

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2137

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2137

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 8, 1999

Tape Number	Side A	Side B	Meter #
1	X		751-1405
Committee Clerk Signature			

Minutes: CHAIRMAN KREBSBACH-Opened the hearing on SB 2137 which relates to participation by the Bank of North Dakota in loans to non farming small business concerns. CHAIRMAN KREBSBACH noted that this bill has a fiscal note attached and instructed the clerk to read it to the members of the committee. JOHN HOEVEN-Representing the Bank of North Dakota appeared to testify in support of this proposed legislation. A copy of his written testimony is attached. Questions were offered at this time by members of the committee. SENATOR KILZER-How did this duplication develop in the first place? Did the section that we're interested in repealing precede the larger program? Is that what happened? MR. HOEVEN-That's exactly what happened. SENATOR KREBSBACH-Are there further questions from the committee? I have to admit I didn't pull out sections 6-09-15.4. I wonder William if you could get that for us? SENATOR KREBSBACH-Well we certainly don't need duplication and if we can eliminate some that's

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2137

Hearing Date January 8, 1999

what we want to help you with. At this point SENATOR KREBSBACH asked if there was anyone else who wished to testify in support of SB 2137. No one appeared. There was no one present to testify in opposition to SB 2137 and no one appeared in Neutral position on SB 2137.

Hearing nothing further CHAIRMAN KREBSBACH closed the hearing on SB 2137.

SENATOR THANE asked that copies of the proposed repealer be made and distributed to the members of the committee for further study. SENATOR KREBSBACH indicated this would be done.

COMMITTEE ACTION-January 14, 1999-SENATOR WARDNER presented a brief report to the committee concerning the repealer on SB 2137. John Hoeven, President of the Bank of North Dakota sent a copy concerning small business authority of the bank to Senator Krebsbach.

The contents was explained by Senator Wardner. A copy of this information is attached. There were no questions from the committee. A motion for a DO PASS on SB 2137 was made by SENATOR WARDNER, seconded by SENATOR KILZER. ROLL CALL VOTE indicated 7 YEAS, 0 NAYS, and 0 ABSENT OR NOT VOTING. (Tape 1, Side B Meter #0-480) 01/14/99. SENATOR WARDNER will be the carrier of the bill.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2137 Amendment to: _____

Requested by Legislative Council Date of Request: 12-30-98

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The Business Development loan program will be available to all Small Business Concerns loan program customers on the same terms and conditions. Therefore, no additional revenues and/or expenditures are expected with the change.

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures:	\$0	\$0	\$0	\$0	\$0	\$0

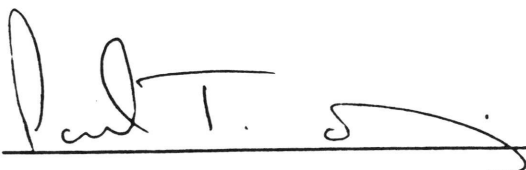
- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: \$0
- For the 1999-2001 biennium: \$0
- For the 2001-03 biennium: \$0

- County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Paul T Govig

Department Commercial Loans

Date Prepared: 1/4/99

Phone Number 328-5687

Date: Jan. 14, 1999
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2137

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Wardner Seconded By Sen. Kilzer

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Wardner

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

REPORT OF STANDING COMMITTEE (410)
January 14, 1999 1:07 p.m.

Module No: SR-08-0618
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2137: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2137
was placed on the Eleventh order on the calendar.

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2137

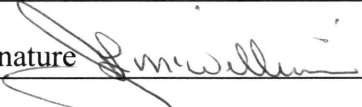
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2137

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 1-29-1999

Tape Number	Side A	Side B	Meter #
1	X		28.5 - 36.0
Committee Clerk Signature 			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein, Chairman of the GVA Committee opened the hearing on January 29, 1999.

Summary of the Bill: Relating to participation by the BND in loans to nonfarming small business concerns.

Testimony in Favor:

Eric Hardmeyer, BND submitted written testimony which he read in it's entirety (**please refer to his testimony**).

Representative Winrich, Is there much activity in small business right now?

Hardmeyer, No, we have had two loans this year.

Representative Klein, I see were you have increased your portfolio from 200 to 835 million.

Hardmeyer, We are much more aggressive since 1993.

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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2137

Hearing Date 1-29-1999

Testimony in Opposition: None.

Committee Action:

Representative Thoreson, Made a motion for a Do Pass.

Representative Haas, Seconded the motion.

Motion Passes: Do Pass **15-0**.

Representative Hawken, Is the carrier for the bill.

Roll Call Vote #: 1 Date: 1-29-99²⁹

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2137

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By THORESON Seconded By HAAS

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN	✓				
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 15-0 No 0

Absent 0

Floor Assignment HAWKEN

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

REPORT OF STANDING COMMITTEE (410)
January 29, 1999 1:32 p.m.

Module No: HR-19-1493
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2137: Government and Veterans Affairs Committee (Rep. Klein, Chairman)
recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2137
was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2137

**TESTIMONY TO THE
SENATE GOVERNMENT & VETERANS AFFAIRS COMMITTEE**

SENATE BILL 2137

John Hoeven - Bank of North Dakota

Senate Bill 2137 provides for the repeal of Section 6-09-15.4 of the North Dakota Century Code relating to participation by Bank of North Dakota in loans to non-farming small business concerns.

BND favors repeal of this section because it is not needed. Loans to small businesses are made under Bank of North Dakota's Business Development Loan Program. The Business Development Loan Program allows for higher loan limits than the Small Business Loan Program and covers all situations with equally favorable or more favorable terms for the borrower. The parameters for both programs are attached. We are simply eliminating the Small Business Loan Program to avoid unnecessary duplication.

BND is vigorously committed to small business lending as demonstrated by our loan growth in the attached quarterly Lending Programs report. Since 1993 BND's total loan portfolio has increased from just over \$200 million to \$835 million.

SMALL BUSINESS LOAN PROGRAM

The Small Business Loan Program is designed to assist new and existing businesses in securing competitive financing on reasonable terms and conditions.

QUALIFYING REQUIREMENTS

BORROWER - BND may participate in loans to non-farming small businesses.

PARTICIPATION LOAN - This is a participation program and a qualified financial institution must act as lead lender for the loan.

LOAN LIMIT - This program allows BND to participate in a total loan financing of up to \$250,000. BND's share of this loan may not exceed the lesser of \$187,500 or 75%. The actual amount of BND's participation will depend upon the legal lending limit of the lead lender and the quality of the loan.

USE OF PROCEEDS - BND will participate in loans:

- To establish or purchase a new or existing business.
- To finance the acquisition of real property.
- To remodel or expand an existing business.
- To purchase or lease equipment.
- To provide working capital.
- To restructure an existing loan.

The proceeds cannot be used for agricultural purposes.

