2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2306

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2306
January 31, 2011
Job Number 13715

☐ Conference Committee

Committee Clerk Signature	Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to the fuel production facility loan guarantee program

Minutes: Testimony Attached

Chairman Klein: Opened the hearing.

Senator Wanzek: Introduced the bill. Testimony Attached.

Chairman Klein: The guarantee comes for the land trust?

Senator Wanzek: The guarantee allows the bank to establish a reserve fund and to cover that potential reserve fund it can be accessed to the land and mineral trust fund, if the bank deems it needs a reserve fund to cover the risk of that loan.

Al Christianson, Manager, North Dakota Business Development and Government Affairs, Great River Energy: Testimony Attached.

Tom Lilja, North Dakota Corn Growers: Gave handout, Attached, on the renewable fuel goals and said they are in favor of the bill.

Dan Wogsland, Executive Director of the North Dakota Grain Growers Association: Testimony Attached.

Deana Wise, Executive Director, North Dakota Ethanol Council: Testimony Attached.

Randy M. Schneider, North Dakota Ethanol Producers Association: In favor of the bill, stated it would provide another tool for their industry that would help grow their industry. Said these changes will make this an effective economic development tool.

Patrice Lahlum, Chair, North Dakota Alliance for Renewable Energy: Testimony Attached.

Bob Humann, Senior Vice President for lending for the Bank of North Dakota: They are neutral on the bill. They support renewable energy and the ethanol industry. Said it is hard to get financing on renewable energy projects. It might take an 85% guarantee to get this done. Wanted to make sure everyone understood what this bill is about, it's a lead lender putting a package together. They will actually have fifteen percent exposure on their books, twenty five percent of those loans will be guaranteed by the state of North Dakota and sixty percent by the Federal Government, this is how the program will end up working. The BND will provide the guarantee on the twenty five percent of the loan amount and they will share pro-Rata with USDA on any type of loses that may ever incur with that guarantee structure. The way the bill reads, any loses that the BND may incur will be covered by the land and minerals trust fund. Said that he thought the land and mineral trust fund should be looked at to see if there are dollars there in case a loss would occur.

Chairman Klein: When we put dollars at risk there is doubt of how we move this forward. When you talk about guaranteeing twenty five percent could we be in it for less, if due diligence suggested we be in it for a smaller percent, or do we have to be in at the maximum?

Bob: The law says that it is twenty five percent. The maximum is twenty five million per project, not to exceed fifty million in total. He said he felt that they wouldmm probably get to decide at the bank level and if they decide they don't want to take on the full twenty five percent they would go for a lesser amount.

John Mittleider, Manager of AG & Bio-energy Development, ND Department of Commerce: Testimony Attached.

Chairman Klein: Closed the hearing.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2306
January 31, 2011
Job Number 13759

☐ Conference Committee

Committee Clerk Signature	Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to fuel production facility loan guarantee program

Minutes: Discussion and Vote

Chairman Klein: Talked about 2306 being the issue of raising the limit for the Bank of North Dakota to be able to borrow a loan guarantee program.

Senator Nodland: Moved a do pass on Senate Bill 2306.

Senator Laffen: Seconded the motion.

Discussion followed

Roll Call Vote: Yes-7 No-0

Senator Nodland to carry the bill

FISCAL NOTE

Requested by Legislative Council
03/31/2011

Amendment to: SB 2306

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

SB2306 amends the Fuel Production Facility Loan Guarantee Program created and not used since 1981. The Lands & Mineral Trust would provide a guarantee reserve fund to minimize risk exposure to BND that would provide a loan guarantee of $12.5 million/project not exceeding $25 million in total.

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.*

There is no fiscal impact to the general fund. BND will establish and maintain an adequate guarantee reserve fund and may request OMB transfer funds from the Lands & Minerals Trust to maintain 25% of the guarantee reserve fund balance (transfers may not exceed $6,250,000).

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 Humann	**Agency:**	Bank of North Dakota
Phone Number:	328-5703	**Date Prepared:**	03/31/2011

FISCAL NOTE

Requested by Legislative Council
01/25/2011

Bill/Resolution No.: SB 2306

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

SB2306 amends the Fuel Production Facility Loan Guarantee Program created and not used since 1981. The Land & Mineral Trust would provide a guarantee reserve fund to minimize risk exposure to BND that would provide a loan guarantee of $25 million/project not exceeding $50 million in total.

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.*

There is no fiscal impact to the general fund. The fiscal impact is to the Land & Minerals Trust that would provide a guarantee reserve fund to BND. BND would benefit from the charging of a guarantee fee to administer this program.

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:	Bob Humann	Agency:	Bank of North Dakota

Phone Number:	328-5703	Date Prepared:	01/28/2011

Date: Feb 1, 2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2306

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: ☑ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		**Senator Mac Schneider**	✓	
VC George L. Nodland	✓		**Senator Philip Murphy**	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

SB 2306: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2306 was placed on the Eleventh order on the calendar.

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2306

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2306
March 21, 2011
15715

☐ Conference Committee

Committee Clerk Signature	Le Mae Kuch

Explanation or reason for introduction of bill/resolution:

Fuel production facility loan guarantee program; state funding limitations for recipients of fuel production facility loan guarantees

Minutes:

Chairman Keiser: Opens the hearing of SB 2306.

Senator Terry Wanzek~District 29-Jamestown: (See attached testimony 1).

Chairman Keiser: On page 1, line 15, grain related and biomass farm products, why did we have that requirement for both?

Senator Wanzek: Its Legislative Council language and we wanted to make sure that we were encompassing all kinds of potential biomass feed stocks that would be able to qualify for this loan.

Chairman Keiser: This is much broader than the original language?

Senator Wanzek: Yes.

Representative Ruby: Line 14, why was that in there originally and why is it being removed?

Senator Wanzek: I'm assuming they were targeting certain communities and wanted them to be a certain size to serve that community. We are looking at a global market, in my opinion.

Representative Ruby: This has been in place for many years and never been used. What do you think is the main reason; I see several limiters that are being removed.

Senator Wanzek: This is an industry that's been talked about over the years and in the most recent years that there has been development. The 2008 oil prices have probably done as much as anything to encourage development into alternative fuels. As we are seeing these global markets creep higher, there is going to be more interest in developing this industry.

Representative Ruby: In the fiscal note, there's no risk to the BND, the money would come from the Land and Mineral's Trust Fund. Do you know how much is in that?

Senator Wanzek: I don't know that number. There is a requirement for an equity paid into the project. There is also the potential; 25 million isn't going to be the loan source of financing. There is also going to be some federal guarantees and the state would come in and do due diligence in analyzing that specific situation. I think there is going to be a lot of equity investment in other federal loans before the state guarantee, which dramatically reduces the risk exposure to the state. It's not saying that it couldn't happen.

Representative Ruby: Within this guarantee, we won't be close to the first position as far as receiving payment from the equity if there is a default. Is that what you are leading to is that this is guaranteed but the other sources of finance will get their cut first?

Senator Wanzek: There are others who are here that can answer that. I don't know how the mix will go. I'm not sure if the federal will relinquish the first position to the state loan. I do know percentage equity paid before you even get to the financing. There will be a significant amount of investor risk before loan.

Chairman Keiser: The maximum guarantee is 25% of the total loan or less, is that correct?

Senator Wanzek: The maximum amount we can guarantee for any one project would be 25 million.

Chairman Keiser: If you look at page 2, line 4 and 5, there are two factors, the dollar amount and the total amount percentage of the total loan that can be guaranteed.

Senator Wanzek: You are correct. It will be 25 million or 25%, whichever is less.

Chairman Keiser: Further questions?

Sandy Taylor~Energy Council: We are supportive of this bill.

Al Christianson~North Dakota Business Development & Government Affairs-Great River Energy: (See attached testimony 2).

Chairman Keiser: We are changing some of the other variables, why do we want those limits placed on there?

Al Christianson: The discussion with the BND and the Commerce Department, we wanted to find a place that there wasn't a great risk to the state of North Dakota. If you look at what the federal government would do on a project, a 100 million dollar project they will do up to a 70% guarantee, so you need the window in-between to fill in. That's how the numbers came in place. Our project was at 325 million, with our change on how we were going to do it, it went down to 100 million in phase one, 100 million in phase two. We wanted to limit the amount of risk. We didn't want to put that big number out there. That's why the two numbers were there to fill in the gap from the USDA or the DOE funding and to limit the amount of money that was actually having to be held in reserves by the land and minerals trust.

Chairman Keiser: If your project stated 325 million, this wouldn't work.

Al Christianson: It would have worked. What would have happened then is we would have had 70% of the debt. We would have been short by 5%, we would have had to do something with that. We understand, we are not asking for any handout because we are going to pay a loan guarantee fee. We don't think these projects need a handout, they just need a handup. If we were short by that 10 million dollars, we thought the equity players should put it in.

Representative Ruby: The limiters are gone with the repeal.

Al Christianson: The limiters are there at the 25 million and 25% of the project still as the Legislative Council told us as it was drafted.

Representative Ruby: Under this program, but then the state could get involved in other programs that may be available.

Al Christianson: Part of why that language we asked to get changed because there are some Work Force training issues.

Representative Frantsvog: Would you describe bio-mass?

Al Christianson: That was something that was agriculturally living and is now dead.

Chairman Keiser: It does not have the emergency clause, when do you need access for these funds for your project?

Al Christianson: We are fine without the emergency clause; we are still in the third quarter.

Connie Ova~CEO for the Jamestown/Stutsman Development Corporation and a partner in the Dakota Spirit Ag Energy partnership: (See attached testimony 3).

Chairman Keiser: Has this project come before your group for consideration for funding?

Connie Ova: It has not.

Chairman Keiser: Do you anticipate it will?

Connie Ova: I expect it will for equity funding.

Chairman Keiser: Anyone else here to testify in support for SB 2306?

Harlan Fuglesten~North Dakota Association Rural Electric Cooperatives: Our association stands in support to SB 2306. (Hands out testimony from the North Dakota Alliance for Renewable Energy-Testimony 4).

Chairman Keiser: Questions? Anyone else here to testify in support for SB 2306?

Deana Weise~North Dakota Ethanol Council: (See testimony 5).

Chairman Keiser: Questions? Anyone else here to testify in support for SB 2306?

Scott Rising~Soybean Growers Association: (See testimony 6).

Chairman Keiser: Anyone else here to testify in support, in opposition, in the neutral position for SB 2306?

Bob Humann~Senior Vice President of the BND: The losses if there would be any guarantee payout on it would be on a pro-rata basis. The federal guarantee, the state guarantee and the lead lender would all share in the loss on a pro-rata basis. For example there was a 70% USDA, 25% state and 5% that was held by the lead lender, that loss would be shard on a pro-rata. The collateral would be liquidated, the assets would be liquidated and then the guarantee claims would be paid. This is some old legislation and never has been touched. I agree it was more for a Ma and Pa farm type operation, but things have changed. We would classify this as more neutral-favorable than neutral-negative.

Vice Chairman Kasper: Is this facility where some of our legislators went to in Denmark?

Bob Humann: Yes it is.

Vice Chairman Kasper: In visiting with some of the people who went on that trip, I got the impression they had some concerns on whether or not there would be enough materials to be feasible to have a plant. Have you had a report from that group to what their finding would have been, what they think needs to be addressed?

Bob Humann: I was on the trip. There was a report made by Great River Energy, other legislators and groups that went to a joint session of the House and Senate Ag committee last Thursday afternoon. There is no doubt that some studies need to be made. I believe that there will be enough straw and corn available to make it work. It's a matter of getting the farmers comfortable and doing the studies to make it work.

Representative Nathe: What are the fee structures for this guarantee service?

Bob Humann: We haven't figured out what the fee structure would be at this point.

Representative Nathe: How would you go about doing that?

Bob Humann: We would get input from the banks, look to what USDA and SPA is charging for fees and probably do something comparable. There is going to be a cost for this guarantee fee because the state is going to be at risk.

Representative Ruby: Could you give me a description of the mechanics of this?

Bob Humann: I don't know what's in the state lands and mineral trust fund, I'm not sure what they have budgeted.

Representative Vigesaa: It's been mentioned that this program never has been tapped, have there been projects that have been denied.

Bob Humann: No, there haven't been any requests made for this.

Representative Vigesaa: How about staffing at the BND, to have adequate expertise to do the due diligence on the project?

Bob Humann: Ten years ago I would have told you "no", but we have worked hard to learn the industry because we finance a number of them. I feel comfortable that we have the staff and keep in mind that all these deals, will try to leverage a USDA guarantee in the beginning because there are a lot of incentives out there from the federal government. To get a USDA guarantee there is going to have to be a feasibility study done by an outside independent firm, there will be a feed stock study done and then the USDA has to access the information from the Department of Energy.

Representative Ruby: Has the state lost any money on a subsidized loan or guarantee in bio-diesel or ethanol?

Bob Humann: No, not for ethanol or bio-diesel.

Representative Nathe: What are the terms on these loans and their rates?

Bob Humann: Normally their payback is from 10 to 15 years.

Representative Frantsvog: The loan guarantees from the BND could only be used for the physical plant and not for any studies?

Bob Humann: That's my understanding.

Chairman Keiser: Further questions? Anyone else here to testify in the neutral position to SB 2306?

Kerri Craft~Speaking on behalf of John Mittleider-Manager of Ag and Bioenergy Development in the Division of Economic Development & Finance at the North Dakota Department of Commerce: (See attached testimony 7).

Chairman Keiser: Further questions? Anyone else here to testify in the neutral position to SB 2306?

Jeff Engleson~Investment Director-North Dakota Land Department: I'm here to answer any questions for the Land Department

Chairman Keiser: What is in the fund and can you cover the loan?

Jeff Engleson: There is a 26 million dollar spendable balance in the Land and Mineral Trust Fund at the end of the 2011-2013 biennium. The vast majority currently in there right now is in the governor's budget to be distributed to the general fund during the 2011-2013 biennium. In 2013, most of it is transferred to the general fund.

Representative Ruby: How much is to be transferred in this upcoming biennium?

Jeff Engleson: During the current biennium, 35 million will be transferred to the general fund at the end of June.

Representative Ruby: Going forward?

Jeff Engleson: The additional 239 million is projected to be transferred to the general fund.

Representative Ruby: Which tax comes into this fund?

Jeff Engleson: The revenue in this fund comes from the minerals owned by the State of North Dakota. The sovereign minerals under the Missouri River and when the BND had foreclosures in the 30's and 40's, the minerals, these are all state owned minerals, no taxes.

