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10/21/03

2003 SENATE APPROPRIATIONS

SB 2232

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10/21/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2232

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 1-27-03

Tape Number	Side A	Side B	Meter #
1	X		5698- end
1		X	0-186
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: Chairman Holmberg opened the hearing on SB 2232. Bill relating to bonds of the student loan trust. (Meter 5698) Senator Espgaard, District 43, Grand Forks: Introduced this bill. (Meter 5811) Ed Sather, Senior Vice President of the Bank of ND: See written testimony Exhibit 1.

**Tape 1 Side B**

Continued testimony from Ed Sather. No questions asked from committee. Chairman Holmberg stated that the committee wasn't going to pass on the bill at this time.

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*Deanna O'Fallon*  
Operator's Signature

*10/21/03*  
Date

# 2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2232 vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-05-03

Tape Number	Side A	Side B	Meter #
1		X	475- 730
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes: Chairman Holmberg opened the hearing for voting on SB 2232. A bill relating to bonds of the student loan trust. Motion was made by Senator Grindberg for a DO PASS, seconded by Senator Andrist. (Meter 532) Senator Mathern: Does this change in any way the use of the trust fund? Or does that stay in place? (Meter 560) Roxanne Woeste, OMB: No, it does not have an impact. (Meter 608) Chairman Holmberg with Sandy Paulson explained the money in the trust fund. Roll call 14 yeas, 0 nays, and 0 absent. Senator Grindberg will carry on the Senate floor, Closed the hearing on SB 2232.

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Operator's Signature

*Diana Walsh*

Date

10/21/03

2232

Date: 2-5-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Grindberg Seconded By Andrist

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 14 No 0

Absent \_\_\_\_\_

Floor Assignment Grindberg

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

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Deanna D. Smith 10/21/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
February 5, 2003 11:20 a.m.

Module No: SR-22-1697  
Carrier: Grindberg  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2232: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS**  
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2232 was placed on the  
Eleventh order on the calendar.

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Operator's Signature

*Dan R. Hall*

Date

12/21/03

2003 HOUSE APPROPRIATIONS

SB 2232

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10/21/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2232

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-12-03

Tape Number	Side A	Side B	Meter #
1	X		0.0-17.8
Committee Clerk Signature <i>Chris J. Nyhus</i>			

Minutes:

**Chairman Svedjan** Opened the hearing on SB 2232. A quorum was present.

**Karlene Fine, Executive Director and Secretary to the Industrial Commission/Authorized Officer for the Student Loan Trust Fund.** See written testimony.

**Rep. Delzer** What's the ramifications of the residual bonds? What does it do to the Student Loan Trust?

**Fine** We can pay it off, but it adds to the liability of the fund.

**Rep. Delzer** How long is the residual bond?

**Fine** Due to economic conditions, we don't know.

**Rep. Delzer** What is the interest rate?

**Fine** It is a 2% interest rate with a 5% trigger to pay off.

**Rep. Delzer** If you prepay it wouldn't that come out of the general fund?

**Fine** Yes.

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*12/21/03*  
Date



Page 2  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 03-12-03

**Rep. Timm** You referred to Ambac, what is it?

**Fine** They are the leading insurer for municipal bonds.

**Rep. Timm** On page 3 you talk about a guaranteeing agency, what is that?

**Fine** The ND guarantee agency housed in the Bank of ND that was created by the state.

**Rep. Timm** Do they have a budget?

**Fine** Yes, it is in the Bank of North Dakota's budget.

**Rep. Aarsvold** Do you think the Bank of North Dakota will be exposed with this?

**Fine** No, students are good at paying their loans back.

**Chairman Svedjan** Does this extend the life of the Student Loan Trust?

**Fine** Yes, as long as we recycle student loans, we'll get the 9% rate and the fund will continue.

**Chairman Svedjan** the funds in the trust are general fund dollars?

**Fine** It goes to the Industrial Commission and then to the general fund.

**Ed Sather, Senior Vice-president of Treasury Services for the Bank of North Dakota** See written testimony.

**Rep. Glassheim** Would there be 26.9 million dollars of unobligated dollars in this account?

**Sather** They are unencumbered, yes.

**Rep. Glassheim** So they won't hurt the fund?

**Sather** No.

**Chairman Svedjan** What is the total of bonding in this case?

**Sather** The outstanding balance would be about 17.2 million dollars with this.

**Rep. Aarsvold** Tuition increases, do they affect the bank?

**Sather** No that I'm aware of.

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10/21/03  
Date

Page 3  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 03-12-03

**Rep. Delzer** Do you have the projected Bank of North Dakota profits handy?

**Sather** Yes, but our projections haven't changed from the 61 million dollars in profits that we projected at the beginning of the session.

**Chairman Svedjan** You referenced the 42 million. In order to maintain that we would have to issue bonds for 17.2. What is the magic of the 42 million dollar figure?

**Sather** The maximum we can have earning the 9.5% is 42 million dollars.

**Chairman Svedjan** Closed the hearing on SB 2232.

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10/21/03  
Date

# 2003 HOUSE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. SB 2232

House Appropriations Committee

☐ Conference Committee

Hearing Date 4/4/03

Tape Number	Side A	Side B	Meter #
1	xx		45.9-end
1		xx	0-14
Committee Clerk Signature <i>M. Penrose</i>			

**Minutes:** Chairman Svedjan called the meeting on SB 2232 to order. This is the bill we heard a long time ago. It's the one that provides for a residual bonding, which I referenced in the meeting, and the amount of residual bonding was targeted to about \$17.2 million, although the way the bill is written, it really has no limit. The language has something to say about, that the public will otherwise benefit and it basically says that this bill would bond up to the extent necessary to ensure that the interest rates continue at 9.25%. I'm going to be passing around an amendment here. It's one that I requested, that I'd like us to consider. What this amendment does, I worked with Karlene Fine and with their counsel, is that it puts a max. of \$23 million for borrowing purposes. It was just my interest that we should put some kind of a cap on this, and the cap that's in here, it has been determined that it would not place any negative effect on what is attempting to be accomplished here.

