2013 SENATE POLITICAL SUBDIVISIONS

SB 2057

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2057
January 10, 2013
17059

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the reserve fund for public finance authority bonds.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on SB2057. Chairman Andrist, Senators Lee, Anderson, Dotzenrod, Grabinger were present, Vice-Chairman Ron Sorrvaag was called away for the sudden death of a young nephew.

Dee Ann Ament: Executive Director of the North Dakota Public Finance Authority. See written testimony.

Chairman Andrist: It is nice to have background by the specificity of your agency. You did a good job because you listed projects that just about touch everybody in this room. Apparently as I understand it, this is discretionary authority for the Industrial Commission. **Dee Ann Ament**: Correct.

Senator Howard Anderson: I can remember when I was a city auditor back in the early 1970's. If we needed to raise money for a city project we sold bonds to the general public, tax exempt bonds. Basically this program replaces that avenue for the cities or the counties to instead of selling bonds to the general public they can borrow from this program. Is that what I understand? **Dee Ann Ament**: This program is an option for them. There are some cities at times that have opted to go out and bond on their own, but for the most part with the interest rate at 2% with a .5% advent fee, it is most advantageous for these communities to utilize the State Revolving Fund Program and most do utilize the program. **Chairman Andrist**: I believe this is an interesting request without a public vote. Our resolution is for the cities to use for their funds or their waiver. **Dee Ann Ament**: Yes, that is correct. Generally these are revenue bonds and revenue bonds do not require a vote by the citizens.

Senator Howard Anderson: Is there a limit on how much you're agency could have out there or are you pretty much unlimited because you sell bonds to pay for whatever the cities borrow? **Dee Ann Ament**: We have not had to make any limitations on the program. We receive federal capitalization money. We have leveraged the program and have gone out and issued bonds so we've been able to fund any requests that have come our way. In the early years, we had a concern about concentration of credit risk. We had a lot of loans with Grand Forks, which has now grown. We have a lot of loans with Fargo that allowed us to maintain our AAA rating. Those communities have maintained their ratings and we have not had concerns of that nature. The $66 million dollar loan with Fargo is probably the largest we've had in history and there are no concerns about concentration of amounts in one community.

Senator Howard Anderson: One of the reasons that I am asking these questions is we all received an email from somebody who thought that we ought to get the Bank of North Dakota in the borrowing business for revenue bonds. He was talking about 3% would be a good return. Here they can borrow from you right now for 2.5%, 2% plus .5% administrative fee correct? **Dee Ann Ament:** Correct. **Senator Howard Anderson**: So, if there is no limit on that it seems like that would be a solution for the email that we got who said they cannot borrow money. **Dee Ann Ament**: The one thing I would like to interject in that is this program is for water and sewer projects. I do not know about this email you received but just to reiterate, it is for sewer and water projects. There is an intended use plan that the Health Department maintains. They determine that the projects meet the criteria. There are some projects that are not as S or F eligible. Particularly what we're seeing is a lot of communities want to develop a new subdivision and they want to bring water and sewer in there. State or Federal program money has not been used for new development. It is to maintain existing water lines and or bring water quality to areas that did not have good water quality previously. Just so you're aware that there is a scope of this program that does not always meet everybody's needs, but we try our best to be as helpful as possible.

Senator John Grabinger: Am I to understand that the reason you're bringing this is because the State Revolving Loan Fund is not covered under Section 6-09.4-24? Is that because the statement the Industrial Commission may determine that this section is inapplicable or whole or part for bonds issued under section. This does not fall under that section? **Dee Ann Ament**: That is correct. The section that you're referencing is where there is the option to issue reserve funds or to fund a reserve fund; and that is 6-09, issues on behalf of other state agencies. When the Public Finance Authority issues on the behalf of other agencies, the Industrial Commission can determine if its' applicable or not applicable and you are correct. The State Revolving Fund is not included in that section, so that is why we are requesting to add that language at the end of this section of our statute. **Chairman Andrist**: How are we able to offer loans at such a low rate and stay solvent? **Dee Ann Ament**: The State Revolving Fund Program since 1990 has received Capitalization Grants from the Environmental Protection Agency (EPA). Those grants have ranged from highs of $10-15 million dollars a year down to as low as $3 million dollars a year as what we're looking at when this upcoming Congress gets that all finalized We do not have to repay that money. Those are Capitalization Grants that we add into our program so essentially we could loan the money out at 0. We also then have issued bonds, yes, which carries the higher rate. But the combination of the bonds plus free money allows us to keep that rate low and we have worked very hard to do that over the 20+ years.

