finance authority upon certification by the
7 public finance authority that the funds are in excess of the amount needed to provide
8 for the payment in full of the outstanding principal and interest, when due, on the
9 public finance authority bonds issued to purchase the municipal securities for which
10 the escrow fund was established.

11 5-6. The superintendent of public instruction shall develop detailed procedures for school
12 districts to notify the superintendent of public instruction that they have obligated
13 themselves to be bound by the provisions of this section; procedures for school
14 districts, paying agents, and the public finance authority to notify the superintendent of
15 public instruction of potential defaults and to request payment under this section; and
16 procedures for the state to expedite payments to prevent defaults.