

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1152

2005 HOUSE APPROPRIATIONS

HB 1152

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1152
Student Loan Trust Fund

House Appropriations Full Committee

☐ Conference Committee

Hearing Date January 11, 2005

Tape Number
2

Side A

Side B
X

Meter #
7.7 through 31.5

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the hearing on HB1152.

Ms Pam Sharp from Office of Management and Budget testified in support of HB1152 and explained section 1 of the bill and how it would facilitate the transfer of funds.

Ms Karlene Fine explained the amendment in section 2 by reading written testimony (handout #6-9, attached).

Rep. Ken Svedjan, Chairman asked if the \$9 million transfer was contingent of passage of the amendment.

Ms Fine answered that it was not and that they would sell other assets to cover the \$9 million is HB1152 did not pass.

Rep. Mike Timm, Vice Chairman asked if the student loan amount at the maximum now?

Ms Fine answered that \$23 million dollars in subordinate bonds have been issued and we have used up the maximum that is allowed by law which enables us to keep the assets that we have and allow us to make the \$26 million payment to the general fund.

Rep. Mike Timm, Vice Chairman asked if this money represented student loans that had been purchased.

Ms Fine answered that they were not student loans. The Bank of North Dakota has a large portfolio of student loans that they can sell to the Student Loan Trust when it is advantageous for them to do so right now within the Trust \$150 million in student loans.

Rep. Mike Timm, Vice Chairman stated that this was not clear to him but he did not ask anything further.

Rep. Al Carlson asked what would happen when the federal government becomes aware of the shuffling of student loans to take advantage of the interest rates. Is it likely that they will shut down the loopholes?

Ms Fine answered that the federal government is aware of this and looking at it closely. They have limited some of what we are able to do but have allowed us to continue to recycle the loans. It may be that they will eventually close this loophole as well.

Rep. Al Carlson noted that the dollars may not be there in the future and asked if we are in anyway endangering this fund if the dollars are depleted?

Ms Fine answered that if the trust went away we would still have student loans.

Rep. Al Carlson asked what the trust considered an asset?

Ms Fine answered any loans or revenues we receive. (meter #15)

Rep. Al Carlson noted that he did not see any place that allowed for moneys to be transferred to the general fund, nor where it says that we can use the assets.

Ms Fine answered that if the trust has surplus funds that they could be transferred to the general fund.

Mr. Ed Sather explained that there are restricted funds and surplus funds in the bond resolution. It is the surplus funds that can be used to fund the guaranteed Agency. These bonds are guaranteed by Amvac and we would have to go to the bondholders and say we have "x" amount of surplus and you have \$2.5 million in bonds, we would like your permission to transfer \$9 million to the general fund.

Rep. Ken Svedjan, Chairman asked if the \$22.6 million, that is the status of the fund, is all considered surplus funds.

Mr. Sather answered yes.

Rep. Al Carlson asked why we need AMBAC's permission?

Mr. Sather answered that the bond documents control the flow of the funds and since Amvac guarantees these bonds you would need AMBAC's consent if you were going to use these funds for any other purpose than what is identified in the bond documents. And since the trust owes Amvac \$2 million and the trust has an equity balance today of \$27 million, Amvac will say if you want to transfer \$9 million to the general fund, then that's okay.

Rep. Jeff Delzer asked if there needed to be legislative authority to issue the bonds and did that authority say what the assets could be used for and was the general fund listed as part of that.

Rep. Ken Svedjan, Chairman asked if that what we allowed for in the last Assembly.

Mr. Sather answered yes.

Rep. Jeff Delzer asked then if we hadn't essentially broken our own law by allowing for this in the first place.

Mr. Sather answered that in 1979 the Century Code under the Industrial Commission gives the trust authority to issue bonds. The bond documents under that legislation controls the flow of funds.

Rep. Ken Svedjan, Chairman noted that the amendment takes out the \$23 million that we allowed for last time, but asked if this didn't open the authority allow you to issue bonds at any level? (meter #21.9)

Mr. Sather answered that the maximum you could ever issue was the amount of the equity. The intent would be if we remove this legislation we would issue subordinated debt of \$9 million that the Bank would buy which would provide the funds to make this transfer so the Student Loan Trust would not have to liquidate its student loans that are earning 9.5%. If the Federal Government ever closes this loophole then it would be better to liquidate assets to make the transfer but for now this is most advantageous for us. We're trying to maximize the income.

Rep. Jeff Delzer asked if there was anything in the Federal Code that prevent them that says you shouldn't have been doing this the past two years and we want repayment of what you have done.

Mr. Sather answered that legal counsel would be better here but since the recycling has been permitted, he didn't believe the Federal Government could demand repayment.

Rep. Jeff Delzer asked what additional moneys needed to be added to the \$23 million.

Ms Fine answered that the full \$9 million would be requested so the trust could purchase more loans at 9.5%.

Rep. Ken Svedjan, Chairman summarized that the way the amendment reads right now its wider open than that but there are limits to what you could issue.

Ms Fine answered that this was correct.

Rep. Ole Aarsvold mentioned that the Pell grants were being cut on the Federal level and wondered if this impacted our ability to provide assistance to students in need.

Ms Fine answered no.

Rep. Bob Skarphol asked if any other funds were available for the transfer.