Representative Ruby: Are there any other guarantees that are dedicated to this fund?

Jeff Engleson: No, not at this time.

Chairman Keiser: If this were to be passed into law, it would create an obligation for 50 million, will 50 million be set aside in an escrow account?

Jeff Engleson: Once these loans and guarantees are out there, this money has to be transferred to the BND and held there and no longer benefits the Land and Minerals Trust. The revenue will go into the same fund.

Chairman Keiser: Do you have the capacity to transfer 50 million right now?

Jeff: We do not have the money right now and make the distribution that is currently in the budget, the 239 million that is currently out there.

Chairman Keiser: You would be required to transfer that money only if the loans were made and not when the bill is passed.

Jeff Engleson: Yes, only when the loan is made but if they make the loan and we didn't have the money, we couldn't guarantee it either.

Representative Ruby: If they make the loan and transfer the funds, if they don't need to use the funds, funds sit at the bank and build interest. What happens to that increase?

Jeff Engleson: I'm not sure. As the loan was paid down, the amount that we would have set aside, would go down and I'm guessing the bank would transfer it to us periodically back to the Land and Minerals Trust Fund.

Chairman Keiser: Only the interest?

Jeff Engleson: That's my understanding.

Chairman Keiser: Bob (Humann), could you come back up?

Chairman Keiser: If one project were utilized and the next period of time the loan gets paid off, you have 50 million worth of earnings in the bank. Does that go back to the Land and Mineral Trust Fund?

Bob Humann: I'm not sure. It says that the BND shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the bank. The guarantee reserve fund must be maintained from the Land and Minerals Trust Fund and any monies transferred, the Land and Minerals Trust Fund to maintain the guaranteed reserve fund is available, to reimburse lenders. I would assume it still stays at the bank as long as we have the guarantees out there. I'm not clear whether or not we would need the whole 50 million sitting at the bank. I know that they would have to have it available in case we issued another guarantee. We would have to have enough in that guarantee reserve fund to cover all the outstanding guarantees that we have at any one time.

Chairman Keiser: Like Jeff said, six of one and half dozen of the other, either they have it or you have to have it.

Bob Humann: I agree.

Representative Ruby: In these limits that are set, are they per-project, per-year, per-biennium?

Bob Humann: That's another good question. I don't think there is a biennium limitation. If we did the 50 million dollars in one biennium and we saw pay-downs on the loans, there would other dollars available there to make other guarantees.

Chairman Keiser: Just up to the 50 million?

Jeff Engleson: Exactly.

Chairman Keiser: Anyone else here to testify in a neutral position to SB 2306? Closes the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2306—a.m.
March 28, 2011
Job #16057

☐ Conference Committee

Committee Clerk Signature	

Explanation or reason for introduction of bill/resolution:

Committee work-- Fuel production facility loan guarantee program; state funding limitations for recipients of fuel production facility loan guarantees

Minutes:

Chairman Keiser: Gives a review of the bill.

Chairman Keiser: The big concern of the committee is where do we get the money to set aside in the reserve? The Bank of North Dakota is not excited about doing 100% of the guarantee.

Bob Humann, Bank of North Dakota: When the State Land Dept. went through their projected numbers for the next biennium, they only had a $26 million surplus or excess that they would have with all the cash inflows and outflows for the Land and Minerals Trust Fund. Another issue is that there is another bill, HB1451, going through the Senate Finance and Taxation Committee that would change the Land and Minerals Trust Fund to a State Infrastructure Fund. That bill would have to be amended to address any type of line items that would be taking money out of the Land and Minerals Trust Fund.

Continues with testimony handed out. (See attached testimony).

Representative Ruby: You have $12,500,000 Bank of North Dakota guarantee and then $9,375,000 Bank of North Dakota Guarantee Risk?

Bob Humann: I should have called that the Fuel Production Facility Loan Guarantee. It is the guarantee that is going to be issued by the program. The program is basically the bank issuing the guarantee.

Representative Ruby: The 12.5 is from an existing program?

Bob Humann: It is from this program that the bank would issue the guarantee. In this case, the Land and Minerals Trust Fund is responsible for 25% of that guarantee. If there would ever be a loss, the Bank of North Dakota is responsible for 75% of the loss.

Vice Chairman Kasper: What is the projected ending fund balance for the Land and Mineral Trust Fund?

Bob Humann: They will have a $26 million excess.

Vice Chairman Kasper: What is the projected ending fund balance of the Land and Mineral Trust Fund?

Bob Humann: I don't know.

Vice Chairman Kasper: I was told it is zero.

Bob Humann: Eric Hardmeyer and I met with Senator Joe Miller and Legislative Council. They were working on putting together all the bills that were looking for money out of the Land and Minerals Trust Fund. I haven't seen those numbers since.

Chairman Keiser: With all the bills, it does leave $26 million in that fund. However, I believe there is a bill that will wipe whatever is left. Is that correct?

Bob Humann: I don't know. If we could down size this to $12.5 million it would work within that $26 million that they talked about last Monday. How the dollars are ending up we will have to get that from Legislative Council or OMB or State Land Dept.

Chairman Keiser: Is there any money there that can be committed?

Bob Humann: I know that from last Monday to this Monday we've taken a $50 million draw on the Land and Minerals Trust Fund and propose that it drops down to $12.5 million to make this work. I'm Senior Vice President of Lending. I'm responsible for all the risk and all the losses at the bank. I have to make sure this is something that we can live with also.

Vice Chairman Kasper: I visited with some of the people that went on that trip to Denmark. A number indicated they felt that a cellulosic plant based on straw would not work in North Dakota. How does that change this projected facility or are they still going to go ahead with cellulosic.

Chairman Keiser: Let's have Al come up. We can also invite some of those people who were on the trip to come in. I did talk to Craig Headland and Dennis Johnson. They both told me it doesn't work at the scale that we are doing it. But then they both recanted and said, "but it will work here."

Al Christianson: We have done all the studies on where you can bring in the biomass for a 20 million gallon cellulosic ethanol plant. We have done all the studies on what the engineer's estimate is. A 20 million gallon plant will not work in North Dakota. We have scaled it back to 9 million gallons. Our first phase is a conventional ethanol plant that is designed to be able to bolt on a cellulosic ethanol plant at a later date. You can build a conventional ethanol plant similar to Blue Flint for under a $100 million. We hope to have it up and running by the end of 2013. What we are still going forward with is the engineering design to bolt on a cellulosic ethanol plant. There are several reasons for that. The cellulosic ethanol plant will allow the conventional ethanol plant to blend its fuel with it and be able to qualify to go into areas that have tougher low carbon standards. It will also produce a product that we can burn in our power plant which will lower our carbon footprint at our power plant and allow us to have renewable fuels. So what we are going to do is build a conventional ethanol plant that will in 2015 be able to bolt this 9 million gallon cellulosic ethanol plant which the study shows we can do. That project was looked at 325 million for 20 million gallons. The math is not there. Now you are looking at going to a conventional ethanol plant for under $100 million which is very identical to Blue Flint is now. Blue Flint has been profitable every day that it has been operating since 2006 because of its co-location to a power plant. We will build that conventional ethanol plant and then bolt on the second one. Our coal fired power plant at Spiritwood was designed to have two different parties using the steam besides the electric generation. The first 100 million gallon ethanol plant that did not go changed the efficiency of our power plant to about 70% which means every ton put in gives 70% of the energy. So we are going from a $325 million project of 20 million gallons of ethanol that won't work to a 100 million phase I and a 100 million phase 2 which the economics show us that we can do. In phase I we can build out the rail infrastructure. That will also allow the people with the energy beet facility, when they get that figured out, to bolt that on. We will be able to use the steam from Spiritwood, the water from Jamestown. That is what has changed since the trip from Denmark. We stepped back and said we can't make a $20 million gallon scale up work. We don't think anybody can make it work. We think we can make a hybrid work. We will build a conventional one. We will never propose a cellulosic one if the business plan isn't there. The Bank of North Dakota can turn down anybody that comes in for this program. The bank has final say. My company has spent about $800 million in North Dakota in the last five years. We need this because of the change in the financial markets where you can no longer go out and borrow without loan guarantees on bio refineries. We built Blue Flint in 2005-06 financed at 80% debt and 20% equity. There was zero loan guarantees on the 80% debt. Right now the best you will do is 50/50. The 50% debt will have to be covered by loan guarantees or by risk of a lead lender. We put 2 ½ times as times as much equity in with 30% less debt. We know we can cash flow this so that is why we are doing it.

Vice Chairman Kasper: If I heard you right, what the original intent of this bill was for, is no longer in place, but you cover it by using the term biomass?

Al Christianson: That would cover everything. The Legislative Council used the term biomass to consider. That would mean anything that was once living that is now dead. So energy beets would qualify, wheat straw, stover, actual corn, flax, barley hulls from Cargill.

Vice Chairman Kasper: To clarify what you said, based on what you are proposing to do now, it will work and cash flow without any subsidies except a loan guarantee. No state funds all?

Al Christianson: The original legislation in 1981 prohibited you from seeking any other things such as work force development. In SB 2306 that has been changed that you could seek work force development or you could try to use a match program. The only thing we used for Blue Flint is the work force development because that is a very good program to move these people into jobs that are paying the $60,000 to $90,000 range. We are not asking for any handouts.

Vice Chairman Kasper: The work force development, how much money are you looking at there?

Al Christianson: I think at Blue Flint that serves 40+ employees, it is $157,000. It is not much money. It is a good program to use for training.

Vice Chairman Kasper: The bill is passed, the loan is guaranteed, it will be the equity dollars or borrowed dollars and your plan shows now that it will work without any subsidies?

Al Christianson: It shows it will work if we build a 50 million gallon conventional backbone and then do the bolt-on later. There is a blenders' credit out there now that can be taken by whoever blends the ethanol. Most ethanol plants don't do the blending. It is done by Tesoro or whoever. The ethanol industry is now proposing that all those subsidies go away over the next four years. They will phase out subsidies completely and stand on their own.

Representative Ruby: Are there no lead lenders who are willing to take the risk without guarantees at all?

Al Christianson: We have looked at going out to refinance Blue Flint because we did that with a large Wall Street Banker and the hurdles you have to jump through are amazing even though we paid our debt down at twice the rate we had scheduled. We have had a tough time finding anybody without a guarantee. Bob Humann could answer that better than I can.

Chairman Keiser (asking Bob Humann): You are in charge of all this. Historically we used to have 100% coverage by transferring of the Land and Mineral Trust fund into the reserve account. You are proposing just 25% of whatever the guarantee is. Why do you need 25% coverage versus just taking 100% of the risk? What would the bank's position be on 100% of the risk?

Bob Humann: Five years ago I don't think these state guarantees were needed. Lenders were comfortable with ethanol. The industry was thriving. Things have changed. The price of corn has gone up. The facilities in North Dakota have been profitable. There is no doubt that Al's facility in Underwood, Blue Flint, is the most profitable of all. We have worked with them in the last six months trying to find a new lead lender that would take over their debt. They paid down the debt double. What I see with this bill, with ethanol going ahead, lenders are not comfortable with ethanol. Then you are looking at some of the new technology which makes it worse as it is unproven. You have to leverage the United States Department of Agriculture as much as you can and then the state will come in and provide the other 25% guarantee to make a lead lender comfortable in being able to put that package together. What has made me more comfortable, if we maxed out a $25 million guarantee, and after five years the facility failed, we would be able to sell that facility for 39 cents on the dollar and we would still be able to come out whole because of all the equity the borrowers have put in up front and because of the five-year amortization period that they paid on. What I don't want as a lead lender, is all of sudden book a bunch of

100% risk because we only have so much money in loan loss reserve. If we start doing a bunch of these big projects and we don't have a backstop like the Land and Minerals Trust Fund, it is going to make our Loan Loss Reserve a little tighter.

Chairman Keiser: How can we scale this back to make Al's project work? I don't see it?

Bob Humann: You can use his first example, that 9 million cellulosic ethanol example for either his 50 million gallon corn facility or his 9 million cellulosic facility. They are the same numbers. It is a $100 million of cost.

Chairman Keiser: He just wants to do Phase I. Can we cut those numbers and do Phase I, in the original bill. What do you need guaranteed, Al?

Al Christianson: We need somewhere in the neighborhood of $15 million.

Chairman Keiser: That is a start. This is going to appropriations.

Bob Humann: This is not just Al's bill. The sugar beet people can benefit, Yellowstone Ethanol in Williston has been working on an ethanol project. That's why there is $50 million here because there could be other guarantee requests that come in at this $12.5 million level.

Chairman Keiser: Can we cut the $25 million? Can we limit that?

Bob Humann: Yes, that can work. That way you spread it out over four projects using the $50 million as opposed to two.

Al Christianson: We can work with that.

Representative Frantsvog: You commented if it failed, after five years if it is sold for 39 cents on the dollar, is 39 cents the bottom line or is that a reasonable estimate?

Bob Humann: I'm using that 39 cents, because we can come out whole if we can keep this thing working for five years.

Representative Frantsvog: The 39 cents is the break even?

Chairman Keiser: Your risk is 9 cents on the dollar.

Bob Humann: What is scary, it might be easier to sell a corn ethanol facility that it is cellulosic or sugar beet because it is new technology and have to have the people willing to grow the crops and give up the wheat. So there is more risk because there are less buyers because it is not as proven technology as corn ethanol. In Denmark they don't want to use food or corn to make ethanol. They want to use generation II. They want to use a waste product which is either wheat straw or something else.

Chairman Keiser: If we reduce the amount per project, we have to find another way to fund this other than the Land and Mineral Trust Fund. Is there any alternative that you can come up with?

Bob Humann: Eric and I have worked with Rep. Carlson and we just don't see any other money.

Chairman Keiser: Is he willing to commit to that money?

Bob Humann: I don't know. I haven't seen all the numbers on the Land and Minerals Trust Fund. There would have to be two things done here. If you take the project maximum down to 12.5, what is the upper limit? Is it still $50 million? It is the 50 that really affects how much Land and Minerals Trust Fund has to set aside.

Chairman Keiser: But we could go to 25 and have 2 projects?

Bob Humann: Yes. That is an option. We would take my number here of this $12.5 million and cut it in half and it would be $6,250,000 is what Land and Minerals Trust Fund would have to set aside.

Al Christianson: One of the things I don't understand, this commitment for the Land and Minerals Trust Fund for $10 million has been there since 1981. So is that a commitment that the $10 million should have been there already until there is a loan or does that mean the $10 million committed prior in 1981, if that was still in the Land and Minerals Trust or if how Senate Finance is talking about moving that responsibility over to the new infrastructure fund. If that 10 million was there, you could then change this to $12,540,000 and never go to any new money.

