

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2086

2001 SENATE EDUCATION

SB 2086

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Education Committee

☐ Conference Committee

Hearing Date 01-15-01

Tape Number	Side A	Side B	Meter #
1	x		25.4 - 53.8
1 (01-16-01)		x	40.0 - end
2 (01-16-01)	x		0 - 30.1
2 (02-05-01)	x		42.0 - end
2 (02-05-01)		x	0 - 3.2
1 (02-06-01)		x	33.3 - 56.0
1 (02-12-01)	x		4.0 - 31.9
1 (02-12-01)		x	14.8 - 17.2
Committee Clerk Signature <i>Andrea Johnson</i>			

Minutes: CHAIRMAN FREBORG opened the hearing on SB 2086 relating to general obligation bonds that may be issued by the governing body of a school district without a vote upon the question of the issuance of the bonds.

Testimony in support of SB 2086.

TOM TUDOR, Executive Director of the ND Municipal Bond Bank, testified in support of the bill. (see attached). He also is proposing amendments to the bill. (see attached). He further stated QZAB bonds are taxable bonds which entitles the holder to a tax credit which is determined on a daily basis. SEN. WANZEK asked if individuals can be holders of QZAB's. MR. TUDOR replied no. Under current federal language, only banks, insurance companies, or other corporations engaged in the business of lending money are eligible. There is not a broad market for the bonds in North Dakota because of the stipulations related to holding them.

TOM DECKER, Director of Finance and Organization for the Department Public Instruction, spoke in support of the bill. (see attached). SEN. O'CONNELL asked for examples of a "qualified purpose". MR. DECKER stated that many schools in ND are using the money for remodeling (new furnace in one case), technology and infrastructure improvements, upgrade the school in technology, or to purchase school buses. This money that school districts use for remodeling and any kind of capital improvement comes under the school construction approval process. SEN. WANZEK questioned the ND allocation of roughly one million dollars. He asked Mr. Decker to explain the tax rate. MR. DECKER stated that the tax rate is in lieu of interest for the buyers of the bonds. This does not affect the actual amount of the allocation. MR. DECKER also stated the one million dollars is the actual allocation of capital construction dollars available.

There was no opposition.

The hearing was closed on SB 2086.

01-16-01, Tape 1, Side B, 40.0 - end. Tape 2, Side A, 0 - 30.1

The committee reviewed the Tom Tudor amendment. SENATOR FREBORG explained it extends the time limit on 15 mills from 15 years to 20 years. SENATOR FREBORG asked the committee to look carefully at subsection E of the proposed amendment to see if there is a time limit on the of mills if the district does not bond. Discussion continued.

The committee was at ease while waiting for Tom Tudor and Tom Decker to appear for questions.

TOM DECKER, explained what 15 mills, which were originally for asbestos, are now levied by board discretion for asbestos, ADA, fire marshal, types of improvements, with some limitations on the numbers of mills for each.(NDCC 57-15-17.1) . SENATOR COOK asked Mr. Decker

1-16-01

what can be done with a qualified purpose enhancement levy that you can't do now. MR.

DECKER stated that QZABs are available to any school district, but more and more districts don't have capabilities to pay them back. This legislation allows the districts to use the mills to repay QZABs. This legislation also allows the districts flexibility to use the mills how they see fit. He feels there are limits and controls already in place to allow DPI to oversee.

TOM TUDOR answered questions from the committee involving the use of QZAB bonds.

SENATOR FREBORG has a concern that a school board could apply 15 mills for some purpose indefinitely by resolution of the board. The amendments' intent is to allow districts to levy the 15 mills for a project and once that project is paid for, the board would be able to levy again for another project. The longest term of a QZAB now is 13 years.

The committee adjourned.

02-05-02, Tape 2, Side A, 42.0 - end, Side B, 0 - 3.2

CHAIRMAN FREBORG explained what he feels is questionable in the Tudor amendment.

Changed the levy maximum length of time from 15 to 20 years. Also, that includes the fire and remodeling which takes in any and all remodeling unless it's for a frivolous reason. He stated there is some pressure from administrators around the state to loosen this law. They want more mills in it and they want to be able to use it almost as a building fund. He is not opposed to loosening it up a little bit. He would be opposed to going another 5 mills and then by resolution of the board, if they aren't using it in any other area, allow them to extend it to the building fund. This could be continual if they don't remove it. SENATOR COOK stated the school board could use up to 15 mills without a vote of the taxpayer and the levy could be left on indefinitely. More discussion on the law (NDCC 57-15-17.1). Of the 15 mills now allowed, 10 are designated for education fund and 5 are for remodeling.

2-5-01

Testimony was distributed from DEAN KOPPELMAN, Superintendent Dickinson Public Schools.

The committee was directed to read through the testimony and the amendments and be prepared to act on this bill the following day.

The committee was adjourned.

02-06-01, Tape 1, Side B, 33.3 - 56.0

The committee is to look at the bill, not the amendment. For purposes of discussion, SENATOR FREBORG stated we would be extending the levy time to 20 years. Some administrators would like to see this loosened up. This would be freeing up at least 10 mills and maybe 15 mills to use as a "building fund", and the levy can be left on indefinitely. SENATOR COOK feels the end result of this bill would be to undermine the democratic process whereby the taxpayer would vote on an increase in mills. Discussion on the amendment and the bill. Questioned how remodeling is different from reconstruction. What is "qualified purpose enhancement" which is at the top of the amendment. The committee does not seem to want the amendment and preferred just the bill as written. More discussion on NDCCC sections mentioned in the bill. **SENATOR O'CONNELL moved a DO NOT PASS. Seconded by SENATOR FLAKOLL.**
Roll Call Vote: 7 YES. 0 NO. 0 Absent. Motion Carried.

Carrier: SENATOR O'CONNELL

Committee Adjourned.

02-12-01, Tape 1, Side A, 4.0 -

SENATOR FREBORG asked the committee to reconsider this bill. He stated it is a bill that was put in as a vehicle. He said that several administrators have contacted him about this bill. He stated that asbestos abatement is about cleaned up, and that is where, according to code, the 15

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Senate Education Committee
Bill/Resolution Number SB2086
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2/12/01

mills can be applied. Everything else is limited except alternative education. There are 5 mills for ADA requirement and for required remodeling (fire-related such as fire inspections and remodeling to correct violations). The administrators are trying to increase 5 mills for ADA and required remodeling to 10 mills. This is still within the 15 mill limit and Senator Freborg is not in favor of extending that to 20 mills. Increasing the 5 mills to 10 mills will give the administrators a little more latitude within the 15 mills. This would be by resolution of the Board.

SENATOR COOK moved to reconsider SB 2086. Seconded by **SENATOR WANZEK**.

Roll Call Vote: 7 YES. 0 NO. 0 Absent. Motion approved.

The committee looked at the amendment brought by Tom Tudor to clarify what they want to do in raising the mill levy to 10 mills and how it relates to NDCCC. More committee discussion.

SENATOR COOK moved to adopt the amendment that would increase the 5 mills to 10 mills for ADA and required remodeling. Seconded by **SENATOR WANZEK**.

Roll Call Vote: 7 YES. 0 NO. 0 Absent. Amendment Adopted.

02-12-01, Tape 1, Side B, 14.8 - 17.2

The committee reviewed the amendment and approved it.

SENATOR WANZEK moved a **DO PASS** as Amended. Seconded by **SENATOR CHRISTENSON**.

Roll Call Vote: 7 YES. 0 NO. 0 Absent. Motion Carried.

Carrier: SENATOR O'CONNELL

FISCAL NOTE

Requested by Legislative Council
12/14/2000

Bill/Resolution No.: SB 2086

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.*

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:	Tom Tudor	Agency:	ND Municipal Bond Bank
Phone Number:	8-3981	Date Prepared:	12/19/2000

Date: 2-6-01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2086

Senate	Education	Committee
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☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP

Motion Made By Sen. O'Connell Seconded By Sen. Flakoll

[illegible]

Total (Yes) 6-1 No 0

Absent # 0

Floor Assignment Sen. O'Connell

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

REPORT OF STANDING COMMITTEE (410)
February 6, 2001 1:49 p.m.

