

2009 SENATE AGRICULTURE

SB 2126

2009 SENATE STANDING COMMITTEE MINUTES

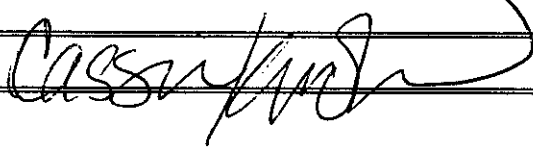
Bill/Resolution No. 2126

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: January 8, 2008

Recorder Job Number: 6720

Committee Clerk Signature 

Minutes:

Sen. Flakoll opened the hearing on SB 2126, a bill relating to definitions and operating loans for the family farm survival act and the family farm loan program. Members (1) absent, **Sen.**

Taylor all other members were present.

Bob Humann, SVP of Lending BND, testified in favor of the bill. See attached testimony, **attachment #1.**

Sen. Behm- I am wondering as this bill reads now to me there is no limit?

Bob Humann- right now under sections 3 and 5 for the family farm loan program the most the bank can do under that program is \$250,000 but there is a stipulation with the family farm loan that the bank can not have more then 15% of our capita in the family farm loan program category. There are less and less people that are eligible for these programs, so it is our job that if we are going to have these programs around we have to make them useable or we might as well get rid of them.

Sen. Wanzek- might it also be that things are pretty good right now in agriculture that a lot of banks right now are willing to take the risk themselves without these programs?

Bob Humann- there is no doubt that is what is happening, the banks are only using this if they need too.

Testimony was submitted in favor of the bill by **Tom Silbernagel**, NDDA, for **Roger Johnson**, see attached testimony. Attachment #2.

No opposition to the bill.

Sen. Flakoll closed the hearing.

Sen. Wanzek motioned for a Do Pass and was seconded by **Sen. Klein**. Vote was 6 yeas, 0 nays, 1 absent and not voting **Sen. Taylor**. **Sen. Klein** was designated to carry the bill to the floor.

REPORT OF STANDING COMMITTEE

SB 2126: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2126 was placed on the
Eleventh order on the calendar.

2009 HOUSE AGRICULTURE

SB 2126

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2126

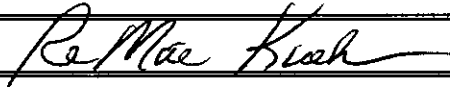
House Agriculture Committee

Check here for Conference Committee

Hearing Date: February 26, 2009

Recorder Job Number: 9759

Committee Clerk Signature



Minutes:

Bob Humann, Senior Vice President of Lending, Bank of ND:

(Written testimony attached #1)

Representative Froelich: You say it must be 1st mortgage. If a father and son came in and said, "I want to start a Contract for Deed with my son." He would not qualify for this program.

Bob Humann: Correct.

Representative Froelich: How much money does that Bank of ND have available now?

Bob Humann: The law states that with the Family Farm Program we are limited to 15 % of our capital. Our capital is about \$230 million. Fifteen percent of that is what we would be limited to. As of the end of the year, we had 63 loans made for \$2.86 million. We're trying to be more responsive to changing the net worth and the loan amount because we went through the last biennium and things shot through the roof for some of these farmers. A lot of them weren't able to use this program at all but their net worth got higher. We have to either get rid of this program or make it so that it works for farmers. As opposed to looking at those dollar amounts every two years, we want to be able to control those dollar amounts at the bank level and see if we can increase the usage of this program.

Representative Froelich: My fear is that if you open this up completely—I know some big cattle ranchers and farmers that could use up \$2-3 million.

Bob Humann: If we are looking at \$2-3 million loan requests, we're basically participating in that loan as a bank overline. We do that as a Farm and Ranch loan participation. So we buy a share of the loan that the lead bank wants us to because they can only handle so much. That's not a legislative program. That's a bank program. We do a lot with cattle feeders, potato operators, sugar beet operators. What we are looking at today is for your smaller operator.

Representative Boe: When you are going to determine the amount to replace the \$300,000, how are you going to make that determination?

