

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/27/2015**

Amendment to: SB 2039

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$500,000		\$1,250,000
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 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).*

Section 5 provides that Bank of North Dakota may provide up to \$200 million from the school construction assistance loan fund to eligible school districts for school construction loans except that the total of all loans provided under this section prior to July 1, 2018 may not exceed \$100 million.

- 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 5 allows BND to charge a school district a fee for managing and servicing the loan. BND anticipates the fee to be .50% on the outstanding loan balance which is described in section 2A and 2B below.

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.*

Section 5 allows BND to charge a school district a fee for managing and servicing the loan. BND anticipates the fee to be .50% on the outstanding loan amount. In 2015-17 the assumption is an outstanding balance of \$100 million which is the maximum for that biennium as set out in Section 5 times .50% equals \$500,000. In the 2017-19 biennium it is anticipated the school construction loan fundings will be gradually increased and will be fully funded by the end of that biennium with estimated fee revenues collected of \$1,250,000.

- 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.*

Section 5 allows BND to charge a school district a fee for managing and servicing the loan. The estimated expenditures to administer the school construction assistance loan fund in the 2015-17 and 2017-19 bienniums include staffing and other administrative costs which are not determinable at this time.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Eric Hardmeyer

**Agency:** Bank of North Dakota

**Telephone:** 328-5674

**Date Prepared:** 04/27/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/10/2015**

Amendment to: SB 2039

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		\$0
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 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).*

The bill changes DPI's school construction loan project requirements. Contingent on the passage of 2015 SCR 4003 and approval by the state's voters, this bill transfers \$100 million from the foundation aid stabilization fund to a new school district construction fund at the Bank of North Dakota.

- 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.*

Sections 2 & 3 create the new BND fund and transfer \$100 million from the foundation aid stabilization fund. BND will charge a .50% administration fee on the outstanding loan amount.

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.*

The bill is revenue neutral. The foundation aid stabilization fund is reduced by \$100 million, while the newly created school district construction fund is increased by \$100 million.

- 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.*

N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Tammy Dolan

**Agency:** OMB

**Telephone:** 328-4947

**Date Prepared:** 04/10/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/06/2015**

Amendment to: SB 2039

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		\$0
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 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).*

Contingent on the passage of 2015 SCR 4003 and its subsequent approval by the state's voters, this bill transfers \$300 million to a new school construction assistance loan 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.*

Sections 1 & 3 create the new special funds. Section 4 & 5 transfer fund from the foundation aid stabilization fund to the new special funds.

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.*

The bill is revenue neutral. The foundation aid stabilization fund is reduced by \$300 million, while the newly created special funds are increased by \$300 million.

- 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.*

N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Tammy Dolan

**Agency:** OMB

**Telephone:** 328-4947

**Date Prepared:** 12/31/2014

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/22/2014**

Bill/Resolution No.: SB 2039

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		\$0
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 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).*

Contingent on the passage of 2015 SCR 4003 and its subsequent approval by the state's voters, this bill transfers \$250 million to a new school construction assistance loan fund and \$200 million to a new public employee retirement stabilization fund from the foundation aid stabilization 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.*

Sections 1 & 3 create the new special funds. Section 4 & 5 transfer fund from the foundation aid stabilization fund to the new special funds.

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.*

The bill is revenue neutral. The foundation aid stabilization fund is reduced by \$450 million, while the newly created special funds are increased by \$450 million.

- 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.*

N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Tammy Dolam

**Agency:** OMB

**Telephone:** 328-4947

**Date Prepared:** 12/31/2014

**2015 SENATE EDUCATION**

**SB 2039**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Missouri River Room, State Capitol

SB 2039  
1/12/2015  
Job# 21816 (16:05)

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to a school construction assistance loan fund and a public employee retirement stabilization fund; to amend and reenact section relating to funds managed by the state investment board; to provide for transfers; and to provide for a contingent effective date.

## Minutes:

Attachments #1, 1b, 2

**Chairman Flakoll** called the committee to order on January 12<sup>th</sup>, 2015 at 10:15am with all committee members present.

--Support

**Lucas Greff**, member of Mott-Regent School district (*see attachment #1*)

**Chairman Flakoll:** The committee has also received an email from another Mott-Regent board member Ben Auch (*and Vice President of the ND School Board Association*) and that will be put into the record (*see attachment #1b*).

(3:40) **Senator Schaible**, District 31

This bill also came out of the government finance interim committee and piggybacks SCR 4003. If SCR 4003 passes this puts the language into a bill. The two sections that you have are the school construction assistant loan fund in section 1 line 9 page 1 and also section 3 of page 2 line 20. That is the additions but it's basically the language that is needed if the resolution would pass.

(5) **Dustin Gawrylow**, Lobbyist #244, ND Watchdog Network (*see attachment #2*)

**Senator Schaible:** You want to limit the school's ability to raise their own debt limit and restrict how they ask for money. Don't you think the 60% vote on making one of these measures pass are good enough restrictions for a school board other than capping the frequency and time limit?

**Gawrylow:** I would like to see some strong protections. What the committee, senate and legislature come to as a whole, I would like to see it somewhere in this realm as a way to protect the taxpayers.

(10:15) **Jon Martinson** with ND school board association voiced overall support for bill, specifically for school construction funding projects.

**Martinson:** We are hopeful that the piece that money would be transferred from the foundation aid stabilization fund to public employee's retirement system be eliminated. We are not in favor of that part of it, but overall we are in favor.

--*Opposition*

(11:15) **Pam Sharp**, office of management and budget

**Sharp:** We are very much in favor of school construction loan funds. We already have one in existence, so we don't need to have two separate funds. The public employee retirement stabilization fund is an inappropriate use of the foundation aid stabilization fund and also not needed.

**Chairman Flakoll:** how much is the foundation aid stabilization fund producing in a biennium?

**Sharp:** 10% of the oil extraction tax, perhaps 200 million

**Chairman Flakoll:** How much does the fund generate in terms of income?

**Sharp:** It doesn't generate that much revenue because it is invested in the Bank of ND. They are probably receiving about 20 basis points of that money right now just because of where it is invested and what the interest rates are right now. It goes into the general fund.

**Chairman Flakoll:** Will this in any way impact the rating of the Bank of ND if we start pulling back some of the money they have?

**Sharp:** I would say no. This would just be part of their deposits.

(14:30) **Stuart Savelkoul**, assistant executive director for North Dakota United

**Savelkoul:** Our opposition to SB 2039 is in the same spirit of the opposition to SCR 4003 with the primary reason being should you elect to reject SCR 4003, we see little need for SB 2039. In present form, we see no need for public employee retirement mentioned in this particular piece of legislation.

**Chairman Flakoll** closed the hearing on SB 2039

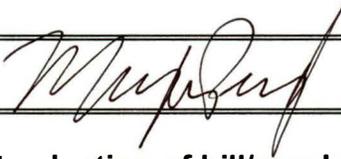
# 2015 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Missouri River Room, State Capitol

SB 2039  
2/4/2015  
Job # 23175 (12:17)

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

COMMITTEE ACTION

**Minutes:**

1 Attachment

**Chairman Flakoll:** We have set up the 4 pillars of options if we were to pass SCR 4003. With this scenario, it would go to two funds. One is the scholarship fund, a permanent fund with the interest and income of that being used for scholarship awards. Also as you see on page 2, it would provide for the school construction program revolving fund. On page 3 sections 4 and 5, this is session law. It would either be 300 million dollars or 50%. It goes 50/50 until they both would reach 300 million dollars, and if there is more than that, then if you go to the front page, any remaining funds could be used for state school aid or property tax relief as part of state school aid. The transfer would be on July 1<sup>st</sup>, 2016. Would we have SCR 4003 on the primary ballot? I'm wondering if it should it be December 1<sup>st</sup> 2016 so it is after the fact in both cases. I'm not sure how much this matters because it is contingent on SCR 4003 passing. *(see attachment #1)*

**Vice Chairman Rust:** Where does it talk about the common school trust fund?

**Chairman Flakoll:** It is not in this one. This is the allocation part. These are higher priorities than the common school trust fund.

**Vice Chairman Rust:** There are two priorities: school construction assistance loan fund and the scholarship fund. If there is any money left then it goes to provide state aid and then in a future year we have the option to bring it in the common school trust fund?

**Chairman Flakoll:** Correct. In 2017 we can do a total different plan. That is the difference between the constitutional amendment and this session law.

**Vice Chairman Rust** motions to adopt amendment 3002.

**Senator Oban** seconds the motion.

**Senator Davison:** I am wondering about the date. When would this go on the ballot?

**Chairman Flakoll:** This is a snapshot in time that implies on this date, they will lock in those numbers, whether primary or fall ballot. If SCR 4003 were to pass, those numbers are transferred.

**Senator Schaible:** What about a fund for buying down student loans?

**Chairman Flakoll:** We would have had to tailor 4003 to allow that. We talked about replacing the common school's trust fund with a low interest school loan program as an option, or perhaps we make it 5 pillars instead of 4. That will be discussion as we move forward.

**Senator Schaible:** The conversation will continue on into conference committee so I can live with this as is.

**A vote was taken: Yes: 6, No: 0, Absent: 0**

**Vice Chairman Rust** motions for a do pass as amended  
**Senator Oban** seconds the motion.

**A vote was taken: Yes: 6, No: 0, Absent: 0**

**Chairman Flakoll** will carry the bill.

February 3, 2015

1 of 2  
TD  
2/4/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2039

Page 1, line 1, after "enact" insert "a new section to chapter 15-10, a new section to chapter 15.1-27, and"

Page 1, line 1, remove "and a new section to"

Page 1, line 2, remove "chapter 54-52"

Page 1, line 2, after "a" insert "scholarship fund, uses of the foundation aid stabilization fund, and a"

Page 1, line 3, remove "and a public employee retirement stabilization fund; to amend and reenact section"

Page 1, remove line 4

Page 1, line 5, replace "board" with "; to provide a continuing appropriation"

Page 1, after line 6, insert:

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

**Scholarship fund.**

The scholarship fund is a special fund in the state treasury. Moneys deposited in the fund must remain in the fund on a permanent basis. Any interest or other earnings of the fund must be used to award scholarships to residents of this state attending institutions of higher education in the state. The state board of higher education shall develop rules and guidelines for the award of scholarships from interest or other earnings of the fund.

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

**Uses of the foundation aid stabilization fund.**

Any funds that remain in the foundation aid stabilization fund, after transfers to other funds, must be used to provide state aid to school districts and educationally related property tax relief to school district patrons."

Page 1, line 9, after "**fund**" insert "**- Continuing appropriation**"

Page 1, line 10, after "special" insert "revolving loan"

Page 1, line 11, replace "may be used only for" with "are appropriated on a continuing basis for the purpose of providing"

Page 1, line 11, remove "as designated by the"

Page 1, line 12, remove "legislative assembly"

Page 1, line 12, after "other" insert "earnings of the"

Page 1, line 12, remove "earnings"

Page 1, remove lines 13 through 24

Page 2, remove lines 1 through 26

Page 2, line 29, remove "the sum of"

Page 2, line 30, replace "\$250,000,000" with "an amount equal to the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1, 2016,"

Page 3, line 1, remove "**PUBLIC**"

Page 3, line 2, replace "**EMPLOYEE RETIREMENT STABILIZATION FUND**" with "**SCHOLARSHIP FUND**"

Page 3, line 3, remove "the sum of"

Page 3, line 4, replace "\$200,000,000" with "an amount equal to the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1, 2016,"

Page 3, line 4, remove "public employee retirement"

Page 3, line 5, replace "stabilization" with "scholarship"

Page 3, line 6, replace "4" with "2, 4,"

Page 3, line 8, replace "4" with "2, 4,"

Renumber accordingly

**2015 SENATE EDUCATION COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2039**

Senate Education \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: 15.0189.03002 \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Vice Chairman Rust    Seconded By Senator Oban \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais	X	
Vice Chairman Rust	X		Senator Oban	X	
Senator Davison	X				
Senator Schaible	X				

Total    (Yes) 6    No 0 \_\_\_\_\_

Absent 0 \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent: replace retirement with scholarship fund



**REPORT OF STANDING COMMITTEE**

**SB 2039: Education Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2039 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a new section to chapter 15-10, a new section to chapter 15.1-27, and"

Page 1, line 1, remove "and a new section to"

Page 1, line 2, remove "chapter 54-52"

Page 1, line 2, after "a" insert "scholarship fund, uses of the foundation aid stabilization fund, and a"

Page 1, line 3, remove "and a public employee retirement stabilization fund; to amend and reenact section"

Page 1, remove line 4

Page 1, line 5, replace "board" with "; to provide a continuing appropriation"

Page 1, after line 6, insert:

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

**Scholarship fund.**

The scholarship fund is a special fund in the state treasury. Moneys deposited in the fund must remain in the fund on a permanent basis. Any interest or other earnings of the fund must be used to award scholarships to residents of this state attending institutions of higher education in the state. The state board of higher education shall develop rules and guidelines for the award of scholarships from interest or other earnings of the fund.

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

**Uses of the foundation aid stabilization fund.**

Any funds that remain in the foundation aid stabilization fund, after transfers to other funds, must be used to provide state aid to school districts and educationally related property tax relief to school district patrons."

