

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/23/2016**

Revised  
 Amendment to: SB 2130

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$100,000	\$0	\$120,000
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
<b>Counties</b>	\$0	\$0	\$0
<b>Cities</b>	\$0	\$0	\$0
<b>School Districts</b>	\$0	\$0	\$0
<b>Townships</b>	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2130 clarifies the collection costs and the maximum amount that can be charged to a borrower who defaults on a student loan.

- 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.*

Section 3 provides an amendment to NDCC further defining collection costs charged to defaulted student loan borrowers held by the ND Guaranty Agency. Collection costs have as a practice been charged to borrowers on defaulted loans where a claim has been paid to the Bank of North Dakota. Estimated revenues will offset a portion of the expenses incurred on defaulted DEAL student loans.

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.*

There is no estimated revenue impact for the 2015-17 biennium.

For the 2017-19 biennium this amount was determined based upon recoveries from prior defaulted student loans. Recoveries are estimated at \$500,000 for this biennium of which 20%, representing the current fee assessment is \$100,000.

For the 2019-21 biennium this amount was determined based upon recoveries from prior defaulted student loans. Recoveries are estimated at \$600,000 for this biennium of which 20%, representing the current fee assessment is \$120,000.

- 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.*

N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Wally Erhardt

**Agency:** Bank of North Dakota

**Telephone:** 701.328.5654

**Date Prepared:** 01/11/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/23/2016**

Revised  
 Bill/Resolution No.: SB 2130

- 1 A. **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.*

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SB 2130 clarifies the collection costs and the maximum amount that can be charged to a borrower who defaults on a student loan.

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Section 3 provides an amendment to NDCC further defining collection costs charged to defaulted student loan borrowers held by the ND Guaranty Agency. Collection costs have as a practice been charged to borrowers on defaulted loans where a claim has been paid to the Bank of North Dakota. Estimated revenues will offset a portion of the expenses incurred on defaulted DEAL student loans.

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N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

**Name:** Wally Erhardt

**Agency:** Bank of North Dakota

**Telephone:** 701.328.5654

**Date Prepared:** 01/11/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
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- 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.*

Section 3 provides an amendment to NDCC further defining collection costs charged to defaulted student loan borrowers held by the ND Guaranty Agency. Collection costs have as a practice been charged to borrowers on defaulted loans where a claim has been paid to the Bank of North Dakota on delinquent loans. By charging collection costs there is no resulting fiscal impact; however, there will be a fiscal impact by not charging these costs.

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.*

There is no estimated revenue impact during the 2015-17 biennium.

During the 2017-19 biennium there is an estimated \$100,000 shortfall in Other Funds if collection costs are not assessed. This amount was determined based upon recoveries on prior student loan losses estimated at \$500,000 during this biennium of which 20%, representing the current fee assessment, or \$100,000 is allocated for collection costs.

During the 2019-21 biennium there is an estimated \$120,000 shortfall in Other Funds if collection costs are not assessed. This amount was determined based upon recoveries on prior student loan losses estimated at \$600,000 for this biennium of which 20%, representing the current fee assessment, or \$120,000 is allocated for collection costs.

- 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.*

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N/A

**Name:** Wally Erhardt

**Agency:** Bank of North Dakota

**Telephone:** 701.328.5654

**Date Prepared:** 01/05/2017

2017 SENATE EDUCATION

SB 2130

# 2017 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Sheyenne River Room, State Capitol

SB 2130

1/11/2017  
Job Number 26786

Subcommittee  
 Conference Committee

Committee Clerk Signature

*Sandra Baumgartner*

## Explanation or reason for introduction of bill/resolution:

Defaulted student loan collection and to provide for a retroactive application

## Minutes:

#1 (p.1-6), #2 (p.1-2), #3 (p.1-3)

Roll taken by clerk. All members present, except Senator Davison.

**Chairman Schaible:** Good morning. We will open the bill.

Mr. Eric Hardmeyer: President and CEO of Bank of North Dakota. See attached testimony #1 (p.1-6) and #2, (p.1-2).

Mr. Hardmeyer answered questions from the committee.