INFORMATION - BND will act upon a participation request when the following information is received:

- BND application form and letter of request from the lender.
- The previous three years' financial statements.
- Copies of the previous three years' tax returns (if applicable).
- Current personal financial statements (if applicable).
- Cash flow and income statement projections.
- Inventory listing (if applicable).
- An aging of accounts receivable.
- An aging of accounts payable.
- Appraisals (if applicable).

- A history of the business.
- A marketing plan and sales projections.
- A management and ownership review.

EQUITY - A minimum of 15% tangible balance sheet equity is required for businesses which have been in operations for more than two years. A minimum of 25% tangible balance sheet equity is required for new businesses or for those which are less than two years old.

COLLATERAL - Proper and adequate collateral is required to protect the interest of BND. The collateral shall be of such a nature that repayment of a loan is reasonably assured. In addition, personal guarantees are required on corporate and partnership borrowings.

APPLICATION PROCESS

Application by a lead lender is required for BND's participation.

INTEREST RATE

The interest rate on BND's participation percentage is equal to BND's base rate and will float.

The interest rate charged at the time of funding by the lead lender on its share of the loan and may not exceed 3% above BND's base rate.

REPAYMENT TERMS

The repayment terms will vary depending upon the use of the proceeds. As a general guideline, the following maturities apply to this program:

Real Estate	12 to 15 years
Equipment	5 to 7 years
Working Capital	3 to 5 years

FEES

An origination fee of up to 1% of the total loan may be charged and is shared with BND.

BUSINESS DEVELOPMENT LOAN PROGRAMS

The Business Development Loan Program is designed to assist new and existing businesses in obtaining loans that would have a higher degree of risk than would normally be acceptable to a lending institution.

The total outstanding amount under this program by BND may not exceed \$25 million.

QUALIFYING REQUIREMENTS

BORROWER - The required location of the business is North Dakota. Businesses which are eligible for this program because of financial conditions or nature of the industry will reflect a higher degree of credit risk to BND than would otherwise be acceptable to BND.

BND's participation percentage is negotiated on a loan by loan basis. In no case will the local lender's portion be less than 10% of the total loan amount.

LOAN LIMIT - BND's maximum loan participation amount is \$500,000.

USE OF PROCEEDS - The proceeds of a loan shall be used to assist in the formation of a new business or assist in the expansion of an existing business.

INFORMATION - BND will act upon a participation request when the following information is received:

- BND application form and letter of request from the lender.
- The previous three years' financial statements.
- Copies of the previous three years' tax returns (if applicable)
- Current personal financial statements (if applicable).
- Cash flow and profit and loss projections.
- Inventory listing (if applicable).
- An aging of accounts receivable.
- An aging of accounts payable.
- Appraisals (if applicable).
- A history of the business.
- A marketing plan and sales projections.
- A management and ownership review.

EQUITY - There is no minimum equity requirement. All applications are evaluated on a loan by loan basis.

COLLATERAL - Collateral is required to protect the interest of BND. This collateral must be of such a nature that repayment of the loan can be reasonably expected.

Security for the loan is evaluated on a loan by loan basis. Examples of acceptable security are real estate, machinery, equipment, furniture, fixtures, accounts receivable, inventory, leasehold improvements, assignment of leases, assignment of life insurance, letters of credit or guarantees.

APPLICATION PROCESS

A lead lender makes application for this program and is responsible for servicing the loan.

INTEREST RATE

The interest rate on BND's participation percentage is equal to BND's base rate and will float. The interest rate charged at the time of funding by the lead lender may be variable and may not exceed 3% above BND's base rate.

REPAYMENT TERMS

The repayment terms will vary depending upon the use of the proceeds. As a general guideline, the following maturities apply to this program:

Real Estate	12 to 15 years
Equipment	5 to 7 years
Working Capital	3 to 5 years

FEES

An origination fee of up to 1% of the total loan may be charged and is shared with BND.

Lending Programs

Fourth Quarter Report
1998

BND

Bank of North Dakota

**BANK OF NORTH DAKOTA
LENDING PROGRAMS
FOURTH QUARTER REPORT
1998**

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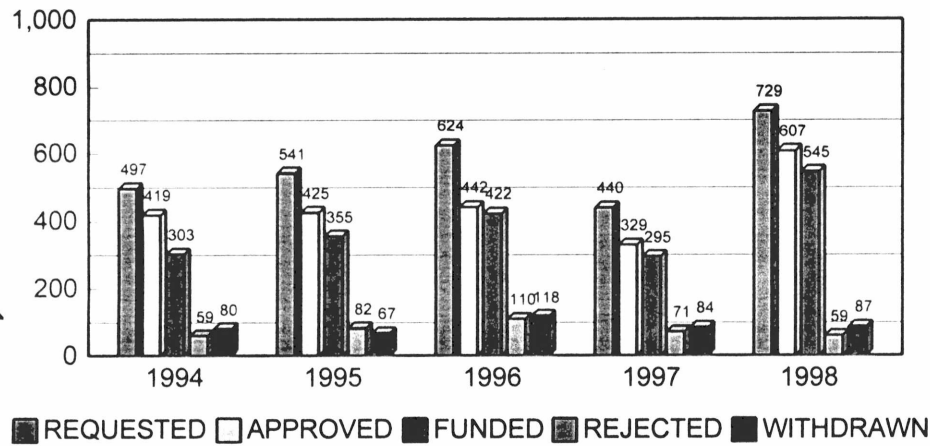
LOAN ACTIVITY

