1999 SENATE EDUCATION

SB 2042

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

☐ Conference Committee

Hearing Date January 11, 1999

Tape Number	Side A	Side B	Meter #
1	x		1005-6083
		x	0-70
1-13 1		x	30-4407
Committee Clerk Signature Linda Christman			

Minutes:

SENATOR FREBORG opened the hearing on SB 2042 in the Missouri River Room.

Committee members present: Sens. Freborg-Chairman; D. Cook; T. Flakoll; T. Wanzek; J. Kelsh; D. O'Connell; and Redlin.

Anita Thomas, Legislative Council: Testified in favor. (See testimony).

SENATOR FREBORG: Are there any questions?

SENATOR KELSH: Do you remember what the difference in ratings is and how much does it affect the interest rates?

ANITA: No, I don't.

SENATOR FREBORG: Thank you, Anita. Any other testimony in favor of SB 2042.

TOM TUDOR, EX. DIRECTOR OF MUNICIPAL BOND BANK (See testimony).

SENATOR FREBORG: Are there any questions for Tom?

SENATOR O'CONNELL: Give me a brief 101 course on the bond bank and how it got started as an authority and what not.

TOM TUDOR: The Bond Bank was established in 1975 by the Legislature. At that time, it was operated as part of the Bank of North Dakota. The Bond Bank after 609.4 provides that the purpose of the Bond Bank is to make loans to political subdivisions by purchasing municipal securities issued by those political subdivisions. That is essentially what the Bond Bank does. In 1989, the Industrial Committee, which oversees the Bond Bank, separated the Bond Bank from the Bank of North Dakota. At this time, the Bond Bank reports directly to the Industrial Commission in the same manner as the bank does helping finance geological survey, oil and gas, and the state elevator. It is an independent agency. The sole purpose is to make loans to political subdivisions.

SENATOR REDLIN: By keeping the bonds, that helps the favorable rate?

TOM TUDOR: It may be normal if you have a larger bond issue or it may attract more bids. Bond Bank bonds, under the capital financing program and under the program established under 2042, would be sold on a competitive basis. The larger the size means the more potential for attracting more bidders. The increased competition leads to lower interest rates. By pooling the loans, one can have one bond issue for several loans because a lot of the cost of insurances are fixed. That would lower those costs to each individual participating school district.

SENATOR REDLIN: Do you have that savings in addition to the lower interest rate? Do you ever anticipate using this guarantee and how would it affect the school district if you had to use it?

TOM TUDOR: Based on records of school districts with respect to paying their bonds, I would not expect the interest cause to ever be used. Historically, I don't believe there has ever been a default by a school district with respect to bonds issued for construction. When school districts issue bonds there is usually a dedicated tax loan in place either through an election or a pledge in the their existing building fund. Once bonds are issued that tax loan can't be discontinued. It has to stay in place until the bond is full. Bonds issued are general obligation bonds of a school district.

SENATOR REDLIN: Do you put the state aid in jeopardy to make a better deal on the bonds?

TOM TUDOR: Approximately twenty states or so have similar programs right now involving state aid intercept or some form of state credit enhancement. This bill would combine those two. The concept is to provide a higher rating on the bonds. It is not expected for a school district to enter this program that the state aid intercept would ever have to be used. They would have to come up with money to make bond payment and if they have other available revenue which would include the state aid payments, I suspect that they would use that. They could use other revenue to forgo using state aid payments.

SENATOR REDLIN: I know the tight budgets that exist in school systems today and the situation with teacher salaries. It scares me to think state aid is in jeopardy in anyway at all. That is a concern. If state aid gets attacked, the very people who need it the most would practically have to close the school. This is not a thing to be taken lightly. Assuming when a bond bank deals with a school district they are going to be pretty practical people and make sure that payment potential is really there.

TOM TUDOR : In establishing a program, we would have to structure the bond bank bonds with respect to the timing of the bond bank payments so there would be a considerate piece of time so we would know if there would be a short fall. The principle payments on the bond bank would probably be scheduled to be made in September so tax payments, which are due, come in January. Then you'd have about eight months of revenues coming into the school district. Payment dates would be shortly after the start of the school district's fiscal year. There would be approximate months for tax revenues and almost a full year of state aid payments available at the time bond payment is due. We need to give time for alternative methods to obtain or come up with financing.

SENATOR WANZEK: I want to try and understand this subsection 4. Tell me if I'm right or wrong. Escrow acts are set up at banks. The amendment in this bill would allow you to also attach to those escrow acts, for the purpose of serving even principle, refunding bonds.

TOM TUDOR : Subsection 4 deals primarily with loans that the bond bank made under the program established in 1989. In that program, loans were made at 2.5 % to school districts. With the revolving fund in place, the program was set up so the bond bank would issue bonds to make loans to school districts. Each time the bond bank would issue bonds to make a school district loan, escrow funds were established at the Bank of North Dakota for each individual loan. Escrow was sized on a present value basis so that on each interest payment date the bond bank receives a payment from that fund in an amount to make up the difference between 2.5 % interest that school district is paying and the full amount of the interest payment that a bond bank is required to make on outstanding bonds. The difference between the 6% and 2.5% comes from that escrow act. The school district bonds were kept in place as they had a low interest rate of 2.5% so there was an excess amount in the escrow funds.

SENATOR WANZEK: On initial school construction loans, when the escrow was set up, the school had a loan at 2.5%. Where did the money come from to go into the escrow account to help make that payment and difference in interest?

TOM TUDOR: In 1989 there was, in place, a revolving loan fund which had been funded by the Legislation and this money was available for that purpose. It was in the school loan program that is the subject of 2041 and was set up at the same time as the Legislature. Also, loans held in the revolving loan fund consisted of cash, school loans, and also some school construction leases going back into the 1980's. The total value in fund was approximately $5,000,000. Legislation directed that the school leases be sold and proceeds deposited in general funds. That was done through the bond bank. The bond bank issued a series of bonds and purchased those school leases from the Board of Public School Education and roughly $5,000,000 went into the general fund. That wiped out the revolving fund with respect to any dollars being available for aid to school districts. The program was put in place to make the loans available through the Board of Universities and Schools. That program is capped out at $25,000,000. SB 2041 will increase the amount available to $40,000,000, but it is only a matter of time before that will be capped out. This is an alternative program under 2042 that could be used in combination with the loan program under 2041.

SENATOR O'CONNELL: Is this your amendment?

TOM TUDOR: Yes it is.

SENATOR O'CONNELL: Would you explain it?

TOM TUDOR: The amendment basically has to do with subsection 4 on page 2 line 14; the phrase interest rate would be replaced with debt service. The phrase debt service payments should include principle and interest so that would enable the bond bank to use the excess money. Then they can make principle and interest payments rather than just interest payments. The following amendment just clarifies that it would be for loans that were made under the 1989 school loan construction.

SENATOR FREBORG: Any other questions? Anyone else testifying in favor of SB 2042.

TOM DEXTER, DIRECTOR OF THE SCHOOL FINANCE ORGANIZATION

We support this bill. We worked with the Interim Finance Committee to put this bill together. There is a growing number of school districts in North Dakota because of declining enrollment in rural North Dakota who also face increasing difficulty coming up with funding for any kind of capital construction and major projects. Approaches like this, which are innovative, allow districts to combine their loans and take advantage of a variety of vehicles and get better interest rates. They are worth pursuing and, in fact, necessary. Voluntary programs will be used only after districts have checked all of their options and understand the risks of the program. In terms of potential jeopardy to the school funding aid and the state foundation aid, I would suggest a number of other sources that are more eminent. The risk of school funding being jeopardized because of this is very small. It is virtually impossible for a school to default on a loan. The bill is designed to act on the perceptions of people outside of North Dakota who set bond rates. It provides them with a comfort level so we can get the best bond rates available. That's a big help. We support this approach.

SENATOR COOK: Your bond rating is based on a perception of risk, is that correct? In this I can see where it would ease one's perception of a high degree of risk, but is there a difference in the risk between one school district and another.

TOM DECKER: Yes, there is. North Dakota may never see the need for this program because their school district bond raising equal exceeds anything they can get here. The benefits are smaller for those schools who currently have bond ratings and that is less attractive.

SENATOR COOK: What makes them less attractive?

TOM DECKER: The question is probably for Tom Tudor who is in charge of finance. It is probably the capability to repay a loan that is demonstrated in the ability to repay existing loans, all of that kind of history. There is only a handful of school districts in North Dakota that have any capital debt and have made payments on any long term bonds for construction issues lately. There are the big four that are continually in debt. For example, Fargo has heavy debt load but a good credit history and bond rating.

SENATOR COOK: Does the demographic of our student base enter into one's perception of risk?

TOM DEXTER: It certainly does.

SENATOR COOK: Where do we have that in place to look at right now and what type of mechanism do we have to assure us that we probably are not going to be financing a school construction in a place that doesn't have a bright future?

TOM DEXTER: There is not a perfect system. We will do the best we can. Additional authority will help us deny that request and give us different choices. We may approve a construction process or we may not engage in construction loans for those districts because we think they are marginal and the risk is high.

SENATOR COOK: A local school district is not going to tap into any of the construction money available from the school trust fund. They are not going to pursue their own bonds. We have no means to really stop their pursuit of building the school. Is that correct?

TOM DEXTER: The law is now written that any capital construction project in a school district is more than $28,000 then it needs department approval. There is the protection.

SENATOR WANZEK: The school district department analyzes the school district before they extend a loan. What if there is a school district that looks like it has the potential to pay but then things change in the next ten years and they still have an outstanding debt. We have to utilize this provision without them using some of their state aid to pay their payments which would accelerate towards their closing. Aren't there provisions in the law that allow that the school should ultimately close and still have debt that the local tax payers would have to be assessed an amount to cover the payments to the creditor?

TOM DEXTER: The law is very clean. Once entered into general obligation bonds, the taxing authority to pay those bonds for the life of those bonds is levied against the property that is in that school district but won't let that school district become part of another school district until those bonds are paid. It has never been a problem. I don't see it being used that way under current law.

SENATOR FREBORG: Thank you Tom. Anyone else in favor? We should hoghouse this and put it into an amendment form then we can give it some consideration. The Department of Public Instruction should be here because Tom indicated they may be opposed.

SENATOR COOK: I want the sinking fund explained.

SENATOR FREBORG: Let's have Tom appear before us to answer some questions.

SENATOR KELSH: Tom Tudor or Tom Dexter?

SENATOR FREBORG: Tom Dexter.

Dr. Wayne Sanstead,Superintendent of Public Instruction appeared before the committee to briefly give a few examples of construction loans.

SENATOR FREBORG : Any further testimony?

Myron Knudson, Senior Vice President of Education Finance Committe testified. Testimony in support of bill SB2042. Testimony attached.

SENATOR KELSH : Are you saying this language would totally replace subsection 5 of the bill?

Myron: South Dakota has options. This benefits smaller districts as they get better bonding ratings.

