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ROLL NUMBER

DESCRIPTION

2104

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2104

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2104**

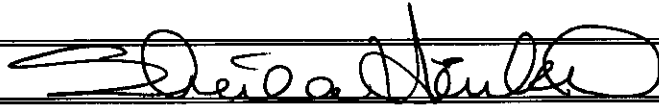
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: **#905**

Committee Clerk Signature



Minutes:

Roger Johnson – ND Ag Comm *In Favor*

TESTIMONY #1

Purpose of bill to amend a section of a program at the BofND dealing with livestock loan guarantee program. Simple bill. Bill passed last session, at that time limited to feedlot operations to get experience. Desire to limit exposure and get it up and running.

Bob Humann also in favor. It expands it to include dairy operations as well. Provides for 85% loan guarantee.

Fairly limited command to date. 2 loans in the books. As renewable energy appears, demand will increase. New plants on line. DEG's EPOC – provided grant to Great River energy, feed lots using ethanol byproducts.

EPOC grant. Ag using renewable energy would be very good. Bill 1135 also introduced "invest program" providing loans to folks who want to invest in value-added-ag projects and provides for a buydown.

Everyone is excited about what's happening in the ag field today. Increasing price levels, driven by what's happening in renewable energy.

Livestock people feel left out as commodity prices move higher, their feed costs move up and these are the kind of things we can put in place to help them are very good.

Ammendments Bob Humann address in TESTIMONY #2

We feel it would make the program better.

S Heitkamp: Getting phone calls from pork producers, why aren't we a part of this?

R Johnson: We did not put pork producers in here only because there is a concern, there was a lot of resistance to this bill as the bank was moving into a totally new area moving into a new area, guaranteeing loans was not necessarily something that was being done. Where can we get the biggest bang for our buck? 1st choice is feedlots, 2nd place is dairies. Let's first get that passed. If you can figure out a way to make this work for hogs, I wouldn't be opposed to that.

Another reason is that the digestive system in a hog is much different than in a rummeden and so they can use fewer of these co-products can be fed to hogs.

S Hietkamp: How many 5 Star Dairies, type of apparatus is happening around the state? Are you seeing those who are milking 1500 3 times a day?

R Johnson: I wouldn't say more and more, but we are seeing a few of them. 5 Star good example. EPA award winners was near Center. Moved out from the west coast Brought his dairy with him. Looking at 400, looking to expand as well. ½ doz fairly large dairies in the 1000 area.

S Klein: those would be about to apply?

R Johnson: to the degree of what they would be expanding. Language says "new and expanding operation" and some amendment language. Let Bob address that.

S Andrus: am I right in assuming that one of the keys renewable facilities go is that they've got to find a market for their by-products?

R Johnson: yes

S Andrus: and so we have the compelling interest in finding markets for by-products. Where are we in the balance? Have 3 opening right now, do they have market by-product or do we have to have quite a bit more?

R Johnson: We need **A LOT** more. We have hardly begun to scratch the surface. 80% of the co-products are being exported around the state. With growth of ethanol, 60 million tons, that's a lot of "stuff". Have the potential to do more. Take a lot of animals to eat it up.

S Andrus: You wouldn't be upset if we wanted to be more proactive, I'm quite comfortable for the Bof ND to guarantee, the local bank is going to find out if he's worth the loan to begin with. This concept is areal good one.

R Johnson: This 85% is a real reach. The discussion last session, 85% guarantee is a LOT, a real stretch. Not uncommon for Fed agencies to guarantees to that degree, but that's a high level of guarantee. BofND is generally in the positioin of loaning money out, lending out, not by guaranteeing loans of other.

S Potter: I would assume someone who is already in the business wouldn't appreciate the bank making loans in the county that would be competitive with them. Is the language in here "may" guarantee rather than "shall" guarantee.

R Johnson: Defer to Bob Humann, works with these folks.

