

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2100

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2100

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 13, 2009

Recorder Job Number: 6923

Committee Clerk Signature

Eva Lebett

Minutes:

Chairman Klein: Called meeting back to order. Senate Bill #2100.

Bob Humann, SVP of LENDING, of the Bank of North Dakota: (Testimony Attached).

Chairman Klein: What you're saying overall this has been a success. We need to put more cash into it to have it continue to function?

Bob Humann: Yes, this is a program mostly to help small businesses of North Dakota, and it has been a success.

Chairman Klein: As the guarantor, do you get in line for some of the assets, like on the eleven guarantee claims or do you ever recover any of those dollars?

Bob Humann: The bank liquidates whatever they can for assets; they might have to go after the person, personally also. When the bank is done liquidating they submit a claim to us. That's when we pay out eighty five percent of the loss that they end up having.

Senator Behm: So the banks don't actually lose that much money? They borrow eighty five percent of it to the business; you don't actually lose that whole amount? You can recoup some of it?

Bob Humann: That's correct, out of 238,000 dollars; they would have lost fifteen percent.

The Bank of North Dakota guarantee's eighty five percent, and guarantees loans up to a maximum of one hundred thousand dollars.

Chairman Klein: Do you have to accept the guarantee by looking at the beginning entrepreneurs marketing strategy and business plan, or do you work primarily with the lead bank?

Bob Humann: We do look at the applications and not all are approved.

Senator Nodland: Your five percent of your tier one capital with this program, is that a guideline that you are using with other programs?

Bob Humann: We're starting to move more to percentage of capital as opposed to setting dollar amounts.

Senator Nodland: What are your loan guidelines and what are your risks, for the customer and for the enterprise? Can you give us a dollar amount of how much these loans are for?

Bob Humann: The maximum loan that we can guarantee cannot exceed a hundred thousand dollars. The average is around fifty five thousand dollars.

Senator Behm: Who decides if it's a good risk or not?

Bob Humann: When the business person goes to their bank, it is possible we will never see an application for a loan from him. The bank will decide whether they are a good risk or not. When it comes into are bank are loan officers have lending authority, equal to one hundred thousand dollars.

Senator Wanzek: The recipient could get his hundred thousand dollars from a participating bank, plus get five thousand for start up, plus twenty five thousand additional dollars. Could the one recipient use all three of the securities?

Bob Humann: No, it's just a hundred thousand that he could get.

Senator Wanzek: Could you go through the numbers on the front?

Bob Humann: (Goes through his handout, to explain the numbers).

There was more discussion.

Chairman Klein: We will close the hearing on 2100.

Motion made by Senator Andrist Seconded by Senator Wanzek

Roll Call Votes taken: Yes 6 No 0 absent 1

Floor Assignment: Senator Behm

FISCAL NOTE
Requested by Legislative Council
12/22/2008

Bill/Resolution No.: SB 2100

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

BND proposes to remove under NDCC 6-09.15-03 the \$8 million total dollar limit in loans outstanding that BND may guarantee in the Beginning Entrepreneur Loan Program and replacing that language with total outstanding guarantees not to exceed 5% of BND's Tier One Capital.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The proposed changes in legislation will not have a fiscal impact to the State of North Dakota.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Robert A. Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	12/22/2008

REPORT OF STANDING COMMITTEE

SB 2100: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2100 was placed on the Eleventh order on the calendar.

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2100

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2100

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10414

Committee Clerk Signature

Allen L. Starnes

Chairman Keiser: Opened the hearing on SB 2100 relating to beginning entrepreneur loan guarantee program by the Bank of North Dakota.

Bob Humann~SVP of Lending, Bank of North Dakota. See testimony attachment.

Representative Clark: Can you explain the tier one capital in terms of percentage? We see this term in the news lately. What is the status of the Bank of North Dakota?

Humann: The tier one capital really is the true capital of the bank. It doesn't have any consideration for the loan loss reserve allowance that we have in some other things. Our goal is to keep our tier one capital at 8% level. Right now we are a little low, we are in the 6% range. We are trying to beef that up and what we are trying with the profits that the bank is making and we are contributing 60 million dollars to the general fund each biennium. We are also trying to retain some profits to be able to grow that capital level because the bank has been going leaps and bounds over the last few years with the growth of deposits from all the oil and coal activity that is going on. Plus our loans have been going through the roof; basically we've seen a lot of participation volume based on economic activity in the state. Did I answer your question?

Representative Clark: Yes you did. I've been reading in the papers about tier one capital in other banks.

Humann: Our capital levels could be higher but we are working on getting it there. Our projections show that by the end of the biennium we will be sitting in good shape as long as we keep generating profits that we are making.

Representative Ruby: Is this a revolving loan type program where the money that would come back could also be loaned out?