Mike Manstrom, NoDak Bonds testified in favor of SB 2042. They support it as amended for private companies working in North Dakota. Need competition. Testimony attached.

SENATOR WANZEK : Myron, you want the same opportunity as the Bond Bank to bid for competitive process.

Myron: Yes

SENATOR FREBORG : Any other testimony on SB2042? Hearing is closed on SB2042.

January 13, 1999

Discussion of SB2042

SENATOR KELSH : Would you tell me the differences between the amendments.

SENATOR FREBORG: Briefly Tom you can explain the difference between yours and Councils which we have already adopted. We do not the bill before us we just simply looking at the differences between them.

Tom Tudor: The amendments that Myron Knudson gave you at the hearing last week which were prepared in amendment form. The Council makes the withholding of the state aid payments mandatory and also make it mandatory that a school district notify the Superintendent of Public Instruction if they were not going to make the payments. The superintendent must withhold the state aid payments. That is probably one thing the amendments do.

SENATOR FREBORG : Would that requirement cause DPI to normally withhold sooner than they have to.

Tom: I believe so.

SENATOR KELSH : Does it change the option then that the school district has of signing the agreement that this could happen. Original bill supposedly had an option they didn't have to go this route. These amendments require that if they can't make the indebtedness or not even give them the option of these changes.

Tom: Withholding was in keeping with the bond bank.

SENATOR FREBORG : Do you want Tom or Anita here while we discuss this?

SENATOR KELSH : With any paying agent is that anyone else like Nodak Bonds?

SENATOR FREBORG : I would assume. I have a problem with the entire bill. I really can't understand why we need to do something on paper. Schools cannot fail, its impossible under the law. The obligation goes to the property and the district. Its not the schools obligation.

SENATOR KELSH : This depends on the property taxes coming in to make that payment. Guarantee that this payment would be made on time which gives the bonding company the comfort to give a little better interest rate.

SENATOR FREBORG : What happens if we took a lot of property. If land values go way up the levy goes down. You only levy enough to meet the obligation. I don't know how we could fail. We're doing this to get a better rate. Is that right?

SENATOR WANZEK : I would agree with you except from the stand point of perception.

SENATOR FREBORG : I'm really reluctant to take away the state aid.

SENATOR KELSH : Never happened and maybe never will.

SENATOR WANZEK : The ones that aren't using intelligence is the investors, they are giving up one half % for really nothing on their investment. We need a motion to adopt the amendment 90084.0301.

SENATOR COOK : Looking at testimony from Nodak.

SENATOR FREBORG : These are the amendments we are discussing. Tom assured me that he would love to have us do it their way.

SENATOR REDLIN : Spelling out hopefully making it a little clearer what the original input was.

SENATOR FREBORG : Exactly, frustrating because we are giving them a piece of paper to put in their file and they believe by doing that we will get a better rate.

SENATOR REDLIN : This makes it a little clearer. Motion is to adopt the amendment titled 90084.0301. Clerk take the roll. Vote 7 (Yes) 0 (No).

Motion to adopt the amendment titled 90084.0301 carried. Now SB2042 is amended.

We now have an amended bill before us.

Any discussion on the amended bill.

SENATOR REDLIN : Relates to construction in the district.

SENATOR WANZEK : Simply perception.

SENATOR REDLIN : If you cut off the aid and pay the indebtedness that is due at the moment they probably would close the school and then how does that affect? They don't need the money then cause there are no kids to pay for,. Do you get to the bond sooner.

SENATOR FREBORG : The school, as soon as the bonds are sold the people vote on the bond issue and school no longer has an obligation. They can close the school but the payments will continue to be made.

SENATOR KELSH : Obligation is obligation of the property tax payers of the district. I feel we would be remiss if we didn't use it. If we can save one half % over the years it would save the people a large chunk of money.

SENATOR FREBORG : Don't think any of us would support the bill if we though they'd end up taking foundation aid.

SENATOR KELSH : I make a motion for a DO PASS.

SENATOR REDLIN : 2nd the motion

SENATOR FREBORG : Motion for DO PASS as amended on SB2042. Vote 6 (Yes) 1 (No) Motion carried. Carrier: SENATOR KELSH

Senator Freborg
January 12, 1999

3
1/15/99

PROPOSED AMENDMENTS TO SENATE BILL NO. 2042

SENATE AMENDMENTS TO SB 2042 EDUCATION 1/15/99

1 of 2

Page 1, line 2, replace "evidences of indebtedness" with "debt obligations"

Page 1, line 8, replace "**Evidences of indebtedness**" with "**Debt obligations**"

Page 1, after line 8, insert:

"1. If a school district believes that it may be unable to make a principal or interest payment on any outstanding debt obligation on the date that the payment is due, the school district shall notify the superintendent of public instruction at least fifteen working days before the due date. The notice must include:

a. The name of the school district;

b. An identification of the debt obligation in question;

c. The date the payment is due;

d. The amount of principal and interest due on the payment date;

e. The amount of principal and interest the school district will be unable to repay on the payment date;

f. The paying agent for the debt obligation; and

g. Instructions regarding the forwarding of payment to the paying agent."

Page 1, line 9, replace "1" with "2" and after "bank" insert "or any paying agent"

Page 1, line 10, replace "evidences" with "outstanding debt obligation"

Page 1, remove line 11

Page 1, line 12, remove "July 31, 1999" and after "bank" insert "or any paying agent"

Page 1, line 15, after "bank" insert "or any paying agent"

Page 1, line 16, replace the first "the" with ":

a. The"

Page 1, line 18, replace ", or until the bond bank notified the superintendent of public instruction" with ";

b. The payment of the principal or interest has been made to the paying agent for the debt obligations; or

c. Until the bond bank or any paying agent notifies the superintendent of public instruction that satisfactory arrangements have been made for the payment of the principal and interest then due and owing."

Page 1, remove lines 19 and 20

Page 1, line 21, replace "2" with "3"

Page 1, line 23, after the first "bank" insert "or any paying agent" and after the second "bank" insert "or any paying agent"

SENATE AMENDMENTS TO SB 2042 EDUCATION 1/15/99

Page 2, line 1, remove "to the bond"

Page 2, line 2, remove "bank or to any trustee from the bank's bondholders"

Page 2, line 3, replace "3" with "4" and after "bank" insert "or any paying agent"

Page 2, line 7, after the second underscored comma insert "or with the consent of a paying agent,"

Page 2, line 9, after "bank" insert "or any paying agent"

Page 2, line 10, replace "4" with "5"

Page 2, after line 21, insert:

"6. For purposes of this section, debt obligation means a general obligation bond or an evidence of indebtedness sold to the municipal bond bank."

Renumber accordingly

Date: 1/13/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

Senate EDUCATION Committee

☐ Subcommittee on ______
or
☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken Vote to adopt amendment 90084.0301

Motion Made By Sen. Wanzek Seconded By Sen. Cook

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent ______

Floor Assignment ______

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

Date: 1/13/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

Senate EDUCATION Committee

☐ Subcommittee on
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken Motion for Do Pass as amended

Motion Made By Sen. Kelsh

Seconded By Sen. Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell		✓			
Senator Redlin	✓				

Total (Yes) 6 No 1

Absent

Floor Assignment Klesh

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

Date: 1/18/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

Senate EDUCATION Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Motion to reconsider our actions where we passed SB 2042 out of our committee.

Motion Made By Sen. Redlin Seconded By Sen. Cook

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent

Floor Assignment

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

Date: 1/19/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

Senate EDUCATION Committee

☐ Subcommittee on
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken Move to reconsider our by which we amended SB 2042

Motion Made By Flakoll Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent

Floor Assignment

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

Date: 1/19/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

Senate EDUCATION Committee

☐ Subcommittee on
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken Moves to adopt the Tudor amendments

Motion Made By Kelsh Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent

Floor Assignment

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

Date: 1/19/99
Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

Senate EDUCATION Committee

☐ Subcommittee on
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken Motion for Do Pass on SB2042 as amended

Motion Made By Kelsh Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell		✓			
Senator Redlin	✓				

Total (Yes) 6 No 1

Absent

Floor Assignment Sen. Kelsh

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

REPORT OF STANDING COMMITTEE

SB 2042: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

Page 1, line 9, after "bank" insert "or a paying agent" and after "instruction" insert ", in writing,"

Page 1, line 11, replace "sold to, or which support any bonds sold by, the bond bank" with "issued"

Page 1, line 12, after "bank" insert "or the paying agent"

Page 1, line 14, remove ", upon written notification"

Page 1, line 15, remove "from the bond bank,"

Page 1, line 17, replace "trustee, if any, for the bond bank's" with "paying agent"

Page 1, line 18, remove "bondholders" and after "bank" insert "or the paying agent"

Page 1, line 19, after "bank" insert "or the paying agent"

Page 1, line 20, after the underscored period insert "The notification must include information required by the superintendent of public instruction. State funds available to a school district under chapter 15-40.1 are not subject to withholding under this section unless the withholding is authorized by resolution of the district's school board."

Page 1, line 23, after the first "bank" insert "or the paying agent" and after the second "bank" insert "or the paying agent"

Page 2, line 2, replace "to any trustee for the bank's bondholders" with "the paying agent"

Page 2, line 3, after "bank" insert "or a paying agent"

Page 2, line 7, replace "trustee, if any" with "paying agent"

Page 2, line 9, after "bank" insert "or a paying agent"

Page 2, line 14, replace "interest rate" with "debt service payments"

Page 2, line 16, after "section" insert "or construction loans made to school districts under the state school construction program established by section 11 of chapter 2 of the 1989 Session Laws"

Renumber accordingly

1999 HOUSE EDUCATION

SB 2042

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

House Education Committee

❑ Conference Committee

Hearing Date 3-3-99

Tape Number	Side A	Side B	Meter #
Tape # 1	x		36.1 to end
Tape # 1		x	0.1 to 12.8
Committee Clerk Signature Joan Diers			

Minutes:

Chairman R Kelsch , Vice Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep Haas , Rep Johnson , Rep Nelson , Rep Nottestad , Rep L Thoreson , Rep Grumbo , Rep. Hanson , Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R Kelsch : We will open the hearing on SB 2042 and ask the clerk to read the title.

Anita Thomas: Legislative Council. This bill is a product of an interim committee and was a study of school construction finance issues. The goal of this bill is to strength the credit quality option and thereby lower the interest rate on bond issued to fund school construction loans. She then spent some time on introducing the bill.

Tom Tudor: Executive Director of North Dakota Municipal Bond Bank. (See attached testimony) and handout on bond sales. Some time was spent on bond issues ie who sell bonds, default on bonds, who is eligible to sell bonds.

End of tape 1 side A   Begin tape 1 side B

Continue of testimony of Tudor on bond.What criteria is used for bonds. Escrow accounts, what commission the Bond Bank is under, who establishes levy.

