

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.