**Rep. Kempenich:** I move the amendment.

**Rep. Carlisle:** Seconded.

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12/21/03  
Date

Page 2  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

**Chairman Svedjan:** So I guess I really explained what is involved here, are there any questions or discussion.

**Rep. Carlson:** I'm just trying to understand the mechanics of this. We're going to leave \$23 million dollars in the fund, because we get a higher interest rate, correct.

**Chairman Svedjan:** That's correct. This would allow us to engage that interest rate, right. This would allow for what's called residual bonding, and it would be done for the purposes that we ensure the continuation of interest earnings at 9.5%.

**Rep. Carlson:** So then we have this \$23 million dollar residual bond, what is the term of that bond.

**Chairman Svedjan:** I am going to ask Karlene or Mr. Satire to come to the podium.

**Ed Sather, Bank of North Dakota:** In response to the question, is that we would trust to that issue as long as the tax law will allow us to continue to earn 9.5%.

**Chairman Svedjan:** And how long is that.

**Mr. Sather:** Hopefully, in perpetuity.

**Rep. Carlson:** Just so that I understand the payback provisions of this bill, we leave the original \$23 million in place, and the student loans that are repaid will be used to pay the annual bond payments, or is it the interest off of those that will be used to pay the bond payments.

**Mr. Sather:** The cash flows from the student loans, being principal interest, would be used to pay the debt service on the bond, so that the cash flows coming from the student loans repays the bond.

**Rep. Carlson:** Does that in any way limit the future growth of the fund as it is grown now.

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10/21/03  
Date

Page 3  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

**Mr. Sather:** The fund can continue to still issue bonds for student loan purchases, but this amendment would just restrict the amount of residual bonds to be issued, as I understand the amendment.

**Chairman Svedjan:** That is correct.

**Rep. Carlson:** That wasn't my question, the payback loans. And you have principal and interest, they are paying it back. Do you in turn put that in the bank, and that's how this pool is grown, correct. And we had an initial investment in it as the State, I would guess, and it has grown to whatever number it's at today. But now when you are taking these bond payments, is that going to slow the growth of what has been a growing fund for us.

**Mr. Sather:** The fund will still continue to grow relative to the amount of outstanding indebtedness. As we talked about, this is in the 79 resolution, and this was projected for the next biennium. This would reduce the equity fund balance to approximately \$25 million dollars at the end of the next biennium. But the fund from the revolving fund perspective, will continue to revolve and invest up to \$42 million in student loans that are entitled to the 9.5% under the current tax law.

**Rep. Carlson:** But we have reduced, because the income to the bond, by almost 1/2 the equity of the fund.

**Mr. Sather:** That is correct.

**Rep. Carlson:** Thank you.

**Rep. Kempenich:** Then with this amendment on then basically we have a couple million dollars yet that we can take out of this fund.

Page 4  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

**Mr. Sather:** As I understand the amendments, this will allow the student loan trust only to issue up to \$23 million dollar, either subordinated or residual bond.

**Rep. Skarphol:** Will it not slow the growth of the fund because there are these bonds outstanding that require an interest payment. The growth will actually be a little slower than it has been in the past because there is an interest cost associated with this.

**Mr. Sather:** Yes.

**Rep. Skarphol:** And as far as the perpetuity of these 79 resolutions, that has to be reauthorized periodically, I am assuming, and what incentive is there for the government to reauthorize that, isn't that what you said earlier, at the previous hearing.

**Mr. Sather:** I imagine at some point in time, the IRS might look at the law and say that they've eliminated the tax from the (tape 1, side b, 2.0) perspective point of view. They haven't at this point in time.

**Rep. Skarphol:** But is it periodically scheduled for reauthorization.

**Mr. Sather:** The student loan act is reauthorized. But the tax loophole goes back to this retrospective. It goes back to 1979. So they've not addressed the tax consequences for the older bond issue, which is a 79.

**Rep. Skarphol:** And the reauthorization does not affect the tax consequences.

**Mr. Sather:** They say that process, 1993, that doesn't allow trained bond issues. So that is prospective.

**Rep. Wald:** You could really boil this down to a simple statement. It's a matter of whether you want to receive 9% interest on \$23 million dollars or about 3%. Isn't that the bottom line.

Deanna Waller  
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10/21/03  
Date

Page 5  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

**Mr. Sather:** That is the intention of the legislation, to maximize the return to the State, and this would be an increase in revenues about 7.5%.

**Rep. Glassheim:** Does the amendment prevent taking anything more of the student loan trust fund, is that correct.

**Mr. Sather:** It puts a cap in terms of how much we could issue indebtedness, that would be considered residual bonds. Based upon our projections, and based upon the projected appropriations, \$23 million is a high enough ceiling that it will not impact any of the projected appropriations out of this student loan trust fund.

**Rep. Glassheim:** So the things that have been considered so far, are under the \$23 million, is that correct, how much leeway is there.

**Mr. Sather:** Our projection is that the main payday to the student loans balance is \$42 million. We would have to issue approximately \$17 million in residual bonds.

**Rep. Carlson:** Can you tell me again where this money is going to go to. I don't remember the exact number and whose budgets are taking money from this fund. It is going to the campus' for something, and then there is something else, do you know what those two are.

**Chairman Svedjan:** There is money going from the student loan trust fund into the higher education budget.

**Rep. Carlson:** Do you know how much that is.

**Chairman Svedjan:** I don't have those numbers right in front of me. Ed, can you summarize that.

**Mr. Sather:** What I remember is a figure of \$27 million; \$9 million was going to go to the general fund for the Governor's budget, there was \$17 million that was going to go to higher ed.,

Page 6  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

and I believe that has been cut down to maybe \$15 million and \$13 million I understand is going to go to ITD.