Tom Decker: Director of School Finance DPI. spoke in support of SB 2042. More discussion held on who can sell bonds and who assumes debt and obligation of construction when school districts no longer have schools. Part of his job is to review construction applications and school contruction loans and make recommendations to the Superintendent.

Chairman R Kelsch : Anyone wishing to speak in opposition of SB 2042? We will close the hearing on SB 2042.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042-3-8-99

House Education Committee

❑ Conference Committee

Hearing Date 3-3-99

Tape Number	Side A	Side B	Meter #
Tape # 1		x	31.4 to 36.2
Committee Clerk Signature	Joan Diiis		

Minutes:

Chairman R Kelsch , Vice Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep Haas , Rep Johnson , Rep Nelson , Rep Nottestad , Rep L Thoreson , Rep Grumbo , Rep. Hanson , Rep. Lundgren , Rep. Mueller . Rep. Nowatzki . Rep. Solberg ,

Chairman R Kelsch : We will take up SB 2042, what are the wishes of the committee?

Rep Haas :Move a DO PASS

Rep Nottestad : Second.

Chairman R Kelsch : Discussion. Motion of Do PAss before the committee, ask the clerk to call the roll. Motion passes 15 YES 0 NO 0 Absent Floor assignment Rep Haas .

Date: 3-3-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2042

House Education Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Haas Seconded By Nottestad

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson	✓				
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Haas

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

REPORT OF STANDING COMMITTEE

SB 2042, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2042 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2042

PROPOSED AMENDMENTS TO SENATE BILL NO 2042

Page 2, line 14, replace "interest rate" with "debt service payments"

Page 2, line 16, after "section" insert "or construction loans which were made to school districts under the state school construction program established by section 11 of chapter 2 of the 1989 Session Laws"

PROPOSED AMENDMENTS TO SENATE BILL NO. 2042

Page 1, line 9, after "bank" insert "or a paying agent"

Page 1, line 9, after "instruction" insert "in writing"

Page 1, line 11, replace "sold to, or which support any bonds sold by, the bond bank" with "issued"

Page 1, line 12, after "bank" insert "or the paying agent"

Page 1, line 14, remove ", upon written notification"

Page 1, line 15, remove "from the bond bank"

Page 1, line 17, replace "the trustee, if any, for the bond bank's" with "the paying agent"

Page 1, line 18, remove "bondholders" and after "bank" insert "or the paying agent"

Page 1, line 19, after "bank" insert "or the paying agent"

Page 1, line 20, after the period insert "The notification must include information required by the superintendent of public instruction. State funds available to a school district under chapter 15-40.1 will not be subject to withholding under this section unless the withholding is authorized by resolution of the district's school board."

Page 1, line 23, after the first "bank" insert "or the paying agent" and after the second "bank" insert "or the paying agent"

Page 2, line 2, replace "to any trustee for the bond bank's bondholders" with "the paying agent"

Page 2, line 3, after "bank" insert "or a paying agent"

Page 2, line 7, replace "the trustee, if any" with "the paying agent"

Page 2, line 9, after bank" insert "or a paying agent"

Page 2, line 14, replace "interest rate" with "debt service payments"

Page 2, line 16, after "section" insert "or construction loans which were made to school districts under the state school construction program established by section 11 of chapter 2 of the 1989 Session Laws"

Renumber accordingly

SENATE BILL NO. 2042
Testimony
L. Anita Thomas, J.D., LL.M.
Legislative Council

Mr. Chairman, members of the committee:
As was indicated earlier, Senate Bill No. 2042 was also a product of the interim education finance committee's study of school construction issues. While the committee reviewed several methods for the financing of school construction, in addition to that set forth in Senate Bill No. 2041, it chose to recommend only one additional method. This additional method involves the establishment of a state credit enhancement program. The goal of the legislation is to strengthen the credit quality of, and thereby lower the interest rates on, the Municipal Bond Bank bonds issued to fund the school construction loans. Lower interest rates would lower the cost of each school loan's annual subsidy or one-time buy down amount and would allow either more loans or lower interest loans.

The crux of the concept is found on the first page of the bill. It uses a lot of verbiage to say that if a school district fails to make full and timely debt service payments on its construction loan, the Bond Bank would receive the state aid appropriated to the school district by statute. The committee determined that the likelihood of ever having to employ such a provision was extremely remote. However, the committee also determined that a state aid intercept program would result in lower interest rates and that the benefit to school districts would be the availability of more dollars for school construction loans or lower cost school construction loans.

#2042

Public School District 1997 20-Year Bond Issues

Issuer	Berthold PSD	Bismarck PSD	ND Municipal Bond Bank (Grafton PSD)	Kindred PSD	Northern Cass PSD
Sale Date	6/9/97	8/11/97	9/23/97	10/14/97	10/15/97
Size	$215,000	$6,200,000	$4,705,000	$345,000	$5,530,000
Type	Lease Revenue	GO	Revenue	GO	GO
Bank Qualified	Yes	Yes	No	Yes	Yes
Net Interest Rate	5.7850%	5.1738%	5.07%	5.67%	5.09%
Rating	NR	Moody's Aa3	S&P AAA*	NR	NR

Issuer	United PSD	Hazelton-Moffit PSD	Park River PSD	Fargo PSD Bldg Authority
Sale Date	10/21/97	10/21/97	10/28/97	11/4/97
Size	$2,150,000	$870,000	$1,730,000	$23,000,000
Type	GO	GO	GO	Lease Revenue
Bank Qualified	Yes	Yes	Yes	No
Net Interest Rate	5.67%	5.57%	5.148%	5.1956%
Rating	NR	NR	S&P AAA*	Moody's AAA*

Issuer	Pembina PSD
Sale Date	11/10/97
Size	$1,600,000
Type	GO
Bank Qualified	Yes
Net Interest Rate	5.92%
Rating	NR

***Insured**

Chairman Freborg
Members of Senate Education Committee

My name is Mike Manstrom. I am a financial advisor with NoDakBONDS, a Bismarck, North Dakota, consulting firm. We work with North Dakota political subdivisions, cities, counties, all school districts, etc., regarding the issuance of tax exempt securities.

We are in support of Bill #2042 as amended. We believe it is necessary and beneficial to allow the public school districts throughout North Dakota to be allowed to issue their own bonds rather than being required to go through the Bond Bank in order to realize the credit enhancement proposed.

There are presently four firms working in the financial consulting business in North Dakota. It would certainly be important to maintain a competitive market regarding costs of issuance and interest rate projections, as a continuing service to the districts during the bond issuance process. The competitive private market is also beneficial in helping to determine the viability of a district's repayment possibilities. There have been no defaults in general obligation school bond issues to date. It is our job and our company's reputation when we decide to bring an issue to market.

SB #2042, as amended, would certainly serve to enhance the credit rating and additional debt service savings for future school district financing.

I would also ask the committee to consider the enhancement programs of the other 17-18 states with programs in place and review my handout of the Minnesota legislature presently in place. The Minnesota program is optional to the districts regarding participation and continues to allow the districts to market their own bond issues.

Copy Testimony 1/11/99 SB #2042 9:30 a.m.

Mike Manstrom

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2042

Introduced by

Legislative Council

(Education Finance Committee)

Tudor Amendments

A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota Century Code, relating to evidences of indebtedness and the withholding of state aid to school districts; and to amend and reenact sections 6-09.4-18 and 21-03-44 of the North Dakota Century Code, relating to insurance or guaranties for bonds and sinking funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. If the municipal bond bank or a paying agent notifies the superintendent of public instruction in writing that a school district has failed to pay when due the principal or interest on any evidences of indebtedness ~~sold to, or which support any bonds sold by, the bond bank~~ issued after July 31, 1999, or that the bond bank or the paying agent has reason to believe a school district will not be able to make a full payment of the principal and interest when the payment is due, the superintendent of public instruction shall withhold, ~~upon written notification from the bond bank~~, any funds that are due or payable or appropriated to the school district under chapter 15-40.1 until the payment of the principal or interest has been made to the bond bank or the paying agent ~~trustee, if any, for the bond bank's bondholders~~, or until the bond bank or the paying agent notifies the superintendent of public instruction that arrangements satisfactory to the bond bank or paying agent have been made for the payment of the principal and interest then due and owing. The notification must include info required by the sup. of p.I. State funds available to a sch. dist under 15-40.1 are not subject to w/holding unless the w/holding is authorized by res. of the dist's sch bd.

2. Notwithstanding any withholding of state funds under section 15-39.1-23 or any other law, the superintendent of public instruction shall make available any funds withheld under subsection 1 to the municipal bond bank or paying agent. The bond bank or paying agent shall

apply the funds to payments that the school district is required to make to the bond bank or ~~to any trustee for the bank's bondholders~~; the paying agent.

3. If funds are withheld from a school district and made available to the bond bank or paying agent under this section and if tax revenues are received by the school district during the fiscal year in which the funds are withheld and are deposited in the district's sinking fund established in accordance with section 21-03-42, the district, with the consent of the bond bank or ~~the trustee, if any~~ the paying agent, may withdraw from its sinking fund an amount equal to that withheld by the superintendent of public instruction and made available to the bond bank or a paying agent under this section.

4. Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement between the municipal bond bank and the state board of public school education for the benefit of the bond bank and a school district must be held by the Bank. With the approval of the superintendent of public instruction, those funds may be used to subsidize the ~~interest rate~~ debt service payments on construction loans that are made to school districts by the bond bank and which are subject to the withholding provisions of this section or construction loans which were made to sch. dists under the state sch. constr. program established by section 1 of ch. 2 of the 1989 session laws. Notwithstanding the existence of an escrow agreement between the bond bank and the state board of public school education, those funds must be transferred to the bond bank upon certification by the bond bank that the funds are in excess of the amount needed to provide for the payment in full of the outstanding principal and interest, when due, on the bond bank bonds issued to purchase the municipal securities for which the escrow fund was established.

SECTION 2. AMENDMENT. Section 6-09.4-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-09.4-18. Insurance or guaranty. The bond bank is authorized and empowered to obtain from any entity of the state, any department or agency of the United States of America, or any nongovernmental insurer any insurance ~~or~~, guaranty, or liquidity facility, or from a financial institution a letter of credit to the extent such insurance, guaranty, liquidity facility, or letter of credit now or hereafter available, as to, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds issued by the bond bank, or on any municipal securities purchased or held by the bond bank, pursuant to this chapter; and to enter into any agreement or contract with respect to any such insurance ~~or~~, guaranty, ~~or~~ letter of

90084.0300

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2042

EvensenDodge Amds

Introduced by

Legislative Council

(Education Finance Committee)

A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota Century Code, relating to debt obligations ~~evidences of indebtedness~~ and the withholding of state aid to school districts; and to amend and reenact sections 6-09.4-18 and 21-03-44 of the North Dakota Century Code, relating to insurance or guaranties for bonds and sinking funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Debt obligations **~~Evidences of indebtedness~~ - Authority to withhold school district state aid.**

"1. If a school district believes that it may be unable to make a principal or interest payment on any outstanding debt obligation on the date that the payment is due, the school district shall notify the superintendent of public instruction at least fifteen working days before the due date. The notice must include:

a. The name of the school district;

b. An identification of the debt obligation in question;

c. The date the payment is due;

d. The amount of principal and interest due on the payment date;

e. The amount of principal and interest the school district will be unable to repay on the payment date;

f. The paying agent for the debt obligation; and

g. Instructions regarding the forwarding of payment to the paying agent."