Humann: That correct. As the loan balance is paid down on the loan that we actually guarantee, the dollars will become available again. These are five year guarantees. What's happening here that there was some times where the SBA program was not available and banks got use to using this program and it has become more popular and is on the radar screen right now. The volume on this program has picked up and it really hasn't gone back to using the SBA program as much as they were before. They are more comfortable with this program and they are sticking with this program. One of the reasons for that is because with the SBA program, if there is a loss claim, it's just hard to get that loss claim paid. They are dealing with some Federal government worker out Herman, VA; they are not dealing with someone in the state that understands why they had that loss.

Senator Holmberg: Some of the things when this bill was introduced it was defeated. It was passed in the Senate, defeated in the House the first time around. One of the arguments against it was that it would be a program that would benefit the cities. Then it was enacted into law & that was the time when you could get the data. The first one was from Stanley, North Dakota. I believe that indicates that it runs about 40% rural areas and their rate of success has been very, very good. We have been back a couple times to the legislature and we have made modifications to strengthen & improve the program. I hope you listen to Bob and give a favorable approval to the bill.

Chairman Keiser: Bob, could you come back up, other questions for Bob?

Chairman Keiser: Going with this formula, what happens if the bank takes a significant turn south and has to write off a major loan and the tier one capital crashes a little bit? What happens when we tie it to this percentage when we have more loans out than the percentage? What happens at that point?

Humann: We have some other statute that has set some minimum for what a capital level can drop below. I think it's 175 million dollars. We do have a minimum standard that is in law that the capital can drop to. Even at \$175 million 5% would be higher than what we are looking at right now with a million dollars. The other answer to that question would be that we do have a loan loss reserve of 38 million dollars, so we would have to take a sizeable loss on a loan before we end up actually tapping into our capital. What we try to do is try not to make loans that exceed 15% of our tier one capital. We wouldn't be making loans that would actually exceed our whole loss reserves, we should be covered there.

Chairman Keiser: I understand that immediately you would be covered but wouldn't you have to then pump your loan loss reserve. Don't you have to replace that money and take it out of someplace?

Humann: That's correct; it would come out of earnings or capital. So, we would have to replace the allowance loan loss reserve to keep it at an adequate level.

Chairman Keiser: So that's my question. Let's say your tier one is 250,000, we go out to the limits based on this law and then something goes wrong. We have those loans out there and now tier one capital does go to 175,000. Now our percentage of loans is much greater than their tier one capital. What implications does that have?

Humann: It wouldn't affect the loans that we provide the guarantees of; it would affect the loans that we provide new guarantees on. We wouldn't be making these guarantees until we can get our capital level back up to a point where it needs to be.

Chairman Keiser: I understand what the intent is but when I read the bill, it says "total outstanding guarantees under this program may not exceed". That doesn't say new, that says total guarantees may not exceed. So, now it goes down below five percent, what going to happen?

Humann: When we issue a commitment to a bank and we said we issued five year guarantee, we ventured into a contract with them. We have to honor that commitment.

Chairman Keiser: I understand that you would honor that but you will be in violation of your law.

Humann: Possibly, I'm hoping that we never end up in that situation. Just based on our track record and the way we have checks and balances in place. If for some reason we have a loan loss and we have to replenish our loan loss reserve, we probably wouldn't be able to contribute the 60 million dollars to the general fund. Then we would have to ask the session to be able not contribute that money and beef our capital up to a point to where it's needed to be.

Chairman Keiser: So, what I understand you are saying, "to meet the conditions of the law as written, we may be required to reduce the contribution of the 60 million to general fund"?

Humann: That would be one option as I would see it.

Chairman Keiser: I'm going to hold this bill and ask you to look at it to see if there isn't a way to word this so that you intent is what the bill does. That is that it can't exceed that at the point at which the guarantees are an issue but not collectively if something were to go wrong.

Humann: That makes sense. This is the first time that this has been brought up.

Jack McDonald~Independent Community Banks of North Dakota. Primarily, the small town rural banks and they are the very ones that are benefitting from this program. We would support this bill.

Bill Shalhoob~North Dakota Chamber of Commerce. This is program that works and urge your support.

Chairman Keiser: Is there anyone here to testify in opposition of SB 2100, neutral? Closes the hearing on SB 2100.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2100

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10418

Committee Clerk Signature

Ellen LiTang

Chairman Keiser: Opened the committee work session on SB 2100.

Bob Humann~SVP of Lending, Bank of North Dakota. We can do one of two things, we can leave the bill as it is or we can throw some language in there. On line 17, after the word program, we would add in "at the time of issuance".

Chairman Keiser: That solves it.

Humann: I think that's a good way to do it and that's what I would suggest. I believe that this fixes it.

Chairman Keiser: That's what the intent really is to give you flexibility and allow it, but you hate to have an auditor come back, then have it hit the headlines.

Chairman Keiser: What are the wishes of the committee?