Chairman Keiser: That money is there right now based on the old legislation. Isn't it?

Bob Humann: The numbers Jeff Engleson from the State Land Dept. went through last Monday, the dollars weren't in there.

Chairman Keiser: Should they have been?

Bob Humann: Yes.

Chairman Keiser: So there isn't any money there.

Bob Humann: They should have been there. That should have been addressed since 1981. There should have been some kind of a contingent liability for the permanent Land and Minerals Trust Fund.

Chairman Keiser: We are going to talk with Al Carlson and have a discussion and eventually go to appropriations and get that battle won.

Al Christianson: It didn't go to appropriations in the Senate. There was no Fiscal note.

Chairman Keiser: If that $10 million had been there, but now we are going to have a transfer of money and they need to know what is happening and approve it.

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2306
March 28, 2011-PM
16074

☐ Conference Committee

Committee Clerk Signature	Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Fuel production facility loan guarantee program; state funding limitations for recipients of fuel production facility loan guarantees

Work Session Committee Minutes:

Chairman Keiser: Opens the work session on SB 2306.

Allen Knudson~Legislative Council Staff: We can adjust that language where we talk about the bank may transfer funds. Since the bank doesn't control the Land and Mineral's Fund, it would be difficult for them to do so, the bank may request the State Treasurer to transfer funds. There is another error on the bottom, the Section 4 repeal, that is already in the bill, that should be in the amendment.

Chairman Keiser: We also put a sunset on this bill in that we are really not creating a new program, it's a program that's never been used and we are trying to provide more incentive to use it, to be examined. If you look at the full paragraph, on the third line, it's now going to read "the bank may request the State Treasurer to transfer funds from the State Lands and Mineral trust. Then we are going to strike the repeal section because it's already there.

Representative Frantsvog: Does the transfer take place immediately or only upon a project?

Allen Knudson: It would be at the request of the bank. I believe the bank would request the transfer until the project is in place.

Chairman Keiser: However, that fund has to, in some way, reserve those dollars. They may not be fisically transferred but they have to be there, correct?

Allen Knudson: That's correct.

Representative Vigesaa: The bill that takes money out of the Lands and Mineral's Trust and puts it into an infrastructure fund, how is this going to effect that, if that takes place?

Allen Knudson: If HB 1451 were passed by the house that sets up the infrastructure fund, if that bill goes through, this would have to reconcile with that. Then you might want to change the Lands and Minerals Trust here to the state infrastructure fund so the money could be transferred to the bank if necessary.

Vice Chairman Kasper: What is the ending balance of the Land and Mineral Trust Fund?

Allen Knudson: Right now there is a projection of 26 million.

Representative N Johnson: I noticed that the amendment also adds the Farm Credit Associations, where did that come from?

Bob Humann~Vice President of Lending from the BND: When we were doing amendments in the existing century code, we added a piece a number of years age to add a Farm Real Estate Loan Guarantee to the program to this existing legislation. What this legislation is referring to is it wraps up all the guarantee programs that the bank can be involved in. When we went through that testimony, Farm Credit lobbied that they could be one of the originating lead lenders that could actually could ask for a guarantee from the BND. What I see with this bill also is that Farm Credit Associations are financing a bulk of the ethanol in the state. I thought it would be important that we would expand it to be banks, credit union, saving and loans and also include the Farm Credit Associations anyway.

Chairman Keiser: What are your wishes with the amendment?

Representative Ruby: Moves the amendment 02002.

Representative M Nelson: Second.

Voice vote, motion carries.

Representative N Johnson: Moves a Do Pass as Amended and rerefer to Appropriations.

Representative Nathe: Second.

Chairman Keiser: Further discussion? Of all our programs in the state, Al's company is running one of the very best models of success we could have. If we could benefit his or any other company of that level and creates jobs, that's what we should be doing.

Roll call was taken for a Do Pass as Amended, rereferred to Appropriations with 13 yeas, 0 nays, 1 absent and Representative Ruby is the carrier.

FISCAL NOTE

Requested by Legislative Council
01/25/2011

Bill/Resolution No.: SB 2306

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

SB2306 amends the Fuel Production Facility Loan Guarantee Program created and not used since 1981. The Land & Mineral Trust would provide a guarantee reserve fund to minimize risk exposure to BND that would provide a loan guarantee of $25 million/project not exceeding $50 million in total.

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.*

There is no fiscal impact to the general fund. The fiscal impact is to the Land & Minerals Trust that would provide a guarantee reserve fund to BND. BND would benefit from the charging of a guarantee fee to administer this program.

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:	Bob Humann	Agency:	Bank of North Dakota

Phone Number:	328-5703	Date Prepared:	01/28/2011

Prepared by the Legislative Council staff for
House Industry, Business and Labor
March 28, 2011

VR
3/29/11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2306

Page 1, line 1, replace the second "and" with a comma

Page 1, line 1, after "6-09.7-03" insert ", and 6-09.7-05"

Page 1, line 2, remove "and"

Page 1, line 4, after "guarantees" insert "; and to provide an expiration date"

Page 1, line 23, after the second comma insert "farm credit associations,"

Page 2, line 6, replace "twenty-five" with "twelve"

Page 2, line 6, remove the overstrike over "~~five hundred thousand~~"

Page 2, line 7, replace "fifty" with "twenty-five"

Page 2, after line 7, insert:

"**SECTION 3. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-05. Establishment and maintenance of adequate guarantee funds - Use of lands and minerals trust.

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The ~~guarantee reserve fund must be maintained~~Bank may request the director of the office of management and budget to transfer funds from the lands and minerals trust created by section 15-08.1-08 ~~and any moneys transferred from the lands and minerals trust to maintain the~~to maintain twenty-five percent of the guarantee reserve fund balance. Transfers from the lands and minerals trust may not exceed a total of six million two hundred fifty thousand dollars. Moneys in the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 2, after line 8, insert:

"**SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2013, and after that date is ineffective."

Renumber accordingly

Date: March 28, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2306

House **House Industry, Business and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0571.02002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

voice vote - motion carried

Total Yes ____________ No ____________

Absent ____________

Floor Assignment ____________

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

02002

referral to appropriations

Date: Mar 28, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2306

House **House Industry, Business and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0511.02002 title 0.3000

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Nathe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	Ab	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep Ruby

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

Rereferral

REPORT OF STANDING COMMITTEE

SB 2306: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2306 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "and" with a comma

Page 1, line 1, after "6-09.7-03" insert ", and 6-09.7-05"

Page 1, line 2, remove "and"

Page 1, line 4, after "guarantees" insert "; and to provide an expiration date"

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Page 2, after line 8, insert:

"**SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2013, and after that date is ineffective."

Renumber accordingly

2011 HOUSE APPROPRIATIONS

SB 2306

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

SB 2306
3/31/11
16250

☐ Conference Committee

Committee Clerk Signature	Meredith Trautolt

Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the fuel production facility loan guarantee program; relating to state funding limitations for recipients of fuel production facility loan guarantees; and to provide an expiration date..

Minutes:

You may make reference to "attached testimony."

Chairman Delzer: Called the committee to order. Roll was called and a quorum was declared. I would like to state for the record that SB 2150 is put into the E&E section, it was the education bill on the 6th order today. We'll start with 2306.

Representative George Keiser, District 47: SB 2306 as amended by the House is before you. It relates to the fuel production facility loan guarantee program. It has been on the books for about 20-some years, though it has never been utilized. It was designed to provide a loan guarantee for these types of facilities, and the previous limits were that there could be no more than $2 million per project, or $10 million total. There was a requirement that monies from the land and minerals trust fund be transferred into the Bank of North Dakota for up to 25% for this. The original bill changed the $2 million per project to $25 million per project and the $10 million to $50 million total. What we did was look at a project that is on the horizon and asked them point blank if they needed that much money for the project, and the answer was no. They have a financial schedule for phase 1 and a maximum of $12.5 million from the loan guarantee is all that would be required. They currently are being required to come up with 50% of their own money for the project. The House Industry, Business, and Labor (IBL) committee reduced the bill to a total of $12.5 million for projects and $25 million total in case there was a second project that came online. We also added a sunset provision. The second part of the bill is a repealer, which is very important. When the original law was passed, it said if you used this program you could not use any other program available. There are many more programs available today. It has precluded their use of a program like Ag Pace or other incentive programs the state has developed in the last 10-15 years. This is designed somewhat for a specific project, a corn ethanol project. We tried to find a solution for them. We also added the term 'farm credit associations,' which often finance large, expensive programs.

Chairman Delzer: What's the liability to the state? It's a loan guarantee, so I know we could lose it, but what's the repayment schedule and when would we know whether or not we were losing any kind of loan guarantee?

Representative Keiser: I'm not qualified to answer that, but you can get someone from Bank of North Dakota to explain it to you, they have that information. They had a sheet and said they were comfortable with the plan as it was proposed.

Representative Monson: I'm looking at the bill page 1, line 15, and it says 'biomass,' it looks like that's the only kind of facility that would qualify for this.

Representative Keiser: We asked a similar question. If you look at the language in the current law, it is very specific that the facility must use grain-related and biomass farm products for agriculturally derived fuel production. The answer we were given is that biomass will cover all possibilities.

Chairman Delzer: I see there's an expiration date on this?

Representative Keiser: We put an expiration date on page 2 that it is effective through July 31, 2013, and after that date is ineffective.

Chairman Delzer: At that time does the whole program go away, or does it go back to its current state at the end of two years?

Roxanne Woeste, Legislative Council: I believe that means the changes made in this bill would be ineffective after that date. I will double check with our legal staff.

Chairman Delzer: But the existing language would go back into place, so if we wanted to actually say the whole program went away at the end of two years, we'd have to state that somewhere.

Woeste: That is correct, after two years the changes made would revert to the existing Century Code as it is right now.

Chairman Delzer: I see you're using the land and minerals trust fund, what if that goes away?

Representative Keiser: The question was, what's the source of the money that will provide the money for the guarantee? Going further than that is beyond the purview of our committee to deal with. We identified what seemed a reasonable source of funds.

Chairman Delzer: This would become effective August 1st of this year?

Representative Keiser: That is my understanding.

Representative Dosch: What does the Bank of North Dakota receive as far as guarantee fees? Are there any fees paid back to the Bank?

Representative Keiser: I believe it was about $100,000 annually for their fee.

Representative Dosch: This is for a specific project. We know that ethanol plants are heavily subsidized to be viable, and we know a lot of federal subsidies are going away. Did they talk about that and the effect on this operation?

Representative Keiser: This is a very special potential project. It is adjacent to an existing power plant. Some of the steam being generated can be used in the production of the ethanol, so it is very efficient. In addition to that, the ethanol that is going to be produced in this particular case will have direct value to the energy production plant, so it becomes a symbiotic relationship between the two. Whether or not their financial plan has the subsidy built into it, they would have to answer.

Representative Pollert: The plant you're talking about is in District 29. Cargill Malt is in Spiritwood. Great River Energy built the power plant you're talking about. The byproduct of the steam would help Cargill Malt and also this proposed ethanol plant, that's the idea, and I think it's on the similar concept of what's being done at Blue Flint, if I'm correct. And if I'm correct, Blue Flint is one of the most profitable ethanol plants in the country because of that new technology.

Representative Keiser: I believe that's correct.

Vice Chairman Kempenich: Were there any other sections of code within this part of the guarantee? Is this all that applies, did you talk about that?

Representative Keiser: We did not.

Representative Nelson: I was looking through the analysis of the land and mineral trust fund and it shows a balance of $26,401,000. This bill is referenced in there. Was it the Senate version?

Woeste: That reflects SB 2306 as approved by the Senate. It does not reflect any House amendments.

Representative Nelson: How would the House amendment be reflected on the $26 million ending fund?

Woeste: That analysis was in earlier March, we just footnoted that SB 2306 exists and that bill does require a guarantee, those funds would be available.

Chairman Delzer: It would have to come out of the 26 after it's there, it's not taken out now.

Representative Nelson: This would nearly zero out this fund then.

Chairman Delzer: It would take $6.5 million.

Representative Keiser: That is correct.

Representative Kroeber: Cargill has a huge wastewater reserve, and they are reusing that in the cooling of the plant. It is a very symbiotic affair between a number of organizations. Also, this project is starting with corn, but a portion will be in the biomass area for some experimentation. It has had a great deal of oversight, and we should pass this bill.

Chairman Delzer: Did you ask the Bank, with this loan guarantee, as we the last ones that would receive money?

Representative Keiser: We did ask what position we would be in, and they indicated it would be on a proportional basis of recovery.

Chairman Delzer: And there is 50% equity?

Representative Keiser: There is 50% from the investors putting together the package, and then they have to come up with financing for 50%.

Chairman Delzer: And they need a $12.5 million loan guarantee to come up with the other 50%.

Representative Keiser: That is correct.

Chairman Delzer: It is a $100 million project. That would be 12.5%. Questions by the committee? Thank you. We'll set that aside. Without opening this up for discussion, we would like the people involved in this project to provide some answers for us on paper.

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

SB 2306
4/4/11
16317

☐ Conference Committee

Committee Clerk Signature	Meredith Trautott

Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the fuel production facility loan guarantee program; relating to state funding limitations for recipients of fuel production facility loan guarantees; and to provide an expiration date.

Minutes:

You may make reference to "attached testimony."

Chairman Delzer: We'll discuss SB 2306. This bill sets up a loan guarantee of up to $12.5 million for an ethanol biomass facility. I think we all know it's going to be at Spiritwood, it's a chance for them to use more of the steam. The amendment (.02003)...how they come up with this loan guarantee program, it's been on the books for 20-some years, never been used, they changed it to fit this, put an expiration date of two years on it; however, with the expiration date in the bill the way it came before us, would simply go back to the old language. What the amendment is attempting to do is keep the language of the bill the same, but change the expiration so the whole program goes away in two years. Then, if anybody wanted this type of program again, they'd have to come in with it again.

Allen Knudson, Legislative Council: That isn't exactly what it does, it only repeals a section instead of a whole chapter. I believe if you want to repeal the whole program, the whole chapter should be repealed.

Chairman Delzer: Section 5 of the current bill, though, is the repealer that they wanted to keep in.

Knudson: You're correct, I was looking at the original bill. In the amendment, the whole chapter is being repealed, the new section 5 on the back of page 2.