2 ~~1.~~ If the municipal bond bank or any paying agent notifies the superintendent of public instruction that a school district has failed to pay when due the principal or interest on any ~~evidences of indebtedness sold to, or which support any bonds sold by, the bond bank after July 31, 1999~~ outstanding debt obligation, or that the bond bank or any paying agent has reason to believe a school district will not be able to make a full payment of the principal and interest when the payment is due, the superintendent of public instruction shall withhold, upon written notification from the bond bank or any paying agent, any funds that are due or payable or appropriated to the school district under chapter 15-40.1 until a. the payment of the principal or interest has been made to the bond bank or the trustee, if any, for the bond bank's bondholders, ~~or until the bond bank notifies the superintendent of public instruction that arrangements satisfactory to the bond bank have been made for the payment of the principal and interest then due and owing.~~

b. The payment of the principal or interest has been made to the paying agent for the debt obligations; or

c. Until the bond bank or any paying agent notifies the superintendent of public instruction that satisfactory arrangements have been made for the payment of the principal and interest then due and owing."

3 ~~2.~~ Notwithstanding any withholding of state funds under section 15-39.1-23 or any other law, the superintendent of public instruction shall make available any funds withheld under subsection 1 to the municipal bond bank or any paying agent. The bond bank or any paying agent shall

apply the funds to payments that the school district is required to make ~~to the bond bank or to any trustee for the bank's bondholders~~.

4\. ~~3.~~ If funds are withheld from a school district and made available to the bond bank or any paying agent under this section and if tax revenues are received by the school district during the fiscal year in which the funds are withheld and are deposited in the district's sinking fund established in accordance with section 21-03-42, the district, with the consent of the bond bank or the trustee, if any, or with the consent of a paying agent may withdraw from its sinking fund an amount equal to that withheld by the superintendent of public instruction and made available to the bond bank or any paying agent under this section.

5\. ~~4.~~ Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement between the municipal bond bank and the state board of public school education for the benefit of the bond bank and a school district must be held by the Bank. With the approval of the superintendent of public instruction, those funds may be used to subsidize the interest rate on construction loans that are made to school districts by the bond bank and which are subject to the withholding provisions of this section. Notwithstanding the existence of an escrow agreement between the bond bank and the state board of public school education, those funds must be transferred to the bond bank upon certification by the bond bank that the funds are in excess of the amount needed to provide for the payment in full of the outstanding principal and interest, when due, on the bond bank bonds issued to purchase the municipal securities for which the escrow fund was established.

"6\. For purposes of this section, debt obligation means a general obligation bond or an evidence of indebtedness sold to the municipal bond bank."

2042

School Construction Loan Process

1) Submit application with approved facility plan or updates.

   Threshold requirements for application:

   Construction Approval
   More than $50,000
   15% existing indebtedness

2) Submit by February 1 or August 1.

3) Application is acted upon in March or September. Decision based on fiscal needs and capacity to repay.

4) DPI forwards recommendations on amount, interest rate, and term to Board of University and School Lands.

   Loan is limited to 30% of taxable valuation or $2,500,000.

SCHOOL FINANCE AND ORGANIZATION OFFICE
DEPARTMENT OF PUBLIC INSTRUCTION
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0440

SCHOOL CONSTRUCTION LOAN APPLICATION

School District	Date of Application
Address	Contact Person/Phone

NOTE: Loan applications will be considered for approval two times each year, in the months of March and September. For consideration in March, the loan application must be received no later than February 1. For consideration in September, the loan application must be received no later than August 1.

State law requires that school districts meet the following three criteria to apply for a loan from the coal development trust fund:

1. The school district's construction project has been approved by the Superintendent of Public Instruction or the State Board of Public School Education and is estimated to cost in excess of $50,000.

   a. Has your school district received approval for this construction project within the last two years? ________________

   b. What is the estimated cost of the project? ________________________

2. The school district has an existing indebtedness equal to at least fifteen percent of the district's taxable valuation.

   a. What is your district's existing indebtedness? ____________________

   b. What is your district's taxable valuation? _________________________

   c. The existing indebtedness is _______% of the district's taxable valuation.

3. The principal amount of the loan requested does not exceed the lesser of thirty percent of the taxable valuation of the district or five million dollars.

   a. What is the principal amount of the loan which you are requesting? __________________

   b. What is the current taxable valuation of the district? ___________________

   c. 30% of the taxable valuation is ______________________.

   d. Is the principal amount of the loan requested equal to or less than the lesser of 30% of the taxable valuation of the district or five million dollars?
   Yes ____ No ____

If you meet the foregoing three criteria, you may apply for a loan. Complete the remaining parts of the application.

1. Does your school district intend to issue and sell evidences of indebtedness to finance the proposed construction or improvement of the project? _____________ Please submit appropriate verification regarding bond issue.

2. What other methods or sources of financing the construction project were considered? Please list and describe how each is being used if applicable. Also explain why other methods of financing were discarded.

3. Does your district have a bond rating? If so, what date was it issued. (please include documentation of the bond rating)

4. Please provide your best estimate as to when construction will begin.

<u>The following information can be provided by simply enclosing a copy of the facility plan which your school district developed for school construction approval. Please update your facility plan where appropriate.</u>

3. Provide a description of the construction project for which the loan application is being made.
4. Provide past (5 years), current and projected (5 years) enrollment data for the district.
5. Provide current bonded indebtedness, debt retirement schedules, and the total capital expenditures of the district.
6. Provide past (5 years) and current taxable valuation of the district.
7. Provide data of per pupil taxable valuation of the district for the last five years.
8. Provide the current and projected operating expenses of the district including total expenditures of the district.
9. Provide data on current tax levies of the district.

I certify that the information contained in this application is true and correct to the best of my knowledge.

Date ____________________ Signed ____________________________
President

Please attach a copy of the board resolution authorizing this loan application. A memo listing loan closing requirements is attached for your information.

SCHOOL CONSTRUCTION LOANS - CLOSING REQUIREMENTS

The Bank of North Dakota will be handling the loan closing for school construction loans approved by the Board of University and School Lands. The documents required are outlined below and must be submitted to the Bank for review prior to the closing date:

* Initial Resolution
* Bond Issuance Resolution
* Final Resolution
* Closing Certificate
* Non-arbitrage Certificate (Tax-exempt financings only)
* Bond (One bond with amortization schedule) dated the date of closing
* Recognized Bond Counsel Opinion

Note: The School District will have the option to prepay the debt at any time.

Principal and interest is payable annually on June 1st.

Upon receipt and review of the executed documents, the Bank will fund the loan and make payment to the school district either by check, wire transfer or account credit at the Bank. The school district will need to provide the Bank with payment instructions.

The Bank's fee for providing paying agent/registrar services is $200.00 payable yearly in advance. The school district will be billed at closing the amount due from the closing date to the first principal payment date. Thereafter, the annual fee will be included with the principal and interest billing.

If you have any questions, the school district or your recognized bond counsel may contact the BND Trust Department at 701-224-5609.

2042

Fifty-sixth
Legislative Assembly

Education Finance Committee

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Subdivision 1. For the purposes of this section, the term "debt obligation" means a general obligation bond or an evidence of indebtedness sold to the municipal bond bank.

Subdivision 2. If a school district believes that it may be unable to make a principal or interest payment on any outstanding debt obligation on the date that payment is due, it must notify the Department of Public Instruction of that fact as soon as possible, but not less than 15 working days before the date that principal or interest payment is due. The notice shall include the name of the school district, an identification of the debt obligation issue in question, the date the payment is due, the amount of principal and interest due on the payment date, the amount of principal or interest that the school district will be unable to repay on that date, the paying agent for the debt obligation, the wire transfer instructions to transfer funds to that paying agent, and an indication as to whether a payment is being requested by the district under this section. If a paying agent becomes aware of a potential default, it shall inform the Department of Public Instruction of that fact. After receipt of a notice which requests a payment under this section, after consultation with the school district and the paying agent, and after verification of the accuracy of the information provided, the Department of Public Instruction shall notify the office of management and budget and the bond bank of the potential default.

Subdivision 3. Upon receipt of the notification described in Subdivision 2, the office of management and budget shall withhold any funds that are due or payable to the school district under the provisions of Chapter 15-40.1 until the payment of the principal or interest has been made to the bond bank or the paying agent for the debt obligations, or until the bond bank, Department of Public Instruction, or the paying agent for the debt obligations notifies the office of management and budget that arrangements satisfactory to the bond bank or Department of Public Instruction have been made for the payment of the principal and interest then due and owing.

Subdivision 4. The office of management and budget shall make available any funds withheld under subsection 3 to the municipal bond bank or the paying agent for the debt obligations. The bond bank or paying agent shall apply the funds to payments that the school district is required to make on the debt obligation.

Subdivision 5. The Department of Public Instruction or bond bank shall notify the office of management and budget at least one day prior to payment being due that insufficient funds of the school district are available for payment of principal or interest when due and OMB must wire payment to the bond bank or paying agent by the due date.

1 2049

*22309 M.S.A. § 124.755

MINNESOTA STATUTES ANNOTATED
EDUCATION CODE: PREKINDERGARTEN--GRADE 12
CHAPTER 124. EDUCATION FINANCE
TAX ANTICIPATION BORROWING

Current through End of 1997 3rd Sp. Sess.

124.755. State payment of debt obligation upon potential default; obligation not debt

Subdivision 1. Definitions. For the purposes of this section, the term "debt obligation" means either a tax or aid anticipation certificate of indebtedness or a general obligation bond.

Subd. 2. Notifications; payment; appropriation. (a) If a school district believes that it may be unable to make a principal or interest payment on any outstanding debt obligation on the date that payment is due, it must notify the commissioner of children, families, and learning of that fact as soon as possible, but not less than 15 working days before the date that principal or interest payment is due. The notice shall include the name of the school district, an identification of the debt obligation issue in question, the date the payment is due, the amount of principal and interest due on the payment date, the amount of principal or interest that the school district will be unable to repay on that date, the paying agent for the debt obligation, the wire transfer instructions to transfer funds to that paying agent, and an indication as to whether a payment is being requested by the district under this section. If a paying agent becomes aware of a potential default, it shall inform the commissioner of children, families, and learning of that fact. After receipt of a notice which requests a payment under this section, after consultation with the school district and the paying agent, and after verification of the accuracy of the information provided, the commissioner of children, families, and learning shall notify the commissioner of finance of the potential default.