Module No: SR-21-2501
Carrier: O'Connell
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2086: Education Committee (Sen. Freborg, Chairman) recommends DO NOT PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2086 was placed on the
Eleventh order on the calendar.

Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2086

Senate Education _____ Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken reconsider SB 2086

Motion Made By Sen. Cook Seconded By Sen. Wampek

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2086

Senate	Education	Committee
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☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken adopt amendments

Motion Made By Sen. Cook Seconded By Sen. Flakoll

[illegible]

Total (Yes) 7 No 0

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent: *to increase to 10 mills for required remodeling*

Roll Call Vote #: 3

BILL/RESOLUTION NO. 2086

Senate	Education	Committee
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Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By Sen. Wanyuk Seconded By Sen. Christensen

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. O'Connell

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

REPORT OF STANDING COMMITTEE

SB 2086: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2086 was placed on the Sixth order on the calendar.

Page 1, line 1, after "21-03-07" insert "and subsection 3 of section 57-15-17.1"

Page 1, line 3, after "bonds" insert "and school district remodeling fund mill levies"

Page 1, after line 22, insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

3. All revenue accruing from up to ~~five~~ ten mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1."

Renumber accordingly

2001 HOUSE FINANCE AND TAXATION

SB 2086

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 6, 2001

Tape Number	Side A	Side B	Meter #
1	x		48
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN. Opened the hearing and read the fiscal note.

KARLENE FINE, INTERIM EXECUTIVE DIRECTOR, MUNICIPAL BOND BANK,

AND SECRETARY FOR THE INDUSTRIAL COMMISSION, Testified in support of the bill. See attached written testimony. Also submitted a copy of NDCC 57-15-17.1.

REP. KROEBER When they have the sixty day protest following the adoption of the initial resolution, then what, what does that mean?

KARLENE FINE Deferred the question to Tom Decker.

TOM DECKER, DEPARTMENT OF INSTRUCTION Explained "protest". When you are talking "protest", we are talking in law, which allows voters or electors in a district who own or control up to five percent of the taxable valuation. If the protests add up to five percent of the taxable valuation, then the issue cannot move forward without a vote. Otherwise, the school board can obligate part of a building fund or a dislevy, for a particular purpose. This is used

fairly frequently by school districts within their building fund authority, to do some building, or in this case, to do remodeling related to asbestos, handicapped accessibility or fire code.

REP. KROEBER Is that a fifty percent, or a sixty percent requirement?

TOM DECKER If it goes to the vote of the people, it is sixty percent.

DEAN KOPPELMAN, SUPT. OF THE DICKINSON PUBLIC SCHOOLS, Testified in support of the bill. See attached written testimony.

REP. LLOYD What else is affected besides the fire marshal?

DEAN KOPPELMAN What our plans are for this remodeling, it would be the installation of elevators in the elementary schools. They are multi-story and are not handicapped accessible. The fire marshal issued the installation of the elevators. We also have some face issues which I alluded to earlier, which we will be addressing in the building fund. Some of these changes, like in the fire marshal area, for example, it can't be done cost affectively unless we address these issues. We are being cited, specifically, for having small groups of students in class-type settings, in the hallways of some of our buildings, because we don't have enough space. One of our elementary buildings has five portable classrooms attached, which are twenty years old and deteriorating rapidly. That is all in the mix.

REP. HERBEL What would happen if you didn't make the corrections?

DEAN KOPPELMAN If the changes don't occur, I guess we would be looking at just accessing just the five mills, which is already in the law. Another option is to take it to the vote of the public, and go for the sixty percent. That is an interesting challenge, when people have to vote their pocketbook. I think the legislature, in its wisdom, placed the authority to levy these issues in the hands of the school boards, because they are safety issues and, in terms of the fire

marshal and ADA, they are federal law and civil rights issues which we can be held accountable for. Sometimes it is hard to convince the electorate at the sixty percent level that these things need to be done. It takes a two thirds vote of the board.

REP. HERBEL We just went through that in Grafton, put in a new elevator, asbestos removal and that type of thing, it has gotten to the point, where it is such a burden on the local taxpayers, and we were told we had to do this kind of thing, and yet, when I move around the county, I see schools who don't have their handicapped accessible available, why are some schools doing it, and others don't, and yet, there doesn't seem to be any problem with those that aren't doing it.

DEAN KOPPELMAN I believe there are other options there, for example, if you don't have a complaint, it won't reach the office of Civil Rights. If you have a game plan, whereby you can rearrange your classes and that sort of thing, so that a handicapped student or parent can access the program, that is permissible. The problem we are finding, because of the space issues and the fire marshal issues, it is more cost effective to address those issues as a package. Just because of the nature of one of our buildings, the computer lab and library are on the second floor. How are you going to move the program to the kid, when you have all of that wiring of the network for the computer lab. We didn't have an option to put it on the ground floor because of the nature of how the building is built. It was built in the 1920's added onto a couple of times, the last time in the 80's. This would be the more cost effective way to do it.

REP. DROYDAL You are currently levying fifteen mills, and five of those are going to this fund, so you want to shift it so ten mills go to this fund?

DEAN KOPPELMAN We are currently levying approximately five mills for asbestos. That is all we are levying under this section of the code. We aren't levying for ADA and the fire

marshal, we haven't used the whole fifteen mills. We did the asbestos on an annual basis, these issues are larger projects, they aren't cost effective to break down and do a couple hundred thousand dollars a year for X number of years. We need to put it into a package based on what our architect told us. The sum total is 1.5 million dollars. We need more than five mills to bond for that. There would be some trading off here, that would be a local board decision. We won't levy for the asbestos, if we don't need that.

REP. DROVDAL Currently, you are assessing five mills that the voters have said you can assess, if this passes, is there a possibility in some school boards could say, you voted on it to give us permission to assess for this need, so we can automatically raise it without going back and voting on the next five mills?

DEAN KOPPELMAN The way I understand it, if we were to achieve this from five to ten mills, we would bond for the fifteen years, for the number of mills that it would take to retire the bonds specifically to ADA and the fire marshal. We wouldn't go back and ask for an increase, I couldn't conceive of that. Based on the reports we have now, this would take care of that fire marshal issue. The board could go to fifteen mills for our asbestos, the board has never done that.

I don't know if we will need the full ten mills, you can't predict interest rates.

REP. DROVDAL Would the school board feel, under the current authority that they have received, to assess the five mills, would they feel that is the same authority they could use to add on the other five mills that they need, or would they have to go back to the voters?

DEAN KOPPELMAN The way I understand it, the board wouldn't go to the voters, they would pass it on this two thirds majority and then that protest period would be posted and the people

would have the opportunity to protest that, if the protest met that level, then we would have to look at another plan.

REP. CARLSON The intent of this is to let you be able to bond up to the ten mills?

DEAN KOPPELMAN Right

REP. LLOYD How do you pay the bond off?

DEAN KOPPELMAN We would levy the amount of money it would take to pay the principal and interest over the fifteen year period.

REP. LLOYD Basically, you will raise the property tax?

DEAN KOPPELMAN Yes

REP. WINRICH The bill that we have before us as amended, what is the fifteen mill levy that is authorized here, what is the overall purpose of that?

DEAN KOPPELMAN In the very first section of the law, 57-15-17.1, talks about the total levying authority of fifteen mills, then it refers to several other different types of levies that could be included. You will note that asbestos is one of those, it can go to fifteen mills for asbestos. You can go to ten mills for this alternative high school program. Currently, you can go up to five mills for ADA and fire marshal, and we are asking to change that to ten.

REP. WINRICH That is the required remodeling?

DEAN KOPPELMAN Yes fire marshal and ADA

REP. WINRICH There are a whole bunch of levies authorized up to certain limits, but the sum total of all of them cannot exceed fifteen mills? How much of that fifteen mills are you currently levying?

DEAN KOPPELMAN 5. Something for asbestos, we may take that off, there may be a net increase of four or five mills.