Senator Judy Lee: Can you give me an example of what it would be like for some political subdivision who has a project in mind before this is passed and after this is passed? What financial aid will mean to them if we change this and if we hadn't changed this ? **Dee Ann Ament**: As I had explained in my testimony, this is a component of keeping our interest rate low. **Senator Judy Lee**: I am looking at numbers. If I were borrowing x dollars just give me ball park kind of example, put a face on this for me**. Dee Ann Ament**: West Fargo it's not going to see a difference of receiving a 2.5% loan or 2% loan. What we're looking at is the overall cost savings for our agency. As I referenced in my testimony, we have about $11 million dollars of bonds outstanding. It is just sitting there as a reserve. We can't do anything with it, so we're paying interest on it. This will reduce the interest in the future. We have to leave what is in place in place. So in the future we will not have to issue additional bonds that aren't working for us. To exactly quantify it, I can't do that at this point in time but that would be the purpose in the future to not have to issue these additional bonds and pay that interest expense.

Chairman Andrist: I presume you've never had a default of any kind? **Dee Ann Ament**: To this date, no we have not a default of any kind. **Chairman Andrist**: Do you have any special tools for recovery if you did have a default? **Dee Ann Ament**: Since we haven't had a default, generally we do revenue bonds and if it's a water tower, all the water revenues are pledged toward the bonds payment. **Chairman Andrist:** So, you do have some security? **Dee Ann Ament:**: Yes. It is either a water revenue pledge; a sewer revenue pledge; or it can be a combination of both. We've had municipalities that have pledged their sales tax, and then we also have improvement bonds, so we've had special assessments as well.

Senator Jim Dotzenrod: This chapter that we're talking about is 6-09.4. The chapter is titled Public Finance Authority and these five sections that are in the reserve fund sort of describe what conditions would require a reserve fund and which exceptions to the requirement of a reserve fund. So, we've established in the chapter that there needs to be reserves and is that spelled out in these five sections and how they may or may not have to be there?. Then at the end there is sentence that says, ' the Industrial Commission may determine that this section is inapplicable in whole or in part for the bonds issued under Section 24', and 24 is "Issuance on behalf of other state agencies", so the requirement that we've set up in law for reserve funds has in it, an escape hatch, right now or ability to by-pass that and just ignore it. That is only allowed for those issuances other state agencies. I am going to assume that the Industrial Commission shouldn't , and we're saying in law and we have said in law, independent of this bill, that the Industrial Commission should be free to ignore this section 10, if there dealing with bonds for other state agencies. They shouldn't be bound by this subsection 10. So we've set up the requirement for reserve funds, but we've accepted and set out that this doesn't apply or that the Industrial Commission can make a decision that they don't want to follow for the state agencies. I understand the reason for that is t they have other uses they can put the money for that the state has a deep pockets and understand that these are state agencies. We don't really have to have the same requirement for reserve funds as we place on the others. Am I right about that? Is that why we've accepted them out and created this exception? I don't understand why did we accept out only the reserve requirements there but they are not there for loans to other state agencies. I realize I am asking something independent of the bill but I am confused as to why we did that?

Dee Ann Ament: I was not involved in that exception, so I cannot speak as to what was behind that exemption. Your theory sounds plausible but I can't say yes or no. **Senator Jim Dotzenrod:** Your bill then is proposing to say while we provide this exception to the requirements for reserve funds for other loans, the current exception is only one and that is for other state agencies. We're adding to that the Public Finance State Revolving Fund, so we'll have two exceptions to the rules on reserves. Your primary motive in that is that there are other places where you can get a better return on the money that would be normally set aside in these reserve funds. **Dee Ann Ament**: Our primary motive is to keep our costs low. We have again, AAA is the highest rating we can have and we have that rating. There will be no problem retaining that rating which keeps our interest expense as low as possible. When the agency was formed, when you don't have a history, you need a reserve fund. You need that security, that collateral. This program is now 22 years old. As a program matures then some of those things fall off and this is what we're looking to make it optional. Now if it would impact our credit or our bond pricing, we would not issue bonds without a reserve. But if we were able to go out into the market and retain our AAA rating and not see any impact in our bond pricing, and it hasn't impacted our credit quality then why should we issue these extra bonds and pay the expense on them. Because right now the industry is recognizing that it is a good program. It is a strong program. It does not need to have eleven; each bond issue the reserve is calculated based on the amount we issue. I couldn't tell you when we're going to issue or how much, but let's just throw out there that we would need a $2 million dollar reserve. Right now the industry is saying you have strength in your coverage, you've got a quality program, you don't have to have that $ 2 million dollars in order to get the best interest bids on your bonds.

Senator Jim Dotzenrod: Who makes that determination that the fund is in such good shape or that loan portfolio is in such good shape or the bonds that are issued are so backed by the security of the payer that we don't need a reserve fund? Someone must make a decision that that's we just don't need it and can waive that requirement for it. I am thinking project by project not for the entire fund as a whole. **Dee Ann Ament:** When we do a bond issue we have to provide tons of documentation to the rating agencies. In this instance, for this program we use Moody's. Moody's is the one that goes through this information and affirms that we have a AAA rating. That is done before we go out and issue the bonds and if Moody's says it looks fine and they are going to affirm that AAA rating.

