

## **CHAPTER 6-09.4 PUBLIC FINANCE AUTHORITY**

### **6-09.4-01. Title.**

This chapter must be known as the "North Dakota Public Finance Authority Act".

### **6-09.4-02. Legislative policy.**

It is declared to be the policy of the state of North Dakota to foster and promote the provision of adequate capital markets and facilities for borrowing money by political subdivisions or other contracting parties and for the financing of their respective public improvements or projects as those terms are used or defined in this chapter or chapter 40-57. It is in the public interest to encourage political subdivisions or other contracting parties to continue their independent undertakings of public improvements or projects and the financing thereof by making funds available at reduced interest costs, especially during periods of restricted credit or money supply. Current credit and municipal bond market conditions require the exercise of the powers of the state to further and implement such policies by authorizing a state instrumentality to be created to borrow money and to issue its bonds to make funds available at reduced rates and on favorable terms for borrowing by political subdivisions or other contracting parties through the purchase or holding of marketable municipal securities of political subdivisions or other contracting parties in fully marketable form or in another form adequate to secure bonds issued by the state instrumentality and by granting broad powers to accomplish and to carry out the policies of the state.

### **6-09.4-03. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Bondholder" or "holder" or any similar term when used with reference to a bond of the public finance authority means any person who is the bearer of any outstanding bond of the public finance authority.
2. "Bonds" or "bond" means evidences of indebtedness of the public finance authority issued pursuant to this chapter.
3. "Fully marketable form" means a municipal security duly executed and accompanied by an approving legal opinion of a counsel whose opinions are generally accepted by the public finance authority or other purchasers of municipal securities.
4. "Municipal security" means an evidence of indebtedness issued by a political subdivision, including a clean renewable energy bond issued under 26 U.S.C. 54 [Pub. L. 109-58; 119 Stat. 991], and a revenue agreement entered into by a contracting party as those terms are used in chapter 40-57, but does not generally include an evidence of indebtedness issued pursuant to chapter 40-57 other than an evidence of indebtedness that qualifies as a qualified small issue bond as defined under 26 U.S.C. 144(a) [Pub. L. 99-514; 100 Stat. 2606], as amended, and regulations promulgated and officially proposed to be promulgated thereunder, or as an "exempt facility bond" as defined under 26 U.S.C. 142(a)(4), (5), or (6) [Pub. L. 99-514; 100 Stat. 2606], as amended, and regulations promulgated and officially proposed to be promulgated thereunder, issued to provide one of the following:
  - a. A facility for the furnishing of water.
  - b. A wastewater facility.
  - c. A solid waste disposal facility.
5. "Political subdivision" means:
  - a. A local governmental unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
  - b. The department of environmental quality, or any other state agency or authority, or any member-owned association or publicly owned and nonprofit corporation:
    - (1) Operating any public water system that is subject to chapter 61-28.1.
    - (2) Operating any facility, system, or other related activity that is eligible for financial assistance under chapter 61-28.2.

- c. The Bank of North Dakota for purposes of the revolving loan fund program established by chapter 61-28.2.
  - d. The state water commission for purposes of the revolving loan fund program established by chapter 61-28.1.
  - e. A qualified borrower within the meaning of 26 U.S.C. 54(j)(5) [Pub. L. 109-58; 119 Stat. 995].
  - f. The Garrison Diversion Conservancy District or any successor entity or improvement district created under chapter 61-24.8 to finance or refinance irrigation and water supply projects.
  - g. The Lake Agassiz water authority, for use in financing the construction, acquisition, extension, expansion, alteration, betterment, maintenance, or renovation of a project under section 61-39-16.
6. "Public finance authority" means the public finance authority created by section 6-09.4-04.
  7. "Required debt service reserve" means the amount required to be on deposit in the reserve fund.
  8. "Reserve fund" means the public finance authority reserve fund or funds created as provided in section 6-09.4-10.
  9. "Revenues" means any or all fees, charges, moneys, profits, payments of principal or interest on municipal securities, investment income, revenues, appropriations, and all other income derived or to be derived by the public finance authority under this chapter.