REP. CARLSON Read from the ND Century Code relating to asbestos.

REP. CLARK Under Section 2 of this bill, these five mills that currently are allowed, you are using for asbestos removal?

DEAN KOPPELMAN We are assessing approximately five mills under the asbestos section of that law, we are not levying anything for ADA or fire marshal.

REP. HERBEL If this bill doesn't pass, what will you do?

DEAN KOPPELMAN We will explore other options. One of the options, if we can't access enough funding, one option is go to a general obligation bond election, which requires sixty percent of the vote, another option would be, the board could look at the ten mills that we currently have on the building fund. We need to use some of that money to address some of these projects I talked about, we can't commit all of that. It would decrease our ability to address the other issues, such as roofing, space issues, that aren't tied to ADA or the fire marshal. The last option is, we would look to do these in smaller segments and pay as we go, with the five mills authority that is already there, but that is not cost effective.

REP. CARLSON As you can tell by the committee, we are real conscious of two things, one is passing bills that raise taxes at home and we are also conscious of the fact that, local control is important to us. This is new to us, we don't have a lot of bills that deal specifically with remodeling a building and schools.

Asked a question of Karlene Fine - Relating to the two sections of code which we are removing. Why do we have to take those out, because we are subject to a legal challenge?

KARLENE FINE The two sections we are taking out, aren't really subject to any type of a challenge, it is more of a housekeeping in the chapter. They are no longer pertinent, so we thought they should be taken out. The legal challenge is, we did issue bonds under 57-15-17.1, someone may go back and say, under 21-03-04, you didn't have authority, so then, it would be a legal challenge.

REP. CARLSON As I read this, all of the words seem to mean the same thing to me. Such as purchased construction, reconstruction, remodeling, repair of public school buildings, I kind of thought reconstruction, and repair of public building is remodeling, why are we adding that term?

KARLENE FINE I agree with you, said the same thing to the legislative council, they wanted the words in there.

TOM DECKER Responded again, stating they had worked with the Dickinson Public Schools, the Attorney General's Office and the Bond Bank to sort through these issues. What you see here, is the bill that, we think, clarifies these issues which were pretty fuzzy. Gave a brief history how all of this came about, regarding asbestos mandates, etc. He stated the cap is fifteen mills, they cannot exceed that. They have flexibility of what they want to use it for.

REP. CARLSON I am correct in my assumption that the funding for that fifteen mills would be by the method of bonding, or can it be set up to fifteen?

TOM DECKER There is a variety of ways, in addition to issuing general obligation bonds, they could generate the money and do on-going asbestos removal.

REP. LLOYD Are these general obligation bonds going to be easy to sell?

TOM DECKER Maybe Karlene would have a better answer than I, but I worked at the Bond Bank for a long period of time and I am not aware that they had difficulty selling a school bond issue. They are the safest issues, no one has ever defaulted on a school bond issue.

REP. BRANDENBURG There is still asbestos in this old school, are they going to build new buildings and then later on, you still have to deal with this asbestos problem?

TOM DECKER This is why we elect school boards, and hire administrators, so they calculate all of these things and make the decisions.

REP. CARLSON I agree one hundred percent, I think we are looking for a boogey man, but I think the local people have to be responsible for what they do with their mills.

REP. DROVDAL Asbestos problems have been around for quite awhile, are we starting to see the end of having to deal with asbestos problems?

TOM DECKER There are really two aspects of that. Number one, we have taken care of most of the glaring problems, and over the years, we have decided that we had more options about dealing with asbestos, including incapsulation in the building, rather than removal. The costs of dealing with it have gone down some.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-6-01, TAPE #2, SIDE A, METER #5330

REP. CARLSON Gave an overview of the bill.

Committee members discussed how the levied mills would work in the school district, relating to remodeling, asbestos, etc.

REP. KROEBER Made a motion for a **DO PASS**.

REP. WINRICH Second the motion. **MOTION CARRIED**

7 YES 6 NO 2 ABSENT

REP. KROEBER Was given the floor assignment.

COMMITTEE ACTION 3-7-01, TAPE #1, SIDE B, METER #4500

REP. KROEBER Gave reasons why the bill was being reconsidered. This bill increased levies from five mills to ten mills. We got all involved with that part of the bill, but the reason the bill is here is because there is a Supreme Court case, but the rest of the bill needs to satisfy the problem on the Bond Bank. We need to discuss whether we want to increase that five mill increase. Karlene Fine with the Bond Bank stated they definitely wanted the bill passed. The bill will be acted on at a later date.

COMMITTEE ACTION 3-12-01, TAPE #2, SIDE A, METER #2140

REP. KROEBER Made a motion to reconsider the action by which the bill was passed out of committee.

REP. WINRICH Second the motion. **MOTION CARRIED.**

REP. KROEBER Gave information as to the reason the bill was brought forward. The Bond Bank needed the bill because of a case that went before the Supreme Court, where there was some grey area as to what kind of bonds these were and those kinds of things. He stated, the

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House Finance and Taxation Committee

Bill/Resolution Number SB 2086

Hearing Date ~~March 6, 2001~~

3-12-01

Bond Bank needs this bill. Section 2, was added to the bill at the request of someone from Dickinson, this was really not the main focus of the bill. Karlene Fine stated in her testimony that the original bill was what they needed.

REP. WINRICH Made a motion to amend the bill by deleting Section 2 and the corresponding language which goes with it.

REP. DROYDAL Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. DROYDAL Made a motion for a **DO PASS AS AMENDED.**

REP. KROEBER Second the motion. **MOTION CARRIED**

13 YES 0 NO 2 ABSENT

REP. KROEBER Was given the floor assignment.

Date: 3-6-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2086

House FINANCE & TAXATION Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Kroeber Seconded By Rep. Winrich

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR		✓	RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL		✓	RENNERFELDT, EARL		✓
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY		✓
HERBEL, GIL		✓	WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD		✓			

Total (Yes) 7 No 6

Absent 2

Floor Assignment Rep. Kroeber

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

Date: 3-12-01
Roll Call Vote #: 22

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House FINANCE & TAXATION Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number 18052.0201

Action Taken Do Pass As Amended

Motion Made By Rep. Drovdal Seconded By Rep. Kroeber

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	A				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Kroeber

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

REPORT OF STANDING COMMITTEE: (410)
March 13, 2001 1:11 p.m.

Module No: HR-43-5486
Carrier: Kroeber
Insert LC: 18052.0201 Title: 0300

REPORT OF STANDING COMMITTEE

SB 2086, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman)
recommends AMENDMENTS AS FOLLOWS and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2086
was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and subsection 3 of"

Page 1, line 2, remove "section 57-15-17.1"

Page 1, line 4, remove "and school district remodeling fund mill levies"

Page 2, remove lines 1 through 7

Renumber accordingly

2001 SENATE EDUCATION
CONFERENCE COMMITTEE

SB 2086

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Education Committee

☐ Conference Committee

Hearing Date 03-30-01

Tape Number	Side A	Side B	Meter #
I	x		0 - 32.0
1 (04-04-01)	x		0 - 16.4
1 (04-09-01)		x	.4 - 12.0
1(04-11-01)		x	0 - 10.5
Committee Clerk Signature <i>Audra Johnson</i>			

Minutes: Report of CONFERENCE COMMITTEE on SB 2086.

Members: SENATOR FREBORG REPRESENTATIVE DROVDAL
 SENATOR COOK REPRESENTATIVE GROSZ
 SENATOR O'CONNELL REPRESENTATIVE KROEBER

SENATOR FREBORG called the committee to order with all (6) members present. He asked the House to explain their amendment.

REPRESENTATIVE DROVDAL explained that the House had a hard time understanding the amendments the Senate had put on, so they amended it back to its original form. SENATOR FREBORG stated the House removed the restriction put on by the Senate committee which was Section 2 , and now it allows the school boards to use the 15 mills in conjunction with the 20 mills that they could leave on after a building project, and bond for a total of 35 mills without going to the voters. REPRESENTATIVE DROVDAL stated that as they listened to testimony, it appeared that the voters who voted the 5 mills to start with were not going to be asked to vote on

the second mill levy, and that was a concern to their members. And when they started looking at NDCC 57-15-17.1 it looked like there was flexibility in the law for the board to request the other mills. Some of the committee members thought those testifying were skirting the voters on this issue. Some members also felt the testimony was inadequate. They did not want to run through this issue and give an automatic mill increase to property tax owners in all districts in ND.