(b) Except as provided in subdivision 9, upon receipt of this notice from the commissioner of children, families, and learning, which must include a final figure as to the amount due that the school district will be unable to repay on the date due, the commissioner of finance shall issue a warrant and authorize the commissioner of children, families, and learning to pay to the paying agent for the debt obligation the specified amount on or before the date due. The amounts needed for the purposes of this subdivision are annually appropriated to the department of children, families, and learning from the state general fund.

*22310 (c) The departments of children, families, and learning and finance shall jointly develop detailed procedures for school districts to notify the state that they have obligated themselves to be bound by the provisions of this section, procedures for school districts and paying agents to notify the state of potential defaults and to request state payment under this section, and procedures for the state to expedite payments to prevent defaults. The procedures are not subject to chapter 14.

Subd. 3. School district bound; interest rate on state paid amount. If, at the request of a school district, the state has paid part or all of the principal or interest due on a school district's debt obligation on a specific date, the school district is bound by all provisions of this section and the amount paid shall bear taxable interest from the date paid until the date of repayment at the state treasurer's invested cash rate as it is certified by the commissioner of finance. Interest shall only accrue on the amounts paid and outstanding less the reduction in aid under subdivision 4 and other payments received from the district.

Subd. 4. Pledge of district's full faith and credit. If, at the request of a school district, the state has paid part or all of the principal or interest due on a school district's debt obligation on a specific date, the pledge of the full faith and credit and unlimited taxing powers of the school district to repay the principal and interest due on those debt obligations shall also, without an election or the requirement of a further authorization, become a pledge of the full faith and credit and unlimited taxing powers of the school district to repay to the state the amount paid, with interest. Amounts paid by the state shall be repaid in the order in which the state payments were made.

Subd. 5. Aid reduction for repayment. Except as provided in this subdivision, the state shall reduce the state aid payable to the school district under chapters 124, 124A, and 273, according to the schedule in section 124.155, subdivision 2, by the amount paid by the state under this section on behalf of the school district, plus the interest due on it, and the amount reduced shall revert from the appropriate account to the state general fund. Payments from the school endowment fund or any federal aid payments shall not be reduced. If, after review of the financial situation of the school district, the commissioner of children, families, and learning advises the commissioner of finance that a total reduction of the aids would cause an undue hardship on or an undue disruption of the educational program of the school district, the commissioner of children, families, and learning, with the approval of the commissioner of finance, may establish a different schedule for reduction of those aids to repay the state. The amount of aids to be reduced are decreased by any amounts repaid to the state by the school district from other revenue sources.

*22311 Subd. 6. Tax levy for repayment. (a) With the approval of the commissioner of children, families, and learning, a school district may levy in the year the state makes a payment under this section an amount up to the amount necessary to provide funds for the repayment of the amount paid by the state plus interest through the date of estimated repayment by the school district. The proceeds of this levy may be used only for this purpose unless they are in excess of the amount actually due, in which case the excess shall be used to repay other state payments made under this section or shall be deposited in the debt redemption fund of the school district. This levy shall be an increase in the levy limits of the school district for purposes of section 275.065, subdivision 6. The amount of aids to be reduced to repay the state shall be decreased by the amount levied. This levy by the school district is not eligible for debt service equalization under section 124.95.

(b) If the state is not repaid in full for a payment made under this section by November 30 of the calendar year following the year in which the state makes the payment, the commissioner of children, families, and learning must require the school district to certify a property tax levy in an amount up to the amount necessary to provide funds for repayment of the amount paid by the state plus interest through the date of estimated repayment by the school district. To prevent undue hardship, the commissioner may allow the district to certify the levy over a five-year period. The proceeds of the levy may be used only for this purpose unless they are in excess of the amount actually due, in which case the excess shall be used to repay other state payments made under this section or shall be deposited in the debt redemption fund of the school district. This levy shall be an increase in the levy limits of the school district for purposes of section 275.065, subdivision 6. If the commissioner orders the district to levy, the amount of aids reduced to repay the state shall be decreased by the amount levied. This levy by the school district is not eligible for debt service equalization under section 124.95 or any successor provision. A levy under this subdivision must be explained as a specific increase at the meeting required under section 275.065, subdivision 6.

Subd. 7. Election as to mandatory application. A school district may covenant and obligate itself, prior to the issuance of an issue of debt obligations, to notify the commissioner of children, families, and learning of a potential default and to use the provisions of this section to guarantee payment of the principal and interest on those debt obligations when due. If the school district obligates itself to be bound by this section, it shall covenant in the resolution that authorizes the issuance of the debt obligations to deposit with the paying agent three business days prior to the date on which a payment is due an amount sufficient to make that payment or to notify the commissioner of children, families, and learning under subdivision 1 that it will be unable to make all or a portion of that payment. A school district that has obligated itself shall include a provision in its agreement with the paying agent for that issue that requires the paying agent to inform the commissioner of children, families, and learning if it becomes aware of a potential default in the payment of principal or interest on that issue or if, on the day two business days prior to the date a payment is due on that issue, there are insufficient funds to make the payment on deposit with the paying agent. If a school district either covenants to be bound by this section or accepts state payments under this section to prevent a default of a particular issue of debt obligations, the provisions of this section shall be binding as to that issue as long as any debt obligation of that issue remain outstanding. If the provisions of this section are or become binding for more than one issue of debt obligations and a district is unable to make payments on one or more of those issues, it shall continue to make payments on the remaining issues.

*22312 Subd. 8. Mandatory plan; technical assistance. If the state makes payments on behalf of a district under this section or the district defaults in the payment of principal or interest on an outstanding debt obligation, it shall submit a plan to the commissioner of children, families, and learning for approval specifying the measures it intends to implement to resolve the issues which led to its inability to make the payment and to prevent further defaults. The department shall provide technical assistance to the school district in preparing its plan. If the commissioner determines that a school district's plan is not adequate, the commissioner shall notify the school district that the plan has been disapproved, the reasons for the disapproval, and that the state shall not make future payments under this section for debt obligations issued after the date specified in that notice until its plan is approved. The commissioner may also notify the school district that until its plan is approved, other aids due the district will be withheld after a date specified in the notice.

Subd. 9. State bond rating. If the commissioner of finance determines that the credit rating of the state would be adversely affected thereby, the commissioner shall not issue warrants under subdivision 2 for the payment of principal or interest on any debt obligations for which a school district did not, prior to their issuance, obligate itself to be bound by the provisions of this section.

CREDIT(S)

1994 Main Volume

Laws 1993, c. 224, art. 1, § 6.

1997 ELECTRONIC UPDATE

Amended by Laws 1995, 1st Sp., c. 3, art. 16, § 13, eff. Oct. 1, 1995.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

1998 ELECTRONIC UPDATE

1995 Legislation

Laws 1995.

Testimony on SB 2042

January 11, 1999
Senate Education
Missouri River Room

Tom Tudor
Executive Director
North Dakota Municipal Bond Bank

The purpose of SB 2042 is to provide enabling legislation for the establishment of a school construction loan program which will enable school districts to borrow money at low interest rates and with low borrowing costs, and without any direct cost to the State. SB 2042 establishes a state aid intercept mechanism in favor of the Bond Bank with respect to loans made by the Bond Bank to school districts and also provides enabling language for the Bond Bank to enter into an agreement with the State Investment Board which would provide fee income to the Board and additional credit enhancement to the Bond Bank's school construction loan program.

Subsection 1 of section 1. Subsection 1 of section 1 authorizes the Bond Bank to intercept state school aid payments (payable to a school district under chapter 15-40.1)[see SB 2146] if a school district will not be able to pay in full when due the principal or interest on its bonds issued to and held by the Bond Bank. Under the provisions of subsection 1, if a school district does not make the full amount of a scheduled debt service payment to the Bond Bank, or if the Bond bank has reason to believe that a school district will not be able to pay the full amount of a scheduled debt service payment, the Bond Bank will notify the Superintendent of Public Instruction and the Superintendent will then be required to withhold and make available to the Bond Bank, until such time that the Bond Bank notifies the Superintendent to discontinue withholding the payments, any state school aid payments due to the school district under chapter 15-40.1.

Subsection 2 of section 1. Subsection 2 provides that the Superintendent must make available to the Bond Bank any state aid payments withheld from a school district under subsection 1, and also provides that the Bond Bank has a priority claim to the receipt of those withheld payments regardless of any other provisions of state law. (Chapter 15-39.1 deals with the Teachers' Fund For Retirement, and § 15-39.1-23 provides that a school district may not share in the apportionment of any money from the State unless the reports required by the board of trustees of the Fund have been received and the amounts required to be paid to the Fund have been paid.)

Subsection 3 of section 1. Subsection 3 authorizes the custodian of a school district's bond sinking fund to release to the school district, with the consent of the Bond Bank, tax revenues received and deposited in the sinking fund subsequent to the withholding and payment to the Bond Bank of state aid payments, in an amount equal to the amount of the intercepted state aid payments. In other words, if state aid payments are withheld because sufficient tax revenues have not been received for deposit in a school district's bond sinking fund, and those tax revenues are subsequently received and deposited in the sinking fund during the same fiscal year, the school district may withdraw those funds from the sinking fund.

Subsection 4 of section 1. Subsection 4 deals with existing school construction loans held by the Bond Bank which were purchased with the proceeds of certain Bond Bank bonds which were refunded in June of 1998. These loans were made under the school construction loan program as it was administered under section 11 of chapter 2 of the 1989 Session Laws. Under that program, an escrow fund was established at the Bank of North Dakota for each loan in an amount sufficient to pay the difference between the market rate interest payments required to be made on Bond Bank bonds issued to make the loan and the interest payments made by the school district at the interest rate of 2 ½ %. Because the refunding lowered the interest rate on the Bond Bank bonds, the full amount of the escrow is not needed to make interest payments on those bonds. However, because of the structure of the refunding bonds, the principal payments on the refunding bonds are higher than the principal payments being made by the school districts. The amendment which has been distributed allows the Bond Bank to use these funds for debt service payments on the refunding bonds, which includes principal and interest payments, and on loans which are made subject to the state aid withholding authorized by this bill, rather than just for interest payments on loans which are made subject to the state aid withholding authorized by this bill.

Section 2. Section 6-09.4-18 authorizes the Bond Bank to obtain insurance or a guaranty from a department or agency of the federal government or a nongovernmental insurer, or a letter of credit from a financial institution, with respect to the payment of principal or interest, or both, on Bond Bank bonds. Section 2 of SB 2042 adds to this section authority for the Bond Bank to obtain a "liquidity facility" from "any entity of the state," also with respect to the payment of principal or interest, or both, on Bond Bank bonds. The purpose of this amendment is to enable the Bond Bank to obtain credit support from the State Investment Board with respect to bonds which may be issued by the Bond Bank to make school construction loans which are made with the backing of the state aid withholding provided by section 1 of this bill. Discussions are currently taking place with the Board concerning the Board's participation in such a bond program.