Ms Fine answered no.

Rep. Bob Skarphol asked if section 2 of HB1152 allowed the trust to transfer the balance of the \$22 million whenever they wanted.

Ms Fine answered Yes but would only do something like that if we had paid off all of our bondholders and had assets that would be advantageous for us to liquidate..

Rep. Ken Svedjan, Chairman asked if this bill limited the transfer to the \$9 million.

Mr. Sather answered that that was how he read it was that appropriations was authorizing only the transfer of the \$9 million,

Rep. Bob Skarphol commented that the bill says you are "required" to transfer the \$9 million, but what was to stop you from coming back and transferring the rest of the \$22 million whenever you wanted because of the overstrike in section 2 of HB1152.

Mr. Sather answered that if you were to payoff all of the bondholders than the balance of the trust would transfer to the Industrial Commission..

Rep. Ken Svedjan, Chairman closed the hearing on bill HB1152. (meter #30.9)

Rep. Ken Svedjan, Chairman adjourned the meeting. (meter #31.5).

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1152

House Government Performance Division

☐ Conference Committee

Hearing Date January 17, 2005

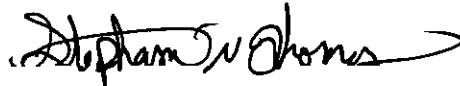
Tape Number
1

Side A
X

Side B

Meter #
1-5768

Committee Clerk Signature



Minutes:

Chairman Carlson opened hearing for HB1152, relating to bonds of the student loans trust.

Pam Sharp, OMB: Testifying about section 1. **(SEE WRITTEN TESTIMONY)**

Rep. Glassheim: This is just the money to make the budget come out, its just the 9 million, and it comes out of the interest earnings on the Student Loan Trust Fund. Is that correct?

Pam: That's correct, it's already included in the budget. It's from the earnings of the Student Loan Trust Fund.

Rep. Skarphol: This transfer is from this fund to the general fund. In the governor's budget, are there any other transfers that we should be aware of that do not go into the general fund, but rather go to some other category?

Pam: I cannot think of any other transfers that somewhere other than the general fund. We have a few transfers going into the general fund, the Bank of North Dakota, the Melon Elevator, the Land and Minerals Trust Fund, the Health care Trust Fund, and the Student Loan Trust Fund.

Chair Svedjan: I think the only potential difference there is the recommended change to the permanent Oil and Tax Trust Fund, which would allow for 13.5 more to flow into the general fund, then otherwise.

Pam: Correct, and that's not a transfer, it's just some language changing the cap on that trust fund for the 07/09, 05/07 biennium.

Chair Carlson: By changing that cap it went from 71 to 84 1/2?

Pam: Correct

Karlene Fine, Authorized Officer for the ND State Loan Trust: Testifying about section 2.

(SEE WRITTEN TESTIMONY)

Chair Svedjan: Looking over the history of the Student Loan Trust Fund from last session, it seems to me that the 79 issue is the key to this whole thing, is that correct?

Karlene: When we looked at the history last year, we had a council opinion that we were only going to be able to have what we call the 9 1/2 yielding loans within the 79 resolution. We were able to go back and do an analysis, and so now we have 9 1/2 loans within the 96 resolution as well. Both resolutions are important, but the 79 resolution is the one with the surplus that we are able to access more readily than we can in the 96 resolution.

Chair Svedjan: But if you were to defuse the 79 resolution, would you still retain the 9 1/2 earning capacity in the 96 resolution?

Karlene: Yes, we would.

Chair Swedjan: How were you able to change that?

Karlene: We had to track the funds, and as you recall are ability to receive the 9 1/2 yield was to the bonds we were issuing prior to 1993. When we went back and did our analysis of the two series of resolutions that we did under the 96 resolution, we were able to track proceeds back to those earlier bond issues.

Rep. Skarphol: How many dollars are involved in the 96 resolution earning 9 1/2 percent?

Karlene: Currently we have 50 million dollars of student loans within the 96 resolution. We have 48 in the 79, and 50 in the 96.

Rep. Skarphol: In essence, we're taking dollars in the Student Loan Trust Fund, surplus dollars, we're bonding a dollar amount equivalent to what we want to move, paying a certain interest rate on that, and then putting it in, taking money out and transferring it to the general fund. Is that kind of a summary?

Karlene: Correct.

Chair Carlson: How can we do that without any kind of penalty?

Karlene: Because the Bank of North Dakota is the holder of those bonds, we have an agreement with them that we can unwind it. The solely hold all our subordinate bonds.

Chair Svedjan: Would it be beneficial to the committee if you just walked us through from start to finish, how you can achieve 9 1/2 percent yield on these?

Karlene: We are able to obtain a 9 1/2 yield, as long as we can determine that the proceeds that are purchasing the loan can be tracked back to bonds that were issued prior to 1993.

Chair Swedjan: It makes no difference what the interest rate is that you have to pay on the bonds that you issued. If we issue bonds at 3 percent, then we're really netting 6 1/2 percent. Is that correct?

Karlene: Correct.

Rep. Glassheim: Your still increasing the net, taking out 9, and putting in 12 or 13. Is that so?

Karlene: The Student Loan Trust earnings last year were 4.3 million dollars, so for biennium, our target is to have 9 million dollars in earnings.

