

SENATE BILL NO. 2042

Introduced by

Legislative Council

(Education Finance Committee)

1 A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota
2 Century Code, relating to evidences of indebtedness and the withholding of state aid to school
3 districts; and to amend and reenact sections 6-09.4-18 and 21-03-44 of the North Dakota
4 Century Code, relating to insurance or guaranties for bonds and sinking funds.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 6-09.4 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Evidences of indebtedness - Authority to withhold school district state aid.**

- 9 1. If the municipal bond bank notifies the superintendent of public instruction that a
10 school district has failed to pay when due the principal or interest on any evidences
11 of indebtedness sold to, or which support any bonds sold by, the bond bank after
12 July 31, 1999, or that the bond bank has reason to believe a school district will not
13 be able to make a full payment of the principal and interest when the payment is
14 due, the superintendent of public instruction shall withhold, upon written notification
15 from the bond bank, any funds that are due or payable or appropriated to the
16 school district under chapter 15-40.1 until the payment of the principal or interest
17 has been made to the bond bank or the trustee, if any, for the bond bank's
18 bondholders, or until the bond bank notifies the superintendent of public instruction
19 that arrangements satisfactory to the bond bank have been made for the payment
20 of the principal and interest then due and owing.
- 21 2. Notwithstanding any withholding of state funds under section 15-39.1-23 or any
22 other law, the superintendent of public instruction shall make available any funds
23 withheld under subsection 1 to the municipal bond bank. The bond bank shall

1 apply the funds to payments that the school district is required to make to the bond
2 bank or to any trustee for the bank's bondholders.

3 3. If funds are withheld from a school district and made available to the bond bank
4 under this section and if tax revenues are received by the school district during the
5 fiscal year in which the funds are withheld and are deposited in the district's sinking
6 fund established in accordance with section 21-03-42, the district, with the consent
7 of the bond bank or the trustee, if any, may withdraw from its sinking fund an
8 amount equal to that withheld by the superintendent of public instruction and made
9 available to the bond bank under this section.

10 4. Any excess funds at the Bank of North Dakota escrowed pursuant to an agreement
11 between the municipal bond bank and the state board of public school education
12 for the benefit of the bond bank and a school district must be held by the Bank.
13 With the approval of the superintendent of public instruction, those funds may be
14 used to subsidize the interest rate on construction loans that are made to school
15 districts by the bond bank and which are subject to the withholding provisions of
16 this section. Notwithstanding the existence of an escrow agreement between the
17 bond bank and the state board of public school education, those funds must be
18 transferred to the bond bank upon certification by the bond bank that the funds are
19 in excess of the amount needed to provide for the payment in full of the
20 outstanding principal and interest, when due, on the bond bank bonds issued to
21 purchase the municipal securities for which the escrow fund was established.

22 **SECTION 2. AMENDMENT.** Section 6-09.4-18 of the 1997 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **6-09.4-18. Insurance or guaranty.** The bond bank is authorized and empowered to
25 obtain from any entity of the state, any department or agency of the United States of America,
26 or any nongovernmental insurer any insurance or guaranty, or liquidity facility, or from a
27 financial institution a letter of credit to the extent such insurance, guaranty, liquidity facility, or
28 letter of credit now or hereafter available, as to, or for, the payment or repayment of, interest or
29 principal, or both, or any part thereof, on any bonds issued by the bond bank, or on any
30 municipal securities purchased or held by the bond bank, pursuant to this chapter; and to enter
31 into any agreement or contract with respect to any such insurance or guaranty, or letter of

1 credit, or liquidity facility, and pay any required fee, unless the same would impair or interfere
2 with the ability of the bond bank to fulfill the terms of any agreement made with the holders of its
3 bonds.

4 **SECTION 3. AMENDMENT.** Section 21-03-44 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **21-03-44. Sinking fund - Use for unauthorized purpose.** Money may not be
7 withdrawn from a sinking fund and appropriated to any purpose other than the purpose for
8 which the fund was instituted until that purpose has been accomplished, except as authorized
9 by section 1 of this Act and sections 21-03-42 through 21-03-45.