**Rep. Carlson:** I think it would be a good idea for us to have an accounting of where that money is going, in response to Rep. Wald's, I think that originally the Governor proposed taking this money out of the trust fund; later on he found that by doing that we were going to lose this interest rate and therefore the purpose of this bill. Because the original intent was to take it directly from the fund, and when they did the math and found out the interest we were going to lose between 9.5% and 3% was like \$1.7 or \$1.8 million dollars. It was a significant number anyway. So the bill came very simply to cover the trail to make sure that we didn't lose the money that we didn't know that the rate was that different when they took it out in the first place. I am not going to support this bill because, again, into the fund business, but I decided, and I told Rep. Carlisle that he and I are going to stay here long enough so that we can say that we saw the State dig up the last can of money we had.

**Chairman Svedjan:** There was an analysis done February of 2003, and I know this was distributed, but we can make copies of it, if you'd like. That was an analysis of the uses of funding from the student loan trust fund. Now some of that may have changed due to the amendments.

**Rep. Monson:** I think Rep. Carlson's perspective on this isn't right. We're not digging up the last can of money here, what we've done to raid this fund, if you want to call it raiding, is throughout the session, I mean that's a whole separate issue. This bill is needed, just as Rep. Wald said, because if we don't do it, this is going to drop down to 2.5 or 3%, with this bill we are going to get 9.5% and this bill has absolutely nothing to do with what we're taking money out of

Deanna Waller  
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10/21/03  
Date



Page 7  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

here for other budgets to balancing. This is a very important bill, as far as trying to hold this interest rate and reach the growth in this fund as best we can, correct.

**Rep. Carlson:** I don't disagree with that point at all. I'm talking about the concept overall.

This is a good cover yourself, if you're going to take it.

**Rep. Kroeber:** I think that Karlene has the numbers that you want on that fund.

**Karlene Fine:** We had the higher education at \$13.2 million dollars, the Dept. of Commerce was \$1 million and to ITD was \$3 million dollars. The Senate is doing something on the other side, but at this point I'm not sure where that is going to end up.

**Chairman Svedjan:** Then there is no \$9 million to the general fund.

**Ms. Fine:** Yes, there is, but it is in a different bill that hasn't been acted on yet.

**Chairman Svedjan:** Any further discussion on the motion. Hearing none, we will take a voice vote on adopting amendment .0102 to SB 2232.

Voice vote: Carried.

**Rep. Wald:** I move a Do Pass as amended.

**Rep. Glassheim:** Seconded.

**Rep. Delzer:** I've got a couple more questions for Mr. Sather. If we bond for this, how many years is that bond tied up for that we're going to be paying off. How long of a term is it to pay the bonds off.

**Mr. Sather:** We would like to structure the financing that it will be a long term, I would say around 25-30 years, but it will have the option that those bonds could be called at any point in time, based upon the needs of the issuer. And the reason for that would be if the tax law were to change, we would unwind the transaction, because it would not become cost-effective.

Page 8  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

**Rep. Delzer:** What happens if in two years, the Governor decides that we need to raid, or the Legislature decides we need to raid enough out of this fund that it would in essence drop below the \$42 million dollar cap, which would in effect make this something you couldn't continue. Isn't that true.

**Mr. Sather:** That is correct. The maximum, under the current tax law, that we can use to maintain the 9.5% floor, is \$42 million dollars, and basically at the end of the next biennium, 2005, the fund will have \$42 million in student loans, it will have had issued approx. \$17 million in debts and it will have an equity position or surplus funds of about \$23-25 million dollars.

**Rep. Delzer:** There was a premium can still full of \$23 million dollars then before you would have a problem.

**Mr. Sather:** Yes, I believe there would be additional funds available in July 2005, of approximately \$23-25 million dollars.

**Rep. Delzer:** I am going to oppose a Do Pass on this, not so much because I think it's terribly wrong to try to save the money on the interest rate, but I think it's wrong for us to use money for continuing appropriations for things that are going to cost us every year and my understanding on most of this, it's not one time expenditures. And then to turn around and borrow the money to do that. In essence, we're borrowing money to spend on ongoing expenses. Maybe it makes sense because we can save interest, but I think it is the wrong path that started the first time I heard of it, the State spending it, since I've been part of the legislature and that's not a long time, but I just hope that this doesn't continue into the future.

**Rep. Rennerfeldt:** On this 9.5% rate, Rep. Carlson asked you how long that would hold, and you said hopefully forever. How can you guarantee that, or what's the risk of losing that.

Page 9  
House Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4/4/03

**Mr. Sather:** The risk would be based upon a ruling by the IRS and they would say what the effective date, prospective, that the maximum interest rate would be current market rate. But we would construct the finance thing, that if that happens, where the fact becomes cost-effective, that the contemplated transaction or financing we're talking about could be unwound, and it would be no risk to the trust.

**Chairman Svedjan:** Any further discussion.

**Rep. Kempenich:** I guess this bill isn't going to be the answer, but I guess I don't know if a person could put another amendment that any trust funds that are student loan trust fund, that would have to be brought in front of us as a separate bill to vote on. We're discussing two different issues here in this bill. These should have been a separate bill then that we use the money out of this to start with and we're talking about two different bills, two different issues.

**Rep. Carlisle:** But this is the vehicle to get the 9.5%, right.

**Chairman Svedjan:** Yes. Any further discussion.

19 YES 3 NO

MOTION PASSES

CARRIER: Rep. Brusegaard

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10/21/03  
Date

REPORT OF STANDING COMMITTEE (410)  
April 4, 2003 3:22 p.m.

Module No: HR-61-6876  
Carrier: Brusegaard  
Insert LC: 38280.01 : Title: .0200

REPORT OF STANDING COMMITTEE

SB 2232: Appropriations Committee (Rep. Svedjan, Chairman) recommends  
**AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**  
(19 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2232 was placed on the Sixth  
order on the calendar.