Rep. Glassheim: These 50 million and 48 million, can that ever go up?

Karlene: That can go up through the recycling process. The income we receive off of that 98 million dollars of loans, we can purchase more loans, and then get 9 1/2 on those new loans we purchased.

Chair Swedjan: Did I hear you say that the Fed's are now looking to close this possibly, that is this SAP that you referenced?

Karlene: Correct, there has been federal legislation introduced that would eliminate our ability to recycle.

Chair Swedjan: Your asking in this bill for the 9 million dollar transfer, your expecting to earn 4.3 per year during the 05/07 biennium. That's a little short of 9, but depending on the earnings in that fund, you could buy more loans. Those loans would then generate the 9 1/2 percent. So you feel you could get to the 9 million? In this 9 million, are you also taking from accumulated earnings?

Karlene: Yes, our target is to get to 9 million dollars. If we don't make it, it would come from accumulated earnings,

Chair Swedjan: So you have sufficient accumulated earnings to get to the 9 million.

Karlene: We have surplus in the 79 resolution of about 22 million dollars.

Chair Swedjan: You are at capacity with regard to the issuance of residual or subordinate bonds. You are currently at the max., you can't issue anymore?

Karlene: That is correct, we cannot issue anymore subordinate or residual bonds.

Chair Swedjan: I want to know the rationale for removing the 23 million dollar limitation?

Karlene: The rationale is that because we recycled the cash that we obtained from the student loans, rather than taking that cash and paying to the general fund, we'd rather invest it in those student loans that have a 9 1/2 percent yield, and buy more.

Rep. Skarphol: What's the ultimate number that you could conceivably go to with regard to this project?

Karlene: The ultimate number would be the amount of earnings and loans that we would hold within the trust.

Rep. Skarphol: Can you go to 98 million?

Karlene: Yes, we could.

Rep. Skarphol: Lets say in theory you do that, and than the federal government makes a change, what's the net affect of the capita bank?

Karlene: You would have student loans that would be sold back to the Bank of North Dakota, they would then hold the asset.

Chair Carlson: Could you just give us a little history of the balance in the fund?

Ed Sather, Senior Vice President at the Bank of North Dakota: Basically, because of the bond resolutions, we've issued debt. In some cases, we just transferred cash. The first transfer to the general fund was in the 01/03 biennium. There was 9 million that was transferred to the general fund. In the current biennium there was 30 million that was transferred. 40 million went to the guarantee agency, 9 million went to the Governor's budget, and another 17 million was for higher education. With the limitation in the current law, they issued 23 million of subordinated bonds to fund that transfer. Currently the fund balance in the 79 is 27 million dollars.

Chair Swedjan: You say the current balance is 27.9 million, is that earnings in the fund?

Ed: That is the accumulated earnings in surpluses of the funds over time.

Chair Carlson: I thought the balance after these transactions would be 22 million, instead of 29 or 27?

Ed: I think that's what we had last biennium. What we have found out is that we've been recycling to buy more student loans. We had a tax review, and they said you could go up to 48 million. So we increased the amount of student loans at 9 1/2 percent, which also has increased the earnings in the 79.

Rep. Skarphol: So you can go out and you can buy 79 resolution student loans somewhere else, is that what your saying?

Ed: No, the Student Loan Trust can only buy student loans from the Bank of North Dakota.

Chair Swedjan: Did I understand you to say that the 48 could increase if you had earnings in order to buy more loans?

Ed: That is correct.

Chair Swedjan: Are you saying that you would remove the limit, and issue another 9 million in residual or subordinate bonds, to cover the 9 million that's being transferred in this bill?

Ed: Correct, by issuing the 9 million, your going to reduce the fund balance.

Chair Swedjan: Why do you have to issue more bonds, to transfer the 9 million if the current status of the fund is 27.9?

Ed: That's your equity in the trust fund. Those dollars are invested in the student loans.

Chair Swedjan: So in this case it would be removing the limit, issuing the bonds at least to 9 million, in order to make this transfer.

Ed: Correct.

Chair Swedjan: Do you have any projection on how many student loans are available for purchase, so that your bonding would go up above 9 million.

Ed: The Bank of North Dakota has about 400 million in student loans. So as funds become available we will have plenty of student loans to sell, under this current tax law.

Chair Swedjan: What establishes the limit as to how high you can go?

Ed: The dollars that have been identified that were pre-93, those dollars plus the earnings can be recycled only to earn 9 1/2 percent.

Rep. Skarphol: What is the intention of what your going to do with those dollars? If you transfer 9 to the general fund, what are you going to do with the other 42?

Ed: The other dollars, they will issue debt for 9 million dollars, and that will be used to make the transfer, Everything else in the fund is going to be invested in student loans.

Chair Carlson: How long can we continue to use this as a general fund revenue source, before we have to stop?

Ed: Subject to interest rates, I think we would have a dollar amount plus future earnings, you'll go to 19, but I think you have 3 or 4 additional biennium's, they can make a 9 million dollar transfer.

Chair Carlson: Then it would be at 0, other than the revolving fund part of it where you are 1 dollar out of student loans, and you get a dollar paid back. That's what keeps your pool going.

Ed: That's correct, until we have the full amount of equity.