SENATOR FREBORG stated he is not very favorable to this bill even as amended.

REPRESENTATIVE DROVDAL stated the Attorney General's office had some concern over a legal challenge to this and in wanting to work with them they amended Section 2 out.

REPRESENTATIVE KROEBER stated there is protection for the voters by filing a protest within 60 days. He stated Karlene Fine, in her testimony, had concerns for the portion of law that could be challenged in court. SENATOR FREBORG stated that they want to bond with the 15 mills that can be put on by resolution of the board. In explaining this he said that the board can bond for 20 mills for a building fund by the vote of the people. Once the project is completed, the board can leave these mills on, and with this bill, they can then, by resolution of the board, bond for 15 mills more. The 20 mills can be left on until the board, by resolution, takes it off or 20% of the electors petition to remove it. If a board doesn't bond, they are restricted as to how many mills can be used for what. If they do bond, the 15 mills can be used however they choose. REPRESENTATIVE DROVDAL stated that their committee felt that by passing Section 2, the voters would then say the Legislature put the 5 mills on instead of the local school board. He feels the local board should be accountable to the local voters. Both SENATOR FREBORG and O'CONNELL had concerns extending the time from 15 - 20 years. SENATOR COOK stated it is a lot easier to find the will of the people when you have to get their permission up front. They are the ones who will have to pay the taxes. More discussion.

Page 3
Senate Education Committee
Bill/Resolution Number SB 2086
Hearing Date 03-30-01

This bill seems to have been put in for the specific purpose of one district, Dickinson. The committee feels that the residents of the district probably would not go along with bonding for more mills, and therefore the board would like to be able to bond without a vote of the people. SENATOR FREBORG feels the issue of lead-based paint is going to be a hot topic and schools may need a source of income to take care of removal of such.

The committee will take no action and get further advice.

04-04-01, Tape 1, Side B, 16.4 - 32.3

SENATOR FREBORG called the committee to order. All (6) members were present. The amendment 18052.0202 was presented for consideration to the committee. It adds lead-based paint removal to Sec 57-15-17.1. REPRESENTATIVE DROVDAL proposed removing all new language (overstrikes and underlines) as added by the Senate which would bring back the original bill without the new language. More discussion.

The conference committee recommends that the House recede from the House amendments and adopt the amendment 18052.0202, and remove the underlines and overstrikes in Section 1 of Engrossed SB 2086. Roll Call Vote: 5 YES. 1 NO. 1 Absent.

04-09-01, Tape 1, Side B, .4 - 12.0

SENATOR FREBORG called the committee to order with all (6) members present.

SENATOR FREBORG asked the committee if it had been the intention of the committee to remove all amendments on SB 2086 and simply put the lead based paint abatement under the subsection that includes asbestos abatement.

REPRESENTATIVE DROVDAL stated he was under the impression that the overstrikes were being left on in the amendment because those were obsolete chapters in code. SENATOR

4-9-01

FREBORG STATED those chapters were taken care of in another bill. SENATOR FREBORG asked if the committee was in agreement that the bill now brings us back to old law and we want to amend it with lead based paint abatement in the section where we now use the 15 mills for asbestos abatement. SENATOR COOK stated that he had written "Section 2 gone, underline language in 1 gone, add lead based paint". More discussion. SENATOR FREBORG stated the committee will reconvene at the Chairman's discretion when the bill can come back to the conference committee.

04-11-01, Tape 1, Side B, 0 - 10.5

SENATOR FREBORG called the committee to order. Roll was taken with (6) members present.

SENATOR COOK moved to reconsider the action on SB 2086. Seconded by

REPRESENTATIVE DROVDAL. Roll Call Vote: 6 YES. 0 NO. 0 Absent.

Motion Carried.

The committee looked at the amendment (18052.0204) as presented by SENATOR FREBORG.

He stated the amendment adds lead-based paint to the levies section. He further stated this section deals with a total of 15 mills, of which 5 mills are for required remodeling, 10 mills are for alternative education and 5 mills are for asbestos abatement and lead paint abatement.

REPRESENTATIVE DROVDAL spoke to the concern with small schools that have very little excess funds and feel that 5 mills may not be enough for larger projects. SENATOR FREBORG addressed that with they have a building fund for large projects.

SENATOR COOK moved the House recede from the House amendments and amend with 18052.0204. Seconded by REPRESENTATIVE DROVDAL.

Roll Call Vote: 5 YES. 1 NO. 1 Absent. Motion Carried.

Carrier: SENATOR FREBORG

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2086

Page 2, after line 7 insert:

SECTION 3. AMENDMENT. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17.1. Multiyear asbestos abatement and lead paint removal, required remodeling, and alternative education program levy by school district.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos or lead paint substances from school buildings or the abatement of asbestos or lead paint substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos or lead paint substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 3 and 4, must be placed in a separate fund known as the asbestos and lead paint abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos or lead paint abatement.
3. All revenue accruing from up to five mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.
4. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.
5. Any moneys remaining in the asbestos and lead paint abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos or lead paint abatement project, any funds remaining in the required remodeling fund after completion of the remodeling projects, and any

funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board.

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2086

That the House recede from its amendments as printed on page 833 of the Senate Journal and page 892 of the House Journal and that Engrossed Senate Bill No. 2086 be further amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-15-17.1 of the North Dakota Century Code, relating to multiyear asbestos abatement and lead paint removal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-17.1. School board levies - Multiyear asbestos abatement, required :
Lead paint removal - Required remodeling, and alternative - Alternative education
program levy by school district programs.**

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 3 and 4, must be placed in a separate fund known as the asbestos and lead paint abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos or lead paint abatement.
3. All revenue accruing from up to five mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.

4. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.
5. Any moneys remaining in the asbestos and lead paint abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos or lead paint abatement project, any funds remaining in the required remodeling fund after completion of the remodeling projects, and any funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board."

Renumber accordingly

Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *SB2086*

Senate	Committee
--------	-----------

☐ Subcommittee on _____

or
☒ Conference Committee

Legislative Council Amendment Number _____

Action Taken House recede & amend as follows

Motion Made By Sen. Cook Seconded By Sen. O'Connell

[illegible]

Total (Yes) 5 No 1

Absent 0

Floor Assignment

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

adopt 18052.0202 & remove overstrikes and underlines
in Section 1 of Eng. SB 2086

REPORT OF CONFERENCE COMMITTEE

SB 2086, as engrossed: Your conference committee (Sens. Freborg, Cook, O'Connell and Reps. Drovdal, Grosz, Kroeber) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 833, adopt amendments as follows, and place SB 2086 on the Seventh order:

That the House recede from its amendments as printed on page 833 of the Senate Journal and page 892 of the House Journal and that Engrossed Senate Bill No. 2086 be amended as follows:

Page 1, line 1, remove "subsection 3 of"

Page 1, line 4, replace "school district remodeling fund mill levies" with "multiyear asbestos and lead paint abatement program levies by school districts"

Page 1, line 9, remove the overstrike over "~~15-51-11,~~"

Page 1, line 10, remove the overstrike over "~~15-51-13, or~~" and remove "or 57-15-17.1"

Page 2, replace lines 1 through 7 with:

"SECTION 2. AMENDMENT. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17.1. Multiyear asbestos abatement and lead paint removal, required remodeling, and alternative education program levy by school district.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos or lead paint substances from school buildings or the abatement of asbestos or lead paint substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos or lead paint substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 3 and 4, must be placed in a separate fund known as the asbestos and lead paint abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestosor lead paint abatement.

3. All revenue accruing from up to five mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.
4. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.
5. Any moneys remaining in the asbestos and lead paint abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos or lead paint abatement project, any funds remaining in the required remodeling fund after completion of the remodeling projects, and any funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board."