**6-09.4-04. Creation of public finance authority.**

A public finance authority is established under the operation, management, and control of the industrial commission to be known as the "public finance authority". The public finance authority is constituted as an instrumentality of the state exercising public and governmental functions, and the exercise by the public finance authority of the powers conferred by this chapter must be deemed and held to be an essential governmental function of the state.

**6-09.4-05. Participation voluntary - Agreement to participate.**

Participation by a political subdivision is entirely voluntary and no political subdivision may be required to sell its bond issues to the public finance authority. Notwithstanding any other state law applicable to the issuance of bonds, a political subdivision desiring to participate in the public finance authority may enter into an agreement with the public finance authority for the purchase by the public finance authority of a bond issue or issues of the political subdivision, including the purchase by the public finance authority of an issue or issues of refunding bonds, which refunding bonds may be required by the agreement to be issued at a rate or rates of interest higher or lower than that of the bond issue or issues to be refunded.

**6-09.4-05.1. Administrative agreements with state agencies.**

The public finance authority and any state agency authorized by state or federal law to make an allocation of bonds or bonding authority or to make loans, or to issue bonds to obtain funds for the purpose of making loans or grants, may enter into an administrative agreement, which may authorize the public finance authority to administer the loan or bond program for the state agency. The agreement may delegate to the public finance authority the authority to make loans, or to issue bonds to obtain funds for the purpose of making loans or grants.

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

1. The public finance authority may lend money to political subdivisions or other contracting parties through the purchase or holding of municipal securities which, in the opinion of the attorney general, are properly eligible for purchase or holding by the public finance authority under this chapter or chapter 40-57 and for purposes of the public finance authority's capital financing program the principal amount of any one issue does not exceed five hundred thousand dollars. However, the public finance

authority may lend money to political subdivisions through the purchase of securities issued by the political subdivisions through the capital financing program without regard to the principal amount of the bonds issued, if the industrial commission approves a resolution that authorizes the public finance authority to purchase the securities. The capital financing program authorizing resolution must state that the industrial commission has determined that private bond markets will not be responsive to the needs of the issuing political subdivision concerning the securities or, if it appears that the securities can be sold through private bond markets without the involvement of the public finance authority, the authorizing resolution must state reasons for the public finance authority's involvement in the bond issue. The public finance authority may hold such municipal securities for any length of time it finds to be necessary. The public finance authority, for the purposes authorized by this chapter or chapter 40-57, may issue its bonds payable solely from the revenues available to the public finance authority which are authorized or pledged for payment of public finance authority obligations, and to otherwise assist political subdivisions or other contracting parties as provided in this chapter or chapter 40-57.

2. The public finance authority may lend money to the Bank of North Dakota under terms and conditions requiring the Bank to use the proceeds to make loans for agricultural improvements that qualify for assistance under the revolving loan fund program established by chapter 61-28.2.
3. The public finance authority may transfer money to the Bank of North Dakota for allocations to infrastructure projects and programs. Bonds issued for these purposes are payable in each biennium solely from amounts the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds. Neither the obligation of the state to pay the bonds nor the obligation of the issuer to pay debt service will constitute a debt of the state or any agency or political subdivision of the state within the meaning of any constitutional or statutory provision. The issuance of the bond does not directly or contingently obligate the state to pay the bond payments beyond the appropriation for the current biennium of the state. The issuer has no taxing power. In addition to providing funds for the transfers, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds, capitalized interest, and establish a reserve fund for the bonds.
4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are not in any way a debt or liability of the state and do not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and credit of the state, but all such bonds are payable solely from revenues pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the public finance authority is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal or the interest on such bonds. Specific funds pledged to fulfill the public finance authority's obligations are obligations of the public finance authority.
5. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are payable solely from revenues or funds provided or to be provided under this chapter or chapter 40-57 and nothing in this chapter may be construed to authorize the public finance authority to incur any indebtedness or liability on behalf of or payable by the state.

#### **6-09.4-07. Powers.**

The public finance authority has the following powers:

1. To sue and be sued.
2. To make and enforce bylaws, rules, and regulations for the conduct of its affairs and business and for use of its services.
3. To acquire, hold, use, and dispose of its income, revenue, funds, and moneys in accordance with law, this chapter or chapter 40-57, or legislative appropriations.