Page 1, line 17, after the period insert "The Industrial commission may issue subordinate or  
residual bonds in a total principal amount not to exceed twenty-three million dollars  
plus costs of issuance and any reasonably required reserve whenever the industrial  
commission determines that it is appropriate or expedient to do so and the bonds may  
contain such terms and provisions as the commission may determine."

Renumber accordingly

2003 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2232

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10/21/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2232 Conference Committee

Senate Appropriations Committee

☒ Conference Committee

Hearing Date 4-15-03

Tape Number	Side A	Side B	Meter #
1	X		0-1000
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes: CHAIRMAN GRINDBERG opened the conference committee hearing to SB 2232.

Conference committee members present included: Senators Grindberg, Thane and substitute for Senator Lindaas was Senator Mathern, Representatives Berg, Svedjan and Boucher.

A bill relating to bonds of the student loan trust.

(Meter 33) REPRESENTATIVE BOUCHER stated he understands the student loan trust fund is a surety fund. None of the student trust fund is loaned out, it's just a surety, bases on the guaranteeing student loans. That's the one where we have a 42 million dollar 1976-79 issue.

What we are doing is pulling out 18-19 million dollars in cash and replacing....drawing down to 23 million on the issue but replacing it immediately with the bond at 2 ¼ % or whatever percent we can get. The payments will be covered by the margin of 2 ½ to 9 ¼.

(Meter 95) REPRESENTATIVE SVEDJAN stated the amendment put on in the House simply caps the amount of residual bonding. It contains only for the residual bond because there are other bonding in that fund.

Page 2  
Senate Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4-15-03

(Meter 114) REPRESENTATIVE BERG stated so one example would be, a bill that venture capita bill that came in and used a student loan as kind of security, you could say. There would be room in there if that venture fund loan was made and went bad and came after the security, they could get it out of there but it wouldn't go beyond that.

(Meter 147) SENATOR MATHERN asked if he was talking about putting a cap or a floor on it? REPRESENTATIVE BERG stated a cap. Not permitting the taking of money. Using the House example, it is like if we are going to keep 20% equity in there, if we have 50% equity in there now and we are borrowing 17 million of that equity out, then our loan goes up and we allow it to go up.

(Meter 201) REPRESENTATIVE BOUCHER stated what he is saying, what we are talking about now is 17 or 8 million and that number cannot go any greater. But we will always keep 42 million in that fund.

(Meter 320) CHAIRMAN GRINDBERG asked what would be able if it was the wishes of the Legislature in '05. What would be available to use for general funds transfers? Is there any discussion? REPRESENTATIVE BERG stated it was 26 million. The asset is 52 right now but we are taking 9 and 17, so we are taking 26 million out. (Meter 357) CHAIRMAN GRINDBERG asked how does that get replaced in two years? (Meter 378) REPRESENTATIVE BOUCHER stated it is his understanding there is 9 million that we are taking out of the interest that has been accumulated. This has been a bond issue and we have no bond obligation so it has accumulated interest. The 9 million we are taking out of the interest. The 16 or 17 or whatever number is decided upon, that actually comes out of the equity portion of it. That is why we are reissuing the second bond at a lower rate of interest to maintain that equity level. The equity

*Deanna Walsh*  
Operator's Signature

10/21/03  
Date

Page 3  
Senate Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4-15-03

level is 42 million on this issue. Before any decision is made, he feels that someone should have somebody clear this up. It is his understanding there was also a second issue of 16 or 18 million not interest but another issuance. But that issuance only returns 2-2 1/4 % so it makes no sense to reissue the bond. He would like someone to clarify that. It was suggested that Karlene Fine from the Industrial commission help clarify. CHAIRMAN GRINDBERG also wanted clarification on the dialog. He feels confused on how the state gets back all the this cash because it can't earn enough interest in two years to replace what was taken out.

(Meter 512 ) 'KARLENE FINE from Industrial Commission stated all the cash will not be replaced. What they won't have to do by being able to reissue the residual bonds and the balance now states up to 23 million dollars. They won't have to cash in the student loans that are getting an active rate of 9 1/2 %. Instead be able to issue a residual bond at the 2% level and continue to earn the additional funds of approximately 7 million dollars at 7%. That will continue to stay in the within the student loan trust. They will then use that cash they is received from that bond issue to make payments to the general fund and other areas that are indicated in the different pieces of legislation.

(Meter 579) REPRESENTATIVE BERG wanted to clarify two of the House amendment, it didn't do anything to change the intent of what was in the executive budget. It just sets for a ceiling on the amount that it could be done.

(Meter 606) KARLENE FINE stated within the was done there will still be remaining within the student loan trust approximately 26 million dollars . CHAIRMAN GRINDBERG asked KARLENE if she could have that information complied and distributed by the next meeting.

Deanna D. Smith  
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10/21/03  
Date



Page 4  
Senate Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4-15-03

(Meter 626) SENATOR THANE stated he was trying to follow the House's discussion and he has a printout compiled by the Legislative Council from Jim Smith. It spells out the balances of July 1, 2003, of \$53 million, estimate revenue of \$5 million dollars total available 57.9 million dollars less the transfers. Is it agreed upon that these are accurate figures. The committee agreed. The balance the sheet indicates on June 30, 2005, if all these things take place is 25.7 million dollars.

(Meter 776) REPRESENTATIVE BERG stated what they are doing here is preserving some of that asset or equity for next biennium for the future. Another simple explanation is they will issue bonds and will take all that money when it comes in and loan it out to students and that's where they make the spread on the loans.

(Meter 818) REPRESENTATIVE BOUCHER stated this money doesn't go out to the students, this is surety. REPRESENTATIVE BERG clarified it goes to the student loan trust fund. The student loan pool in essence of what they do - they issue bonds, the people buys the bonds, the money comes in that is loaned out to the students. Ten or twenty years bonds.

(Meter 853) SENATOR MATHERN was wondering do the amounts that are in the bill cover the potential of the arbitrage? Is there more potential than is asked here?

