

2013 HOUSE FINANCE AND TAXATION

HB 1426

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1426
February 4, 2013
Job #18221

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to allocation of the oil extraction tax development fund.

Minutes:

Attached testimony #1, 2, 3

Chairman Belter: Opened hearing on HB 1426.

Representative Ruby: Introduced bill. This bill is a reallocation of some of the funds under the oil extraction development fund. Currently it is going to four different areas; one is for the sinking fund to establish payment in North Dakota water development bonds and there are also some funds that went to the common schools trust fund and a percent went to the legacy fund and the difference then went to the general fund. This seeks to reduce the amount of money that goes into the general fund and puts it toward the ability to bond for infrastructure projects and invest the money in the funds we have to help the state and political subdivisions to get bonding abilities from some of the funds sitting in some of the accounts that may be getting some interest and investment income. In subsection C any amount in the fund not obligated for payment of principle and interest may be expended so that puts it back to the authority of the legislature. We could be bonding now a lot of the projects we have for road funds rather than throwing a ton of money to rebuild roads, bridges, and other infrastructure projects in North Dakota with cash on hand and we're putting it into infrastructure that will last for 20-50 years. I think we need to free up some money so we can get some true tax relief to the citizens with the amount of money we're getting in and allow for bonding which is benefiting us because we get the investment income off those bonds.

Chairman Belter: Any questions of Representative Ruby? Further testimony in support of 1426?

Charlene Nelson, represents the voice of the North Dakota citizens: See attached testimony #1.

Chairman Belter: Are there any questions? Further testimony in support?

Paul Sorum, architect, contractor, recently ran for governor: I know from a state's perspective that when you're comfortable using bonds and do it correctly it creates an

atmosphere of strategic thinking and efficiency. I've talked to people across the state and their concerns were roads, housing, water, sewer, etc. They've asked how we can pay for these much needed things. I've told them we have these trust funds like the legacy funds and we're investing them ongoing in United States treasuries which are funding the national deficit spending spree we're on. We could be investing the money and making things better for North Dakotans in infrastructure. The only place worth investing at this time in the country is in North Dakota and the people in North Dakota. The people in North Dakota have the most productive work force in the world bar none. I think as a state we could change our strategy and use the cash resources we have to lend money to those infrastructure projects as a part of an overall vision and strategy that will lead to more growth and if we use it correctly using competent bond underwriters that legacy fund and other trust funds we use to buy these bonds will continue to grow and grow. In 100 years those funds would be much larger and North Dakota would have the very best infrastructure, roads, water projects, sewer systems, and everything.

Chairman Belter: Are there any questions? Any further testimony in support? Any testimony in opposition to 1426?

Shane Goettle, representing the city of Minot: The city of Minot isn't as concerned with the concept as it is concerned of the removal of lines 20-23 which eliminates the language of state water commission planning and projects. There may be a funding stream that is impacted by the increased in allocation that could impact some of those projects. If that is made whole with an appropriation to make up the difference so it doesn't interfere with the current set of priorities then that concern could be addressed.

Eric Volk, Executive Director of North Dakota Rural Water: See attached testimony pamphlet #2 showing the water groups' challenges and things they want to get done in the current biennium. We are a bit nervous about some of the things in this bill although we like the 35% but there is a potential that it could leave a bunch of water projects high and dry. I don't think the grant in this case is a waste or inefficient use of taxpayer money as this gets water to the people that wouldn't have water otherwise and it helps protect people from ravishing floods; it just does a great thing and it is cost effective. There are other things in the works to try to create some revolving loan funds to pay back.

Chairman Belter: Further testimony in opposition to 1426? Any neutral testimony?

Dave Laschkewitsch, Director of Administrative Services for North Dakota State Water Commission: See attached testimony #3.

Chairman Belter: Any further testimony? If not we will close the hearing on HB 1426.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee

Fort Totten Room, State Capitol

HB 1426

February 11, 2013

Job #18754

Conference Committee

Committee Clerk Signature

Mary Brueker

Explanation or reason for introduction of bill/resolution:

A Bill relating to allocation of the oil extraction tax development fund.

Minutes:

Amendments #1, testimony #2

Representative Ruby: Distributed amendments #1 and testimony #2. There was some concern on the use of the fund that the initial proposal had and that was because it could possible affect some of the water projects with the water commission. We worked with John Walstad to try and get a change to it where we actually go through the strategic investment improvements fund and they projected \$700 million in that fund and there's a lot of competing efforts. The amendment limits it down to \$100 million for the use of bonding for political subdivision and also uses another \$100 million to be used for credit enhancements for political subdivisions. It's the state using that \$100 million as a backstop and a backup of the bonding that they would normally get now they could use this to secure this to get lower bond rates. Shane Goettle, City of Minot, spoke in opposition mainly because of the concern with the water projects. His view of the fund has changed so if you would like to talk to him he is here now.

Chairman Belter: Are there any questions?

Representative Ruby: The appropriation is \$100 million in case it catches on and some of the communities would like to bond with the provisions in section 1. I can work with the Bank of North Dakota if we need to change anything.

Chairman Belter: Anyone want to hear from Shane Goettle on this issue?

Representative Ruby: There is another group he represents who are also in support of this concept as well. They would be happy to talk with this committee if needed.

Vice Chairman Headland: How much is in the strategic investment improvement fund now?

Representative Ruby: The projection by the end of this biennium will be \$700 million. You can't spend on what's projected so you use what is the dollars that are in there by a state specific time. Instead of \$25 million it's supposed to be \$250 million to be reserved for the Bank of North Dakota loan guarantee program.

Vice Chairman Headland: Are there any limitations to a political subdivision on how much bonding they can use? Can Williston take the whole \$100 million?

Representative Ruby: I don't know if there's any bonding limits on communities. The Bank of North Dakota could put those on.

Vice Chairman Headland: Is the Bank of North Dakota aware of this legislation and do they want the program?

Representative Ruby: It was just drafted today. We had the Bank of North Dakota listed before as the agency administering this and they didn't come in opposition to it.

Shane Goettle, City of Minot: This is mirrored after what already exists in North Dakota state law for school districts where the state puts on school district bonds if the school district wishes based on the credit of North Dakota. This works a little different because we wouldn't be putting a credit enhancement on those based on full faith credit but on funds that are sitting in the strategic investment improvement fund that would not be drawn upon unless that political subdivision were to default. In the meantime they get a better rating on their bond and a better interest rate in the market for bonds they would issue for long term public infrastructure. These two programs here; Representative Ruby's and the other from my client and modeled after what we do for our schools already are listed as pilot programs at \$100 million each to see how they would work. It may be that those funds are never accessed and that the full \$200 million may sit there as long as the communities are not able to default on their obligations. These are not new ideas.

Vice Chairman Headland: What is the general term of a bond such as this and how soon is the state going to get back their money?

Shane Goettle: There are 24 states that have a bond program with the strongest being in New Jersey and Texas for schools and that's what section 2 is modeled after in terms of setting aside a specific reserve fund against which those bonds would receive their credit enhancement.

Chairman Belter: Essentially the state of North Dakota becomes the back up to any default?

Shane Goettle: That is correct which increases the credit rating on those bonds; you get a better rate in the market. In the end it should expand the capacity especially for some of the smaller communities to deal with some of the public infrastructure needs.

Representative Kelsh: This new amendment does not affect the resources trust fund?

Shane Goettle: Correct.

Chairman Belter: Is there sufficient interest in this to get more information to us tomorrow? We need some more testimony on this. Let's set this aside for now.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1426
February 12, 2013
Job #18840

Conference Committee

Committee Clerk Signature

May Brucke

Explanation or reason for introduction of bill/resolution:

A Bill relating to allocation of the oil extraction tax development fund.

Minutes:

Chairman Belter: I have asked Carleen Fine with the Industrial Commission to come down and address some of the issues of 1426.

Carleen Fine, Industrial Commission: I'm here in response to request to comment on the amendments that were presented on 1426. We just looked at this today and in looking at what the intent was I had a chance to visit with Representative Ruby and the concept being outlined here has some merit but there are some problems we see with the amendments. If you want to keep this alive we suggest you make changes on these. The one section talks about a loan fund and it being held at the Bank of North Dakota and being funded by the SIIF fund. The second part of the bill deals with the credit enhancement and having that available for political subdivisions should they issue bonds and for their infrastructure projects. In section 1 talking about the loan fund the intent is it would be for long term financing and subdivision 2 talks about financing not to exceed one year so I think we need to be clear if this is for long term or short term. If this is for short term construction until such time as a political sub would issue some bond indebtedness for long term financing it would work in that manner. We also believe that setting rates in the code is not preferred by the Bank of North Dakota as times change and we should give flexibility to the Bank of North Dakota the industrial commission to set those rates as determined by the times. In regard to the second part of the bill that deals with the credit enhancement I believe there is value to having an intercept for payment of debt that if you were going to the national bond market and there was a provision in there that allowed for intercept of taxes or a mechanism to pay for any shortfalls that would be looked on positively by the rating agencies. Under section 1 should a political subdivision be unable to make their payment they would come to the state to the SIIF fund and that payment would be made for them. The state would have the ability to intercept any state tax provision that would be going to that political subdivision would be able to intercept those dollars and keep those in the SIIF fund. OMB should probably comment on how that should be done. The \$100 million appropriation to SIIF is really for the first part of the bill. There was some discussion on whether there should be another appropriation for the second part of the bill but I think because you have the intercept you may not need that. It's not real clear on how the bill is

drafted. In subdivision 4 under section 2 this excess funds of the Bank of North Dakota that is not needed and would need to come out of this bill.

Chairman Belter: The whole section four?

Carleen Fine: The whole section four.

Vice Chairman Headland: Could you give us a SIIF fund balance?

Carleen Fine: No, I don't have this but OMB has this. I know as of June 30 that it was anticipated the balance would be about \$700 million.

Representative Trottier: On the claw back clause, is that if someone cannot make their payment?

Carleen Fine: I was looking at the language on the top of page 2 about the seventh line down where it talks about if they couldn't make their payment they could come to the OMB and they would make that payment for them from the SIIF fund. (Read top of page 2) If you came and had to draw from the SIIF fund that covered you then OMB could go and get any other funds that you might such as state aid or the oil fund on things being transferred to that political subdivision could be captured and put into the SIIF fund.

Chairman Belter: Representative Ruby, are you going to work with Carleen to get some amendments and bring it back for us tomorrow?

Representative Ruby: I agree on page 2 subsection 4 should be eliminated as well as on page 1 subsection 2 its not to be greater than 65% I agree we should give them the flexibility to determine the rate. Also the last sentence the term of any participation interest purchased under this section may not exceed one year and that should be removed to let them have the flexibility to determine the terms.

Vice Chairman Headland: Would you have any interest in tightening up who is eligible for this?

Representative Ruby: We talked about possibly setting a limit on the size of community that could do this and tailor it more for the small communities. There is participation required on by the private bank as well. I think the Bank of North Dakota and the private bank would have the ability to determine the worthiness of the project. When you have participation from a bank it will probably be for a building or something like that and it would have to meet the approval of those two parties.

Representative Schmidt: This is mirrored from school districts?

Representative Ruby: The second portion is, section 2 is the credit enhancement that we currently have in law for school districts.

Representative Schmidt: I was thinking school districts was different from this but on the top of page 2 you include school districts in this so does that mean you're going to eliminate the school district one and wrapped all into the second section?

Representative Ruby: I would see if Shane Goettle can answer that. I don't think it eliminates that one; it would probably work in partnership. This would be an addition too.

Representative Schmidt: So school districts would have this opportunity and this opportunity?

Representative Ruby: Correct.

Representative Schmidt: Are they the only ones with dual opportunities?

Representative Ruby: It would be because nobody else has it.

Representative Owens: When Carleen said you shouldn't have the bank set the interest and you agreed you should take out that 65% in subsection 2, I took her comments to mean the rate that was set in subsection 1 and not the percentage of participation.

Representative Ruby: You're correct that was my mistake.

Chairman Belter: If you could get something together for us then?

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee

Fort Totten Room, State Capitol

HB 1426
February 13, 2013
Job #18880

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to allocation of the oil extraction tax development fund.

Minutes:

Attached amendments #1.

Representative Ruby: Distributed amendments and reviewed for the committee. See attached amendments #1.

Representative Drovdal: Do we have a problem with small communities not paying their loans back?

Representative Ruby: Not that I'm aware of. I assumed that if these smaller communities didn't have sufficient funds they wouldn't be approved for the loans. This bill could also be used for investment for bonding and that is something we could do in the future.

Vice Chairman Headland: Could you further define for us what the infrastructure enhancement projects would be; what is this money going to be available to do?

Representative Ruby: To get approval from a bank there will be structures and it probably won't be roads. It's not going to be as broad and wide open as the definition of infrastructure.

Representative Marie Strinden: If the Bank of North Dakota wouldn't give a loan to a city fewer than 500 people do we need to put that in there or do we need to take care of that in the loan process? What is the rationale for keeping it under 10,000?

Representative Ruby: This is something the committee can do to expand this if they want. With this language I wouldn't think the bank would participate in a loan program if it was for a smaller community. If they are getting funding from a bank and have cash to put down on it as I'm sure they wouldn't loan them the full amount anyway they probably wouldn't get a loan anyway. I don't know that they have any bonding ability if they don't have a certain amount of base. We could have went from 10,000 to 17,000 as there really wasn't that many communities within that area so anything over 17,000 would have pulled in some of the other bigger communities that could get bonding already. This is a pilot and we want this to get used in multiple areas. Instead of investing in Wall Street I'd like to see them invest right here in the state.

Vice Chairman Headland: Could this be used by a city to build and start their own municipal garbage collecting system?

Representative Ruby: If they were looking at an energy facility, transfer station, material recovery facility, or whatever other terms are used in the business then yes they could because that would be an asset they could work with.

Representative Schmidt: Of all the communities we have in District 31 we would lose a lot of smaller communities.