Senator Howard Anderson: It must be that your organization is not considered a state agency at this point otherwise you would fall under the exemption that Senator Dotzenrod was already reading about. Is that true? **Dee Ann Ament**: Our agency is a state agency. This section 6-09.4-10 is in our statute and this tells us that we need to have reserves. The section 6.09.4-24 refer to when we issue on behalf of other state agencies. If we issue for the Water Commission or the Department of Transportation there is that exemption. This is our section of statute and this is our reserve requirements. So were asking for an exception for one of our programs under this section.

Senator John Grabinger: I think we're all three on the same page with that. I kind of feel like you're already covered under this and were just duplicating something, you already have. The Industrial Commission has the authority under this chapter to already do this. We're thinking why are we doing this? You already have this. **Dee Ann Ament**: When our Bond Council and our Assistant Attorney General have gone through and worked on bond issues, they didn't feel that they had the authority to make the reserve funds optional. So that is why this bill has been presented and is based on the attorney's that work with our agency feeling that we do not have the authority to make reserve funds optional.

Senator Jim Dotzenrod: The environment we are in today, after the mortgage meltdown as a nation, we seem to be headed in just the opposite direction. It does seem like the lenders are being put under pressure now to have the higher level of down payment, they want more security on any loans and any borrowing. It was a feeling there was too much leveraging going on and so it seemed like as a nation were moving more toward imposing more reserve, more requirements, We in North Dakota are an exception to what is going on in the rest of the country. Maybe we don't really need to feel that we need to put any pressure on ourselves and maybe should be looking for ways to not impose the requirement that they be there. As long as we pass the testing that is done by Moody's who rate these and we are trusting the judgment of the people in the Public Finance Authority and in the Industrial Commission is really all we need. We don't have to have the statutory, no hold barred requirement because we've got the Industrial Commission, and we should give them the latitude, to take a look at what the rating agencies says. If their satisfied we don't need to have it spelled out in the code as they have in a certain restricted reserve requirement position. I think this is what I am getting out of what you're saying even though it does seem that if you look at what is happening in the country there is more concern about getting loans more secure. It sounds like what you're proposing is reasonable and the history of this agency and the way the Industrial Commission has run these that we shouldn't be concerned about it**. Dee Ann Ament**: Correct. You know when our agency was put in place and when the programs were started, a reserve fund was crucial. That helped with getting the best interest rates at that time and as we've matured and its gotten to this point, yes North Dakota is anomaly in that respect. Now I will say that when we talk about our State Revolving Fund Program nationwide, state revolving fund programs have been recognized by Moody's, by the credit ratings as some of the most solid programs. There are a number of states that have AAA ratings. So this isn't something that were the only one, but it certainly is something to be proud of and we have not had any defaults and have a strong program. We are able to provide this affordable financing for water and sewer projects.

Chairman Andrist Closed the Hearing on SB 2057.

Senator Judy Lee: Motion for a do pass on SB 2057
2[nd]: Senator Jim Dotzenrod
Roll Call: 6 Yea, 0 No, 0 Absent
Carrier: Senator Howard Anderson

Date:January 10, 2013
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2057

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Due Pass

Motion Made By Sen. Judy Lee Seconded By Sen. Jim Dotzenrod

Senators	Yes	No	Senator	Yes	No
Chariman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Ronald Sorvaag	✓	–	Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Howard Anderson Jr.

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

REPORT OF STANDING COMMITTEE

SB 2057: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2057 was placed on the Eleventh order on the calendar.

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

SB 2057

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2057
March 6, 2013
Job 19480

☐ Conference Committee

Committee Clerk Signature Lyell Thueson

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 6-09.4-10 of the North Dakota Century Code, relating to the reserve fund for public finance authority bonds.

Minutes:

Testimony #1

Hearing opened.

DeAnn Ament, Executive Director of the North Dakota Public Finance Authority: Provided written testimony, attachment **1**.

Representative Becker: Currently the reserve funds are what percent of what is being sent out?

DeAnn Ament: The reserve funds vary from bond issue to bond issue. Some of those funds have been invested in guaranteed investment contracts which have rates somewhere between 4% and 6%. Recently some of those guaranteed investment contracts have had to have been terminated. Providers want to get out of that business. They don't want to be paying out 4% and 6% on these contracts. When these contracts have terminated, we have then turned to certificates of deposit and US Treasury bills. We have about $6.4 million that's invested in CD's and US Treasury's which are earning about 10 basis points. We have around $5.3 million dollars that are in guaranteed investment contracts. Generally, the bonds that were issued to fund these reserves are paying interest anywhere from 2% to 6%.