(Meter 872) KARLENE FINE answered that 42 million is what is identified as what the loan is for the 9% rate. CHAIRMAN GRINDBERG asked that is the 4 1/2 million on the Council sheet is? KARLENE stated yes, and there is some interest income that comes to the second resolution but can't get to that resolution because of outstanding debts so all of it comes from the first resolution.

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12/21/03  
Date

Page 5  
Senate Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date 4-15-03

(Meter 923) SENATOR THANE asked as a matter of interest, what is the percentage of default as far as student loans are concerned? KARLENE stated it was very low, at less than 1% but no more.

(Meter 966) CHAIRMAN GRINDBERG asked KARLENE to put together a summary on this and get together one more time.

(Meter 1000) CHAIRMAN GRINDBERG closed the conference committee hearing on SB 2232.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2232

Senate Appropriations Committee

☒ Conference Committee

Hearing Date April 23, 2003

Tape Number	Side A	Side B	Meter #
#2	X		0 - 358
Committee Clerk Signature <i>Jan Hendrickson</i>			

Minutes:

**Senator Grindberg**, chairman, called the conference committee on SB 2232 to order. All members are present: **Senators: Grindberg, Thane, Lindaas and Representatives Svedjan, Berg, Boucher.**

Senator Grindberg asked for any motions.

**Senator Thane** moved for the Senate to accede to the House amendments, seconded by **Representative Boucher.**

Discussion:

**Senator Boucher (#66)** He said that in the bill that the Industrial Commission may issue subordinate or residual bonds in a total principal amount not to exceed \$23 million. He stated that he was presuming that what they are doing is authorizing the transfer of \$23 million out of the student loan trust fund. He didn't know what the daily status report for today was, but yesterday's line item has not changed where it says HB 1003, 1019 \$15,258,000. Are we to

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*10/21/03*  
Date

Page 2  
Senate Appropriations Committee  
Bill/Resolution Number SB 2232  
Hearing Date April 23, 2003

presume that there is another \$8 million, approximately, in other locations or is there \$8 million out there that would be available if sometime during the course of the next biennium we would chose to access that money. That is the question that he would like answered.

**Representative Berg** (#143) The intention here is it puts a cap on it, before there wasn't a cap on it. It doesn't take any money out, nothing in terms of transferring the general fund.

**Ed Shafer** (?) (#180) Basically, he understood the amendment it would put a cap of \$23 million that could be issued subordinate or residual issuance (?), his understanding is there is \$9 million is being transferred to the general fund for the Governor's budget and \$15,258,000 that is being transferred to other funds. Based upon the cash flow that he did, and that was based on \$26 million being transferred, all they would have to issue is about \$16 1/2 million.

**Representative. Berg:** (#234) Is that to reach the \$42 million threshold?

**Ed:** That is correct

**Senator Grindberg:** (#240) The executive budget recommended that trust fund, fund higher education, is that correct? The House action reverted it back to general funds and then floated it back.

**Representative Berg:** (#258) If more money was taken out of the trust fund, more bonds would have to be issued.

**Ed:** (#277) We issued \$16 1/2 million to meet the current projected transfer and to maintain the \$43 million threshold, there would still be a cushion of approximately \$7 million. Based upon our cash flow analysis there will still be an equity balance of approximately \$26 million at the start of the next biennium.

Roll call vote taken on motion: 6 yes 0 no. Motion carried.

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10/21/03  
Date

Page 3

Senate Appropriations Committee

Bill/Resolution Number SB 2232

Hearing Date April 23, 2003

Senator Grindberg, chair, closed the conference committee on SB 2232. (#354)

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10/21/03  
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Date: 4/23/03  
Roll call vote # 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2232

Senate Appropriations Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Senate accede to House amendments

Motion Made By Sen Thane Seconded By Rep. Boucher

Senators	Yes	No	Representatives	Yes	No
Senator Grindberg	✓		Representative Svedjan	✓	
Senator Thane	✓		Representative Berg	✓	
Senator Mathern <u>Lindaas</u>	✓		Representative Boucher	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Grindberg / Svedjan

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

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Deanna Wallis 10/21/03  
Operator's signature Date

**REPORT OF CONFERENCE COMMITTEE (420)**  
April 24, 2003 9:26 a.m.

**Module No: SR-75-8311**

**Insert LC: .**

**REPORT OF CONFERENCE COMMITTEE**

**SB 2232:** Your conference committee (Sens. Grindberg, Thane, Lindaas and Reps. Svedjan, Berg, Boucher) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1299 and place SB 2232 on the Seventh order.

SB 2232 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

SB 2232

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Date





Exhibit #1

## INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Commissioner of Agriculture

Testimony on Senate Bill No. 2232  
Karlene Fine, Executive Director and Secretary to the  
Industrial Commission/Authorized Officer for the Student Loan Trust  
and  
Ed Sather, Senior Vice President - Treasury Services  
for the Bank of North Dakota  
January 27, 2003  
Senate Appropriations Committee

Good morning, Mr. Chairman and members of the Senate Appropriations Committee. Thank you for the opportunity to appear in support of Senate Bill 2232.

This past week we had an opportunity when you held the hearing on Senate Bill 2015 to discuss the Student Loan Trust. We handed out to you at that time what we refer to as the Student Loan Trust White Paper. In that document we provided information on the Student Loan Trust. We won't go over that information again. We do note that in the Governor's proposed Executive Budget there are transfers of just over \$26 million from the Trust for the 2003-2005 biennium.

As mentioned last week, within the Student Loan Trust there are two separate resolutions—the 1979 Resolution and the 1996 Resolution. Because of certain federal regulations, the Trust is able to achieve a 9.5% yield on approximately \$42 million of student loans currently held in the 1979 Resolution as long as those loans continue to be held within the 1979 Resolution. We anticipate that any transfers out of the Student Loan Trust would come from the 1979 Resolution. In order to explore alternatives to liquidating those 9.5% earning loans, we went to our financing team and discussed a mechanism that would allow the Trust to obtain the cash needed for the transfers and retain the 9.5% earning loans. This would allow the Trust to provide the funding needed by the State and still maximize the interest earnings on the Trust.