Representative Ruby: I think Mott would be in it. If you think they have the base to support it and if they have the banks to work with them and this participation would be helpful then I have no problem with that.

Vice Chairman Headland: Is this a program the Bank of North Dakota could do without a backing from the \$100 million from the strategic improvement investment fund?

Representative Ruby: I don't believe they could. There was discussion on certain parameters that they would rather they be in statute and that we set as a policy so that they aren't accused of making decisions as to why some cities weren't included.

Vice Chairman Headland: I think we could put parameters in statute without having to tie \$100 million of strategic improvement investment money to it. I think Carleen would need to respond to that. Would this be a program the Bank of North Dakota could do without us having to tie up \$100 million in strategic investment funds to support?

Carleen Fine, Industrial Commission: If there are loans programs the legislature wants the Bank of North Dakota wants them to do at below market rates they prefer those to be off balance sheet so you will have your beginning farmer program, community water facility, and those are all off balance sheet so funds need to be set aside.

Representative Froseth: How does the municipal bond bank work in correlation with this, would it be just another avenue they could go to or is that adequate to cover most of these secured loans the smaller cities would need?

Carleen Fine: The public finance authority which was previously known as the municipal bond bank does loans for smaller communities. This legislation allows them to have the credit enhancement other than school districts. Section 2 also allows a political subdivision to do this on their own and don't have to have the public finance authority do the issuance for them. In many cases of the smaller communities they do not have a bond rating and prefer to come to the public finance authority. They can pool these together to get a better rating.

Vice Chairman Headland: We might want to contemplate what we are establishing here and wait for direction from the chairman.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1426
February 13, 2013
Job #18902

Conference Committee

Committee Clerk Signature

Mary Buckler

Explanation or reason for introduction of bill/resolution:

A Bill relating to allocation of the oil extraction tax development fund.

Minutes:

Chairman Belter: Are there any amendments?

Representative Dockter: Made a motion to adopt amendment 01003.

Representative Schmidt: Seconded.

Representative Drovdal: Made a motion to amend the amendment to exclude on the first page under section 1 subsection 3 exclude the words "exceeding 500 but" and then the exact same phrase on the second page section 2 subsection 5 second line exclude "exceeding 500 but."

Representative Klein: Seconded.

VOICE VOTE: MOTION CARRIED.

Representative Dockter: Made a motion to further amend. In section 3 where it says "appropriate the sum of \$100 million" I would strike that and put \$25 million and do the same in section four.

Representative Schmidt: Seconded.

Representative Dockter: Also in section 2 subsection 1 you would also have to strike "\$100 million" and put in "\$25 million."

VOICE VOTE: MOTION CARRIED.

Representative Schmidt: Made a motion to further amend to remove school district.

Representative Dockter: Seconded.

VOICE VOTE: MOTION CARRIED.

Representative Marie Strinden: Made a motion to adopt the 1003 amendments as amended.

Representative Drovdal: Seconded.

VOICE VOTE: MOTION CARRIED.

Representative Dockter: Made a motion for a Do Pass as Amended.

Representative Schmidt: Seconded.

Chairman Belter: This needs to go to appropriations also.

ROLL CALL VOTE: 10 YES 3 NO 1 ABSENT

Representative Marie Strinden will carry this bill.

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1426

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1426 increases the allocation of the oil extraction tax to the resources trust fund from 20% to 35%.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1426 increases the allocation to the resources trust fund.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1426 will increase the oil extraction tax revenue allocated to the resources trust fund by an estimated \$410.2 million in the 2013-15 biennium. Revenue in the strategic investment and improvements fund is estimated to decrease by the same amount. (These are both "other funds" in 1A.)

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/31/2013

11-
2/13/13
10/2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1426

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 6-09 and a new section to chapter 6-09.4 of the North Dakota Century Code, relating to a credit enhancement program for political subdivision infrastructure funding; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Political subdivision infrastructure enhancement program loans - Participation by the Bank of North Dakota.

1. The Bank of North Dakota shall make available up to one hundred million dollars to purchase participation interests in loans to political subdivisions for infrastructure enhancement projects. Interest charged on a participation interest purchased by the Bank under this section may be set by the Bank, as it may be established from time to time. The Bank may charge necessary and reasonable fees as determined by the industrial commission.
2. The amount of a participation interest purchased by the Bank under this section may not be greater than sixty-five percent of the loan amount or an amount determined by the Bank, whichever is less.
3. For purposes of this section, "political subdivision" means any county or a city with a population not exceeding ten thousand.

SECTION 2. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Infrastructure improvement credit enhancement for political subdivisions.

1. If the public finance authority or a paying agent notifies the director of the office of management and budget, in writing, that a political subdivision has failed to pay when due the principal or interest on any evidences of indebtedness issued for infrastructure improvements issued by the political subdivision after July 31, 2013, or that the public finance authority, political subdivision, or the paying agent has reason to believe a political subdivision will not be able to make a full payment of the principal and interest when the payment is due, the director of the office of management and budget shall authorize a draw from funds in the strategic investment and improvements fund 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 or the paying agent notifies the director of the office of management and budget that arrangements satisfactory to the public finance authority or the paying agent have been made for the

70'

payment of the principal and interest then due and owing. The notification must include information required by the director of the office of management and budget. State funds available to a political subdivision under any provision of law are subject to withholding under this section to repay funds drawn from the strategic investment and improvements fund under this section if the withholding is authorized by resolution of the governing body of the political subdivision. The director of the office of management and budget may not authorize a draw that would bring the amount drawn from the strategic investment and improvements fund to more than twenty-five million dollars under this section.

2. The director of the office of management and budget shall make available any funds drawn from the strategic investment and improvements fund 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 political subdivision is required to make to the public finance authority or the paying agent.
3. If funds are received by the political subdivision during the fiscal year and are deposited in the political subdivision's sinking fund established in accordance with section 21-03-42, the political subdivision, with the consent of the public finance authority or the paying agent, may withdraw from its sinking fund an amount to apply against the repayment of the amount drawn from the strategic investment and improvements fund and made available to the public finance authority or a paying agent under this section.
4. The director of the office of management and budget shall develop detailed procedures for political subdivisions to notify the director of the office of management and budget that they have obligated themselves to be bound by the provisions of this section; procedures for political subdivisions, paying agents, and the public finance authority to notify the director of the office of management and budget of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults.
5. For purposes of this section, "political subdivision" means any county or a city with a population not exceeding ten thousand.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of participation loans under section 1 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of infrastructure improvement credit enhancement for political subdivisions under section 2 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

Date: 2-13-13
 Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. ~~1003~~ 1426

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider ~~+ further amend.~~

Motion Made By Rep. Dockter Seconded By Rep. Schmiedts
+ further amend. Rep. Drovdal Rep. Klein See description below

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote

Motion Carried

Drovdal - amendment to exclude on the first page under section 1, subsection 3, excluded 500 but, and exact same for section 2 Subsection 5, second line

Date: 2-13-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1426

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass ^{Further} Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Dockter Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote
Motion Carried
section 3 " appropriates the sum of \$160 million
strike that and put \$25 million ^{in the} and sector
+ two

Date: 2-13-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1426

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
Further remove school district
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Schmidt Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*Voice Vote
Motion carried
Remove school district*

Date: 2-13-13
 Roll Call Vote #: 4

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1426**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider *1003 as amended with additional amendments*

Motion Made By Rep Strinden Seconded By Rep. Drovdal
1004

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*Voice Vote.
 Motion carried.*

Date: 2-13-13
 Roll Call Vote #: 5

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1426**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Dockter Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter		✓	Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland		✓	Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	AB	
Rep. David Drovdal		✓	Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Strinden

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1426: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 6-09 and a new section to chapter 6-09.4 of the North Dakota Century Code, relating to a credit enhancement program for political subdivision infrastructure funding; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Political subdivision infrastructure enhancement program loans - Participation by the Bank of North Dakota.

1. The Bank of North Dakota shall make available up to one hundred million dollars to purchase participation interests in loans to political subdivisions for infrastructure enhancement projects. Interest charged on a participation interest purchased by the Bank under this section may be set by the Bank, as it may be established from time to time. The Bank may charge necessary and reasonable fees as determined by the industrial commission.
2. The amount of a participation interest purchased by the Bank under this section may not be greater than sixty-five percent of the loan amount or an amount determined by the Bank, whichever is less.
3. For purposes of this section, "political subdivision" means any county or a city with a population not exceeding ten thousand.

SECTION 2. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Infrastructure improvement credit enhancement for political subdivisions.

1. If the public finance authority or a paying agent notifies the director of the office of management and budget, in writing, that a political subdivision has failed to pay when due the principal or interest on any evidences of indebtedness issued for infrastructure improvements issued by the political subdivision after July 31, 2013, or that the public finance authority, political subdivision, or the paying agent has reason to believe a political subdivision will not be able to make a full payment of the principal and interest when the payment is due, the director of the office of management and budget shall authorize a draw from funds in the strategic investment and improvements fund 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 or the paying agent notifies the director of the office of management and budget 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 director of the office of management and budget. State funds available to a political subdivision under any provision of law are subject to withholding under this section to repay funds drawn from the strategic investment and improvements fund under this section if the withholding is

authorized by resolution of the governing body of the political subdivision. The director of the office of management and budget may not authorize a draw that would bring the amount drawn from the strategic investment and improvements fund to more than twenty-five million dollars under this section.

2. The director of the office of management and budget shall make available any funds drawn from the strategic investment and improvements fund 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 political subdivision is required to make to the public finance authority or the paying agent.
3. If funds are received by the political subdivision during the fiscal year and are deposited in the political subdivision's sinking fund established in accordance with section 21-03-42, the political subdivision, with the consent of the public finance authority or the paying agent, may withdraw from its sinking fund an amount to apply against the repayment of the amount drawn from the strategic investment and improvements fund and made available to the public finance authority or a paying agent under this section.
4. The director of the office of management and budget shall develop detailed procedures for political subdivisions to notify the director of the office of management and budget that they have obligated themselves to be bound by the provisions of this section; procedures for political subdivisions, paying agents, and the public finance authority to notify the director of the office of management and budget of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults.
5. For purposes of this section, "political subdivision" means any county or a city with a population not exceeding ten thousand.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of participation loans under section 1 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of infrastructure improvement credit enhancement for political subdivisions under section 2 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

2013 HOUSE APPROPRIATIONS

HB 1426

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

HB 1426
2/18/13
Job #19106

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to a credit enhancement program for political subdivision infrastructure funding.

Minutes:

No attachments.

Rep. Wes Belter, District 22: Introduced the bill. The purpose of the bill is to provide credit enhancement programs for political subdivisions for infrastructure funding. There is a mistake in section 1 where it says the Bank of North Dakota shall make available \$100 million for the purchase of participating loans. In committee we amended that down to \$25 million but for some reason or another that did not get into the amendment. The bill takes \$25 million from the infrastructure fund and allows the Bank of North Dakota to participate with up to a maximum of 65% of a loan or a lesser amount.

Chairman Delzer: Are the size of the loans limited? Could one municipality use the whole \$25 million?

Rep. Belter: That could conceivably happen.

Chairman Delzer: The strategic investment fund, how are they going to come out of there? Is it the first bill passed that would get the first money?

Allen Knudson, Legislative Council: If a number of bills pass that take more money than is available in the fund, the governor would have institute an allotment process. Each appropriation would be proportionately reduced.

Chairman Delzer: Is that in code, or is it up to the governor?

Allen Knudson: The section that deals with allotments indicates that if there is not enough revenue in the fund to provide for all the expenditures then the governor must order an allotment.

Chairman Delzer: He could say he wants a certain bill to get 100% and another bill to get 80%?

Allen Knudson: I will have to check on that. I believe it does need to be proportional.

Rep. Belter: This bill requires the director of office of budget and management to come up with guidelines and procedures for political subdivisions to make these loans. These are limited to counties and cities with a population not exceeding 10,000 people. This is more of a program for smaller political entities. We do something similar with the schools so it was thought that something should be made for smaller political subdivisions.

Chairman Delzer: It's meant to be used with water, sewer, and road improvements?

Rep. Belter: It could be, but I would suspect that it probably would have to be more building orientated because I'm not sure too many financial institutions want to finance sewer and water because how do you resell sewer and water where a building may have more value.

Chairman Delzer: Does this allow the bank or OMB the authority to pick and choose, or if they come in for a loan they have to be done?

Rep. Belter: It gives them the authority to participate; hopefully the bank would use some discretion as to what they are going to participate in and what they are not going to participate in.

Rep. Skarphol: Can you help me understand how this is different than a city's or county's ability to bond? I would assume that this is just a state program financed with state dollars. Communities can bond so why would we need this in addition?

Rep. Belter: I think the idea from the sponsor was that by using the state funds they could probably get a more preferable rate for these projects.

Rep. Skarphol: I'm not seeing anything about an interest rate in here; does it reference an interest rate in here or is that negotiable with the bank?

Rep. Belter: I believe that is negotiable. There is a claw back procedure in here too where state funds are at risk that the state can hold funds from those political subdivisions if they are not making their payments.

Chairman Delzer: There are two appropriations of \$25 million each; one to the bank and one to OMB.

Rep. Belter: Yes. I have to question why there are two appropriations.

Chairman Delzer: It says on here that there are two different things you're setting up; the buy down and another one in section 2 of the bill. Section 2 is all about the recapture isn't it?

Rep. Belter: Yes. Section 3 has the appropriation out of monies from the strategic investment improvement fund in the sum of \$25 million to the Bank of North Dakota. Section 4 is \$25 million to OMB.

Chairman Delzer: You don't think that should have to be there?

Rep. Belter: I would question whether that would be necessary or not. I don't know if that is something Allen could answer for us.

Allen Knudson: I can look into that.

Rep. Monson: Representative Skarphol mentioned bonding. They have the ability to bond but they also have limits in how much they can bond. When you were describing this appropriation you said one entity could possibly take the whole amount. Would there be any limit on their ability to repay? In a bonding situation they have to be able to repay it but with this one it looks like it is pretty wide open.