4. To acquire, rent, lease, hold, use, and dispose of other personal property for its purposes.
5. To borrow money and to issue its negotiable bonds or notes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof, and to purchase, hold, and dispose of any of its bonds.
6. To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities.
7. To do and perform any acts and things authorized by this chapter or chapter 40-57 under, through, or by means of its officers, agents, or employees or by contracts with any person, firm, or corporation.
8. To make, enter into, and enforce all contracts or agreements necessary, convenient, or desirable for the purposes of the public finance authority or pertaining to any loan to a political subdivision or other contracting party or any purchase or sale of municipal securities or other investments or to the performance of its duties and execution or carrying out of any of its powers under this chapter or chapter 40-57.
9. To purchase or hold municipal securities of political subdivisions or other contracting parties at such prices and in such manner as the public finance authority shall deem advisable, and to sell municipal securities acquired or held by it at such prices without relation to cost and in such manner as the public finance authority deems advisable.
10. To invest any funds or moneys of the public finance authority not then required for loan to political subdivisions or other contracting parties and for the purchase of municipal securities in the same manner as permitted for investment of funds belonging to the state or the Bank of North Dakota.
11. To fix and prescribe any form of application or procedure to be required of a political subdivision or other contracting party for the purpose of any loan or the purchase of its municipal securities, and to fix the terms and conditions of any such loan or purchase and to enter into agreements with political subdivisions or other contracting parties with respect to any such loan or purchase.
12. To consider the need, desirability, or eligibility of such loan, the ability of such political subdivision or other contracting party to secure borrowed money from other sources and the costs thereof, and the particular public improvement, project, or purpose to be financed by the municipal securities to be purchased by the public finance authority.
13. To impose and collect charges from a political subdivision or other contracting party for its costs and services in review or consideration of any proposed loan to a political subdivision or other contracting party or purchase of municipal securities of such political subdivision or other contracting party, and to impose and collect charges therefor whether or not such loan has been made or such municipal securities have been purchased.
14. To fix and establish any and all terms and provisions with respect to any purchase of municipal securities by the public finance authority, including dates and maturities of such bonds, provisions as to redemption or payment prior to maturity, and any and all other matters which in connection therewith are necessary, desirable, or advisable in the judgment of the public finance authority.
15. To procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable to pay the premiums on such insurance.
16. To the extent permitted under its contracts with the holders of bonds of the public finance authority, to consent to any modification with respect to rates of interest, time, and payment of any installment of principal or interest, security, or any other term of bond, contract, or agreement of any kind to which the public finance authority is a party.
17. To do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this chapter or chapter 40-57.
18. To do and perform any act and thing authorized by section 54-01-27 or 54-17-36 under, through, or by means of its officers, agents, or employees or by contracts with any person to assist the state, or any agency or institution of the state, in making,

entering, and enforcing all contracts or agreements necessary, convenient, or desirable for the purposes of leasing all or part of, or an undivided or other interest in, property.

**6-09.4-08. Bonds of the public finance authority.**

Bonds of the public finance authority must be authorized by resolution of the industrial commission and may be issued in one or more series and must bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Bonds of the public finance authority, issued to provide funds to a municipal pipeline authority, are to mature not more than thirty years from the date of issue. Bonds of the public finance authority may be sold at public or private sale at such time or times and at such price or prices as the public finance authority determines.

**6-09.4-09. Pledges.**

Any pledge of revenue or of a revenue agreement under chapter 40-57 made by the industrial commission as security for public finance authority bonds is valid and binding from time to time when the pledge is made. The industrial commission may also pledge assets of the Bank of North Dakota as security for public finance authority bonds. The revenues or other moneys so pledged and thereafter received by the public finance authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the public finance authority, regardless of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the public finance authority.