S Behm: Why hog producers aren't involved. They want to do their own thing to help hog producers. They can't utilize the by-products from these ethanol plants. Hog takes starch out of food, roominated animal takes the protein.

S Hacker: this bill has nothing to do with if you have an ethanol plant or not, this reaches to any livestock, no matter where it's started. Not positive how it needs to revolve around the ethanol plant with the current law has nothing to do or does not tie in.

R Johnson: You're right, just used it as an example of all the feed stuffs that are becoming available. It does tie in with what S Behm was talking about [digestive system]

S Hacker: What if the ethanol plant shuts down and you've located a feedlot and the BofND is guaranteed that at 85% guarantee?

R Johnson: These things happen all the time, this is a tool to allow the livestock industry some favorable financing arrangements. That's all it really provides. In some cases where a livestock operator lives close to an ethanol plant in ND, they can use "wet mash" leftover, the co-product before its dried out. There's a market for these co-products.

S Wanzek: I've heard some cattle operations, getting access to by-products is quite difficult.

R Johnson: Yes, that is the situation. We just had one new ethanol plant available.

Last one was from 20 years ago. New projects being planned. Open market will open up.

All facilities, critical part is where they're going to build them.

S Klein: ND is struggling to maintain dairies, whether we have good feed or not, the issue is how are we going to make these people want to do this thing twice a day.

S Wanzek: we hope they build these local facilities so that we can be competitive with whoever they're working with and contracting now.

Bob Humann – Sr. VP of Lending BofND *In support*

TESTIMONY # 2

S Hacker: there are other program where do guarantee loans. Do you have a cap on the size per loan that you're willing to guarantee?

B Humann: We do not have an upper limit what we can guarantee for feed lots for feeder cattle, but we are looking at putting some kind of cap on this kind of guarantee program since we feel the exposure on these could be a lot larger.

S Hacker: Do you know what the ball park might be?

B Humann: I don't have anything in mind, we will try to get input. What the optimal size for feedlots and dairies will be and see what the total cost will be once put together.

S Heitkamp: rules, you're setting up, striking line #19, 20, 21 – all that power comes to the bank for you to do that. Does that go through Industrial Commission or the ___ has to sign off?

B Humann: We'll get input from the lender and first task will run the idea for the loan policy through Ag Council Review Board. There are a lot of people looking at that.

S Heitkamp: So there are a lot of steps to make at this point. This was a lot of work last time and there are a lot of steps before the bank gets busted on something like this.

B Humann: Last time there was a lot of detail written into the bill and it was stripped out and in the end it worked out better for the Bof ND, Ag Dept and a lot of other groups that set parameters and put that into our loan policy. If its not working throughout the biennium, you can adjust. If it's in law, it's like that for 2 years.

S Behm: I hope you realize it costs a lot more to start a dairy than it does a feedlot.

B Humann: I realize that, interested in looking at the study, curious.

S Hacker: Need for the program at all. Are the overall lenders going through their lending limits? Or because the local banks aren't willing to take the risks?

S Humann: It is a combination of both. If you go to a bank with a \$500,000 lending limit, yes they are definitely going to be looking for help with an override to supply some of that credit possibly the Bof ND, or want us to come up with a large guarantee so they can keep the loan in their own books. Will help the project along and still help the smaller banks.

S Heitkamp: For the good of everybody, some of the banks use these programs very well. Problem lies when the whole community knows that so-n-so isn't the best investment you ever made, but now the bank is on the hook for it, it's a tight rope to walk and all the steps that are necessary.

S Humann: "May or Shall" – at the end of the day we need to have the ability to turn these guarantees down. It's a balancing act. We have to take some risks.

Woody Barth – ND Farmers Union – *In support*

Support with the proposed amendments which would be more proper.