The structure that is currently being discussed is the issuance of what is called a residual bond. The Trust would issue this residual bond for the amount of cash needed for the transfers in the 2003-2005 biennium and the bond would be sold to and held by the Bank of North Dakota. The source of repayment for this bond is the principal and income from the Student Loan Trust. In order to

Karlene K. Fine, Executive Director and Secretary  
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Phone: (701) 328-3722 FAX: (701) 328-2820  
"Your Gateway to North Dakota": [discovernd.com](http://discovernd.com)

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facilitate this financing, bond counsel indicated that two changes needed to be made to the Student Loan Trust statute NDCC 54-17-25. Those two changes are reflected in Senate Bill 2232.

Currently state law allows the Trust to issue bonds under the following conditions:

- To diminish the investment of state funds in United States government guaranteed or reinsured or North Dakota guaranteed student loans;
- That it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public;
- That business conditions are favorable to a state-sponsored program to consolidate state-held student loans; and to enlarge private participation in such loans.

What we are proposing with the issuance of a residual bond does not exactly fit within these criteria, so we are seeking an amendment to allow for the issuance of bonds by the Trust in those instances "the public will otherwise benefit", such as with the issuance of a residual bond.

The second change is on line 18 of the bill when we delete the reference to "paramount." The issuance of a residual bond would not be a paramount charge on the resources of the Trust in that a residual bond is issued with the understanding that it is the last bond paid when everything else had been paid—thus the name residual bond.

Could the Trust make the transfers as proposed without this legislation? Yes, the Trust certainly could do that with the consent of the bond insurer. The Trust would sell a portion of its loan portfolio held within the 1979 Resolution to the Bank of North Dakota. The Trust would then have the cash to make the transfers. However, the loans that had a yield of 9.5% would then have a yield of approximately 2%—a loss in yield of 7.5% on a \$21 million loan portfolio (\$1,600,000 annually). What is proposed in Senate Bill 2232 would give the Trust the ability to maximize the State's earning potential on student loans held within the Trust and still provide the funding needed by the State.

Deanna D. Smith  
Operator's Signature

12/21/03  
Date



## INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Commissioner of Agriculture

Testimony on Senate Bill No. 2232  
Karlene Fine, Executive Director and Secretary to the  
Industrial Commission/Authorized Officer for the Student Loan Trust  
and  
Ed Sather, Senior Vice President - Treasury Services  
for the Bank of North Dakota  
March 12, 2003  
House Appropriations Committee

Good afternoon, Mr. Chairman and members of the House Appropriations Committee. Thank you for the opportunity to appear in support of Senate Bill 2232.

During the past few weeks we have had an opportunity to appear before two of your divisions to discuss the Student Loan Trust. During those presentations we provided the divisions with copies of what we refer to as the Student Loan Trust White Paper. Attached to our testimony today is an updated version of that Student Loan Trust White Paper. We will just briefly comment on what is contained in that White Paper.

As noted in the White Paper, the Governor's proposed Executive Budget includes transfers of just over \$26 million from the Trust for the 2003-2005 biennium. Within the Student Loan Trust there are two separate resolutions—the 1979 Resolution and the 1996 Resolution. Because of certain federal regulations, the Trust is able to achieve a 9.5% yield on approximately \$42 million of student loans currently held in the 1979 Resolution as long as those loans continue to be held within the 1979 Resolution. We anticipate that any transfers to the General Fund out of the Student Loan Trust would come from the 1979 Resolution. In order to explore alternatives to liquidating those 9.5% earning loans, we went to our financing team and discussed a mechanism that would allow the Trust to obtain the cash needed for the transfers and retain the 9.5% earning loans. This would allow the Trust to provide the funding needed by the State and still maximize the interest earnings on the Trust.

The structure that is currently being discussed is the issuance of what is called a residual bond. The Trust would issue this residual bond for the amount of cash needed for the transfers in the 2003-2005 biennium and the bond would be sold to and held by the Bank of North Dakota. The source of repayment for this bond is the principal and income from the Student Loan Trust. In order to

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Date

facilitate this financing, bond counsel indicated that two changes needed to be made to the Student Loan Trust statute NDCC 54-17-25. Those two changes are reflected in Senate Bill 2232.

Currently state law allows the Trust to issue bonds under the following conditions:

- To diminish the investment of state funds in United States government guaranteed or reinsured or North Dakota guaranteed student loans;
- That it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public;
- That business conditions are favorable to a state-sponsored program to consolidate state-held student loans; and to enlarge private participation in such loans.

What we are proposing with the issuance of a residual bond does not exactly fit within these criteria, so we are seeking an amendment to allow for the issuance of bonds by the Trust in those instances "the public will otherwise benefit", such as with the issuance of a residual bond.

The second change is on line 18 of the bill when we delete the reference to "paramount." The issuance of a residual bond would not be a paramount charge on the resources of the Trust in that a residual bond is issued with the understanding that it is the last bond paid when everything else had been paid—thus the name residual bond.

Also attached to our testimony is a blue sheet which we prepared at the request of the House Appropriations Government Operations Division which shows the projected balances of the North Dakota Student Loan Trust 1979 Resolution if Senate Bill 2232 becomes law.

Could the Trust make the transfers as proposed in the Governor's Executive Budget without this legislation? Yes, the Trust certainly could do that with the consent of the bond insurer. The Trust would sell a portion of its loan portfolio held within the 1979 Resolution to the Bank of North Dakota. The Trust would then have the cash to make the transfers. However, the loans that had a yield of 9.5% when held by the Trust would then have a yield of approximately 2% when held by the Bank—a loss in yield of 7.5% to the State on a \$21 million loan portfolio (\$1,600,000 annually). What is proposed in Senate Bill 2232 would give the Trust the ability to maximize the State's earning potential on student loans held within the Trust and still provide the funding needed by the State. However, without passage of Senate Bill 2232 the Student Loan Trust could not issue a residual bond and maximize its earning potential and still make the transfers to the General Fund.