Renumber accordingly

Engrossed SB 2086 was placed on the Seventh order of business on the calendar.

Roll Call Vote #: /

Senate Education Committee

or

Legislative Council Amendment Number _____

Motion Made By Sen. Cook Seconded By Rep. Moody

[illegible]

Absent

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

Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *SB2086*

Senate



or

☒

Legislative Council Amendment Number

Action Taken

Motion Made By

Secondded

By

[illegible]**Total**

(Yes)

No

Absent

Floor Assignment

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

REPORT OF CONFERENCE COMMITTEE

SB 2086, as engrossed: Your conference committee (Sens. Freborg, Cook, O'Connell and Reps. Drovdal, Grosz, Kroeber) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 833, adopt amendments as follows, and place SB 2086 on the Seventh order:

That the House recede from its amendments as printed on page 833 of the Senate Journal and page 892 of the House Journal and that Engrossed Senate Bill No. 2086 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-15-17.1 of the North Dakota Century Code, relating to multiyear asbestos abatement and lead paint removal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17.1. School board levies - Multiyear asbestos abatement, required - Lead paint removal - Required remodeling, and alternative - Alternative education program levy by school district programs.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos or lead paint substances from school buildings or the abatement of asbestos or lead paint substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 3 and 4, must be placed in a separate fund known as the asbestos and lead paint abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos or lead paint abatement.
3. All revenue accruing from up to five mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund

group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.

4. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.
5. Any moneys remaining in the asbestos and lead paint abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos or lead paint abatement project, any funds remaining in the required remodeling fund after completion of the remodeling projects, and any funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board."

Renumber accordingly

Engrossed SB 2086 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

SB 2086

January 18 , 2001

Senate Bill 2086
Education
Testimony of Tom Tudor
North Dakota Municipal Bond Bank

Good morning. My name is Tom Tudor. I am the Executive Director of the North Dakota Municipal Bond Bank. The Bond Bank is a state agency which operates under the supervision of the Industrial Commission. The Bond Bank makes low-cost loans to North Dakota political subdivisions at favorable interest rates by issuing bonds in the municipal securities market and making loans with the bond proceeds through the purchase of municipal securities issued to the Bond Bank. Bonds issued by school districts under N.D.C.C. § 57-15-17.1 are eligible for purchase by the Bond Bank.

As currently provided in N.D.C.C. § 57-15-17.1, bonds issued under the authority of that section are general obligation bonds and a tax levy of not exceeding 15 mills may be dedicated to bonds authorized and issued by a school board for an authorized purpose, to be paid from the proceeds of the dedicated levy for a period not to exceed fifteen years.

N.D.C.C. §21-03-04 provides that

Every municipality may borrow money and issue municipal obligations thereof [sic] for the purpose specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as otherwise provided in section 21-03-02.

The exceptions provided in N.D.C.C. § 21-03-02 are not applicable to bonds issued under the authority of N.D.C.C. § 57-15-17.1. There is no reference to bonds issued under N.D.C.C. § 57-15-17.1 in N.D.C.C. ch. 21-03. Therefore, it appears that bonds issued under the authority of N.D.C.C. § 57-15-17.1 may be subject to a legal challenge if issued as general obligation bonds.

SB 2086 and the proposed amendments just handed out do several different things.

First, SB 2086 clarifies that bonds issued by school districts under N.D.C.C. § 57-15-17.1 are general obligation bonds issued under the authority of N.D.C.C. ch. 21-03 by amending N.D.C.C. §21-03-07(7) to include bonds issued under N.D.C.C. § 57-15-17.1 as general obligation bonds which may be issued by a public school district without an election. SB 2086 removes the question of whether general obligation bonds issued by a school district under N.D.C.C. § 57-15-17.1 are in fact validly issued and legally binding general obligation bonds of the issuing school district.

Subsection 7 of N.D.C.C. § 21-03-07 does add at least one additional requirement for the issuance of bonds which is not included in N.D.C.C. § 57-15-17.1. That requirement is that there is a sixty day protest period following the adoption of an initial resolution during which the owners of taxable property within the district may file protests to the issuance of the bonds.

SB 2086 deletes references to two sections which were repealed by the Legislature in 1999 with the adoption of HB 1034, which repealed N.D.C.C. ch 18-61 as well as several other chapters and sections, and created N.D.C.C. Title 18.1. The proposed amendments add the current references to these two sections, which are applicable only to the Board of Education of the city of Fargo.

SB 2086, in line 11 adds "remodeling" as a purpose for which general obligation bonds may be issued under subsection 7 of N.D.C.C. § 21-03-07, and the proposed amendments insert the term "rehabilitation" after the term "remodeling" in line 11 as an additional purpose for which bonds may be issued under subsection 7.

Remodeling required by the ADA or the State Fire Marshal is a purpose for which bonds may be issued under the current language of N.D.C.C. § 57-15-17.1, and rehabilitation is a purpose which relates to the new subsection 1(e) in the proposed amendments. This new subsection provides that a purpose for which general obligation bonds may be issued under N.D.C.C. § 57-15-17.1 is to provide an enhancement which is a qualified purpose under section 1397E of the Internal Revenue Code.

Section 1397E of the Internal Revenue Code establishes a federal program under which eligible school districts ("qualified zone academies") may issue tax credit bonds, designated as qualified zone academy bonds ("QZABs"), for a qualified purpose. A qualified purpose under the federal QZAB program is any one of the following:

- (A) rehabilitating or repairing the public school facility.
- (B) providing equipment for use at such academy.
- (C) developing course materials for education to be provide at such academy.
- (D) training teachers and other school personnel in such academy.

New construction is not a purpose for which a school district may issue a QZAB, and projects which are being financed in North Dakota under this program are for the rehabilitation or repair of existing school facilities.

Under the QZAB program, the State, through the Department of Public Instruction, is annually allocated an amount of qualified zone academy bonds which may be issued by the State or which may be allocated by the DPI to qualified zone academies within the State.

A qualified zone academy is a public school which meets certain requirements established by federal law and regulations, including the requirement that, if the school is not located in an empowerment zone or an enterprise community, at least 35% of the students must be eligible for free or reduced-cost lunches under the school lunch program.

The holder of a QZAB receives a tax credit each year based upon a credit rate determined by the U.S. Treasury Department's Bureau of Public Debt for the month in which the bond was issued, multiplied by the outstanding amount of the bond. The holder receives no interest payments from the issuer of the QZAB. Qualified holders, or purchasers, are limited to banks, insurance companies, and other corporations engaged in the business of lending money.

The State's QZAB allocations for 1998, 1999, and 2000 were, respectively, \$711,000, \$918,000, and \$1,063,000. The State's allocation for 2001 is approximately the same as the 2000 allocation, just over \$1,000,000. A state's allocation is based on the population below the poverty level, as defined by the federal Office of Management and Budget.

As you can see from the annual allocation amount, QZAB projects in North Dakota can't require large dollar expenditures - there is just not a lot of money available for the school districts requesting a portion of the allocation. The largest amount of the allocation awarded to any one school district of the approximately twenty school districts which either have received or are on the waiting list to receive an allocation has been \$500,000.

Most North Dakota school districts issuing QZABs are using a form of lease financing obligation, which requires the school board to make an appropriation each budget year out of current available revenues. By adding this federal program as an authorized purpose under N.D.C.C. §57-15-17.1, a school district may establish a dedicated revenue source apart from its general fund.

The proposed amendments also address the purposes for which bonds may currently be issued under N.D.C.C. § 57-15-17.1. These include asbestos abatement, remodeling required by the ADA or the state fire marshal, and alternative education programs. The combined total dedicated tax levy permitted under this section is 15 mills. However, a mill levy for required remodeling may not exceed 5 mills and a mill levy for alternative education programs may not exceed 10 mills.

The proposed amendments add new language at the end of subsection 1 providing that a school district may levy up to a total of 15 mills for one or more of the allowed purposes, with no other limits on the mills which may be levied for any one purpose. This amendment lets the local school board determine how much of the total allowed tax levy will be dedicated to any one purpose.