Representative N Johnson: Moves the amendment

Representative Boe: Second.

Voice roll call was taken with all ayes and 0 nays.

Chairman Keiser: What are the wishes of the committee?

Representative Sukut: Moves a Do Pass as Amended.

Representative N Johnson: Second.

Chairman Keiser: Further discussion.

Representative Ruby: I think I'm going to resist the Do Pass Amendment. I think the reason why the level we set, allows it to grow without legislative oversight. I think there was a reason for that.

Voting rolling was taken on SB 2100 for a Do Pass as Amended with 12 ayes, 1 nay, 0 absent and Representative N Johnson is the carrier.

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Adopted by the Industry, Business and Labor
Committee

March 9, 2009

VR
3/9/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2100

Page 1, line 17, after "program" insert "at the time of issuance"

Renumber accordingly

Date: Mar 9 - 2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2100

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By N Johnson Seconded By Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper		Representative Boe			
Representative Clark		Representative Gruchalla			
Representative N Johnson		Representative Schneider			
Representative Nottestad		Representative Thorpe			
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: Mar 9 - 2009

Roll Call Vote # 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2100

House House, Business & Labor Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By Sukut Seconded By N. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	7		Representative Amerman	7	
Vice Chairman Kasper	7		Representative Boe	7	
Representative Clark	7		Representative Gruchalla	7	
Representative N Johnson	7		Representative Schneider	7	
Representative Nottestad	7		Representative Thorpe	7	
Representative Ruby		7			
Representative Sukut	7				
Representative Vigasaa	7				

Total (Yes) 12 No 1

Absent 0

Floor Assignment N. Johnson

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

REPORT OF STANDING COMMITTEE

SB 2100: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2100 was placed on the Sixth order on the calendar.

Page 1, line 17, after "program" insert "at the time of issuance"

Renumber accordingly

2009 TESTIMONY

SB 2100

TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
SENATE BILL 2100
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA
JANUARY 13, 2009

*Same
testimony +
handout given
to House.*

The proposed change in Senate Bill 2100 would increase the total outstanding loans that the Bank may guarantee under the Beginning Entrepreneur Guarantee Loan program. The proposed change is from a static amount of \$8 million in existing Century Code to an amount that increases gradually based on the Bank's capital structure. The Bank is proposing to move the amount equal to 5% of the Bank's tier one capital. This allows the Bank to grow the guarantee volume without requiring legislative action every session. This also limits the overall guarantee risk to a manageable amount. As of 12/31/08, 5% of the Bank's tier one capital of \$226 million equates to \$11.3 million. Following is program activity from program inception of July 1, 1999 through December 31, 2008 that justifies the need for the increase:

Loans Guaranteed:	243
Total of Loans Guaranteed:	\$11,147,716
Total Guarantee Amounts:	\$ 9,516,678
Total Guarantee Availability:	\$ 6,800,000 (\$8 million X 85%)
Outstanding Guarantees:	\$ 4,554,608
Outstanding Commitments:	\$ 119,000
Remaining Guarantee Availability:	\$ 2,126,392
Guarantee Claims Paid:	11
Amount of Claims Paid:	\$ 238,327

Further information on the Beginning Entrepreneur Guarantee Loan program is attached. Your approval is recommended.

Beginning Entrepreneur Loan Guarantee Program

This program is designed to assist in business start-up financing by providing a financial institution with an 85% guaranty of a loan not to exceed \$100,000.

Lead Lender - Any lending institution that is related or funded under the laws of ND or the United States. The lead lender will be responsible for submitting a Beginning Entrepreneur Loan Guarantee Program Lender Payment History Form to BND.

Borrower - A North Dakota resident, who has graduated from high school or received a general equivalency certificate, has had some training by education or experience in that type of revenue producing enterprise. The applicant(s), must have a net worth of less than \$200,000.

Guarantee - Bank of North Dakota may guarantee up to 85% of the amount of principal due the lender. The maximum loan may not exceed \$100,000. The Bank may approve a guaranty on a loan up to \$5,000 to a beginning entrepreneur for business start-up expenses including accounting, legal and business planning. The Bank may approve a guarantee on a loan up to \$25,000 without requiring collateral for the loan.

Term - The guarantee term may not exceed 5 years.

Guarantee Fee - .5% per year or a one time fee of 2% of the guaranteed portion. The guaranty fee may be included in the loan or in the rate charged by the lender.

Application Process - Application by a lead lender is required to apply for BND's guaranty. See application for additional documentation required when submitting a request to BND. Lead lender is responsible for servicing the loan.

Interest Rate - The maximum amount the lender may charge may not exceed 3% above BND base or NY prime. The guaranty fee may be included in the loan or in the rate charged by the lender.

Other Features - This program can be used in conjunction with other BND loan programs. The Bank may not guarantee more than \$8,000,000 in loans under this program.