Bob Humann: We need to be prepared for that. If we can get this bill approved, we look at our loan policy changes in July of each year. We work with the farm groups, Farm Bureau, Farmers' Union, Independent Community Bankers, ND Bankers Assn. We have to be sensitive that we don't raise those limits too high and pull credit away from the local banks. Once we have an idea what that dollar amount should be, then we go through the approval process at the Credit Review Board. This is what we've come up with for a recommendation. Then we go on to our Executive Committee, Advisory Board and the Industrial Commission. It's not that we pull a number out of the sky.

Representative Holman: What was the origin and purpose of putting the limit on there in the first place?

Bob Humann: These programs were started in the early 80's during the first farm crisis. They were put into place for the Family Farm Survival Act. There were a lot of foreclosures going on and credit was tight. I don't know what the original dollar amount was when the program started. We've come up here every 4-6 years and we are always looking at increasing the

dollar amount. I think it has a pretty good track record. It would be nice if we would be able to establish these limits. That would give a more timely response period to respond when economic conditions change.

Representative Boe: When you are going to make a determination on what the amount is, it doesn't say that that is going to be locked for a period of 12 months. You could probably adjust it quarterly. Do you see that happening?

Bob Humann: Not quarterly but on an annual basis. What we are looking at now is a loan amount of \$400,000. We're looking at a net worth maximum of 500.

Representative Boe: With this also comes responsibility. The Bank of ND and the groups with the input will have the responsibility. Is that going to be a problem?

Bob Humann: No. I think we have enough checks and balances in place with the input that we're getting.

Representative Holman: By taking the legislature out of the picture, it seems it would be logical for a required report back in two years to see how things have gone.

Bob Humann: We would have no problem with that. I've always felt that it would be important to show you all our programs and what kind of usage they've had and kind of dollar amounts they've had. Some of that is done with our testimony to the Appropriations Committee.

Representative Uglem: The loan policy is set biannually?

Bob Humann: The loan policy is looked at annually. That's not to say that we can't look at it quarterly or even monthly when we see a change that needs to be made.

Representative Mueller: If we strike \$300,000 of net worth, does that mean that we could see someone coming in with a \$3 million net worth and getting a farm operating loan.

Bob Humann: What we are going to do is strike the net worth out at this point. But we are not going to do that until we come up with a new net worth restriction. What we are looking at is the net worth restriction would go to \$500,000. The interest rate is 1% below prime. Prime is 3 ¼%. Most community banks are at 5-7% right now. We want to help the farmer out with an interest rate break. We want to split up some of the risk.

Vice Chairman Brandenburg: _____ ?????? _____

Bob Humann: We might have a farmer that has a net worth of less than \$300,000. We'll max him out in the farm operating program and then we'll end up doing a farm and ranch loan participation because they need to have \$500,000 to operate. So we let them get the best rate they can for the farm operating program. The lead bank keeps some. The balance goes in our farm and ranch operating program. We're actually using two programs to finance. If it's a \$3 or 4 million request, then we are using our straight farm and ranch participation program. Those interest rates range anywhere from 3 ¼ to 5 ¼%.

Woody Barth, ND Farmers Union and Chair of ND Credit Review Board: We support the bill. The board is made up of four farmers and two representatives of the financial industry appointed by the Industrial Commission, the Governor, Attorney General, and Ag Commissioner. Currently we have a banker from Grand Forks and a banker from Dickinson, and myself as a farmer. We look at the same things the Bank of ND looks at when we advise the Industrial Commission to Ag loan policies. Keep in mind there is also the 50% rule that stays in the law. I've served on the board for the last 20 years. We will work with the Bank of ND.

Vice Chairman Brandenburg: Don't these loans, when they go to the Bank of ND, have to start with local banks?

Woody Barth: Yes. Every one of the participation loans on chattels has to go through a specific bank first. Land ownership loans can be direct with the Bank of ND.

Don Forsberg, Executive Vice President, Independent Community Banks of ND: We represent the community bankers across the state. We support this bill.

Representative Mueller: What is happening with credit in Ag?

Don Forsberg: In North Dakota we've had two very good years for the agriculture sector. A lot of equity has been built. Some institutions have indicated their loan portfolios are significantly down. The cash position of the borrowers/farmers has improved so they are paying cash as opposed to going to the bank. For some because input costs have risen so dramatically, in order to buy land, their borrowing needs have gone up. So we have both ends of the spectrum happening at the same time.

Representative Mueller: Is there a problem with getting credit to put the crop in this spring?

Don Forsberg: Is credit available in ND? Absolutely!