Page 1, line 9, after "**fund**" insert "**- Continuing appropriation**"

Page 1, line 10, after "special" insert "revolving loan"

Page 1, line 11, replace "may be used only for" with "are appropriated on a continuing basis for the purpose of providing"

Page 1, line 11, remove "as designated by the"

Page 1, line 12, remove "legislative assembly"

Page 1, line 12, after "other" insert "earnings of the"

Page 1, line 12, remove "earnings"

Page 1, remove lines 13 through 24

Page 2, remove lines 1 through 26

Page 2, line 29, remove "the sum of"

Page 2, line 30, replace "\$250,000,000" with "an amount equal to the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1, 2016,"

Page 3, line 1, remove "**PUBLIC**"

Page 3, line 2, replace "**EMPLOYEE RETIREMENT STABILIZATION FUND**" with "**SCHOLARSHIP FUND**"

Page 3, line 3, remove "the sum of"

Page 3, line 4, replace "\$200,000,000" with "an amount equal to the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1, 2016,"

Page 3, line 4, remove "public employee retirement"

Page 3, line 5, replace "stabilization" with "scholarship"

Page 3, line 6, replace "4" with "2, 4,"

Page 3, line 8, replace "4" with "2, 4,"

Re-number accordingly

**2015 HOUSE APPROPRIATIONS**

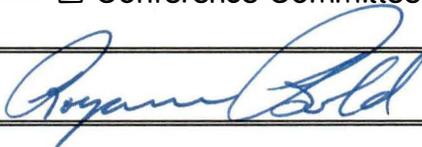
**SB 2039**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2039  
3/16/2015  
24932

- Subcommittee  
 Conference Committee



### Explanation or reason for introduction of bill/resolution:

A Bill relating to a scholarship fund, uses of the foundation aid stabilization fund, and a school construction assistance loan fund; to provide a continuing appropriation; to provide for transfers; and to provide for a contingent effective date.

### Minutes:

*NO attachments*

### Representative Monson

Chaired the meeting.

### Chairman Jeff Delzer, District 8

I am testifying in a neutral position. SB 2039 came out of Government Finance; deals with allowing concurrent resolution 4003 which is a constitutional resolution to set the cap in the foundation aid stabilization at 15% of the latest K-12 funding. It amounts to about \$270M this year. It's quite a difference in the original bill; from the engrossed version. I think there is continuing appropriations in it.

### Representative Glassheim

How much is in the fund?

### Chairman Jeff Delzer

Close to \$600M; off of the Governor's proposed oil dollars and the forecast on Wednesday will change those numbers as well.

**Brady Larson, OMB;** balance in the fund on January 1 was about \$560M and based on January forecast; the fund is expected to receive about \$170M during the 15-17 biennium.

### Representative Glassheim

This is a one-time deal, we would deplete the fund?

### Chairman Jeff Delzer

The fund would stay capped at that; and each Legislative Assembly would have the opportunity to do what they wanted with the excess in that fund whether to leave it in the fund; or use it for whatever is said in 4003, it could be used for. I believe the way 4003 is worded right now; it's the scholarships, school construction and other educational funding

House Appropriations Committee

SB 2039

3/16/15

Page 2

This bill would set up the transfers. The way it is worded now; this bill would set up the transfers; interim committee study; don't know how much it has changed.

**Chairman Jeff Delzer (returned to chair the meeting)**

Hearing closed.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2039  
4/8/2015  
Job #25944

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Kenneth M. Toth*

### Explanation or reason for introduction of bill/resolution:

relating to a scholarship fund, uses of the foundation aid stabilization fund, and a school construction assistance loan fund; to provide a continuing appropriation; to provide for transfers; and to provide for a contingent effective date.

### Minutes:

Attachment: #1.

**Chairman Jeff Delzer:** Opened the meeting and handed out amendment .04003. SB 2039 is a bill that came out of Government Finance. It had originally come out to set up two contingency funds; one for school construction loan and one for paying unfunded liability for PERS. The Senate took the PERS out and started a fund for scholarships. This amendment that you have before you (Refers to Att. #1) would take the scholarships out of there. It would leave the school construction in, but it puts quite a bit of constrictions on who's eligible and how they come up being eligible for construction. It would be \$100-million if 4003 passes. After July 1, 2016, the money will become available if, in the June primary, the voters support 4003, which would allow some of the excess money in the Foundation Aid Stabilization Fund to become available for legislative appropriation. I think the way the House kicked it out, said, education-related uses. And this would set up \$100-million revolving loan fund, \$10-million for each school district that qualified, interest rate not to exceed 2 percent. It also does some things that makes it look back 5 years at the growth in the school, look ahead what they expect the next 5 years to be. It sets up some parameters of how somebody actually qualifies to build. I think what we're trying to do is to make sure that schools that are built really need to be built. It does have something in here about the Tax Department looking at the increases of a bond issue to the local taxpayers. And that's pretty much what the amendment does. The scholarship fund; the reason I don't support that being in there is that's something that is a good deal, but it's something I think the Legislature should look at every year. It shouldn't be set up as a continuing appropriation where the Legislature forgets about it. It should be looked at every year. The Foundation Aid Stabilization Fund, if 4003 passes the way the House and Senate anywhere close to that, would leave, if they keep the 15 percent of the K-12 funding number in there, it would leave some money available. The \$100-million would not be a problem. The rest of the money, would it be available, would be available to the next legislative session, if they wanted to use it. Of course, everything in there depends, it gets 10 percent of the oil and gas extraction tax, is where it gets its money. That's what the amendments would do. Discussion on the amendments?

**Representative Brandenburg:** I would move Amendment .04003 for a Do Pass.

**Rep. Skarphol:** Second.

**Representative Sanford:** What would be the relationship with this construction fund and the existing one?

**Chairman Jeff Delzer:** The existing one, I don't believe, has any money in it available. I know 2178 was working on having some money, but that got taken out in the House. This is a case of making money available as soon as the voters approve 4003, if they did. I think the House would like to have these types of restrictions on the loan. I don't know if restrictions is the right word, but these types of qualifiers for any loan in the future, and this would actually set up that loan fund, and then the next legislative session would look at how much more they needed to put into it or whatever, if it was there.

**Representative Sanford:** I'm imagining that rules and regulations, for example, if you have a loan from the other fund, the existing fund, you still could qualify for one here? That's what I mean by the relationship.

**Representative Monson:** I think it's limited, you know we're limited to \$10-million. I think if you had a fund in the other one, I think that would be limited, but that's something that we can certainly look at, because I would guess this is going to go to conference. That's a good thing to point out; to make sure. Alan, would you make a note to check out whether or not we need to put something in about that.

**Rep. Monson:** We've had several scholarship bills come through here, so this one has no bearing on what we've kicked out already?

**Chairman Jeff Delzer:** No.

**Representative Bellew:** Why did you limit it to \$10-million and put just over \$100-million in the fund?

**Chairman Jeff Delzer:** Simply because we don't know how things are going, and it would only be the second year. So you've got a short period of time, and then the next legislature would be in. In January, February, March or April, if they wanted to turn around in 2017 and put some more money into it, they would be available. But we just thought this would be a start, but not a runaway.

**Representative Bellew:** The maximum loan amount is \$10-million. Is that maybe the same answer you gave before?

**Chairman Jeff Delzer:** Yes.

**Representative Nelson:** The language on page 1 on Subsection 2, that would require a school would have to have a 5-year stable or increasing enrollment eliminates a lot of viable school districts in the state, especially when you get out of the oil country and the eastern tier of the state. But there are school districts there that have construction needs. If

you hold that fast on a stable or increased enrollment, I don't think any school district in that north or central region of North Dakota would qualify.

**Representative Brandenburg:** There will be some schools that fall into that category and some that won't. The thing that's a concern of a lot of people; there are numbers of schools around that 200 population; should they be building a \$5 to \$10M facility? We're probably looking at agriculture property values going down with what's happening with the ag sector. And you start throwing in, a couple years from now, the NDSU formula, we're going to be looking at every one of these schools maxing out their mills. You're going to have some more state dollars because of the per student payment because you'll have less subtracted from that foundation aid payment. I really see that these schools don't realize they might have to run a bond just to pay the teachers. These are things that should be considered. Right now, when they look at a school project, they take a 10-year look-out. And some of those kids are 8<sup>th</sup> graders. You go out 10 years when you plan a school. And is that really the right way to do that? It's a guess. Here, you've got a school that's five years of the past, hard and fast numbers, and if you do have declining enrollment, and then five years in the future, you can project out your births four or five years, you have some real good numbers that justify to the taxpayers, we do need to build, we do have increasing enrollment, or we don't have those numbers and we just want to build. We have to look at, is it about wants or is it about needs? I think, to keep the school open is more important than to build something that you want.

**Representative Nelson:** As I read that language, it says the preceding five years; it isn't projected out into the future. It's the preceding five years. Just for an example, yesterday we had a K-12 bill on the floor, and during the deliberation I was looking at one of the school districts that was visiting yesterday; Mayville-Portland. Enrollment of 500. And I did their last three years of enrollment. They wouldn't qualify for this. Maybe they don't need a school, but that's a viable school district that needs to be in place; they'd be locked out because of this language, if it was held to this letter of the law.

**Chairman Jeff Delzer:** What kind of number do you think should be in there? I could see maybe a slight decline; this is really strict, but if they are showing a pretty big decline, then I'm not sure they should be eligible for a loan like this.

**Representative Nelson:** I wouldn't disagree with that. There was an attempt to bring the word viable into a school district formula; not everybody liked that word. Something less arbitrary than "stable for five years or increasing." I don't know; we could come up with something.

**Representative Monson:** What difference does it make what the past was, as long as they can show the next five years going forward, or even longer? I am in the exact same position; we've got one school in all of Cavalier County, which is Langdon. Their tax base is huge; they are about 60 mills, so there is lots of room for construction; they're looking at building a new school, a middle school. They have been declining, but their numbers going forward are very positive. What do we care about the past really, as long as we're going forward?

**Chairman Jeff Delzer:** I think the past makes a very valid thought of what you're doing. Everybody can project they're going to have more students. You take a look out west; those projections; probably 6 months ago to now would be considerably different. So you do have to look back and forward. I can see that there is some argument to say a certain amount of decline is OK, but then maybe you should have a number where you start saying, when you get this small, then you're not eligible for a loan like this, no matter what.

**Representative Skarphol:** Is this the only loan program we have for schools?

**Chairman Jeff Delzer:** Right now.

**Representative Skarphol:** My perspective would be, unless the school has already announced a construction project that's going to be commencing, during the time frame of this bill, there will be plenty of opportunities in the next legislative session to address the concerns being expressed here.

**Representative Brandenburg:** When we go back and look at what we did when we bought down the mills, the first buy-down. We were capped, a lot of schools at 180-185-175 mills, some were less. Then we bought down 75 or 80 mills, then to 110; then we bought down another 50 mills, and then we added 10 and gave them 60 and plus the combo mills. Would those schools out there, if they'd have capped at 185 mills, would they be trying to push 30 and 40 mill bonds to build a school? We are married to the mill levy buy down, but I'm concerned about the future of being able to fund it. And so if a school adds 30-40 mills for a bond, thinking that they don't have as much property tax, and they lose some of that state funding, where are we putting these schools?

**Chairman Jeff Delzer:** What I'd like to do, if amendment is acceptable to enough people, we'll put it on notice that we have concerns, can work on it. I'd be shocked if it did not go to conference committee. So there would be an opportunity to do something there, and if there isn't, it's kind of like Rep. Skarphol said, I think we do need to have a loan program in place to help promote the passage of 4003. And that's what we're doing this for. Further discussion on the motion to amend?

VOICE VOTE TAKEN: MOTION CARRIES.

**Chairman Jeff Delzer:** The motion carries; we have the amended bill before us.

**Rep. Brandenburg:** I move a Do Pass As Amended.

**Rep. Skarphol:** Second.

**Chairman Jeff Delzer:** Discussion: Seeing none, the clerk will call the roll.

ROLL CALL VOTE TAKEN: YES: 17 NO: 3 ABSENT: 3

**Chairman Jeff Delzer:** Motion for a Do Pass as Amended carries 17-3-3.

**Representative Brandenburg** is the carrier.

House Appropriations Committee  
SB 2039  
4/8/2015  
Page 5

**Chairman Jeff Delzer** closed the hearing on SB 2039.

4/8/15  
JG

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2039

Page 1, line 1, remove "new section to chapter 15-10, a new section to chapter"

Page 1, line 2, remove "15.1-27, and a"

Page 1, line 3, remove "scholarship fund, uses of the foundation aid stabilization fund, and a"

Page 1, line 4, after "fund" insert "; to amend and reenact section 15.1-36-01 of the North Dakota Century Code, relating to the approval of school construction projects"

Page 1, line 4, replace "transfers" with "a transfer"

Page 1, replace lines 7 through 20 with:

**"SECTION 1. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing~~Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or increase during the ensuing five school years; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;

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- (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district."

Page 2, replace lines 1 through 5 with:

**"North Dakota school district construction fund - Creation - Loans.**

- 1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota shall authorize the use of and administer moneys in the North Dakota school district construction fund, which is a revolving fund. The fund consists of:
  - a. Amounts transferred into the fund by legislative action; and
  - b. Repayments of loans from the fund.
- 2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
  - (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and

~~313~~  
314

any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

- (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
- (4) Post on the school district's website the information from the statements required by this subdivision for at least the thirty-day period immediately preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;

- d. Receive authorization for a bond issuance in accordance with chapter 21-03; and
- e. Submit a completed application to the Bank of North Dakota.

3. The Bank of North Dakota shall prioritize the applications and award loans under this section to eligible school districts during July of each year, beginning in 2015. The prioritization must be based on a consideration of:

- a. Student occupancy and academic needs in the district;
- b. The age of existing structures to be replaced or remodeled;
- c. Building design proposals that are based on safety and vulnerability assessments;
- d. Community support;
- e. Cost of the project and the ability of the school district to repay the loan; and
- f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.