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

1. The public finance authority shall establish and maintain a reserve fund in which there must be deposited all moneys appropriated by the state for the purpose of the fund, all proceeds of bonds required to be deposited therein by terms of any contract between the public finance authority and its bondholders or any resolution of the public finance authority with respect to the proceeds of bonds, any other moneys or funds of the public finance authority which it determines to deposit therein, any contractual right to the receipt of moneys by the public finance authority for the purpose of the fund, including a letter of credit or similar instrument, and any other moneys made available to the public finance authority only for the purposes of the fund from any other source or sources. Moneys in the reserve fund must be held and applied solely to the payment of the interest on and the principal of bonds and sinking fund payments as the same become due and payable and for the retirement of bonds, including payment of any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if the withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments and for the retirement of bonds in accordance with the terms of any contract between the public finance authority and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds, other moneys of the public finance authority are not then available in accordance with the terms of the contract. The required debt service reserve must be an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the public finance authority and its bondholders to be raised in the then current or any succeeding calendar year for the payment of interest on and

maturing principal of outstanding bonds, and sinking fund payments required by the terms of any contracts to sinking funds established for the payment or redemption of the bonds.

2. If the establishment of the reserve fund for an issue or the maintenance of an existing reserve fund at a required level under this section would necessitate the investment of all or any portion of a new reserve fund or all or any portion of an existing reserve fund at a restricted yield, because to not restrict the yield may cause the bonds to be taxable under the Internal Revenue Code, then at the discretion of the public finance authority no reserve fund need be established prior to the issuance of bonds or the reserve fund need not be funded to the levels required by other subsections of this section or an existing reserve fund may be reduced.
3. No bonds may be issued by the public finance authority unless there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding and the bonds to be issued. Nothing in this chapter prevents or precludes the public finance authority from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve. The public finance authority may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, or to meet such higher or additional reserve as may be fixed by the public finance authority with respect to such fund.
4. In order to assure the maintenance of the required debt service reserve, there shall be appropriated by the legislative assembly and paid to the public finance authority for deposit in the reserve fund, such sum, if any, as shall be certified by the industrial commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve. However, the commission may approve a resolution for the issuance of bonds, as provided by section 6-09.4-06, which states in substance that this subsection is not applicable to the required debt service reserve for bonds issued under that resolution.
5. If the maturity of a series of bonds of the public finance authority is three years or less from the date of issuance of the bonds, the public finance authority may determine that no reserve fund need be established for that respective series of bonds. If such a determination is made, holders of that respective series of bonds may have no interest in or claim on existing reserve funds established for the security of the holders of previously issued public finance authority bonds, and may have no interest in or claim on reserve funds established for the holders of subsequent issues of bonds of the public finance authority.
6. The industrial commission may determine this section is inapplicable in whole or in part for bonds issued under:
  - a. Section 6-09.4-06;
  - b. Section 6-09.4-24; or
  - c. The public finance authority's state revolving fund program.

**6-09.4-10.1. Legacy sinking and interest fund - Debt service requirements - Public finance authority.**

There is created in the state treasury the legacy sinking and interest fund. The fund consists of all moneys deposited in the fund under section 21-10-13. Moneys in the fund may be spent by the public finance authority pursuant to legislative appropriations to meet the debt service requirements for evidences of indebtedness issued by the authority for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs. Any moneys in the fund in excess of the amounts appropriated from the fund to meet the debt service requirements for a biennium must be transferred by the state treasurer to the public employees retirement system main system plan under chapter 54-52, but only if the public employees retirement system main system plan's actuarial funded ratio as reported for the most recently completed even-numbered fiscal year is less than ninety percent. If the public employees retirement system main system plan's actuarial funded ratio is ninety percent or more and then subsequently decreases below

ninety percent, the state treasurer may not resume the transfers under this subdivision unless the main system plan's actuarial funded ratio is less than seventy percent.

**6-09.4-10.2. Debt service requirements - Bonds for infrastructure projects and programs.**

Each biennium, the public finance authority shall request from the legislative assembly an appropriation from the general fund, derived from legacy fund earnings, Bank of North Dakota profits, or other sources to meet the debt service requirements for bonds issued by the authority for allocations to infrastructure projects and programs.

**6-09.4-11. Additional reserves and funds.**

The public finance authority may establish such additional and further reserves or such other funds or accounts as may be, in its discretion, necessary, desirable, or convenient to further the accomplishment of the purposes of the public finance authority to comply with the provisions of any agreement made by or any resolution of the public finance authority.