Chair Carlson: You feel there are still 3 or 4 biennium's left at 9 million. What happens if that 9 1/2 percent goes away?

Ed: Then we'll have to undue the issue, but at that point in time if it goes to standard interest rates on student loans, it does not become feasible, and then basically the issuer, the student loan trust would exercise it's call option. Sell the student loans back to the bank, take those proceeds, and pay off the bonds.

Chair Swedjan: You indicated that you see the opportunity for 51 million more in student loans that could be purchased. Does that include the 9 million to affect this transfer?

Ed: No it does not.

Chair Swedjan: I heard you say that you'd have to issue 9 million in bonds to affect this transfer. That would reduce the status of that fund from 27 down to 18. How than could you go out an acquire an additional 51 million, wouldn't that be more than what's left in the status of the fund?

Ed: That additional acquisition is based upon accrued interest, and interest payments that the fund will receive over the next 6 months. That's just the interest earnings.

Chair Carlson: There's been a discussion in Senate to take the interest off the Student Loan Trust Fund to fund the Centers of Excellence. Do you have any idea what implications that would have for the fund?

Ed: We don't at this point in time. We're trying to review the fund and do future cash flow projections to see what funds would be available in the Student Loan Trust over time.

Chair Carlson: I'm confused on the payback of the bonds. You bought 23 million dollars last biennium, and we paid those back how?

Ed: The interest is paid back from the interest received off of the student loans. It pays the interest to the investor, which is the bank, semiannually.

Chair Carlson: Does that affect the 4.3 million that we're earning?

Ed: No, it's reflected in that.

Chair Carlson: If we weren't borrowing and paying on those 23 millions, what would are 4.3 have said?

Ed: It would have increased, because the interest cost today is about 375, is what their paying on 23 million.

Chief Swedjan: Now you said that the bank is made whole, because they are paying the interest that is charged to the borrower of the student loan. How are the bonds paid off?

Ed: The bank would buy the student loans back. So in essence the Student Loan Trust is selling its assets.

Chair Carlson: So they not only would buy the bond, they would acquire the accumulated earnings on that, so that they would have sufficient funds to pay off the bond holder?

Ed: They use the proceeds of the student loan sale , and they go out and pay off the bond holder.

Rep. Skarphol: You say there's 27.9 million dollars in surplus left in student loan trust. Is that correct?

Ed: Correct,

Rep. Skarphol: You also refer to a 51 million dollar figure that conceivably could be accessed?

Ed: I was referring to the currently in the 79, they have 48 million in student loans. With additional earnings, they will be able to buy about 51 million of student loans, by July 1 of this year.

Rep. Skarphol: You want to transfer 9 to the general fund. If there's 51 capable of utilizing, where's the rest of it?

Ed: Currently there is 48 million in student loans, 79's got a fund equity balance of 27 million, and 26 million in outstanding debt. So that cash, there equity, is tied up in the 48 million of student loans right now that they owe.

Rep. Skarphol: Aren't there 96 resolutions available to utilize, to do the same thing?

Ed: Because of outstanding bonds of 120 million, you will need bond holder consent to access those surplus money's.

Chair Svedjan: If the Legislature did not desire to remove the cap of 23 million, but if we wanted to help you do what you wanted to do here, would we simply move the cap from 23 to 51?

Ed: We could not use those proceeds to buy more student loans, because of the tax law. They would not qualify.

Chair Carlson: Can you transfer the 9 million without the change of language?

Ed: If we do not increase the amount of subordinated debt, we could still make the transfer. But to make the transfer, the trust would have to sell student loans that are earning 9 1/2 percent to get the cash, to make the transfer.

Chair Carlson: Say this program goes away, and you terminate the bonds. Is there any fiscal effect on the bank?

Ed: I don't believe so.

Rep. Skarphol: If we didn't need the transfer, the 9 million to the general fund, would you still want to do this in order to earn that extra 360,000?

Ed: If there was no transfer out of the student loan trust, we would not issue any bonds.

Chair Swedjan: Why do you have to issue bonds, to cover the 9 million dollar transfer? Why doesn't that come out of the equity?

Ed: The equity is already invested in the 9 1/2 percent assets.

Rep. Glassheim: Is it costing us 2 or 3 or 4 percent to transfer to general fund, in loss of interest at 9 1/2 percent?

Ed: Anytime the amount of debt that is issued by the student loan trust, is an additional expense.

Rep. Glassheim: So on 9 million your losing 270,000 to 300,000 of earnings, to the student loan trust fund?

Ed: My recent calculation is that 9 million dollars would cost the trust, in this interest rate environment, about 330,000 a year.

Rep. Skarphol: This wouldn't work near as well, if we didn't have a state owned bank, correct?

Ed: I'd like to think so. The relationship with the trust and the bank is the ability to issue those bonds to the bank whenever they need them, and also to eliminate the prepayment penalty.

Closed Hearing.

*Govt Performance
1152*

General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date January 27, 2005

Tape Number

1

Side A

X

B Side

X

Meter #

5690-End

1-900

Committee Clerk Signature

Stephanie N Thomas

Minutes: **Chair Carlson** opened the general discussion hearing on HB 1152, relating to bonds of the student loan trust.

Chair Carlson: Is this language in your budget dealing with this 9 as well?