Good to help start dairies and continue to work with livestock expansion in ND. I also serve as ND Ag Credit Board. One step is process, the board, 6 person board , 2 appointed by Gov., 2 appointed by Commissioner R. Johnson, and 2 by Attorney General. Of those, 4 of those must be with farm and ranching interests, 2 have to be with the lending institution. BofND bring ideas to us. Question of hogs needs to be discussed. As for now talks about dairy.

S Klein: Would your group be opposed to adding, hog feeding expansion operation?

W Barth: We would not be opposed to that

I know they will their best to make sure the rules are written right, it might be helpful to hogs in ND.

Q? Opposition?

Brian Kramer – ND Farm Bureau – *In Support*

Support bill, and adding pork. Raise question: Language that talks about commercial feedlots. If I'm a feeder out there and I have 500 head of cows and I want to raise my own cattle and feed my own calves, I can't access this program, in my estimation because I'm not a [33:00] commercial feeder. Connotation of "Commercial" bring up concern by some folks. We would like to see the word stricken.

S Klein: When we talk about hogs, I'm waiting for the turkey federation... We're going to have to be careful.

S Andrist: Does that term "commercial" have a particularly legal connotation? I don't know why an individual owner wouldn't also have a commercial feedlot if he had one. He sells it commercial.

B Kramer: From my perspective, that means I'm taking in cattle or dairy to milk – I'm using someone else, for a \$1 a head a today, other than feeding my own livestock.

By the way, turkeys use DDG's

S Andrist: The term commercial applies onto feedlots, and not included in the dairy operations is there a reason for this?

B Kramer: I don't know and I certainly allow these folks to respond.

B. Humann: When we put this together, under "borrower" we have a definition that a commercial feeding operation as approved as operating under the rules established by the ND Dept. of Health where custom feeding service may be offered.

We have a link at Dept. of Health and definition and how to qualify. We just want them to be approved by the ND Dept. of Health and they went through the upgrades to meet the environmental standards at the NDDH has. Whether they're custom feeding or not, it's not in that definition.

B Kramer: Very easy to qualify based on the definition we've laid out here. In my own opinion, it's not that big of a deal. Anyone can get this feedlot guarantee from ND.

Q? Opposition? Neutral?

CLOSE – Adjourn

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2104 B**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 29, 2007**

Recorder Job Number: **2112**

Committee Clerk Signature

Minutes:

S Klein: We have the pork council not happy about the language and what we've done and have worked with the BofND to develop the language to include them. This is what Stephanie and Bob [Humann came up with.

S Wanzek: This is for livestock feed operation and you went over the amendment. This can be chickens, turkeys, any livestock?

S Klein: Livestock feeding operation. So you overstrike feedlots ... [goes over amendment]

Motion to Adopt the amendments: S Wanzek

Second by S Hacker

S Heitkamp: The amendments are good, talking about banking and banking available to it, but we've gotten into an issue with agriculture you have to deal with all the time. **BIG FEED OPERATIONS** and you know how involved this is when it comes to swine. I'm comfortable with it. I don't know why we wouldn't treat all those operations the same. What we've done is opened it up to others.

S Behm: We'd be in trouble if we left out pork entirely.

S Wanzek: Part of it is missing if we remove "dairy farming in the state."

S Klein: It is an inclusion with the Bof ND could go to. For expanding livestock feeding.

S Wanzek to Heitkamp: I'm not pushing any particular animals.

S Heitkamp: Going to vote to support livestock. No critter is better than the next critter.

S Potter: I'm uncomfortable with this. No hearing schedule set for dairy. It came in as dairy bill, so I can't support the amendment.

Vote Amendment [6:50m]

Motion by S Wanzek

Second by S Hacker

Vote 6-0 – 1 absent Passed

S Wanzek: So we keep dairy in, I think we single out dairy farming. More in line with the livestock feeding. We left the line for dairy farming in.

S Heitkamp: I can understand the controversy as it's going to be in the House. It may come up again as an environmental bill.

S Klein: I believe it was for large hog producers.

S Behm: Emails I received felt they were leaving the pork producers out. They were wondering if we were their enemies.