FOURTH QUARTER - YTD - COMPARISON

1994 - 1998

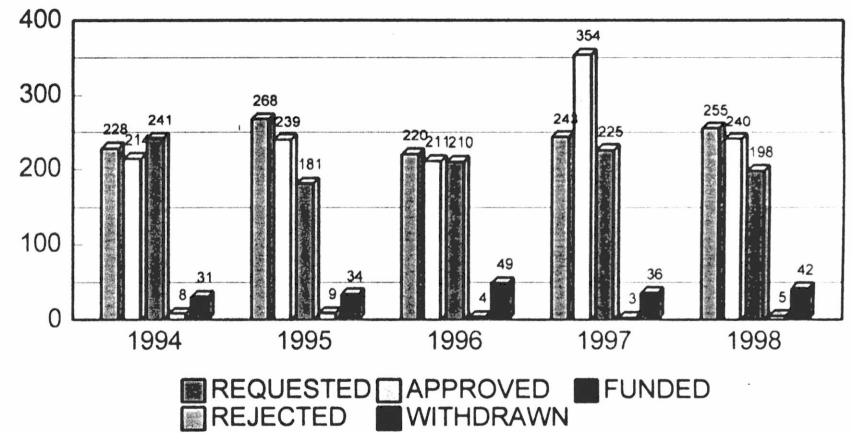
AGRICULTURAL LOANS

NUMBER OF LOANS



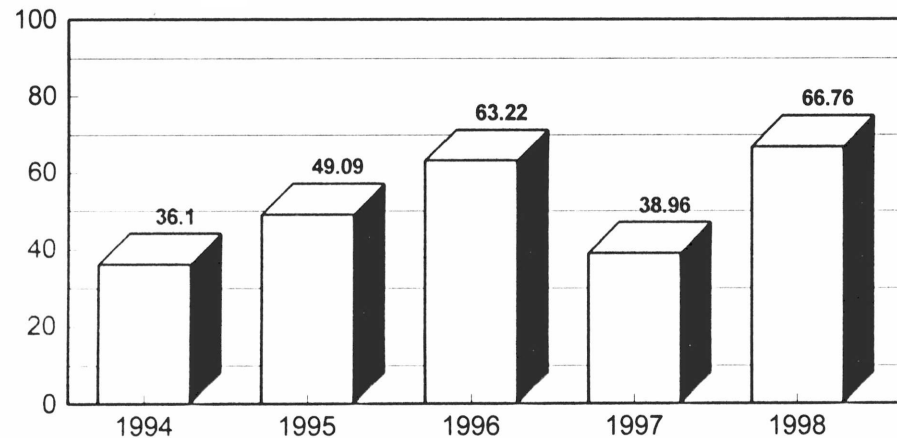
COMMERCIAL LOANS

NUMBER OF LOANS



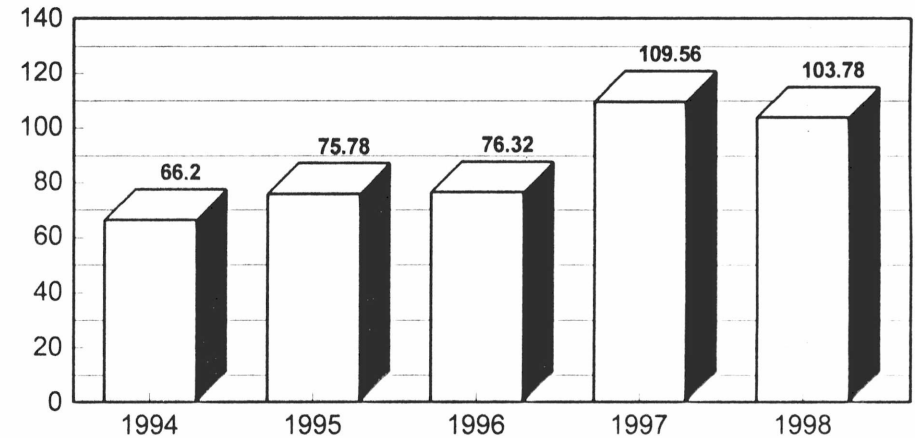
TOTAL FUNDED AGRICULTURAL LOANS

(MILLIONS)



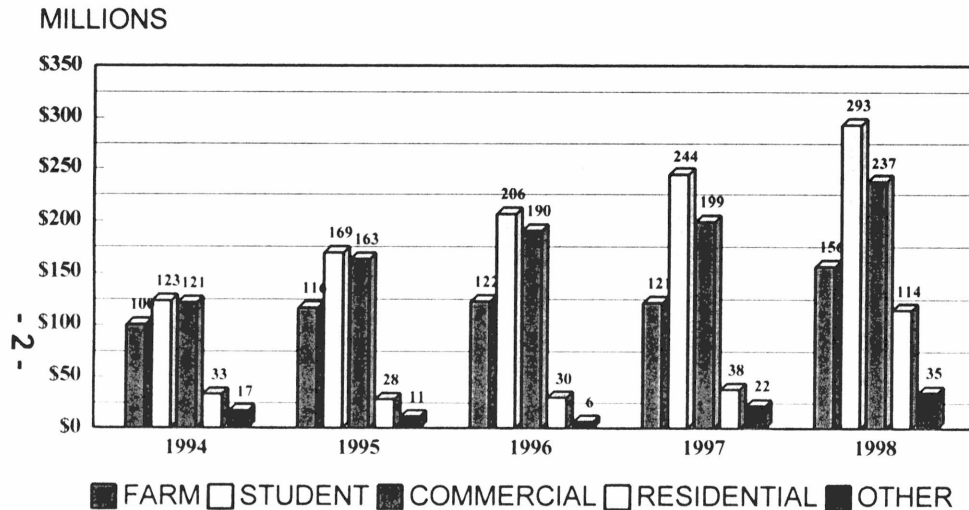
TOTAL FUNDED COMMERCIAL LOANS

(MILLIONS)

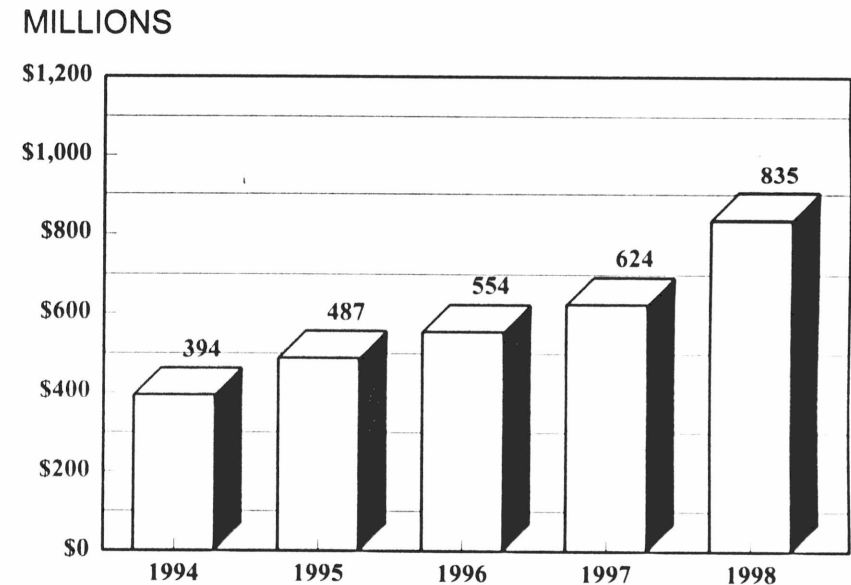


CONSOLIDATED LOAN PORTFOLIO FOURTH QUARTER - YTD - COMPARISON 1994 - 1998

PORTFOLIO BY LOAN GROUP



TOTAL PORTFOLIO



COMMERCIAL - As the state's manufacturing, retail and service sectors grow, the commercial loan portfolio continues to increase in size. This can be attributed to the attractiveness of the Bank's economic development programs.

FARM - Demand for farm loans has increased in 1998 due to BND's low interest rate loan initiative developed to assist farmers facing difficulties with low commodity prices, crop disease, and poor growing conditions.

RESIDENTIAL - BND provides a secondary market for home loans. All conventional mortgages are sold to federal agencies. Starting in 1996, BND began retaining FHA and VA guaranteed mortgages in its own portfolio funded through borrowings from the Federal Home Loan Bank.

STUDENT - Aside from 1993, when the Bank sold off \$91 million in student loans, BND's student loan portfolio has risen steadily each year since 1990. This is indicative of the Bank's commitment to provide financing to students for post secondary education.