This new language in subsection 1 also clarifies that the tax may be levied from time to time for one or more purposes but that the term of a bond or a series of bonds may not exceed twenty years. This is the maximum term for bonds issued under N.D.C.C. Ch. 21-03

The proposed amendments delete current language in subsections 2 through 5, and add new language, consistent with the proposed amendments allowing a school district to determine the amount of the tax levy for any one purpose. These amendments also add new language directing a school board to place the tax revenues in a bond sinking fund if bonds are being issued to finance a purpose for which a tax levy is dedicated and pledged.

The proposed amendments to subsection 6 clarify that any moneys remaining in one of the funds after the completion of the project or projects being financed must be transferred to the school district's general fund.

This concludes my testimony. If you have any questions, I will attempt to address them at this time.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2086

Page 1, line 9, after "or" insert "15.1-09-47, 15.1-09-49,"

Page 1, line 11, after "remodelling," insert "rehabilitation,"

Page 1, after line 27, insert

SECTION 2. Amendment. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17.1. Multiyear asbestos abatement, required remodeling, and alternative education program, and qualified purpose enhancement levy by school district.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district ~~for a period not longer than fifteen years.~~ The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs; and
 - e. providing an enhancement which is a qualified purpose under section 1397E of the Internal Revenue Code.

The total combined mill levies under this section for the above purposes may not exceed fifteen mills. The tax may be levied from time to time for one or more of the purposes described in this section, however, the term of any one bond or series of bonds issued under this section may not exceed twenty years.

for levy for any purpose

2. All revenue accruing from ~~the~~ a levy under this section, ~~except revenue deposited as allowed by subsections 3 and 4 must, for~~ asbestos abatement must be placed in a separate fund known as the asbestos abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos abatement or must be placed in a bond sinking fund for payment of principal, premium, if any, and interest on outstanding asbestos abatement bonds.

3. All revenue accruing from ~~up to five mills of the fifteen mill levy~~ ¹⁰ a ~~levy~~ under this section ~~for required remodeling~~ must be placed in a separate fund known as the ~~required remodeling~~ fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, ~~as set forth in subsection 4~~ or must be placed in a bond sinking fund for payment of principal, premium, if any, and interest on outstanding required remodeling bonds.

with ADA
& fire
inspections

4. All revenue accruing from ~~up to ten mills of the fifteen mill levy~~ a ~~levy~~ under this section ~~may~~ for alternative education must be placed in a separate fund known as the alternative education program fund or must be placed in a bond sinking fund for the payment of principal, premium, if any, and interest on outstanding alternative education bonds. Disbursement may be made from the alternative education program fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.

5. All revenue accruing from a levy under this section for a qualified purpose enhancement must be placed in a bond sinking fund for payment of principal and premium, if any, on outstanding qualified purpose enhancement bonds.

6. Any moneys remaining in the asbestos abatement fund after completion of the ~~principal and interest payments for any bonds issued for any school asbestos abatement project, any funds remaining~~ the asbestos abatement projects, in the required remodeling fund after completion of the remodeling projects, and ~~any funds remaining~~ in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board.

Renumber accordingly

**TESTIMONY ON SB 2086
SENATE EDUCATION COMMITTEE**

January 15, 2001

By Tom Decker, Director of Finance and Organization

328-2267

Department of Public Instruction

Mr. (Madam) Chairman and members of the committee:

I am here to speak in support of Senate Bill 2086 as amended. The language in Section 57-15-17.1, multi-year asbestos abatement, required remodeling, and alternative education levies as they currently exist is confusing to school districts who wish to use this authority. In addition, we believe it would be appropriate to add Qualified Academy Zone Bond funding repayments to this authority to provide schools districts with more flexibility in regard to the use of the levy. Those amendments allow school districts to use the full amount of the 15 mills available for any of the listed purposes through a process of public notice of dedication of mills for repayment for specific purpose. Different districts will have different needs in regard to the use of existing authority and the Qualified Zone Academy Bonds. North Dakota was one of the first states to make this funding source available to public schools.

I have attached an information sheet that provides a brief outline of what Qualified Academy Zone Bonds are. In addition to the information on that topic provided by other testimony, legislation heard last week will allow our state Bond Bank to get involved with the sale of bonds from Qualified Zone Academy Bond funding. With the Bond Bank in a position to sell these bonds on behalf of the school districts at better rates than school districts are likely to be able to achieve and with authority to use the levy provided for in 57-15-17.1, school districts will have more flexibility to deal with a variety of remodeling issues. Qualified Academy Zone Bond funding has been extended through the next three years at approximately the same level that currently exists. While we have not seen the state by state allocation, there is no reason to believe that North Dakota would not continue to get approximately a

million dollars per year in available allocation. Some districts have been able to use Qualified Zone Academy Bond funding by repaying it through a building ~~fund~~ fund or making annual payments on these bonds from the general fund as a repayment source. However, many districts are not in the position to repay these loans with those vehicles. Authority under this section will make it possible for many more ^{school} districts to consider using this relatively low interest source of capital construction money.

INTEREST-FREE SCHOOL BONDS AVAILABLE

In 1997, Congress enacted the Qualified Zone Academy Bond program that allows certain schools to finance the renovation and or equipping of school facilities on an interest-free basis through the use of federal tax credits. The total amount of school indebtedness eligible for the credit is \$800 million nationwide.

The U.S. Treasury allocated the available indebtedness for 1998 and 1999 to the states based on a poverty formula. States through their state education agencies are responsible for allocating the credits to local education agencies.

Who qualifies?

A public school, a single school district, or a coalition of districts may apply, if the applicant or coalition is located in an Empowerment Zone or Empowerment Community, or if 35 percent of the students at the school site are eligible for free or reduced-cost lunches. A public-private partnership with a business or other private entity is also required and the private partner must contribute 10 percent of the bonds. This contribution can be in the form of equipment, volunteers, internships, technical services, etc.

How do QZAB's work?

The local school district, or a state or local government agency, issues the bonds. A financial institution purchases the QZAB bonds and sets the terms for repayment, usually 15 years. The purchaser receives a federal tax credit each year and the school district is responsible for the principal.

Where to get more information?

The U.S. Treasury issued a document, 26 CFR Part 1 [TD 8755] RIN1545-AV74, published in the Federal Register January 7, 1998. The Internal Revenue Service issued additional clarifications July 1, 1999. Information is also located on the Internet at www.ed.gov/initi/construction/qzab.html.

What is the future of the QZAB program?

Legislation before Congress would reauthorize and expand the QZAB program and would establish a much larger program using tax credits. H.R. 1660 and H. R. 1760 in the House and S. 1454 in the Senate would authorize about \$25 billion in interest-free bonding authority for school modernization and construction. A majority of the House have signed as cosponsors, a total of 228 members, and 20 Senators are cosponsors. Public support is needed to bring it to a vote. For more information about this legislation visit www.ed.gov/initi/construction/ad-proposal.html.

