State of
North Dakota
Office of the Governor

Jack Dalrymple
Governor

May 12, 2015

The Honorable Drew Wrigley
President, ND Senate
State Capitol
Bismarck, ND 58505

RE: Senate Bill 2039

Dear President Wrigley:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed subsection 1(c) of Section 6 of Senate Bill 2039.

This subsection would require that the income, including interest payments on loans from the coal development trust fund, as authorized in North Dakota Century Code 57-62-02, be made part of the School Construction Assistance Loan Fund. This language conflicts with the North Dakota Constitution, Article X, Section 21, which requires that "the interest earned on the moneys in said fund shall be used first to replace uncollectable loans made from the fund, and the balance shall be credited to the general fund of the state." I have vetoed this section because the language clearly conflicts with the constitution.

Therefore, subsection 1(c) of section 6 of Senate Bill 2039 is vetoed.

Sincerely,

Jack Dalrymple

Jack Dalrymple
Governor

Received by: [illegible] Date: 5/14/15 Time: 2:15 p.m.

Received by [illegible] 5/14/15 2:18 p.m.
Secretary of State

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Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2039
(Legislative Management)
(Government Finance Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Scholarship endowment fund - Rules.

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

2. All interest and other earnings of the fund are dedicated to the awarding of scholarships to residents of this state attending institutions of higher education in the state.

3. Scholarships may be awarded only from the interest or other earnings of the fund and not from the fund's principal.

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

Uses of the foundation aid stabilization fund.

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

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

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

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

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

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

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

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

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

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

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

(1) The need for the project;

(2) The educational utility of the project;

(3) The potential use of the project by a future reorganized school district;

(4) The capacity of the district to pay for the project; and

(5) Any other objective factors relative to the appeal.

b. The decision of the state board is final.

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

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

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

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

a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and

b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.

SECTION 5. A new section to chapter 15.1-36 of the North Dakota Century Code is created 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

   e. Submit a completed application to the Bank of North Dakota.

3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:

   a. Student occupancy and academic needs in the district;

   b. The age of existing structures to be replaced or remodeled;

   c. Building design proposals that are based on safety and vulnerability assessments;

   d. Community support;

   e. Cost; and

   f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.

4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.

5. The interest rate on a loan under this section may not exceed two percent. The legislative assembly shall, however, conduct a biennial review of interest rates applicable to new loans.

6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.

7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.

8. a. The Bank of North Dakota shall manage and service each loan under this section and shall execute all necessary loan instruments. The Bank may charge a school district a fee for managing and servicing the loan.

   b. The Bank shall receive payments of principal and interest from school districts and shall deposit such payments in the school construction assistance loan fund.

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

School construction assistance loan fund - Continuing appropriation.

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

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

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

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

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

2. Moneys in the fund are appropriated on a continuing basis for the purpose of providing low-interest school construction loans, in accordance with this chapter.

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

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

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

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

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

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

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

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

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2039 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 0 Absent 4

Speaker of the House

Chief Clerk of the House

Received by the Governor at 4:18 P.M. on May 4, 2015.

Approved at 4:53 P.M. on May 12, 2015.

Governor

Filed in this office this 14th day of May, 2015,

at 2:18 o'clock P M.

Secretary of State