Rep. Belter: There are provisions and in section 2 subsection 4 I don't know if that gives them the authority to limit how much is given out on each loan and I suspect the lenders probably wouldn't lend out \$25 million to one project with that low of population.

Chairman Delzer: I was thinking of Minot and they wouldn't qualify but Burlington would. Was the question ever asked whether or not this is over and above the bonding limit set in the constitution?

Rep. Belter: I don't believe that question was asked.

Chairman Delzer: Allen, would you ask one of the lawyers up there to check on that for us and see how that would work?

Allen Knudson: In regard to the allotment process it does need to be a uniform percentage for each appropriation so each one would be reduced proportionately. In reviewing the bill the second appropriation is to provide that if the political subdivision has not repaid the loan to the bank then OMB can take money out of the strategic investment improvement fund to repay the bank.

Chairman Delzer: And yet we've given the bank the money to start with. Pretty good deal for the banks.

Vice Chairman Kempenich: Sixty five percent is all the bank can participate in it...that's just about \$9M that the local political subdivision would have to come up with to even get to the \$25 so that's a limiting factor. It looks like OMB gets involved in this as the collection agency.

Rep. Streyle: Is the intent of this for the political subdivision to go to a local bank and borrow the money then sell 65% of it to the Bank of North Dakota, or does the political subdivision have to come up with the 35%? A bank could borrow 100% and sell 65% of it to the Bank of North Dakota. The bank would be in first position on it just like any other commercial loan or agriculture loan is currently done.

Chairman Delzer: Aren't there things out there where they could do that currently?

Rep. Streyle: I don't know with political subdivisions but there is with commercial and agriculture loans.

Chairman Delzer: You didn't have time to ask anything like that; whether or not they had to come up with cash or could they use bonding for their 9% and then use that to qualify for this?

Rep. Belter: I don't remember that discussion. I was absent for the hearing on this one.

Rep. Dosch: Bank of North Dakota came in and weighed in on this?

Rep. Belter: I don't believe they testified on the issue.

Rep. Sanford: The way I recall that the school fund works is that you can bond; typically it's a combination of bond and borrows. The borrowing is from the Bank of North Dakota which manages a trust fund and so you get a lower rate. That trust fund is restored as you pay back your loan. One of the things that guide that is how much is in there to be available.

Chairman Delzer: Schools have the same bonding limitations that municipalities have. In your recollection is it borrowing on top of the bonding or does it have to all be figured within a 5% of taxable valuation?

Rep. Sanford: I think you're correct in terms of what the limit is.

Chairman Delzer: Is the bonding 5%, or is it all bonding plus borrowing?

Rep. Sanford: It is strictly bonding.

Chairman Delzer: We will have to take a look at this.

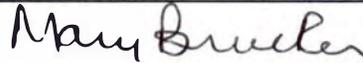
2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1426
2/21/13
Job #19375

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to a credit enhancement program for political subdivision infrastructure funding.

Minutes:

Attached amendments 13.0715.02001

Chairman Delzer: This came to us from the taxation committee and it has in it two different allocations of money; \$25,000 out of the strategic investment fund to the Bank of North Dakota for participating loans to buy downs interest is my understanding on that and \$25 million is sitting in the strategic investment fund to be used by the Office of Management and Budget for infrastructure improvement credit enhancement for political subdivisions. My understanding on that is it would be there if the political subdivision bonded on something and if for some reason they couldn't repay it this would be used to repay it. I think the purpose of that is to give them a higher bond rating.

Rep. Streyle: Section 4 is used to get an AAA rating, if a political subdivision would bond out. The only way this fund would be tapped is if that city defaulted which would be very hard because the state would be able to capture any of their payments to other payments. Basically it's a savings account to back up and give a better interest rate with the AAA rating. I don't see where this would be tapped very much at all.

Chairman Delzer: The only thing that concerns me on both of these is that we have more requests out of the strategic investment fund than we have in the strategic investment fund. If it goes to the point where there are too many appropriations it would need to be allocated on a pro-rated basis. Even if this wasn't tapped it would still have to be pro-rated and I don't know how that would work. I think both of these are for communities under 10,000. I'm not sure if the interest buy down is the best way to do that or not.

Rep. Kempenich: This is an issue out there; the problem is that too many people remember the 80s. If the committee has trouble with section 1, I think section 2 would foster some participation.

Chairman Delzer: I hope this body remembers what happened in the 80s too and how we handled things.

Rep. Streyle: Section 3 with the Bank of North Dakota buy downs that could be done in different ways. Maybe \$25 million isn't the appropriate number for that as far as buying rates down 2-3 percent. As far as section 4 I would find that a useful tool for Watford City and other at that 10,000.

Chairman Delzer: What are your wishes?

Rep. Streyle: Made a motion to move section 3 down \$10 million and in section 4 down \$5 million.

Rep. Kempenich: Seconded.

Chairman Delzer: There's a motion to change line 24 the \$25 million to \$15 million and line 29 change the \$25 million to \$20 million.

Rep. Streyle: That's correct.

Rep. Monson: On page 2 line 27 where it said \$100 million, it is supposed to be \$25 million, right?

Chairman Delzer: I have it circled too. I don't believe it was changed but it probably should be changed because I think it was something that was missed out of policy committee. If it worked with Representative Streyle's amendment it should be \$15 million.

Rep. Streyle: I would further amend to make the corrections and I will add that to my motion.

Rep. Kempenich: Agreed.

Chairman Delzer: We have an amendment on page 2 from \$100 million to \$15 million to the Bank of North Dakota and section 3 changes it from \$25 million to \$15 million. In section 4 that changes from \$25 million to \$20 million.

Rep. Streyle: That is correct.

VOICE VOTE: MOTION CARRIED.

Rep. Monson: I had a note on page 3 that one political subdivision could actually end up getting all the money and I don't know that is right. I think we should try and spread it around a little bit.

Chairman Delzer: We would have to look back in section one. If somebody was borrowing that much it could happen but this is just an interest buy down and you would have to be borrowing a pile of money to do that.

Rep. Kempenich: I think a lot of it is the bonding part of it and their ability to pay is going to be limited.

Chairman Delzer: Their bonding limits - even on their participation loans? I'm not sure if on participation loan if that's different than a bonding limit.

Rep. Kempenich: I still think it will come down to their limits because it will come down to their ability to pay which will dictate how much they are able to get.

Chairman Delzer: Topped out at \$15M the way it stands.

Rep. Monson: That was one of my questions. They do have a bonding limit, but does that ability to repay limit them to how much they can repay in a borrowing situation? I think it should.

Chairman Delzer: I would think the lending facility would look at the repayment. This isn't backed up by anything; this section is just a buy down participation loan.

Rep. Glassheim: Is the \$15M in section 3 the same as the \$25M in section 1 from the bank?

Chairman Delzer: Section 1 deals with section 3; section 1 says how much can be used by the bank. This amendment it's limiting to the \$15 million that's in section 3.

Rep. Glassheim: The bank would not be covered up to \$25 million; they would be covered up to \$15 million?

Chairman Delzer: The amendment was to go from \$100 million to \$15 million on section 1 of the bill.

Rep. Glassheim: The \$20 million is the interest buy down?

Chairman Delzer: No, the \$20 million is the backup and there are two different processes; one is the interest buy down and the other is to help for bonding. It's supposed to give them an opportunity to have better bonding and that wouldn't or shouldn't have anything to do with the loan. They shouldn't be working in conjunction.

Rep. Glassheim: In section 2 with the \$15 million from the bank, that's just an ordinary bank loan isn't it?

Chairman Delzer: No, that is the money available for an interest buy down on the participation side. They could be buying interest down up to \$15 million for a number of different loans but they can only do it on 65% of the original loan.

Rep. Glassheim: I thought participation meant participating in a loan with other banks and has nothing to do with interest buy down.

Chairman Delzer: Section 1 is the interest buy down I believe.

Rep. Streyle: On page 1 line 9 it makes available up to \$100 million. If we only have \$15 million available and \$15 million to buy down that really doesn't work now that I think about it.

Chairman Delzer: Is the interest buy down on the backside or is that the money to go to the bank for the participation loan so that number should match whatever we put in the other place because that's the money they can use to do this.

Rep. Streyle: I think that should be higher, now I think about it. We're saying you can only borrow or make available \$15 million in loans and you have \$15 million in buy down which doesn't really correlate so we might have to check on that.

Chairman Delzer: Is this the proper use of strategic investment fund money? This was attempted to be used for infrastructure and things like that for one time appropriations from the legislative body. The legislature certainly has the right to do this but I'm not sure that this is the proper use of that fund for this.

Rep. Glassheim: I thought at least one of the purposes of this money is to loan money to political subdivisions and they might put in sewer and water and other infrastructure which would then make private sector development possible.

Chairman Delzer: That was not the wording set up in 1451 last time. Last legislative assembly does not limit this legislative assembly from doing whatever they want.

Rep. Kempenich: This has been one of the challenges. Technically the investing community tells you not to invest in yourself. On the other side of the coin the bank looks for some investment also.

Chairman Delzer: This isn't an investment per se; it's a direct loan to give them a cheaper loan. We don't have anything in here about the payback coming back to this fund. This would simply be the bank setting up these loans and receiving payment on these loans and it would become part of the bank's profits.

Rep. Brandenburg: These loans as they go out would start out with the local lead banker and could go up to 65% of that by the Bank of North Dakota and 35% handled by the local bank. The local bank would probably charge an interest rate of around 4% and the Bank of North Dakota would probably charge anywhere from 1-4% depending on what they determine by the industrial commission. Then when the loan is paid at the local bank they would pay the Bank of North Dakota and they discharge the interest so the local portion of the loan is paid at the regular rate of interest and the buy down portion by the Bank of North Dakota. I think that money is going back to the Bank of North Dakota and it's not coming back to the general fund.

Chairman Delzer: This is not general fund, it is strategic investment.

Rep. Kempenich: The section 3 money would probably not show back up.

Chairman Delzer: It never would, it's an appropriation to the Bank of North Dakota.

Rep. Kempenich: If the committee has consternations with section 1 I think this could move forward with section 1 out of it and it would still serve a purpose.

Rep. Skarphol: What will that \$20 million buy? Is the \$20 million 65% of the total that would have to be borrowed in order for it all to be utilized?

Chairman Delzer: The \$20M in section 4 is not borrowed at all, it is a reserve fund that would be set up when a community bonded and they could list this as a payback system. If they were in default then the money would be used. As Representative Streytle said these communities all receive state aid distribution funds and I believe there is language in here that is supposed to be recaptured to repay these. This money should not get used but it does require for this to actually be proper that much money needs to be in the strategic investment fund at all times.

Rep. Skarphol: Could somebody tell me what would the limit be that political subdivisions could loan to put this at 100% risk?

Chairman Delzer: I don't think there's anyone around that could quickly tell you that. I think the bonding limit for communities is 5% of their taxable value and they would be limited by their bonding limits.

Rep. Kempenich: Bankers never loan money to lose money. That is the same way with section 2.

Chairman Delzer: Section 2 is strictly bonding. I don't think I'm going to support the bill no matter what and I don't like section 1. We have the amended bill before us, what are your wishes?

Rep. Kempenich: Made a motion to amend to remove sections 1 and 3.

Rep. Brandenburg: Seconded.

Rep. Glassheim: What would be left in the bill?

Chairman Delzer: Sections 2 and 4 which would be the \$20 million sitting in the strategic investment fund is meant to help communities have a backup to have a better bond rating.

Rep. Glassheim: But there would be no money available.

Chairman Delzer: The money would be there but the only time it would be used is if the local community defaulted on the loan and then the state would have the option of withholding state aid distribution money to recapture the payment.

Rep. Glassheim: The only place they could get the money is from their local bank, there would be no Bank of North Dakota.

Chairman Delzer: No this is bonding when they go out for bonding. The amendment would take the loan part of the bill out.

Rep. Skarphol: Does it in any way limit the bonding capability of a community to what state aid distribution?

Chairman Delzer: No strategic investment.

Rep. Skarphol: They say that the payments would be withheld.

Chairman Delzer: No, that is not a limiting factor. The bonding limit would still be what is said in the constitution.

Rep. Dosch: If we take out section 1 and 3 is there any desire to restore section 4 to \$25 million?

Rep. Kempenich: It probably won't make much difference.

Chairman Delzer: I don't think any one entity would ever be exposed that high for all of it because it is repayment level.

Sheila Sandness, Legislative Council: If you look at page 3 line 30 it talks about \$25 million so would that also need to be matching?

Chairman Delzer: I would guess it would. We'll take this motion first.

Voice vote on amendment to take out sections 1 and 3: MOTION CARRIED.

Chairman Delzer: The last page on number 3 of the marked up bill should go from \$25 million to \$20 million or it should match. Someone needs to make a motion one way or another.

Rep. Kempenich: Made a motion further amend and take the \$25 million down to \$20 million to match the appropriation in section 4.

Rep. Brandenburg: Seconded.

Chairman Delzer: Section 2 on the bottom of the marked up bill on page 3 line 30 there is a \$25 million reference, that had matched the reference to the \$25 million appropriations in section 4 and this motion to further amend would make it match at \$20 million.

VOICE VOTE: MOTION CARRIED.

Rep. Skarphol: It's always good to read the bill so if you look on page 3 starting on line 24 it says state fund available to a political subdivision under any provision of law subject to withholding under this section to repay funds drawn from the strategic investment improvement fund if the withholding is authorized by a resolution of the government body of

the political subdivision. It's rather redundant in a way because unless a governing body of a political subdivision is in default authorizes it the money can't be withheld.

Chairman Delzer: Do you want to hang onto this bill to make sure it matches?

Rep. Skarphol: I'm not sure. There are people a lot more experienced in finance than I am around here.

Chairman Delzer: What are the committee's wishes?

Rep. Kempenich: That what the thought process was with the coal loans.

Rep. Skarphol: There are people who really want this and want to aid political subdivisions out there who are struggling but I hate to put something out there that I'm not satisfied in that it does what I want.