Vote on Bill Do Pass As Ammended [8:29m]

Motion by S Wanzek

Second by S Behm

Vote 6-0- 1 absent Passed

REPORT OF STANDING COMMITTEE

SB 2104: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2104 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "feedlot that backgrounds or feeds cattle to"

Page 1, line 14, overstrike "harvest-ready weight" and insert immediately thereafter "livestock feeding operation" and replace "diary" with "dairy"

Page 1, line 19, overstrike "The rules must include an"

Page 1, overstrike lines 20 and 21

Renumber accordingly

2007 HOUSE AGRICULTURE

SB 2104

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB2104

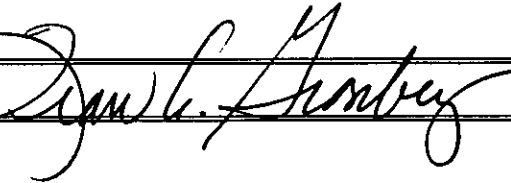
House Agriculture Committee

Check here for Conference Committee

Hearing Date: 2-23-07

Recorder Job Number: 3721

Committee Clerk Signature



Minutes:

Chairman Johnson opened the hearings on SB2104.

Tom Silbernagel, Dept of Agriculture: (testimony attached - on behalf of Roger Johnson, Commissioner of Agriculture) After reading the testimony, he asked that questions be directed to Bob Humann of the Bank of ND.

Bob Humann, SVP of Lending, Bank of ND: (testimony attached)

Rep Onstad: Does this cover a hog operation?

Humann: We brought it to Senate IBL and it just covered cattle, but we expanded the definition in IBL to include hogs.

Rep Mueller: The language stricken (page 1, line14) talks about harvest ready weight.

Why is it no longer in the bill?

Humann: Not everyone feeds to harvest ready weight. By striking it out, it opens it up more.

Rep Mueller: The only other changes to the bills are the last lines, 19 thru 21. Will administrative fees be dealt with in rules?

Humann: The bank will put all the parameters together and charge the fees because it is pretty much a given that the bank will provide some sort of guarantee.

*How
up*

Woody Barth, ND Farmers Union: The Farmers Union supports the bill. What was introduced two years ago has proven to work and we have gotten more livestock operations to come to ND.

Brian Kramer, ND Farm Bureau: We support this bill and support anything that helps. Livestock feeding is very important to ND. This bill expands the way to provide financial help.

Chairman Johnson: Will the DEG's stay here in ND or be sent to California or somewhere?

Kramer: At the present time most of the DEG's are being shipped out.

Chairman Johnson: I've been hoping we get in a position to utilize these products.

Kramer: Eliminating the trucking fees should be an encouragement.

Woody Barth: We have people currently feeding them all winter. There are some contracts available locally. There will be facilities used locally.

Rep Mueller: Question of Bob Humann. Not a lot happening yet. Why?

Humann: The feedlot loan program is only provide guarantees for feeder cattle, nothing for facilities. That's what we're working on today. We have worked with lead banks to buy part of the feed lot loans. The calf price is so attractive that there isn't a lot of interest in feed. But that is starting to change now with some prices rising.

Rep Mueller: We are very interested in moving forward. Are there other things that impede operations now? How can we (legislature) help more?

Humann: Areas of caution include zoning and the permitting process. The bank would just as soon participate in loans rather than guarantees. BND limits itself to \$25M on loans. Some of these deals estimate a need of approximately \$7M. These deals are large and very risky.

Rep Brandenburg: I've found that bankers are scared to death unless you have the money in the bank.

Chairman Johnson: Is there any interest in hog loans.

*House
2/23*

Humann: Only what's happening with Elite Swine. The other thing I would like to bring up is that there is concern with dairy too. Where is the milk going to go? Who's going to buy the milk? Who's going to process the milk? I am very concerned about that right now.
There was no opposition.