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

5. The interest rate on a loan under this section may not exceed two percent.

6. The maximum loan amount to which a school district is entitled under this section is ten million dollars."

Page 2, line 8, remove "an amount equal to"

Page 2, remove line 9

Page 2, line 10, replace "on July 1, 2016," with "the sum of \$100,000,000"

Page 2, remove lines 12 through 16

Page 2, line 17, replace "Sections 2, 4, and 5" with "Section 3"

Page 2, line 17, replace "are" with "is"

Page 2, line 19, remove "sections 2, 4,"

Page 2, line 20, replace "and 5" with "section 3"

Page 2, line 20, replace "take" with "takes"

Page 2, line 20, replace "sections become" with "section becomes"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment provides for the following:

- Creates school district construction loan program and provides program guidelines.
- Amends Section 15.1-36-01 regarding requirements for approval of school construction projects by the Superintendent of Public Instruction.
- Provides for a contingent transfer of \$100 million from the foundation aid stabilization fund to the school district construction loan fund. The transfer is contingent upon the passage of 2015 Senate Concurrent Resolution No. 4003 by the Legislative Assembly and approval of the measure by the voters of the state.
- Removes Sections 1, 2, and 5 which create a scholarship fund, provide for uses of the foundation aid stabilization fund, and provide a contingent transfer from the foundation aid stabilization fund to the scholarship fund.

Date: 4/8/15  
 Roll Call Vote #: 7

2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES

BILL/RESOLUTION NO. 2039

House: Appropriations Committee

Subcommittee

Amendment LC# or Description: 15.0189.04003

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By: Brandenburg                      Seconded By: Skarphol

Representatives	Yes	No	Absent
Chairman Jeff Delzer			
Vice Chairman Keith Kempenich			
Representative Bellew			
Representative Brandenburg			
Representative Boehning			
Representative Dosch			
Representative Kreidt			
Representative Martinson			
Representative Monson			
Representative Nelson			
Representative Pollert			
Representative Sanford			
Representative Schmidt			
Representative Silbernagel			
Representative Skarphol			
Representative Streyle			
Representative Thoreson			
Representative Vigesaa			
Representative Boe			
Representative Glassheim			PS
Representative Guggisberg			AB
Representative Hogan			
Representative Holman			
TOTALS			

Voice  
 vote  
 Motion  
 carries

Floor Assignment: \_\_\_\_\_

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

Date: 4/8/15

Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 2039

House: Appropriations Committee

Subcommittee

Amendment LC# or Description: 1,04003

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By: Brandenburg      Seconded By: Skarphol

Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓		
Vice Chairman Keith Kempenich	✓		
Representative Bellew	✓		
Representative Brandenburg	✓		
Representative Boehning	✓		
Representative Dosch	✓		
Representative Kreidt	✓		
Representative Martinson	✓		
Representative Monson	✓		
Representative Nelson		✓	
Representative Pollert	✓		
Representative Sanford	✓		
Representative Schmidt	✓		
Representative Silbernagel	✓		
Representative Skarphol	✓		
Representative Streyle			—
Representative Thoreson	✓		
Representative Vigesaa	✓		
Representative Boe		✓	
Representative Glassheim			—
Representative Guggisberg			—
Representative Hogan	✓		
Representative Holman	✓	✓	
TOTALS	17	3	3

Floor Assignment: Brandenburg

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

**REPORT OF STANDING COMMITTEE**

**SB 2039, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2039 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "new section to chapter 15-10, a new section to chapter"

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

- (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
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  5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district."

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  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c.
    - (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment provides for the following:

- Creates school district construction loan program and provides program guidelines.
- Amends Section 15.1-36-01 regarding requirements for approval of school construction projects by the Superintendent of Public Instruction.
- Provides for a contingent transfer of \$100 million from the foundation aid stabilization fund to the school district construction loan fund. The transfer is contingent upon the passage of 2015 Senate Concurrent Resolution No. 4003 by the Legislative Assembly and approval of the measure by the voters of the state.
- Removes Sections 1, 2, and 5 which create a scholarship fund, provide for uses of the foundation aid stabilization fund, and provide a contingent transfer from the foundation aid stabilization fund to the scholarship fund.

**2015 CONFERENCE COMMITTEE**

**SB 2039**

# 2015 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Missouri River Room, State Capitol

SB 2039  
4/16/2015  
Job # 26175 (26:47)

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Initial Conference Committee; discuss changes

## Minutes:

2 Attachments

**Chairman Schaible** called the committee to order at 2:30pm with all conference committee members present: Senator Flakoll, Senator Oban, Representative Brandenburg, Representative Vigessaa and Representative Boe.

**Chairman Schaible:** Please explain the changes.

**Representative Brandenburg:** This was amended to deal with projects for schools. It originally started as a loan program, but there are a couple other bills that deal with that as well. There has been a lot of discussion this session about building and funding projects, just to get to the heart of what it does. On page 2 of version 4003 (*see attachment #1*) the green portion demonstrates that the student population has been stable. It does two things: looks back 5 years and forward 5 years. There is a lot of language dealing with the Department of Public Instruction for the discussion of the need, utility and potential use of the project. There is language that gives them some work to be able to either approve or deny the project for construction loans. On page 3 it claims "the Bank of North Dakota shall authorize the use of and administer moneys in the North Dakota school district construction fund, which is a revolving fund." It has language there dealing with that fund. Also looking at the school, the school must be viable and utilization would be at least for 30 years. There is also language dealing with the tax department which would determine the cost of the project for both residential and agriculture property in both mills and dollars. That information would be published in the school district newsletter and website so that the patrons of the district would know the true cost. It would explain how much the mill would cost for clarification as well. The Bank of North Dakota would determine if the loan be 20 or less years. The interest rate may not exceed 2%. The maximum of the loan would be \$10M. There would be a sum of \$100M in this school construction loan fund. This fund is also contingent upon the passage of SCR 4003 and approval of that resolution by the voters of the state. It would become effective July 1<sup>st</sup> of 2016.

**Chairman Schaible:** The intent on page 2 lines 15-17 is to demonstrate a population growth or stagnant or decline. Does this criterion suggest that any school district with a declining enrollment would not be eligible?

**Representative Brandenburg:** It would give the Department of Public Instruction enough language to determine approval or decline for a particular project. For example if there is a school with 100 students and has been declining over the last 5 years, should they really go out and build a \$4-5M bond? Can that school sustain itself?

**Chairman Schaible:** What if it's 200 students?

**Representative Brandenburg:** We need to agree on a number. In my mind I think 250 is in that range of concern. A bond is a 20 year commitment. Why are schools being built when in 10 years there are no students?

**Chairman Schaible:** Are you authorizing the Bank of North Dakota or the Department of Public Instruction to determine this?

**Representative Brandenburg:** The Department of Public Instruction would make the approval, but the Bank of North Dakota would authorize the use and administer the money.

**Chairman Schaible:** The bank does not want that authority, so that was just a clarification.

**Senator Flakoll:** The definition of "stable" seems a little nebulous. If you have a 100 student school district that is proposing a \$6M building so \$60,000 per child, should they be eligible for a loan under this program?

**Representative Brandenburg:** That is why we are here. We gave some mill levy buy down with 75 mills then we did another 50 mills. We also gave some flexibility so they can have some property tax relief on their local taxes. There has to be a place when they say "no".

**Senator Flakoll:** \$100M doesn't do anything in terms of what the needs are out there. Dr. Copas ran a survey to the schools. Right now there is about \$300M in current proposals.

**Representative Brandenburg:** \$100M was a number to start with.

(10:25) **Senator Flakoll:** West Fargo and Bismarck have high growth rates. West Fargo has been unprecedented in terms of total student enrollment numbers. How can I look Senator Judy Lee in the eye and say this fair to West Fargo at \$10M?

**Representative Brandenburg:** I can't disagree. This is a starting point. You're looking at it as an adequate number for school construction. We are also looking at it for what criteria we need for the schools that should not be building.

**Senator Flakoll:** Page 4 line 31 of the .04003 version talks about the interest rate of 2%. We are setting up a revolving account so does that 2% go back into the corpus to be used for others or does it go to the general fund?

**Representative Brandenburg:** It is a revolving loan fund so the money should go back into that school construction fund. The maximum interest rate is 2%, but it could be less.

**Senator Flakoll:** SCR 4003 is the precursor to this bill and we can't be certain that bill will survive. \$100M will be gone on the first week. That money is tied up for 20 years. That is why I think the senate version was with a longer lens in terms of what we need moving forward for that.

**Representative Brandenburg:** How much did you guys have for the construction loan?

**Chairman Schaible:** \$300M. There is \$200M in the revolving school loan fund right now. SB 2178, which was supposed to be an addition to the revolving loan fund, is now just an interest buy-down to fill the gap between what we have to what we think we are going to have. If we move forward with this, we were looking to have a revolving school loan fund available. Right now we have 3 versions of that so we need to mold the language of what we are intending to be the same. We have a revolving loan fund that will become self-sufficient and sustain itself. That is the goal of why we are here. I am working on SB 2178, but we need parallel language in the two. We don't want to start a program this year, have one last year, and then have another one in a couple of years that will all be different. We need to consolidate them.

**Representative Brandenburg:** This bill is short of money and the other bills are short of the language that we need for some schools that the Department of Public Instruction would need to disapprove of projects. That is why we are here today; let's try to find a common ground in which we can meet on that issue.

**Chairman Schaible:** The language in SB 2178 divides whatever money you have per biennium in half and makes it available for each year. The \$200M we had this last biennium was basically gone in 5-8 months and it was first come first serve. There was no money left for needy schools during the second year of the biennium. I am proposing language that we have the Department of Public Instruction categorize these schools based on need determined by obsolescence, safety, rapid enrollment, etc. They rank these every year and the ones with the most need receive the money first and the same thing happens the second year. First of all everyone has a chance and second the needier are first in line. That is our goal and intent. We have to parallel the language and also consider how we are going to move the \$200M in this biennium so that it goes into one revolving loan fund rather than three.

**Representative Boe:** I get nervous when I think about safety being a criterion in a program that we are designing to go into the future. I am afraid it will encourage administrators to promote unsafe conditions in order to have more eligibility. I am hesitant about this.

**Senator Flakoll:** Safety is a criteria in higher education buildings and yet we have Chemistry buildings that are among the most dangerous locations in the state and yet wasn't on the list. I don't know if that automatically catapults you to Nirvana.

**Chairman Schaible:** The \$200M was gone quickly. Schools had great need in the second year yet were never allowed access to the funding. Another issue is for example we have over 100 year old schools with outdoor, metal fire escapes. That is an obvious safety concern. I want the criteria but also the flexibility that Department of Public Instruction can make some reasonable terminations to help the greater needs. My opinion obsolescence is based on 45 years or older because Title 1 and section 8 all came into place in 1975. Anything after that would be ABA compliant whereas anything before might not be. We don't need to encourage schools to do this, but it would be short-sighted of school to deteriorate the condition of their building just to try to get in line of a 2% buy-down.

**Representative Vigesaa:** Does the senate know when SCR 4003 will be acted upon?

**Senator Flakoll:** No. A House conference committee has not yet been assigned to that. Our senate conferees were assigned last week. The status quo has the upper hand. Last

session we had SCR 4010 and we could not reach any resolution. It is important to keep in context with that this bill and SCR 4003 for what we can sell to the voters. Unless we can sell 4003 to the voters, there is no money. In my community if you were to say that we were putting this resolution on the ballot to build schools, that will not go over well in Fargo. I can't see a scenario where I would vote to pass this bill out of committee unless it has endowed scholarships in it. That will appeal to voters across the state. We don't know exactly what will be in the fund. There is talk of \$750M maybe by the end of this current biennium. We both have agreed in 4003 about the 15%, which is approximately \$300M. That would be left in the foundation aid stabilization fund. That could loosen up approximately \$1B. It would seem if we are loosening that up, we should do something that is there to serve the generations to come. I think we are all in agreement that it should be some kind of education-related activity. SCR 4003 is the precursor to this. We need to be tight in our message to the voters and show them the great potential of this legislation.

**Representative Brandenburg:** In order to get support for SCR 4003, you're suggesting that it should not only deal with school construction but also with scholarships so we can get it passed?

**Senator Flakoll:** We have to be thoughtful in what the voters accept. What are the big points that have massive appeal and can live out in perpetuity for some of these programs? We still have the protections in place for the foundation aid stabilization fund because we have only taken money out of there once in 2001 for \$5M. We are setting it up so we have that certainty, but are also doing some potentially marvelous things that will outlive any of us.

**Chairman Schaible** adjourns the conference meeting on SB 2039.

*Documentation regarding the analysis of the foundation aid stabilization fund was requested to be included in the minutes (see attachment #2)*

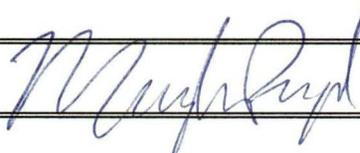
# 2015 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Missouri River Room, State Capitol

SB 2039  
4/21/2015  
Job # 26317(26:00)

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Discussion

## Minutes:

No Attachments

**Chairman Schaible** called the committee to order at 12:00pm with all conference committee members present: Senator Flakoll, Senator Oban, Representative Brandenburg, Representative Vigesaa and Representative Boe.

