

2013 SENATE POLITICAL SUBDIVISIONS

SB 2143

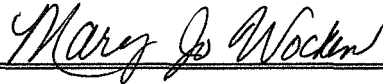
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

SB 2143
January 24, 2013
17704

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the investment of public funds

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing for SB 2143. Senators Anderson, Andrist, J. Lee, R. Sorvaag, J. Dotzenrod, J. Grabinger were present.

Senator George Sinner introduced and spoke in favor of SB2143. Senator Sinner was the prime sponsor of this bill. See written testimony. I request a do pass on this bill.

Chairman Andrist: Does this bill just affect federally chartered banks or is it also an issue with the state lenders?

Senator Sinner: It is all banks in North Dakota. Really this has to do with public deposits, so school districts, county governments that want to deposit in a bank, they have to be backed by some federally backed bond or in the case of the state a lot of them put their deposits in the Bank of North Dakota. They are banked by the full faith and credit in the state of North Dakota. That does not apply to this bill.

Chairman Andrist: It was my sense not to long ago that regular conventional savings accounts were being phased out, but I would guess maybe they are becoming more popular because they are a little more liquid and they don't pay much interest on CD's right now anyway, is that correct?

Senator Sinner: I would say that a lot more money today is moving into money market deposit accounts because of the low interest rate. People want it liquid in case rates go up. So I would agree with that statement but I think in most cases, what we're talking about here are money market savings accounts, not just regular old passbook savings like we all used to be used to. I think everybody's disappointed with the low rates except for borrowers.

Senator Sorvaag: With other deposits are you talking money market predominantly on the line there? Is there other deposits from a banker's standpoint like savings account, money market or is that predominantly what this is looking at?

Senator Sinner: That is correct.

Senator Anderson: I am not opposed to the bill. I am wondering if there might be somebody in the audience who was a member of the Credit Union group because a lot of that is not FDIC insured. They have their own other insurance and if that might be an issue here. I didn't know that it was not appropriate to have your checking account in an FDIC insured bank. I don't know whether they should be added to this bill or maybe a sponsor could talk about that.

Chairman Andrist: I am sure if they wanted to be added they would request but is there anybody in the audience who represents credit unions? It obviously is not an issue with them.

Chairman Andrist did not close the hearing because Marilyn Foss will be testifying on the bill sometime later in the morning. Hearing will continue later in the morning.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

SB 2143
January 24, 2013
17676

☐ Conference Committee

Committee Clerk Signature

Mary Jo Wocken

Explanation or reason for introduction of bill/resolution:

Relating to the investment of public funds

Minutes:

You may make reference to "attached testimony."

Chairman Andrist re-opened the hearing on SB 2143. All senators were present.

Marilyn Foss, North Dakota Bankers Association. Support of SB 2143; see written testimony.

The ICS product has now been authorized for public funds in 34 states. It is now being seen as a viable alternative since the FDIC as terminated- by- expiration what was called its TAG guarantee program which was its "transaction account guarantee" program adopted in response to the financial crisis in 2008. After that there was a very large concern with what was happening with money market funds that large. The bank failures that were happening in other parts of the country and credit union failures(Etc) that depositors were very nervous and the FDIC developed a program called the TAG program which extended unlimited deposit insurance coverage to transaction accounts that were non-interest bearing. That program expired December 31, 2012. I can't say the bank customers have been nervous but particularly for public funds that got used to having, unlimited FDIC coverage of their transaction type deposits. This program will essentially enable them to achieve that coverage by having contact with your local bank. Your local bank is part of this registry service which is a matching service and will find essentially an out of area bank to break up your deposit into \$250,000 increments so you will have all of the deposits there. For true transaction account deposits there is an unlimited ability then to withdraw those funds without any delay. If you are using an interest bearing type of account that falls under federal regulations as being a savings deposit there can be a six transaction a month limit, on your ability to withdraw from that account. But with this bill our public funds depositors will be able to achieve unlimited FDIC coverage for all of their deposits that they need access to, whether on a daily basis or a short term basis or under a certificate of deposit type kind of program. I just want to add additional comment. I serve on a board of a financial institution that is very active in the CDARS program and when we first proposed the CDARS we did have some questions about what happens if the bank, the out of territory bank fails. What happens is the deposit paid by the FDIC and I have personal experience with an institution that uses this program extensively for their own funds

management. Have you had deposits covered by CDARS in institutions that have failed and the answer to that was yes; and I said what happens and they said, virtually on the day of the failure we also got a check for the amount of the deposit. So it have been very successful.