Chairman Delzer: One of the things the House did was put the repealer of 6-09.7-08 in the Senate's bill, and I don't know if we have that repealer for these two years in the amendment. They said they needed to repeal part of the limitation of the bill the way it was, since it said if you got this loan guarantee, you couldn't receive any other incentives. They said the repealer on the bill that came to us, 6-09.7-08 is repealed and that is the one that would allow everybody to receive other incentives that are out there. But what we wanted to make sure of was that in two years everything went away. I don't think the amendment does that, and I don't know that it's a major issue since it's never used, it would just go back to its current form in two years. I can live with it the way it is. When I look at the amendment handed out, it looks to me like it does not allow for that repealer for the two years.

Knudson: Section 6 is the effective date, section 5 repeals the entire chapter, and is effective August 1, 2013.

Chairman Delzer: Discussion by the committee?

Representative Kaldor: Who brought forward this amendment?

Chairman Delzer: I asked to have it done, but I don't think it quite does what I had in mind. I think if we adopt it, it would be doing something we probably don't want to do. Further discussion? We have the bill before us.

Recording error.

Vice Chairman Kempenich: I move Do Pass.

Representative Brandenburg: Second.

Chairman Delzer: We have a motion for a Do Pass. Further discussion? We'll call the roll. Motion carries 19-1-1. We'll leave Representative Ruby as the carrier, since we did not make any changes to the bill. We'll take a five minute recess.

Date: 4/4
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2306

House Appropriations Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch		X	Representative Williams	X	
Representative Hawken	X				
Representative Klein					
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 19 No 1

Absent 1

Floor Assignment Rep. Ruby

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

REPORT OF STANDING COMMITTEE

SB 2306, as amended: Appropriations Committee (Rep. Delzer, Chairman) recommends **DO PASS** (19 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2306, as amended, was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2306

(1)

Testimony - SB 2306

Senator Terry Wanzek

District 29 – 1/31/11

Chairman Klein and Senate members of the Industry Business and Labor Committee, my name is Terry Wanzek, a State Senator from District 29. I am here today to provide testimony on SB 2306. SB 2306 addresses a current statutory program established back in 1981. It is called the fuel production facility loan guarantee program with the Bank of ND. This bill does not create a new program or new policy. It already exists. It is current law and requires the qualified facility to produce agricultural derived fuel from biomass.

The substantive change in this bill is to increase the limit of the loan guarantee dollars. Inflation! Currently the law allows for a $2.5 million guarantee per loan with a maximum of program guarantees to not exceed $10 million in total. This bill changes those numbers to an individual loan guarantee to not exceed $25 million with a total loan guarantee program limit of $50 million. The bill also repeals 6-09.7-08 of the century code. This section prohibits any approved loan guarantee recipient from receiving any other program aid of any kind.

The BND is authorized but not mandated to provide this guarantee. To be clear, the Bank does not need to guarantee a loan that it does not feel to be credit worthy. It is in their discretion and hopefully in their purview to do due diligence in providing a loan guarantee, just like making a direct loan. The Bank can charge a fee for this guarantee service.

There are a number of projects being considered that could benefit from a loan guarantee like this. It is my understanding that some of these projects are also looking into other federal loan guarantee programs through the USDA. This program could compliment those efforts. I was encouraged by some of these project planners to consider this bill as an additional tool to assist in their securing financing.

A number of these folks are here to further explain their situations and their plans and needs. Therefore Mr. Chairman and IBL Senators I will end my testimony and ask if there are any questions? Thank you for your time.

CHAPTER 6-09.7
FUEL PRODUCTION FACILITY LOAN GUARANTEE PROGRAM

6-09.7-01. Guarantee loan program - Administration - Advisory board. The Bank of North Dakota shall administer the state guarantee loan program as provided in this chapter. The advisory board of directors to the Bank of North Dakota appointed pursuant to chapter 6-09.1 shall act in an advisory capacity concerning the program.

6-09.7-02. Powers and duties of the Bank of North Dakota. The Bank of North Dakota may:

1. Guarantee the loan of money by eligible banks, credit unions, and savings and loan associations, upon such terms, conditions, and procedures as it may establish in accordance with the provisions of this chapter, to any qualified person to assist that person in constructing agriculturally derived fuel production facilities of a size to serve the community in or near which the facility is located. The facility must use grain-related and biomass farm products for agriculturally derived fuel production.

2. Take, hold, and administer, on behalf of the state from any source, any property, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the Bank is payable out of any moneys of the Bank except those made available to it under this chapter.

3. Adopt standards governing the qualifications and financial needs of applicants, and establish a method of application for the guaranteeing of loans which may be made by banks, credit unions, and savings and loan associations, and any other standards as may be necessary to administer properly this chapter.

6-09.7-03. Extent of loan guarantee. The extent of the loan guarantee under this chapter may not exceed twenty-five percent of the total loan. The maximum dollar amount of any guarantee on a single loan may not exceed two million five hundred thousand dollars. The extent of the value of all loan guarantees under this chapter may not, at any one time, exceed ten million dollars.

6-09.7-04. Bank to prescribe the rate of interest on guaranteed loan. Any loan guaranteed by the Bank of North Dakota must bear interest at a rate not in excess of the interest charged by the lender to other persons for similar types of loans not guaranteed by the Bank unless the Bank determines that a higher rate of interest is justified by special circumstances and would be consistent with the general objectives of this chapter.

6-09.7-05. Establishment and maintenance of adequate guarantee funds - Use of lands and minerals trust. The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the lands and minerals trust created by section 15-08.1-08 and any moneys transferred from the lands and minerals trust to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve.

6-09.7-06. Procedure on default of guaranteed loan. Whenever it appears to the satisfaction of the Bank of North Dakota that a guaranteed loan is in default, and the eligible lender has certified this fact to the Bank, the Bank shall reimburse the eligible lender making the loan from the reserve fund to the extent the loan was guaranteed by the fund. Whenever payment of the guaranteed principal balance of any guaranteed loan is demanded of the Bank, the note and accompanying evidence of the loan must be tendered to the Bank in manner and form to confer good title so that the loan may be collected by the Bank as it may determine according to law. No statute of limitations may be used as a defense against collection, through court proceedings, of any loan guaranteed under this chapter.

6-09.7-07. Fees for reasonable costs. The Bank of North Dakota may charge reasonable fees for guaranteeing of loans under this chapter, and the fees must be available to defray costs of administering the state guarantee loan program. Fees in excess of the amount required to pay the cost of administering the program must be deposited in the reserve fund.

6-09.7-08. Limitation on additional state aid. Any person whose application for a loan guarantee under this chapter is approved is not eligible to receive additional aid in the form of a loan, grant, or guarantee from any state agency, department, or instrumentality.

6-09.7-09. Agricultural real estate loans - Guarantee. The Bank of North Dakota may guarantee the loan of money by banks, credit unions, lending institutions that are part of the farm credit system, and savings and loan associations in this state to eligible persons for the purchase of agricultural real estate or the restructuring of agricultural real estate loans, provided the transactions do not exceed a loan-to-value ratio of eighty percent and further provided that no single loan exceed four hundred thousand dollars. The Bank of North Dakota may have no more than eight million dollars in outstanding loan guarantees under this section. The Bank of North Dakota may establish additional terms, conditions, and procedures, as necessary to meet the requirements of this section.

(2)

GREAT RIVER ENERGY®

12300 Elm Creek Blvd • Maple Grove, Minnesota 55369-4718 • 763-445-5000 • Fax 763-445-5050 • www.GreatRiverEnergy.com

Testimony of
Al Christianson, Manager
North Dakota Business Development & Government Affairs
Great River Energy
on
SB 2306
Senate Industry, Business & Labor Committee
Committee Room
January 31, 2011

Chairman Klein and members of the Senate Industry, Business & Labor Committee, my name is Al Christianson and I serve as the Manager of Business Development and Government Affairs for Great River Energy in North Dakota. I'm here today in support of SB 2306, which amends the existing fuel production loan guarantee program.

Great River Energy is a not-for-profit electric cooperative providing wholesale power to 28 distribution cooperatives in Minnesota and into Wisconsin. Our member cooperatives distribute that electricity to families, farms and businesses serving almost 1.7 million people.

Great River Energy is the second largest electric utility in Minnesota and one of the largest generation and transmission cooperatives in the country. Based in Maple Grove, Great River Energy owns and operates 11 power plants, including Coal Creek Station and Stanton Station in North Dakota, and more than 4,500 miles of transmission line in Minnesota and North Dakota.

Construction of Spiritwood Station – a 99 MW combined heat and power plant – is near completion and the plant will go online January 1, 2012. The plant will produce two primary products: electricity and steam. Spiritwood Station was constructed on a site adjacent to

Cargill Malt and will provide steam to that facility. In addition, Great River Energy has been actively pursuing additional steam partners to co-locate at the Spiritwood Energy Park.

To that end, GRE, along with several other partners, are working to develop and build a biorefinery – Dakota Spirit AgEnergy – adjacent to Spiritwood Station (see attached fact sheet). Dakota Spirit AgEnergy propose to converts biomass (wheat straw and corn stover) into a variety of higher value energy products. DSA will utilize approximately 480,000 tons per year of biomass feedstocks (wheat straw and corn stover) to produce 20 million gallons of cellulosic biofuels, 170,000 tons of purified lignin (boiler fuel) and 188,000 wet tons of feed grade C-5 molasses per year.

This project is a first-of- a-kind opportunity for North Dakota. As Governor Dalrymple noted in his State of the State Address, *"...The new integrated energy systems of the future could be the most important opportunity for our state."* Great River Energy believes that Dakota Spirit AgEnergy represents the future of integrated energy projects in North Dakota.

Dakota Sprit AgEnergy will be a first-of-a kind facility in this country – Serial Number 1. And, as you know, Serial Number 1,700 is a lot more economical to construct that Serial Number 1. Dakota Spirit AgEnergy is a $300 million project that will provide nearly 60 full-time positions at the biorefinery and 25 seasonal positions for the collection, harvest, storage and transportation of the biomass needed to operate the facility.

Dakota Spirit AgEnergy is seeking to utilize all available programs and resources at the federal and state levels to leverage our ability to capitalize the project and enter the construction phase. We've identified federal programs – such as USDA's Biorefinery Assistance Program – that DSA can potentially utilize to help finance the project debt. The Bioerefinery Assistance Program offers federal loan guarantees to qualifying applicants at various levels depending on total project loan amounts. If DSA were to apply and qualify for the federal loan guarantee, the federal government would guarantee 60 percent of the project loan amount.

Federal programs serve only part of the need, however, and Great River Energy/Dakota Spirit AgEnergy fully support SB 2306, which amends the existing Fuel Production Loan Guarantee Program to allow for practical use for today's cutting edge advanced biofuels projects.

Program Establishment/Background

The North Dakota Fuel Production Loan Guarantee Program was established by the North Dakota State Legislature in 1981 to assist producers and communities to build ethanol facilities.

The intent of the program was for the Bank of North Dakota to provide 25 percent loan guarantees to ethanol projects to help back the construction of the facilities.

To fund the program, a guarantee reserve fund was to be established at the Bank of North Dakotan and the reserve fund was to be maintained from the land and minerals trust fund (15-03.1-08) so that money would be available to reimburse lenders for loans in default.

To date, the North Dakota Fuel Production Loan Guarantee Program has never been utilized.

SB 2306: North Dakota Fuel Production Loan Guarantee Program

The legislation before you (SB 2306) amends the existing fuel production loan guarantee program to do the following:

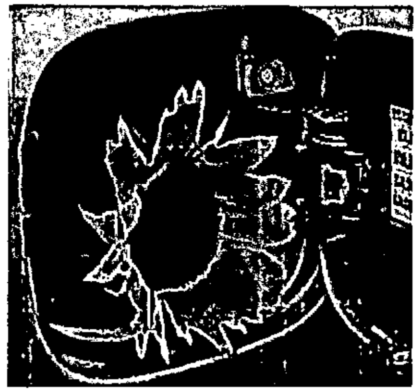
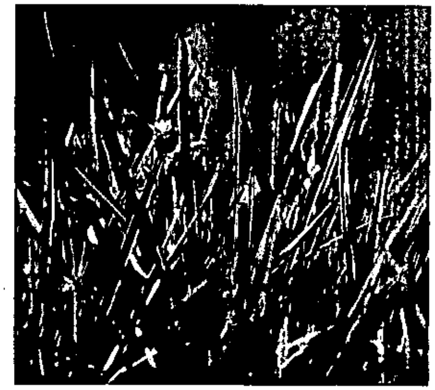
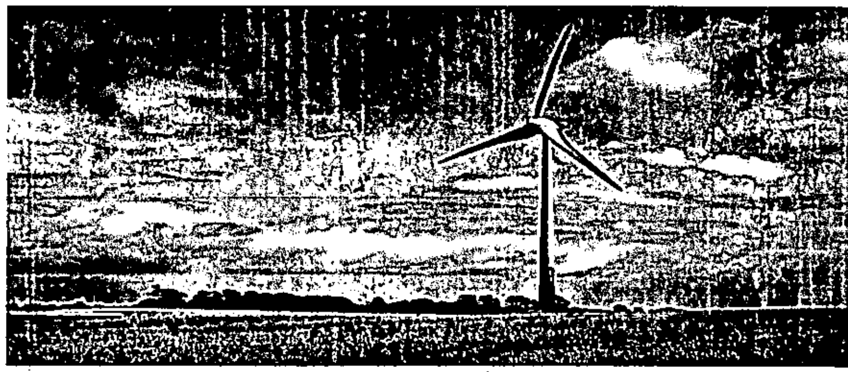
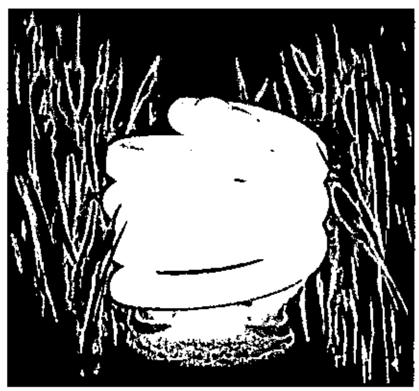
- broaden definition to include feedstocks, such as energy beets, as eligible (Section 1)
- Increase individual project loan guarantee amount to $25 million and total program guarantees to $50 million (Section 2)
- Remove language precluding eligible projects for applying for other state programs and/or grants (Section 3)

Conclusion

North Dakota is poised to be a leader in the deployment of integrated energy projects – including next generation biofuel production facilities. Many of these first-of-a-kind projects are expensive to build and difficult to finance. When updated to meet the needs of 21st century development, programs such as the Fuel Production Loan Guarantee Program have the potential to spur the needed private investment for projects to flourish and provide new economic opportunities for communities throughout North Dakota.