**Representative Vigesaa:** What is happening with SB 2178?

**Chairman Schaible:** SB 2178 is a school construction interest buy-down. It was originally a revolving loan fund. There was no money in the state to contribute to this, so we went with an interest buy-down. The Bank of North Dakota will provide the loan out of their assets. The interest buy-down comes from their unreserved profits. We are at 2% interest rates which makes it about a \$7.3M per biennium fiscal note. We are trying to match the language. The language in SB 2178 prioritizes the money in half and allows the Department of Public Instruction to categorize schools based on need. It also puts some parameters and safeguards for schools that shouldn't build. There are tax notifications of the effects the building will have on property and land. It gives the Department of Public Instruction some scrutiny with taking a closer look at the school's ability to pay back the loans and see if they are a viable school district into the future. It looks at enrollments on a 10 year scale, 5 years back and 5 years forward. We are trying to coincide this language for all of the relating bills.

**Representative Brandenburg:** All of the language that is in this bill is in the SB 2178. The only difference is that you have \$20M as the maximum and it is \$250M in SB 2178 with the banks loans.

**Chairman Schaible:** Correct. The \$20M is what we have used in the prior biennium as the target amount. \$250M is what we based on all of the bills we had in this session. It was split up three different ways. On the waiting list of shovel-ready projects, we are in about \$109-120M range of people ready this year so we doubled it.

**Senator Flakoll:** It would be the position of the Senate that there are scholarships. The SB 2178 is the mechanism wherein any money that would be moved over there and appropriated could be dispensed out.

**Representative Brandenburg:** The student loans are the endowments. Would that come through 4003 as a percentage of a number?

**Senator Flakoll:** The original two major categories were scholarships and the low interest school construction loans. By driving those interest rates down, that will save local tax payers dollars- another form of tax relief. We had a position that we would take the first 50% of both scholarships and the construction loans and pull those up until which they would reach \$300M. There is some interest in guiding language in SCR 4003 that would have some preferential things because we have to sell that. If we don't sell 4003 to the voters, most of this other stuff doesn't matter. We miss an opportunity if we blow through the money in the foundation aid. The opportunity is low interest loans and scholarships. Our third option was K12 funding which also includes property tax relief. Fargo school construction is not interesting to the voters. Many of the Fargo residents believe that they built more than needed. We need to look at what will interest the voters. We need to look at what will have perpetuity. Originally we had about \$300M in SB 2031, yet we've had to scale things back because of our current financial situation.

**Chairman Schaible:** SB 2178 is \$250M worth of money in which the Bank of North Dakota profits are buying down the interest. If we are to have a revolving loan fund in the future, we might look at buying these back out because we have an existing \$200M worth of revolving loan funds out that we are currently using this biennium with about \$4.5M left in that fund. We might want to roll all three of them into one in the future so we can have one simple revolving school construction loan fund. At some point that would become self-sufficient with the returns and interest coming back to that. That is one of the avenues.

**Representative Brandenburg:** I believe there is about \$700M in the foundation aid stabilization fund. You are thinking of taking \$4M of that for school construction and scholarships?

**Senator Flakoll:** It appears we have \$750M this next biennium. The first \$300M stay in the fund, that's 15%. Both the House and the Senate have agreed to that amount. With the other unobligated \$450M, we would take \$200M for the construction program, \$200M for the scholarship program, and then \$50 would be allocated for other uses such as near term activities in SB 2178 or other things for education. There is agreement in SCR 4003 that it has to be educationally related.

**Chairman Schaible:** That is for next biennium. The continuation of whatever the fund would produce and where that goes needs to be determined.

**Representative Brandenburg:** We just want to make sure this to the right place and used in the right areas.

**Chairman Schaible:** If we stick \$200M into school construction, at some point that will become self-sufficient. The money that would have gone into it would now be available for something else.

**Senator Flakoll:** If we put an endowment in for scholarships, that takes money and frees up about \$8M per year or \$16M per biennium at a 4% rate according to my calculations. That is reasonable in terms of what most foundations look at in terms of making available those dollars. \$16M would cover half the cost for our current needs based and merit based scholarships.

**Representative Brandenburg:** Is 2% going to self-sustain that? Where's prime at?

**Chairman Schaible:** What the Bank of North Dakota can get money for is 4.5%, so you are buying down 2.5%. It is the existing school construction revolving loan fund that is not only getting the interest but the principle back also over time on the loan. SB 2178 is not a revolving loan; it is just an interest buy-down. It is based all on the Bank of North Dakota and its unreserved profits. It is not general fund money, but it is money that the state can use for other things. We are committing it.

**Senator Flakoll:** If we have put the \$200M out on loan with a 20 year repayment, it is \$10M a year that would come back, but it would be \$10M plus the potential of \$4M more at 2%. In 20 years that could potentially grow that fund to \$80-100M. You not only take the original loan at \$10M, but also the principle that would go to the corpus. Those are just big, estimated numbers.

**Representative Brandenburg:** In order to get SCR 4003 passed, you believe that scholarships included would free up that \$450M?

**Senator Flakoll:** I believe so. This would be the first go with those dollars. If we tell voters that we are to run the entire amount and supplant the dollars, they would not be impressed. They would deem that political malpractice on our part.

**Senator Flakoll:** There were a number of agreement points. There is an amendment that will be proposed today in SCR 4003. If we lose our talking points, we will lose 4003 to the people. We need to make clear what we are selling. Adding detail will garner support across the state and does something for generations to come.

**Representative Vigesaa:** I agree that you have to be specific to a point in these resolutions. We found out last election that if there is uncertainty, they will vote no.

**Senator Flakoll:** I need to be cautious because I don't want to take SCR 4003 to the floor, have it passed, and then have it get killed in the House. That compromise is my support.

**Chairman Schaible** adjourns the conference committee on SB 2039.

# 2015 SENATE STANDING COMMITTEE MINUTES

## Education Committee

Missouri River Room, State Capitol

SB 2039

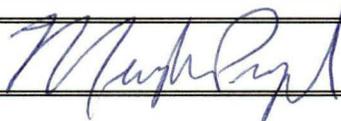
4/22/2015

Job # 26339 (24:17)

Subcommittee

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Discussion regarding intent

### Minutes:

No Attachments

**Chairman Schaible** called the committee to order at 7:30am with all conference committee members present: Senator Flakoll, Senator Oban, Representative Brandenburg, Representative Vigesaa and Representative Boe.

**Representative Brandenburg:** We understand you want scholarships tied with SCR 4003. You had a conference meeting on that resolution yesterday?

**Senator Flakoll:** It went decent. We offered up some changes that the House requested. We are at the point in which we have come half way and it is time for them to join us.

**Representative Brandenburg:** Are you looking at putting the scholarships into this bill?

**Chairman Flakoll:** Correct.

**Representative Brandenburg:** You are looking at \$200M for school construction and \$200M for scholarships out of the \$750M in the fund and leave \$300M in there. Do you have criteria for the scholarships?

**Senator Flakoll:** It would be the existing scholarships that we have already developed- the needs and merit based scholarships. We as a legislature would decide what the legislative intent would be for the two. We would not have to deal with that in this bill. We have the school construction low interest program being developed in SB 2178. On the other hand we have the scholarship program. Those criteria are already developed and been in place for a while. With this opportunity we would decide where the big first time bulk of the money will be allocated then have provisions after that.

**Representative Brandenburg:** We would come back next session to implement everything?

**Senator Flakoll:** Originally SCR 4003 was on the June primary ballot. We thought it best to have it on the November 2016 general ballot. At this point it seems the three essential themes that are continually talked about with that amendment would be construction,

scholarships and education funding including property tax relief- that would be the extra \$50M.

**Representative Brandenburg:** That \$50M can replace some of the funding because it will take some of that money off the table over time.

**Senator Flakoll:** Correct. SCR 4003 would free up an estimated \$450M initially plus whatever else would come in subsequent years. At that point this bill would then trigger. This bill is contingent upon SCR 4003 passing. We can deal with the estimated \$50M next session or incorporate that in 2178 with short-term construction. That is how the first moneys would be handled. If you have \$200M in scholarships with 4% return on the investment, it would cover about half of the scholarship costs. \$300M of construction is in the queue currently. One project could be \$60M easily. There are situations in which you wouldn't pay for the full \$60M, whether it's 90% of a project, up to so many dollars or what have you.

**Chairman Schaible:** Those discussions right now are at \$20M per project maximum that they would take advantage of. If they have a project for over \$20M, it is funded to bond somewhere else. There is \$300M in the queue. There is probably \$200M that would be available for that plan. Right now we are looking at about 107-115 shovel-ready for this year.

(9:20) **Representative Vigesaa:** With the \$200M that may come as a result of SCR 4003 and SB 2039, would you see the construction part, the \$200M, being integrated into what is being proposed in SB 2178? It would just be another \$200M that would go into that program, and the language for everything will be in SB 2178?

**Chairman Schaible:** SB 2178 is an interest buy-down. Eventually the plan is to buy them out and create a revolving loan fund. We have \$200M in this biennium that is already involved in a revolving school construction fund. That should also be tied into that. We are looking at three different animals that need to be rolled into one. The work on this bill and SB 2178 is to parallel the language of the school construction part so that the criteria, application and management are consistent. The only difference is that it is to different funding sources and one is a revolving loan while the other is an interest buy-down.

**Senator Flakoll:** The money was originally coming from the SIIF fund, but of course that got identified pretty quickly. Therefore you would prefer to have it from a fund such as this that would be a revolving account.

**Chairman Schaible:** That was always the intent; that we would move to that direction. A revolving loan fund will become self-sufficient and doesn't put future legislation or expenditures of the bank on the hook. We all believe interest rates will rise, so we must remain aware of that.

**Representative Brandenburg:** In the foundation aid stabilization fund, how much feeds into this? Is there any coming in to help sustain it?

**Chairman Schaible:** Going back to late last summer when we were discussing oil prices at 70-75, it was about \$200M a biennium that was coming in at that time. That is subjective to what we are doing with the oil tax; it is contingent on that. With this language the first thing that comes out of that additional funding is the 15%. Then the balance of that would be whatever this language would decide.

**Representative Vigesaa:** This idea came out of our government finance committee over the interim. If we didn't put the cap on the fund, it would continue to grow. There would be money every biennium that would be over the cap and help fund these projects. When there is additional moneys every biennium, the legislature would decide how much money would go towards scholarships and construction?

**Chairman Schaible:** I see the intent in SCR 4003 gives you the broad view whereas this language gives the narrow view for that biennium. Future legislation would decide that.

**Senator Flakoll:** Just because we did scholarships this time doesn't mean we are obligated to do it next time. I wouldn't try to build it as a constant into the budget. It helps provide some rally points for selling 4003 to the people. When we talk about the three categories mentioned, we have a headline. People will understand that the legislature proposes opening fund for low interest funds, scholarships and property tax relief- a great headline. It will still provide safeguards, but the people are interested in loosening up the money for perpetuity.

**Representative Vigesaa:** There was language in HB 1033 about OMB notifying the legislature on December 1<sup>st</sup> prior to a legislative session regarding how much money was available to appropriate. Should we have something similar to this so when we do go into session, OMB would report to us how much money will be available over the cap so that we can plan accordingly? We can think about that if this bill moves forward.

**Representative Brandenburg:** I understand why we would include scholarships.

**Representative Vigesaa:** It is a legacy, similar to the legacy fund, where even grandparents can vote yes on this resolution because they are thinking about their grandchildren and their potential.

**Senator Flakoll:** Are you okay with 2 plus 2 and then the 50?

**Representative Brandenburg:** We will need more discussion. We are not ready for a motion at this time.

**Senator Flakoll:** I can have something drafted so we can have something to talk about.

**Representative Vigesaa:** With the \$200M per bucket is that the proper split?

**Chairman Schaible:** \$200M is what the current biennium is doing. We are currently looking at \$110-115M that are shovel-ready and that is the projection for the next year. It is right around that \$200-250M short term. I don't know if that is the magic number but it seems to be the need we have right now.

**Representative Vigesaa:** Not knowing exactly what the available amount would be, will you put in a number or percentage?

**Senator Flakoll:** The original language would work whereby for the first go, we take those two funds and any overage, we take it 50/50 until at which point each of those reaches \$200M. After that those "satchels" are filled and then that completes. We can do whatever we want with the excess and change it in later assemblies if we see fit.

**Chairman Schaible** adjourns the conference committee on SB 2039.

# 2015 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Missouri River Room, State Capitol

SB 2039  
4/24/2015  
Job # 26397 (15:41)

Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Discussion

## Minutes:

1 Attachment

**Chairman Schaible** called the committee to order at 9:00am with all conference committee members present: Senator Flakoll, Senator Oban, Representative Brandenburg, Representative Vigesaa and Representative Boe.

*(see attachment #1- constitutional measure of the coal fund)*

**Mike Brand**, Department of Trust Lands, called to the podium

**Chairman Schaible:** We only want one revolving loan fund. We took \$50M out of the coal trust fund and then \$150M out of the SIIF fund. Now there is an issue?

**Brand:** The coal trust fund is set up by the constitution as a permanent revolving fund, so the principle cannot be reduced. The money that is loaned out to the schools and political subdivisions is loaned out under the rules established by the legislature. Any repayments that come in from those loans go back into the fund. Those moneys are intended for coal-impacted counties. A certain amount of that money can also be loaned out for coal marketing and also for clean coal research. Those are the allowable purposes for that fund. Other than that the principle cannot be reduced because of its permanent nature. The way the money is loaned is up to the legislature. The interest from those loans goes back first to repay delinquent loans, and then to the general fund. The loans get paid back out of the allocations to the counties and the schools for out-of-the-coal tax money. 10% of their money goes first to pay back those loans. The loans are basically guaranteed by their coal impact money that the counties receive. If that dries up then the loan is forgiven. It is not a generally obligation of the legislature.

