

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0415

SENATE BILL NO. 52

Introduced by: The Committee on State Affairs at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to revise the powers and duties of the State Investment
2 Council and the state investment officer with respect to the permanent school and other
3 educational funds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 4-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Notwithstanding the provisions of §§ 4-5-23, 4-5-29, and 4-5-37, upon receipt of the
8 certification of the Health and Educational Facilities Authority as described in section 2 of this
9 Act and receipt of evidence that the Governor has not disapproved of the investment as
10 contemplated by Article VIII, § 12 of the Constitution, the State Investment Council, acting by
11 and through the state investment officer, shall enter into a contingent purchase agreement, bond
12 purchase agreement, or similar instrument or arrangement pursuant to which the State
13 Investment Council shall be obligated to purchase, as an investment of the permanent school and
14 other education funds of the State of South Dakota established pursuant to Article VIII, § 11
15 of the Constitution, general obligation funding bonds to be issued by any eligible school district

1 participating in a tax anticipation note program established by the Health and Educational
2 Facilities Authority under § 1-16A-75. Such bonds shall bear interest, mature, and contain such
3 other terms and conditions as shall be approved by the Health and Educational Facilities
4 Authority and as otherwise authorized by state law.

5 Section 2. That chapter 4-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A school district is an eligible school district for the purposes of this Act if the Health and
8 Educational Facilities Authority determines and certifies to the State Investment Council and the
9 Governor that the school district is:

- 10 (1) Expected to have sufficient tax and other revenues in the applicable fiscal year
11 sufficient to pay principal and interest when due on all promissory notes issued or to
12 be issued by the school district in connection with any program established by the
13 Health and Educational Facilities Authority pursuant to § 1-16A-75; and
- 14 (2) That the principal amount of any promissory notes issued by the school district in
15 connection with such program does not exceed the principal amount of general
16 obligation funding bonds that the district is, as of the date of certification, authorized
17 to issue under § 13-19-7 and Article XIII, § 4 of the Constitution.

18 Section 3. That chapter 4-5 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The state investment officer and the State Investment Council is entitled to conclusively rely,
21 without any duty or obligation for further inquiry, diligence, or investigation, upon the
22 certification of the Health and Educational Facilities Authority as described in section 2 of this
23 Act and evidence that the Governor has not disapproved the investment as described in section
24 1 of this Act. Any agreement or other arrangement entered into by the State Investment Council
25 and state investment officer pursuant to this Act shall be deemed a prudent investment in full

1 compliance with the requirements of the Constitution and all statutes and applicable common
2 law, including, without limitation, §§ 4-5-27 and 4-5-29. No personal liability adheres to the
3 state investment officer or the State Investment Council by reason of the agreement or
4 arrangement.

5 Section 4. That chapter 4-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The obligation of the State Investment Council to purchase any general obligation funding
8 bonds pursuant to any agreement or arrangement described in section 1 of this Act is not
9 enforceable to the extent that the principal amount of such general obligation funding bonds
10 would cause an eligible participating school district to be in violation of the limitations on
11 indebtedness of school districts provided for in Article XIII, § 4 of the Constitution.

12 Section 5. That chapter 4-5 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The participation of the State Investment Council and the state investment officer in the tax
15 anticipation note program of the Health and Educational Facilities Authority established under
16 § 1-16A-75 is hereby determined to be in the public interest and for the benefit and maintenance
17 of the public schools and for the equal benefit of and in the best interest of the people of the state
18 and shall be at no cost to the school districts, the Health and Educational Facilities Authority or
19 any other participant of the program.