Testimony from Roger Johnson, Agriculture Commissioner: handed in **(attached)**

Opposing: None

Chairman Johnson: Closed the hearing.

Recorder #9760 at 28'

Representative Kingsbury: Moved Do Pass.

Representative Boe: Seconded.

A Roll Call vote was taken. **Yes: 12, No: 0, Absent: 1**, (Representative Froelich).

Representative Wall will carry the bill.

Date: 2/26/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2126

House Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep. Kingsbury Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	✓		Tracy Boe	✓	
Mike Brandenburg, Vice Chair	✓		Rod Froelich	AB	
Wesley R. Belter	✓		Richard Holman	✓	
Joyce M. Kingsbury	✓		Phillip Mueller	✓	
David S. Rust	✓		Benjamin A. Vig	✓	
Mike Schatz	✓				
Gerry Uglem	✓				
John D. Wall	✓				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Rep. Wall

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

REPORT OF STANDING COMMITTEE

SB 2126: Agriculture Committee (Rep. D. Johnson, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2126 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

SB 2126

TESTIMONY TO THE
SENATE AGRICULTURE COMMITTEE
SENATE BILL 2126
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA
JANUARY 8, 2009

*Same given
to House.*

Section 1 of Senate Bill 2126 removes the applicant's net worth maximum of \$300,000 that exists for the Farm Operating Loan Program. Language is added to allow the Bank of North Dakota to determine the net worth maximum. This amount will be established in the bank's loan policy which allows the bank to be more responsive to changing economic conditions. Loan policy changes are approved by the North Dakota Ag Credit Review Board, BND's Executive Committee, BND's Advisory Board and the Industrial Commission. During this current biennium the net worth's of farmers has drastically increased with the increase in commodity prices and land values.

Section 2 removes the maximum loan amount of \$250,000 for the Farm Operating Loan Program. Language is added to allow the bank to determine the maximum loan amount. This amount will be established in the bank's loan policy which allows the bank to be more responsive to changing economic conditions. During this current biennium the operating needs of farmers have increased substantially with the higher petroleum costs raising input costs for chemical, fertilizer and fuel.

Sections 3 & 5 remove the maximum loan amount of \$250,000 for the Family Farm Loan Program. Language is added to allow the bank to determine the maximum loan amount via the bank's loan policy.

Section 4 removes the applicant's net worth maximum of \$300,000 for the Family Farm Loan Program. Language is added to allow the Bank of North Dakota to determine the net worth maximum via the bank's loan policy.

Attached is further information on the Farm Operating and Family Farm Loan Programs. Your approval of these amendments is recommended.

Family Farm Loan Program

*Same
handout given
to Home.*

The North Dakota legislature has developed a program to help family farms. This program allows BND to participate in loans for qualified purposes up to 90% of the loan amount.

Qualifying Requirements

Borrower - A borrower is a "farmer" who is a resident of the State and is at least eighteen (18) years old. The applicant has had the farming experience and training necessary to enable the applicant to operate a family farm and to make proper use of the proceeds of the loan.

Net Worth - The net worth of the applicant does not exceed \$300,000.

Local Lender - A local lender is required to initiate the loan participation and is responsible for servicing the loan.

Use of Proceeds - BND participates in loans in the following categories:

- The purchase or the refinancing of agricultural real estate.
- The purchase of a home-quarter under N.D.C.C. Chapter 6-9.10.
- Permanent improvements to agricultural real estate.
- The purchase or refinancing of farm equipment.
- The purchase or refinancing of livestock.
- The restructure of operating debt carryover.

Collateral - The collateral used to secure the loan will depend upon the intended use of the proceeds.

Real Estate - A first lien on the real property which is the subject of the loan as well as an assignment of rents is required. In addition, an acceptable appraisal of the property, is required.

Equipment or Livestock - A first lien on the equipment or all livestock of like kind. In addition, an acceptable appraisal, is required.

Application Process

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.

Interest Rate

The interest rate on BND's percentage will float at 1% below BND's base rate. However, at no time will the interest rate exceed 11%.

The maximum interest rate on the lead lender's percentage shall not exceed BND's base rate plus 3% and may float.

Repayment Terms

Regular Real Estate Loan

- 20 year maximum loan (amortization schedule may be longer).
- Total loan not to exceed 75% of appraised security value.
- Must be first mortgage.