Chairman Johnson closed the hearing
Rep Brandenburg made a Do Pass motion
Rep Kingsbury seconded the motion
(yes) 10 (no) 0 (absent) 3
Carrier: Rep Mueller

Date: 2/23/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Agriculture

Committee

Check here for Conference Committee

Legislative Council Amendment Number 2104

Action Taken DP

Motion Made By Rep Brandenburg Seconded By Rep Kingsbury

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	✓		Tracy Boe	✓	
Vice Chair Joyce Kingsbury	✓		Rodney Froelich		
Wesley Belter			Phillip Mueller	✓	
Mike Brandenburg	✓		Kenton Onstad	✓	
Craig Headland	✓		Benjamin Vig	✓	
Brenda Heller	✓				
John D Wall					
Gerry Uglen	✓				

Total (Yes) 10 No 0

Absent 3

Floor Assignment Rep Mueller

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

REPORT OF STANDING COMMITTEE

SB 2104, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2104 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2104

Roger Johnson
Agriculture Commissioner
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Bismarck, ND 58505-0020

**Testimony of Roger Johnson
Agriculture Commissioner
Senate Bill 2104
Senate Industry, Business, and Labor Committee
Roosevelt Park Room
January 10, 2007**

Chairman Klein and members of the Senate Industry, Business, and Labor Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2104, which will expand the eligible uses of the livestock loan guarantee program.

The livestock loan guarantee program was passed last session to encourage the feeding of livestock in North Dakota. As implemented, the program allows the Bank of North Dakota (Bank) to provide an 85 percent guarantee on loans made for the purchase of feeder cattle and estimated cost to bring the cattle to projected weight. The program is restricted to the owner of a commercial feedlot that is approved and operating under the rules established by the North Dakota Department of Health, where custom feeding services may be offered. This bill would expand the program to include new or expanding dairy operations, equipment and facilities.

The program has experienced limited demand to date. However, I believe the program has potential because of what is happening in the development of renewable fuels.

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As you know, we are at just the beginning of a burgeoning renewable fuels industry in North Dakota. North Dakota is currently home to three operating ethanol facilities with a combined annual production capacity of 85.5 million gallons. One additional plant, with a production capacity of 50 million gallons per year, is scheduled to come online early this year. Additional projects totaling 200 million gallons of production capacity have also been announced.

As renewable energy and crushing plants come online, more and more feed stocks are going to become available for local livestock feeding opportunities. Current estimates show that when all current and planned ethanol plants are up and running, more than one million tons of dry distillers grains (DDGs) will be available for livestock feed.

The addition of a new canola-based biodiesel facility at Velva will also yield additional livestock feed in the form of canola meal. More than 450,000 tons of canola meal will be available from the Velva facility alone to feed cattle and other livestock.

Vern Anderson, Carrington Research Extension Center, is conducting substantial research on the feeding of bio-fuel byproducts. The research is confirming the common sense notion that local feeding of bio-fuel byproducts is the most financially efficient use of the byproducts. Reduced transportation costs and the ability to utilize raw and wet byproducts are significant advantages over drying and shipping the byproducts out of state.

The Ag Products Utilization Committee recently awarded a grant to Great River Energy for a study to create a comprehensive blueprint for the co-development of bio-fuel plants and feedlots.

Great River Energy has promised that the study will be made available for public use beyond a potential feedlot development near their new ethanol plant.

If the state's livestock industry is to thrive and grow along with the opportunities provided by the renewable energy industry, we need tools such as this program to assist with the growth.

House Bill 1135 has also been introduced. If passed, the bill could also impact the demand of this program. The bill allows the Bank of North Dakota to transfer a maximum of one million dollars per biennium from the Beginning Farmer Revolving Fund to the ENVEST program for interest buydown on loans made for investments in feedlot and dairy operations.

We expect exciting times for agriculture in the near future. Changes are happening and they are happening quickly. I think we should do all we can to help the state capture as many of the upcoming opportunities as possible.