***FARM LOANS** include: Farm & Ranch, Family Farm, Farm Operating, Farm Real Estate, FLB Debt Restructure, CRP, Lender Acquired FRE FSA Guaranty, Beginning Farmer Plus, Equity Loan Program, and Ag Pace.

***RESIDENTIAL LOANS** include: FHA, Rural Dev., Conventional, and VA Loans.

***COMMERCIAL LOANS** include: Bank Participation, SBA, Business Development, Small Business, Pace, Micro, Match, Bank Stock, Step, and Trip.

***OTHER LOANS** include: State Institutions and Certificates of Deposit.

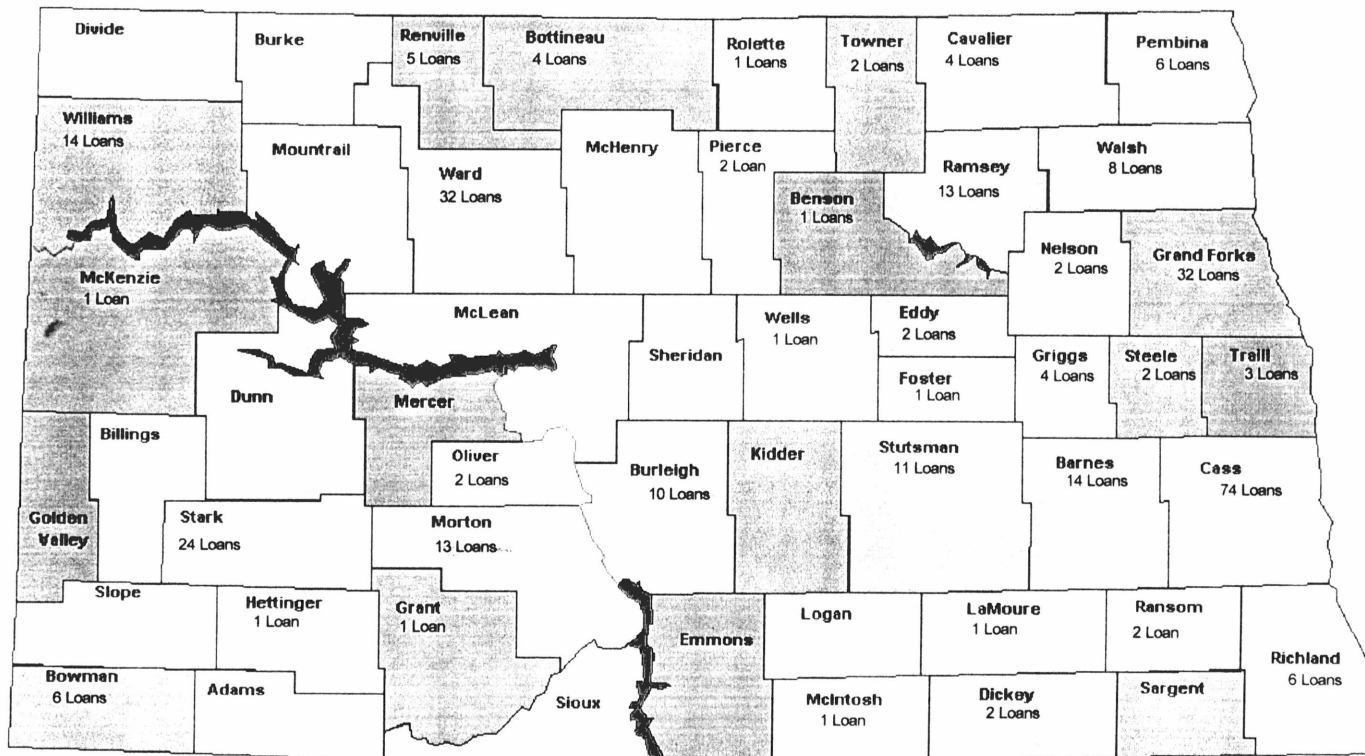
PACE LOAN PROGRAM

(\$ Million)

	<u>FUNDED LOANS</u>	<u>COMMITTED LOANS</u>	<u>TOTAL LOANS</u>
NUMBER	308	6	314
AMOUNT	\$ 164.3	\$ 6.5	\$ 170.8
BUYDOWN	\$ 24.4	\$.8	\$ 25.2
JOBS	6,870	127	6,997

1997-1999 Biennium Buydown Fund	
Total Available Funds	\$5,034,323
Buydown Funds - Funded/Committed Loans	\$4,497,150
Remaining Buydown Funds	\$ 537,173

COUNTIES WHICH HAVE PARTICIPATED IN THE PACE PROGRAM



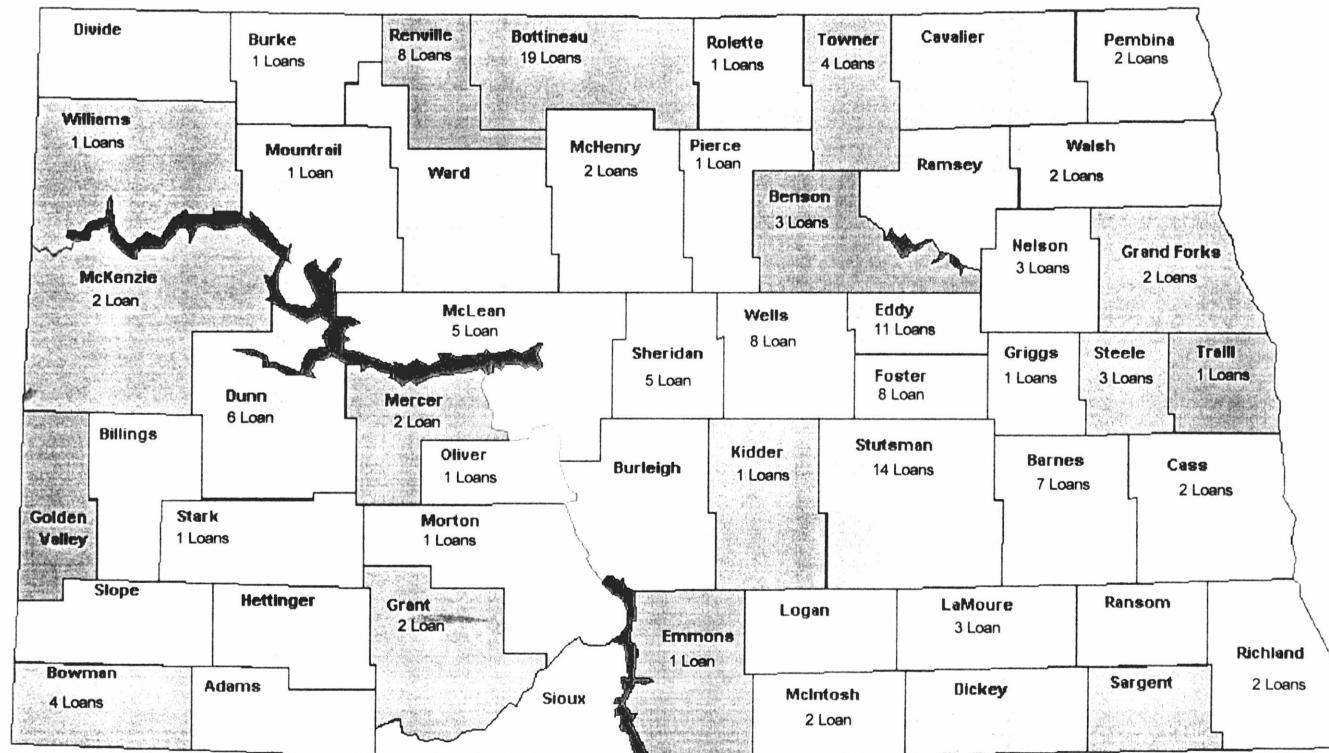
This graph depicts loan activity in the PACE Loan Program from its inception on March 2, 1990 to December 31, 1998