Rep. Kempenich: **Made a motion to amend that to the correct language.**

Chairman Delzer: What's the right language?

Rep. Boe: Are we required to participate in the loan without that or can that be the criteria of getting the loan?

Chairman Delzer: This is not a loan; it is just selling of bonds.

Rep. Boe: Or pledging the money for the bond. Is it a requirement that we don't pledge unless they provide the resolution?

Chairman Delzer: It certainly could be.

Rep. Skarphol: I don't think there are many of us on this committee that are comfortable with what we know this is going to be so I think it would benefit all of us to ask someone who could explain this more adequately.

Carleen Fine, Industrial Commission: Section 2 is kind of an intercept; you do this for schools right now. I believe that language would be beneficial for a political subdivision to have some monies set aside to show that if there is a default the bond holders would look and get a better rating.

Chairman Delzer: Where is that money set aside for the schools now?

Carleen Fine: There isn't actually money set aside for schools right now but what it says is that we can intercept their payments so the bond holder is assured that they will get their money. In this case it's been drafted in a way so that money is even further set aside so that it's held and the bond holder will be assured they will get their payment. I think they tried to make sure the SIF fund is held whole by having the intercept in there. The language that Representative Skarphol talked about of stating that would have to be the

resolution but I think before you could even do the bonding you would have to have that in there or the rating agencies would not look at this as having a true intercept.

Chairman Delzer: So you figure it would be covered in the bond?

Carleen Fine: In the bond process.

Rep. Glassheim: On page 4 subsection 4 does that tell us they have to give permission to Office of Management and Budget to do all this?

Chairman Delzer: I think what Carleen was talking about is that before any bonding company would ever bond they would have to be in the contract that it could be done.

Rep. Glassheim: But also in terms of us releasing the money?

Chairman Delzer: The money would not be released to the bond holder until that.

Rep. Glassheim: This would be when they have to agree to it in that subsection.

Rep. Monson: I think we're at a point where this is a hog house bill if we're going to salvage it at all. From what Carleen told us there is a pattern here and I think it works pretty well the way the school construction is and I wonder if we should just try to do a hog house and use that as the pattern?

Rep. Pollert: I have to go simple on this. If I want to borrow money from Representative Wieland and Representative Kreidt and I'm going to build something but if I don't make that payment I'm going to have Representative Skarphol back me up so he can make that payment, is that correct?

Chairman Delzer: Yes but it would also be such that Representative Kreidt and Wieland could put into the rule that Representative Skarphol can catch his money he is sending to you before he sends it to you to repay that.

Rep. Boe: If we have an interception agreement in there, the bonding company is using the good faith of North Dakota as their back up. In this bill when we put an amount in there we put a limit of how much good faith is used. If we just put in there that they intercept the payments what limits the amount of good faith that we're standing for? Could they put an unlimited amount of bond in?

Chairman Delzer: They would still be limited to their bonding limit at their local communities, would they not?

Carleen Fine: This does not change anything that the local requirements have that is in the law for the political subdivisions. I think what was attempted in discussions with the Office of Management and Budget is that they would be in the process of making sure that this intercept wasn't expanded beyond what is available so there would be limitations.

Chairman Delzer: So the exposure would be limited to the \$20 million?

Carleen Fine: I believe it would be.

Rep. Skarphol: How many communities could get how much money with this type of backing? Is there a limit?

Carleen Fine: I believe there is a limit, the amount that was available in the intercept. This is very much in the early stages of being talked about and I think we would have to monitor and make sure the intercept wouldn't go beyond the \$20 million.

Rep. Skarphol: In the early stages, are you comfortable?

Carleen Fine: I believe this bill needs some work. I believe there is a good concept behind there.

Rep. Skarphol: We can assume if we pass this across it will get fixed, but if we pass it across and nothing changes we will never see it again.

Chairman Delzer: We could send forward the language with very little if any money, to keep it around to be worked on and then if it passes it would be absolutely worthless.

Rep. Hawken: Or we could do the opposite to get it back by putting \$500 million in it.

Chairman Delzer: I wouldn't be sure. We could limit the money to \$1 million to keep it alive but would not really expose the state in any way.

Rep. Monson: If it was the desire of the committee, I would work with Carleen and use the department of public instruction's school construction pattern?

Chairman Delzer: I would prefer to have it by tomorrow afternoon.

Rep. Skarphol: I think your idea has some merit to reduce it to \$1 million and see what happens. That would buy the industrial commission and the financial people in state government the opportunity to make sure the language works. **Made a motion to reduce the dollar amount to \$1 million in section 4.**

Rep. Kempenich: **Seconded.**

Chairman Delzer: We have a motion to further amend section 4 to \$1 million. Do you want to further amend line 30 on page 2 to \$1 million also?

Rep. Skarphol: Yes.

Rep. Kempenich: Yes.

VOICE VOTE: MOTION CARRIED.

Chairman Delzer: We have the amended bill before us, what are the committee's wishes?

Rep. Kempenich: Made a motion for a Do Pass as Amended.

Rep. Monson: Seconded.

Roll call vote: 19 YES 2 NO 1 ABSENT

Rep. Monson will carry this bill.

FISCAL NOTE
Requested by Legislative Council
02/14/2013

Amendment to: HB 1426

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed Bill creates an Infrastructure Enhancement Loan Program. BND is of the understanding to make available \$25 million (vs. \$100 million) to purchase participations in loans. There is no fiscal impact as the \$25 million is to be appropriated from the Strategic Investment and Improvements Fund.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Robert A. Humann

Agency: Bank of North Dakota

Telephone: 328.5703

Date Prepared: 02/15/2013

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1426

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1426 increases the allocation of the oil extraction tax to the resources trust fund from 20% to 35%.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1426 increases the allocation to the resources trust fund.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1426 will increase the oil extraction tax revenue allocated to the resources trust fund by an estimated \$410.2 million in the 2013-15 biennium. Revenue in the strategic investment and improvements fund is estimated to decrease by the same amount. (These are both "other funds" in 1A.)

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/31/2013

13.0715.02001
Title.03000

Prepared by the Legislative Council staff for
House Appropriations
February 21, 2013

*CSMC
2/22/13*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1426

Page 1, line 1, remove "a new section to chapter 6-09 and"

Page 1, remove lines 5 through 19

Page 2, line 18, replace "twenty-five" with "one"

Page 3, remove lines 10 through 14

Page 3, line 17, replace "\$25,000,000" with "\$1,000,000"

Page 3, line 19, replace "2" with "1"

Renumber accordingly

Date: 2/21/13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1426**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

move section 3 down \$10M - ^{from \$25M} to \$15M
 section 4 down \$5 - ^{from \$25M} to \$20M
 and also p 2 \$100M to \$15M
 voice vote carried

Date: 2/21/13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1426

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

amend section 1 +3 out of bill

voice vote carries

Date: 2/21/13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1426**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

section 2
\$25 m down to \$20 to match appropriation in section 4
voice vote carries

Date: 2/21/13
Roll Call Vote #: 4

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1426

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

reduce amt to \$1M in sections 2+4
line 30 page 2 to \$1M also
voice vote carries

Date: 2/21/13
Roll Call Vote #: 5

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1424

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0715.02001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert		X			
Rep. Sanford		X			
Rep. Skarphol	X				

Total Yes 19 No 2

Absent 1

Floor Assignment Rep. Monson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1426, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new section to chapter 6-09 and"

Page 1, remove lines 5 through 19

Page 2, line 18, replace "twenty-five" with "one"

Page 3, remove lines 10 through 14

Page 3, line 17, replace "\$25,000,000" with "\$1,000,000"

Page 3, line 19, replace "2" with "1"

Renumber accordingly

2013 SENATE POLITICAL SUBDIVISIONS

HB 1426

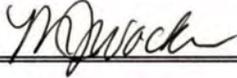
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1426
March 15, 2013
20015

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a credit enhancement program for political subdivision infrastructure fund; and to provide an appropriation.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing for HB 1426. All senators were present.

Representative Ruby District 38 here to sponsor and present HB 1426. **Written testimony #1.** With that last comment about the likelihood the funds wouldn't be distributed and would be sitting there, if we don't use all the funds this biennium anyway and we do have that reserved balance, they will sit there and will gain interest like normal in the fund, but in the meantime, this could be a way they could be used in a dual way by providing that extra support of those bonds, backing of those bonds to help guard the better rate. Rep. Ruby also shared information if a city would default on its loan, the legislature would come in a give funding to the city. Rep. Ruby called upon Karleen Fine, Shane Goettle, representatives from OMB, the State Land Commissioner for input regarding this bill and the proposed amendments.

Rep. Ruby talked about the Public School Enhancement Program and how it could be related to this pilot program if it looks like it will work or doesn't work then we haven't lost nothing. We can use it as a template to further offer this to.

Chairman Andrist asked about bonding and the rates for cities and how that would apply to this? Rep. Ruby explained the bonding rates to the committee.

Senator Judy Lee There are still significant demands on the SIFF fund. So I have some concerns about the fact that a lot of us have our fingers in the SIFF fund. How does this relate to the infrastructure? **Rep. Ruby** replied I don't know for sure

Senator Jim Dotzenrod there is a number of times here that they use the phrase 'public finance authority' or the paying agent. Is the Public Finance Authority an existing part of state government or do we create in this bill a new kind of public finance authority just dedicated for this purpose? **Rep. Ruby** replied currently we have a public housing authority and I don't know if the amendments change. Yes we do. **Senator Jim Dotzenrod** There is

an existing operation for that? **Rep. Ruby** replied, yes.

Pat Finken representing Bakken Housing Partners in support of HB 1426. **Written testimony #2.** (17:30-20:59)

Chairman Andrist asked Mr. Finken what is his vision for the \$100 Million? **Pat Finken** shared his ideas with the committee and gave some monetary examples.

Karlene Fine Executive Director of the Industrial Commission who is not taking a position of this bill. She had been asked to assist with the drafting of the technical amendments when it was before the House. What we did in these amendments is we tried to clarify the roles.

Chairman Andrist just to review, if we were to accept these amendments as a template, we would have to decide what funds would be subject to the clawback, we would have to increase the funding substantially, is there anything other thing we would have to fill in the blanks for?

Karleen Fine replied we are going to have to a conversation with Mr. Walstad about the continuing appropriation language in the amendment.

Vice Chairman Ronald Sorvaag expressed his concern about the money being out of circulation even though it is not expended. Why is the bonding important?

Karleen Fine replied actually the money would stay within the SIFF fund. One of the concepts that we talked about was actually taking it out and putting it into a separate fund that would sit there, but actually the way this is wrapped it never leaves the SIFF fund. I think in Lance's accounting is that I can't spend that last \$100 Million dollars; I can't expend that because I may need to use it. But, that then would have to be ongoing for the life of the bond issue and so why I think there needs to a continuing but it would never actually leave the SIFF fund the way it's drafted right now.

Senator Jim Dotzenrod shared his concerns about the paperwork to administer this pilot program. Will there need to be more FTE's to help administer the program? The other committee members also expressed their concerns to the application process.

Karleen Fine replied I don't presume to speak for the Land Commissioner of what he would need. I know that under our Public Finance Authority we do have to charge an administrative fee to cover the costs for those kinds of services when we provide them for political subdivisions. That might have to be incorporated into the application process. That would be a fee the local jurisdiction would have to pay.

Representative Ruby came to the podium. As a point of information on the amendment that I drafted through John Walstad. We did remove the continuing appropriation and also, as a proposal I proposed to move it back to \$50 Million. Rep. Ruby expressed his concern for the lesser amount of monies into this bill.

Lance Gaebe Department of Trust Land, State Land Commissioner (41:16- 41:50-) explained his duties in the State Land Department. He also talked about the Strategic

Investment and Improvement Fund (SIFF). (41:56:43:10) as well as the Permanent Oil Tax Trust Fund, and the Lands and Minerals Trust Fund. The Strategic Investment and Improvement Fund was for communities and two additional FTE's is in that area of responsibility. But we don't have anything in place. Our only role that exists today, would be the administering of the impact grants fund and this this fund but only in terms of the collections and the investment of those funds, not into distribution in any way issuing debt or guarantee bonds or anything of that.

Senator Judy Lee I am concerned about what state funds would be jeopardized by default by the city? Then what are we going to do to the school districts, what are we going to do to the property tax relief fund, those kinds of funds that are going into the local political subdivisions?

Lance Gaebe replied if you're talking about the SIFF those funds are already in place.

Senator Judy Lee In this bill, it says that if anybody defaults that the money will be applied towards the default by withholding funding that is going to those local political subdivisions. I feel a little angst there with the intercept yes. **Rep. Ruby** The State Aid Distribution Fund would more likely be I think the one that I think the one that would be, but I don't believe that goes to counties. I think that only goes to cities if I remember right, it goes to both cities and counties. That would be the one most likely and I don't think I would want to affect the Human Services monies that go to a county, because there is no way to make that up and a definite need right there. It was one of those things that we need to iron out and make sure that we get it right. If we want to limit that to maybe that one, or additional ones, since it's kind of going from mainly infrastructure if it affect further infrastructure dollars it might go there right away. Until that is paid back that might another possibility. I think that we could look at, but perhaps we should consider that there are some that shouldn't be affected.

Rep. Ruby explained about bonding for cities. He shared information related to the Legacy Fund and how all this relates to communities, large and small cities.

Senator Judy Lee How are these little communities going to pay this back? Are they going to be permitted to have special assessments which would be an unusual way to do; are they going to be able to increase property taxes with the vote of the people to like a school bond issue or example. If the Legislature puts caps on what additional dollars can be raised by local political subdivisions which incidentally I oppose doing. What do they do then if in order to pay this back, how do we reduce the risk of state funds being lost to the political subdivision by insuring that there is really good business plan in place about how they are going to repay the money for the bonds. **Chairman Andrist** Wouldn't these be revenue bonds? **Rep. Ruby** as far as the revenue bonds, I know there are three different types of bonds that are available. Definitely I believe they would have to be revenue bonds, but I don't look at this as an expansion or a risk to add any more ways that they would have to pay back debt than they currently have now. So this wouldn't provide a loan or a bond to a bonding authority to them for anything they wouldn't do now through a private market. So, whatever funds they would use now to pay off a bond, would be used in this case because they still be paying off the bond. That bond situation would still be the same transaction as it is now it just wouldn't have the backing of this to get that bond rating. As far as which funds they would be nothing more than what they are currently do.