9:17 Representative Sukut: How does the PFA work with respect to the private bond market?

DeAnn Ament: The State Revolving Fund program, the Health Department receives a capitalization grant from the EPA. That is a capital contribution that provides 80% and the state is required to provide 20%. Since the beginning of time, public finance authority has issued bonds in order to provide that 20%. Some states have appropriations to cover that 20%. Our state has chosen to issue bonds to provide that 20%. There's the 80% infusion from there, 20% that bonds are issued to match that. In addition, the PFA has leveraged the program when necessary. We have intended use plans that are pushing $1 billion dollars of projects that need to be funded. So when we have gone out to issue bonds to match the EPA grant, we have also leveraged those grand money issue additional bonds. So you take all that money, some that was free, some that we are paying interest from 2-6%, we lend that out to the political subdivisions for water and sewer projects. Those political subdivisions borrow and have an interest rate of 2% interest, half a percent admin. We have money coming in from cap grant, from bond issues, from the repayments from the loans. It's a revolving fund. All money that is in it has to stay in the SRF program and it needs to be used for water and sewer purposes. As far as competing with any other, the competition would be grants. They can borrow for up to 20 years, so the interest rate of 2 and a half percent is below market. It is part of the mandate of the state revolving program. These loans are at or below market and we had an interest rate of 2 and a half percent plus a half a percent admin fee since the inception of the program. In 2012 because of where the market had gone, the rates were reduced from 2 and a half to 2%. We continue to monitor that and make sure that we are offering below market rates and able to assist these political subdivisions with affordable financing for their water and sewer projects.

Representative Sukut: Are you limited to water and sewer projects by statute or by decision?

DeAnn Ament: The water and sewer is the mandate from the federal funds that are received so, yes, the program is limited to eligible water and sewer projects and the number one question we are asked is, "Can you take water and sewer lines into new housing subdivisions?" The mandate is generally for replacements of the old cast iron lines. There are times when it can be used possibly to help with a water tower that would serve a new housing development but for the most part it is not projects that are for new development are not eligible under the SRF guidelines which are federal guidelines.

13:44 Representative Ruby: Is the reserve fund required to be held by the PFA or by the political subdivision?

DeAnn Ament: What is being addressed here is the reserve fund related to the bonds that we issue out in the market. It is held by the PFA in reserve for the bonds that we have issued. There are varying requirements for the political subdivisions based on whether they issue revenue bonds or improvement bonds.

14:25 Representative M. Nelson: What happens to the reserves issues for a bond when that bond is done?

DeAnn Ament: When a bond issue matures, any remaining money in the reserve fund, generally the bonds reaching a two year maturity, there will be enough in the reserve fund to cover those last payments. So that reserve fund money would be used to make those final bond payments. If that is not the case, those monies automatically refer to our loan fund and are available to be loaned out. All monies within this fund stays within there to make loans and to administer the program.

15:28 Chairman Keiser: The 2 and a half percent, even on the federal dollars, does the state fund get to keep the 2% or do we have to return any to the federal government?

DeAnn Ament: All money that we receive from the government, with the exception of our charged rebate, which is if we have investment contracts above what we are paying on the bonds, that is remitted to the U.S. Treasury, but all money that comes from the Federal government, stays within the state of North Dakota, as well as the earnings thereof.

16:07 Representative Amerman: If there is a small community that needed to replace their water treatment plant but decided they wanted to hook up to a rural water system coming through, would they be able to utilize that to within the cost of hooking up to that?

DeAnn Ament: Yes, they would be able to utilize the SRF program. I am the financial person; the Health Department deals with the eligibility from the projects standpoint. Yes, in the past that has been something that we have been able to assist with.

16:49 Representative Vigesaa: When do you receive notice from the Federal government as to when you will be getting the funds and how much do you know well in advance will you be getting and receiving them?

DeAnn Ament: In a perfect world, the Federal government, October 1 or we should know shortly after Congress convenes, we should know what we are getting. However, they operate under continuing resolution from time to time, which seems to be continuously continuous resolution. We have a pretty good idea of what the amount will be. The state of North Dakota is one state that gets the minimum of an allotment of the money. Historically, we have seen a trend up and down. We have a pretty good idea of where it's going to be from year to year. Now with this quester we know that there is going to be a 5% cut to our 2013 capitalization grant that's known at this time. The drinking water program received $12 million in capitalization grants and the clean water program receives $8 million dollars in capitalization grants annually. We have the clean water program that has been around the longest, since 1990. We hit a lot point in early 2000 where we had a capitalization grant that was down under $4 million dollars. There are wide swings but are fortunate that we've leveraged and have been to this point able to fund any project that is ready to proceed. We have worked with communities to make sure that their project will cash flow and sometimes it takes a little bit of working together to make sure that they can show their ability to repay. For the most part we have not turned down a financing project.