Chairman Klein and committee members, thank you for the opportunity to offer testimony today. Great River Energy/Dakota Spirit AgEnergy fully support SB 2306 as presented today and urge you to consider a "do pass" recommendation on this legislation.

Available upon request


NDARE

North Dakota Alliance for Renewable Energy, Inc.

Policy Recommendations

(3)

2007 Energy Bill

Renewable Fuel Goals

The president just signed the energy bill. These are the renewable fuel standard goals by 2022 in billions of gallons.

YEAR	Total Renewable Fuel	Advanced Biofuel	Conventional	Biodiesel	Cellulose
2008	9.0		9.0		
2009	11.1	.60	10.5	.50	
2010	12.95	.95	12	.65	.10
2011	13.95	1.35	12.6	.80	.25
2012	15.20	2.00	13.2	1.0	.50
2013	16.55	2.75	13.8		1.0
2014	18.15	3.75	14.4		1.75
2015	20.50	5.5	15.0		3.0
2016	22.25	7.25	15		4.25
2017	24.0	9.0	15		5.5
2018	26.0	11.0	15		7.0
2019	28.0	13.0	15		8.5
2020	30.0	15.0	15		10.5
2021	33.0	18.0	15		13.5
2022	36.0	21.0	15		16.0

The following list establishes definitions for the renewable fuels program which includes: conventional biofuel, advanced biofuels, and cellulosic biofuels.

- ***Conventional biofuel*** is ethanol derived from corn starch. Conventional ethanol facilities that commence construction after the date of enactment must achieve a 20 percent greenhouse gas (GHG) emissions reduction compared to baseline lifecycle GHG emissions. The 20 percent GHG emissions reduction requirement may be adjusted to a lower percentage (but not less than 10 percent) by the U.S.

- ***Advanced biofuels*** is renewable fuel other than ethanol derived from corn starch that is derived from renewable biomass, and achieves a 50 percent GHG emissions reduction requirement. The definition – and the schedule – of advanced biofuels include cellulosic biofuels and biomass-based diesel. The 50 percent GHG emissions reduction requirement may be adjusted to a lower percentage (but not less than 40 percent) by the Administrator if it is determined the requirement is not feasible for advanced biofuels.

- ***Cellulosic biofuels*** is renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass, and achieves a 60 percent GHG emission reduction requirement. The 60 percent GHG emissions reduction requirement may be adjusted to a lower percentage (but not less than 50 percent) by the Administrator if it is determined the requirement is not feasible for cellulosic biofuels.

(4)

North Dakota
Grain Growers Association

Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association
Testimony on SB 2306
Senate Industry, Business and Labor Committee
January 31, 2011

Mr. Chairman, members of the Senate Industry, Business and Labor Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear before you today on behalf of the North Dakota Grain Growers Association in support of SB 2306; this bill would enhance the Bank of North Dakota's ability to participate in the funding of agriculturally derived fuel production facilities in our state.

In 2009, North Dakota led the nation in the production of 15 different commodities including all wheat, spring wheat and barley. In all, North Dakota ranked in the top 15 states in the production of 23 commodities in this nation. Our state consistently leads the nation and the world in agricultural production for this nation and the world contributing $30 billion dollars to our state's economy each and every year.

SB 2306 is an enhancement to that economic engine; this bill provides the means to enhance value added opportunities for our states farmers by allowing the Bank of North Dakota greater flexibility in funding biomass-based fuel production facilities. The Energy Independence and Security Act of 2007 mandated a substantial increased use of biofuels by 2022. North Dakota already has the biomass stocks and the agricultural production in place; it is imperative that the state the State of North Dakota continue to take steps in participating in biofuel production. With the well positioned biomass fuel production facility already in the works, it only makes sense to give the Bank of North Dakota the tools necessary to enhance this effort.

We are all aware that construction costs have escalated. The increased loan guarantee amount as well as the guarantee's ceiling addresses the issue. Additionally repealing the exclusions contained in North Dakota Century Code 6-09.7-08 will provide greater flexibility in meeting the needs of biomass fuel production facilities in the state.

North Dakota farmers are interested in biomass fuel production in our state. As an aside NDGGA President Terry Weckerly will be accompanying Ag Commissioner Doug Goehring on a biomass production facility tour later in March. Giving farmers another value-added opportunity in our state and giving North Dakota based entities the ability to produce biomass energy is good public policy. SB 2306 is the vehicle to do accomplish this.

Mr. Chairman, members of the Senate Industry, Business and Labor Committee, the North Dakota Grain Growers Association supports SB 2306 and we would be open to any questions.

(5)

NDEC
North Dakota Ethanol Council

Testimony of
Deana Wise, Executive Director
North Dakota Ethanol Council
SB 2306
January, 31, 2011

Chairman Klein and members of the committee, my name is Deana Wiese and I am the executive director of the North Dakota Ethanol Council. I am here today on behalf of the Council to voice support for SB 2306.

The North Dakota Ethanol Council was established in 2009 by the North Dakota State Legislature to promote the state's ethanol industry. The Council is made up of representatives from the five North Dakota ethanol plants that produce more than one million gallons of ethanol annually.

SB 2306 increases the loan guarantee for an agriculturally derived fuel production facility, which would include an ethanol plant, and also increases the allowed value of all loan guarantees. This potentially would encourage the growth of the state's ethanol industry through the financing of additional plants, which is why we are here today in support of the bill.

We appreciate your support of North Dakota's renewable fuels in the past and would appreciate your favorable consideration of SB 2306.

(6)

Testimony of
Patrice Lahlum, Chair
North Dakota Alliance for Renewable Energy
on
SB 2306
Senate Industry, Business & Labor Committee
January 31, 2011

Chairman Klein and committee members, my name is Patrice Lahlum and I currently serve as chair of the North Dakota Alliance for Renewable Energy. I'm here today in support of SB 2306, which relates to the state's fuel production loan guarantee program.

The North Dakota Alliance for Renewable Energy, Inc. (NDARE), is a non-profit trade association formed to carry on the work of the North Dakota Renewable Energy Partnership, which dissolved in 2007 after serving for four years as an unincorporated association of individuals and companies interested in promoting ethanol, biodiesel, wind and biomass energy production and use in North Dakota through development and expansion of markets for renewable energy and through support of state and federal legislation enhancing the industry. NDARE was incorporated and began operation on January 1, 2008, to carry on the vision of expanding renewable energy development and use in North Dakota.

Attached to my testimony is a copy of the policy recommendations adopted by NDARE's membership late last year. Included in the policy recommendations is support for a state-level loan guarantee program to help advance energy technologies – such as the fuel production loan guarantee program.

NDARE supports SB 2306 and respectfully asks the committee for a "do pass" recommendation on this bill.

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2306
JANUARY 31, 2011, 2:15 P.M.
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
ROOSEVELT PARK ROOM
SENATOR JERRY KLEIN, CHAIRMAN

JOHN MITTLEIDER – MANAGER OF AG & BIOENERGY DEVELOPMENT, ND DEPARTMENT OF COMMERCE

Good afternoon, Mr. Chairman and members of the committee. My name is John Mittleider and I serve as the Manager of Ag & Bioenergy Development in the Division of Economic Development & Finance at the North Dakota Department of Commerce.

The Department of Commerce is neutral on SB 2306. With that said, I want to share information with you relative to finance conditions within the biofuels refining industry.

SB 2306 would modify existing legislation to allow the Bank of North Dakota to provide loan guarantees to businesses and companies constructing and operating biorefineries. Under current statute, the Bank of North Dakota currently has the authority to provide loan guarantees of up to $2.5 million per project and $10 million in aggregate. These levels of loan guarantees were significant when the legislation was first passed back in 1981. However, by today's standards and in today's economy, these historic levels of loan guarantee are very limiting.

Cost of a single biorefinery is significantly more than what we witnessed in the corn-to-ethanol complex. Biorefineries can cost in the magnitude of $10 to $15 per gallon of ethanol output. Some of the projects we are attempting to attract to the state today are in the projected $300 million to $650 million range for a single facility. The complexity of financing such projects typically relies upon public support.

Loan guarantees are mandatory before commercial lenders will become involved in financing these types of facilities. The most popular and widely used loan guarantee programs available today are through the U.S. Department of Agriculture. One of those loan guarantee programs, the BioRefinery Assistance Program, provides a maximum guarantee as little as 60% for projects in which the loan amount is $125 million or larger. The loan guarantee percentage increases as the loan amount declines.

While the USDA loan guarantees provide a significant level of protection, these loan guarantee levels often do not cover enough financial risk for private lender participation. Financial institutions generally require an 80% loan guarantee.

North Dakota has challenges to compete against financing tools other states have at their disposal. Allow me to provide a couple real-life examples to illustrate our challenge.

The State of Iowa has an incentive program called the Iowa Power Fund, which receives $25 million per year in general fund appropriations to fund renewable energy projects and research.

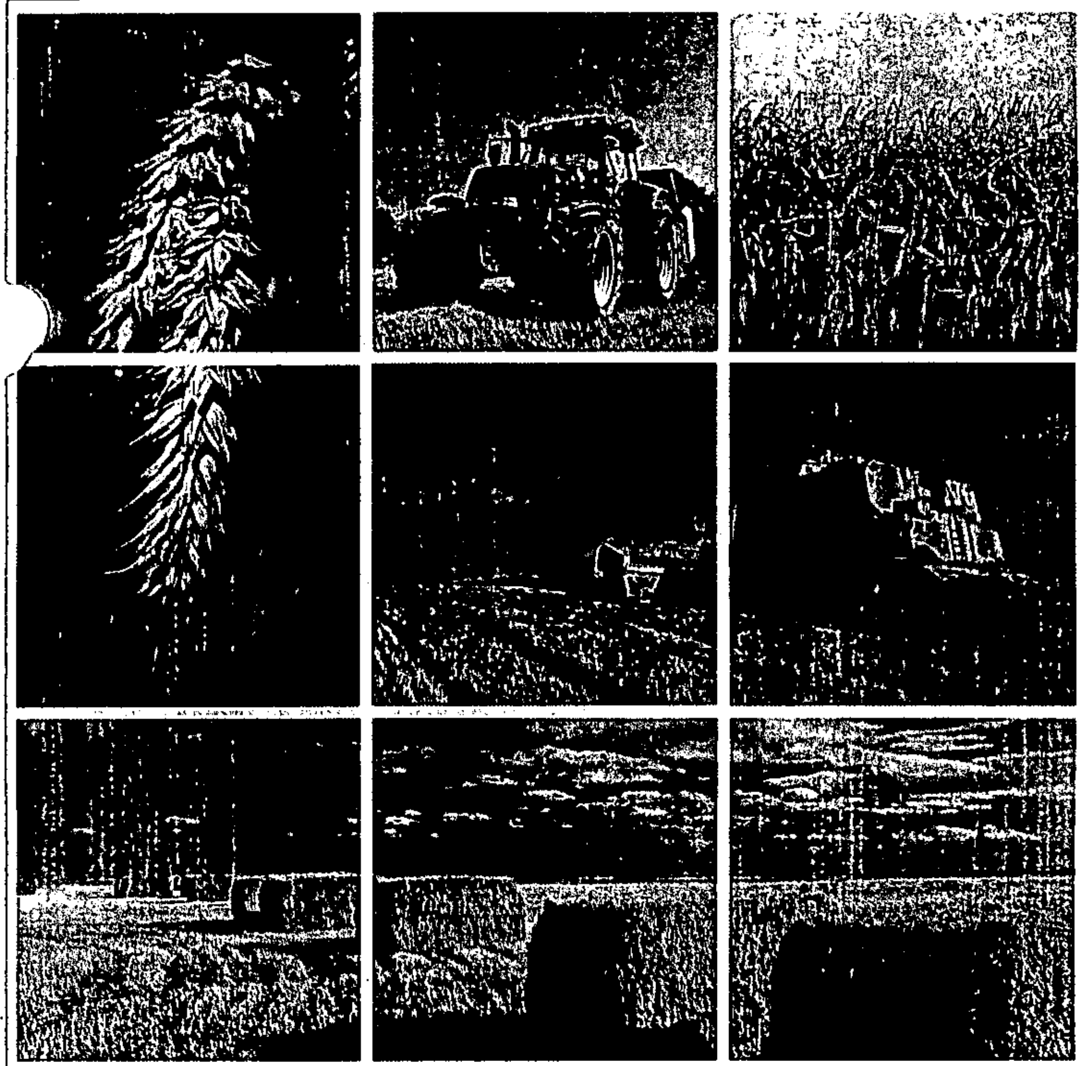
The Iowa Power Fund announced last week that it would award a $9 million grant to DuPont and Danisco, a cellulosic ethanol company, to construct a new ethanol plant in Iowa.

We have been working with another company to locate a $50 million cellulosic facility in the state. A $4 million up-front grant is being offered by our chief competition for this facility. There grants are huge incentives for companies to site facilities at these locations. We have no similar incentive programs in North Dakota. A loan guarantee program such as the one proposed in SB 2306 has the potential to provide a significant financial incentive for these types of facilities to locate in North Dakota.

Mr. Chairman and members of the Industry, Business & Labor Committee, that concludes my testimony and I am happy to entertain any questions.

DAKOTA SPIRIT
AGENERGY

Where Agriculture Meets Energy



Biomass Refinery

20 MGPY (million gallons per year)

Proposed for Spiritwood, North Dakota

www.DakotaSpiritAgEnergy.com

Testimony 1

Testimony - SB 2306

Senator Terry Wanzek

District 29 – 03/21/11

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There are a number of projects being considered that could benefit from a loan guarantee like this. It is my understanding that some of these projects are also looking into other federal loan guarantee programs through the USDA. This program could compliment those efforts. I was encouraged by some of these project planners to consider this bill as an additional tool to assist in their securing financing.

A number of these folks are here to further explain their situations and their plans and needs. Therefore Mr. Chairman and IBL Rep ~~Senators~~ I will end my testimony and ask if there are any questions? Thank you for your time.