**6-09.4-12. Participation by public finance authority in bonds held by Bank of North Dakota.**

The public finance authority may issue its bonds from time to time in an amount sufficient to purchase municipal securities held by the Bank of North Dakota at a price established by mutual agreement between the public finance authority and the Bank of North Dakota.

**6-09.4-13. Personal liability.**

Neither the members of the industrial commission nor any person executing bonds issued pursuant to this chapter or chapter 40-57 is liable personally on such bonds by reason of the issuance thereof.

**6-09.4-14. Purchase of bonds of public finance authority.**

The public finance authority has the power to purchase bonds of the public finance authority out of any funds or money of the public finance authority available therefor. The public finance authority may hold, cancel, or resell such bonds or notes subject to and in accordance with agreements with holders of its bonds.

**6-09.4-15. Bonds as legal investments and security.**

Notwithstanding any restrictions contained in any other law, the state and all public officers, boards, and agencies, and political subdivisions and agencies thereof, all national banking associations, state banks, trust companies, savings banks and institutions, savings and loan associations, investment companies, and other persons carrying on a banking business, and all executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued by the public finance authority pursuant to this chapter, and the bonds are authorized security for any and all public deposits.

**6-09.4-16. Tax exemptions.**

All property of the public finance authority and all bonds issued under this chapter must be deemed to be serving essential public and governmental purposes and such property and such bonds so issued, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be exempt from state, county, and municipal taxes of any and all kinds.

**6-09.4-17. Exemption of property from execution sale.**

All property of the public finance authority is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the same nor may any judgment against the public finance authority be a charge or lien upon its property; provided, that nothing contained in this chapter applies to or limits the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the public finance

authority on its revenues. Any action or proceeding in any court to set aside a resolution authorizing the issuance of bonds by the public finance authority under this chapter or to obtain any relief upon the ground that such resolution is invalid must be commenced within ten days after the adoption of said resolution by the industrial commission. After the expiration of such period of limitation, no claim for relief or defense founded upon the invalidity of the resolution or any of its provisions may be asserted nor may the validity of the resolution or any of its provisions be open to question in any court on any ground whatever.

**6-09.4-18. Insurance or guaranty.**

The public finance authority is authorized and empowered to obtain from any entity of the state, any department or agency of the United States of America, or any nongovernmental insurer any insurance, guaranty, or liquidity facility, or from a financial institution a letter of credit to the extent such insurance, guaranty, liquidity facility, or letter of credit now or hereafter available, as to, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds issued by the public finance authority, or on any municipal securities purchased or held by the public finance authority, pursuant to this chapter; and to enter into any agreement or contract with respect to any such insurance, guaranty, letter of credit, or liquidity facility, and pay any required fee, unless the same would impair or interfere with the ability of the public finance authority to fulfill the terms of any agreement made with the holders of its bonds.

**6-09.4-19. Remedies on default of municipal securities.**

In the event of default by a political subdivision in the payment of interest on or principal of any municipal securities owned or held by the public finance authority, the public finance authority may proceed to enforce payment, pursuant to applicable provisions of law, of such interest or principal or other amount then due and payable.

**6-09.4-20. Form of municipal securities and investments.**

All municipal securities held by the public finance authority as permitted or provided for under this chapter must at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the public finance authority. All municipal securities at any time purchased, held, or owned by the public finance authority must, upon delivery to the public finance authority, be in fully marketable form and accompanied by such documentation as shall from time to time be required by the public finance authority.

**6-09.4-21. Presumption of validity.**

After issuance, all bonds of the public finance authority are conclusively presumed to be fully authorized and issued under the laws of the state, and any person or governmental unit is estopped from questioning their authorization, sale, issuance, execution, or delivery by the public finance authority.

**6-09.4-22. Protection of service during term of loan.**

1. The service provided or made available by a political subdivision through the construction or acquisition of an improvement, or the revenues therefrom, financed in whole or in part with a loan to the political subdivision from the public finance authority or any other state agency or enterprise, may not be curtailed or limited by inclusion of all or any part of the area served by the political subdivision within the boundaries of any other political subdivision, or by the granting of any private franchise for similar service within the area served by the political subdivision, during the term of the loan. The political subdivision providing the service may not be required to obtain or secure any franchise, license, or permit as a condition of continuing to serve the area if it is included within the boundaries of another political subdivision during the term of the loan.
2. Under the circumstances described in subsection 1, nothing prevents the two political subdivisions, with the public finance authority or other state agency or enterprise, from negotiating an agreement for the right or obligation to provide the service in question,



provided that any agreement is invalid and unenforceable unless the public finance authority or other state agency or enterprise is a party to the agreement and unless the agreement contains adequate safeguards to ensure the security and timely payment of any outstanding bonds of the public finance authority issued to fund the loan.