Sheila, OMB: No, last budget in the intense section, the student loan trust fund must be in a separate bill. That goes to the general fund.

Chair Carlson: Where did the money go last time we ended with 30 million?

Roxanne, Legislative Council: It all went to the general fund.

Rep. Glassheim: I move.

Rep. Monson: I second.

General Discussion

Page 2

House Government Performance

January 27, 2005

1152

Chair Carlson: HB 1152 is do pass, as amended.

Closed General Discussion Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1152
Student Loan Trust Fund

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 1, 2005

Tape Number
2

Side A

Side B
X

Meter #
#32.2 - #46.8

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the hearing on HB1152.

Rep. Eliot Glassheim explained that there are two sections changing state law. Section 1 transfers \$9 million from the student loan trust fund to the general fund over the next biennium. This is in the Governor's budget and that money is available for transfer. On the second page we remove the cap on the bonds that can be sold which is \$23 million last session and we allowed it to be at the discretion of the Industrial Commission, The Bank of North Dakota and Karlene Fine at the Industrial Commission. This deals with a complex business of funds in which the student loan trust fund buys subordinate bonds from the Bank of North Dakota they can get 9.5% interest from the federal government as opposed to the 3.5% interest they would get if they didn't buy the bonds. There is a surplus interest earnings per biennium if they are allowed to do this. The money in the student loan trust fund is not targeted for anything in particular. For the past two

biennium we have taken considerably out of it and it replenishes itself. (meter Tape #2, side B, #32.2)

Rep. Ken Svedjan, Chairman asked for clarification on what the effects were of removing the cap.

Rep. Eliot Glassheim answered that by removing the cap we are giving them the freedom to do what they think is in the best interest of the state in their fiduciary capacity. The agencies can only bond for the assets that they can get from the Bank of North Dakota. student loans.

Rep. Ken Svedjan, Chairman summarizes that there has to be enough in the fund to satisfy the debt service on the bonds so even without the cap there really is a cap because they can only bond to a certain extent.

Rep. Bob Skarphol explains what the bill really does is give them a source of dollars to use for a minimal amount of payment. Its a smoke and mirror thing that the federal government has given us to take advantage of and taking the cap off just means that they continue to do this as long as the federal government allows it without them having to come back and ask us again and again like we have had to do in the last two biennium.

Rep. Mike Timm, Vice Chairman asked if it was true that the federal government may close the loophole at some point in the future.

Rep. Eliot Glassheim answered that this was correct but that no one knows when that might happen but there is no harm to us if this were to happen. It would just mean we would no longer be getting the higher interest rates.

Rep. Mike Timm, Vice Chairman commented that taking the cap off means that we can continue to take advantage of the higher rates while we still can.

Rep. Al Carlson also noted that if you do not remove the cap then they cannot receive the \$9 million because they have already used up their authority. We didn't put the cap back in it because we felt at a comfort level with them having unlimited authority because they cannot borrow anymore than they have the ability to payback.

Rep. David Monson commented that by taking the cap off we can get the extra interest while we can.

Rep. Jeff Delzer asked if they can do anything they want to do during the interim without our approval.

Rep. Bob Skarphol answered that they could, but what reason would they have since they have no place to spend the money. All that taking the cap off does is not having to make them come back and explain this to us a third time.

Rep. Jeff Delzer commented that he had concerns with removing the cap because he believes that the legislature should have the ability to review these decisions every time they come up for renewal.

Rep. Al Carlson commented that there were two resolutions that allowed the 9.5% interest. You are limited by how much can go in and out of that fund. If that fund goes all the way down to zero this bill will be moot because it won't make any sense to sell money when the spread is the same number.

Rep. Eliot Glassheim moved a Do Pass on HB 1152.

Rep. David Monson seconded.

Page 4
House Appropriations Committee
Bill/Resolution Number HB1152
Hearing Date February 1, 2005

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass motion on HB1152.

Motion carried with a vote of 20 yeas, 1 nay and 2 absent. Rep Glassheim will carry this bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1152.

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1152

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$9,000,000			
Expenditures						
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The effects of this transfer are included in the Governor's executive budget recommendation.

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: Pam Sharp
Phone Number: 328-4606

Agency: OMB
Date Prepared: 01/03/2005

Date: Jan 27, 2005
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1152

House Government Performance

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do PASS, AS Amended

Motion Made By Rep Glassheim Seconded By Rep Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Rep Glassheim

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

Date: **February 1, 2005**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1152

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **2005-2006**

Action Taken **DO PASS**

Motion Made By **Rep Glassheim** Seconded By **Rep Monson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	AB		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Guleson	X		Rep. James Kerzman	AB	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **20** No **1**

Absent **2**

Floor Assignment **Rep. Glassheim**

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

GP - Do Pass - Rep. Glassheim

REPORT OF STANDING COMMITTEE (410)
February 1, 2005 6:02 p.m.

Module No: HR-21-1624
Carrier: Glassheim
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1152: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS
(20 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1152 was placed on the
Eleventh order on the calendar.

2005 SENATE APPROPRIATIONS

HB 1152

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1152

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 23, 2005

Tape Number

1

Side A

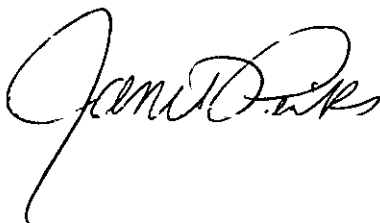
Side B

b

Meter #

2,241

Committee Clerk Signature



Minutes:

Chairman Holmberg called the hearing to order on HB 1152.