Connie Spryrzynak Director, North Dakota League of Cities. Testified in a neutral position. She explained about the State Aid Distribution fund to counties, townships and park districts. You made it a continuing appropriation and you based it on four-tenths of one cent of state sales tax.

Chairman Andrist Committee members it strikes me that this is an appropriate issue that we need a sub-committee for. I am thinking of three of our members and I would presume that they should begin with conference that would include the preferably Lance Gaebe and Karleen Fine, and John Walstad and see what they came up with as a model where this could possibly work as a test project so to speak. Volunteer members were Senator Sorvaag, Senator Andrist, Senator Judy Lee, Senator Dotzenrod. Senator Sorvaag will be the sub-committee Chairman.

DeAnn Ament, Executive Director, North Dakota Public Finance Authority. She explained about bond programs in the state for housing as well as the capital financing program in place. She also shared about the Public Financial Authority (58:17-58:52). The committee asked DeAnn about the intercept program which she explained.

Jeb Oehlke, Deputy State Treasurer, written testimony #4.
Chairman Andrist closed the hearing on HB 1426.

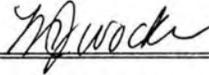
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1426
March 20, 2013
(20197) Sub-Committee (recording failed)

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to credit enhancement program for political subdivision infrastructure fund; and to provide an appropriation

Minutes:

You may make reference to "attached testimony."

Chairman Ron Sorvaag chaired the sub-committee for HB 1426. DeAnn Ament, PFA; Lance Gaebe, State Land Commissioner; Karleen Fine, Industrial Commission; Jeb Oehlke, State Treasurers office; Brady Felton, North Dakota Association of Oil and Gas; Shane Goettle, Enbridge Pipelines; Connie Syprynczynk, Director North Dakota League of Cities, John Walstad, Legislative Council; Senator John Andrist; and Senator Jim Dotzenrod were present.

The sub-committee invited John Walstad from Legislative Council to explain why the words continuing appropriation was not included into the engrossed bill. He shared his legal expertise on this terminology with the committee.

The other topics that were covered in this sub-committee meeting were discussed among the committee members. A lot of the discussion centered on these other key points:

- 1) Couldn't agree on the dollar amount. The House felt \$100 Million was to much money; they reduced to down to \$1 Million to be sure of a study
- 2) Which office would oversee the distribution of funds? OMB did not want it; the Office of Land Management does the SIFF fund, so they would prefer not to have that to do also. The committee needs to decide which office should take this fund and distribute the monies to the county.
- 3) Kayleen Fine and Pam Sharp will visit about what office should oversee the monies in the fund.
- 4) Funds are transferable to small cities under 10,000 population, what if they exceed that amount? Who gets the funds and how do they get administered.
- 5) What about the clawback?
- 6) What is the role of the State Treasurer?

Chairman Ron Sorvaag asked the sub-committee to re-convene in one week to discuss these points.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

HB1426-2
March 28, 2013
20592

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to credit enhancement program for political subdivision infrastructure fund; and to provide an appropriation

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the committee for discussion of HB 1426. All senators were present.

Vice Chairman Ronald Sorvaag reported on this bill. We looked at it and what they brought us; it's been re-done a couple of different times. We went from where it can't be OMB, to it needs to be the Land Commissioner, and back it has to be at OMB, but the main and in the last write up was the OMB and would Gross Production Tax beside State Aid Distribution but the real hang-up comes at the end of the day to make this work it needs money.

Vice Chairman Ronald Sorvaag recommended a do not pass of this bill.
Senator Judy Lee 2nd.

Committee Discussion

Chairman Andrist expressed to the committee is thoughts on why he could not vote for this bill. He expressed his thanks to everyone who worked on the amendments, but in the end they could not find the money to invest in this bill.

Senator Jim Dotzenrod and Senator Judy Lee as well as the other committee members discussed the State Aid Distribution Fund and the intercept program for school funding. They talked about the School Aid Enhancement program for schools as well as the Common School Trust Fund program. They raised some questions about financing.

Chairman Andrist Again part of our discussion was if a city acting with reasonable responsibility did become destitute, I think under any environment, the Legislature would help them out, as they did for instance in the Grand Forks flood and the Fargo flood. But

there is an understanding that we got to take care of people and a city has people too, and especially a small city, if it would be within our resources.

Vice Chairman Ronald Sorvaag We don't know what the final picture is going to look at. We are putting a lot of money our too. It isn't like we're not part of the process and there is a lot going to go, its' not going to solve anything and we know we've got some struggling communities. It just felt at this time this doesn't seem to fit the picture of everything that is being out there.

Senator Judy Lee I wouldn't want you to think that I don't support the goal. It is just the GPS for all of it isn't working for me.

Chairman Andrist We all support it, we just don't know how to make it work.

Roll call vote on a motion for a do not pass

6 yea, 0 no, 0 absent

Carrier: Senator Ron Sorvaag

FISCAL NOTE
Requested by Legislative Council
02/14/2013

Amendment to: HB 1426

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed Bill creates an Infrastructure Enhancement Loan Program. BND is of the understanding to make available \$25 million (vs. \$100 million) to purchase participations in loans. There is no fiscal impact as the \$25 million is to be appropriated from the Strategic Investment and Improvements Fund.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Robert A. Humann

Agency: Bank of North Dakota

Telephone: 328.5703

Date Prepared: 02/15/2013

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1426

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1426 increases the allocation of the oil extraction tax to the resources trust fund from 20% to 35%.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1426 increases the allocation to the resources trust fund.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1426 will increase the oil extraction tax revenue allocated to the resources trust fund by an estimated \$410.2 million in the 2013-15 biennium. Revenue in the strategic investment and improvements fund is estimated to decrease by the same amount. (These are both "other funds" in 1A.)

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/31/2013

Date: 3/28/2013
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1426**

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
 Amendment

Rerefer to Appropriations Reconsider

Motion Made By Sen. Ron Sorvaag Seconded By Sen. Judy Lee

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Sorvaag

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1426, as reengrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)
recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed HB 1426 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1426

I am there today to urge you to revise how our oil extraction tax is allocated.

HB 1426 will amend NDCC 57-51.1-07. That Century Code section allocates oil extraction revenues to four purposes. The re-allocation effectively will provide for a source of funding our own long-term bonds to provide public infra-structure and for providing the means of repaying these bonds. This will make North Dakota independent of the costs and limitations of seeking Wall Street type bonding for our state's needs.

I'll briefly describe what we propose:

THE FIRST PURPOSE – 57-51 currently allocates 20% of the oil extraction revenues for water development bonds & the balance for the Industrial commission for grants to private industry and alternate energy research. The revenues not directly used for these purposes are placed in the Resources Trust Fund and are invested. The investments of these dollars are sent to Wall Street. The reality is the revenue from the oil extraction tax is significantly more and is projected to continue to be significantly more than water construction projects needs. North Dakota taxpayers need these dollars for funding of our infrastructure needs. Therefore, the HB 1426 re-directs how these revenues are permitted to be redistributed as follows:

- Making payments of principal and interest on development bonds for long-term public infrastructure;
- Issuance of bonds payable from the funds in the Resources Trust Fund, which have not been committed to payments of principal and interest on bonds on water projects and
- Any amount in the fund not obligated for payment of P & I may be expended as directed by the legislative assembly.

HB 1426 increases the portion of oil extraction revenues going to this purpose from 20% to 35%.

THE SECOND PURPOSE - 20% of oil extraction revenues as directed by Article X Section 24 of the North Dakota Constitution goes to the Commons Schools Trust Fund. This, of course, remains as is.

THE THIRD PURPOSE – 30% of oil extraction revenues as directed by Article X Section 26 of the North Dakota Constitution goes to the Legacy Fund. This, of course, remains as is.

THE FOURTH PURPOSE – currently 57-51 directs the remaining 30% to the general fund. HB 1426 will reduce that to 15%.

The purpose for re-allocation of the oil extraction revenue is to provide funding for self-bonding and self-repayment of these bonds for North Dakota's long-term infrastructure needs. We believe it is critical to invest the citizens' taxes and revenues the state receives in the infrastructure we need before it is spent for other purposes. The proposed changes in 57-51 will accomplish this.

We do not believe it is prudent to provide grants and involve the citizens' taxes and state revenue, at this time in alternate energy sources, renewable research et al.

Further, we believe that one-time spending on infrastructure is not a responsible way to provide infrastructure needs of the state. Private industry does not do this and for good reason. Bonding is how our constitution calls for financing long-term public infrastructure. This is because it sets in motion a payment that has people pay for the infrastructure as it is used. That is you pay for your share now and those using it in 10, 15, and 20 years pay their share.

This is why we oppose the proposed \$850 + million in onetime – up front funding of state infrastructure.

The State Schools Trust fund currently has between \$5 and \$7 billion in land and mineral assets. It also has more than \$2.6 billion in its principle fund in invested cash. All but about \$30 million is invested in Wall Street and REITS real estate investment trusts.

The Legacy Fund now has almost \$1 billion in assets. Every dime is invested in Wall Street. It is returning the taxpayers of North Dakota 1.78%. Why are we not investing it in North Dakota bonds? Not only would be investing in the best investment in America we would save the upwards of 15% costs we're paying when we float a bond and if we were unable to repay it we would be in trouble. If we owed it to ourselves we would be in control.

For the benefit of the Committee a 30 year, \$1 Bond at 3% (which is significantly higher than we are getting on our Legacy Fund investments) costs \$50 million per year for both principle and interest. The Legacy Fund is currently receiving, from its 30% allocation of oil and gas revenues that much every 20 days.

Another figure we presume you know is that the state is receiving more than \$200 million annually from oil and gas ROYALTIES. This is sufficient to fund more than \$4 billion in bonding.

Supporting HB1426 will illustrate your priorities—that you place investing in North Dakota families and sound funding of our infrastructure above spending millions of dollars in grants and giveaways to private industry and research.

Chairman Belter, Members of the Committee, I urge you to give HB 1426 a DO PASS Recommendation.

I will be happy to attempt to answer any questions you may have.

Respectfully,

Charlene Nelson, citizen and taxpayer



Meeting the *Challenge*

VIII

2013-15 Critical Water Needs Summary



Devils Lake Outlet Operations

The State completed construction of an outlet from the west end of Devils Lake to the Sheyenne River in 2005. The original west-end pumps were designed for a maximum capacity of 100 cubic feet per second (cfs). Modifications constructed in early 2010 increased that capacity to 250 cfs. During the summer of 2012, the state also completed an outlet from East Devils Lake with a maximum capacity of 350 cfs. The combined operating capacity of the west-end and East Devils Lake outlets is 600 cfs. Devils Lake Outlet operations is just that – costs associated with operating the west and East Devils Lake outlets. The funding that is being earmarked for this project does not include any down stream mitigation projects. It is only for costs of operating the two outlets.

F-M Diversion Levees through the Fargo/Moorhead communities, a diversion around either community, or a combination of levees and diversions were all analyzed. In 2011, after two years of analysis, the locally preferred plan was adopted. This plan called for a diversion around Fargo/West Fargo with levee construction through Fargo/Moorhead to protect to a 100 year level. An EIS was prepared and presented to the U.S. Secretary of Army for a Record of Decision. To date, a route has been accepted; plans for in-town levees are being undertaken, upstream ring levees are being discussed with impacted communities, residents, and farmland owners; and local officials are working with the Corps of Engineers and the Congressional delegations to receive federal authorization for the project, which allows the Corps to complete their work on this project. The funding breakdown with early authorization (2013 thru 2015) includes \$140 million (includes design, right of way purchase) for in-town levees, \$62 million for upstream flood protection and \$166 million for design and right of way acquisition work on the local diversion phase. Budgets and project implementation will shift if federal authorization is achieved in 2013.

General Water Management

In addition to the many large-scale water projects being developed across the state, there are also dozens of smaller local water management projects that benefit individuals and local communities. The State Water Commission provides support for these water management projects, which require cost-sharing with local entities, primarily water resource districts. Joint water boards also play a key role in these local water management projects. Examples of general water management projects that typically receive cost-share assistance from the state include: rural flood control, snagging and clearing, channel improvements, recreation projects, dam certification and repairs, planning efforts, special studies, and Devils Lake outlet downstream mitigation.

Irrigation

There are 23,700 acres authorized for irrigation along the McClusky Canal. Garrison Diversion is developing these acres in multiple phases. Phase I, referred to as the Mile Marker 7.5 Irrigation Project, was completed in 2010. Phase II of the project, which would irrigate approximately 3,000 acres, would be funded with \$2.5 million.

The Garrison Diversion Conservancy District is assisting the Dickey-Sargent Irrigation District in taking over operations of the 5,000 acre Oakes Test Area. A new groundwater source and efficiency updates would be funded with the remaining \$2.5 million.

Missouri River Flood Control

Following the epic flooding of the Missouri River in 2011, several local flood control projects have arisen and are in the beginning phases of development. The projects are located within the Bismarck-Mandan stretch of the Missouri River, and are primarily envisioned to protect rural housing developments north and south of Bismarck.

Rural Water Supply

Regional/Rural Water Systems provide a safe, reliable, high-quality and affordable water supply to North Dakota residents, farms, industries, subdivisions and small communities. In order to meet the growing statewide water needs, Garrison Diversion Conservancy District, the State Water Commission, the four Tribal Nations, and the North Dakota Rural Water Systems Association are working cooperatively to solve water quality and quantity problems.