As a backup to both the general obligation of the school districts and the state school aid intercept, the Bond Bank and the State Investment Board would enter into a master investment agreement, (the "liquidity facility") which would allow the Bond Bank to present to the State Investment Board, within a stated time period prior to any bond payment date, obligations of the Bond Bank, or of a school district or districts, in the amount of the difference between the payments received by the Bond Bank from participating school districts (including withheld state aid payments) and the scheduled payment due on any bonds issued by the Bond Bank under the program. This would be a short-term investment in place only for the period of time until sufficient state aid payments or tax revenues have been made available to the Bond Bank to meet the required debt service payment amount. Individual agreements would be entered into with respect to each series of bonds issued by the Bond Bank under the program. The master agreement would set a limit on the total dollar amount of the Board's commitment to the program. The master agreement would also provide for the payment of a fee by the Bond Bank to the Board with respect to each series of Bond Bank bonds issued under the program receiving the credit enhancement. The master agreement and the series agreements would contain other necessary terms and provisions as agreed upon between the Bond Bank and the Board.

Section 3. Section 3 again deals with a school district's bond sinking fund established under chapter 21-03. This section amends section 21-03-44 to allow money to be withdrawn from a bond sinking fund as provided in subsection 3 of section 1, as well as pursuant to sections 21-03-42 through 21-03-45.

Summary. SB 2042 provides the framework for a school construction loan program. The program would be voluntary, and school districts would not be required to participate. The school districts participating in the school loan program established by the Bond Bank pursuant to the provisions of SB 2042 would benefit through lower interest rates because the Bond Bank bonds issued to provide the funds to make loans to the school districts would be rated on the combined strength of the state aid intercept and the creditworthiness of the public pension funds (PERS or TFFR, or both) which would provide the liquidity facility for the program through the State Investment Board. The higher the rating, the lower the interest rates on the bonds. At this time, preliminary discussions with Standard & Poor's indicate that the program might be assigned a "AA-" or higher rating. The program is also being discussed with Moody's Investors Service. The higher rating could result in interest rate savings of 20 to 80 basis points annualy, or possibly more, depending on the assigned program rating and the individual credit strength of the participating school districts, in addition to savings related to the pooling of costs of issuance by having just one series of bonds issued by the Bond Bank to make several loans rather than each school district issuing its own series of bonds.

School Construction Bonds

School districts have the authority under chapter 21-03 to borrow money through the issuance of general obligation bonds to construct and repair or improve school buildings. Section 21-03-07 provides that a school district may not issue school construction bonds unless sixty percent of the qualified voters of the district voting upon the question authorize the bond issue, provided that a school board, by resolution adopted by a two-thirds vote, may issue school construction bonds by dedicating the school building fund levy authorized by section 57-15-16 to the payment of the bonds. In both cases, whether the bonds are issued pursuant to an election or resolution of the board, the bonds are backed by the faith and credit of the issuing school district, and the district may not repeal the dedicated tax levy until the district's bond sinking fund contains an amount sufficient to retire the bonds, and the tax levy is required by statute to be continued from year to year until the district's liability for all principal and interest has been satisfied.

SB 2042

SCHOOL CONSTRUCTION APPROVAL REQUESTS APPROVED

Date	District	Project	Amount
4-13-94	Langdon	Elementary school roofing project	$90,000-160,000
4-13-94	St. John	New K-12 facility	4,855,000
4-14-94	Dickinson	Library addition-Lincoln Elementary	
4-14-94	Cooperstown	High school roofing project	149,000
4-14-94	Mt. Pleasant	New K-12 facility	2,936,000
4-14-94	Surrey	Elementary classroom addition	139,415
4-14-94	Dakota Prairie	K-12 facility	8,000,000
4-15-94	Verona	Roofing project	40,000
4-25-94	Velva	Two classroom addition	135,000
4-25-94	Underwood	Roofing project	63,000
5-04-94	Midkota	Portable classrooms - Glenfield	55,000
5-09-94	Thompson	Classroom addition and demoliton of 1926 2-story building	600,000
5-09-94	Belfield	Renovation high school & junior high science classrooms	31,973
5-09-94	Larimore	Renovation of high school building plus heating/ventilation upgrade	1,975,000
5-20-94	Edgeley	Elementary classrooms (K-6)	2,000,000
5-23-94	Montifiore	New gym, mezzanine library, remodeling front entrance	1,309,680
6-06-94	Elgin	Re-roofing high school building	45,500
6-16-94	Minot	Bus storage - repair building	346,000
6-27-94	Sheyenne	Re-roofing	38,192
7-08-94	Southern(Towner)	Re-roofing high school and gym	120,000
7-08-84	Killdeer	Remodeling science department classroom	145,700
7-25-94	Mandan	Re-surfacing football/track complex facility (Faris Field)	120,000

8-04-94	Sargent Central	Remodeling (face-lift) high school building	510,405
8-24-94	Ellendale	Addition/remodeling	972,000
8-25-94	Central Cass	Addition/renovation	7,935,697
9-22-94	Grand Forks	Remodeling technical labs - Twinning Elem Remodeling technical labs - Valley Elem Remodeling technical labs - Schroeder Middle	121,000 118,280 113,420
9-22-94	Hatton	Addition - library, ITV, computer lab, commons area	653,000
9-27-94	Underwood	Installing elevator for handicapped	38,500
10-07-94	Bottineau	New track & football field complex	140,000
12-02-94	Bismarck	Library to Dorothy Moses Elementary	200,000
1-12-95	Wahpeton	Renovate/remodel lower east wing (Central Elementary	450,000
1-16-95	Southern (Cando)	Renovate lighting system	48,700
1-25-95	Linton	Replace gym floor	55,000
1-27-95	Jamestown	Remodel high school auditorium	70,200
1-27-95	Jamestown	Remodel junior high school girls' locker room	32,400
2-23-95	Dunseith	Renovation/addition to elementary school	1,143,000
2-28-95	Washburn	Primary & middle school playground equipment	49,995
3-01-95	Fargo	Centennail Elem school addition	782,800
3-21-95	Nedrose	Replacing junior high portable classrooms	600,000
3-21-95	Maple Valley	Additional space for office, teacher lounge and storage	37,632
3-28-95	Fargo	Construction of handicapped asccessibility at Clara Barton, Jefferson, Roosevelt and Horace Mann Elementary school buildings	592,274
4-21-95	Bismarck	Athletic facility - Bismarck Community Bowel	1,070,400
4-27-95	Devils Lake	Roof replacement/ADA projects at Devils Lake High Schoo, Lake Areas VoTech Center, Central Middle School, Prairie View, Minnie H, and Sweetwater Elementary schools	1,573,884
5-12-05	Enderlin	Replacing boiler system	23,000- 75,000
6-13-95	North Central	Roof replair	70,000
6-22-95	Southern (Cando)	Repair/replace gym floor	150,000

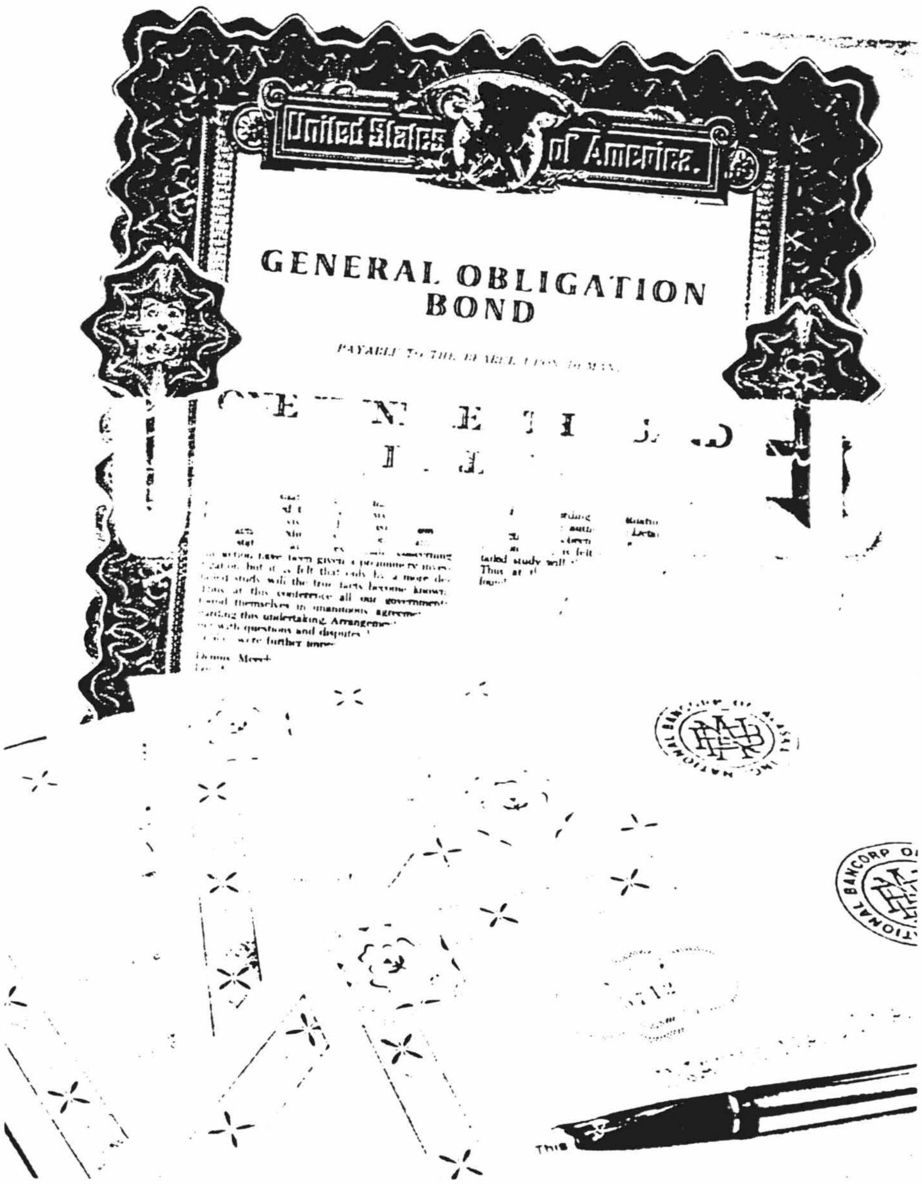
7-24-95	Leeds	Repair school parking lot	38,787
8-01-95	Wing	New Boiler installation	57,500
8-09-95	Zeeland	Replacement of heating ducts	48,766
8-17-95	United	New wood gym floor	55,000
8-17-95	Enderlin	Replacement of school boiler	70,000
9-27-95	Oakes	Lean-to type structure	24,000
10-02-95	Central Valley	Gym and classrooms	2,000,000
1-03-96	Wahpeton	Central elementary phase II and Senior high school addition	1,147,000
1-17-96	LaMoure	Roof repair/replace on both buildings	220,000
1-17-96	Bismarck	Remodeling and code corrections at various school buildings	450,000
1-19-96	South Prairie	Classroom adddition for Middle School	357,225
1-22-96	Maddock	Replace gym floor	60,000
1-26-96	Berthold	Addition/remodeling to school	626,200
1-31-96	Mandan	Remodeling & classrom additions to several district buildings	3,300,000
2-12-96	Nedrose	Replace junior high portable classrooms	600,000
2-26-96	Enderlin	New gymnasium/educational facility and remodeling present facility	2,750,000
3-15-96	Midkota	Addition of two porbable classrooms	35,000
4-01-96	Napoleon	Addition to elementary building to house K-12 (abandon high school building)	1,120,000
4-26-96	New Town	Construction of bus barn	43,000
4-29-96	Carrington	Completion of elementary ADA project	49,490
5-06-96	Jamestown	Washington elem - remodeling to meet ADA requirements	81,750
5-06-96	New Leipzig	Repair exterior brick structure of 1920 addition	29,600
5-17-96	Dickinson	Addition to high school and to meet ADA requirements	2,700,000
7-09-96	New Town	Addition/remodeling of kitchen/dining area and replacement of gym floor	106,160
7-23-96	Powers Lake	Roof repair on elementary school building	48,000
8-15-96	Halliday	Roof repair to elementary building	25,000