Testimony 2

Testimony of
Al Christianson, Manager
North Dakota Business Development & Government Affairs
Great River Energy
on
SB 2306
House Industry, Business & Labor Committee

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To that end, GRE, along with several other partners, are working to develop and build a biorefinery – Dakota Spirit AgEnergy – adjacent to Spiritwood Station (see attached fact sheet). The Dakota Spirit AgEnergy project has evolved into a two phase hybrid concept. We are now proposing to construct a 50 mmgy conventional ethanol facility as the project backbone (Phase

I) with potential to add "bolt-on" facilities, including an 8 mmgy cellulosic component. The conventional facility would utilize 20 million bushels of corn to produce 50 million gallons of ethanol annually. Phase II - the cellulosic facility - would utilize approximately 192,000 tons of biomass (wheat straw and corn stover) to annually produce 8 million gallons of cellulosic ethanol, 75,000 tpy of C5 molasses and 68,000 tpy of lignin (boiler fuel), which can be co-fired with coal at Spiritwood Station.

The hybrid concept is attractive for several reasons. The construction conventional ethanol facility first will allow us to leverage mature technology and economies of scale. The cellulosic refinery is smaller-scale than originally proposed, but will have the advantage of shared infrastructure with the conventional plant and provide a more cost-effective feedstock radius.

This concept will also allow for additional "bolt-on" technologies – possibly including projects such as the energy beet concept that has been discussed during this legislative session.

This evolving project remains a first-of- a-kind opportunity for North Dakota. As Governor Dalrymple noted in his State of the State Address, *"...The new integrated energy systems of the future could be the most important opportunity for our state."* Great River Energy believes that Dakota Spirit AgEnergy represents the future of integrated energy projects in North Dakota.

Dakota Spirit AgEnergy will continue to utilize all available programs and resources at the federal and state levels to leverage our ability to capitalize the project and enter the construction phase. We've identified federal programs – such as USDA's Biorefinery Assistance Program – that DSA can potentially utilize to help finance the Phase II project debt. The Bioerefinery Assistance Program offers federal loan guarantees to qualifying applicants at various levels depending on total project loan amounts. If DSA were to apply and qualify for the federal loan guarantee, the federal government would guarantee 60 percent of the project loan amount.

Federal programs serve only part of the need, however, and Great River Energy/Dakota Spirit AgEnergy fully support SB 2306, which amends the existing Fuel Production Loan Guarantee Program to allow for practical use for today's cutting edge advanced biofuels projects.

Program Establishment/Background

The North Dakota Fuel Production Loan Guarantee Program was established by the North Dakota State Legislature in 1981 to assist producers and communities to build ethanol facilities.

The intent of the program was for the Bank of North Dakota to provide 25 percent loan guarantees to ethanol projects to help back the construction of the facilities.

To fund the program, a guarantee reserve fund was to be established at the Bank of North Dakotan and the reserve fund was to be maintained from the land and minerals trust fund (15-03.1-08) so that money would be available to reimburse lenders for loans in default.

To date, the North Dakota Fuel Production Loan Guarantee Program has never been utilized.

SB 2306: North Dakota Fuel Production Loan Guarantee Program

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- Remove language precluding eligible projects for applying for other state programs and/or grants (Section 3)

Conclusion

North Dakota is poised to be a leader in the deployment of integrated energy projects – including next generation biofuel production facilities. Many of these first-of-a-kind projects are expensive to build and difficult to finance. When updated to meet the needs of 21st century development, programs such as the Fuel Production Loan Guarantee Program have the potential to spur the needed private investment for projects to flourish and provide new economic opportunities for communities throughout North Dakota.

Chairman Keiser and committee members, thank you for the opportunity to offer testimony today. Great River Energy/Dakota Spirit AgEnergy fully support SB 2306 as presented today and urge you to consider a "do pass" recommendation on this legislation.

GREAT RIVER ENERGY®

A Touchstone Energy Cooperative

SPIRITWOOD STATION – BACKGROUND INFORMATION

Location:

- Great River Energy is building Spiritwood Station east of Jamestown, North Dakota.
- Spiritwood Station is located about one mile south of Spiritwood, North Dakota, on a 100-acre site adjacent to Cargill Malt.
- The plant is scheduled to be in commercial operation in January 2012.

Plant Type:

- Spiritwood Station is a combined heat and power plant – the first of its kind in North Dakota – and will generate two primary products: electricity and process steam.
- Spiritwood Station is designed to generate up to 76 megawatts of base load electricity and up to 23 megawatts of peaking electricity for the regional energy market.
- Spiritwood Station will generate process steam for Cargill Malt.

Plant Efficiency:

- Spiritwood Station will be highly energy efficient – 40 to 66 percent efficient – depending on the amount of steam provided to the site partners. This compares to 30 to 35 percent efficiency for a conventional coal-based power plant.

Fuel Source

- Spiritwood Station's will use DryFine™ as its fuel source.
- DryFine is a higher-efficiency fuel (less water, more Btus, less emissions) that is dried and refined from North Dakota lignite through innovative technologies at Great River Energy's Coal Creek Station near Underwood, ND.
- Spiritwood Station will use about 610,000 tons of DryFine per year.
- DryFine will be delivered to Spiritwood Station in enclosed rail cars.

Best Available Control Technologies:

- Spiritwood Station will use Best Available Control Technologies to control emissions.

Water Sources:

- Spiritwood Station will use wastewater from the Cargill Malt plant and grey water from the City of Jamestown and Stutsman Rural Water District in its processes.

Back-Up Boilers

- Spiritwood Station has back-up natural gas boilers that will be available to provide a full supply of process steam if the electric generating system is down for maintenance.

Jobs:

- Spiritwood Station will have a significant impact on the local economy through the creation of 43 operating jobs. This includes 24 direct jobs at the combined heat and power plant, and 19 indirect jobs for transportation of DryFine from Underwood to Spiritwood.

News Media Contact:

Lyndon Anderson, North Dakota Communications Supervisor, 701-391-0759

About Great River Energy:

Great River Energy is a not-for-profit cooperative which provides wholesale electric service to 28 distribution cooperatives in Minnesota and Wisconsin. Those member cooperatives distribute electricity to more than 645,000 member consumers – or about [illegible]llion people. With $3 billion in assets, Great River Energy is the second largest electric power supplier in Minnesota and one of [illegible]rgest generation and transmission (G&T) cooperatives in the United States. Great River Energy's member cooperatives range from those in the outer-ring suburbs of the Twin Cities to the Arrowhead region of Minnesota to the farmland of southwestern Minnesota. Great River Energy's largest distribution cooperative serves more than 120,000 member-consumers; the smallest serves about 2,400.

DAKOTA SPIRIT
AGENERGY.

DAKOTA SPIRIT AGENERGY – BACKGROUND INFORMATION

Dakota Spirit AgEnergy biorefinery project overview

- Dakota Spirit AgEnergy, currently a wholly-owned subsidiary of Great River Energy, is working to develop and build a "hybrid" biomass refinery to be located adjacent to Great River Energy's Spiritwood Station combined heat & power plant at Spiritwood, ND. The biorefinery would utilize steam from Spiritwood Station.
- A conventional dry mill ethanol plant is planned for Phase I in order to provide a backbone facility with mature technology and economies of scale.
- A cellulosic biomass front end is planned for Phase II in order to reduce overall capital costs and optimize the feedstock radius. The cellulosic technology would convert crop residues into a variety of higher value energy products including cellulosic ethanol, C5 molasses and purified lignin pellets (solid fuel).
- Dakota Spirit AgEnergy is working with Inbicon A/S, the cellulosic biomass refinery technology subsidiary of Danish utility DONG Energy, to implement its cellulosic technology here in North Dakota. Inbicon is currently operating this technology on a demonstration scale – 1.4 million gallons per year (MGPY) – in Kalundborg, Denmark.
- While Great River Energy intends to maintain a minority ownership interest in Dakota Spirit AgEnergy, the plant itself will be ultimately owned and operated by a small group of key stakeholders in the area.

About the biorefinery

- Feedstock: corn, wheat straw and corn stover. Preliminary feedstock assessments show adequate availability within a reasonable distance from the proposed site.
- Products: ethanol, DDGS, corn oil, feed grade C5 molasses and lignin fuel pellets.
- Dakota Spirit AgEnergy will have a significant impact on the local economy through the creation of up to 36 direct jobs in Phase I and 6 additional jobs in Phase II, as well as seasonal jobs to harvest, collect, store and transport the feedstock. The project will also create up to 175 trade and construction jobs during construction.

Biorefinery development team

- Blue Flint Ethanol/Headwaters, North Dakota Department of Commerce (NDDOC) and Jamestown/Stutsman Development Corporation (JSDC) are key stakeholders committing time and resources to the biomass refinery project team. Fagen Engineering has joined the team to help define the balance of plant (conventional fermentation & distillation) and overall capital budget. PowerStock is on the team to help define the biomass collection, harvest, storage and transportation issues and costs. Great Plains Institute is on the team to help define feedstock sustainability issues and navigate federal energy and agricultural policy issues.

Biorefinery financing and grants

- The total estimated cost of the hybrid biomass refinery will depend on the final sizing and design. Because it is new technology, the cost to build the plant is significant. Financing will depend on obtaining federal and state grants and loan guarantees.
- The North Dakota Agricultural Products Utilization Commission (APUC) awarded the project a $100,000 grant to be used to help fund a detailed feedstock supply and product value marketing study. The results of this study were published in February, 2011
- The North Dakota Industrial Commission – Renewable Energy Council has awarded the project a $500,000 grant to be used to help fund the Pre-FEED engineering on the scale up and conversion to U.S. standards. This project will run through 4Q2011.

Biorefinery Timeline

2011:	Front-end engineering design, project financing, permitting
2012-2013:	Phase I Construction
2014-2015:	Phase II Construction

News Media Contact:
Rachel Retterath, North Dakota Communications Specialist, 701-315-0083

Testimony 3

Testimony of Connie Ova, CEO

Jamestown/Stutsman Development Corporation

In support of

SB 2306

March 21, 2011

Chairman Keiser and members of the House Industry, Business and Labor Committee:

My name is Connie Ova. I am the CEO for the Jamestown/Stutsman Development Corporation and a partner in the Dakota Spirit Ag Energy Partnership. The Jamestown/Stutsman Development Corporation (JSDC) is dedicated to area economic development growth and diversification. The Dakota Spirit Ag Energy Partnership (DSA) is working to develop and build a hybrid biorefinery plant adjacent to Spiritwood Station, located in Spiritwood Township, Stutsman County. The biorefinery project which consists of a conventional 50 million gallon/year corn ethanol plant scheduled to be operational in 2012 will promote economic development through the creation of jobs. The eventual "bolt-on" project consists of an 8 million gallon/year cellulosic ethanol which creates a new revenue stream for agriculture producers to help sustain North Dakota's agriculture economy. Overall local employment benefit will be e significant as the infrastructure to harvest, store, and transport the 200,000 tons of biomass feedstock is developed. The hybrid facility is expected to deliver significantly greater value to North Dakota agricultural products (specifically a new market for wheat straw and corn stover), the infusion of new revenues into the surrounding communities and the State of North Dakota, and lead the way for the efficient and economic production of next generation transportation fuels, specialty chemicals, and renewable power.

I am here today in support of SB 2306 which amends the original fuel production loan guarantee program administered through the Bank of ND. It does this by expanding the definition to include additional feedstocks; increases the loan guarantee from $25M to $50M and removes language that precludes projects from applying for other state programs and resources. These amendments offer a much needed boost in the arm for the proposed DSA project as well as other existing and planned "first of a kind" projects including the Green Vision Group sugar beet project which are extremely expensive to build and very difficult to finance.

The Jamestown/Stutsman Development Corporation and Dakota Spirit Ag Energy Partnership urge you to look favorably on a recommendation to pass SB 2306. Thank you for your time.

Testimony 4

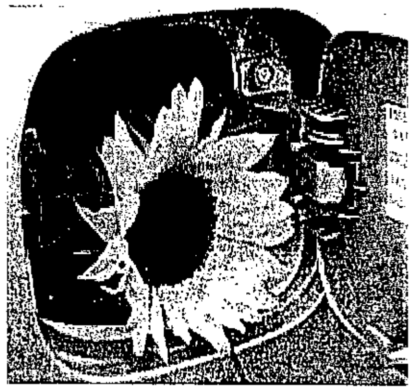
Testimony of
North Dakota Alliance for Renewable Energy
on
SB 2306
House Industry, Business & Labor Committee
March 21, 2011

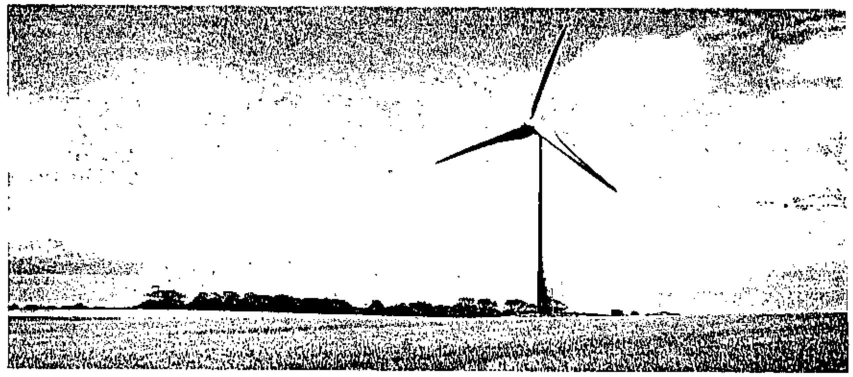
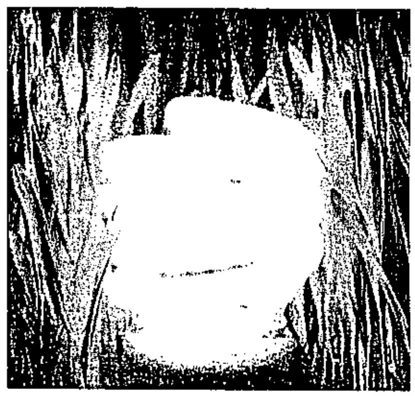
Chairman Keiser and committee members, the North Dakota Alliance for Renewable Energy would like to register support for SB 2306, which relates to the state's fuel production facility loan guarantee program.

The North Dakota Alliance for Renewable Energy, Inc. (NDARE), is a non-profit trade association interested in promoting ethanol, biodiesel, wind and biomass energy production and use in North Dakota through development and expansion of markets for renewable energy and through support of state and federal legislation enhancing the industry.

Attached to my testimony is a copy of the policy recommendations adopted by NDARE's membership late last year. Included in the policy recommendations is support for a state-level loan guarantee program to help advance energy technologies – such as the fuel production facility loan guarantee program.

NDARE supports SB 2306 and respectfully asks the committee for a "do pass" recommendation on this bill.




NDARE

North Dakota Alliance for Renewable Energy, Inc.