Pam Sharp, Director, Office of Management and Budget, testified in support of HB 1152.

She described the purpose of HB 1152, Section 1, which authorizes the transfer of \$9 million from the student loan trust fund to the general fund. The transfer is included in the Governor's budget. Two years ago the Legislature directed OMB to submit a separate bill for any transfer from the student loan trust fund to the general fund and this bill complies with that directive.

Questions were asked about the history of the last biennium and this fund and whether there are any other bills where there is an authorization for transfers of some of these funds.

Senator Grindberg requested a one page document on the activity of the student loan trust fund over the past two biennium's and specifically on the Centers of Excellence Program so we know what will be available beyond the \$9 million.

Page 2

Senate Appropriations Committee

Bill/Resolution Number 1152

Hearing Date February 23, 2005

Karlene Fine, Executive Director, Secretary, Industrial Commission, Authorized Officer

for the Student Loan Trust Fund, testified in support of the HB 1152. She discussed history of the student loan trust fund and indicated with changes that have taken place they are requesting a change in the way the bill is stated. The requested change is to change the limitation on page 2 of HB 1152 by removed from the law (\$23,000,000 in bond proceeds and \$3,000,000+ in cash).

The question raised was what is the purpose of the \$23,000,000 cap.

There were no further questions.

Chairman Holmberg closed the hearing on HB 1152.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1152

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
1		b	1,426

Committee Clerk Signature



Minutes:

Chairman Holmberg called the discussion to order on HB 1152 which is transferring \$9 million dollars from the trust fund to the general fund. This is part of the Governor's Executive Budget.

Senator Grindberg moved a DO pass on HB 1152, Senator Thane seconded. Discussion took place as to what would remain in the fund after the transfer. A roll call vote with 8 yes, 2 no, and 5 absent. The motion carried.

Chairman Holmberg closed the discussion.

Date

Roll Call Vote #:

3/22/05
1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1152

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Seconded By

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	✓		SENATOR KRAUTER		
VICE CHAIRMAN BOWMAN	✓		SENATOR LINDAAS		
VICE CHAIRMAN GRINDBERG	✓		SENATOR MATHERN		✓
SENATOR ANDRIST			SENATOR ROBINSON		
SENATOR CHRISTMANN	✓		SEN. TALLACKSON		✓
SENATOR FISCHER	✓				
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER					
SENATOR THANE	✓				

Total (Yes)

8

No

2

Absent

5

Floor Assignment

Grindberg

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2005 12:55 p.m.

Module No: SR-52-5725
Carrier: Grindberg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1152: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(8 YEAS, 2 NAYS, 5 ABSENT AND NOT VOTING). HB 1152 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1152



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Agriculture Commissioner

same given to the House on 1-11-05

Testimony on House Bill No. 1152

Karlene Fine, Executive Director and Secretary to the
Industrial Commission/Authorized Officer for the Student Loan Trust
and

Ed Sather, Senior Vice President – Treasury Services
for the Bank of North Dakota

January 17, 2005

Government Performance Division
House Appropriations Committee

For the record, my name is Karlene Fine and I serve as the Authorized Officer for the North Dakota State Loan Trust. With me is Ed Sather, Senior Vice President in charge of Treasury Services at the Bank of North Dakota. Pam Sharp, Director of the Office of Management and Budget, has presented information on Section 1 of House Bill No. 1152. Our testimony will be focused on Section 2 of House Bill No. 1152.

Last session Ed and I appeared before you a number of times to discuss the Student Loan Trust. We appreciated the changes that the Legislature made to Section 54-17-25 which enabled the Trust to maximize its earnings for the benefit of the State. For those that are new to the Appropriations Committee I will just briefly comment on the Student Loan Trust.

Within the Student Loan Trust there are two separate resolutions—the 1979 Resolution and the 1996 Resolution. Because of certain federal regulations, the Trust is able to achieve a 9.5% yield on approximately \$48 million of student loans currently held in the 1979 Resolution and on \$50 million of student loans held within the 1996 Resolution as long as those loans continue to be held within the 1979 and 1996 Resolutions. The number of student loans with a yield of 9.5% increases each quarter as we are able to “recycle” the earnings on the 9.5% loans and purchase more student loans from the Bank of North Dakota and obtain a yield of 9.5% on those loans.

The Student Loan Trust's income last year was \$4.3 million. Those earnings are almost equally divided between the 1979 Resolution and the

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State Capitol, 14th Floor - 600 E Boulevard Ave Dept 405 - Bismarck, ND 58505-0840

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“Your Gateway to North Dakota”: discovernd.com

1996 Resolution. Because we have outstanding bonds in excess of \$120 million in the 1996 Resolution we are limited to the amount of dollars we can withdraw from the 1996 Resolution.

During the 2003-2005 biennium the Trust issued \$23 million in subordinate bonds which were sold to the Bank of North Dakota and the Trust transferred \$26,258,969 to the General Fund. Thus we have utilized all the authority for the issuance of residual or subordinate bonds as the law currently reads.