8-15-96	Elgin	Roof repair	47,580
11-15-96	Berthold	Addition/remodeling classrooms	299,910
11-20-96	Kulm	Remodeling to meet rehabilitation act and ADA requirements	197,600
12-11-96	Grand Forks	New construction or remodeling of several schools to replace windows, repair roofs, and update HVAC systems	2,575,000
1-07-97	Park River	Demolition of old building - construction new classroom addition	2,200,000
1-07-97	New Town	Middle school wing expansion	817,000
1-31-97	Belcourt	Construction of new vocational/technical center	2,251,000
1-31-97	May-Port CG	Remodeling/new construction on the middle school	3,300,000
1-31-97	Grafton	Installation of an elevator to meet ADA and fire code standards	100,000
2-04-97	Grafton	New construction and remodeling of current school buildings	6,880,000
2-11-97	South Prairie	New construction to school building to accomodate middle school students	200,000
2-24-97	Finley-Sharon	Upgrading men's and women's bathrooms/handicapped accessible	40,000
3-10-97	Jamestown	Senior high school - replacing bleachers	83,300
3-10-97	Jamestown	Washington elementary - remodeling boys bathroom, the office, replacing floor covering and two exterior doors	95,100
3-10-97	Jamestown	Middle school - remodeling two special education rooms and add balcony railing in auditorium	72,400
3-10-97	Jamestown	Senior high school - remodeling boy's locker room, installing wood gym floor, adding balcony railing and painting gym walls	131,500
3-26-97	Pembina	New addition and remodeling	2,200,000
4-08-97	Sherwood	Installation of new wood floor in physical ed gym	48,000
4-17-97	Langdon	Replacing lighting systems in all school buildings	85,000
4-23-97	Napoleon	Remodeling elem building & Addition for 9-12	796,000
5-29-97	McClusky	Repair roof on high school building	37,500

4-23-97	Napoleon	Remodeling elem building & Addition for 9-12	796,000
5-29-97	McClusky	Repair roof on high school building	37,500
5-29-97	Wilton	Multi-purpose room,K-12 library,locker rms, remodel gym	916,140
5-29-97	Hazelton	New high school and PE gym facility	1,300,000
7-16-97	Hillsboro	Classrooms, indoor pool, activity,locker,storage and office	3,404,000
7-16-97	Sargent Central	New Elementary facility	2,200,000
7-16-97	Northern Cass	New K-12 facility	7,900,000
7-29-97	Larimore	Restroom, concession stand at football field	24,675
8-26-97	Underwood	High school addition, elem renovation (2 science classrooms, science lab, technology classroom, music room, locker rooms	1,497,447
8-26-97	United	New construction/remodeling - Jr high wing- 9 classrooms, K-6 wing- 4 classrooms	3,250,000
9-2-97	Grand Forks	new construction/remodeling-district wide flood recovery	45,000,000
9-18-97	West Fargo	new bus storage facility	156,700
9-19-97	May-Port CG	Renovation and new construction to Peter Boe Elem and high school buildings	2,500,000
9-19-97	Carrington	New bus storage facility	43,000
12-24-97	Billings County	New Library building – resource center	400,000
3-10-98	Flasher	New locker room facilities	99,000
5-29-98	Lakota	Replacement of sidewalks and entrances of both buildings	67,524
7-6-98	Dunseith	New elementary gym - remodel old gym for classrooms	1,225,000
7-6-98	LaMoure	Activity center	750,000
7-7-98	McClusky	Elementary roof project – repair	25,000
10-19-98	Fargo	Addition to South High School and renovation of the elementary school projects	15,161,339

requests2

Structural Elements of State Credit Enhancement Programs



From the time that Standard & Poor's rated the first state credit enhancement program for New York in the mid-1970s, Standard & Poor's assumed a leadership position in the public finance market in developing and assessing criteria to create programs designed to benefit both the issuer and the bondholder. Over the past two decades, the program concept evolved from relatively simple state aid withholding mechanisms to programs that contain complex structural elements.

Basic Program Requirements

In general, program ratings are designed to give bondholders additional security for eligible general obligation bonds. This credit substitution can be rated by Standard & Poor's based on criteria designed to provide certain safety measures that enhance the local government issuer's underlying credit quality. While the criteria differs depending on the program's structure and the specifics of a state's statutes and constitutional provisions, all programs must meet certain requirements. These include:

- An independent paying agent, which acts as the state's notification agent in the event of a potential default;
- Sufficient coverage and liquidity of a revenue stream to be used for a debt service deficiency that is independent of the issuer; and
- State oversight of program participants to ensure a well-managed program.

Specific Program Elements

Each of the different types of program mechanisms are broadly defined as:

- State aid withholding/intercept,

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- State standing or annual appropriation,
- State guarantees, and
- Permanent funds.

In addition to the basic program requirements cited above, these types of programs typically include other enhancement features consistent with their structure.

State Aid Withholding/Intercept Programs

State aid withholding/intercept programs are the most widely used structure to provide credit support for local issuers. For this type of program, a state-appropriated revenue stream, usually unrestricted school aid, is used as the source to make up any debt service deficiency. Therefore, understanding the education aid formula and distribution schedule are important when evaluating a withholding/intercept program. Also, since the revenue stream that provides support for the program erodes as the fiscal year progresses, the issuer's debt service schedule needs to take into account the amount and timing of this revenue to ensure adequate availability of funds, if needed, to provide full and timely payments to bondholders. More complex withholding/intercept programs increased their creditworthiness by adding features such as additional bonds tests to reduce the possibility of diluting the state's revenue stream coverage of debt service and by covenanting higher coverage levels of state aid to maximum annual debt service. Another means of creating higher credit quality within this program format is to structure the program to have a first-dollar claim on the state aid revenue source, which is then directly deposited by the state to an independent paying agent with the issuer receiving the net amount of its state funding.

State Standing or Annual Appropriation Programs

State standing or annual appropriation programs are directly related to the state's credit quality but fall short of being equivalent to a state's general obligation pledge. This type of program can be established by statute as in the case of the Minnesota program. The credit enhancement offered by this approach creates a long-term commitment to provide funds sufficient to meet a local issuer's debt service if needed, whether through a standing appropriation or by a specific annual allotment. Because of the broad debt service support in this program type, no other structural components are usually required other than the basic elements cited earlier.

State Guarantees

State guarantee programs are rated on par with a state's general obligation rating. Programs of this type are established in the state's constitution (for example, the Michigan and Utah programs) and provide a state general obligation security to certain local debt issuers' bonds. Because liquidity is an important function of this security, if a state is required to make up a debt service deficiency, and it does not have sufficient general fund cash on hand, states with guarantee programs have either the ability to also draw on a permanent fund (Utah) or the authority to issue GO bonds to provide the necessary funding to prevent a local issue default (Michigan).

Permanent Funds

Permanent fund programs are independent of a state's rating and can be structured to achieve very high credit quality. Three of the four permanent fund programs rated by Standard & Poor's (Texas, Oklahoma, Wyoming) are rated 'AAA'. The corpus of each state's permanent fund is held in trust and the credit enhancement stems from the requirement of the fund administrators to use the corpus to make up any eligible local issuer's debt service payment deficiencies prior to the due date. Because of the systemic risk associated with operating a program of this type—one type of issuer (such as a school district) within a limited geographic area—certain areas must be carefully defined in order that credit quality is maintained:

- The leverage factor or how much local debt the fund will support must be conservative. For example, the requirement for the Oklahoma permanent fund program is that outstanding guaranteed bonds cannot exceed the lesser of 2 times (x) the cost or market value of the fund;
- A liquidity factor needs to be established to ensure available funds on hand to meet any local issuer's debt service deficiencies. Typically, a percentage of the fund is required to be held in cash or short-term noncallable U.S. government securities;
- For protection of the fund's corpus, a reimbursement mechanism must be set. In most instances, the issuer that requires a draw from the fund to make a full and timely debt service payment needs to replenish the fund within a certain amount of time, and can use its tax levy authority to repay the necessary monies; and
- Investment guidelines for the funds must be conservative and designed to preserve principal.

We monitor the credit enhancement program and the demands it puts upon the state's financial resources, as well as developments in the state's general credit position. If a state's credit standing changes, there may be a corresponding change in the credit enhancement provided by the program.

The credit standing of the sponsoring state is a relatively immaterial consideration in programs that have a separately funded source of payment which is not part of the state's budget appropriation process. Such is the case for the Permanent School Fund Guaranty Programs in Texas and Oklahoma, where the state's ratings are Aa2, and Aa3, respectively, and both guaranty programs are rated Aaa.

Conclusion

Moody's has analyzed the state credit enhancement programs in 17 states and concludes they offer meaningful credit enhancement in which the debt issues of school districts in these states may be accorded a higher rating than would otherwise be the case. The degree of credit enhancement varies widely depending on the terms and mechanics of the individual program. In deed some programs are so strong they afford a virtual floor for credit risk for eligible school districts. Other programs provide limited credit enhancement and therefore the individual credit characteristics of each school district must be considered.