Wally Erhardt: Director of Student Loans of North Dakota (SLND) explained the student loan technical parts of the program. We guarantee a million dollars of loans a year. These loans are not dischargeable in bankruptcy, however in some extreme situations they are. So we, as the bank, suffers a loss. We also have defaulted loans and that is where we have a volume. We have 608 defaulted loans. As of today, a total of \$10 million. We do have a billion-dollar portfolio. Our default rate is less than 1% in the deal program. In the federal program, we are around three and one-half percent. The national average is around the 8-9% range. These loans are granted without collateral, so we work with the lenders for payment if they become delinquent. Many attempts are made to resolve the issue. Reason for this bill would be to change this to an administrative process for a collection process or judgement. There is an area now in the bill where we are able to take away a license for default, whether it be professional, hunting or other or guarantee the wages. We try to use this method very sparingly. Explanation for collection costs and obtaining a judgement were discussed. Many of the loans today have co-signers. Asking for support and will answer any questions.

**Chairman Schaible:** Explain how this would affect the borrower.

Wally Erhardt: It is to streamline the pace and save some money. They do have their due-process and that is explained in the notification in registered mail. They can have their day if court if they feel that is the way they want to go. The process would be sped up.

**Chairman Schaible:** What percentage are this severe after you have already made contact?

Wally Erhardt: Probably out of the 600 defaulted loan, 20% are making payments. So we are going after around 80%.

Senator Rust: Wondering about the responsibility of the borrower. Do the students realize the loan has to be paid back?

Wally Erhardt: Further explained the process of electronic counseling, and freshman orientation on reality of borrowing. The SLND does a number of presentations for high school seniors, on-line or in person, explaining what a student loan means.

Senator Rust: What is the change from a judicial process to administrative process?

Wally Erhardt: There could be a cost savings for us, but also for the customer if they choose to hire a lawyer. We only go through that if they will not work with us and not set up a payment plan.

Senator Oban: What does it take to default on a loan?

Wally Erhardt: Explanation was given that it takes 330 days without payment for a default. Explanation was made on the process after that 11 months.

Senator Kannianen: What is the current process through the judicial and the AG office?

Wally Erhardt: It takes time a minimum of 90 days or longer to go through the AG office. Going through the administrative process, we could set up the letter immediately instead of the lengthy time of going through the AG office.

Further discussion was had on the process, the cost, and the change in collection.

Eric Hardmeyer: Explained the student college savings fund Bank of ND has and is promoting throughout ND.

**Chairman Schaible:** Any other questions?

John Tyler: Assistant Attorney General with the Office of North Dakota Attorney General. I am here representing the Bank of North Dakota. Clarified comment on process of default. Many opportunities are given for the borrower to resolve the default.

Chairman Schaible: Could you or Wally do a walk-through sheet on both judicial and administrative process of time frame and steps?

John Tyler: Definitely.

**Chairman Schaible:** Any other questions for Mr. Tyler? Any other testimony if favor of SB 2130?

Barry Haugen: President of Independent Community Banks of ND. We support SB 2130 and explained reasons. Would be happy to answer questions.

Chairman Schaible: Seeing none. Thank you. Any other testimony in favor of? Any testimony of opposition?

Russ Ziegler: Assistant director of the ND Council of Educational Leaders. See testimony #3 (p. 1-3). Asks for a Do Not Pass on SB 2130. Any questions?

**Chairman Schaible:** What would you suggest if you have a teacher who has defaulted on a student loan and through due process has not made come through to make a payment? Would it be to go to court and then take the license?

Russ Ziegler: They still have the right to take away the license, but it should go through the judicial and not administrative.

**Chairman Schaible:** Other than taking longer, what would be the difference?

Russ Ziegler: I think the court system would have to look at all aspects?

**Chairman Schaible:** You don't think the administrative hearing would not do that? I think it would be a last resort in any way. I think it is a wake-up call and make them responsible for the debt they have. More discussion was held on judicial and administrative for removing the license from the individual. Any other testimony against this bill?

John Tyler: AG office explained the century code mentioned in Mr. Ziegler testimony #3 (p.3).

Other questions and answers with the committee about action of lifting licenses.

**Chairman Schaible:** Thank you for your time. I don't think we have any more testimony for SB 2130 so with that we will close the hearing.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2130  
1/17/2017  
Job Number 26904

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Sandy Baumgartner*

## Explanation or reason for introduction of bill/resolution:

Defaulted student loan collection and to provide for a retroactive application

## Minutes:

**Chairman Schaible:** Open for discussion for SB 2130. Conversations I have had with lawyers and senators; I have a real concern with the ability of taking away licenses or certificates. I asked if we could leave the administration part, except for when they take away the license. That would have to be judicial. Everyone seemed to fine with that. So I am going to have an amendment drafted on that.