**Chairman Schaible:** That interest could go into a revolving loan school fund?

**Brand:** Yes, it is up to the legislature with what they do with that interest because it goes to the general fund.

**Chairman Schaible:** The principle has to stay in the coal trust fund?

**Brand:** Correct.

**Chairman Schaible:** That is one of the concerns we have because out of the \$200M we had last biennium, \$50M of it came out of there. That's an issue we needed to resolve.

**Representative Brandenburg:** We could use the interest, but we can't take the principle out?

**Chairman Schaible:** just out of that \$50M. We are talking about this past biennium. We are trying to clear up our existing fund.

**Representative Brandenburg:** We can still take the interest?

**Chairman Schaible:** Correct.

(6) **Anita Thomas** with Legislative Council was called to the podium

**Chairman Schaible:** We should only have one revolving school loan fund. We don't have one now so we need to create one.

**Thomas:** Correct. The money that was loaned out of the SIIF fund last biennium goes back to the SIIF fund. It may have been colloquial referred to as a school construction fund, but no such fund exists.

**Chairman Schaible:** That is why the amendments have not been drafted yet; we needed this clarified.

**Representative Vigesaa:** I agree. We want to have one fund that will be self-sustaining at some point.

**Senator Flakoll:** Are we at 2% for the school rates?

**Chairman Schaible:** The existing fund is up to \$20M for 20 years with 1%. Going forward with this language and the language in SB 2178, it will be a \$20M maximum, \$1M minimum and it is 2%. We feel interest rates are going up, so it will be a good bargain for schools and also helps the state.

**Senator Flakoll:** If someone is in a current pool of loans, does that count against their \$20M?

**Chairman Schaible:** It is \$20M per biennium per school district.

**Representative Vigesaa:** \$1M minimum?

**Chairman Schaible:** the project has to be at least \$1M. It is for the smaller repairs and improvement projects. The other idea we came up with is the scholarship endowment fund of \$200M and \$200M in the revolving school construction fund. We estimate that there will be \$450M that will be available. If it is substantially less, those two accounts will fill at the same rates.

**Senator Flakoll:** SCR 4003 will likely be on the November ballot. SB 2039 would trigger off of that.

**Chairman Schaible:** The current language in this bill is that they would be deposited after December 1<sup>st</sup> of 2016, which would be after the election. Then they would be available for 2017.

Senate Education Committee

SB 2039

4/24/2015

Page 3

**Senator Flakoll:** Where is it deposited?

**Chairman Schaible:** It will be the scholarship endowment fund. The state board of higher education would control that. The revolving school loan fund would be controlled by the Department of Public Instruction. Anita has the language we are looking for and I will try to get them out before the next meeting.

**Chairman Schaible** adjourns the conference meeting on SB 2039.

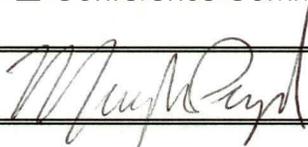
# 2015 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Missouri River Room, State Capitol

SB 2039  
4/24/2015  
Job # 26410 (21:01)

Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Discussion

## Minutes:

1 Attachment

**Chairman Schaible** called the committee to order at 2:30pm with all committee members present: Senator Flakoll, Senator Oban, Representative Brandenburg, Representative Vigesaa and Representative Boe. Anita Thomas with Legislative Council was also present.

*(see attachment #1- 4007 amendments)*

**Chairman Flakoll:** Does this mirror 2178 and 2031?

**Chairman Schaible:** not so much SB 2031 but it does reflect SB 2178 except for the funding sources.

**Representative Vigesaa:** What is the language in SB 2178?

**Chairman Schaible:** Section 3, 5 and 7. The rest is the funding mechanism. All of the logistic language is in there. The school construction assistant loan fund will still be managed and handled as was discussed. The Department of Public Instruction will approve who gets the loan but the Bank of North Dakota will handle the fund thereafter. The endowment scholarship fund will be managed by the State Treasure.

**Chairman Schaible:** Is there a reason for the date on page 5 line 11?

**Thomas:** No.

**Chairman Schaible:** That was existing language in SB 2178 because the Bank of North Dakota can only lock in a rate for 10 years. This will go to 2% until statute changes it.

**Representative Brandenburg:** That doesn't need to be in there.

**Senator Flakoll:** I would remove that language.

**Representative Boe:** Would we want to look at something in which we lock in the 2% for a specific term in the contract, like 10 years out of the 30 with a balloon payment and it would readjust if interest rates happen to be higher?

**Chairman Schaible:** That is what we have in 2178. These loans are like a bond issue and are guaranteed by the state. Perhaps we should say that at some point, we are going to buy-down 4% and whatever left is up to the district. This is the language everyone is content with now. If you are to sell this to your public for a vote, this would be easier to understand.

**Representative Boe:** I am okay with that. Why is the \$1M the minimum?

**Chairman Schaible:** That is what was used before. We are referring to large remodel projects, so that we are not having everyone apply for small amounts. It is an important threshold.

**Senator Flakoll:** In section 6 the coal money won't go in there but the interest paid by the schools would?

**Chairman Schaible:** Correct. The only thing that wouldn't go back is the coal principle. The interest and the principle of everything else would go into this account and at some point it will be self-sufficient.

**Senator Flakoll:** Section 7 has language on voting elections and guidelines. Is that similar language to 2178?

**Chairman Schaible:** Correct. It's the criteria of schools that should have a closer look before they decide to build to make sure it is the right move. We're trying to be consistent with whatever plans we have out there.

**Senator Flakoll:** As the money becomes available, there is a transfer of \$120M to each of those funds and then the next month there is more money coming into the common schools trust fund. Is it a monthly basis?

**Chairman Schaible:** Sections 9 and 10 says "OMB shall transfer an equal amount to the lesser of..." that is where that is covered. It only transfers until the limits of \$200M is there. That is the intent. If there is not enough money to fill these, the two will fill equally.

(12:55) **Ryan Skor**, Finance Director of the Office of State Treasurer

**Representative Brandenburg:** Do you do oil transfers in a monthly or quarterly basis?

**Skor:** On a monthly basis currently. We get it from the tax department and they transfer down the oil and gas revenue. We do the distributions and when we do that distribution out to the political subdivisions, that comes on the 15<sup>th</sup> business day of each month. At that same time we send it out to the political subdivisions. We also do the transfers to the foundation aid stabilization and legacy fund on the 15<sup>th</sup> day.

**Chairman Schaible:** right now there is over \$600M+ in there. There will be a good chunk that will go in there right away. Excess would be used for other educational purposes. We are going to have enough to do the \$400M and the 1%.

**Skor:** The initial transfer that wouldn't have to happen through us. Going forward if it is coming out of the foundation aid fund, would we still be putting it into the fund or directing it to the educational related topics?

**Chairman Schaible:** Once that fund is filled, your end would be done. Your job would be to invest that. If it would fill immediately on December 1<sup>st</sup>, that is the end of it until there is a change in statute.

**Skor:** If we continue in the current oil and gas formula, we would continue to put the monthly amount into the stabilization fund and then whatever further allocation that is deemed necessary would be done after we put it in there. We wouldn't be the one directing it to those other funds. It would be done after it was in the foundation aid fund.

**Chairman Schaible:** Yes, it would come from legislation of that biennium and directed.

**Representative Vigesaa:** The money for the other educational purposes would remain in the fund and can be appropriated out of the fund down to the 15% cap.

**Senator Flakoll:** I agree.

**Representative Vigesaa:** The money will stay in the fund so section 11 doesn't need to be in there. I am okay with removing that section.

**Chairman Schaible:** We have two further amendments with taking out the July 1<sup>st</sup>, 2025 and section 11.

**Chairman Schaible** adjourns the conference meeting.

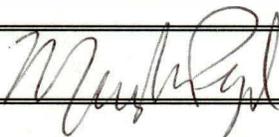
# 2015 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Missouri River Room, State Capitol

SB 2039  
4/24/2015  
Job # 26416 (14:46)

Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

ACTION

Minutes:

2 Attachments

**Chairman Schaible** called the committee to order at 3:30pm with all committee members present: Senator Flakoll, Senator Oban, Representative Brandenburg, Representative Vigesaa and Representative Boe.

**Representative Brandenburg:** Regarding to the 4007 version of the bill on page one line 16, we would like "must" to be permissive language such as "may" or "shall".

**Chairman Schaible:** We will do "shall"

**Representative Brandenburg:** We would also like section 3 to be taken out. Then on page 5, we would like to add that the interest rate should be reviewed every session for the new loans.

**Chairman Schaible:** If we take out a loan in 2017, that is locked at 2%. The review would come for any loans that would be after that?

**Representative Brandenburg:** Yes, new loans.

**Chairman Schaible:** I agree that a new loan may need a review. That's okay with me.

**Thomas:** If you are going to come back and review the interest rates every two years and you have a cap of 2%, you will have to change that anyway.

**Chairman Schaible:** Can we put in something that says that the interest rates for new loans will be reviewed?

**Thomas:** We can do that.

**Senator Flakoll:** If we are trying to promote this program, we need the 2% initially and subject to review on a biannual basis by the legislature for new loans.

**Representative Brandenburg:** That is our intention.

**Senator Flakoll:** Should we completely remove page 1 lines 18-19? I am worried about the vagueness if we do.

**Representative Brandenburg:** The words "higher education" really bothered somebody. We should make that decision.

**Senator Flakoll:** We could do that with the approval of an interim legislative committee or the legislature. Then we aren't setting up any other hierarchy.

**Representative Brandenburg:** I agree. That is important.

**Thomas:** In number 3 it will read that any scholarships awarded under the section must come from the interest or earnings of the fund. "Must" in line 16 is the grammatically correct version of "shall". If you want to say shall, then this language is okay

**Representative Brandenburg:** "Must" cannot be in there.

**Thomas:** We will figure something out.

**Representative Vigesaa:** Section 11 is out?

**Chairman Schaible:** Correct.

**Senator Flakoll moves that the House recede from its amendments as printed on pages 1373-1376 of the Senate Journal and pages 1555-1558 of the House Journal and that Engrossed Senate Bill No. 2039 be amended as follows...** with the 4007 version which also shall reflect the previously state agreements in including removing section 11, the overstriking page 4 "until July 2025", the incorporation under section 1 with the language "shall", the incorporation about awarding scholarships from the interest and earnings of the fund and that those interest rates be reviewed on a biannual basis.

**Representative Brandenburg seconds the motion.**

**Karlene Fine** with the industrial commission.

**Fine:** On page 5 line 23 when we talk about the payment from the principle on the interest coming back, we have it going to the state treasurer then deposited back into the fund. That is an extra, unnecessary step. Since the Bank of North Dakota is managing the fund, those payments should be made to the Bank of North Dakota. It doesn't need to go to the state treasurer the to the bank. We would suggest those words come out.

**Senator Flakoll:** We will include that as part of my motion.

**Chairman Schaible:** so it just takes out "to the state treasurer". We have 5 changes that we are amending to this Christmas tree version.

**A vote was taken. The motion carries: 3-0, 3-0.**

**Senator Schaible and Representative Brandenburg will carry the bill.**

*Additional documentation included in minutes (see attachment #1& #2)*

April 24, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2039

That the House recede from its amendments as printed on pages 1373-1376 of the Senate Journal and pages 1555-1558 of the House Journal and that Engrossed Senate Bill No. 2039 be amended as follows:

Page 1, line 2, replace the first "a" with "two"

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "scholarship" insert "endowment"

Page 1, line 3, remove "and"

Page 1, line 4, after "fund" insert ", and school construction loans; to amend and reenact section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction approval and loans, bond elections, and the coal development trust fund"

Page 1, line 4, replace "and" with "to provide for a report to the legislative management;"

Page 1, line 5, after "date" insert "; and to declare an emergency"

Page 1, line 9, after "**Scholarship**" insert "**endowment**"

Page 1, line 9, after "**fund**" insert "**- Rules**"

Page 1, after line 9 insert "1."

Page 1, line 10, after "scholarship" insert "endowment"

Page 1, line 11, after the underscored period insert:

"2."

Page 1, line 13, after the underscored period insert:

"3."

Page 1, line 14, replace "award" with "awarding"

Page 1, line 18, after "Any" insert "accessible"

Page 1, line 18, after "after" insert "completion of the required"

Page 1, line 19, replace "to provide" with "for educationally-related purposes, including"

Page 1, line 19, after "educationally" insert a hyphen

Page 1, after line 20, insert:

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

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~
    - (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or
    - (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.

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

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

1. In order to provide school construction loans, the board of university and school lands may authorize the use of:
  - a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and
  - b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.

**SECTION 5.** A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

**School construction loans - Bank of North Dakota.**

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred million dollars from the school construction assistance loan fund to eligible school districts for school construction loans, except that the total of all loans provided under this section prior to July 1, 2018, may not exceed fifty percent of the total amount authorized under this subsection.
2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
  - (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

- (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
- (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
- d. Receive authorization for a bond issuance in accordance with chapter 21-03; and
- e. Submit a completed application to the Bank of North Dakota.
- 3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
- 4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
- 5. The interest rate on a loan under this section may not exceed two percent, until July 1, 2025.
- 6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.
- 7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.
- 8. a. The Bank of North Dakota shall manage and service each loan under this section and shall execute all necessary loan instruments. The Bank may charge a school district a fee for managing and servicing the loan.
- b. The Bank shall receive payments of principal and interest from school districts and shall remit such payments to the state treasurer for deposit in the school construction assistance loan fund."

Page 2, after line 1, insert:

"1."