Deanna Wall, SSB  
Operator's Signature

10/21/03  
Date

## Information on The North Dakota Student Loan Trust

### Background

In 1971 the Legislature authorized the Industrial Commission to "acquire and hold in one or more trusts [1] all unpaid United States government guaranteed or reinsured student loans and [2] North Dakota guaranteed student loans, belonging to the state of North Dakota or to any of its agencies . . ." (NDCC 54-17-24. See also NDCC 54-17-25). The creation of the North Dakota Student Loan Trust enabled the State of North Dakota to obtain low cost funds (through the sale of tax-exempt bonds) and use those funds for purchasing student loans originated or acquired by the Bank of North Dakota. Since 1971 the Industrial Commission has issued over \$900,000,000 in student loan bonds. The Student Loan Trust had just over \$125,852,000 in bonds outstanding as of December 31, 2002.

### Structure of the Trust

The Student Loan Trust is composed of funds held under two General Bond Resolutions. These General Bond Resolutions determine the use and flow of funds within the Student Loan Trust.

The following chart shows the consolidated assets and liabilities held under the Student Loan Trust as of December 31, 2002 (unaudited):

	<u>Total</u>
Assets	209,731,820
Bonds Outstanding	125,852,166
Other Liabilities	13,017,862
Fund Balance	70,861,792

As noted above the Trust is composed of two General Bond Resolutions. The First General Bond Resolution (1979) includes funds from the 1979, 1988, 1989 and 1992 student loan bond issues. The following is a chart showing the assets and liabilities held under the First General Bond Resolution as of December 31, 2002 (unaudited):

	<u>1979</u>	<u>1988</u>	<u>1989</u>	<u>1992</u>	<u>Total</u>
Assets	3,625,152	27,734,270	24,200,991	10,518,269	66,078,682
Bonds Outstanding	0	0	3,956,205 <sup>2</sup>	0	3,956,205
Other Liabilities	33,369	9,227,639 <sup>1</sup>	26,306	90,154	9,377,468
Fund Balance	3,591,783	18,506,631	20,218,480	10,428,115	52,745,009

<sup>1</sup> The 57<sup>th</sup> Legislative Assembly directed the Student Loan Trust to make a transfer of \$9,000,000 to the North Dakota General Fund during the 2001-2003 biennium with certain conditions. This transfer was made in January, 2003.

<sup>2</sup> Non-callable; final maturity in 2005.

The non-callable 1989 bond issue is insured by Ambac Assurance Corporation (Ambac). The assets of the First General Bond Resolution include \$38,232,829 of student loans.

The Second General Bond Resolution (1996) includes funds from the 1996, 1997, 1998 and 2000 Student Loan Bond Issues. The following chart shows the assets and liabilities held under the Second General Bond Resolution as of December 31, 2002 (unaudited):

	1996	1997	1998	2000	Total
Assets	21,094,550	21,897,737	35,009,839	65,651,012	143,653,138
Bonds Outstanding	13,550,000 <sup>1</sup>	15,400,000 <sup>2</sup>	29,945,961 <sup>3</sup>	63,000,000 <sup>4</sup>	121,895,961
Other Liabilities	272,973	273,002	1,095,598	1,998,821	3,640,394
Fund Balance	7,271,577	6,224,735	3,968,280	652,191	18,116,783

<sup>1</sup> Bond maturities extend to 2006, 2014

<sup>2</sup> Bond maturities extend to 2027

<sup>3</sup> Bond maturities extend to 2006

<sup>4</sup> Bond maturities extend to 2025, 2035

All bond issues under the Second General Bond Resolution are insured by Ambac. The assets of the Second General Bond Resolution include \$98,701,456 of student loans.

How did the Trust accumulate its fund balances?

Bonds sold in the 1970's and 1980's were issued under favorable Federal tax legislation. From those early bond issues the Trust was able to accumulate earnings that were not subject to arbitrage rebate to the federal treasury. One of the provisions of tax-exempt bonds sold prior to October 1, 1993 is that student loans held by the Student Loan Trust will receive a minimum yield of 9.5%. The student loan borrower pays the prevailing rate on a student loan and the federal government will provide a Special Allowance Payment to the Trust that would result in a 9.5% yield on the loan. These loans are very valuable assets of the Trust and this 9.5% yield can only be achieved as long as there are pre-1993 bonds outstanding or proceeds of the pre-1993 bond issues are utilized to recycle student loans.

Another source of earnings for the Trust results from the fact that when bonds are issued, a debt service reserve fund is established. That debt service reserve fund (a source of repayment to the bondholders) is also invested. Some of the investment earnings on the debt service reserve fund are retained within the Trust.

How can the funds within the Trust be utilized?

Under both the First and Second General Bond Resolutions funds derived from the bond issues can be used for the following general purposes:

Deanna D. Smith  
Operator's Signature

10/21/03  
Date

- 1) Purchase of student loans: Federal Family Education Loan Program Loans (FFELP) and Dakota Education Alternative Loans (DEAL), a supplemental state guaranteed program. The FFELP loans carry federal coinsurance, while the DEAL loans are guaranteed by the North Dakota Guaranteed Student Loan Program (Guarantee Agency) without federal coinsurance;
- 2) Payment of debt service to the bondholders;
- 3) Providing financial assistance to the Guarantee Agency;
- 4) Payment of any rebate liability to the federal government or, when permitted, providing borrower benefits to students; and
- 5) Administration of the Student Loan Trust.