Regular Farm Equipment Loan

- 5 year maximum loan.
- Total loan not to exceed 70% of appraised security value.



Regular Livestock Loan

- 7 year maximum loan.
- Total loan not to exceed 70% of appraised security value.

Restructure of Operating Debt Carryover

- 5 year maximum loan.
- Total loan not to exceed 85% of appraised security value.
- All available security must be pledged.


Loan with FSA Guarantee

- Loan not to exceed term of guarantee.
- Total loan not to exceed 90% of appraised security value.

Loan to a borrower for the purchase of livestock and/or livestock related equipment who is participating in a program of supervised technical and management assistance approved by BND.

- 7 year maximum loan.
- Total loan not to exceed 90% of appraised security value.

Total Loan Amounts



There is no total loan limitation. BND's participated share is limited to the lesser of \$250,000 or 90% of the total loan amount.



Farm Operating Loan Program

The North Dakota legislature has established a loan program to assist with farm operating loans.

*Same
handout given
to House.*

Qualifying Requirements

Borrower - A borrower is a "farmer" who is a resident of the State, owns or operates an existing farm or ranch, and who is at least eighteen (18) years old.

Net Worth - A maximum net worth requirement has not been established. However, legislative action requires that a borrower's debt-to-asset ratio must exceed 50%, or a net worth of less than \$300,000.

Local Lender - A local lender is required to initiate the loan participation and is responsible for servicing the loan.

Use of Proceeds - BND may participate in loans for the operation of an existing farm or ranch. These operating expenses include, but are not limited to:

- The current year's cash rent
- Grassland fees.
- Parts and repairs.
- Fuel and oil.
- Transportation.
- Labor.
- Insurance (casualty, crop and hail).
- Harvesting
- Pasture or feeder cattle.
- Veterinarian fees.

Certain expenses are not qualified for this program. These include, but are not limited to:

- Delinquent bills.
- Interest payments.
- Principal payments.

BND will not participate in an operating loan if the borrower has not paid in full an operating loan under this program from the prior year.

Collateral - Loans under this program are generally secured by crops, livestock and equipment liens. A pledge of FSA payments and assignment of crop insurance will also be required, when available. Depending upon the circumstances of a loan, additional security may be requested.

Depending upon the circumstances of a loan, additional security may be requested.

Application Process

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 the loan.

**Interest Rate**

The interest rate on BND's participation percentage shall be variable at 1% below BND's base rate.



The interest rate charged by the local lender on its percentage may float with BND's base rate but may not exceed BND's base rate by more than 3%.

Repayment Terms

The maturity date of an operating loan under this program may not exceed 1 year. No renewal or extension may be approved beyond the initial maturity date of the loan except in the case of a livestock producer retaining ownership. All advances are made and payments received on a pro rate basis.

Total Loan Amounts

There is no total loan limitation. BND's participated share is limited to the lesser of \$250,000 or 65% of the total loan amount.

FARM RECAP (BND LOAN AMOUNT) Lending & Funded

FARM INITIATIVE	2008		2007		2006		2005		2004		2003		Total Dollars	
	#	Dollars	#	Dollars	#	Dollars	#	Dollars	#	Dollars	#	Dollars		
Farm Operating	29	\$4,344,488.10	32	\$4,383,061.75	36	\$4,943,973.90	58	\$5,402,368.38	58	\$5,700,052.00	69	\$7,354,990.00	221	\$23,401,384.28
Family Farm	11	\$940,374.44	3	\$290,940.00	6	\$243,720.00	12	\$700,576.77	18	\$911,674.63	19	\$1,378,437.50	55	\$3,234,408.90
Farm Disaster Relief	1	\$270,000.00	81	\$13,967,736.00	105	\$21,165,462.00	2	\$272,250.00	0	\$0.00	36	\$5,436,368.56	143	\$26,874,080.56
Total Loans	41	\$5,554,862.54	116	\$18,541,737.75	147	\$26,353,155.90	72	\$6,375,195.15	76	\$6,611,726.63	124	\$14,169,796.06		

