

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2042

Introduced by

Legislative Council

(Education Finance Committee)

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

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

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

9 1. If the municipal bond bank or a paying agent notifies the superintendent of public  
10 instruction, in writing, that a school district has failed to pay when due the principal  
11 or interest on any evidences of indebtedness issued after July 31, 1999, or that the  
12 bond bank or the paying agent has reason to believe a school district will not be  
13 able to make a full payment of the principal and interest when the payment is due,  
14 the superintendent of public instruction shall withhold any funds that are due or  
15 payable or appropriated to the school district under chapter 15-40.1 until the  
16 payment of the principal or interest has been made to the bond bank or the paying  
17 agent, or until the bond bank or the paying agent notifies the superintendent of  
18 public instruction that arrangements satisfactory to the bond bank or the paying  
19 agent have been made for the payment of the principal and interest then due and  
20 owing. The notification must include information required by the superintendent of  
21 public instruction. State funds available to a school district under chapter 15-40.1  
22 are not subject to withholding under this section unless the withholding is  
23 authorized by resolution of the district's school board.

- 1           2. Notwithstanding any withholding of state funds under section 15-39.1-23 or any  
2           other law, the superintendent of public instruction shall make available any funds  
3           withheld under subsection 1 to the municipal bond bank or the paying agent. The  
4           bond bank or the paying agent shall apply the funds to payments that the school  
5           district is required to make to the bond bank or the paying agent.
- 6           3. If funds are withheld from a school district and made available to the bond bank or  
7           a paying agent under this section and if tax revenues are received by the school  
8           district during the fiscal year in which the funds are withheld and are deposited in  
9           the district's sinking fund established in accordance with section 21-03-42, the  
10          district, with the consent of the bond bank or the paying agent, may withdraw from  
11          its sinking fund an amount equal to that withheld by the superintendent of public  
12          instruction and made available to the bond bank or a paying agent under this  
13          section.
- 14          4. Any excess funds at the Bank of North Dakota escrowed pursuant to an  
15          agreement between the municipal bond bank and the state board of public school  
16          education for the benefit of the bond bank and a school district must be held by the  
17          Bank. With the approval of the superintendent of public instruction, those funds  
18          may be used to subsidize the debt service payments on construction loans that are  
19          made to school districts by the bond bank and which are subject to the withholding  
20          provisions of this section or construction loans made to school districts under the  
21          state school construction program established by section 11 of chapter 2 of the  
22          1989 Session Laws. Notwithstanding the existence of an escrow agreement  
23          between the bond bank and the state board of public school education, those  
24          funds must be transferred to the bond bank upon certification by the bond bank  
25          that the funds are in excess of the amount needed to provide for the payment in  
26          full of the outstanding principal and interest, when due, on the bond bank bonds  
27          issued to purchase the municipal securities for which the escrow fund was  
28          established.

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

1           **6-09.4-18. Insurance or guaranty.** The bond bank is authorized and empowered to  
2 obtain from any entity of the state, any department or agency of the United States of America,  
3 or any nongovernmental insurer any insurance or, guaranty, or liquidity facility, or from a  
4 financial institution a letter of credit to the extent such insurance, guaranty, liquidity facility, or  
5 letter of credit now or hereafter available, as to, or for, the payment or repayment of, interest or  
6 principal, or both, or any part thereof, on any bonds issued by the bond bank, or on any  
7 municipal securities purchased or held by the bond bank, pursuant to this chapter; and to enter  
8 into any agreement or contract with respect to any such insurance or, guaranty, or letter of  
9 credit, or liquidity facility, and pay any required fee, unless the same would impair or interfere  
10 with the ability of the bond bank to fulfill the terms of any agreement made with the holders of  
11 its bonds.

12           **SECTION 3. AMENDMENT.** Section 21-03-44 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **21-03-44. Sinking fund - Use for unauthorized purpose.** Money may not be  
15 withdrawn from a sinking fund and appropriated to any purpose other than the purpose for  
16 which the fund was instituted until that purpose has been accomplished, except as authorized  
17 by section 1 of this Act and sections 21-03-42 through 21-03-45.