AG PACE LOAN PROGRAM

	<u>FUNDED LOANS</u>	<u>COMMITTED LOANS</u>	<u>TOTAL LOANS</u>
NUMBER	143	0	143
AMOUNT	\$ 7,311,755	\$ 0	\$ 7,311,755
BUYDOWN	\$ 1,866,664	\$ 0	\$ 1,866,664

1997-1999 Biennium Buydown Fund	
Total Available Funds	\$ 487,248
Buydown Funds - Funded/Committed Loans	\$ 125,878
Remaining Buydown Funds	\$ 361,370

COUNTIES WHICH HAVE PARTICIPATED IN THE AG PACE PROGRAM



This graph depicts loan activity in the AG PACE Loan Program from its inception on July 1, 1991 to December 31, 1998

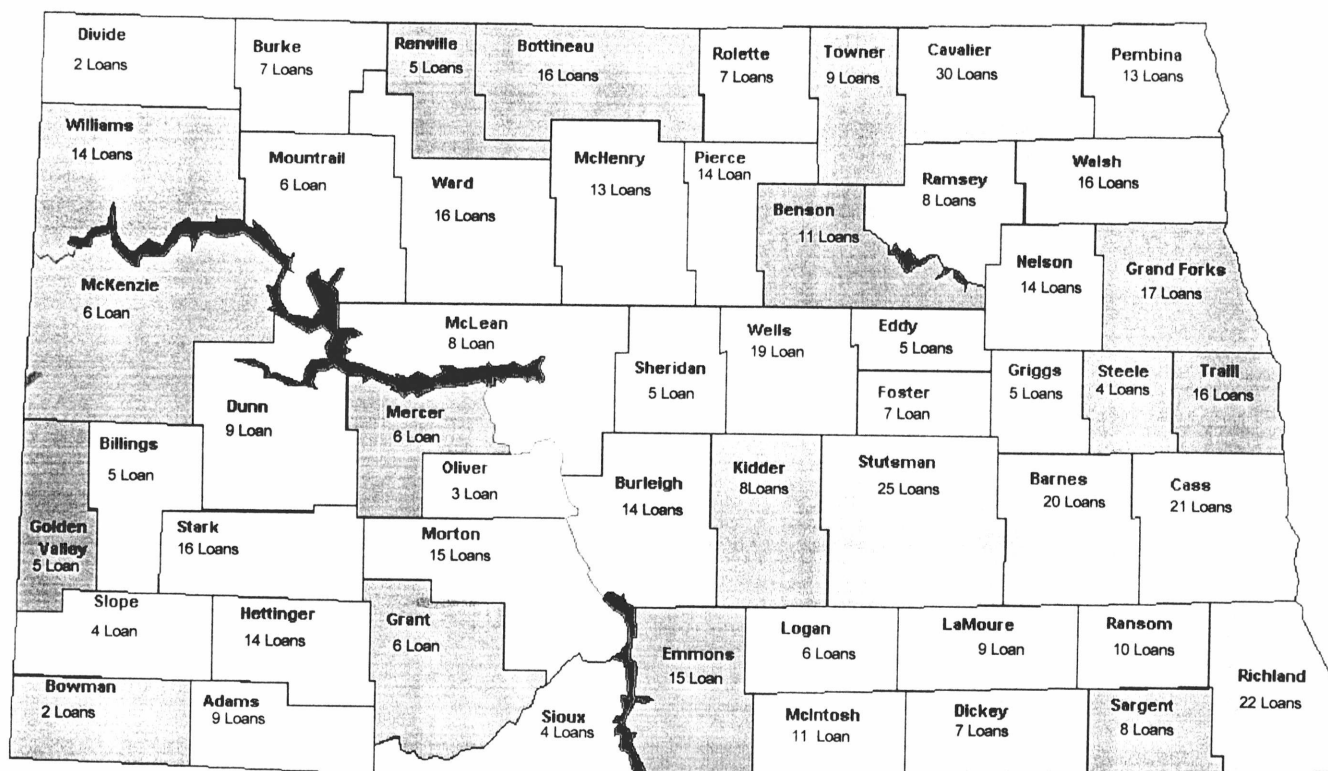
NOTE: Each AG PACE loan represents the creation of a new-farm business or the expansion of an on-farm business (non-traditional agriculture).

BEGINNING FARMER LOAN PROGRAM

	<u>FUNDED LOANS</u>	<u>COMMITTED LOANS</u>	<u>TOTAL LOANS</u>
NUMBER	567	11	578
AMOUNT	\$ 40,845,156	\$ 782,750	\$ 41,627,906
BUYDOWN	\$ 3,539,715	\$ 75,955	\$ 3,615,670

1997-1999 Biennium Buydown Fund	
Total Available Funds	\$ 921,500
Buydown Funds - Funded/Committed Loans	\$ 681,543
Remaining Buydown Funds	\$ 239,957