Projects for the 2013-2015 biennium include, but are not limited to, expansions of McLean-Sheridan Rural Water District, All Seasons Rural Water District, and Greater Ramsey Water District. Without assistance, many systems could not reasonably afford to bring water to people who desperately need it or comply with complex regulations and mandates.

Municipal Water Supply

Municipal Water Projects sustain water infrastructure requirements of water demand and quality through one-time capital investments, with an affordable local and state funding partnership. Municipalities support a strong, growing state economy while providing critical water infrastructure projects. These projects not only serve municipal and industrial customers, but can also serve rural water customers through current and future water supply regionalization partnerships.

2013-15 Water Coalition Funding Priorities Outline

2013-15 Revenues: \$500 million

	2013	2013-15
Devils Lake Projects	\$75 million	
Outlet Operations		\$10 million
Downstream Impacts	\$15 million	\$15 million
F-M Diversion	\$30 million	\$102 million
General Water Management/ Flood Control	\$26 million	\$30 million
Irrigation	\$5 million	\$5 million
Missouri River Flood Control	\$1 million	\$3 million
MR&I Water Supply	\$15 million	
Rural Water		\$55 million
Municipal Water		\$16 million
Northwest Area Water Supply	\$12 million	\$14 million
Red River Valley Water Supply	\$5 million	\$9 million
Sheyenne River Flood Control		\$21 million
Souris/Mouse River Flood Control	\$50 million	\$61 million
Southwest Pipeline Project	\$2 million	\$79 million
Weather Modification	\$1 million	\$1 million
Western Area Water Supply	\$35 million	\$79 million
Total	\$245/295 million	\$500 million

Northwest Area Water Supply (NAWS)

The Northwest Area Water Supply (NAWS) is delivering drinking water to areas in north central North Dakota. The funding that has been requested for the 2013-2015 biennium will be allocated toward construction of the pipeline between Glenburn and Renville Corner; upgrades and rehabilitation of the softening basins and affiliated facilities at the Minot Water Treatment Plant, assistance to the Bureau of Reclamation with preparation of a Supplemental EIS to address the court's May 2009 order; completion of court filings to lift the injunction; initiation of design work on the raw water supply facilities; and to develop plans and manuals as required by EIS commitments. The project is still far from completion, as it has been contingent on the outcome of a federal lawsuit. The project receives federal and state funding, and a 35 percent cost-share from local sales tax in Minot.

Red River Valley Water Supply Project (RRVWSP)

The Red River Valley Water Supply Project (RRVWSP) will provide a supplemental water supply to ensure continued economic growth in eastern North Dakota. The proposed RRVWSP is designed to transport water from the Missouri River near McClusky to a buried pipeline to Lake Ashtabula, from which it can flow via the Sheyenne River to the Red River. The RRVWSP would supplement local water supply by delivering Missouri River water to the Sheyenne and Red Rivers to meet the comprehensive water needs of people and industries in the Red River Valley through the year 2050. Funding requested is to complete the preliminary design, right-of-way process, and final design phases.

Sheyenne River Flood Protection

In the fall of 2011, the city of Valley City developed short-, mid- and long-term investment strategies for permanent flood protection. Phase I of the plan was implemented in 2012 with the buy-out of 31 properties. In Phase II, the city is looking at additional buy-outs and permanent flood protection. The proposed permanent protection will be a series of flood walls with four emergency road closures and permanent clay levees. With permanent flood protection the existing storm sewer system will also need to be modified in order to provide relief from flooding from the inside out.

The city of Lisbon developed a two-phase permanent flood protection plan which includes home acquisitions and levee construction along the Sheyenne River. Phase I home acquisitions began in 2009 and 2012, while the funding request for levee construction will be made in 2013 to the State Water Commission. Phase I also includes, river rip rap bank stabilization, earthen levees, flood walls, road closure structures, storm sewer modifications, storm sewer lift stations, sewer and water removals to allow for the permanent flood protection project. Phase II home acquisitions could begin in 2015, along with additional levee construction.

Souris/Mouse River Flood Protection Project

The Mouse River Flood Protection plan consists of an overall project from the 49th parallel (Sherwood) to 49th Parallel (Westhope).

The preliminary alignment for protection measures is an area from the Mouse River State park to Velda, and consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, ring dikes and residential and commercial property acquisitions in the flood alignment boundary.

Levees comprise nearly 90 percent of the alignment, totaling 21.6 miles. The remainder of the alignment consists of 2.8 miles of floodwalls and 30 transportation closure structures (19 roadway and 11 railroad). In addition, the project would require 33 stormwater pump stations.

The estimated project cost is \$820 million, based on the current level of design based on a 27,400 cfs flood event. Of this estimated cost, \$565 million is related to construction, \$154 million is related to property acquisition, and the remaining \$101 million covers planning, engineering and program management costs.

Southwest Pipeline Project (SWPP)

The Southwest Pipeline Project is ND's largest multi-county regional rural water project. Today the SWPP brings quality water to over 48,000 people which includes 31 communities, more than 4,400 rural locations, 19 contract customers, 21 raw-water customers, and two rural water systems. In the energy sector, the SWPP provides raw water for two depots, an ethanol plant and two crew camps. The newly constructed OMND water treatment plant currently serves the communities of Zap, Hazen, Stanton and Center. Construction is now underway for the Oliver, Mercer, North Dunn (OMND) counties. The need for quality water in southwest North Dakota is greater than ever. Given 1,000 rural customers continue waiting for water, southwest ND's population is growing at an unprecedented rate, the raw-water needs of the energy industry, and it's easy to see why the continued funding for the SWPP is so important to the economic development of the entire state. To date, SWPP has paid more than \$32 million in capital repayment back to the state. For more information: www.SWwater.com.

Weather Modification

The North Dakota Cloud Modification Project is a dual-purpose cloud seeding program designed to enhance rainfall and reduce damage from hail. The program is currently active in six western North Dakota counties. Long-term evaluations show rainfall increases of up to 10 percent, crop-hail damage reductions of 45 percent and a 5.9 percent increase in wheat yields. A 2009 study found economic benefits average \$12-\$19.7 million per year for agricultural production alone, a benefit to cost ratio of 16-26 to 1.

Western Area Water Supply (WAWS)

WAWS canvassed its service area in 2012 to better identify water needs of northwest North Dakota. That effort identified demands far exceeding projections in the original business plan. A statewide housing needs assessment recently estimated the population of Region I (Divide, McKenzie, and Williams counties) to increase by 137 percent through 2025. Over 15,000 service requests for residential, commercial, rural and temporary housing were received by WAWS (excluding projected municipal growth). In light of this unprecedented growth the cost to meet the water demands of northwest North Dakota is currently estimated at \$350 million. In response, WAWS is requesting \$120 million in the 2013-2015 biennium to address priority projects. This includes \$80 million from the Resources Trust Fund and a \$40 million loan from the Bank of North Dakota. This funding structure provides an overall project grant percentage of 35 percent when considering the \$110 million already borrowed by WAWS. This request would leave \$120 million (2012 dollars) of the project to be completed in future biennia.

2015 and Beyond:

Meeting our Future Challenge

The current oil boom has given us the funding resources we need to complete water infrastructure across our state. And while we have significant resources, the needs are equivalent, if not greater, than those resources.

The Western Area Water Supply Project (WAWS) and the Southwest Pipeline Project (SWPP) have enormous needs to meet oil-related water demands and meeting those needs must keep pace with the oil development. WAWS sponsors are projecting an additional need of \$240 million and SWPP sponsors are projecting an additional need of \$150 million in order to keep up with the unforeseen population explosion affecting those western communities.

	2015-2021
Flood Control Needs <i>Devils Lake</i> <i>FM Diversion</i> <i>Missouri River Flood Control</i> <i>Sheyenne River Flood Control</i> <i>Souris/Mouse River Flood Control</i> <i>Other</i>	\$2.6 Billion
Water Supply Needs <i>Municipal Water Supply</i> <i>Northwest Area Water Supply</i> <i>Red River Valley Water Supply</i> <i>Rural Water Supply</i> <i>Southwest Pipeline Project</i> <i>Western Area Water Supply</i> <i>Other</i>	\$1.2 Billion

F-M Diversion is a \$1.8 billion project (25 percent state cost-share) and Souris/Mouse River Flood Protection and Red River Valley Water Supply are close to \$1 billion each and must be looked at on a multi-biennium timeline.

While we have opportunities we could never have envisioned, we also have projects with monumental costs we could not have fathomed, and we still have many other unmet needs. As a state we have to consider ourselves fortunate that we have the available revenue surplus' because federal funding has all but dried up and this most likely will be an ongoing scenario that affects both water supply projects and flood control projects.

Our mission... *to complete North Dakota's Water infrastructure for economic growth and quality of life*, is advancing as we continue our work to "Meet the Challenge" for water development in North Dakota.

TESTIMONY ON HOUSE BILL NO. 1426**House Finance Committee**

**Dave Laschkewitsch
Director of Administrative Services
North Dakota State Water Commission**

February 4, 2013

Mr. Chairman and members of the House Finance Committee, my name is Dave Laschkewitsch and I am the Director of the Administrative Services Division of the State Water Commission.

The Resources Trust Fund is a constitutional trust fund that has been historically used for water projects. It was established to address the water infrastructure demands and needs of the state. Each session the Legislative Assembly appropriates this fund to the State Water Commission for that purpose. House Bill No. 1426 would no longer restrict the Resources Trust Fund to be used for water and energy projects. It will also change the amount of oil extraction going into it from 20 percent to 35 percent.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1426

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 6-09 and a new section to chapter 6-09.4 of the North Dakota Century Code, relating to a credit enhancement program for political subdivision infrastructure funding; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Political subdivision infrastructure enhancement program loans - Participation by the Bank of North Dakota.

1. The Bank of North Dakota shall make available up to one hundred million dollars to purchase participation interests in loans to political subdivisions for infrastructure enhancement projects. Interest charged on a participation interest purchased by the Bank under this section may not exceed one percent less than the Bank's base rate, as it may be established from time to time. The Bank may charge necessary and reasonable fees as determined by the industrial commission.
2. The amount of a participation interest purchased by the Bank under this section may not be greater than sixty-five percent of the loan amount or an amount determined by the Bank, whichever is less. The term of any participation interest purchased under this section may not exceed one year.
3. The Bank and the originating financial institution shall determine whether a borrower must obtain insurance on property pledged as security for a loan under this chapter.

SECTION 2. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Infrastructure improvement credit enhancement for political subdivisions.

1. If the public finance authority or a paying agent notifies the director of the office of management and budget, in writing, that a political subdivision has failed to pay when due the principal or interest on any evidences of indebtedness issued for infrastructure improvements issued by the political subdivision after July 31, 2013, or that the public finance authority, political subdivision, or the paying agent has reason to believe a political subdivision will not be able to make a full payment of the principal and interest when the payment is due, the director of the office of management and budget shall authorize a draw from funds in the strategic investment and improvements fund 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 director of the office of management and budget 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 director of the office of management and budget. State funds available to a political subdivision under any provision of law are subject to withholding under this section to repay funds drawn from the strategic investment and improvements fund under this section if the withholding is authorized by resolution of the governing body of the political subdivision. The director of the office of management and budget may not authorize a draw that would bring the amount drawn from the strategic investment and improvements fund to more than one hundred million dollars under this section.

2. The director of the office of management and budget shall make available any funds drawn from funds in the strategic investment and improvements fund 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 political subdivision is required to make to the public finance authority or the paying agent.
3. If funds are received by the political subdivision during the fiscal year and are deposited in the political subdivision's sinking fund established in accordance with section 21-03-42, the political subdivision, with the consent of the public finance authority or the paying agent, may withdraw from its sinking fund an amount to apply against the repayment of the amount drawn from the strategic investment and improvements fund and made available to the public finance authority or a paying agent under this section.
4. Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement between the public finance authority and the political subdivision for the benefit of the public finance authority and a political subdivision must be held by the Bank. With the approval of the political subdivision, those funds may be used to subsidize the debt service payments on infrastructure loans that are made to political subdivisions by the public finance authority and which are subject to the provisions of this section. Notwithstanding the existence of an escrow agreement between the public finance authority and the political subdivision, 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 securities for which the escrow fund was established.
5. The director of the office of management and budget shall develop detailed procedures for political subdivisions to notify the director of the office of management and budget that they have obligated themselves to be bound by the provisions of this section; procedures for political subdivisions, paying agents, and the public finance authority to notify the director of the office of management and budget of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of participation loans under section 1 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

2#

Strategic Investment and Improvements Fund Proposals

HB 1315 - \$1m Cultural Grants to Cities and Counties

HB 1374 - \$52m Supplemental Energy Impact Grant Program for cities with 4-year higher ed institution and population between 17,000 and 18,000

SB 2187 - \$150m Medical Facility Infrastructure fund for use by BND to provide medical infrastructure loans

SB 2221 - \$20m County and Township Improvements to Scenic Roadways and Roadways providing access to recreational areas

SB 2287 - up to \$25 reserved for BND to administer fuel production facility loan guarantee program

SB 2328 - \$95.7m DOT county and township bridge rehab and reconstruct program

- \$350k county and township study of roads and bridges



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1426

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 6-09 and a new section to chapter 6-09.4 of the North Dakota Century Code, relating to a credit enhancement program for political subdivision infrastructure funding; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

**Political subdivision infrastructure enhancement program loans -
Participation by the Bank of North Dakota.**

1. The Bank of North Dakota shall make available up to one hundred million dollars to purchase participation interests in loans to political subdivisions for infrastructure enhancement projects. Interest charged on a participation interest purchased by the Bank under this section may be set by the Bank, as it may be established from time to time. The Bank may charge necessary and reasonable fees as determined by the industrial commission.
2. The amount of a participation interest purchased by the Bank under this section may not be greater than sixty-five percent of the loan amount or an amount determined by the Bank, whichever is less.
3. For purposes of this section, "political subdivision" means any county or a city with a population exceeding five hundred but not exceeding ten thousand.

SECTION 2. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Infrastructure improvement credit enhancement for political subdivisions.

