

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1125
(Representatives Richter, Longmuir, Monson, Nathe)
(Senators Patten, Schaible)

AN ACT to amend and reenact section 6-09.4-23 of the North Dakota Century Code, relating to withholding school district state aid payments and the school district credit enhancement program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. If the public finance authority or a paying agent notifies the superintendent of public instruction, in writing, that a school district has failed to pay when due the principal or interest on any evidences of indebtedness issued after July 31, 1999, or that the public finance authority, school district, or the paying agent has reason to believe a school district will not be able to make a full payment of the principal and interest when the payment is due, the superintendent of public instruction shall withhold any funds that are due or payable or appropriated to the school district under chapter 15.1-27 until the payment of the principal or interest has been made to the public finance authority or the paying agent, or until the public finance authority, school district, or the paying agent notifies the superintendent of public instruction that arrangements satisfactory to the public finance authority or the paying agent have been made for the payment of the principal and interest then due and owing. The notification must include information required by the superintendent of public instruction. State funds available to a school district under chapter 15.1-27 are not subject to withholding under this section unless the withholding is authorized by resolution of the district's school board.
2. If the public finance authority or a paying agent notifies the state treasurer, in writing, that a school district has failed to pay when due the principal or interest on any evidence of indebtedness issued after July 31, 2023, or that the public finance authority, school district, or the paying agent has reason to believe a school district will not be able to make a full payment of the principal and interest when the payment is due, the state treasurer shall withhold any funds that are due or payable or appropriated to the school district under chapter 57-51 until the payment of the principal or interest has been made to the public finance authority or the paying agent, or until the public finance authority, school district, or the paying agent notifies the state treasurer that arrangements satisfactory to the public finance authority or the paying agent have been made for the payment of the principal and interest then due and owing. The notification must include information required by the state treasurer. State funds available to a school district under chapter 57-51 are not subject to withholding under this section unless the withholding is authorized by resolution of the district's school board.
3. If the public finance authority or a paying agent notifies the county auditor, in writing, that a school district has failed to pay when due the principal or interest on any evidence of indebtedness issued after July 31, 2023, or that the public finance authority, school district, or the paying agent has reason to believe a school district will not be able to make a full payment of the principal and interest when the payment is due, the county auditor shall withhold any funds that are due or payable or appropriated to the school district under chapters 57-33.2, 57-34, and 57-55 and section 21-06-10 until the payment of the principal or interest has been made to the public finance authority or the paying agent, or until the public finance authority, school district, or the paying agent notifies the county auditor that arrangements satisfactory to

the public finance authority or the paying agent have been made for the payment of the principal and interest then due and owing. The notification must include information required by the county auditor. State funds available to a school district under chapters 57-33.2, 57-34, and 57-55 and section 21-06-10 are not subject to withholding under this section unless the withholding is authorized by resolution of the district's school board.

4. Notification by the public finance authority, school district, or the paying agent that satisfactory arrangements have been made for the payment of the principal and interest then due and owing under subsection 1, 2, or 3 must be made at least fifteen working days before the principal or interest is due. The notice must be in writing and include the name of the school district, an identification of the debt obligation issue, the date the payment is due, the amount of principal and interest due on the payment date, the amount of principal or interest the school district will be unable to pay, the paying agent for the debt obligation, the wire transfer instructions to transfer funds to the paying agent, and an indication that payment is requested under this section. A paying agent shall notify the superintendent of public instruction, the state treasurer, and the appropriate county auditor if the paying agent becomes aware of a potential default. If the superintendent, state treasurer, or the county auditor receives notice of a requested payment under this section, the superintendent of public instruction, state treasurer, or county auditor shall withhold and transfer funds due or payable or appropriated to the school district under chapter 15.1-27 or 57-51 to the paying agent after:
 - a. Consulting with the school district and the paying agent; and
 - b. Verifying the accuracy of the provided request information.
- ~~3-5.~~ Notwithstanding any withholding of state funds under section 15-39.1-23 or any other law, the superintendent of public instruction, state treasurer, and county auditor shall make available any funds withheld under subsection 1, 2, or 3 to the public finance authority or the paying agent. The public finance authority or the paying agent shall apply the funds to payments that the school district is required to make to the public finance authority or the paying agent.
- ~~4-6.~~ If funds are withheld from a school district and made available to the public finance authority or a paying agent under this section and if tax revenues are received by the school district during the fiscal year in which the funds are withheld and are deposited in the district's sinking fund established in accordance with section 21-03-42, the district, with the consent of the public finance authority or the paying agent, may withdraw from its sinking fund an amount equal to that withheld ~~by the superintendent of public instruction~~ and made available to the public finance authority or a paying agent under this section.
- ~~5.~~ ~~Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement between the public finance authority and the state board of public school education for the benefit of the public finance authority and a school district must be held by the Bank. With the approval of the superintendent of public instruction, those funds may be used to subsidize the debt service payments on construction loans that are made to school districts by the public finance authority and which are subject to the withholding provisions of this section or construction loans made to school districts under the state school construction program established by section 11 of chapter 2 of the 1989 Session Laws. Notwithstanding the existence of an escrow agreement between the public finance authority and the state board of public school education, those funds must be transferred to the public finance authority upon certification by the public finance authority that the funds are in excess of the amount needed to provide for the payment in full of the outstanding principal and interest, when due, on the public finance authority bonds issued to purchase the municipal securities for which the escrow fund was established.~~
- ~~6-7.~~ The superintendent of public instruction, state treasurer, and county auditor shall develop detailed procedures for a school districts~~district~~ to notify the superintendent of public instruction, state treasurer, and the county auditor that ~~they have~~the school district has

obligated ~~themselves~~the district to be bound by ~~the provisions~~ of this section; procedures for a school districts~~district~~, paying agents~~agent~~, and the public finance authority to notify the superintendent of public instruction, state treasurer, or county auditors of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1125.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State