Policy Recommendations

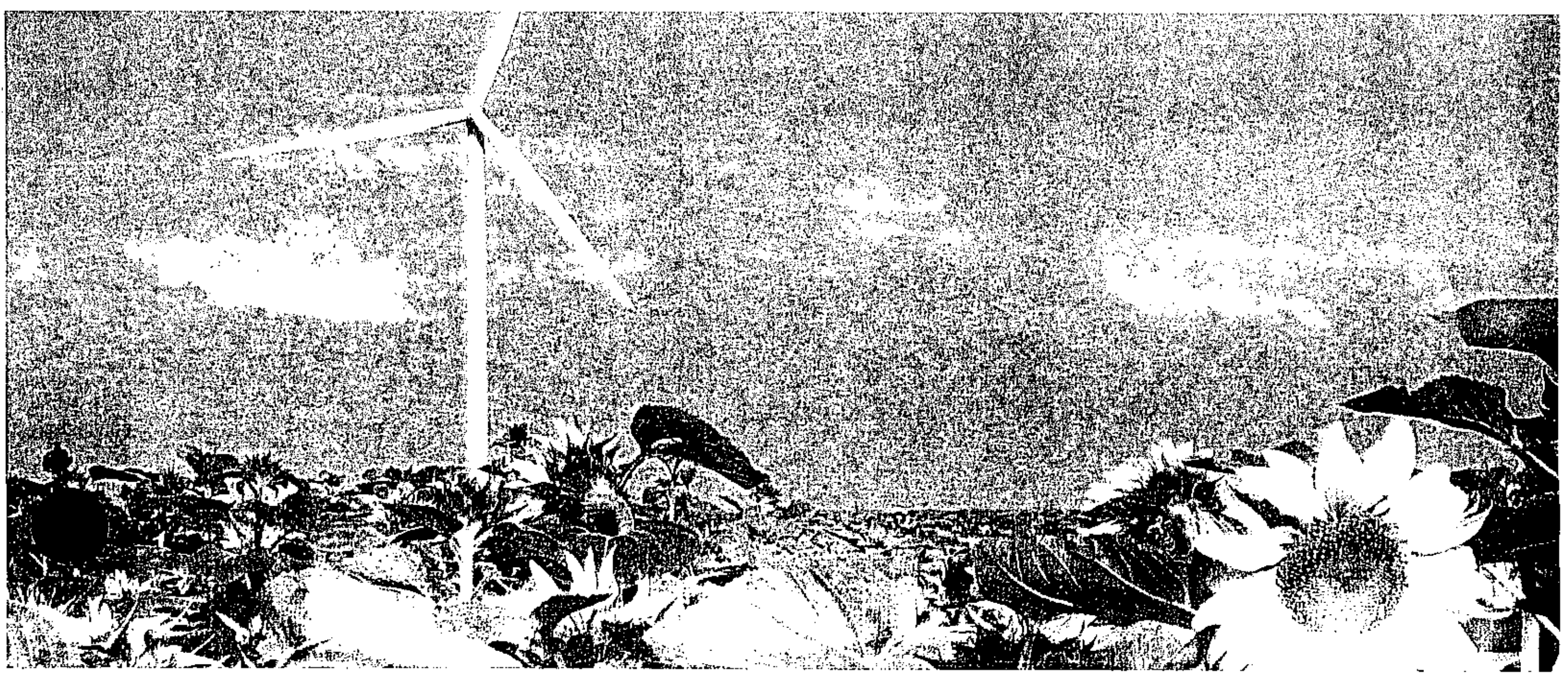
Secure and expand state funding for renewable energy and energy efficiency by:

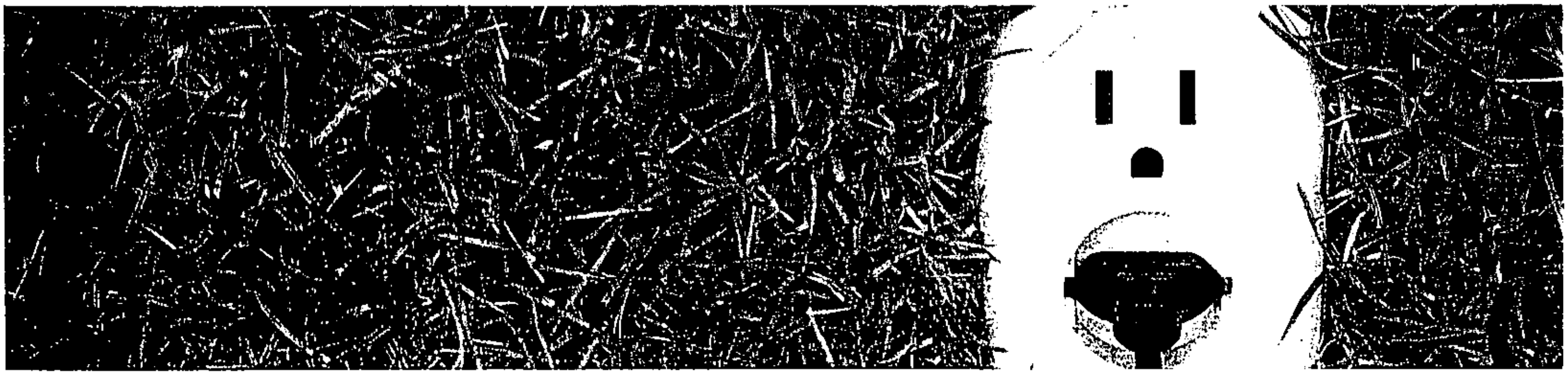
- Supporting a recommendation of $5 million for the Renewable Energy Council through state general fund appropriations.

- Dedicate at least three percent[1] during the next biennium from the Resources Trust Fund (RTF) for renewable energy and energy efficiency projects and activities. The fund, approved by voters as a constitutional measure in 1990, is formally dedicated to both water projects and energy conservation and efficiency. Yet, to date, no RTF dollars have been used for energy conservation, renewable energy, or waste products utilization projects. While NDARE members appreciate the contribution of water projects to our state's well-being, we also recognize the importance of energy efficiency and renewable energy development to our state's economy and believe the RTF should serve both purposes.

- Absent legislative action to allow the use of RTF dollars for energy efficiency and renewable energy activities, work with other organizations to give consideration to a statewide initiated measure that would allow the public to vote on whether or not a portion of the funds should be used for the above stated purposes.

[1]Based on the combined total of the 2009-2011 RTF ending fund balance ($128.4 million) and OMB projections for 2011-2013 RTF revenue ($204.4 million).





Achieve significant increases in energy efficiency in North Dakota, through:

- Adding a new member to the EmPower North Dakota policy board representing energy efficiency.

- Providing long-term, sustainable funding for energy efficiency education, outreach and technical assistance services of NDSU Extension.

- Enacting Property Assessed Clean Energy legislation authorizing local governments to sell renewable energy and energy efficiency bonds to finance renewable energy and energy efficiency improvements that are financed on property tax bills. This allows a property owner the voluntary option of financing energy efficiency improvements that continue, even if the owner sells the property. This helps overcome a key barrier to making efficiency investments with longer-term paybacks. In addition, we support federal legislation that would allow consumer loan options that are paid back over time without incurring up front expense.

- Capitalizing a self-sustaining state investment fund that would provide interest free financing to state agencies, local governments, institutions of higher education and school districts to undertake energy efficiency improvements that save taxpayer dollars over time. Each state agency, institution of higher education and school district that seeks loans through the fund would be required to establish an energy efficiency plan with performance measures, timetables and estimated budgetary savings. Fund managers would use those plans to evaluate the most cost-effective investment opportunities over time.

- Adopting ENERGY STAR or equivalent programs for appliances, equipment and non-building items to be accomplished by:
    - Ensuring that the State of North Dakota through its procurement activities, purchases ENERGY STAR conforming appliances and equipment; and
    - Launching an ENERGY STAR Challenge, to recognize both cities and public buildings for exemplary efforts to reduce energy use and costs.

- Adopting and enforcing a ND State building code for residential buildings that meets or exceeds the most recently published International Energy Conservation Code or achieves equivalent or greater savings and building codes for commercial buildings throughout the state that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007 and ensure regular and timely code updates.

- Requiring the Public Service Commission to exercise its authority to support those energy efficiency programs that are cost-effective and initiated by the rate-regulated utilities. The programs should include cost-recovery and a return on investment comparable to other utility investments.

- Requiring minimum ENERGY STAR or equivalent certification for new or remodeled public buildings in North Dakota. A certain threshold of remodeling would be necessary to trigger the requirement.

Enhance the production, availability, distribution and use of biofuels in North Dakota by:

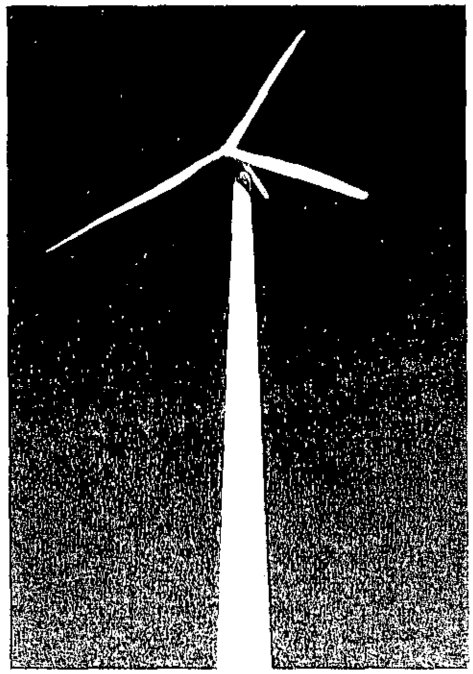
- Fostering the development of next generation biofuels, utilizing the agricultural and native feedstocks needed to produce biofuels, and including the promotion and expansion of the Biofuels PACE program to North Dakota agricultural producers and residents.
- Creating counter-cyclical production incentives for biodiesel.
- Creating tax incentives for biodiesel production and/or consumption.
- Supporting a long-term extension of the federal biodiesel production tax credit (PTC).
- Continuing the counter-cyclical production incentives for ethanol.
- Supporting the federal legislation to expand the allowable ethanol blend beyond E10 to E15 or greater, as supported by research.
- Strategically building and locating renewable fuel infrastructure throughout the state, including an extension of the current blender pump incentive program.
- Supporting a minimum 10 percent ethanol and 5 percent biodiesel blend requirement for all fuels at retail.
- Supporting the conversion of state refueling sites to include ethanol and biodiesel blender pumps and direct the state fleet to purchase hybrid or flex fuel vehicles in state fleet for light duty vehicle purchases.
- Supporting state programs and incentives to promote purchases of flex fuel and hybrid vehicles.
- Supporting curriculum in student driver education that addresses renewable fuels such as ethanol and biodiesel and hybrid and flex fuel vehicles.
- Defining "green diesel" in state statute and expanding the Biofuels PACE program to include "green diesel" as eligible.

Invest in commercial scale application of next generation energy technologies:

- In-place applications of wind energy that do not require the development of new transmission capacity.
- Wind-energy storage technologies, including the use of hydrogen.
- Cellulosic biomass conversion, including annual and perennial grasses and agricultural residue feedstocks.
- Lignite coal-based energy production with CO_2 capture and storage.
- Supporting the development of a state-level loan guarantee program to provide additional support to advanced energy technologies.

Fulfill our state's wind, biomass, and solar energy potential by:

- Supporting federal efforts to establish a nationwide, high-voltage electric transmission grid infrastructure.
- Reinstate the state wind and solar tax credit that was lost in the elimination of the long form for tax returns.
- Developing model ordinances to facilitate widespread adoption of residential and farm-scale wind, solar and other renewable energy systems.
- Implementing a coordinated strategy, led by state agencies in partnership with USDA Rural Development, to make North Dakota more competitive in receiving federal funding under the Repowering Energy Across America Program (REAP) for renewable energy and energy efficiency grants to agricultural producers, rural businesses and communities.
- Providing state incentives and other support for on-farm demonstrations of innovative and scalable renewable energy and energy efficiency applications.
- Gearing federal and state tax incentives toward community and local investment.
- Providing additional funding to allow for more energy audits of rural businesses and agricultural operations.



Protect the wind rights and interests of landowners and the commercial rights of wind energy project developers and owners by:

- Requiring the Public Service Commission (PSC) to develop rules governing wind turbine siting and compensation of landowners and rural homeowners. The rules should establish a formula for compensation of adjacent property owners whose wind resource is significantly affected by the siting of a turbine, but who do not host a turbine themselves. The rules should also establish a uniform policy for compensation of rural homeowners who live immediately adjacent to a proposed wind farm and disproportionately bear the impacts. Legislation should not define specific requirements for rules, but rather task the PSC to develop them according to a normal rule-making process that provides for public input from all affected parties to ensure that rules have the needed flexibility to accommodate a range of circumstances.

- Authorizing Public Service Commission siting oversight of commercial wind projects greater than 0.5 MW.

Foster the development of enhanced geothermal energy in North Dakota by:

- Commissioning a proactive feasibility study through the Industrial Commission or an appropriate state agency to determine state opportunities related to the development of enhanced geothermal systems.

- Developing an education and outreach effort to inform the public about the exciting prospects for EGS activity in North Dakota, featuring information on the two DOE-funded pilot projects scheduled to be undertaken in the oil fields of western ND.

- Examining North Dakota's current tax and business incentives to determine applicability to development of enhanced geothermal systems and to propose modifications to current state incentives or new incentives to encourage development of the state's geothermal resource.

- Requesting that the Empower Commission take a closer look at the potential for development of ND's geothermal resources and include policies in their plan to assist with that development.

Foster the development of the renewable energy sector by:

- Supporting the ongoing programs and activities of the Great Plains Energy Corridor.
- Supporting continued and expanding training for renewable energy and energy efficiency jobs, including through the support of the North Dakota Workforce Training Program.
- Supporting the development of distributed energy (small wind and solar).
- Supporting the Governor's recommendation to establish an energy development division in the North Dakota Department of Commerce.

NDARE - North Dakota Alliance for Renewable Energy, Inc.

The North Dakota Alliance for Renewable Energy, Inc. (NDARE), is a non-profit trade association formed to carry on the work of the North Dakota Renewable Energy Partnership, which dissolved in 2007 after serving for four years as an unincorporated association of individuals and companies interested in promoting ethanol, biodiesel, wind and biomass energy production and use in North Dakota through development and expansion of markets for renewable energy and through support of state and federal legislation enhancing the industry. NDARE was incorporated and began operation on January 1, 2008 to carry on the vision of expanding renewable energy development and use in North Dakota.