1. If the public finance authority or a paying agent notifies the director of the office of management and budget, in writing, that a political subdivision has failed to pay when due the principal or interest on any evidences of indebtedness issued for infrastructure improvements issued by the political subdivision after July 31, 2013, or that the public finance authority, political subdivision, or the paying agent has reason to believe a political subdivision will not be able to make a full payment of the principal and interest when the payment is due, the director of the office of management and budget shall authorize a draw from funds in the strategic investment and improvements fund 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 director of the office of management and budget 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 director of the office of management and budget. State funds available to a political subdivision under any provision of law are subject to withholding under this section to repay funds drawn from the strategic investment and improvements fund under this section if the withholding is authorized by resolution of the governing body of the political subdivision. The director of the office of management and budget may not authorize a draw that would bring the amount drawn from the strategic investment and improvements fund to more than one hundred million dollars under this section.

2. The director of the office of management and budget shall make available any funds drawn from the strategic investment and improvements fund 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 political subdivision is required to make to the public finance authority or the paying agent.
3. If funds are received by the political subdivision during the fiscal year and are deposited in the political subdivision's sinking fund established in accordance with section 21-03-42, the political subdivision, with the consent of the public finance authority or the paying agent, may withdraw from its sinking fund an amount to apply against the repayment of the amount drawn from the strategic investment and improvements fund and made available to the public finance authority or a paying agent under this section.
4. The director of the office of management and budget shall develop detailed procedures for political subdivisions to notify the director of the office of management and budget that they have obligated themselves to be bound by the provisions of this section; procedures for political subdivisions, paying agents, and the public finance authority to notify the director of the office of management and budget of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults.
5. For purposes of this section, "political subdivision" means any county or a city with a population exceeding five hundred but not exceeding ten thousand.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of participation loans under section 1 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of infrastructure improvement credit enhancement for political subdivisions under section 2 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1426

Page 1, line 1, remove "a new section to chapter 6-09 and"

Page 1, remove lines 5 through 19

Page 2, line 18, replace "twenty-five" with "one"

Page 3, remove lines 10 through 14

Page 3, line 17, replace "\$25,000,000" with "\$1,000,000"

Page 3, line 19, replace "2" with "1"

Renumber accordingly

Testimony on HB 1426
Representative Dan Ruby
Senate Political Subdivision Committee

March 15, 2013

Mr. Chairman and members of the committee, for the record I am Representative Dan Ruby from District 38. When I first sponsored HB 1426, I was seeking a way to get a development bond program launched that could help cities with infrastructure. At first, I wanted to back that effort with resources from the Natural Resources Trust Fund, but that had constitutional problems, so I had the bill re-written and in the process explored ways to involve the state in local infrastructure funding in two ways: 1) through the Bank of North Dakota, and; 2) through a credit enhancement program for locally issued bonds.

The House Appropriations committee amended out my proposed Bank of North Dakota Loan program, so what you have before you in this bill is a credit enhancement program for counties, and political subdivisions with a population of fewer than 10,000 people, to issue bonds guaranteed and supported with funds set aside by the state

First, let me explain the program. When an eligible political subdivision voluntarily accesses this credit enhancement program, the markets will respond favorably to those bonds. The bonds will receive a higher rating and the political sub will have more favorable rates on those bonds.

If the political subdivision ever defaults on its obligations, state reserve funds would be tapped to repay those bonds. However, the state would not be out those dollars forever, because the bill also contains what is called an intercept clause. The state would get paid back out of any future state dollars transferred to that political subdivision.

I am convinced that establishing a pilot program to enhance bonds issued by political subs could, if it works, be a great model and use of the Strategic Investment and Improvement Fund now, and perhaps the Legacy Fund in the future. I simply want to give this idea a try.

Our public schools already have a credit enhancement program available to them through the Department of Public Instruction. The good faith and credit of North Dakota stands behind this program and the bonds issued under its auspices. I am proposing an extra step in HB 1426, however. I would like to see up to \$100 million set aside in reserve, and held by the state, out of the Strategic Investment and Improvement Fund to support this pilot initiative and see if it might work to address some of our infrastructure needs.

\$100 million is what I proposed be set aside for the program. The policy committee in the House trimmed that back to \$25. In House appropriations, this bill had majority support, but it was also recognized that OMB was perhaps not the best state agency in which to house the program. Because the committee needed to move the bill before some technical corrections could be made, it made sure the bill would ultimately arrive in a conference committee by trimming the reserve down to \$1 million. Again, that was to ensure that technical corrections would be made to the bill before funding is restored. While I would still like to see this piloted at \$100 million, I would like to move it up to \$50 million as a start for this biennium.

To further this committee's consideration of this program, I would like to share my research regarding the Strategic Investment and Improvements Fund (SIIF), and specifically, the availability of funds in the program that we could set aside to support this program.

The SIIF is projected to be at least a \$700 million fund by the end of this biennium. Of course, that \$700 million is competing for projects in other bills. Here's my list of those bills to date, totaling \$515.5 million WITHOUT this bill:

HB 1315 – BILL DEAD

HB 1319 – \$200 million - State Aid Funding to School Districts

HB 1358 - up to \$206m for county roads

- up to \$5m for "new" oil producing counties

HB 1374 – BILL DEAD

HB 1426 – \$1 million (Requesting \$50 million to \$100 million)

SB 2006 - \$6 million for airport infrastructure funding in aeronautics commission budget

SB 2012 - \$27 million for county and township bridges

SB 2018 - \$6.5 million for drones and lease use

SB 2019 - \$3 million for technical education

SB 2187 - \$12m Medical Facility Infrastructure fund for use by BND to provide medical infrastructure loans

SB 2221 - \$20m County and Township Improvements to Scenic Roadways and Roadways providing access to recreational areas

SB 2287 – up to \$25m reserved for BND to administer fuel production facility loan guarantee program

SB 2328 – BILL DEAD

SB 2339 - \$5 million for housing finance loan fund

SB 2351 – BILL DEAD

Mr. Chairman and members of the committee, I would submit there is plenty of room in the Strategic Investment and improvements fund for this bill. And the one big difference

between this proposal and others is that the funds for this program would, in all likelihood, remain in the fund, and, if drawn to cover defaulted bonds, would eventually be restored.

I ask for your consideration of this bill and I would be glad to answer any questions.

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1426

Page 1, line 8, after "If" insert "a political subdivision has properly notified the state land commissioner of its intent to obligate itself to be bound by this section by passage of the resolution provided for in this subsection and compliance with the notification and program requirements under subsection 4, and if"

Page 1, line 8, remove "director of the office of"

Page 1, line 9, replace "management and budget" with "state land commissioner"

Page 1, line 14, replace "director of the office of management and budget" with "state land commissioner"

Page 1, line 18, replace "director of the office of management and budget" with "state land commissioner"

Page 1, line 21, replace "director of the office of management and budget" with "state land commissioner"

Page 1, line 22, after "withholding" insert "by the state treasurer"

Page 1, line 24, remove "if the withholding is authorized by resolution of the governing"

Page 2, line 1, replace "body of the political subdivision" with "at the direction of the state land commissioner provided the withholding has been previously authorized by resolution of the governing body of the political subdivision. The political subdivision must also certify to the state land commissioner at the time of application that the political subdivision's maximum annual debt service for infrastructure improvements under this section does not exceed one-half of the political subdivision's total available state funding. Once the strategic investment and improvements fund has been reimbursed by the state treasurer for any draws for a political subdivision's shortfall under this section, the state treasurer shall no longer withhold state funds from the political subdivision."

Page 2, line 1, replace "director of the office of management and budget" with "state land commissioner"

Page 2, line 3, replace "one" with "fifty"

Page 2, line 4, replace "director of the office of management and budget" with "state land commissioner"

Page 2, line 16, replace "director of the office of management and budget" with "state land commissioner"

Page 2, line 16, remove "develop detailed"

Page 2, remove line 17

Page 2, line 19, replace "section" with "adopt policies and application procedures to implement the infrastructure improvement credit enhancement for political subdivisions program"

Page 2, line 20, replace "director of the office of management and budget" with "state land commissioner"

Page 2, line 27, replace "\$1,000,000" with "\$50,000,000"

Page 2, line 27, remove "office of management and"

Page 2, line 28, replace "budget" with "state land commissioner"

Renumber accordingly

Testimony to the Senate Political Subdivisions Committee

Chairman John Andrist

Prepared by Shane Goettle on behalf of Bakken Housing Partners

sgoettle@odney.com

Chairman Andrist and members of the Political Subdivisions Committee, for the record my name is Pat Finken and I am representing Bakken Housing Partners in support of HB 1426. Bakken Housing is a client of Odney and Shane Goettle who could not be here today. I am sure you will hear from him as you conduct committee work on this bill.

HB 1426 involves the creation of a credit enhancement program for bonds issued by counties as well as cities with population of under 10,000. It sets aside dollars out of the strategic investment and improvement fund (SIIF) to back the bonds. There is a draw from the SIIF fund ONLY if the political sub defaults. So, it's not just the good faith and credit of North Dakota that stands behind the bond issuance, but also a dedicated fund. Since the State of North Dakota ultimately gets paid back, there is very little risk to the state. We can leverage a lot of bonding throughout the state with this program. It could be a real win-win for the state, political subdivisions, and the businesses and families in small towns and counties throughout the state.

The bond market should respond very favorably to such a program, and in fact, we have a nice handout which highlights how this is really one of the strongest bond programs a state can develop precisely because of the funds set aside and dedicated to the program. While this type of program is pretty common throughout the states to support bonds issued by school districts—and we already have a credit enhancement program for schools in North Dakota—we believe this idea can be extended to our smaller political subs to assist them with their serious infrastructure challenges.

Our client is developing housing in and around Watford City and wants to see that town capable of building out the water/sewer projects and other infrastructure it needs to support its rapidly growing population base. Watford City is at the heart of this oil boom. If you were to put a bullseye in the middle of the Bakken, it would be Watford City. This program would be just one more tool for towns like Watford City to utilize in piecing together the financing puzzle for public infrastructure.

Please give serious consideration to launching this pilot by adopting the technical amendments necessary to make this program work and supporting it with the \$100 million reserve that Representative Ruby originally proposed. Mr. Chairman and members of the committee, thank you for your time today.

STATE CREDIT ENHANCEMENT

JANNEY FIXED INCOME RESEARCH

NOVEMBER 22, 2011



State credit enhancement programs offer security beyond that available from the underlying credit metrics of the issuer.

Bondholders benefit from this double barreled type of security feature.

STATE CREDIT ENHANCEMENT PROGRAMS

- Credit enhancement programs of various states add a strong layer of security to many local municipal issues, especially those issued for public school districts.
- At least 24 states offer these credit enhancement arrangements, but the details and mechanics vary between programs.
- Investors seeking diversification beyond state of residence should consider the credit benefits of these "double barreled" local government obligations.
- Although most programs are structured to "intercept" state aid, a few with permanent fund structures are among the strongest enhancement programs in the nation.

About 24 states have programs to add credit enhancement to bonds of local issuers, primarily school districts. The application of these enhancements allows local government units to incur lower interest costs when accessing credit markets. Enhancement types come in four basic varieties: (1) direct state guarantee of local bond issues; (2) issues backed directly by state appropriations; (3) permanent fund backing, from the state's establishment of dedicated financial resources to back qualified debt; and (4) intercept programs, whereby state aid due the issuer is redirected to the paying agent for the benefit of bondholders. Our focus is on permanent fund and state aid intercept programs.

Bondholders benefit from this double barreled type of security feature, with the first line of defense being the creditworthiness of the local issuer including factors such as tax base, state support, quality of management and other traditional metrics and indicators. The state programs, rarely invoked, provide a secondary backstop for bondholders.

FOCUS ON SCHOOL DISTRICTS

Although certain programs support city and town issuers as well as public universities, the majority of enhanced bonds are issued to support public school districts. A primary function of state government is support of public elementary and secondary education, with a series of court cases enforcing state responsibility to offer educational opportunities to all children. States provide this support primarily through payments to local school districts, essentially redistributing state level revenue such as sales and income taxes. These enhancement programs offer an indirect benefit in the form of lower borrowing costs.

Most state credit enhancement programs contain provisions to intercept and redirect state aid to bondholders should the issuing school district fail to meet a scheduled debt service payment. Although details of individual programs vary both among and within states, there are a few key points to consider.

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See page 3 for important information and disclaimers.