QUALIFIED ZONE ACADEMY BONDS APPLICATION REQUESTS

Date of Requestion	District	Amount requested	Amount approved	Funding Remaining	Date Approved	% of students qualify for free or reduced lunch*	Construction Approved
1999 Allocation							
07/14/99	Belcourt #7	500,000	500,000	1,129,000	07/20/99	58%	
08/13/99	Bisbee-Egeland #2	55,000	55,000	1,074,000	09/22/99	58%	
08/17/99	Southern #8 (Cando)	60,000	60,000	1,014,000	09/22/99	35%	
08/18/99	Drake #57	210,000	210,000	804,000	09/22/99	55%	Yes
08/24/99	Dakota Prairie #1	225,000	225,000	579,000	09/22/99	43%	
			1,050,000				
2000 Allocation							
				<u>1,053,000</u>			
Amount Available 2000							
01/17/00	Ellendale #40	100,000	100,000	1,632,000	01/21/00	40%	
01/21/00	Rosette #29	99,999	99,999	1,532,000	01/31/00	57%	
01/26/00	Hettinger #13	750,000	500,000	932,001	02/08/00	33%	
02/04/00	LaMoure #8	500,000	500,000	432,001			
02/08/00	Drake #57	81,000	81,000	351,001		55%	
05/09/00	Maddock #9	100,000	100,000	251,001	06/13/00	41%	
03/03/00	Montefiore #1	500,000	500,000	(248,999)		35%	
			<u>1,880,999</u>				
Applications on Waiting List:							
02/04/00	Mt. Pleasant #4	100,000	100,000		02/04/00	42%	Yes
02/10/00	Finley-Sharon #19	149,000	149,000		02/17/00	37%	
02/04/00	LaMoure #8	500,000	500,000		02/17/00	37%	
02/17/00	Griggs Co Central #.3	100,000	100,000		02/18/00	34%	Yes
02/18/00	Ellendale #40	500,000	500,000		02/18/00	40%	
02/22/00	Warwick #29	500,000	500,000		02/23/00	97%	
03/14/00	Hettinger #13	250,000	250,000		03/21/00	0.33%	
04/14/00	Sargent Central #6	200,000				21%	
11/13/00	Edgeley #3	200,000	200,000		11/17/00	45%	

35% to qualify*

Dean Koppelman
<dkoppelm@sendit.se
ndit.nodak.edu>

To: sedu@state.nd.us, Koppelman <dkoppelm@sendit.sendit.nodak.edu>
cc:
Subject: SB 2086

01/12/01 05:31 PM

Dear Senate Education Committee,

Please be advised that the Dickinson School District strongly supports the amendments to N.D.C.C. 57-15-17.1 contained in SB 2086 as proposed by Tom Tudor, Executive Director of the North Dakota Municipal Bond Bank. We have considerable needs in our district relevant to ADA and Fire Marshal issues. The proposed changes would allow us to address these concerns in a timely fashion and improve conditions for our students. I would urge a " yes " vote on SB 2086 and the proposed amendments. Thank you.

Sincerely,
Dean U. Koppelman
Superintendent
Dickinson Public Schools

January 16, 2001

Senate Bill 2086
Education
Testimony of Tom Tudor
North Dakota Municipal Bond Bank

Good morning. My name is Tom Tudor. I am the Executive Director of the North Dakota Municipal Bond Bank. The Bond Bank is a state agency which operates under the supervision of the Industrial Commission. The Bond Bank was established for the purpose of making low-cost loans to North Dakota political subdivisions at favorable interest rates. The Bond Bank accomplishes this purpose by issuing bonds in the municipal securities market and making loans with the bond proceeds through the purchase of municipal securities issued to the Bond Bank by political subdivisions.

As currently provided in N.D.C.C. § 57-15-17.1, bonds issued under the authority of that section are general obligation bonds and a tax levy of not exceeding 15 mills may be dedicated to GO bonds authorized and issued by a school board for an authorized purpose, to be paid from the proceeds of the dedicated levy for a period not to exceed fifteen years.

N.D.C.C. §21-03-04 provides that

Every municipality may borrow money and issue municipal obligations thereof [sic] for the purpose specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as otherwise provided in section 21-03- 02.

The exceptions provided in N.D.C.C. § 21-03-02 are not applicable to bonds issued under the authority of N.D.C.C. § 57-15-17.1. Further, an annotation to N.D.C.C. § 21-03-02, referencing a North Dakota Supreme Court decision, states that N.D.C.C. ch. 21-03 applies only to general obligation bonds. Therefore, it appears that bonds issued under the authority of N.D.C.C. § 57-15-17.1 may be subject to a legal challenge.

SB 2086 and the proposed amendments just handed out do several different things.

First, SB 2086 clarifies that bonds issued by school districts under N.D.C.C. § 57-15- 17.1 are general obligation bonds issued under the authority of N.D.C.C. ch. 21-03 by amending N.D.C.C. §21-03-07(7) to include bonds issued under N.D.C.C. § 57-15-17.1 as general obligation bonds which may be issued by a public school district without an election. SB 2086 removes any question of whether bonds issued by a school district under N.D.C.C. § 57-15-17.1 are general obligation bonds of the issuing school district. Subsection 7 of N.D.C.C. § 21-03-07 does add at least one additional requirement for the issuance of the bonds which is not included in N.D.C.C. § 57-15- 17.1. That requirement, as set out in subsection 7, is that there is a sixty day protest period following the adoption of an initial resolution during which the owners of taxable property within the district may file protests to the issuance of the bonds.

SB 2086 deletes references to two sections which were repealed by the Legislature in 1999 with the adoption of HB 1034, which repealed N.D.C.C. ch 15-51 as well as several other chapters and sections, and created N.D.C.C. Title 15.1. The proposed amendments add the current references to these two sections, which are applicable only to the Board of Education of the city of Fargo.

SB 2086, in line 11 adds "remodeling " as a purpose for which general obligation bonds may be issued under subsection 7 of N.D.C.C. § 21-03-07, and the proposed amendments insert the term "rehabilitation" after the term "remodeling" in line 11 as an additional purpose for which bonds may be issued under subsection 7. Remodeling required by the ADA or the State Fire

Marshal is a purpose for which bonds may be issued under the current language of N.D.C.C. §57-15-17.1, and rehabilitation is a purpose which relates to the new subsection 1(e) in the proposed amendments. This new subsection provides that a purpose for which general obligation bonds may be issued under N.D.C.C. § 57-15-17.1 is to provide an enhancement which is a qualified purpose under section 1397E of the Internal Revenue Code.

Section 1397E of the Internal Revenue Code establishes a federal program under which eligible school districts (qualified zone academies) may issue tax credit bonds, designated as qualified zone academy bonds ("QZABs"), for a qualified purpose. A qualified purpose under the federal QZAB program is any one of the following:

- (A) rehabilitating or repairing the public school facility.
- (B) providing equipment for use at such academy.
- (C) developing course materials for education to be provide at such academy.
- (D) training teachers and other school personnel in such academy.

New construction is not a purpose for which a school district may issue a QZAB, and projects which are being financed in North Dakota under this program are for the rehabilitation or repair of existing school facilities.

Under the QZAB program, the State, through the Department of Public Instruction, is annually allocated an amount of qualified zone academy bonds which may be issued by the State or which may be allocated by the DPI to qualified zone academies within the State. A qualified zone academy is a public school which meets certain requirements established by federal law and regulations, including the requirement that, if the school is not located in an empowerment zone or an enterprise community, at least 35% of the students must be eligible for free or reduced-cost lunches under the school lunch program. The holder of a QZAB receives a tax credit each year based upon a credit rate determined by the U.S. Treasury Department's Bureau of Public Debt for the month in which the bond was issued, multiplied by the outstanding amount of the bond. The holder receives no interest payments from the issuer of the QZAB. Qualified holders, or purchasers, are limited to banks, insurance companies, and other corporations engaged in the business of lending money.

The State's QZAB allocations for 1998, 1999, and 2000 were, respectively, \$711,000, \$918,000, and \$1,053,000. The State's allocation for 2001 will be approximately the same as the 2000 allocation, just over \$1,000,000. A state's allocation is based on the population below the poverty level, as defined by the federal Office of Management and Budget.

As you can see from the annual allocation amount, QZAB projects in North Dakota can't require large dollar expenditures - there is not a lot of money available for the school districts requesting a portion of the allocation. The largest amount of the allocation awarded to any one school district of the approximately twenty school districts which have received, or are on the waiting list to receive, an allocation has been \$500,000.

Most school districts issuing QZABs are using a form of lease financing obligation, which requires the school board to make an appropriation each budget year out of current available revenues. By adding this federal program as an authorized purpose under N.D.C.C. §57-15-17.1, a school district may establish a dedicated revenue source apart from its general fund.

The proposed amendments also address the purposes for which GO bonds may currently be issued under N.D.C.C. § 57-15-17.1. These include asbestos abatement, remodeling required by the ADA or the state fire marshal, and alternative education programs. The combined total

dedicated tax levy permitted under this section is 15 mills. However, a mill levy for required remodeling may not exceed 5 mills and a mill levy for alternative education programs may not exceed 10 mills.