Page 2, line 3, after the underscored period insert: "The fund consists of:

- a. All moneys appropriated or transferred to the fund by the legislative assembly;
- b. One hundred fifty million dollars from the strategic investment and improvements fund, which had been allocated by the sixty-third legislative assembly for school construction loans in accordance with section 15.1-36-02;
- c. The income, including interest payments on loans from the coal development trust fund as authorized in accordance with section 57-62-02; and
- d. All interest or other earnings of the fund, and all repayments of loans made from the fund.

2."

Page 2, line 4, remove ". Any interest or other earnings of the fund must be"

Page 2, line 5, replace "deposited in the fund" with ", in accordance with this chapter"

Page 2, after line 5, insert:

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

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

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, ~~and in no event may more.~~
2.
  - a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
  - b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

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

1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands

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

Page 2, line 7, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 9, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 10, replace "July" with "December"

Page 2, line 13, after "**SCHOLARSHIP**" insert "**ENDOWMENT**"

Page 2, line 13, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 15, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 15, replace "July" with "December"

Page 2, line 16, after "scholarship" insert "endowment"

Page 2, after line 16, insert:

**"SECTION 11. REPORT TO LEGISLATIVE MANAGEMENT.** At the time and in the manner requested by the legislative management, the office of management and budget shall provide a report regarding the financial status of the foundation aid stabilization fund."

Page 2, line 17, remove "4, and"

Page 2, line 17, after "5" insert ", 9, and 10"

Page 2, line 19, remove "4,"

Page 2, line 20, remove "and"

Page 2, line 20, after "5" insert ", 9, and 10"

Page 2, line 20, replace "July" with "December"

Page 2, after line 20, insert:

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

Re-number accordingly

April 24, 2015

June  
1/25/15  
LBJ

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2039

That the House recede from its amendments as printed on pages 1373-1376 of the Senate Journal and pages 1555-1558 of the House Journal and that Engrossed Senate Bill No. 2039 be amended as follows:

Page 1, line 2, replace the first "a" with "two"

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "scholarship" insert "endowment"

Page 1, line 3, remove "and"

Page 1, line 4, after "fund" insert ", and school construction loans; to amend and reenact section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction approval and loans, bond elections, and the coal development trust fund"

Page 1, line 4, remove "and"

Page 1, line 5, after "date" insert "; and to declare an emergency"

Page 1, line 9, after "**Scholarship**" insert "**endowment**"

Page 1, line 9, after "**fund**" insert "**- Rules**"

Page 1, after line 9 insert:

"1."

Page 1, line 10, after "scholarship" insert "endowment"

Page 1, line 11, after the underscored period insert:

"2."

Page 1, line 11, replace "Any" with "All"

Page 1, line 11, replace "or" with "and"

Page 1, line 11, remove the second "must"

Page 1, line 12, replace "be used to award" with "are dedicated to the awarding of"

Page 1, line 13 after the underscored period insert:

"3."

Page 1, line 13, remove "The state board of higher education shall develop rules and guidelines"

Page 1, line 14, replace "for the award of scholarships" with "Scholarships may be awarded only"

Page 1, line 14, after "from" insert "the"

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Page 1, line 14, after "fund" insert "and not from the fund's principal"

Page 1, line 18, after "Any" insert "accessible"

Page 1, line 18, after "after" insert "completion of the required"

Page 1, line 19, replace "to provide" with "for educationally-related purposes, including"

Page 1, after line 20, insert:

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

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~
    - (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or
    - (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;

- (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

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

- 1. In order to provide school construction loans, the board of university and school lands may authorize the use of:
  - a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and
  - b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.

**SECTION 5.** A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

**School construction loans - Bank of North Dakota.**

- 1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred million dollars from the school construction assistance loan fund to eligible school districts for school construction loans, except that the total of all loans provided under this section prior to July 1, 2018, may not exceed fifty percent of the total amount authorized under this subsection.
- 2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be

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applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

- (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
  - (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
  - (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
- d. Receive authorization for a bond issuance in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.
3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
- a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
5. The interest rate on a loan under this section may not exceed two percent. The legislative assembly shall, however, conduct a biennial review of interest rates applicable to new loans.

- 6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.
- 7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.
- 8. a. The Bank of North Dakota shall manage and service each loan under this section and shall execute all necessary loan instruments. The Bank may charge a school district a fee for managing and servicing the loan.
- b. The Bank shall receive payments of principal and interest from school districts and shall deposit such payments in the school construction assistance loan fund."

Page 2, after line 1, insert "1."

Page 2, line 3, after the underscored period insert: "The fund consists of:

- a. All moneys appropriated or transferred to the fund by the legislative assembly;
- b. One hundred fifty million dollars from the strategic investment and improvements fund, which had been allocated by the sixty-third legislative assembly for school construction loans in accordance with section 15.1-36-02;
- c. The income, including interest payments on loans from the coal development trust fund, as authorized in accordance with section 57-62-02; and
- d. All interest or other earnings of the fund, and all repayments of loans made from the fund.

2."

Page 2, line 4, remove ". Any interest or other earnings of the fund must be"

Page 2, line 5, replace "deposited in the fund" with ", in accordance with this chapter"

Page 2, after line 5, insert:

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

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

- 1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, ~~and in no event may more.~~
- 2. a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.

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

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

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

Page 2, line 7, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 9, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 10, replace "July" with "December"

Page 2, line 13, after "**SCHOLARSHIP**" insert "**ENDOWMENT**"

Page 2, line 13, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 15, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 15, replace "July" with "December"

Page 2, line 16, after "scholarship" insert "endowment"

Page 2, line 17, remove "4, and"

Page 2, line 17, after "5" insert ", 9, and 10"

Page 2, line 19, remove "4,"

Page 2, line 20, remove "and"

Page 2, line 20, after "5" insert ", 9, and 10"

Page 2, line 20, replace "July" with "December"

Page 2, after line 20, insert:

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

Renumber accordingly

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**2015 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

SB 2039 as engrossed

**Senate EDUCATION Committee**

- Action Taken**
- SENATE accede to House Amendments**
  - SENATE accede to House Amendments and further amend**
  - HOUSE recede from House amendments**
  - HOUSE recede from House amendments and amend as follows**
  
  - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

<b>Senators</b>	4/16	4/21	4/22	<b>Yes</b>	<b>No</b>		<b>Representatives</b>	4/16	4/21	4/22	<b>Yes</b>	<b>No</b>
Chairman Schaible	X	X	X				Representative Brandenburg	X	X	X		
Senator Flakoll	X	X	X				Representative Vigesaa	X	X	X		
Senator Oban	X	X	X				Representative Boe	X	X	X		
<b>Total Senate Vote</b>							<b>Total Rep. Vote</b>					

Vote Count      Yes: \_\_\_\_\_      No: \_\_\_\_\_      Absent: \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2015 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

SB 2039 as engrossed

**Senate EDUCATION Committee**

- Action Taken**
- SENATE accede to House Amendments
  - SENATE accede to House Amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Flakoll                      Seconded by: Representative Brandenburg

Senators	4/24			Yes	No	Representatives	4/24			Yes	No
Chairman Schaible	X			X		Representative Brandenburg	X			X	
Senator Flakoll	X			X		Representative Vigesaa	X			X	
Senator Oban	X			X		Representative Boe	X			X	
Total Senate Vote				3	0	Total Rep. Vote				3	0

Vote Count            Yes: 6                                      No: 0                                      Absent: 0

Senate Carrier Senator Schaible                      House Carrier Representative Brandenburg

LC Number 15.0189.04008 . 06000 of amendment

LC Number \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2039, as engrossed:** Your conference committee (Sens. Schaible, Flakoll, Oban and Reps. Brandenburg, Vigesaa, Boe) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1373-1376, adopt amendments as follows, and place SB 2039 on the Seventh order:

That the House recede from its amendments as printed on pages 1373-1376 of the Senate Journal and pages 1555-1558 of the House Journal and that Engrossed Senate Bill No. 2039 be amended as follows:

Page 1, line 2, replace the first "a" with "two"

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "scholarship" insert "endowment"

Page 1, line 3, remove "and"

Page 1, line 4, after "fund" insert ", and school construction loans; to amend and reenact section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction approval and loans, bond elections, and the coal development trust fund"

Page 1, line 4, remove "and"

Page 1, line 5, after "date" insert "; and to declare an emergency"

Page 1, line 9, after "**Scholarship**" insert "**endowment**"

Page 1, line 9, after "**fund**" insert "**- Rules**"

Page 1, after line 9 insert:

"1."

Page 1, line 10, after "scholarship" insert "endowment"

Page 1, line 11, after the underscored period insert:

"2."

Page 1, line 11, replace "Any" with "All"

Page 1, line 11, replace "or" with "and"

Page 1, line 11, remove the second "must"

Page 1, line 12, replace "be used to award" with "are dedicated to the awarding of"

Page 1, line 13 after the underscored period insert:

"3."

Page 1, line 13, remove "The state board of higher education shall develop rules and guidelines"

Page 1, line 14, replace "for the award of scholarships" with "Scholarships may be awarded only"

Page 1, line 14, after "from" insert "the"

Page 1, line 14, after "fund" insert "and not from the fund's principal"

Page 1, line 18, after "Any" insert "accessible"

Page 1, line 18, after "after" insert "completion of the required"

Page 1, line 19, replace "to provide" with "for educationally-related purposes, including"

Page 1, after line 20, insert:

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

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~
    - (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or
    - (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.

- b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

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

1. In order to provide school construction loans, the board of university and school lands may authorize the use of:
  - a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and
  - b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.

**SECTION 5.** A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

**School construction loans - Bank of North Dakota.**

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred million dollars from the school construction assistance loan fund to eligible school districts for school construction loans, except that the total of all loans provided under this section prior to July 1, 2018, may not exceed fifty percent of the total amount authorized under this subsection.
2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;  
  
(2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be

- applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
- (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
  - (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
- d. Receive authorization for a bond issuance in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.
3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
- a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
5. The interest rate on a loan under this section may not exceed two percent. The legislative assembly shall, however, conduct a biennial review of interest rates applicable to new loans.
6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.
7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.
8. a. The Bank of North Dakota shall manage and service each loan under this section and shall execute all necessary loan instruments. The Bank may charge a school district a fee for managing and servicing the loan.

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

Page 2, after line 1, insert "1."

Page 2, line 3, after the underscored period insert: "The fund consists of:

- a. All moneys appropriated or transferred to the fund by the legislative assembly;
- b. One hundred fifty million dollars from the strategic investment and improvements fund, which had been allocated by the sixty-third legislative assembly for school construction loans in accordance with section 15.1-36-02;
- c. The income, including interest payments on loans from the coal development trust fund, as authorized in accordance with section 57-62-02; and
- d. All interest or other earnings of the fund, and all repayments of loans made from the fund.

2."

Page 2, line 4, remove ". Any interest or other earnings of the fund must be"

Page 2, line 5, replace "deposited in the fund" with ", in accordance with this chapter"

Page 2, after line 5, insert:

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

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

- 1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, ~~and in no event may more.~~
- 2.
  - a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
  - b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

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

- 1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 13,

chapter 626, 1979 Session Laws must also be deposited in the trust fund created pursuant to this subsection. The fund must be held in trust and administered by the board of university and school lands for loans to coal-impacted counties, cities, and school districts as provided in section 57-62-03 and for loans to school districts pursuant to chapter 15.1-36. The board of university and school lands may invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from the trust must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the ~~state's general~~ school construction assistance loan fund. Loan principal payments must be redeposited in the trust fund. The trust fund must be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter and chapter 15.1-36."

Page 2, line 7, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 9, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 10, replace "July" with "December"

Page 2, line 13, after "**SCHOLARSHIP**" insert "**ENDOWMENT**"

Page 2, line 13, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 15, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 15, replace "July" with "December"

Page 2, line 16, after "scholarship" insert "endowment"

Page 2, line 17, remove "4, and"

Page 2, line 17, after "5" insert ", 9, and 10"

Page 2, line 19, remove "4,"

Page 2, line 20, remove "and"

Page 2, line 20, after "5" insert ", 9, and 10"

Page 2, line 20, replace "July" with "December"

Page 2, after line 20, insert:

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

Re-number accordingly

Engrossed SB 2039 was placed on the Seventh order of business on the calendar.

**2015 TESTIMONY**

**SB 2039**

#1  
1/12/15

**Testimony for Committee Hearing  
Education Committee  
January 12, 2015**

Lucas James Greff  
5751B 96<sup>th</sup> Ave SW  
Mott, ND 58646

S.B. No 2039

Good morning Education Committee members. My name is Lucas Greff I am a member of the Mott-Regent School district and a first term school board member. I am here today to speak my support of Senate Bill 2039 Section one.

When you look around the school districts in our state you will notice that there are things they all have in common. They all care about providing a quality education for the youth of North Dakota. They value fiscal responsibility to the taxpayers of their districts. And they were all built, remodeled or added on to when the need and the financial ability to meet that need crossed.

I feel we are at a time when our state can support the school districts and their varying needs for replacement, remodeling, and updating of the aging structures that they will educate tomorrow's leaders in.

The main area that any facility that has not been replaced or renovated in the last 20 years lacks is in technology. The pace of technology has grown at an exponential rate and facilities built even 30 years ago are ill-prepared to handle the increased loads on electrical and telecommunications wiring. Schools have done their best to improvise or make do but without replacement or major renovation the building envelope of older schools will continue to hinder its' ability to keep up in an ever-changing field of education. Where this bill will truly make a difference is with the taxpayers. They are the ones who will bear the responsibility for paying for their respective schools needs. By the state lowering the interest rate the taxes they will pay to help support that new or renovated structure are less and they will be more likely to support their schools needs.