19:03 Representative Kreun: Commented on a particular case from Grand Forks after the flood they utilized that for their raw water intake project and our clear well project. With the mix of funds, made it affordable for us at that point in time to go ahead with the project. Our bonds should be paid off in about 3 or 4 years. This is a program that mainly is for major infrastructure. It does sometimes fit into smaller areas but it certainly worked well for us and was a major component in the rebuilding of our raw water intake.

19:54 Representative M. Nelson: If the industrial commission waives so there is no reserve fund for bonds what would happen if those bonds defaulted? How would they be paid?

DeAnn Ament: At this point in time we have never had a default with our underlying borrowers and had no problems with the bonds that we have issued in the market. The bonds issued prior to 2010 had the moral obligation of the state of North Dakota attached to them. In 2011 we removed that from our bond issue and had no problems with the ratings. Any bonds issued prior to 2010, if we had to draw on the reserve fund to make a payment, then that moral obligation would have the industrial commission go to the legislature and ask that the reserve fund be replenished. There is no requirement that the legislature would replenish the reserve fund but that is the process that is in place per the bond documents. Currently these bonds are issued at parity, which means that they are all even. The bonds issued in 2012 and 1998 are all even. We have the ability to transfer money from one bond issue to another bond issue. We have efficient revenues in all of these bond issues. Coverage is talked about in the fourth paragraph of the first page. This indicates how much money is coming in to make these bond payments. One hundred and twenty percent is what's required by Moody's to maintain our rating. For our clean water program we are at 196% and on the drinking water program 241%. When Moody's does their tests when we come in for a rating, they will take it down to 50% default, 100% default and when they run those scenarios, we are still in good shape that they do not have any issues of repaying these loans based on the resources we have available for the program.

22:21 Representative M. Nelson: At the end of the bill it talks about currently they could waive it for bonds issue under Section 6-09.4-24. What are those bonds issued for?

DeAnn Ament: That would be if the Public Finance Authority issued on behalf of another state agency. There is an exemption for that but it doesn't apply currently to the SRF program. That's why we have asked for this amendment, the SRF program has the flexibility to when it's not necessary, to not issue bonds to fund to reserve.

Representative M. Nelson: The section on the whole reserve fund, does it apply to anything other than the revolving fund program?

DeAnn Ament: Our other bonds are required to have reserves. We have the capital financing program that I addressed in the testimony. That is subject to the reserve funds that are mentioned in this. The amendment does not impact the capital financing program. This amendment is purely adding the state revolving fund the flexibility to not issue reserve bonds if there is no need for them.

23:45 Representative Frantsvog: I am on the committee and want to assure that DeAnn and her staff do a terrific job. It's not uncommon for us at a meeting to discuss repayment, default, or things of that nature.

24:15 Chairman Keiser: Would not having reserves impact our rating from Moodys?

DeAnn Ament: At this point in time we have been able to issue tax exempt bonds because it's an IRS code that dictates whether or not you have a reserve. The amendment reason is for taxable bonds. We have been able to issue them without the reserve funds. We always go in for a rating meeting prior to issuing bonds. If it was going to impact our rating, the industrial commission and our agency would most definitely opt to issue those reserve bonds, so that we maintain our AAA rating. That would be the first meeting and if reserve funds are necessary, the industrial commission and PFA would most certainly go that route.

25:22 Chairman Keiser: What criteria would the Industrial Commission use to lead them to the conclusion that a reserve is not required?

Karlene Fine, Executive Director for the Industrial Commission: It will depend upon a lot about what the rating agency says. If they say you are going to have to have a reserve fund, then yes, we would put that in place. We would look at each project. Determine the liability and look at the repayment, just like the advisory committee looks at all those factors. Then make a determination. The strength of the program is the issue here. We have done a good job in developing and reserves and having that in place already. At this point we would like the flexibility as it really saves dollars to our citizens. That is the key for us.

Chairman Keiser: Every community that's requesting this funding is going to request no reserve. It does reduce the cost to that. Everyone will come forward and say we would prefer not to have to meet the requirement for a reserve. Is the industrial commission going to start saying, or first go to Moody's and say, OK, we've got our first one. What are the implications? The only criteria we have are whether it affects our bond rating.

Karlene Fine: At this point, yes. We have to have a viable program. We want to have a strong program moving forward. If the rating is good and we can maintain it, and do it at the lowest possible cost, then we want to do that for our citizens. You have to have 120% coverage as a minimum. You start with that premise and if that is met, then look at if we really need a reserve, program is strong, and then we can make a determination of whether we should include a reserve or not. Rating agencies do drive this.