The proposed amendments add new language at the end of subsection 1 providing that a school district may levy up to a total of 15 mills for one or more of the allowed purposes, with no other limits on the mills which may be levied for any one purpose. This amendment lets the local school board determine how much of the total allowed tax levy will be dedicated to any one purpose.

This new language in subsection 1 also clarifies that the tax may be levied from time to time for one or more purposes but that the term of a bond or a series of bonds may not exceed twenty years.

The proposed amendments delete current language in subsections 2 through 5, and add new language, consistent with the proposed amendments allowing a school district to determine the amount of the tax levy for any one purpose. These amendments also add new language directing a school board to place the tax revenues in a bond sinking fund if bonds are being issued to finance a purpose for which a tax levy is dedicated and pledged.

The proposed amendments to subsection 6 clarify that any moneys remaining in one of the funds after the completion of the project or projects being financed must be transferred to the school district's general fund.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2086

Page 1, line 9, after "or" insert "15.1-09-47, 15.1-09-49."

Page 1, line 11, after "remodelling." insert "rehabilitation."

Page 1, after line 27, insert

SECTION 2. Amendment. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17.1. Multiyear asbestos abatement, required remodeling, and alternative education program, and qualified purpose enhancement levy by school district.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs; and
 - e. providing an enhancement which is a qualified purpose under section 1397E of the Internal Revenue Code.

The total combined mill levies under this section for the above purposes may not exceed fifteen mills. The tax may be levied from time to time for one or more of the purposes described in this section, however, the term of any one bond or series of bonds issued under this section may not exceed twenty years.

2. All revenue accruing from the a levy under this section, except revenue deposited as allowed by subsections 3 and 4 must, for asbestos abatement may be placed in a separate fund known as the asbestos abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos abatement or must be placed in a bond sinking fund for payment of principal, premium, if any, and interest on outstanding asbestos abatement bonds.
3. All revenue accruing from up to five mills of the fifteen mill levy a levy under this section must for required remodeling may be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling as set

~~forth in subsection 4 or must be placed in a bond sinking fund for payment of principal, premium, if any, and interest on outstanding required remodeling bonds~~

4. All revenue accruing from up to ten mills of the fifteen-mill levy ~~a levy~~ under this section may ~~for alternative education must~~ be placed in a separate fund known as the alternative education program fund ~~or must be placed in a bond sinking fund for the payment of principal, premium, if any, and interest on outstanding alternative education bonds~~. Disbursement may be made from the alternative education program fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.
5. ~~All revenue accruing from a levy under this section for a qualified purpose enhancement must be placed in a bond sinking fund for payment of principal and premium, if any, on outstanding qualified purpose enhancement bonds.~~
6. Any moneys remaining in the asbestos abatement fund after completion of the ~~principal and interest payments for any bonds issued for any school asbestos abatement project, any funds remaining in the asbestos abatement projects,~~ in the required remodeling fund after completion of the remodeling projects, and any funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board.

Renumber accordingly



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Commissioner of Agriculture

March 6, 2001
Engrossed Senate Bill No. 2086
Testimony of Karlene Fine
Interim Executive Director
Municipal Bond Bank

For the record my name is Karlene Fine and I am Executive Director and Secretary for the Industrial Commission. I am appearing today as the Interim Executive Director of the Municipal Bond Bank. The Bond Bank is a state agency that operates under the supervision of the Industrial Commission. The Bond Bank was established for the purpose of making low-cost loans to North Dakota political subdivisions at favorable interest rates. The Bond Bank accomplishes this purpose by issuing bonds in the municipal securities market and making loans with the bond proceeds through the purchase of municipal securities issued to the Bond Bank by political subdivisions.

Why was Senate Bill 2086 Introduced?

As currently provided in N.D.C.C. §57-15-17.1 bonds issued under the authority of that section are general obligation bonds and a tax levy of not exceeding 15 mills may be dedicated to GO bonds authorized and issued by a school board for an authorized purpose, to be paid from the proceeds of the dedicated levy for a period not to exceed fifteen years. (I've attached a copy of N.D.C.C. §57-15-17.1 for your information.)

N.D.C.C. §21-03-04 provides that:

Every municipality may borrow money and issue municipal obligations thereof for the purpose specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as otherwise provided in section 21-03-02.

The exceptions provided in N.D.C.C. §21-03-02 are not applicable to bonds issued under the authority of N.D.C.C. §57-15-17.1. Further, an annotation to N.D.C.C. §21-03-02, referencing a North Dakota Supreme Court decision, states that N.D.C.C. ch. 21-03 applies only to general obligation bonds. Therefore, it appears that bonds issued under the authority of N.D.C.C. §57-15-17.1 may be subject to a legal challenge.

Engrossed Senate Bill 2086 does several things.

First, Engrossed Senate Bill 2086 clarifies that bonds issued by school districts under N.D.C.C. §57-15-17.1 are general obligation bonds issued under the authority of N.D.C.C. ch. 21-03 by amending N.D.C.C. §21-03-07(7) to include bonds issued under N.D.C.C. §57-15-17.1 as general obligation bonds which may be issued by a public school district without an election. Senate Bill 2086 removes any question of whether bonds issued by a school district under N.D.C.C. §57-15-17.1 are general obligation bonds of the issuing school district. Subsection 7 of N.D.C.C. §21-03-07 does add at least one additional requirement for the issuance of the bonds, which is not included in N.D.C.C. §57-15-17.1. That requirement, as set out in subsection 7, is that there is a sixty-day protest period following the adoption of an initial resolution during which the owners of taxable property within the district may file protests to the issuance of the bonds.

Engrossed Senate Bill 2086 deletes references to two sections which were repealed by the Legislature in 1999 with the adoption of HB 1034, which repealed N.D.C.C. ch. 15-51 as well as several other chapters and sections, and created N.D.C.C. Title 15.1.

Engrossed Senate Bill 2086, in line 12 adds "remodeling" as a purpose for which general obligation bonds may be issued under subsection 7 of N.D.C.C. §21-03-07. Remodeling required by the ADA or the State Fire Marshal is a purpose for which bonds may be issued under the current language of N.D.C.C. §57-15-17.1.

The Senate amended Senate Bill 2086 and included the language found in Section 2. Individuals from Dickinson are here to comment on that portion of the engrossed bill.

57-15-17.1. Multiyear asbestos abatement, required remodeling, and alternative education program levy by school district.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:
 - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
 - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36;
 - c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school; and
 - d. Providing alternative education programs.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 3 and 4, must be placed in a separate fund known as the asbestos abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos abatement.
3. All revenue accruing from up to five mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.
4. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.
5. Any moneys remaining in the asbestos abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos abatement project, any funds remaining in the required remodeling fund after completion of the remodeling projects, and any funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board.

March 6, 2001

**TESTIMONY ON SB 2086 ON BEHALF OF
THE DICKINSON PUBLIC SCHOOL DISTRICT**

Mr. Chairman and members of the House Finance and Taxation Committee, my name is Dean U. Koppelman. I am Superintendent of the Dickinson Public Schools. I appear before you in support of SB 2086. Mr. Carleen Fine has testified in support of the changes needed in NDCC 21-03-07 and 57-15-17.1. I support those changes and additionally request your support for the change in levying authority for school boards from five to ten mills for required remodeling.

A recent analysis of building needs in the Dickinson School District generated a list of projects totaling \$4 million. This amount includes costs for asbestos, ADA, roofing, space and Fire Marshal issues. The Fire Marshal and ADA remodeling would cost the District approximately \$1.5 million. Five mills levied against our tax base over a 15 year bond issue is not sufficient to finance the projects. Ten mills would allow us to address the handicapped accessibility and Fire Marshal safety issues in a timely manner. Please note that the total amount that can be levied under NDCC 57-15-17.1 remains at 15 mills.

I very much urge you to support these changes and approve SB 2086. Mr. Chairman, I would be happy to answer any questions that the committee may have.