

**HB 1125**  
**House Education Committee**  
**January 30, 2023**

Mr. Chairman and members of the Committee:

My name is Scott Wegner. I am a member of the law firm of Arntson Stewart Wegner PC (701.255.1008 / [swegner@aswbondlaw.com](mailto:swegner@aswbondlaw.com)). We serve as bond counsel to school districts.

North Dakota Century Code Section 6-09.4-23 is a credit enhancement program designed to reduce borrowing costs for school districts. Specifically, the program authorizes the Department of Public Instruction to withhold or intercept state aid to a school district if necessary to pay debt service on bonds. The intercepted aid is applied to the school district's bond payments. The program is voluntary, the school board must authorize use of this program as part of a bond financing.

An intercept situation could occur if: (a) tax levy certification error, or (b) mismanagement of public funds.

Around 150 ND school district bond issues are outstanding under the credit enhancement program (since 2011). To our knowledge there have been no instances of a school district missing a bond payment and having its state aid withheld.

Bonds sold with the credit enhancement program may have a **higher rating** which in turn means **lower interest rates** on the bonds.

- Moody's Investors Service rates the program Aa2 (one notch off the State's rating of Aa1)
- Standard & Poor's rates the program AA (one notch off the State's rating of AA+)
- results in an interest rate savings of as much as 50 basis points (1/2 %)
- Scranton PSD – bonds sold at Aa2 (program rating)  
(without program, bonds sold at maybe A2)
- some districts do not receive enough state aid to participate in the program (requirement is x2 coverage: i.e. if annual bond debt service is \$500,000, annual state aid must be at least \$1m)

House Bill 1125 makes one improvement to the credit enhancement program:

- new subsections are added to allow withholding of certain revenue in lieu of property taxes:
  - NDCC 57-51 (oil and gas gross production tax)
  - NDCC 57-33.2 (electric generation, distribution and transmission taxes)
  - NDCC 57-34 (telecommunications carriers taxation)
  - NDCC 57-55 (mobile home tax)
  - NDCC 21-06-10 (flood control)