As noted above the Trust funds can be used to provide financial assistance to the Guarantee Agency. Over the past six years the Trust has transferred \$5.8 million to the Guarantee Agency. This has allowed the Guarantee Agency to:

- Provide its guarantee on student loans to our student loan borrowers at a lower cost—the Guarantee Agency has eliminated a 1% guarantee fee previously charged to all borrowers;
- Upgrade its information technology system to streamline its operations, make the system more efficient and thus less costly, and to make the program more user friendly to the university system and other higher education institutions and ultimately to the borrowers;
- Fund six full-time positions for the Higher Education Computer Network (HECN) within the University System. These positions relate to programming system changes and training for HECN schools on system updates;
- Provide operating funds for the Guarantee Agency. Since the mid-90's the federal government has been withdrawing funds from guarantee agencies across the United States;
- Provide the required reserve funds (10%) needed for DEAL loans (those loans without federal coinsurance)

In order for the Guarantee Agency to offer its services at a lower cost to the student loan borrower, the Trust will be asked to transfer additional funding to the Guarantee Agency. Additional funding is also needed to meet the reserve requirements for additional DEAL program loans.

Can funds be withdrawn from the Student Loan Trust?

As noted above the General Bond Resolutions have limitations on how funds can be used. The Industrial Commission has just recently amended the First General Bond Resolution to allow transfer for the \$9 million of earnings that were appropriated by the Legislature during the 2001 Legislative Session for the General Fund. All the outstanding bonds are insured by Ambac and any amendments to the General Bond Resolutions must be agreed to by Ambac. The Trust has received approval from Ambac of an amendment to the First General Resolution and Ambac has approved the \$9 million transfer. The Trustee for the bonds must also certify that sufficient reserves remain to meet debt service payments, rebate payments and all program costs.

Dennis D. Hall  
Operator's Signature

10/21/03  
Date

Another option is to defease bonds outstanding under the First General Bond Resolution. Once all the bonds of any General Bond Resolution have matured, been redeemed or all the non-callable bonds defeased and the entire rebate liability due to the federal government paid, the remaining assets held under any General Bond Resolution would be transferred to the Industrial Commission. At that point the status of the student loan program would need to be evaluated and the legal status of any unencumbered assets determined. *(For your information, to defease a bond issue, the Commission deposits sufficient funds in an Escrow Account to fully pay the principal and interest on the outstanding bonds and all other outstanding costs.)* However, it is important to note that at the current time the Trust receives a yield of 9.5% on student loans held within the 1979 Resolution. If the 1979 Resolution is defeased, the Trust would no longer be able to receive the 9.5% yield on loans held in the 1979 Resolution. The earnings from these 9.5% loans are partially used to pay a servicing fee to the Bank of North Dakota. The portion received by the Bank is reflected in the Bank's overall earnings.

What has the Student Loan Trust income been and what is the forecasted fund balance?

The Student Loan Trust has averaged net income over the past six years of \$3,983,940 before transfers to the Guarantee Agency or the General Fund. Governor Hoeven's 2003-2005 Executive Budget utilizes \$26,258,969 from the Student Loan Trust--\$9,000,000 of the Student Loan Trust's current and prior income during the 2003-2005 biennium and \$17,258,969 from funds held in the Student Loan Trust. This transfer from the funds held in the Student Loan Trust 1979 General Bond Resolution (which may require the sale of 9.5% loans) and a proposed transfer to the Guarantee Agency to support its operations and continue the DEAL loan program will reduce the First General Bond Resolution fund balance to \$26,690,000 on June 30, 2005. The Trust is currently considering options, including the passage of legislation (SB 2232), which will enable the Trust to provide the funding proposed in the Executive Budget without the sale of the 9.5% loans and to maximize the Trust's future earnings.

Will students be able to obtain a student loan from the Bank of North Dakota if funds are transferred from the Student Loan Trust?

Yes, the Bank of North Dakota will continue to offer FFELP student loans. Currently the Student Loan Trust is a liquidity provider for the Bank and provides an alternative for the Bank should the Bank determine a need to reduce its student loan portfolio.

Dated February 24, 2003.

If there are additional questions regarding the Student Loan Trust, please contact Karlene Fine, Executive Director and Secretary for the Industrial Commission (328-3722), or Ed Sather, Senior Vice President of the Bank of North Dakota (328-5604).

Deanna Waller  
Operator's Signature

10/21/03  
Date



Revised 3

North Dakota Student Loan Trust  
1979 Resolution  
Projected Balance Sheet

	9-30-02	6-30-03	6-30-04	6-30-05
Cash/Investments	23,339,000.00	15,893,000.00	5,902,000.00	3,670,000.00
Student Loans	42,000,000.00	42,000,000.00	42,000,000.00	42,000,000.00
Total Assets	<u>65,339,000.00</u>	<u>57,893,000.00</u>	<u>47,902,000.00</u>	<u>45,670,000.00</u>
Bonds Payable	4,500,000.00	4,500,000.00	3,500,000.00	2,500,000.00
General Fund Payable	9,000,000.00			
Residual Bond Payable			10,710,000.00	16,480,000.00
Total Liabilities	<u>13,500,000.00</u>	<u>4,500,000.00</u>	<u>14,210,000.00</u>	<u>18,980,000.00</u>
Fund Balance	<u>51,839,000.00</u>	<u>53,393,000.00</u>	<u>33,692,000.00</u>	<u>26,690,000.00</u>

Transaction Report

01-01-03	Transfer to General Fund	(9,000,000.00)	
06-30-03	Net Income	1,554,000.00	
07-01-03	Transfer to Guarantee Agency	(4,500,000.00)	
	Transfer to General Fund/Commerce/ITD/NDUS	(17,259,000.00)	
	Issue Residual Bond	10,500,000.00	
	Bond Maturity	(1,000,000.00)	
06-30-04	Net Income		
07-01-04	Bond Maturity	2,268,000.00	
01-01-05	Transfer to General Fund		(1,000,000.00)
	Issue Residual Bond		(9,000,000.00)
06-30-05	Net Income		5,500,000.00
			2,268,000.00

Prepared by Edward B. Sather, BND, and Karlene Fine, IC

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Deanna Waller  
Operator's Signature

10/21/03  
Date