Hearing Closed on SB 2143.

Senator Lee: I move do pass on 2143
2nd: Senator John Grabinger
Roll call vote: 6 Yea, 0 No, 0 Absent
Carrier: Senator Howard Anderson

Date: 1-24-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2143

Senate Political Subdivisions 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 _____ Seconded By _____

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Howard Anderson

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

REPORT OF STANDING COMMITTEE

SB 2143: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2143 was placed on the Eleventh order on the calendar.

2013 HOUSE POLITICAL SUBDIVISIONS

SB 2143

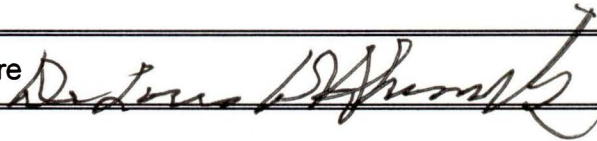
2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2143
March 7, 2013
Job # 19563

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the investment of public funds.

Minutes:

Testimony #1,2

Chairman N. Johnson: opened the hearing on SB 2143.

Marilyn Foss, ND Bankers Association: (See testimony #1) 0:25 - 7:43 Yesterday I checked and if ND adopted this we would be the 36th state to adopt authorizing legislation for this. It is being introduced and adopted still in other states.

Rep. Kathy Hogan: How many banks participate in the CDARS program and is it statewide?

Marilyn Foss: Not all North Dakota banks participate. There is a cost to it. It is more popular with the smaller community institutions than it is with the US Banks and Wells Fargo. There is a cost to join and participate and some have chosen to do so and some have not. More banks are inclined to at least check it out because their public depositor customers like it.

Rep. Hatlestad: It seems that safety is a major issue. Does it pay better interest?

Marilyn Foss: The search for the best available interest rate was one of the things that caused the original CDARS product to be so popular because you are essentially looking all over the country. Recently the Bismarck Tribune did a survey on interest rates and found North Dakota banks are paying one of the highest rates in the country on their deposit products. The feature that is most appealing to public depositors is the ability to cover of your deposits with FDIC insurance.

Rep. J. Kelsh: This allows any type of deposit to be covered by FDIC? How far can they be spread?

Marilyn Foss: It does allow any public depositor to use a deposit placement service that is approved. We have quite a few North Dakota banks participating. They can also receive public deposits outside of North Dakota.

Rep. J. Kelsh: Don't banks have to pledge assets that cover CD's also?

Marilyn Foss: Yes we do have laws that permit banks to pledge securities in payment of public deposits. That is a tool that some banks like and some public depositors like. This is another option. It does not foreclose pledging. Generally speaking from the perspective of the financial institution pledging securities and maintaining in place system that is necessary to make sure your securities pledge is adequate because our statute requires that the pledge of security is 110% of the amount of the deposits. There is a lot of back room work necessary to do that so it is a fairly expensive way of doing that and if the banks expense it larger that tends to affect the interest rate. This does not affect the sections of law in pledging.

Rep. J. Kelsh: If the local subdivision uses a precipice placement service is there a charge for that service and how much is it?

Marilyn Foss: There is a cost to it which is covered by the terms of the deposit account you are negotiating because these networks work in one of the participating banks what will somebody else give me for this if I place a deposit with you. The cost is reflected in the interest rate.

Senator Sinner: (See testimony #2) 15:00 -16:06

Opposition: None

Hearing closed.

Do Pass Motion Made by Rep. Kathy Hogan: Seconded by Rep. J. Kelsh:

Vote: 15 Yes 0 No 0 Absent **Carrier: Rep. M. Klein:**

Closed.

Date: 3-7-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2143

House Political Subdivisions 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 Rep. Hogan Seconded By Rep. J. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. M. Klein

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

REPORT OF STANDING COMMITTEE

SB 2143: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2143 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2143

Testimony of George Sinner to the Political Subdivisions Committee on January 24, 2013

Mr. Chairman & members of the Committee,

For the record, I am George Sinner, State Senator from District 46 and the prime sponsor of this bill. For full disclosure, I am also a Senior Vice President with American Federal Bank in Fargo.