FARM OPERATIONS WHICH HAVE UTILIZED THE BEGINNING FARMER PROGRAM

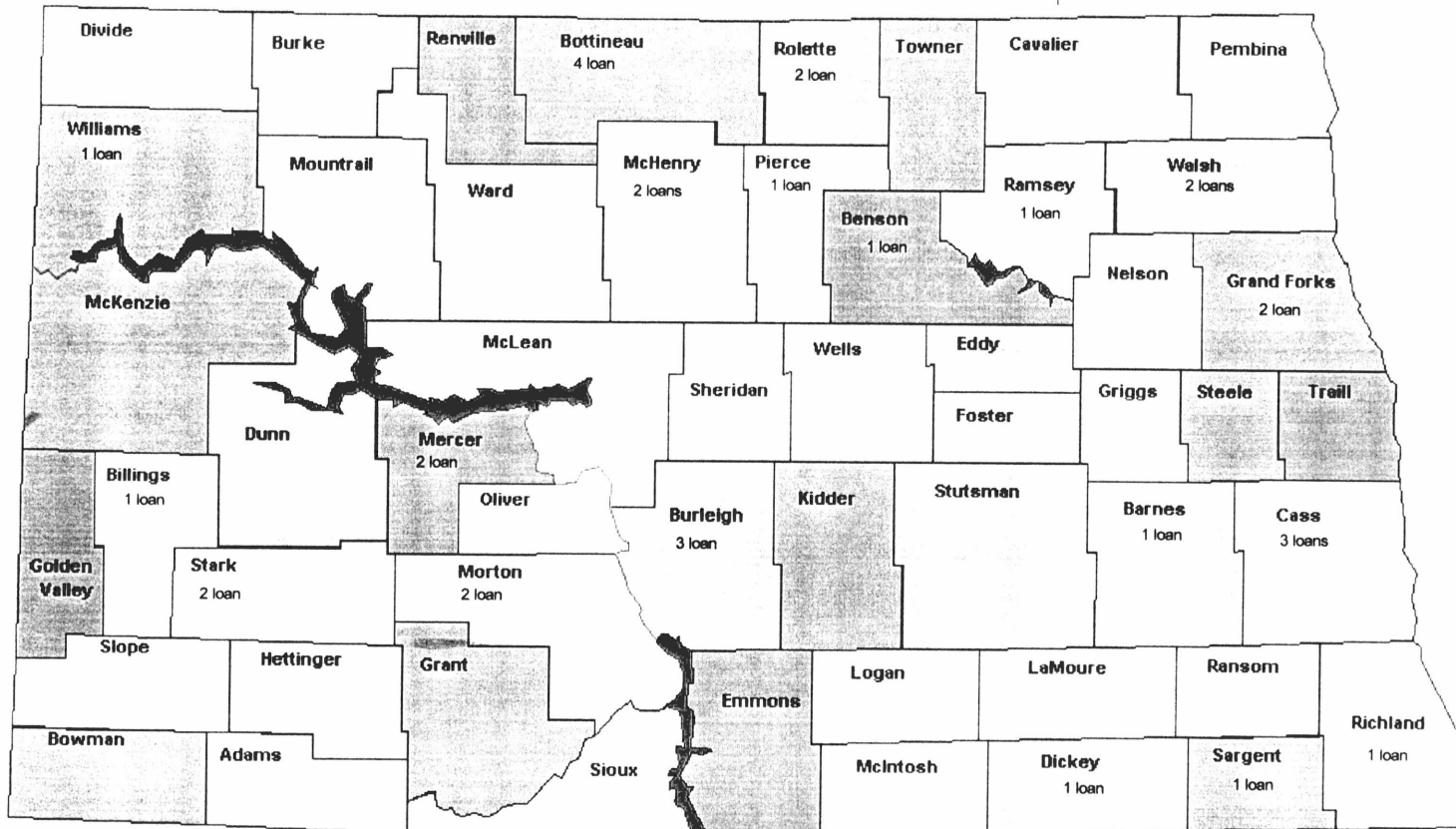


This graph depicts loan activity in the New Beginning Farmer Loan Program from its inception on July 1, 1991 to December 31, 1998
Includes loans made out of Revolving Fund

STEP LOAN PROGRAM

This graph depicts loan activity in the *STEP Business Loan Program from its inception on June 29, 1995 to December 31, 1998

REQUESTED LOANS	APPROVED LOANS	FUNDED LOANS	COMMITTED LOANS	EXPIRED OR WITHDRAWN LOANS	TOTAL FUNDED LOANS
40	34	33	1	6	\$ 929,591



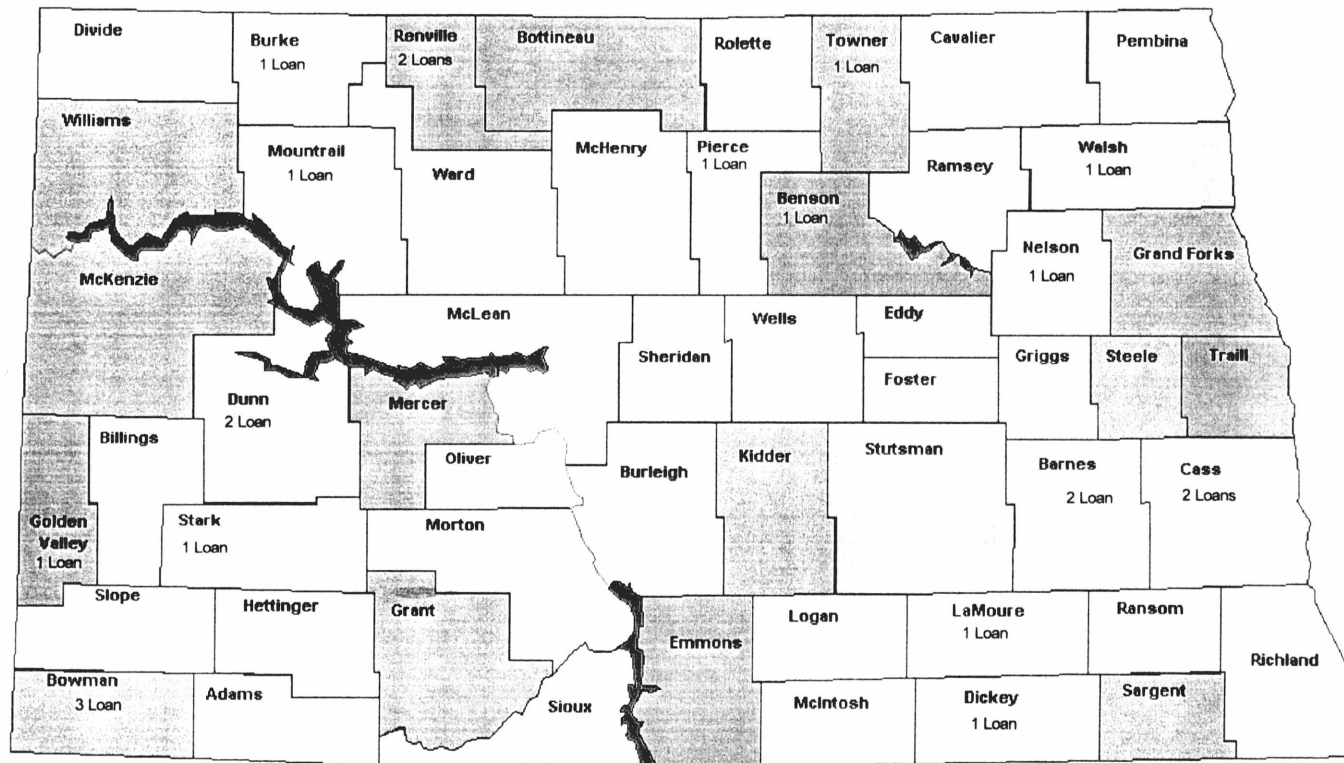
*STEP Loan Program was formerly the MICRO Business Loan Program

FIRST TIME FARMER LOAN PROGRAM

"Bond Issue"