DeAnn Ament: What I heard you understand was that the communities wouldn't have a reserve. We have to keep in mind how this program works. We aren't talking about the communities not having a reserve, that requirement is going to stay in place. What this bill addresses is the public finance authority goes out to the marketing issues bonds. Currently, they are required to have a reserve built into the bond issue. It's a pooled financing.

Chairman Keiser: It increases the rate of the bond and we have to repay them.

DeAnn Ament: With this bill amendment, we are not impacting how we currently operate with the political subdivisions.

Chairman Keiser: If I am the first community in the queue, I come in and request that you not carry the reserve, why not?

DeAnn Ament: Because these bond issues are issued as a pool, the city of Fargo isn't going to say, "Please don't include a reserve fund in there." That is a programmatic decision made for that pool of money. Fargo use sales tax revenue bonds and they will be required to have a reserve funds for the bonds that they issue the public financing authority.

Chairman Keiser: The dollars they got from you, I'm going to come to the industrial commission and say "Is there any way we can do this without a reserve?" It's going to cost less and that is the whole purpose of this. What criteria is the industrial commission or you are going to use to say in this case "Yes", in that case "No".

DeAnn Ament: The writing is going to be the driving factor. Yes.

Chairman Keiser: Given the current level of financial condition, the first projects may not be required but eventually the later projects will be required to have the reserve because of the financial status of the organization.

DeAnn Ament: The political subdivisions, if they issue revenue bonds, are going to have to have a reserve. The PFA as long as the ratings not impacted will not have a reserve on those bond issues.

Support:

Opposition: None

Neutral: None

Hearing closed.

Representative Frantsvog: I **move a Do Pass** on SB 2057. Seconded by **Representative Kreun**.

Roll call vote
Yes = 11
No = 4
Absent = 0

Carrier: Representative Frantsvog

Date: 3-6-13

Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2057

House Industry, Business, and Labor Committee

Legislative Council Amendment Number ______

Action Taken: ☑ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Frantsvog Seconded By Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser		✓	Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		✓	Rep. Marvin Nelson		✓
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby		✓			
Rep. Don Vigesaa	✓				

Total Yes 11 No 4

Absent ______

Floor Assignment Frantsvog

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

REPORT OF STANDING COMMITTEE

SB 2057: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SB 2057 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2057

#/

Industrial Commission
of North Dakota

Jack Dalrymple
GOVERNOR

Wayne Stenehjem
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER

North Dakota Public Finance Authority

Senate Bill 2057
Senate Appropriations Committee
Testimony of DeAnn Ament
North Dakota Public Finance Authority

For the record, my name is DeAnn Ament and I am the Executive Director of the North Dakota Public Finance Authority (PFA). The first portion of my testimony will be a brief overview of the agency and its' programs. Then the amendment requested in SB2057 will be reviewed.

SB2057 may seem long, but it simply requests that in the future the Industrial Commission be given the authority to consider whether debt service reserve funds are necessary for new State Revolving Fund (SRF) bond issues. A "debt service reserve fund" or "reserve fund" is a fund in which moneys are placed in reserve to be used to pay debt service if pledged revenues are insufficient to satisfy the debt service requirements. If a debt service reserve fund is reasonably required for credit rating or bond pricing purposes, it may be entirely funded with bond proceeds at the time of issuance.

Currently, under NDCC 6-09.4-10, the State Revolving Fund (SRF) is required to establish and maintain reasonably required reserve funds for each SRF bond issue. Bonds were first issued for the SRF program in 1990. During that time, the SRF has issued additional bonds to meet this requirement. As of December 31, 2012, bond proceeds of $11,814,823 are on deposit in their respective bond series debt service reserve accounts. These funds are invested in certificates of deposit (CDs) and T-bills, $6,454,621 and guaranteed investment contracts (GICs), $5,360,202. Investment earnings range from approximately .10% on the CDs and T-bills to an average of 6% on the GICs while interest expense on the bonds issued to fund the reserves ranges from 2 to 6%. This results in increased costs to the program in the form of interest expense on the bonds which are issued solely for reserve purposes (rather than loaned to SRF borrowers) as the interest income earned is not sufficient to cover the expense. These costs are a component of the interest rate that is charged to political subdivisions that use the SRF program.

The program has financially matured over the last 20 plus years and has been rated Aaa by Moody's since 2001. The SRF program requires 1.20x total coverage (SRF loan repayments in excess of SRF bond principal and interest payments). As of June 30, 2012, coverage for 2013 is projected at 1.96x for the Clean Water SRF and 2.41x for the Drinking Water SRF with projected coverage in 2031 reaching 5.50x for Clean Water and 6.08x for Drinking Water. With the strength of the programmatic revenues, a reserve fund is no longer reasonably required to maintain the credit rating of the SRF program.