GUARANTEE PROGRAMS

	2008		2007		2006		2005		2004		8/1/03-12/31/03	
	#	Dollars	#	Dollars	#	Dollars	#	Dollars	#	Dollars	#	Dollars
Farm Real Estate (Prg began 8-1-05)	1	\$121,875.00	5	\$755,491.98	3	\$751,500.00	0	\$0.00	5	\$884,422.56	0	\$0.00
Livestock Loan (Prg began 8-1-05)	1	\$789,225.00	3	\$122,825.00	2	\$1,258,000.00	1	\$132,994.00	0	\$0.00	0	\$0.00
Total Guarantee	2	\$911,100.00	8	\$878,316.98	5	\$2,009,500.00	1	\$132,994.00	5	\$884,422.56	0	\$0.00

LIVESTOCK WASTE MANAGEMENT PROGRAM (Prg began 8-1-05)

	2008	2007	2006	2005	8/1/05-12/31/05	
Loans	2	\$200,000.00	5	\$362,860.00	1	\$100,000.00

AGPACE LOANS

	07-09 Biennium		05-07 Biennium		03-05 Biennium	
	#	Dollars	#	Dollars	#	Dollars
Irrigation (1)	23	\$1,508,520.00	20	\$988,648.00	24	\$1,337,671.00
Stock (2)	68	\$1,359,943.00	38	\$1,300,241.00	98	\$2,308,369.50
Diversification (3)	12	\$728,000.00	29	\$1,686,014.00	30	\$1,469,750.00
Livestock (4)	6	\$203,000.00	12	\$518,400.00	8	\$302,700.00
Dairy (5)	0	\$0.00	9	\$482,256.00	0	\$0.00
Total Loans	108	\$3,796,463.00	108	\$4,975,559.00	160	\$5,418,490.50
INTEREST BUYDOWN						
Available for Biennium		\$1,510,745.22		\$1,391,856.45		\$1,611,931.39
Committed		\$1,000,781.28		\$1,368,828.84		\$1,688,898.39
Remaining Availability		\$509,963.94		\$23,027.61		-\$76,967.00

STATE WATER COMMISSION LOANS

	07-09 Biennium		05-07 Biennium		03-05 Biennium	
	#	Dollars	#	Dollars	#	Dollars
Irrigation	18	\$1,453,019.63	15	\$888,526.03	15	\$1,056,121.00
INTEREST BUYDOWN						
Available for Biennium		\$513,725.16		\$682,362.83		\$875,860.96
Committed		\$273,518.61		\$179,180.87		\$183,498.13
Remaining Availability		\$240,206.55		\$513,181.96		\$692,362.83

FIRST TIME FARMER

	2008	2007	2006	2005	2004	2003						
Annual Totals	3	\$592,650.00	1	\$127,600.00	4	\$450,917.00	2	\$282,000.00	1	\$183,680.00	0	\$0.00

BEGINNING FARMER LOANS

	2008		2007	
	#	Dollars	#	Dollars
Real Estate	70	\$11,506,370.00	70	\$7,263,739.00
Chattel - Total Loan Amt	69	\$4,844,488.30	93	\$5,863,941.91
Total Loans	139	\$16,350,858.30	163	\$13,127,680.91
INTEREST BUYDOWN				
Real Estate-Buydown		\$272,184.34		\$528,980.88
Chattel-Buydown		\$27,075.64		\$547,341.55
Remaining Buydown Funds		\$1,177,618.90		\$1,398,278.51

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

Attachment #2

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020
Equal Opportunity in Employment and Services

**Testimony of Roger Johnson
Agriculture Commissioner
Senate Bill 2126
Senate Agriculture Committee
Roosevelt Park Room
January 08, 2009**

*Same given
to House.*

Chairman Flakoll and members of the Senate Agriculture Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2126, which removes specific net worth limits for the Bank of North Dakota loan programs listed in this bill and allows the Bank of North Dakota to set these limits through loan policy.

Agricultural values are constantly changing. The cost of inputs has increased dramatically creating demand for larger and larger operating lines of credit. Real estate values are increasing as well and as a result, credit needs often exceed statutory loan program limits. Allowing the Bank of North Dakota to make program changes as part of their loan policy simply makes sense. It should help them serve more producers and reduce the need for legislation to make their programs fit current agricultural conditions.

It should also be noted that the Credit Review Board reviewed and endorsed the changes described in this testimony. Chairman Flakoll and committee members, I urge a do pass on SB 2126.