

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLE NUMBER

DESCRIPTION

2261

2001 SENATE JUDICIARY

SB 2261

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2261

Senate Judiciary Committee

Conference Committee

Hearing Date January 30th, 2001

Tape Number	Side A	Side B	Meter #
1	X	X	37.1-end/0-13.9
2	X		9.4-19
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2261: A BILL FOR AN ACT TO CREATE AND ENACT A NEW SECTION TO CHAPTER 54-17 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO TRANSFER TO THE COMMON SCHOOLS TRUST FUND OF FUNDS REMAINING AFTER PAYMENT OF OBLIGATIONS ON BONDS ISSUED UNDER THE STUDENT LOAN TRUST FUND; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE AN EXPIRATION DATE; AND TO DECLARE AN EMERGENCY.

Senator Kelsh, representing district 26, supports SB 2261. An education bill first issued was in 1979 the 2nd was in 1992. (Background and testimony attached) Assets of 72 million dollars. This money will go to trust funds. There is enough money to go to trust funds. Urges a do pass. Bill is for kids.

Senator Traynor, this transfer of Governor Hoeven's, is that the 9 million mentioned on page 3?

Senator Kelsh, yes it is.

Senator Traynor, transfer of Governor Hoeven's, is that to fund the increase of teachers salaries? What is Ambak, is that an insurance company?

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Senate Judiciary Committee

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Senator Kelsh, a bonding insurance company.

Senator Watne, on the fiscal note, is there a statement which talks of covenants. Will this bill override these restrictions?

Senator Kelsh, that is why you need AMBAC's permission. This money was generated through student loans.

Senator Trenbeath, I don't disagree that this would benefit K -12. This money should be put away.

Senator Kelsh, there is another issue of bonds. In 1996 the total was 220 of which 202 million needed to be paid off. There is a possibility that this money could be used.

Carlne Find, has a neutral position on the bill. Present only to answer questions regarding the bill.

Senator Nelson, Lets say this was along time ago. What is the process of where this money came from.

Carlne Find, back in late nineteen seventies ND was making student loans then the bank of ND made trusts and went to financial. The Federal Government guaranteed a reserve. The Student didn't know where the loan money came from. As long as they were still in school they didn't pay interest, the Federal Government did.

Senator Nelson, Going back to the loan. My son took out a loan in 1979 and paid it all back two months after graduation. What is the percentage that pay the interest.

Carlne Find, as soon as you are out you start paying the interest.

Senator Traynor, is the payment on the loan anyway dependent upon legislative appropriations?

Carlne Find, no they are not.

Senator Watne, can you tell me what makes a bond callable or not callable.

Carline Find, when you structure a bond issue, you may sell some bonds early that are callable.

Noncallable bonds are not called on early or until bonds matured.

Senator Traynor, would transfer from any of the student trust funds to common schools trust funds or any other trust funds would that jeopardize any payment for bonds outstanding?

Carline Find, we would transfer the bonds. There would be no transmission if we didn't get permission from AMBAC.

Senator Traynor, so passage of the bill would not result in a spontaneous transfer of the funds.

Carline Find, only after all obligations have been paid and canceled can it be transferred.

Senator Traynor, would that include all covenants being satisfied. It would be in lesser amounts of 50 million dollars under the first resolution.

Carline Find, yes.

Senator Traynor, would it be appropriate to amend the bill? So everyone understands when transfers will be made.

Carline Find, that would be fine.

Senator Trenbeath, wouldn't these funds be available at the last payoff of the last loan to be reused by students?

Carline Find, way resolution now reads those funds are transferred once all the bonds have been paid.

Senator Traynor, Would the transfer of these funds repair the reserve? Is AMBAC aware of this bill?

Carline Find no.

Senator Watne, what is this bill doing in our committee?

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Senate Judiciary Committee

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Senator Traynor closed the hearing on SB 2261.

Motion was made by Senator Watne to Do not Pass, seconded by Senator Dever. Vote indicated 5 yeas, 2 nays and 0 absent and not voting. Senator Watne volunteered to carry the bill.