In recent years, the PFA has been able to eliminate the use of reserves for some of the SRF bond issues, but statute does not allow the Industrial Commission complete discretion to eliminate the usage of any unneeded reserves. This legislation would allow the Industrial Commission such discretion when each series of SRF bonds are issued. The Industrial Commission supports this change and the cost savings which will benefit all political subdivisions that utilize the SRF programs.

The written testimony below describes the Public Finance Authority and its financing programs.

Mission

To develop rural and urban North Dakota by providing political subdivisions and other qualifying organizations access to flexible and competitive financing options for their local qualifying projects.

The Public Finance Authority is a state agency that operates under the supervision and authority of the Industrial Commission. It is a self-supporting state agency and receives no money from the General Fund. The staff of the Public Finance Authority currently consists of the Executive Director and the Business Manager.

The PFA was established to make low-cost loans to North Dakota political subdivisions at favorable interest rates. Loans are made to political subdivisions by the Public Finance Authority through the purchase of municipal securities issued by the political subdivisions in accordance with state and federal law. Loans are primarily made with the proceeds of bonds issued by the Public Finance Authority under the programs described below. In certain instances, a direct loan may be made to a political subdivision from the Public Finance Authority's operating fund or from the federal grants or loan repayments held under the State Revolving Fund Program.

The municipal securities issued by a political subdivision to the Public Finance Authority may be either tax-exempt or taxable obligations. A political subdivision must retain bond counsel to assist in the preparation and adoption of its bond resolution and other necessary documents. The Public Finance Authority may purchase municipal securities only if the Attorney General issues an opinion that states the municipal securities are properly eligible for purchase under the North Dakota Century Code (N.D.C.C.) chapter 6-09.4, the Public Finance Authority Act.

Advisory Committee

The Industrial Commission, by policy, has established a Public Finance Authority Advisory Committee. The Committee is made up of three members appointed by the Commission. The Committee reviews each loan application for the purpose of making a recommendation concerning the loan to the Industrial Commission, which must give its approval before a loan may be made under each Program. However, if the loan is for $500,000 or less for the Capital Financing Program and $1,000,000 or less for the State Revolving Fund Program, the Committee may authorize the approval of the loan, and then submit a report describing the loan and the action taken to the Commission at its next meeting.

At the present time, the Public Finance Authority has four loan programs: the Capital Financing Program, the State Revolving Fund Program, the School Construction Financing Loan Program, and the Industrial Development Bond Program.

Capital Financing Program

The Capital Financing Program, established in 1990, makes loans to political subdivisions for any purpose for which political subdivisions are authorized to issue municipal securities, subject to certain statutory requirements. Recognizing the strength of the State's moral obligation pledge, Standard and Poor's (S&P) has assigned a rating of "A+" to the Capital Financing Program Bonds.

The Industrial Commission authorized the PFA to utilize the Capital Financing Program to provide loans for political subdivisions impacted by the weather related events of 2011. Under its Capital Financing Disaster Loan Program, the PFA made loans for the purpose of providing disaster assistance to political subdivisions affected by weather related events until federal and state money was available or to assist in cash flowing local match requirements. The political subdivision had to show ability to repay the financing either from Federal or State government disaster payments or from tax receipts. During this time of crisis, the PFA was able to assist 35 political subdivisions including Normanna Township in Cass County as well as Stutsman County and 12 of its' Townships.

State Revolving Fund Program

Under the State Revolving Fund (SRF) Program, federal capitalization grants are received by the State through the Health Department from the Environmental Protection Agency (EPA), and are deposited and held under the Program's Master Trust Indenture for the purpose of making below-market interest rate loans to political subdivisions for qualified projects and for other authorized purposes. The projects are subject to the approval by the State Health Department under appropriate state law and the Federal Clean Water Act and the Federal Safe Drinking Water Act. The federal capitalization grants are available to states on the basis of an 80-20 federal-state match. A portion of the SRF Program bonds issued by the Public Finance Authority provides the 20% state match. The federal capitalization grants must be held by the state in a revolving loan fund and are available only for purposes authorized under the Federal Clean Water Act and the Federal Safe Drinking Water Act.

A project must be on the appropriate Intended Use Plan to be able to apply for a loan under the SRF Program. The current interest rate for most loans under the SRF Program is 2% with a 0.5% annual administrative fee on the outstanding balance. Bonds issued by the Public Finance Authority under the SRF program are rated "Aaa" by Moody's Investors Service, Inc. (Moody's), which is Moody's highest possible rating.