In order to allow the Student Loan Trust to continue to maximize its earnings potential by increasing the amount of loans with a 9.5% yield, we are proposing that the \$23 million limitation found on page two of HB 1152 be removed from the law. Removal of this limitation would allow the Trust to issue subordinate bonds when it is determined to be in the public interest, maximize the Trust's interest earnings and provide the \$9 million transfer to the State.



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Agriculture Commissioner

Memorandum

TO: Government Performance Division
House Appropriations Committee

FR: ~~Karlene~~ Fine, Industrial Commission
Ed Sather, Bank of North Dakota

DT: January 31, 2005

RE: House Bill 1152

Thank you for the opportunity to appear before you regarding House Bill 1152. When we last discussed this legislation we promised you a simplified spread sheet showing an example of what the impact of House Bill 1152 would have on the Student Loan Trust.

Attached is a scenario with the assumption that the Student Loan Trust has \$50,000,000 of Assets in Student Loans with \$24,000,000 in subordinate bonds (See Column 7-1-05).

Both Options A and B reflect a transfer of \$9,000,000 to the General Fund. Option A reflects the sale of student loans to obtain the \$9,000,000 in cash for the transfer. Option B reflects the issuance of \$9,000,000 of subordinate bonds to obtain the \$9,000,000 of cash for the transfer.

As noted on the chart, both options reduce Net Assets (Fund Balance) from \$26,000,000 to \$17,000,000. However, by issuing Subordinate Bonds (Option B) the Trust is able to retain \$9,000,000 more in student loans and thus an increase in the net interest income. Under the current interest rate environment and federal law, the State will increase earnings by \$360,000 per year or \$720,000 per biennium under Option B.

If you have any questions, please give either of us a call (Karlene - 8-3722; Ed-8-5604).

KF/ES

Attachment

1979 STUDENT LOAN TRUST FUND

	7-1-05	Option A	Option B
<u>Assets</u>			
Student Loans	\$50,000,000	\$41,000,000	\$50,000,000
Total Assets	\$50,000,000	\$41,000,000	\$50,000,000
 Liabilities			
Subordinate Bonds	\$24,000,000	\$24,000,000	\$33,000,000
Total Liabilities	\$24,000,000	\$24,000,000	\$33,000,000
 Net Assets			
Fund Balance	\$26,000,000	\$17,000,000	\$17,000,000
Total Liabilities and Net Assets	\$50,000,000	\$41,000,000	\$50,000,000

Option A - Student Loans sold for \$9,000,000 transfer

Option B - Subordinate Bonds issued for \$9,000,000 transfer

Both options reduce Net Asset (Fund Balance) \$9,000,000 to \$17,000,000

However, issuing Subordinate Bonds (Option B) allows the fund to retain \$9,000,000 more student loans. As a result, net interest income will increase by the interest rate difference between the student loans and the bonds. Issuing Subordinate Bonds will allow the state to increase earnings by \$360,000 per year or \$720,000 per biennium ⁽¹⁾.

⁽¹⁾ No change in Federal Law
Based on current interest rate environment



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Agriculture Commissioner

Testimony on House Bill No. 1152
Karlene Fine, Executive Director and Secretary to the
Industrial Commission/Authorized Officer for the Student Loan Trust
and
Ed Sather, Senior Vice President – Treasury Services
for the Bank of North Dakota
February 23, 2005
Senate Appropriations Committee

For the record, my name is Karlene Fine and I serve as the Authorized Officer for the North Dakota State Loan Trust. With me is Ed Sather, Senior Vice President in charge of Treasury Services at the Bank of North Dakota. Pam Sharp, Director of the Office of Management and Budget, has presented information on Section 1 of House Bill No. 1152. Our testimony will be focused on Section 2 of House Bill No. 1152.

Last session Ed and I appeared before you to discuss the Student Loan Trust. We appreciated the changes that the Legislature made to Section 54-17-25 which enabled the Trust to maximize its earnings for the benefit of the State. For those that are new to the Appropriations Committee I will just briefly comment on the Student Loan Trust.

Within the Student Loan Trust there are two separate resolutions—the 1979 Resolution and the 1996 Resolution. Because of certain federal regulations, the Trust is currently able to achieve a 9.5% yield on approximately \$48 million of student loans currently held in the 1979 Resolution and on approximately \$65 million of student loans held within the 1996 Resolution as long as those loans continue to be held within the 1979 and 1996 Resolutions. The number of student loans with a yield of 9.5% increases each quarter as we are able to “recycle” the earnings on the 9.5% loans and purchase more student loans from the Bank of North Dakota and obtain a yield of 9.5% on those loans.

The Student Loan Trust's income last year was \$4.3 million. Those earnings are almost equally divided between the 1979 Resolution and the 1996 Resolution. Because we have outstanding bonds in excess of \$120 million in the 1996 Resolution we are limited to the amount of dollars we can withdraw from the 1996 Resolution. Therefore, when we make the transfer to the General Fund it comes from the 1979 Resolution.

During the 2003-2005 biennium the Trust issued \$23 million in subordinate bonds which were sold to the Bank of North Dakota and the Trust transferred \$26,258,969 to the

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General Fund (\$23,000,000 in bond proceeds and \$3,000,000+ in cash). Thus we have utilized all the authority for the issuance of residual or subordinate bonds as the law currently reads.