FISCAL NOTE

Requested by Legislative Council

01/22/2001

Bill/Resolution No.: SB 2261

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

As of December 31, 2000 the Student Loan Trust held funds under two separate Bond Resolutions (which are contracts with the bondholders). The First General Bond Resolution had a fund balance of \$57,029,513 and the Second General Bond Resolution had a fund balance of \$13,637,228; the Trust had a combined fund balance of \$70,666,741 (unaudited). The bonds issued under the First General Bond Resolution have a final maturity of 2005. The bonds under the Second General Bond Resolution have a final maturity of 2035. There are covenants in the Bond Resolutions that restrict the ability of the Industrial Commission to transfer monies out of the Trust prior to final maturity or defeasance of the bonds. Under the terms of the Bond Resolutions when there are no longer any outstanding bonds or liabilities, the remaining funds are transferred to the Industrial Commission. This bill would require that the remaining funds be transferred to the Common Schools Trust Fund.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect*

on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Karlene Fine	Agency:	Industrial Commission
Phone Number:	328-3722	Date Prepared:	01/29/2001

Date: 1/31/01
 Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2261

Senate Judiciary Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Watne Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.		X
Watne, D. Vice Chairman	X		Nelson, C.		X
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Watne

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

REPORT OF STANDING COMMITTEE (410)
January 31, 2001 4:58 p.m.

Module No: SR-17-2050
Carrier: Watne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2261: Judiciary Committee (Sen. Traynor, Chairman) recommends DO NOT PASS
(5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2261 was placed on the
Eleventh order on the calendar.

2001 TESTIMONY

SB 2261

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 and 54-17-25). The creation of the North Dakota Student Loan Trust enabled the State to obtain low cost funds (through the sale of tax-exempt bonds) and then to 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 as of December 31, 2000 had just over \$217,00,000 in bonds outstanding.

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 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, 2000 (unaudited):

	1979	1988	1989	1992	Total
Assets	3,384,412	29,922,370	28,881,055	9,847,467	72,035,304
Bonds Outstanding 12/31/00	0	4,241,675 ¹	10,635,000 ²	0	14,876,675
Other Liabilities	0	0	129,116	0	129,116
Fund Balance	3,384,412	25,680,695	18,116,939	9,847,467	57,029,513

¹ Non-callable; final maturity in 2002.

² \$3,635,000 are callable at par 7/1/2001
\$7,000,000 non-callable; final maturity in 2005.

The 1988 and 1989 bond issues are insured by Ambac Assurance Corporation (Ambac).

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

	1996	1997	1998	2000	Total
Assets	35,191,789	72,079,198	50,118,360	63,187,771	220,557,118
Bonds Outstanding (12/31/00)	24,560,000 ¹	68,600,000 ²	46,550,000 ³	63,000,000 ⁴	202,710,000
Other Liabilities	996,182	2,413,271	650,383	150,054	4,209,890
Fund Balance	9,635,607	1,065,927	2,917,977	17,717	13,637,228

¹ Bond maturities extend to 2002, 2006, 2014 (Series D)
² Bond maturities extend to 2002, 2027
³ Bond maturities extend to 2002, 2006
⁴ Bond maturities extend to 2025, 2035

All bond issues under the Second General Bond Resolution are insured by Ambac.

How did the Trust accumulate its fund balances?

Bonds sold in the 1970's and 1980's were issued under favorable 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. Allowable spreads on loans have been significantly tightened in the past decade.

Another source of earnings for the Trust is 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.

Over the years those earnings have accumulated and, according to the bond resolutions, when all the Student Loan Trust bonds held under each resolution are no longer outstanding and all fees and rebates paid, the earnings held in each resolution will be transferred to the Industrial Commission.

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:

- 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 a federal coinsurance whereas the DEAL loans are guaranteed by the Guaranty Agency without federal coinsurance;
- 2) Payment of debt service to the bondholders;
- 3) Providing financial assistance to the North Dakota Student Loan Guarantee Agency;
- 4) Payment of any rebate liability to the federal government; and
- 5) Administration of the Student Loan Trust.

As noted above the Trust funds can be used to provide financial assistance to the North Dakota Student Loan Guarantee Agency. Over the past few years the Trust has transferred funds to the Student Loan 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; and
- provide operating funds for the Agency in that the federal government in the mid-90's has been withdrawing funds from guarantee agencies across the United States.

Under the Second General Bond Resolution, federal tax law allows a 2% margin on the loans. Earnings over that margin are to be rebated to the federal treasury or a portion can be spent on borrower benefit programs such as reducing the principal or interest payments on the outstanding student loans. It is the plan of the Student Loan Trust to annually use those earnings to forgive principal outstanding on student loans. Last year just over \$1.2 million was spent to provide borrower benefits and a reduction was made on the principal amount on some of the outstanding student loans held by the North Dakota Student Loan Trust.

Can funds be withdrawn from the Student Loan Trust?

As noted above the General Bond Resolutions have limited how funds can be used. However, we are currently investigating the possibility of amending the First General Bond Resolution to allow a transfer of \$9 million dollars of earnings. All the outstanding bonds are insured by Ambac and any amendments to the General Bond Resolutions must be agreed to by Ambac. The Trustee for the bonds would also have to certify that sufficient reserves remain to meet debt service payments, rebate payments and all program costs.

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.)*

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