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Selected State Enhancement Programs

State Rating	Coverage	Program Rating	Comments	Program Type
Colorado Aa1/AA/NR	Public Schools Higher Education	Aa2/AA/AA	Strong intercept mechanism. Upon notification, state treasurer makes up debt service deficiency, even if amount needed is above appropriated state aid amount.	Intercept Unlimited Advance
Georgia Aaa/AAA/AAA	Public Schools	Aa1/AA+/AA+	If DS payment not paid, state will remit appropriations due the SD directly to paying agent.	Intercept Current Year
Kentucky Aa2/AA-/NR	Public Schools	Aa3/A+/AA-	Pre-default - If DS payment not paid, state will remit appropriations due the SD directly to paying agent within 5 days.	Intercept Unlimited Advance
Kentucky Aa2/AA-/NR	Public Higher Education	Aa3/A+/AA-	If DS payment not paid, state will remit appropriations due the SD directly to paying agent.	Intercept Current Year
Massachusetts Aa1/AA+/AA+	Public Schools Municipalities	Aa2/AA-?NR	Direct Pay - State remits DS to paying agent and then recovers from state aid.	Direct Pay
New Jersey Aa3/AA-/AA-	Public Schools Municipalities	A1/A+/A+	If DS payment not paid, state will remit appropriations due the SD or municipality directly to paying agent.	Intercept Current Year
New Jersey Aa3/AA-/AA-	Public Schools	Aa2/AA-/AA-	Bond Reserve Program (Chap 72) established fund with assets equal to 1% of total school district debt in state - 1.5% for debt issued after Jul 2003. State applies money from fund to pay interest and purchase maturing principal if needed. Appropriations are required to replenish as needed.	Permanent Fund
New Jersey Aa3/AA-/AA-	Community Colleges	A1/A+/NR	State commits to appropriate and transmit to paying agent amounts needed to cover debt service.	Appropriation
New York Aa2/AA/AA	Public Schools	A1/A/NR	If DS payment not paid, state will remit appropriations due the SD directly to paying agent.	Intercept Current Year
Ohio Aa1/AA+/AA+	Public Schools	Aa2/AA/AA	Pre-default. If prior to bond payment date SD has not remitted funds sufficient for DS, state will remit amounts necessary from appropriations due.	Intercept Current Year
Pennsylvania Aa1/AA/AA+	Public Schools	Aa3/A/NR	If DS payment not paid, state will remit appropriations due the SD directly to paying agent.	Intercept Current Year
Pennsylvania Aa1/AA/AA+	Public Schools	Aa2/A+/AA	Pre-default. If DS payment will be missed (15 days before payment due) state will remit appropriations due the SD to paying agent.	Intercept Current Year
Pennsylvania Aa1/AA/AA+	Public Schools	Aa2/NR/AA	For certain issues through St Pub Sch Bldg Auth, SD can elect to have payments made by state directly to paying agent.	Direct Pay Current Year
Pennsylvania Aa1/AA/AA+	Community Colleges	NR/A/NR	If DS payment not paid, state will remit appropriations due the SD directly to paying agent.	Intercept Current Year
Texas Aaa/AA+/AAA	Public Schools	Aaa/AAA/AAA	Likely strongest program in nation. \$24 bln assets and \$49 bln of guarantees for 2x leverage with a 3x leverage cap. Upon notification of DS shortfall PSF remits funds directly to paying agent.	Permanent Fund

Intercept mechanisms are usually triggered when an issuer fails to send a debt service payment to the paying agent.

Source: Moody's, S&P, Fitch, Official Statements and Janney Fixed Income Strategy

CONSIDERATIONS

- Intercept mechanisms are usually triggered when an issuer fails to send a debt service payment to the paying agent. The notification processes differ, but once the state, usually through its department of education, is notified of the missed or deficient payment, the state "intercepts" upcoming aid payments, which would go to the school district in the normal course of events, and redirects them to the paying agent for bondholder benefit.
- There may be a timing delay, so it is possible that the paying agent receives funds from the state days after the bond interest and/or principal due date, causing a delay in payment. A few stronger programs include a pre-default provision, creating a notification system that assures the state's payment is received by the paying agent on or before payment date.
- Most programs can apply only state aid resources appropriated for the current fiscal year, although a few such as Colorado's and Kentucky's can tap resources not yet appropriated.

New Jersey and Texas both offer segregated funds with assets dedicated to backing school district issues, establishing them as among the strongest programs in the country.

- Before assigning a rating based on the enhancement, rating agencies consider the effectiveness of the mechanics underlying the program, and require that state aid revenues be sufficient to cover debt service payments if needed.
- Typically the communities and districts most in need of credit enhancement receive higher levels of state aid than less needy borrowers. Wealthier communities and school districts may carry underlying ratings as high or higher than the enhanced rating. For example Lower Merion School District in Pennsylvania, with an underlying rating of Aaa, gains little benefit from the enhancement program. On a per pupil basis it receives fewer state aid dollars than less wealthy school districts. By contrast, Philadelphia School District, which is rated Ba1, receives enough state aid from Pennsylvania to cover its debt service obligations by nearly six times. The state intercept program enables the school district to borrow at interest rates appropriate for Aa2 issuers.
- The enhancement rating is usually separate from the underlying rating. In some instances, where a bond is covered by bond insurance, three separate ratings are possible - the basic underlying rating, the rating based on state enhancement and the rating based on the insurance.

CONCLUSION

Although intercept is the primary enhancement mechanism, some programs involve a direct payment from the state, eliminating any timing delay. New Jersey and Texas both offer segregated funds with assets dedicated to backing school district issues, establishing them as among the strongest programs in the country.

State credit enhancement programs offer bondholder security beyond that available from the underlying credit metrics of the issuer. Investors seeking to diversify into issuers beyond their state of residence should consider bonds enhanced by programs from other states.

ANALYST CERTIFICATION

I, Alan Schankel, the Primarily Responsible Analyst for this report, hereby certify that all of the views expressed in this report accurately reflect my personal views about any and all of the subject sectors, industries, securities, and issuers. No part of my compensation was, is, or will be, directly or indirectly, related to the specific recommendations or views expressed in this research report.

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**STATE OF NORTH DAKOTA
DEPARTMENT OF PUBLIC INSTRUCTION**

SCHOOL DISTRICT CREDIT ENHANCEMENT PROGRAM

Overview

The School District Credit Enhancement Program, provided for in Section 6-09.4-23 of the North Dakota Century Code (the "Program"), helps school districts reduce their cost of borrowing funds to finance projects. The Program provides for a limited state guarantee for the repayment of school district bonds which results in a higher credit rating for the school district and lower interest rates on its bonds. A school district must elect, by resolution of the school board, to participate in the Program.

Under the Program, if a school district is unable to make a bond payment, upon receipt of a notice of potential default, the state will make the payment three days prior to the bond payment date from funds due, or payable, or appropriated to the school district under Chapter 15.1-27 of the North Dakota Century Code.

To Participate

To participate in the Program, the district's school board must adopt a resolution wherein the school district elects to participate in the Program, obligates the school district to be bound by the provisions of Section 6-09.4-23 and authorizes the withholding of state funds as required by the Program. The resolution must further provide that the election to participate in the Program is irrevocable so long as the evidence of indebtedness enhanced by the Program remains outstanding and unpaid.

The school district must also complete the Notice of Election to Participate in School District Credit Enhancement Program form, provide an opinion of bond counsel in the form required and provide a final Official Statement or bond payment schedule to DPI.

Both the Notice of Election form and the bond counsel opinion form are available from DPI.

The Notice of Election to Participate, a certified copy of the resolution and the opinion of bond counsel must be filed with DPI prior to the sale of the bonds and, after the sale of the bonds, the final Official Statement or a bond payment schedule must be filed with DPI.

Credit Rating

School Districts elect to participate in the Program to provide additional security for the bondholders and thereby increase the credit rating of the bonds and reduce the bond interest rate. Because the Program operates on the strength and availability of state aid to provide for full and

timely payment of debt service directly to a paying agent, the following should be included in the resolution establishing the terms and conditions for the bond issue:

1. Appointment of an independent paying agent;
2. Designate February 1 and August 1 as interest payment dates and August 1 as the principal payment date;
3. Require the school district to deposit a bond payment with the paying agent five days before the payment date to the bondholders;
4. Certify that the state funds available to the school district under NDCC Chapter 15.1-27 are at least 2 times the maximum annual debt service on the bonds; and
Provide for an additional bonds test requiring at least 2 times coverage of the maximum annual debt service for all outstanding bonds and subsequent bonds issued under the Program.

Contact DPI

Contact School Finance at (701) 328-2260 with any questions about the Program.

SECTION 1. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Infrastructure improvement credit enhancement for political subdivisions.

1. If a political subdivision has properly notified the state land commissioner of its intent to obligate itself to be bound by this section by passage of the resolution provided for in this subsection and compliance with the notification and program requirements authorized in subsection 4, and if the public finance authority or a paying agent notifies the ~~director of the office of management and budget state land commissioner~~, in writing, that a political subdivision has failed to pay when due the principal or interest on any evidences of indebtedness issued for infrastructure improvements issued by the political subdivision after July 31, 2013, or that the public finance authority, political subdivision, or the paying agent has reason to believe a political subdivision will not be able to make a full payment of the principal and interest when the payment is due, the ~~director of the office of management and budget state land commissioner~~ shall authorize a draw from funds in the strategic investment and improvements fund 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 or the paying agent notifies the ~~director of the office of management and budget state land commissioner~~ 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 ~~director of the office of management and budget state land commissioner~~. State funds available to a political subdivision under any provision of law are subject to withholding by the state treasurer under this section to repay funds drawn from the strategic investment and improvements fund under this section at the direction of the state land commissioner provided the withholding has been previously authorized by resolution of the governing body of the political subdivision if the withholding is authorized by resolution of the governing body of the political subdivision. The political subdivision must also certify to the state land commissioner at the time of application that their maximum annual debt service for infrastructure improvements under this section does not exceed one-half of their total available state funding. Once the strategic investment and improvements fund has been reimbursed by the state treasurer for any draws for a political subdivision's shortfall under this section, the state treasurer shall no longer withhold state funds from the political subdivision. The ~~director of the~~

~~office of management and budget state land commissioner~~ may not authorize a draw that would bring the amount drawn from the strategic investment and improvements fund to more than **one million dollars** under this section.

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2. The ~~director of the office of management and budget state land commissioner~~ shall make available any funds drawn from the strategic investment and improvements fund 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 political subdivision is required to make to the public finance authority or the paying agent.
3. If funds are received by the political subdivision during the fiscal year and are deposited in the political subdivision's sinking fund established in accordance with section 21 - 03 - 42, the political subdivision, with the consent of the public finance authority or the paying agent, may withdraw from its sinking fund an amount to apply against the repayment of the amount drawn from the strategic investment and improvements fund and made available to the public finance authority or a paying agent under this section.
4. The ~~director of the office of management and budget state land commissioner~~ shall ~~adopt policies and application procedures to implement the infrastructure improvement credit enhancement for political subdivisions program develop detailed procedures for political subdivisions to notify the director of the office of management and budget that they have obligated themselves to be bound by the provisions of this section;~~ procedures for political subdivisions, paying agents, and the public finance authority to notify the ~~director of the office of management and budget state land commissioner~~ of potential defaults and to request payment under this section; and procedures for the state to expedite payments to prevent defaults
5. For purposes of this section, "political subdivision" means any county or a city with a population not exceeding ten thousand.

SECTION 2. CONTINUING APPROPRIATION. There is appropriated on a continuing basis out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of **\$1,000,000**, or so much of the sum as may be necessary, ~~to~~

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~~the office of management and budget~~ for the purpose of infrastructure improvement credit enhancement for political subdivisions under section 1 of this Act, ~~for the biennium beginning July 1, 2013, and ending June 30, 2015.~~

#4



STATE OF NORTH DAKOTA
OFFICE OF STATE TREASURER
Kelly L. Schmidt, State Treasurer

House Bill 1426
Senate Political Subdivisions Committee
Date: March 15, 2013
Jeb Oehlke
Deputy Treasurer

Chairman Andrist and committee members:

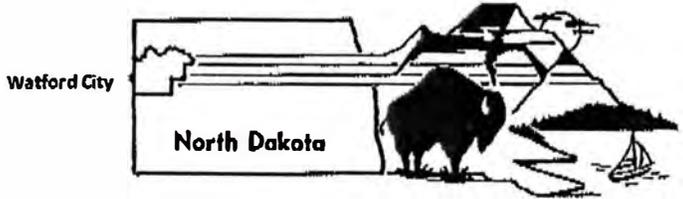
For the record I am Jeb Oehlke, Deputy State Treasurer. The State Treasurer's Office does not have an official position on HB 1426, but we do ask for the opportunity to work with the committee to amend portions of the bill.

The State Treasurer's Office believes the responsibility to withhold state funds from a political subdivision as a means of reimbursing the Strategic Investment and Improvements Fund is misplaced with the Office of Management and Budget. The State Treasurer's Office is the agency responsible for distributing these funds and we have the infrastructure in place to withhold funds if needed.

There is one provision in this bill which we believe should be removed. Subsection 1 states, in part, that the state would only be able to withhold funds from a distribution "if the withholding is authorized by resolution of the governing body of the political subdivision." This language virtually ensures that the state will be unable to use this mechanism to recoup the funds paid out of the SIIF. It is similar to a mortgage with a provision stating that a bank may only foreclose with the permission of the debtor.

Given the chance to work with the committee and OMB staff we will be able to come up with amendments placing the various responsibilities with the correct state agencies.

Thank you. I will stand for any questions.



City of Watford City
Brent Sanford, Mayor
 213 2nd St., NE
 PO Box 494
 Watford City, ND 58854
 Ph. 701- 444- 2533
 Fax 701- 444- 3004
www.mckenziecounty.net

March 14, 2013

As the Mayor of Watford City, we are struggling to address our infrastructure challenges. We have literally thousands of oil and gas workers searching for permanent housing in and around our town.

Watford City needs every tool at its disposal in order to address these challenges and we need serious help from the state. We can not do it alone. With current legislation, it appears 10-15% of the \$193 million of needed infrastructure improvements in our town might be addressed with impact grants and increased local gross production tax allocations. So bonding for infrastructure will have to be one of the options we consider to bridge this funding gap.

Most of the small oil country towns need lagoon upgrades, new corridor roads, new water and sewer trunklines and water towers. These small cities likely do not have the borrowing base to bond for all of these items. These small cities in the center of the Bakken play, in between the hub cities, need to be able to permanently house the future long-term oil and gas production and maintenance employees. Without the ability for employees to live within 15-20 minutes of their job, it will be difficult for our oil operators to recruit and retain the production and maintenance staff of the future.

HB 1426 provides a credit enhancement tool that would assist a smaller community in obtaining bond financing to install some of this needed public infrastructure. Without credit enhancement, the rates may be cost prohibitive. Or even worse, there may be no buyers for the bond issuance of a small town with no or minimal history of bond issuances and a small historical population.

At the same time, we need resources from the state coming to us in other ways, to ultimately meet our debt service on the financing tools we deploy. To that end, we firmly support HB 1358 and other bills that allow Watford City and McKenzie County to share to a greater extent in the revenue generated by oil and gas development.

When state and local financing efforts can be coordinated and leveraged together, we open up opportunities to meet our infrastructure challenges.

I ask for your support of HB 1426, and that you back it with ample funds to make a difference.

Sincerely,
 Brent Sanford *Brent Sanford*
 Mayor of Watford City