<u>BONDS FUNDED</u>	<u>BONDS COMMITTED</u>	<u>TOTAL BONDS</u>
22	0	22
\$2,067,900	0	\$2,067,900

FARM OPERATIONS WHICH HAVE UTILIZED FIRST TIME FARMER LOAN PROGRAM

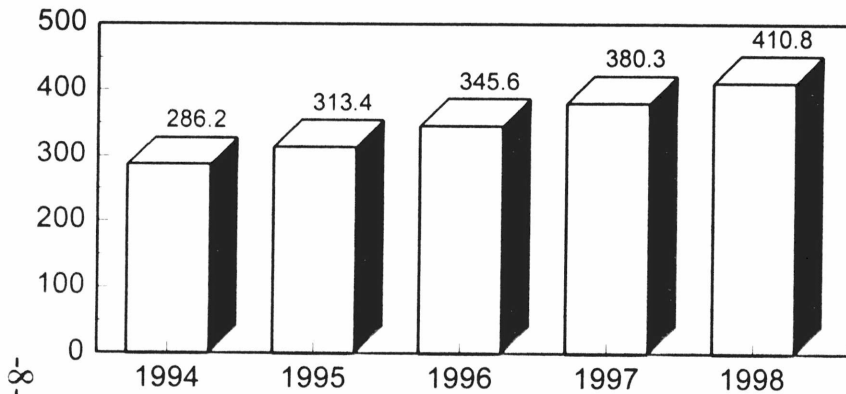


This graph depicts loan activity in the First Time Farmer Loan Program from its inception on August 1, 1997 to December 31, 1998

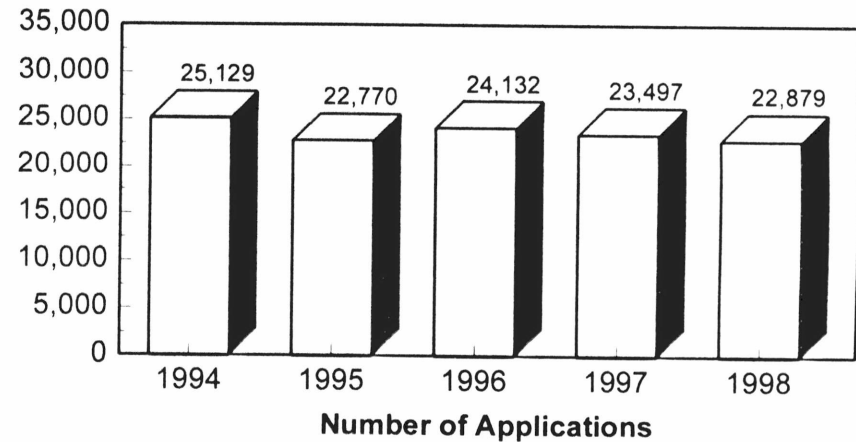
STUDENT LOANS OF NORTH DAKOTA

TOTAL LOAN PORTFOLIOS (BND AND TRUST)
AS OF DECEMBER 31

\$ Millions

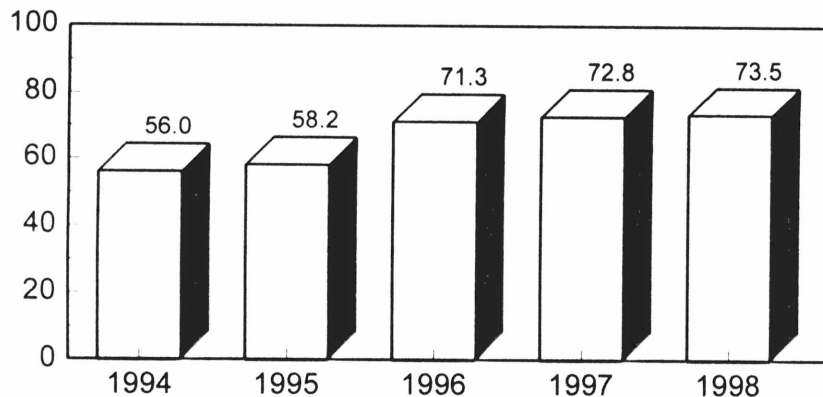


TOTAL SLND APPLICATIONS
FOR THE 12 MONTHS ENDING DECEMBER 31



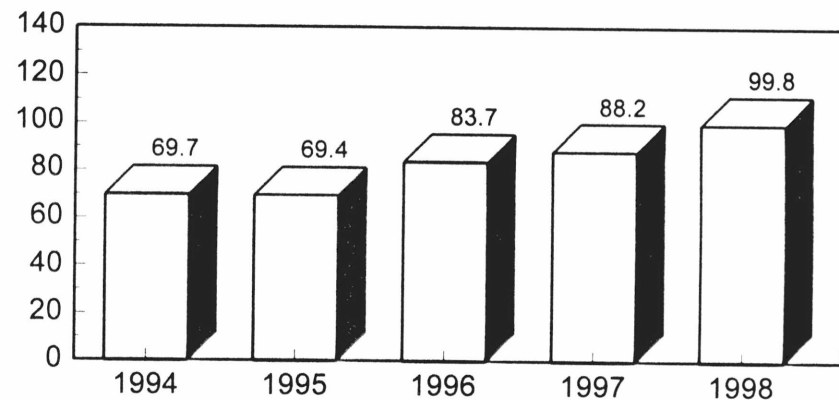
TOTAL SLND LOAN DISBURSEMENTS
FOR THE 12 MONTHS ENDING DECEMBER 31

\$ Millions



TOTAL LOANS GUARANTEED
FOR THE 12 MONTHS ENDING DECEMBER 31

\$ Millions



6-09-07. State funds must be deposited in Bank of North Dakota. All state funds, and funds of all state penal, educational, and industrial institutions must be deposited in the Bank of North Dakota by the persons having control of such funds or must be deposited in accordance with constitutional and statutory provisions. All income earned by the Bank for its own account on state moneys that are deposited in or invested with the Bank to the credit of the state must be credited to and become a part of the revenues and income of the Bank.

Source: S.L. 1919, ch. 147, § 7; I.M., November 2, 1920, § 1; S.L. 1921, p. 256; 1925 Supp., § 5192a7; R.C. 1943, § 6-0907; S.L. 1965, ch. 203, § 40; 1991, ch. 578, § 1. section 1 of chapter 578, S.L. 1991, became effective on July 3, 1991, 90 days after filing, pursuant to N.D. Const., Art. IV, § 13.

Effective Date.

The 1991 amendment of this section by

6-09-09. Deposits may be received from any source — Deposits to credit in other banks. Repealed by S.L. 1989, ch. 110, § 11, effective July 11, 1989.

6-09-11. Bank a clearinghouse. For banks that make the Bank of North Dakota a reserve depository, it may perform the functions and render the services of a clearinghouse, including all facilities for providing domestic and foreign exchange, and may rediscount paper, on such terms as the industrial commission shall provide.