NDARE Board Members

Chair:
Patrice Lahlum
plahlum@gpisd.net

Vice-Chair:
Kim Christianson
kim.christianson@bsc.nodak.edu

Secretary-Treasurer:
Jocie Iszler
jiszler@cableone.net

Mindi Grieve
mgrieve@elpc.org

Al Christianson
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Scott Rising
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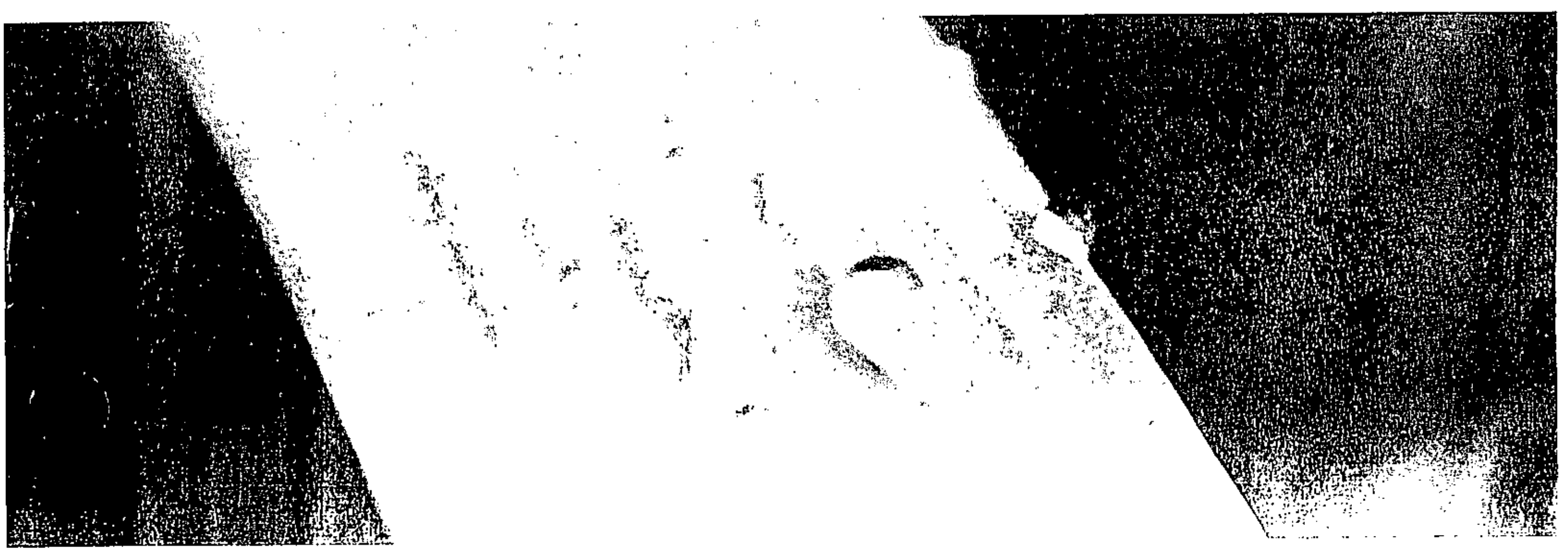
Mike Williams
gofargond@yahoo.com



NDEC
North Dakota Ethanol Council

Testimony 5

Testimony of
Deana Wiese, Executive Director
North Dakota Ethanol Council
In Support of SB 2306
March 21, 2011

Chairman Keiser and members of the committee, my name is Deana Wiese and I am the executive director of the North Dakota Ethanol Council. I am here today on behalf of the Council to voice support for SB 2306.

The North Dakota Ethanol Council was established in 2009 by the North Dakota State Legislature to promote the state's ethanol industry. The Council is made up of representatives from the five North Dakota ethanol plants that produce more than one million gallons of ethanol annually.

SB 2306 increases the loan guarantee for an agriculturally derived fuel production facility, which would include an ethanol plant, and also increases the allowed value of all loan guarantees. This potentially would encourage the growth of the state's ethanol industry through the financing of additional plants, which is why we are here today in support of the bill.

We appreciate your support of North Dakota's renewable fuels in the past and would appreciate your favorable consideration of SB 2306.

1605 E. Capitol Avenue
PO Box 1091 • Bismarck, ND 58502
701.355.4458 • 701.223.4645 (fax) • www.ndethanol.org

Testimony 6

North Dakota Soybean Growers Association

Testimony for SB 2306

Good morning Chairman Keiser and House IBL Committee Members. I am Scott Rising, and am here this morning on behalf of the North Dakota Soybean Growers Association.

I am respectfully seeking your support the changes to the Fuel Production Facility Loan Guarantee Program as currently found in SB 2306.

Since the inception of the Fuel Production Facility Loan Guarantee Program in 1981 it has been available to entice and assist Value-Added Ag Processing activity in North Dakota. It has obvious potential to positively impact Ag producers in North Dakota. Value-Added Ag processing provides opportunity to significantly reduce marketing costs for a given commodity in the local area of a processing facility.

These provisions also have potential to increase the availability "Home Grown" renewable energy, a worthwhile goal. Any time we can fuel ourselves, we deposits America's fiscal resources at home and avoid sending our most precious resources, our family members, friends and neighbors and to faraway places to protect needed energy sources and routes.

I will stand ready to field any questions that you may have of me.

Thank You all for your time and attention, and most importantly, your continuing service on our behalf.

Contact Information:
Scott Rising
701-527-1073 (cell)
grwbeans@earthlink.net

Testimony 7

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2306
MARCH 21, 2011, 10:00 A.M.
HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
PEACE GARDEN ROOM
REPRESENTATIVE GEORGE KEISER, CHAIRMAN

JOHN MITTLEIDER – MANAGER OF AG & BIOENERGY DEVELOPMENT, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee. My name is Kerri Kraft, speaking on behalf of, John Mittleider. John Mittleider serves as the Manager of Ag & Bioenergy Development in the Division of Economic Development & Finance at the North Dakota Department of Commerce.

The Department of Commerce is neutral on SB 2306. With that said, I want to share information with you relative to finance conditions within the biofuels refining industry.

SB 2306 would modify existing legislation to allow the Bank of North Dakota to provide loan guarantees to businesses and companies constructing and operating biorefineries. Under current statute, the Bank of North Dakota currently has the authority to provide loan guarantees of up to $2.5 million per project and $10 million in aggregate. These levels of loan guarantees were significant when the legislation was first passed back in 1981. However, by today's standards and in today's economy, these historic levels of loan guarantee are very limiting.

Cost of a single biorefinery is significantly more than what we witnessed in the corn-to-ethanol complex. Biorefineries can cost in the magnitude of $10 to $15 per gallon of ethanol output. Some of the projects we are attempting to attract to the state today are in the projected $300 million to $650 million range for a single facility. The complexity of financing such projects typically relies upon public support.

Loan guarantees are mandatory before commercial lenders will become involved in financing these types of facilities. The most popular and widely used loan guarantee programs available today are through the U.S. Department of Agriculture. One of those loan guarantee programs, the BioRefinery Assistance Program, provides a maximum guarantee as little as 60% for projects in which the loan amount is $125 million or larger. The loan guarantee percentage increases as the loan amount declines.

While the USDA loan guarantees provide a significant level of protection, these loan guarantee levels often do not cover enough financial risk for private lender participation. Financial institutions generally require an 80% loan guarantee.

North Dakota has challenges to compete against financing tools other states have at their disposal. Allow me to provide a couple real-life examples to illustrate our challenge.

The State of Iowa has an incentive program called the Iowa Power Fund, which receives $25 million per year in general fund appropriations to fund renewable energy projects and research.

The Iowa Power Fund announced last week that it would award a $9 million grant to DuPont and Danisco, a cellulosic ethanol company, to construct a new ethanol plant in Iowa.

We have been working with another company to locate a $50 million cellulosic facility in the state. A $4 million up-front grant is being offered by our chief competition for this facility. There grants are huge incentives for companies to site facilities at these locations. We have no similar incentive programs in North Dakota. A loan guarantee program such as the one proposed in SB 2306 has the potential to provide a significant financial incentive for these types of facilities to locate in North Dakota.

Mr. Chairman and members of the Industry, Business & Labor Committee, that concludes my testimony and I am happy to entertain any questions.

3/28/11 - a.m.

TO: ND Legislators
FROM: Bob Humann - SVP of Lending, BND
DATE: March 24, 2011
SUBJECT: SB 2306 Examples

Fuel Production Facility Loan Guarantee Program:

NDCC 6-09.7 was created in 1981 for establishment of the Fuel Production Facility Loan Guarantee Program. BND would administer this program that would provide up to a 25% guarantee on loans made to agriculturally derived fuel production facilities. The maximum dollar amount of any guarantee on a single loan may not exceed $2,500,000. The total of all guarantees issued by BND would not exceed $10 million. This legislation also stated that an adequate reserve fund must be maintained from the Land and Minerals Trust Fund (LMTF) to cover any losses that BND may incur. No guarantees have been issued by BND under this Program.

SB 2306 intends to change the maximum guarantee amount on any single loan to $25 million and also sets the total of all guarantees to be issued by BND not to exceed $50 million. With BND being aware of the number of requests for LMTF dollars, BND proposed to limit the amount of adequate reserve fund to 25% of the guarantee amount issued. BND would bear the risk of the remaining 75% of the guarantee amount. The 25% amount was chosen based upon a nationwide loss rate by USDA of 8% and ND loss rate of 30%. Following are two examples of how the Guarantee Program would be used to minimize the risk for Lenders financing biomass projects:

9 million gallon cellulosic ethanol facility:

$100,000,000	Total Project Cost
$ -50,000,000	Borrower's Equity (50%)
$ 50,000,000	Financing Needs
$ 50,000,000	Total Loan Amount (50%)
$ -30,000,000	USDA Guarantee (60%)
$ -12,500,000	BND Guarantee (25%)
$ 7,500,000	Lender's Total Loan Exposure (15%)
$ 12,500,000	BND Guarantee Amount (25% of Loan Amount)
$ 3,125,000	LMTF Reserve Fund (25% of Guarantee Amount)
$ 9,375,000	BND Guarantee Amount at Risk (75%)

BND would most likely charge a 1% guarantee fee of the outstanding guarantee exposure to be split on a pro-rata basis with the LMTF as follows:

	Guarantee Fee:	1st Year:	15 Years:
$ 12,500,000	BND Guarantee Amount (25% of Loan Amount)	$125,000	$1,117,907
$ 3,125,000	LMTF Reserve Fund (25% of Guarantee Amount)	$ 31,250	$ 294,770
$ 9,375,000	BND Guarantee Amount at Risk (75%)	$ 93,750	$ 884,300

20 million gallon sugar beet ethanol facility with no USDA Guarantee:

$ 40,000,000	Total Project Cost
$ -20,000,000	Borrower's Equity (50%)
$ 20,000,000	Financing Needs
$ 20,000,000	Total Loan Amount (50%)
$ -5,000,000	BND Guarantee (25%)
$ 15,000,000	Lender's Total Loan Exposure (75%)
$ 5,000,000	BND Guarantee Amount (25% of Loan Amount)
$ 1,250,000	LMTF Reserve Fund (25% of Guarantee Amount)
$ 3,750,000	BND Guarantee Amount at Risk (75%)

Ethanol facility with BND Guarantee at $25 million with liquidation in 5 years resulting in a required sale of $.39 on the dollar for the Lenders to be made whole:

$200,000,000	Total Project Cost
$100,000,000	Borrower's Equity (50%)
$100,000,000	Financing Needs
$100,000,000	Total Loan Amount (50%)
$ -25,000,000	BND Guarantee (25%)
$ 75,000,000	Lender's Total Loan Exposure (75%)
$ 25,000,000	BND Guarantee Amount (25% of Loan Amount)
$ 6,250,000	LMTF Reserve Fund (25% of Guarantee Amount)
$ 18,750,000	BND Guarantee Amount at Risk (75%)

BND would most likely charge a 1% guarantee fee of the outstanding guarantee exposure to be split on a pro-rata basis with the LMTF as follows:

	Guarantee Fee:	1st Year:	5 Years:
$ 25,000,000	BND Guarantee Amount (25% of Loan Amount)	$250,000	$1,099,354
$ 6,250,000	LMTF Reserve Fund (25% of Guarantee Amount)	$ 62,500	$ 274,838
$ 18,750,000	BND Guarantee Amount at Risk (75%)	$187,500	$ 824,516

If the operation failed after 5 years and the facility was sold for $.39 on the dollar there would be no loss for the Lender and no Guarantee paid by BND:

$200,000,000	Cost of Facility X 39% =
$ 78,785,779	Total Loan Balance after 5 Years
$ 19,696,445	BND Guarantee Amount (25% of Total Loan Balance after 5 Years)

Prepared by the Legislative Council staff

April 2, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2306

In lieu of the amendments adopted by the House as printed on pages 1217 and 1218 of the House Journal, Senate Bill No. 2306 is amended as follows:

Page 1, line 1, replace the second "and" with a comma

Page 1, line 1, after "6-09.7-03" insert ", and 6-09.7-05"

Page 1, line 2, remove "and"

Page 1, line 3, after "6-09.7-08" insert "and chapter 6-09.7"

Page 1, line 3, remove "state funding limitations for"

Page 1, line 4, replace "recipients of" with "the"

Page 1, line 4, replace "guarantees" with "guarantee program; and to provide an effective date"

Page 1, line 23, after the second comma insert "farm credit associations,"

Page 2, line 6, replace "twenty-five" with "twelve"

Page 2, line 6, remove the overstrike over "~~five hundred thousand~~"

Page 2, line 7, replace "fifty" with "twenty-five"

Page 2, after line 7, insert:

"**SECTION 3. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-05. Establishment and maintenance of adequate guarantee funds - Use of lands and minerals trust.

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The ~~guarantee reserve fund must be maintained~~Bank may request the director of the office of management and budget to transfer funds from the lands and minerals trust created by section 15-08.1-08 ~~and any moneys transferred from the lands and minerals trust~~ to maintain twenty-five percent of the guarantee reserve fund balance. Transfers from the lands and minerals trust may not exceed a total of six million two hundred fifty thousand dollars. Moneys in the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 2, after line 8, insert:

"**SECTION 5. REPEAL.** Chapter 6-09.7 of the North Dakota Century Code is repealed.

SECTION 6. EFFECTIVE DATE. Section 5 of this Act becomes effective on August 1, 2013."

Renumber accordingly