In order to allow the Student Loan Trust to continue to maximize its earnings potential by increasing the amount of loans with a 9.5% yield, we are proposing that the \$23 million limitation found on page two of HB 1152 be removed from the law. Removal of this limitation would allow the Trust to issue subordinate bonds when it is determined to be in the public interest, maximize the Trust's interest earnings and provide the \$9 million transfer to the State.



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Agriculture Commissioner

Student Loan Trust Summary

Background

In 1971 the Legislature authorized the Industrial Commission to "acquire and hold in one or more trusts [1] all unpaid United States government guaranteed or reinsured student loans and [2] North Dakota guaranteed student loans, belong to the state of North Dakota or to any of its agencies . . ." (NDCC 54-17-24. See also NDCC 54-17-25). The creation of the North Dakota Student Loan Trust enabled the State of North Dakota to obtain low cost funds (through the sale of tax-exempt bonds) and use those funds for purchasing student loans originated or acquired by the Bank of North Dakota. Since 1971 the Industrial Commission has issued over \$900,000,000 in student loans bonds. The Student Loan Trust had just over \$148 million in bonds outstanding as of December 31, 2004.

Structure of the Trust

The Student Loan Trust is composed of funds held under two General Bond Resolutions—the 1979 Resolution and the 1996 Resolution. These General Bond Resolutions determine the use and flow of funds within the Student Loan Trust and each Resolution must stand on its own. Because we have outstanding bonds in excess of \$122 million in the 1996 Resolution we are limited to the amount of dollars we can withdraw from the 1996 Resolution.

Student Loan Trust Status and Future Earnings Potential

The Student Loan Trust Resolutions have a combined surplus of approximately \$45 million as of December 31, 2004

- \$26 million in the 1979 Resolution
- \$19 million in the 1996 Resolution

The Industrial Commission could access 100% of the surplus immediately by having the Bank repurchase all of the loans in the Trust and paying off or defeasing the remaining outstanding bonds. However, this is not recommended by the Trust as the Trust, under current federal law, has the ability to earn a 9.5% return for the State on over \$113 million of student loans.

Under current market conditions and federal laws and the passage of House Bill 1153 which includes a \$9 million transfer (transfer to take place at the end of the 05-07 biennium), the Trust can expect to earn approximately \$6.3 million for the 05-07 biennium*

- \$4.1 million in the 1979 Resolution
- \$2.2 million in the 1996 Resolution

**The transfer of the \$9 million at the end of the 05-07 biennium and any future transfers will impact the Trust's earnings in future biennia.*

To access the earnings in the 1996 Resolution requires the consent of Ambac at the time of each withdrawal from the Trust. (Ambac is the insurer on the bonds held in the 1996 Resolution and in essence represents the bondholders.) Ambac will require current cash flows at the time of each withdrawal request. It is likely that Ambac would consent to a withdrawal each biennium equal to the net earnings for the prior two years, but Ambac will not make a commitment in advance.

There are several factors which could reduce the future earnings of the Trust:

- Congress could at anytime pass a law prohibiting the recycling of 9.5% loans which would greatly reduce future earnings of both of the Resolutions in the Trust.
- Anytime that the Industrial Commission withdraws more than an amount equal to biennial earnings of the Trust, the future earnings potential of the Trust is diminished
- Future earnings of the 1979 Resolution will be reduced as short term interest rates paid to the Bank on the residual bonds (Libor plus 70 basis points) rise. [Each 1% rise in Libor will reduce earnings in the Trust by approximately \$480,000 per biennium, up to a maximum reduction of \$1.2 million per biennium.]

Attached to this Summary is a five-year history of the income, transfers and balances for the Trust by Resolution.

If there are any questions regarding this summary, please feel free to contact either Karlene Fine, Authorized Officer for the Student Loan Trust, at 328-3722 or Edward Sather, Senior Vice President – Treasury Services, Bank of North Dakota, at 328-5604.

3/10/05

Student Loan Trust**1979 Resolution**

Fiscal Year	2004	2003	2002	2001	2000
Beginning Balance	\$ 54,248,000	\$ 52,186,000	\$ 60,078,000	\$ 60,450,000	\$ 57,645,000
Net Income	\$ 2,093,000	\$ 2,062,000	\$ 1,173,000	\$ 3,128,000	\$ 2,805,000
Transfers	\$ (30,359,000)	\$ 0	\$ (9,065,000)	\$ (3,500,000)	\$ 0
Ending Balance	\$ 25,982,000	\$ 54,248,000	\$ 52,186,000	\$ 60,078,000	\$ 60,450,000

1996 Resolution

Fiscal Year	2004	2003	2002	2001	2000
Beginning Balance	\$ 18,026,000	\$ 16,637,000	\$ 14,337,000	\$ 13,264,000	\$ 11,542,000
Net Income	\$ 2,211,000	\$ 1,389,000	\$ 2,300,000	\$ 1,073,000	\$ 1,722,000
Transfers					
Ending Balance	\$ 20,237,000	\$ 18,026,000	\$ 16,637,000	\$ 14,337,000	\$ 13,264,000
Total Net Income	\$4,304,000	\$3,451,000	\$3,473,000	\$4,201,000	\$4,527,000