

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1095

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1095

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1095

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 8, 2007

Recorder Job Number: 699

Committee Clerk Signature

Minutes:

Chair Keiser opened the hearing on HB 1095, relating to business incentives, agreements, and reports.

Shane Goettle, Commissioner, ND Department of Commerce: In support of HB 1095.

See written testimony #1

Chair Keiser: The 25,000, is that the appropriate level?

Shane: That's the level that's in the law already. That's the assumption, that's what we've communicated out there already as the threshold for the public.

Bob Humann, SVP of Lending Bank of North Dakota: In support of HB 1095. See written testimony # 2.

Rep. Zaiser: I make the motion for a Do Pass.

Rep. Nottestad: Second.

Roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent, Carrier Rep. Vigesaa

Hearing Closed.

Date: 1-8-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1095

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep Zaiser Seconded By Rep Nottestad

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman Keiser | X | | Rep. Amerman | X | |
| Vice Chairman Johnson | X | | Rep. Boe | X | |
| Rep. Clark | X | | Rep. Gruchalla | X | |
| Rep. Dietrich | X | | Rep. Thorpe | X | |
| Rep. Dosch | X | | Rep. Zaiser | X | |
| Rep. Kasper | X | | | | |
| Rep. Nottestad | X | | | | |
| Rep. Ruby | X | | | | |
| Rep. Vigesaa | X | | | | |
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Total Yes 14 No 0

Absent 0

Floor Assignment Rep. Vigesaa

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

REPORT OF STANDING COMMITTEE (410)
January 8, 2007 1:05 p.m.

Module No: HR-04-0307
Carrier: Vigesaa
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1095: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1095 was placed on the Eleventh order on the calendar.

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1095

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1095**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 27, 2007**

Recorder Job Number: **3941**

Committee Clerk Signature



Business incentives, agreements, reports:

Shane Goettle, Commissioner, ND Dept. of Commerce - In Favor

TESTIMONY #1 *Covered testimony*

S Klein: In reference to the \$25,000, what we're asking is that; you didn't know what that time frame was? 20 this year and 10 next year, is that 30 then?

Shane G: In the case of APUC, they may grant a \$10,000 grant feasibility study, in that case, that project might not come on line until 4 or 5 years down the road, and during that time frame, we just don't know whether this particular grant is subject to the accountability law. By the time the project comes on line, might look a whole lot different, it might be categorized as a different project. Some leadership will look for changes almost entirely if they are using information generated from that study. We wanted to pick a time frame that would work, that would say, we'll just watch this. If the year passes and the project hasn't obtained other funds, it would put it over the aggregate for \$25,000 and then what we're asking the committee to do is consider that was not worth the administration and putting the burden on the business in order to keep in an accountability system.

S Klein: Granting was prohibited under the existing language?

Shane G: The existing language in the accountability law has a whole system of claw backs and things like that should the project be at its potential, and we have to work through all of that. You could read this to prohibit grants altogether. Just asking to clarify that the grants ARE permitted, accounted for, but permitted under the accountability law.

S Klein: The bank will answer any questions on this?

Shane G: Yes

Bob Human, Sr. VP Lending of Bank of ND - In Favor

TESTIMONY # 2 *Went over testimony*

S Heitkamp: There's no concern that you can have it a little bit this year, a little bit that year and it gets strung out, because then it comes down to the administration of the program or what?

Bob H: Putting the time frame on there does for us is, we have to keep track of all the information if there is a buy-down in a biennium. With this change, that will be eliminated, because we won't exceed the \$25,000 in a biennium.

S Heitkamp: It's a safety measure for protection?

Bob H: Exactly.

CLOSE

Motion for Do Pass by S Andrist

Second by S Wanzek

Roll Vote for DO PASS HB 1095 – 7-0-0 Passed

Carrier: S Andrist

REPORT OF STANDING COMMITTEE

HB 1095: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1095 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1095

#1

**DEPARTMENT OF COMMERCE TESTIMONY ON HB 1095
JANUARY 8, 2007, 9:30 A.M.
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE
PEACE GARDEN ROOM
REPRESENTATIVE GEORGE KEISER, CHAIRMAN**

SHANE GOETTLE – COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman, and members of the committee. I am Shane Goettle, Commissioner of the North Dakota Department of Commerce and I am here before you today in support of HB 1095.

Two years ago, you approved a comprehensive set of accountability requirements for business incentives. These requirements bring transparency into our incentives system, as well as establishing a level of confidence that the incentives are creating the desired results. The law took affect on January 1, 2006 and we will have the first report for you later this year.

Throughout the process of implementing this law, the Department of Commerce and partner agencies came across a few issues. HB 1095 aims to address these issues.

The first thing HB 1095 does is set a one-year timeframe for the \$25,000 threshold to be considered a business incentive.

The second change is to remove the Beginning Entrepreneur Loan Guaranty Program from the Bank of North Dakota programs that are not exempted from this law. Representatives from the Bank of North Dakota are here to explain why this change is needed.