The Bank of North Dakota is submitting proposed amendments to the bill to correct a technical error and eliminate the 15 percent equity requirement that is not compatible with the expanded use authority of the bill. Through policy, the Bank will continue the 15 percent equity requirement for the feeder cattle loans and establish additional equity requirements for the expanded eligible uses in the bill. I support these amendments.

Chairman Klein and committee members, I urge acceptance of the proposed amendments and a do pass recommendation on SB 2104. I would be happy to answer any questions you may have.

TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
SENATE BILL 2104
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA
JANUARY 10, 2007

Bank of North Dakota (BND) supports Senate Bill 2104. This legislation will expand the Feedlot Loan Guarantee Program to allow for a BND guarantee on loans made for equipment purchases or capital improvements to new or expanding dairy or feedlot operations. With federal guarantees from SBA or USDA not available to back larger dairy or feedlot operations, it is important for BND to try and fill the gap. Attached is additional information on the Feedlot Loan Guarantee Program.

Suggested and attached amendments to the bill are: 1) Line 14 the word "dairy" is misspelled. And 2) Remove the following language found on lines 19 through 21: The rules must include an administrative fee payable to the Bank and must provide that equity requirements may not exceed fifteen percent.

BND will continue with the 15% equity requirement for feeder cattle loans and will determine appropriate levels of equity for equipment or facility loans by addressing in BND's loan policy. Loan policy parameters are determined with input from Lead Lenders. The approval of loan policy involves the North Dakota Ag Credit Review Board, BND's Executive Committee, BND's Advisory Board, and Industrial Commission.

The key to making the proposed program expansion work will come down to proper underwriting by the Lead Lenders with input from BND as the guarantee provider.

Your approval is recommended.

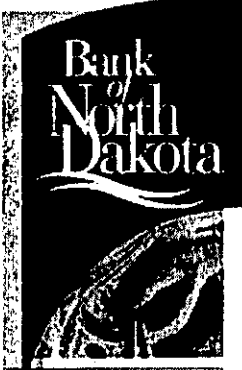
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North Dakota

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Feedlot Loan Guarantee Program

(Program available August 1, 2005 thru June 30, 2009)

The Feedlot Loan Guarantee Program assists commercial feedlot owners who background or feed cattle to harvest-ready weight. This program provides financial institutions with an 85% guarantee on loans not exceeding 85% of the purchase price of the cattle and the estimated cost to bring the cattle to projected weight.

Loan Requirements

Lead Lender - Any bank, credit union, savings and loan association or any other lending institution in the state of North Dakota.

Borrower - The owner of a commercial feedlot located in North Dakota that backgrounds or feeds cattle to harvest-ready weight. A "commercial feedlot" is defined as a cattle feeding operation that is approved and operating under the rules established by the North Dakota Department of Health, where custom feeding services may be offered. "Backgrounds" refers to the feeding period for calves following weaning and prior to being fed a finishing ration which takes them to a harvest-ready weight. Backgrounding shall include the feeding of dairy heifers. "Harvest-ready weight" is a weight which the animal is expected to be slaughtered for future food consumption.

Guarantee - Bank of North Dakota will provide an 85% guarantee on loans not exceeding 85% of the purchase price of the cattle and estimated cost to bring the cattle to projected weight.

Term - The guarantee term may not exceed 2 years.

Guarantee Fee - .5% per year of the guaranteed portion.

Interest Rate - The maximum interest rate the lender may charge may not exceed 3% above BND base rate.

An Application by a lead lender is required for BND's participation. See application for additional documentation required when submitting a request to BND. Lead lender is responsible for servicing of loan.

For more information about this program or other Bank of North Dakota programs, contact:

Bank of North Dakota
700 East Main Ave
PO Box 5509
Bismarck ND 58502-5509
(701) 328-5672
1-800-472-2166 ext. 5762
TDD (Telephone Device for the Deaf) 1-800-643-3916

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