With the positive economic times our state is in I hope that in the future when we look back that this decade be viewed as one where the state government and the citizens of North Dakota invested heavily in the buildings and facilities that house the most precious resource this state has.

Thank you for your time and consideration,



11

#16  
1/12/15  
SB 2039

----- Original message -----

From: Ben Auch <bauch.ba@gmail.com>  
Date: 01/11/2015 8:24 PM (GMT-06:00)  
To: "Flakoll, Tim" <tflakoll@nd.gov>, "Rust, David S." <drust@nd.gov>, "Davison, Kyle" <kdavison@nd.gov>, "Marcellais, Richard" <rmarcellais@nd.gov>, "Oban, Erin" <eoban@nd.gov>, "Schaible, Donald G." <dgschaible@nd.gov>  
Subject: SB 2039

Chairman Flakoll and members of the Senate Education Committee. My name is Ben Auch I am a board member from the Mott/Regent School District and Vice President of the ND School Boards Association. I am emailing you in support of a permanent school construction loan fund. I am unable to attend your hearing due to work conflicts.

The State of ND has seen an increase in school construction not seen since the 1960's and 1970's. Much of the construction as you know is due to the Bakken oil boom. Many districts throughout the state have aging structures. Many also have no enrollment or tax base increases from the oil boom to make paying for structures easier. They are however dealing with increased construction costs due to the high demand for contractors because of the oil boom.

As you all know the DPI construction loan money appropriated last session had many more requests than available monies.

A permanent revolving loan pool will make building planning by local boards and patrons much easier. One of many obstacles our school board faced as we tried and failed to pass a bond was being on the waiting list for the DPI loan and no certainty of low interest funding. Our building project we voted on was 14.5 million dollars 10 million of which we were trying to get funding from DPI. In our case the DPI loan would have saved us about 250,000 in interest that could have been used to offset increased construction costs.

I do not believe the State of ND should pay for the many necessary new schools. I also believe and support local school board having to ask their patrons to approve major building projects through a local bond vote procedure to be able to get funding from a permanent construction fund. However the State of ND is in a great position to provide a pool of money to be loaned to local schools at extremely low rates. I would ask you to keep the interest rate below 1%.

Many schools like mine have buildings with major structural deficiencies that are no fault of the board or patrons but just structures that have been used for double or triple their expected life span. We have a structure that is over 100 years old, one that is 85 years old and our most recent is 50 years old. We like many districts are working with our patrons to determine the best plan to replace very aged structures that were never designed to support the electrical and technical needs of today's education system.

I would also ask you to put some criteria in the application process for things like rapid enrollment increases and major structural life safety issues so the most in need get the monies and not just a first come first served basis.

I once again thank for your time as I have had the pleasure to testify in front of many of you over the past several sessions. Thank you for your service to the citizens of ND and I ask you to please support a permanent school construction loan fund whether it is in this bill or in another that will come before the assembly.

--  
Thank You  
Ben Auch

**SB 2039 – Testimony by Dustin Gawrylow (Lobbyist #244) North Dakota Watchdog Network**

*Stance: As with SCR 4003 supportive of the overall concept, contingent upon removal of retirement fund provisions*

**Support** Section 1 for low interest construction loans for schools

**Oppose** Section 2’s addition of subsection “n.”

**Oppose** Section 3’s addition of a “public employee stabilization fund”, and Section 5’s transfer

**Suggested Changes:**

- Remove retirement fund provisions, address in separate pension bill if need be.
- Add explicit taxpayer protections and restrictions onto fund:
  - Funds shall be used for Capital Investment only, and shall not be used toward any general fund purpose.
  - Loans shall not exceed any school district’s current available bonding capability (debt limit), and school districts will be legally encumbered from asking their voting constituents to extend the bonding capability of the political subdivision for three-years following approval of the loan.
  - Payments of loans by school districts shall not exceed the dollar value equivalent of the revenue generated from 10 mills based on the district’s 2014 property valuations.
  - Clarify the state’s role in guaranteeing the loans, and repercussions for default.

**Conclusion**

As with the concerns on SCR 4003, tying the pension issue onto the school construction issue is a good way to poison the whole concept.

Protections should be in place to prevent the repayment of the loans from becoming a burden on taxpayers.

Loans must count against the school districts legal debt limit set by state statute.

School districts should be restricted on how soon they can ask voters to raise the debt limit after they receive the loans.

Cap the interest rate at 2%.

Clarify the state’s role in guaranteeing the loans, and repercussions for default.

February 3, 2015

#1  
2/4/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2039

Page 1, line 1, after "enact" insert "a new section to chapter 15-10, a new section to chapter 15.1-27, and"

Page 1, line 1, remove "and a new section to"

Page 1, line 2, remove "chapter 54-52"

Page 1, line 2, after the first "a" insert "scholarship fund, uses of the foundation aid stabilization fund, and a"

Page 1, line 3, remove "and a public employee retirement stabilization fund; to amend and reenact section"

Page 1, remove line 4

Page 1, line 5, replace "board" with "; to provide a continuing appropriation"

Page 1, after line 6, insert:

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

**Scholarship fund.**

The scholarship fund is a special fund in the state treasury. Moneys deposited in the fund must remain in the fund on a permanent basis. Any interest or other earnings of the fund must be used to award scholarships to residents of this state attending institutions of higher education in the state. The state board of higher education shall develop rules and guidelines for the award of scholarships from interest or other earnings of the fund.

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

**Uses of the foundation aid stabilization fund.**

Any funds that remain in the foundation aid stabilization fund, after transfers to other funds, must be used to provide state aid to school districts and educationally related property tax relief to school district patrons."

Page 1, line 9, after "**fund**" insert "**- Continuing appropriation**"

Page 1, line 10, after "special" insert "revolving loan"

Page 1, line 11, replace "may be used only for" with "are appropriated on a continuing basis for the purpose of providing"

Page 1, line 11, remove "as designated by the"

Page 1, line 12, remove "legislative assembly"

Page 1, line 12, after "other" insert "earnings of the"

Page 1, line 12, remove the second "earnings"

Page 1, remove lines 13 through 24

Page 2, remove lines 1 through 26

Page 2, line 29, remove "the sum of"

Page 2, line 30, replace "\$250,000,000" with "an amount equal to the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1, 2016,"

Page 3, line 1, remove "**PUBLIC**"

Page 3, line 2, replace "**EMPLOYEE RETIREMENT STABILIZATION FUND**" with "**SCHOLARSHIP FUND**"

Page 3, line 3, remove "the sum of"

Page 3, line 4, replace "\$200,000,000" with "an amount equal to the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1, 2016,"

Page 3, line 4, remove "public employee retirement"

Page 3, line 5, replace "stabilization" with "scholarship"

Page 3, line 6, replace "4" with "2, 4,"

Page 3, line 8, replace "4" with "2, 4,"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2039

Page 1, line 1, remove "new section to chapter 15-10, a new section to chapter"

Page 1, line 2, remove "15.1-27, and a"

Page 1, line 3, remove "scholarship fund, uses of the foundation aid stabilization fund, and a"

Page 1, line 4, after "fund" insert "; to amend and reenact section 15.1-36-01 of the North Dakota Century Code, relating to the approval of school construction projects"

Page 1, line 4, replace "transfers" with "a transfer"

Page 1, replace lines 7 through 20 with:

**"SECTION 1. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing~~Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or increase during the ensuing five school years; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;

- (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
- 4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
  - 5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district."

Page 2, replace lines 1 through 5 with:

**"North Dakota school district construction fund - Creation - Loans.**

- 1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota shall authorize the use of and administer moneys in the North Dakota school district construction fund, which is a revolving fund. The fund consists of:
  - a. Amounts transferred into the fund by legislative action; and
  - b. Repayments of loans from the fund.
- 2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
  - (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and



Page 2, line 19, remove "sections 2, 4,"

Page 2, line 20, replace "and 5" with "section 3"

Page 2, line 20, replace "take" with "takes"

Page 2, line 20, replace "sections become" with "section becomes"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment provides for the following:

- Creates school district construction loan program and provides program guidelines.
- Amends Section 15.1-36-01 regarding requirements for approval of school construction projects by the Superintendent of Public Instruction.
- Provides for a contingent transfer of \$100 million from the foundation aid stabilization fund to the school district construction loan fund. The transfer is contingent upon the passage of 2015 Senate Concurrent Resolution No. 4003 by the Legislative Assembly and approval of the measure by the voters of the state.
- Removes Sections 1, 2, and 5 which create a scholarship fund, provide for uses of the foundation aid stabilization fund, and provide a contingent transfer from the foundation aid stabilization fund to the scholarship fund.

Sixty-fourth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2039

Introduced by

Legislative Management

(Government Finance Committee)

1 A BILL for an Act to create and enact a ~~new section to chapter 15-10, a new section to chapter~~  
2 ~~15.1-27, and a~~ new section to chapter 15.1-36 of the North Dakota Century Code, relating to a  
3 ~~scholarship fund, uses of the foundation aid stabilization fund, and a~~ school construction  
4 assistance loan fund; to amend and reenact section 15.1-36-01 of the North Dakota Century  
5 Code, relating to the approval of school construction projects; to provide a continuing  
6 appropriation; to provide for ~~transfers~~ a transfer; and to provide for a contingent effective date.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

10 ~~Scholarship fund.~~

11 ~~The scholarship fund is a special fund in the state treasury. Moneys deposited in the fund~~  
12 ~~must remain in the fund on a permanent basis. Any interest or other earnings of the fund must~~  
13 ~~be used to award scholarships to residents of this state attending institutions of higher~~  
14 ~~education in the state. The state board of higher education shall develop rules and guidelines~~  
15 ~~for the award of scholarships from interest or other earnings of the fund.~~

16 ~~SECTION 1. A new section to chapter 15.1-27 of the North Dakota Century Code is created~~  
17 ~~and enacted as follows:~~

18 ~~Uses of the foundation aid stabilization fund.~~

19 ~~Any funds that remain in the foundation aid stabilization fund, after transfers to other funds,~~  
20 ~~must be used to provide state aid to school districts and educationally related property tax relief~~  
21 ~~to school district patrons.~~

22 SECTION 1. AMENDMENT. Section 15.1-36-01 of the North Dakota Century Code is  
23 amended and reenacted as follows:

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing~~Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or increase during the ensuing five school years; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United

1 States for flood control, navigation, and allied purposes in accordance with 33 U.S.C.  
2 701c-3 or in accordance with moneys received under the American Recovery and  
3 Reinvestment Act of 2009.

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

7 **SECTION 2.** A new section to chapter 15.1-36 of the North Dakota Century Code is created  
8 and enacted as follows:

9 ~~**School construction assistance loan fund - Continuing appropriation.**~~

10 ~~The school construction assistance loan fund is a special revolving loan fund in the state~~  
11 ~~treasury. Moneys in the fund are appropriated on a continuing basis for the purpose of providing~~  
12 ~~low interest school construction loans. Any interest or other earnings of the fund must be~~  
13 ~~deposited in the fund.~~

14 **North Dakota school district construction fund - Creation - Loans.**

15 1. In addition to any construction loans made available under section 15.1-36-02, the  
16 Bank of North Dakota shall authorize the use of and administer moneys in the North  
17 Dakota school district construction fund, which is a revolving fund. The fund consists  
18 of:

- 19 a. Amounts transferred into the fund by legislative action; and  
20 b. Repayments of loans from the fund.

21 2. To be eligible for a loan under this section, the board of a school district shall:

22 a. Propose a new construction or remodeling project with a cost of at least one  
23 million dollars and an expected utilization of at least thirty years;

24 b. Obtain the approval of the superintendent of public instruction for the project  
25 under section 15.1-36-01;

26 c. (1) Request from the tax commissioner a statement of the estimated tax  
27 increase, in mills and dollars, which would be applicable to a residential  
28 parcel of average true and full value within the county in which the school  
29 district is headquartered, if a loan under this section and any associated  
30 school construction bond issue were to be authorized in accordance with  
31 chapter 21-03;

- 1                   (2) Request from the tax commissioner a statement of the estimated tax  
2                   increase, in mills and dollars, which would be applicable to an acre of  
3                   cropland and to an acre of noncropland, of average true and full value within  
4                   the county in which the school district is headquartered, if a loan under this  
5                   section and any associated school construction bond issue were to be  
6                   authorized in accordance with chapter 21-03;
- 7                   (3) Publish in the official newspaper of the district the information from the  
8                   statements required by this subdivision with the notice of the election to  
9                   authorize the school construction bond issuance in accordance with section  
10                  21-03-12; and
- 11                  (4) Post on the school district's website the information from the statements  
12                  required by this subdivision for at least the thirty-day period immediately  
13                  preceding the date of the election to authorize the school construction bond  
14                  issuance in accordance with chapter 21-03;
- 15                  d. Receive authorization for a bond issuance in accordance with chapter 21-03; and  
16                  e. Submit a completed application to the Bank of North Dakota.
- 17                  3. The Bank of North Dakota shall prioritize the applications and award loans under this  
18                  section to eligible school districts during July of each year, beginning in 2015. The  
19                  prioritization must be based on a consideration of:
- 20                  a. Student occupancy and academic needs in the district;  
21                  b. The age of existing structures to be replaced or remodeled;  
22                  c. Building design proposals that are based on safety and vulnerability  
23                  assessments;  
24                  d. Community support;  
25                  e. Cost of the project and the ability of the school district to repay the loan; and  
26                  f. Any other criteria established in rule by the superintendent of public instruction,  
27                  after consultation with an interim committee appointed by the legislative  
28                  management.
- 29                  4. The term of a loan under this section is twenty years, unless a shorter term is  
30                  requested by the board of a school district in its application.
- 31                  5. The interest rate on a loan under this section may not exceed two percent.