The final change clarifies that grants are allowed if they are structured as grants under state or federal law. The current business incentive law could be construed to prohibit existing grant programs, such as the Agricultural Products Utilization Commission (APUC), from granting funds. In the case of APUC, N.D.C.C. § 4-14.1-03.1(2) explicitly allows grant programs:

2. The commission may administer grant programs consistent with the purpose of this chapter including:
 - a. A basic and applied research grant program;
 - b. A utilization and marketing grant program;
 - c. A cooperative marketing grant program;
 - d. A nature-based tourism grant program;
 - e. A technical assistance grant program for value-added businesses;
 - f. A farm diversification grant program;
 - g. An agricultural prototype development grant program;
 - h. An agricultural technologies grant program; and
 - i. A North American marketing grant program.

In conclusion, I believe the business incentive accountability law is a balanced approach that serves the public well. It is transparent and accountable to the public; yet it is flexible enough to allow the incentives to work. The changes we are asking for in HB 1095 will only serve to improve this law.

Thank you for your time and attention this morning. I will be happy to respond to your questions.

TESTIMONY TO THE
HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
HOUSE BILL 1095 - ACCOUNTABILITY
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA
JANUARY 8, 2007

Bank of North Dakota (BND) supports House Bill 1095. The proposed change to specify a time frame for receipt of business incentives would eliminate a number of BND loan programs that involve small amounts of interest buydown. BND programs such as the Beginning Farmer programs and Ag PACE program do not have a job creation requirement. These programs were intended to help beginning farmers get a start or income diversification for borrowers.

The elimination of the Beginning Entrepreneur Loan Guarantee program is proposed because the issuance of a guarantee is not viewed as a business incentive. The actual beneficiary of a BND guarantee is the lead lender not the borrower. An additional problem with categorizing a guarantee as a business incentive is that all collection efforts against the business and owner have been exhausted prior to BND paying out on the guarantee. This scenario eliminates any potential clawback from the recipient.

Your approval is recommended.

DEPARTMENT OF COMMERCE TESTIMONY ON HB 1095
FEBRUARY 27, 2007, 11:00 A.M.
SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE
ROOSEVELT PARK ROOM
SENATOR JERRY KLEIN, CHAIRMAN

SHANE GOETTLE – COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee. I am Shane Goettle, Commissioner of the North Dakota Department of Commerce. I support HB 1095.

Two years ago, you approved a comprehensive set of accountability requirements for business incentives. These requirements bring transparency into our business incentives system, as well as establishing a level of confidence that the business incentives are creating the desired results. The law took affect on January 1, 2006 and we will have the first report for you later this year. Throughout the process of implementing this law, the Department of Commerce and partner agencies came across a few issues. HB 1095 aims to address these issues.

The first thing HB 1095 does is set a one-year timeframe for the \$25,000 threshold to be crossed before a grant or loan is considered a “business incentive”. Currently, the law has no timeframe, leaving a great deal of uncertainty as to whether, for example, any financial assistance under \$25,000 might, when coupled with assistance from other programs, cross the \$25,000 threshold and then, at a later date (perhaps years later), be subject to the accountability requirements.

The second change is to remove the Beginning Entrepreneur Loan Guaranty Program from the Bank of North Dakota programs that are not exempted from this law. Representatives from the Bank of North Dakota are here to explain why this change is needed.

The final change clarifies that outright grant awards are permitted if it is awarded from a structured grant program under state or federal law. The current business incentive law could be construed to prohibit existing grant programs, such as the Agricultural Products Utilization Commission (APUC), from granting funds. In the case of APUC, N.D.C.C. § 4-14.1-03.1(2) explicitly lays out that APUC is to operate as grant program:

2. The commission may administer grant programs consistent with the purpose of this chapter including:
 - a. A basic and applied research grant program;
 - b. A utilization and marketing grant program;
 - c. A cooperative marketing grant program;
 - d. A nature-based tourism grant program;
 - e. A technical assistance grant program for value-added businesses;
 - f. A farm diversification grant program;
 - g. An agricultural prototype development grant program;
 - h. An agricultural technologies grant program; and
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In conclusion, I believe the business incentive accountability law is a balanced approach that serves the public well. It is transparent and accountable to the public; yet it is flexible enough to allow the business incentives to work. The changes we are asking for in HB 1095 will only serve to improve this law. Thank you for your time and attention this morning. I will be happy to respond to your questions.

1095

TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
HOUSE BILL 1095 - ACCOUNTABILITY
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA
FEBRUARY 27, 2007

The proposed change to specify a time frame for receipt of business incentives would eliminate a number of BND loan programs that involve small amounts of interest buydown. BND programs such as the Beginning Farmer programs and Ag PACE program do not have a job creation requirement. These programs were intended to help beginning farmers get a start or income diversification for borrowers.

The elimination of the Beginning Entrepreneur Loan Guarantee program is proposed because the issuance of a guarantee is not viewed as a business incentive. The actual beneficiary of a BND guarantee is the lead lender not the borrower. An additional problem with categorizing a guarantee as a business incentive is that all collection efforts against the business and owner have been exhausted prior to BND paying out on the guarantee. This scenario eliminates any potential clawback from the recipient.

Your approval is recommended.

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1095