State	State Rating	Enhancement Program Type	Program Rating	Debt Outstanding* (000)
Colorado	A1 **	Unlimited Advance	Aa3	$3,100,000
Georgia	Aaa	Classic Intercept	Aa3	2,800,000
Indiana	Aa1***	Classic Intercept	A1	—
Kentucky	A2 **	Unlimited Advance	A1	1,867,000
Michigan	Aa1	State Guarantee	Aa1	—
Michigan	Aa1	State Guarantee	Aa2****	7,000,000
Minnesota	Aaa	Unlimited Advance	Aa1	1,796,000
Mississippi	Aa3	Direct-Pay Limited Advance	A1	358,000
Missouri	Aaa	Direct-Pay Classic Intercept	Aa2	517,000
Nevada	Aa2	Permanent School Fund Guarantee	Aaa	7,500
New Jersey	Aa1	Direct-Pay State Appropriation (Chapters 177, 74, 12, 10)	Aa3	72,000
New Jersey	Aa1	Direct-Pay Classic Intercept (Qualified Program)	Aa3	985,000
Ohio	Aa1	Classic Intercept	A1	44,000
Oklahoma	Aa3	Permanent School Fund Guarantee	Aaa	—
South Carolina	Aaa	Limited Advance Capped at Total Annual School Aid Appropriation	Aa1	1,200,000
Texas	Aa2	Permanent School Fund Guarantee	Aaa	14,000,000
Utah	Aaa	State Guarantee	Aaa	370,000
Virginia	Aaa	Sum Sufficient Biennial Appropriation	Aa1	224,000
Virginia	Aaa	Classic Intercept Enhanced by Maximum Annual Debt Service Reserve	Aa2	638,000
Wyoming	NR	Permanent School Fund Guarantee	Aaa	43,000

** Estimated*
*** Lease Rating*
**** Issuer Rating*
***** On Watchlist for potential upgrade, reflecting pending implementation of strengthened program mechanics.*

Testimony on SB 2042 **House Education Committee**
March 3, 1999

Tom Tudor
Executive Director
North Dakota Municipal Bond Bank

SB 2042 is a companion bill to SB 2041, which increases the authorized amount of loans which can be made by the Board of University and School Lands from the coal development trust fund. SB 2041 increases the authorized outstanding loan amount from twenty-five million dollars to forty million dollars.

Both of these bills, SB 2041 and SB 2042, are products of the Education Finance Committee's work over the interim. One difference between the two bills is that there is a cost to the State associated with operating the program established under SB 2041 and there is no cost to the State under SB 2042. However, school districts can obtain lower interest rates on their bonds under SB 2041 than under SB 2042. Another difference is that there is no cap on the dollar amount of loans that can be raised for school construction projects under SB 2042.

The purpose of SB 2042 is to provide enabling legislation for a school construction loan program which will enable school districts to borrow money at low interest rates and with low transaction (issuance) costs, and without any direct cost to the State. To accomplish this, SB 2042 establishes statutory authorization for the withholding of state aid payments with respect to bonds sold to the Bond Bank by school districts or bonds sold by school districts through public sales, and provides enabling language for the Bond Bank to enter into an agreement which would provide additional credit enhancement for the Bond Bank's school construction loan program. SB 2042 also authorizes the Bond Bank to use funds available to the Bond Bank with respect to certain outstanding school loans for interest and principal payments on the bonds issued by the Bond Bank to make those loans.

Subsection 1 of section 1. Subsection 1 of section 1 authorizes the Bond Bank or a school district's paying agent to intercept state school aid payments (payable to a school district under chapter 15-40.1) if a school board has voluntarily authorized the withholding and if a school district will not be able to pay in full when due the principal or interest on its school construction bonds. The school board must authorize the withholding of state aid payments before the Superintendent of Public Instruction may withhold any payments which are due and payable to a school district. The school board would likely be required to authorize the withholding in its resolution authorizing the issuance of the district's bonds. Without this action by the school board, state aid payments could not be withheld.

Under the provisions of subsection 1, if the school board has authorized the withholding and if, subsequently, a school district does not make the full amount of a scheduled debt service payment to the Bond Bank or the district's paying agent, or if the Bond bank or the paying agent has reason to believe that a school district will not be able to pay the full amount of a scheduled debt service payment, the Bond Bank or the paying agent may notify the Superintendent of Public Instruction and the Superintendent will then be required to withhold and make available to the Bond Bank or the paying agent any state school aid payments due to the school district under chapter 15-40.1, until such time that the Bond Bank or the paying agent notifies the Superintendent to discontinue withholding the payments. The notification to withhold the state aid payments must include information required by the Superintendent.

Subsection 2 of section 1. Subsection 2 provides that the Superintendent must make available to the Bond Bank or a paying agent any state aid payments withheld from a school district under subsection 1, and also provides that the Bond Bank or the paying agent has a priority claim to the receipt of those withheld payments regardless of any other provisions of state law. (Chapter 15-39.1 deals with the Teachers' Fund For Retirement, and § 15-39.1-23 provides that a school district may not share in the apportionment of any money from the State unless the reports required by the board of trustees of the Fund have been received and the amounts required to be paid to the Fund have been paid.)

Subsection 3 of section 1. Subsection 3 authorizes the custodian of a school district's bond sinking fund to release to the school district, with the consent of the Bond Bank or a paying agent, tax revenues received and deposited in the district's bond sinking fund subsequent to the withholding and payment to the Bond Bank or the paying agent of state aid payments, in an amount equal to the amount of the intercepted state aid payments. In other words, if state aid payments are withheld because sufficient tax revenues have not been received for deposit in a school district's bond sinking fund, and those tax revenues are received and deposited in the sinking fund following the withholding of state aid payments, the school district may withdraw those funds from the sinking fund to replace the withheld state aid payments.

Subsection 4 of section 1. Subsection 4 deals with existing school construction loans held by the Bond Bank which were purchased with the proceeds of certain Bond Bank Bonds which were refunded in June of 1998 to achieve debt service savings. These loans were made under the school construction loan program as it was administered under section 11 of chapter 2 of the 1989 Session Laws. Under that program, an escrow fund was established at the Bank of North Dakota for each loan in an amount sufficient to pay the difference between (1) the market rate interest payments required to be made on the Bond Bank Bonds issued to make the loan and (2) the interest payments made by the school district on its bonds at the statutory program interest rate of 2.5 %. Because the Bond Bank Bonds issued for the 1998 refunding have lower interest rates than the interest rates on the Bond Bank Bonds initially issued to make the school loans, the full amount of each escrow is not needed to make interest payments on the 1998 refunding bonds. Because of the structure of the 1998 refunding bonds, however, the principal payments on those bonds are higher than the principal payments being made by the school districts. However, the increased principal payments are more than offset by the lower interest payments: the total annual principal and interest payments on the refunding bonds are less than the total annual principal and interest payments on the refunded bonds, the bonds originally issued to make the loans. Subsection 4 allows the Bond Bank to use these funds for principal and interest payments on the 1998 refunding bonds rather than just for interest payments on the 1998 refunding bonds. Any money remaining in the escrow funds after the loans are paid in full will be used to lower debt service payments on new school loans made by the Bond Bank under the loan program to be established under this bill.

Section 2. Section 6-09.4-18 authorizes the Bond Bank to obtain insurance or a guaranty from a department or agency of the federal government or from a non-governmental insurer, or to obtain a letter of credit from a financial institution, with respect to the payment of principal or interest, or both, on Bond Bank Bonds. Section 2 of SB 2042 adds to this section authority for the Bond Bank to obtain a "liquidity facility" from "any entity of the state," also with respect to the payment of principal or interest, or both, on Bond Bank Bonds. The purpose of this amendment is to enable the Bond Bank to obtain additional credit support with respect to bonds which may be issued by the Bond Bank to make school construction loans which are made with the backing of the state aid withholding provided by section 1 of this bill.

Section 3. Section 3 again deals with a school district's bond sinking fund established under chapter 21-03. This section amends section 21-03-44 to allow money to be withdrawn from a bond sinking fund as provided in subsection 3 of section 1, as well as pursuant to sections 21-03-42 through 21-03-45.

Summary. SB 2042 provides the framework for a school construction loan program through the Bond Bank which will provide interest rate savings and cost of issuance savings. The program would be voluntary, and school districts would not be required to participate. SB 2042 also gives school districts the option of issuing and selling their bonds subject to the withholding of state aid through a public competitive sale without utilizing the Bond Bank's program. This may also provide savings to school districts. The school districts participating in the school loan program established by the Bond Bank under SB 2042 would benefit through lower interest rates because the Bond Bank Bonds issued to provide the funds to make loans to the school districts would be marketed and sold with the combined strength of the school districts, the state aid withholding provisions, and the Bond Bank's credit. This combined credit strength may result in school districts obtaining significantly lower interest rates than they could obtain by issuing bonds through individual public sales. The interest rates on the Bond Bank Bonds would be the same rates paid by the school districts on their bonds issued to the Bond Bank. The higher credit rating could result in interest rate savings of 20 to 80 basis points annually, or possibly more, depending on the assigned Bond Bank program rating and the individual credit strength of the participating school districts. In addition, because many borrowing costs are fixed, participating school districts would realize savings related to the pooling of costs of issuance by having the Bond Bank issue just one or two series of bonds each year to make several loans rather than each school district issuing its own series of bonds through a public sale and paying the full amount of the fixed issuance costs related to that one bond issue.

School Construction Bonds

School districts have the authority under chapter 21-03 to borrow money through the issuance of general obligation bonds to construct and repair or improve school buildings. Section 21-03-07 provides that a school district may not issue school construction bonds unless sixty percent of the qualified voters of the district voting upon the question authorize the bond issue, provided that a school board, by resolution adopted by a two-thirds vote, may issue school construction bonds by dedicating the school building fund levy authorized by section 57-15-16 to the payment of the bonds. In both cases, whether the bonds are issued pursuant to an election under chapter 21-03 or a resolution of the board, the bonds are backed by the faith and credit of the issuing school district, and the district may not repeal the dedicated tax levy until the district's bond sinking fund contains an amount sufficient to retire the bonds, and the tax levy is required by statute to be continued from year to year until the district's liability for all principal and interest has been satisfied.

Public School District 1997 20-Year Bond Issues

Issuer	Berthold PSD	Bismarck PSD	ND Municipal Bond Bank (Grafton PSD)	Kindred PSD	Northern Cass PSD
Sale Date	6/9/97	8/11/97	9/23/97	10/14/97	10/15/97
Size	$215,000	$6,200,000	$4,705,000	$345,000	$5,530,000
Type	Lease Revenue	GO	Revenue	GO	GO
Bank Qualified	Yes	Yes	No	Yes	Yes
Net Interest Rate	5.7850%	5.1738%	5.07%	5.67%	5.09%
Rating	NR	Moody's Aa3	S&P AAA*	NR	NR

Issuer	United PSD	Hazelton-Moffit PSD	Park River PSD	Fargo PSD Bldg Authority
Sale Date	10/21/97	10/21/97	10/28/97	11/4/97
Size	$2,150,000	$870,000	$1,730,000	$23,000,000
Type	GO	GO	GO	Lease Revenue
Bank Qualified	Yes	Yes	Yes	No
Net Interest Rate	5.67%	5.57%	5.148%	5.1956%
Rating	NR	NR	S&P AAA*	Moody's AAA*

Issuer	Pembina PSD
Sale Date	11/10/97
Size	$1,600,000
Type	GO
Bank Qualified	Yes
Net Interest Rate	5.92%
Rating	NR

*Insured