Thank you for allowing me to appear on behalf of SB 2143 that I have sponsored at the request of the North Dakota Bankers Association.

Senate Bill 2143 makes minor changes to the Century Code by adding language to allow for fully insured savings deposits placed in an FDIC insured financial institution by a public depositor to be allowed under the law. At present, only certificates of deposit are allowed for deposit under this section of the code.

Currently, savings deposits must be backed by bonds, notes, or treasury bills that are direct obligations of the treasury of the United States. Because FDIC insurance is also an obligation of the United States government, we feel that any deposit fully backed by this federally backed insurance enjoys the same security as US Treasury obligations.

Mr. Chairman, I request a do-pass on this bill and would answer any questions the committee might have. Thank you.

TESTIMONY OF MARILYN FOSS
(North Dakota Bankers Association)
IN FAVOR OF SB 2143

Mr. Chairman, members of the committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association. I appear before you today to support SB 2143.

SB 2143 is intended to build on the success of earlier bills to allow political subdivisions invest public funds in certificates of deposit through reciprocal deposit placement services that have been approved by the Department of Financial Institutions. Currently, the Certificate of Deposit Account Registry Service, or, "CDARS", operated nationwide by the Promontory Interfinancial Network LLC is the only such approved service. Through CDARS North Dakota political subdivisions, working with a local North Dakota bank, are able to obtain CDs that are issued by banks throughout the United States and that are fully covered by FDIC insurance.

CDARS has been popular with North Dakota political subdivisions; since 2009, almost \$600 million of public funds have been placed in FDIC insured CDs through CDARS by North Dakota political subdivisions working with participating local banks. However, CDARS program was originally designed for only time certificates of deposit. As a result, the statutory authority to use reciprocal deposit placement services referred only to certificates of deposits, and did not mention other types of deposits (such as demand deposits, money market deposits, or savings deposits, excluding a substantial portion of public funds that must be readily available to meet current financial needs of the political subdivisions.

SB 2143 expands N.D.C.C. section 21-06-07(1) allow political subdivisions to take advantage of a relatively new deposit placement service for deposits products without time requirements such as those that apply to certificates of deposit. The Promontory offering is known as Insured Cash Sweep, or ICS. This type of deposit placement service will make it possible for a political subdivision depositor funds to be swept from a transaction account (a checking account) with a local public depository bank into FDIC-insured deposit accounts at multiple banks throughout the country. The political subdivision continues to do business through its local bank. Meanwhile each of the deposits will qualify for full FDIC insurance coverage (currently \$250,000 per depositor) at each of the multiple banks at which those deposits are placed.

Depositors placing funds for deposit through the ICS savings option may withdraw their funds up to six times a month. Public funds placed through the ICS demand option are not subject to any withdrawal restriction.

By using ICS (or any similar product from an approved deposit placement service) political subdivisions can effectively cover all of their demand deposits with FDIC insurance even though the program for unlimited FDIC insurance of transaction accounts expired on December 31.

Those of our banks that participate in the CDARs program are enthusiastic about the prospect of being able to provide the most up to date and best banking products to safely and soundly serve the needs of their public funds depositors through insured deposit placements in a cost effective manner. SB 2143 accomplishes that and we urge you to give it a Do Pass.

#1

TESTIMONY OF MARILYN FOSS
(North Dakota Bankers Association)
IN FAVOR OF SB 2143

Mr. Chairman, members of the committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association. I appear before you today to support SB 2143.

SB 2143 is intended to build on the success of earlier bills that allowed political subdivisions to use reciprocal deposit placement services that have been approved by the Department of Financial Institutions as a vehicle to invest public funds in certificates of deposits. Currently, the Certificate of Deposit Account Registry Service, or, "CDARS", operated nationwide by the Promontory Interfinancial Network LLC is the only such approved service. Through CDARS North Dakota political subdivisions, working with a local North Dakota bank, are able to obtain CDs that are issued by banks throughout the United States and that are fully covered by FDIC insurance.

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#2

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