Over approximately 22 years, the SRF Program has made 392 loans assisting cities large and small with below-market financing for their water and sewer needs. From the northwest, the City of Crosby was awarded $2.3 million for water treatment plant improvements and BDW Water System Association was awarded $2.5 million for Phase II – improvements and expansion. In southeastern North Dakota, Wyndmere has been awarded two loans totaling almost $2.4 million for sewer system improvements. One of the first Clean Water loans was for the West Fargo which was used for their wastewater treatment facility. The City of Fargo has extensively utilized the SRF programs with fifteen loans. The most recent award is a $66.352 million loan to finance a new membrane water treatment plant which will be constructed over the next five years. In central ND, Garrison utilized the SRF for water treatment plant modifications and Garrison Water Resource District borrowed to expand to western McLean County. The City of Jamestown has 14 loans ranging from six new wells and transmission lines to a wastewater treatment facility and lift stations.

These examples illustrate how the SRF has assisted both large and small political subdivisions all across the state. This amendment will assist in keeping the cost of future water and sewer financing low, so political subdivisions can offer affordable water and sewer services to all North Dakotans.

State School Construction Financing Program

The Public Finance Authority's State School Construction Financing Program provides loans to North Dakota school districts. This program has been assigned an "A+" rating by S&P, which allows the school districts, which generally do not have a credit rating, to borrow at lower interest rates. Bonds issued under this Program will be moral obligation bonds of the State and will also be supported by the state school aid intercept provision adopted by the Legislature in 1999. The state aid intercept provision is found in §6-09.4-23 of the N.D.C.C. A school district will be required to authorize the withholding of state school aid payments which are due and payable to the district under N.D.C.C. chapter 15-40.1 in order to participate in the Program. If a school district defaults on its loans under this Program, the Department of Public Instruction is notified by the Public Finance Authority to withhold aid payments to the defaulting school district until such time that principal and interest have been paid or satisfactory arrangements have been made to make the payment.

Industrial Development Bond Program

The Public Finance Authority's Industrial Development Bond Program provides loans to North Dakota manufacturers that meet the IRS definition for small issue manufacturers. This program has been assigned an "A+" rating by S&P, which allows those manufacturers that qualify to finance fixed assets at attractive tax-exempt rates. Bonds issued under this Program will be moral obligation bonds of the State unless the borrower has the financial strength to request that the Public Finance Authority issue the bonds on a conduit basis. The 2005 Legislature passed the legislation allowing the Public Finance Authority to issue industrial revenue bonds. Current Program limits are $2,000,000 per project and $20,000,000 cumulative for the program. For conduit issuance when the state's moral obligation is not used as a credit enhancement there are no project or program limits.

If you have any questions, feel free to contact me at 701.426.5723 or dament@nd.gov.

Industrial Commission
of North Dakota

Jack Dalrymple
GOVERNOR

Wayne Stenehjem
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER

North Dakota Public Finance Authority

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SB 2057

Senate Bill 2057
House Industry, Business & Labor Committee
Testimony of DeAnn Ament
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Capital Financing Program

The Capital Financing Program (CFP), established in 1990, makes loans to political subdivisions for any purpose for which political subdivisions are authorized to issue municipal securities, subject to certain statutory requirements. Recognizing the strength of the State's moral obligation pledge, Standard and Poor's (S&P) has assigned a rating of "A+" to the Capital Financing Program Bonds. Last year, Rolla utilized the CFP for a seal coat and crack sealing project. Additionally, the Forman Housing Authority refinanced a multi-family housing unit to secure long-term, low-rate financing through the CFP.

The Industrial Commission authorized the PFA to utilize the Capital Financing Program to provide loans for political subdivisions impacted by the weather related events of 2011. Under its Capital Financing Disaster Loan Program, the PFA made loans for the purpose of providing disaster assistance to political subdivisions affected by weather related events until federal and state money was available or to assist in cash flowing local match requirements. The political subdivision had to show ability to repay the financing either from Federal or State government disaster payments or from tax receipts. During this time of crisis, the PFA was able to assist 35 political subdivisions including Normanna Township in Cass County as well as Ward County and 6 of its' Townships.

State Revolving Fund Program

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City of Williston has utilized the SRF for nine projects with the largest being $18 million for the water treatment plant. In southeastern North Dakota, Wyndmere has been awarded two loans totaling almost $2.4 million for sewer system improvements and Forman has used the CW SRF for two sewer projects as well. The City of Fargo has extensively utilized the SRF programs with fifteen loans. The most recent award is a $66.352 million loan to finance a new membrane water treatment plant which will be constructed over the next five years. Over the years, Grand Forks has utilized both programs as well with a total of 10 loans. In central ND, Bismarck has used the CW SRF for $20 million in sewer improvements and the DW SRF for a $16.32 million horizontal collector well. Minot has utilized the CW SRF four times in past. Cooperstown has 7 loans under both the CW and DW programs. In western North Dakota, the City of Dickinson was recently awarded a $40.5 million loan for its new wastewater treatment plant.

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