1     6. The maximum loan amount to which a school district is entitled under this section is  
2             ten million dollars.

3             **SECTION 3. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL**

4     **CONSTRUCTION ASSISTANCE LOAN FUND.** During the period beginning July 1, 2016, and  
5     ending June 30, 2017, the office of management and budget shall transfer ~~an amount equal to~~  
6     ~~the lesser of \$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund~~  
7     ~~on July 1, 2016,~~ the sum of \$100,000,000 from the foundation aid stabilization fund to the school  
8     construction assistance loan fund.

9     ~~SECTION 4. TRANSFER - FOUNDATION AID STABILIZATION FUND TO~~

10    ~~SCHOLARSHIP FUND.~~ During the period beginning July 1, 2016, and ending June 30, 2017,  
11    ~~the office of management and budget shall transfer an amount equal to the lesser of~~  
12    ~~\$300,000,000 or fifty percent of the balance of the foundation aid stabilization fund on July 1,~~  
13    ~~2016, from the foundation aid stabilization fund to the scholarship fund.~~

14            **SECTION 4. CONTINGENT EFFECTIVE DATE.** ~~Sections 2, 4, and 5~~ Section 3 of this Act  
15    ~~are~~ is contingent on the passage of Senate Concurrent Resolution No. 4003 by the sixty-fourth  
16    legislative assembly and approval of that resolution by the voters of this state. If ~~sections 2, 4,~~  
17    ~~and 5~~ section 3 of this Act ~~take~~ takes effect, the ~~sections become~~ section becomes effective on  
18    July 1, 2016.

**ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH MARCH 24, 2015)**

#2  
4116  
SB 2039

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		\$335,364,942		\$611,894,942
Add estimated revenues				
Oil extraction tax allocations	\$276,530,000 <sup>1</sup>		\$131,180,000 <sup>1</sup>	
Total estimated revenues		276,530,000		131,180,000
Total available		\$611,894,942		\$743,074,942
Less estimated expenditures and transfers				
Transfer to state school aid program	\$0 <sup>2</sup>		\$0 <sup>2</sup>	
Contingent transfer to the school construction assistance loan fund (2015 SB 2039)				
Contingent transfer to the public employee retirement stabilization fund (2015 SB 2039)				
Total estimated expenditures and transfers		0		0
Estimated ending balance		\$611,894,942		\$743,074,942

<sup>1</sup>Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through February 2015 and estimated allocations for the remainder of the 2013-15 biennium and the 2015-17 biennium per the March 2015 revised revenue forecast.

<sup>2</sup>Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2013-15 biennium or the 2015-17 biennium.

**NOTE**

The following resolution and bill under consideration by the Legislative Assembly may affect the foundation aid stabilization fund:

- Reengrossed Senate Concurrent Resolution No. 4003 provides for a constitutional amendment to allow the Legislative Assembly to appropriate or transfer the principal balance of the foundation aid stabilization fund in excess of 15 percent of the general fund appropriation for state school aid for making low-interest loans for school construction projects; providing scholarships to residents attending institutions of higher education in the state; supplementing the common schools trust fund; or providing state aid to school districts and educationally related property tax relief to school district patrons.
- Engrossed Senate Bill No. 2039 establishes a scholarship fund and a school construction assistance loan fund. The bill provides for transfers from the foundation aid stabilization fund to the school construction assistance loan fund (the lesser of \$300 million or 50 percent of the balance of the fund) and to the scholarship fund (the lesser of \$300 million or 50 percent of the balance of the fund) contingent on the approval of Senate Concurrent Resolution No. 4003 by the Legislative Assembly and the voters in June 2016.

650  
250  
400

**FUND HISTORY**

The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment, now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction tax revenue be allocated as follows:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 percent (of the 20 percent) to the foundation aid stabilization fund.

The principal of the foundation aid stabilization fund may only be spent upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall. North Dakota Century Code Section 54-44.1-12 provides that the Director of the Budget may order an allotment to control the rate of expenditures of state agencies. This section provides that an allotment must be made by specific fund and all departments and agencies that receive money from a fund must be allotted on a uniform percentage basis, except that appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund.

Section 16. Any city, county, township, town, school district or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

#1  
4/24  
SB 2039

Section 17. No bond or evidence of indebtedness of the state is valid unless it has endorsed thereon a certificate, signed by the auditor and secretary of state showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision is valid unless it has endorsed thereon a certificate signed by the officer authorized by law to sign such certificate, stating that said bond or evidence of debt is issued pursuant to law and is within the debt limit.

Section 18. The state, any county or city may make internal improvements and may engage in any industry, enterprise or business, not prohibited by article XX of the constitution, but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation.

Section 19. The legislative assembly is hereby authorized and empowered to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the states of Minnesota or Wisconsin, or both, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.

Section 20. The legislative assembly is hereby authorized and empowered to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the state of North Dakota, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.

Section 21. Not less than fifteen percent of the tax imposed for severing coal shall be placed into a permanent trust fund in the state treasury to be held in trust and administered by the board of university and school lands, which shall have full authority to invest said trust funds as provided by law, and may loan moneys from the fund to political subdivisions as provided by law. The interest earned on the moneys in said trust fund shall be used first to replace uncollectable loans made from the fund, and the balance shall be credited to the general fund of the state. Up to fifty percent of the taxes collected and deposited in the permanent trust fund during a biennium may be appropriated by the legislative assembly for lignite research, development, and marketing as provided by law. An additional twenty percent of the taxes collected and deposited in the permanent trust fund during a biennium may be appropriated by the legislative assembly for clean coal demonstration projects approved by the industrial commission.

Section 22. The legislative assembly may provide by law for a percentage of revenue from taxes imposed on the extraction or production of oil to be allocated and credited to a special trust fund, to be known as the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation for:

1. Constructing water-related projects, including rural water systems; and
2. Funding of programs for energy conservation.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2039

That the House recede from its amendments as printed on pages 1373-1376 of the Senate Journal and pages 1555-1558 of the House Journal and that Engrossed Senate Bill No. 2039 be amended as follows:

Page 1, line 2, replace the first "a" with "two"

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "scholarship" insert "endowment"

Page 1, line 3, remove "and"

Page 1, line 4, after "fund" insert ", and school construction loans; to amend and reenact section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction approval and loans, bond elections, and the coal development trust fund"

Page 1, line 4, replace "and" with "to provide for a report to the legislative management;"

Page 1, line 5, after "date" insert "; and to declare an emergency"

Page 1, line 9, after "**Scholarship**" insert "**endowment**"

Page 1, line 9, after "**fund**" insert "**- Rules**"

Page 1, after line 9 insert "1."

Page 1, line 10, after "scholarship" insert "endowment"

Page 1, line 11, after the underscored period insert:

"2."

Page 1, line 13, after the underscored period insert:

"3."

Page 1, line 14, replace "award" with "awarding"

Page 1, line 18, after "Any" insert "accessible"

Page 1, line 18, after "after" insert "completion of the required"

Page 1, line 19, replace "to provide" with "for educationally-related purposes, including"

Page 1, line 19, after "educationally" insert a hyphen

Page 1, after line 20, insert:

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

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~
    - (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or
    - (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.

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

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

1. In order to provide school construction loans, the board of university and school lands may authorize the use of:
  - a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and
  - b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.

**SECTION 5.** A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

**School construction loans - Bank of North Dakota.**

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred million dollars from the school construction assistance loan fund to eligible school districts for school construction loans, except that the total of all loans provided under this section prior to July 1, 2018, may not exceed fifty percent of the total amount authorized under this subsection.
2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
  - (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;



Page 2, after line 1, insert:

"1."

Page 2, line 3, after the underscored period insert: "The fund consists of:

- a. All moneys appropriated or transferred to the fund by the legislative assembly;
- b. One hundred fifty million dollars from the strategic investment and improvements fund, which had been allocated by the sixty-third legislative assembly for school construction loans in accordance with section 15.1-36-02;
- c. The income, including interest payments on loans from the coal development trust fund as authorized in accordance with section 57-62-02; and
- d. All interest or other earnings of the fund, and all repayments of loans made from the fund.

2."

Page 2, line 4, remove ". Any interest or other earnings of the fund must be"

Page 2, line 5, replace "deposited in the fund" with ", in accordance with this chapter"

Page 2, after line 5, insert:

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

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

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, ~~and in no event may more.~~
2.
  - a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
  - b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

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

1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands

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

Page 2, line 7, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 9, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 10, replace "July" with "December"

Page 2, line 13, after "**SCHOLARSHIP**" insert "**ENDOWMENT**"

Page 2, line 13, replace "July 1, 2016" with "with the effective date of this section"

Page 2, line 15, replace "\$300,000,000" with "\$200,000,000"

Page 2, line 15, replace "July" with "December"

Page 2, line 16, after "scholarship" insert "endowment"

Page 2, after line 16, insert:

**"SECTION 11. REPORT TO LEGISLATIVE MANAGEMENT.** At the time and in the manner requested by the legislative management, the office of management and budget shall provide a report regarding the financial status of the foundation aid stabilization fund."

Page 2, line 17, remove "4, and"

Page 2, line 17, after "5" insert ", 9, and 10"

Page 2, line 19, remove "4,"

Page 2, line 20, remove "and"

Page 2, line 20, after "5" insert ", 9, and 10"

Page 2, line 20, replace "July" with "December"

Page 2, after line 20, insert:

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

Renumber accordingly

#1  
4/24

**Flakoll, Tim**

---

**From:** Larson, Brady A.  
**Sent:** Saturday, April 18, 2015 8:37 AM  
**To:** Flakoll, Tim  
**Subject:** RE: Q

*file for SB2039*

See responses below. Both programs have carryover authority to continue unused funds into a subsequent biennium. The biennial appropriation for a program may be less than estimated expenses because there is extra funding carried over into the biennium and used for the program.

---

**From:** Flakoll, Tim  
**Sent:** Friday, April 17, 2015 2:06 PM  
**To:** Larson, Brady A.  
**Subject:** Q

How much are we currently slated to spend this 2013-2015 biennium for

- 1) Needs based scholarships (2013-15 appropriation - \$21,245,679; anticipated expenditures of \$21,099,856)
- 2) Merit based scholarships (2013-15 appropriation - \$10,000,000; anticipated expenditures of \$12,062,187)

Based on current legislation pending this session how much will we spend on

- 1) Needs based scholarships in 2015-2017 (\$25,634,276 which includes funding to increase grants to \$1,950 per year)
- 2) Merit based scholarships in 2015-2017 (\$14,054,677 which includes changes to eligibility rules in 2074 and 2075)

**Senator Tim Flakoll**

*Tim Flakoll*

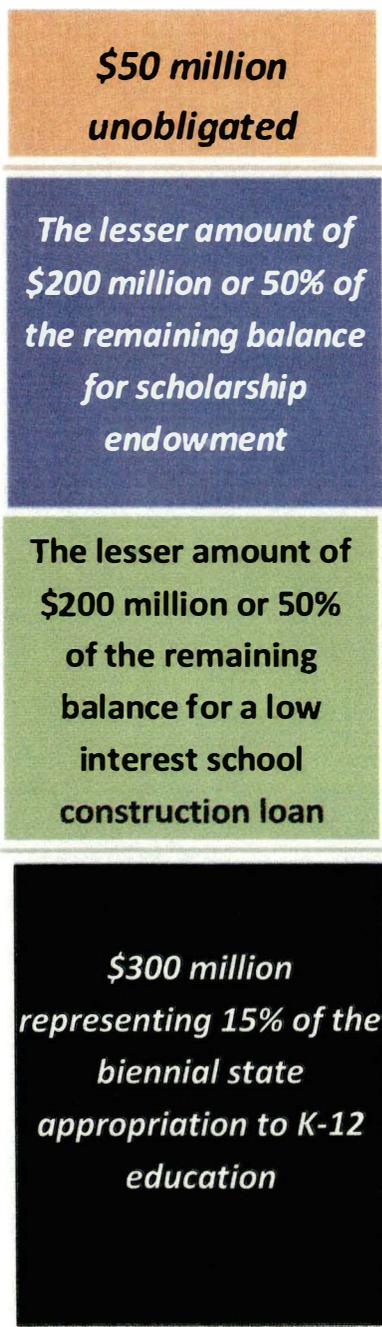
District 44  
Chairman, Senate Education committee  
Government and Veterans Affairs committee  
Chairman, Council of State Governments Midwest



#2  
4/24

SB 2039 - Proposal for the first two year.

- 1) At the end of the 2015-2017 it is estimated that there will be \$750 million in the Foundation Aid Stabilization fund.
- 2) Approximately \$300 million would remain in the fund per SCR 4003 in order to ensure all K-12 appropriation obligations are met.
- 3) Initial money (over the 15% threshold) goes out 50% and 50% until which time the low interest construction and scholarship programs each reach \$200 million.
- 4) This would leave \$50 million in unobligated funds in the Foundation Aid Stabilization Fund.
- 5) In the future, more funds will come into this fund and those over the 15% level are available for use by the Legislature in future sessions.



**\$50 million  
unobligated**

*The lesser amount of  
\$200 million or 50% of  
the remaining balance  
for scholarship  
endowment*

**The lesser amount of  
\$200 million or 50%  
of the remaining  
balance for a low  
interest school  
construction loan**

*\$300 million  
representing 15% of the  
biennial state  
appropriation to K-12  
education*