**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. 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 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 if the paying agent becomes aware of a potential default. If the superintendent receives notice of a requested payment under this section, the superintendent of public instruction shall withhold and transfer funds due or payable or appropriated to the school district under chapter 15.1-27 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. Notwithstanding any withholding of state funds under section 15-39.1-23 or any other law, the superintendent of public instruction shall make available any funds withheld under subsection 1 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. 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. The superintendent of public instruction shall develop detailed procedures for school districts to notify the superintendent of public instruction that they have obligated themselves to be bound by the provisions of this section; procedures for school districts, paying agents, and the public finance authority to notify the superintendent of public instruction of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults.

**6-09.4-24. Public finance authority - Issuance on behalf of other state agencies.**

The public finance authority may issue bonds or other evidences of indebtedness on behalf of other state agencies, instrumentalities, or officers, including the farm finance agency, industrial commission, North Dakota building authority, student loan trust, and any other state agency, instrumentality, or officer authorized by law to issue bonds or other evidences of indebtedness and which elects to enter into an administrative agreement with the public finance authority under this chapter. The public finance authority may be assisted by any other official appointed by the industrial commission to aid the executive director or to serve as an authorized officer of the public finance authority from time to time. Notwithstanding any other provision of law, in issuing bonds or other evidences of indebtedness and in administering or managing any bond issue postissuance on behalf of any other state agency, instrumentality, or officer, the public finance authority may exercise any of the powers and authority of that state agency, instrumentality, or officer which the industrial commission determines to be necessary or expedient in the issuance of bonds or other evidences of indebtedness or in the administration or management of the issue. Any bonds or other evidences of indebtedness issued by the public finance authority on behalf of any other state agency, instrumentality, or officer, if so determined by the industrial commission, continues to be the obligation or liability of the state agency or instrumentality as otherwise provided by law and not an obligation or liability of the public finance authority.

**6-09.4-25. Administrative agreements with state agencies and instrumentalities to issue bonds and other evidences of indebtedness.**

The public finance authority and any state agency, instrumentality, or officer authorized by law to issue bonds or other evidences of indebtedness to obtain funds for any authorized purpose may enter into an administrative agreement. The agreement may delegate to the public finance authority the power and authority to issue bonds or other evidences of indebtedness on behalf of the state agency, instrumentality, or officer to obtain funds for any other purpose authorized by law and may contain such other necessary or expedient terms and conditions as the industrial commission and the parties to the administrative agreement approve to effect the issuance of the bonds or other evidences of indebtedness and to aid in the administration or management of any bond issue after issuance.

**6-09.4-26. Public finance authority as continuation of and successor in interest to municipal bond bank.**

1. Beginning August 1, 2005, the public finance authority is deemed the continuation of and successor in interest to the municipal bond bank and any reference to the municipal bond bank or bond bank in any agreement, certificate, contract, covenant, indenture, resolution, recital, undertaking, bond, note, other evidence of indebtedness, or in any other document or instrument means the public finance authority.

2. The public finance authority as the continuation of and successor in interest to the municipal bond bank is deemed to:
  - a. Possess all rights, title, privileges, powers, immunities, property, assets, and claims of the bond bank; and
  - b. Fulfill and perform all obligations of the bond bank, including all bond bank obligations relating to outstanding bonds and notes.

**6-09.4-27. Confidentiality of certain public finance authority records.**

Commercial or financial information of a contracting party provided to the public finance authority as part of any qualified small issue bonds or municipal industrial revenue bonds purchased or issued by the public finance authority, whether obtained directly or indirectly, are confidential records. Confidential records do not include routine credit inquiries; records required to be disclosed by due legal process; the name, address, and contact information of a contracting party; or the amount loaned to a contracting party.