Source: S.L. 1919, ch. 147, § 11; 1925 Supp., § 5192a11; R.C. 1943, § 6-0911; S.L. 1989, ch. 110, § 5. came effective on July 11, 1989, 90 days after filing, pursuant to N.D. Const., Art. IV, § 13.

Effective Date.

The 1989 amendment of this section be-

6-09-12. Interest rates fixed by commission — Time deposits — Limitations — Charges for services. Repealed by S.L. 1989, ch. 110 § 11, effective July 11, 1989.

6-09-14. Bank of North Dakota may deposit in any bank. Repealed by S.L. 1989, ch. 110, § 11, effective July 11, 1989.

6-09-15. Powers. The Bank of North Dakota may:

1. Make, purchase, or hold loans:
 - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
 - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
 - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
 - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
 - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that

remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and after accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
 - g. To nonprofit organizations that are exempt from federal taxation under section 501(c) (3) of the Internal Revenue Code [26 U.S.C. 501(c) (3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
 - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
 1. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
 - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
 - k. To instrumentalities of this state.
 1. As otherwise provided by this chapter or other statutes.
 - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
 3. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
 4. Invest its funds:
 - a. In conformity with policies of the industrial commission.
 - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
 5. Buy and sell federal funds.
 6. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
 7. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
 8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
 9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily

6-09-15.2. Bank may invest in certain government sponsored stocks — Limit. The Bank of North Dakota may invest in stock of United States government sponsored corporations, whether publicly or privately held, but such investments may not exceed two percent of the bank's combined capital and surplus.

Source: S.L. 1971, ch. 110, § 1; 1975, ch. 77, § 1.

6-09-15.3. Bank stock loans — Requirements. The Bank of North Dakota may make direct loans to individuals or bank holding companies for the purchase or refinancing of bank stock of a bank located in the state, provided the individuals or the stockholders of the bank holding company are residents of this state. These loans shall be secured by bank stock or stock of a bank holding company located in the state. For this purpose, loans secured by stock in any one bank or bank holding company shall not exceed twenty-five percent of the total of capital and surplus of the Bank of North Dakota.

The industrial commission shall adopt rules and regulations to carry out the purpose of this section which shall include provisions for terms under which such loans shall be made, the types of security required in addition to the stock purchased under the loan, and the procedure for disposition of the stock of the bank or bank holding company and other types of security. The Bank of North Dakota may make direct loans to individuals or bank holding companies for the purchase or refinancing of bank stock as provided herein, if not more than thirty-five percent of the bank stock or bank holding company stock will be or is owned by nonresidents of this state, provided that such loan applications involving nonresidents are submitted to the Bank of North Dakota advisory board of directors for recommendation, and are approved by the industrial commission before such loans are made.

In the event the Bank of North Dakota becomes the owner of stock in a bank pursuant to foreclosure proceedings on such loan, such stock shall be disposed of within three years after acquisition by the Bank.

Source: S.L. 1977, ch. 78, § 1; 1979, ch. 141, § 1; 1981, ch. 123, § 1.

6-09-15.4. Participations in loans to small business concerns — Direct loans to nonprofit corporations.

1. The North Dakota industrial commission shall establish a program through the Bank of North Dakota for the purpose of participating in loans made by North Dakota financial institutions to nonfarming small business concerns. The total amount of a loan may not exceed two hundred fifty thousand dollars and the Bank's participation interest may not exceed ninety percent of the total amount of the loan. The interest rate on the amount of the Bank's participation interest in a

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loan must not be greater than the Bank's base rate as in effect from time to time, and may float.

2. The Bank, under Public Law No. 99-198 [99 Stat. 1534, 7 U.S.C. 1932 et seq.], may make direct loans to nonprofit corporations for the purpose of relending loan funds to rural businesses to improve business, industry, and employment opportunities in rural areas.

Source: S.L. 1981, ch. 124, § 1; 1987, ch. 125, § 1.

6-09-15.5. Bank loans to beginning farmers — Revolving loan fund — Requirements.

1. A revolving loan fund must be maintained in the Bank of North Dakota for the purpose of making loans to North Dakota beginning farmers, as defined under subsection 2 of section 57-38-67, for the purchase of agricultural real estate. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are hereby appropriated for the purpose of providing loans in accordance with the provisions of this section.
2. The revolving loan fund and loans made from the fund must be administered and supervised by the Bank of North Dakota. The Bank may deduct a service fee for administering the fund from interest payments received on loans. An application for a loan from the fund must be made to the Bank and, upon approval, a loan must be made from the fund in accordance with the provisions of this section.
3. A loan made from the fund may not exceed fifty percent of the appraised value of the agricultural real estate to be acquired with the loan proceeds, with the actual percentage to be determined by the Bank. The Bank may do all things and acts, may take such security, and may establish additional terms and conditions as deemed necessary to make a loan under this section. The Bank may take a second mortgage as security for a loan from the fund if a beginning farmer's real estate financing involves a loan from a source other than the state.
4. A loan made from the fund must bear interest at a maximum rate of four percent per year for the first ten years of the loan and at a rate of six percent per year after ten years.
5. The maximum term of the loan is ten years unless at the end of the ten-year term the commissioner of agriculture extends the loan for a five-year period.

Source: S.L. 1983, ch. 121, §§ 1 to 3; 1985, ch. 135, § 1.

Note.

Section 4 of chapter 121, S.L. 1983, provides an appropriation out of any moneys in

the accumulated and undivided profits of the Bank of North Dakota, not otherwise appropriated, of five million dollars to the revolving loan fund established by this section for making agricultural real estate loans to beginning farmers.

BND

BANK OF NORTH DAKOTA

TO: Senator Karen Krebsbach

FROM: John Hoeven, President 

DATE: January 12, 1999

RE: Small business authority

You had inquired about the statutory authority to make loans to small business in the event that the legislature repeals 6-09-15.4, regarding loans to small business concerns. The authority would be included in the general powers statute 6-09-15 (3) (attached) which states: **The Bank of North Dakota may purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, any other financial institution, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.** The Business Development Program is being used instead of the Small Business Program. The Business Development program was developed by BND in response to market demand from our customers. To operate effectively, BND needs to be able to develop and modify loan programs under the general powers statutory authority of 6-09-15. We then report on these programs to our Advisory Board, the Industrial Commission, and the Legislature. If the terms put in statute are too specific, we do not have the flexibility to react to the marketplace. That is why there is no longer demand for the Small Business Loan Program.

Senator Krebsbach, you were also concerned that by repealing 6-09-15.4 (attached), the legislature would also repeal section 6-09-15.4 (2) that allowed the Bank, under Public Law ...to "make direct loans to nonprofit corporations for the purpose of relending loan funds to rural businesses to improve business, industry, and employment opportunities in rural areas". As I reviewed the statute, I realize that section was moved under the general Powers statute 6-09-15 1(h) during a previous legislative session and therefore, would not be affected by repealing this statute.

Please let me know if you have further questions.