**Senator Kannianen:** Strong concern with having wages taken without it being judicial.

**Senator Rust:** Is there a concern that there would be a different determining party in the due process rather than the bank itself?

**Chairman Schaible:** Some felt that an agency shouldn't have the right to take away a license. The lender still has the right to appeal to a judicial court.

Meeting closed

# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2130  
1/24/2017  
Job Number 27278

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Sandy Baumgartner*

## Explanation or reason for introduction of bill/resolution:

Relating to defaulted student loan collection

## Minutes:

#1

**Chairman Schaible:** We are looking at SB 2130. attachment #1. Amendment explained.

**Senator Rust:** I will move 17.8092.01001.

**Senator Oban:** Second to adopt the amendment.

**Chairman Schaible:** Any other discussion on the amendment?

Roll taken: 5 yeas 0 nays 1 absent

**Chairman Schaible:** Before us we have an amendment bill. Any discussion?

**Senator Rust:** I move a Do Pass on SB 2130 as amended.

**Senator Oban:** Second

**Chairman Schaible:** Any discussion on the amended bill?

Discussion on authority to take away license. It can go to a judicial process. It expedites the process.

Roll call taken: 4 Yeas, 1 Nay, 1 absent

Senator Schaible will carry

January 23, 2017

ca  
1/24/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2130

Page 2, line 1, remove "may provide notice of the default to a licensing entity for nonrenewal"

Page 2, replace lines 2 through 20 with ", under section 28-25-11, may request the court to order suspension of any occupational or professional certificate, license, or permit issued by or on behalf of the state or any occupational or professional board;"

Page 6, line 8, remove "may provide notice of the default to a licensing entity for nonrenewal"

Page 6, replace lines 9 and 10 with ", under section 28-25-11, may request the court to order suspension of any occupational or professional certificate, license, or permit issued by or on behalf of the state or any occupational or professional board;"

Renumber accordingly

Date: 1-24-2017  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2130

Senate Education Committee

Subcommittee

Amendment LC# or Description: 17-8092.01001

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rust Seconded By Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	✓		Senator Oban	✓	
Vice-Chairman Rust	✓				
Senator Davison	<i>ab</i>				
Senator Kannianen	✓				
Senator Vedaa	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment N/A

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

Date: 1-24-17  
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2130

Senate Education Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By J. Rust Seconded By J. Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	✓		Senator Oban	✓	
Vice-Chairman Rust	✓				
Senator Davison	ab				
Senator Kannianen		✓			
Senator Vedaa	✓				

Total (Yes) 4 No 1

Absent 1

Floor Assignment Senator Schaible

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

**REPORT OF STANDING COMMITTEE**

**SB 2130: Education Committee (Sen. Schaible, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2130 was placed on the Sixth order on the calendar.

Page 2, line 1, remove "may provide notice of the default to a licensing entity for nonrenewal"

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Renumber accordingly

2017 TESTIMONY

SB 2130

1-11-17  
#1 p. 1  
SB 2130

**TESTIMONY TO THE  
SENATE EDUCATION COMMITTEE**

**JANUARY 11, 2017**

**SENATE BILL 2130**

**ERIC HARDMEYER - PRESIDENT & CEO**

**BANK OF NORTH DAKOTA**

Chairman Schaible and members of the Education Committee, I am Eric Hardmeyer, President and CEO of Bank of North Dakota. Today, I am testifying on behalf of SLND which is the student loan Guaranty Agency administered by Bank of North Dakota (BND). I am asking for your consideration and support for Senate Bill 2130. Before getting into the details of SB2130, I would like to take a few minutes and provide you with an overview of the different roles Bank of North Dakota has as it relates to higher education. The responsibilities I am discussing today can be broken down into three distinct areas.

**BND's role as a lender** – BND has been making student loans since 1967 when we made the very first federally insured student loan in the nation. In 1997, when federal funding was no longer adequately covering the cost of higher education, BND added a state-sponsored loan program known as the Dakota Education Alternative Loan (DEAL) to assist students in funding their education. In 2014, we launched a refinance program which was approved during the 2013 Legislative session. This program, known as DEAL One, has been enormously successful and has allowed over 9000 North Dakota residents to refinance their federal and alternative loans at no cost. Some customers reduced their interest rate by as much as 10%. As of December 31, 2016 our combined DEAL portfolios consist of nearly 46,000 borrowers with 32,000 co-signers and an outstanding balance of \$1.065 billion. Because of our mission and your support, our residents receive some of the lowest interest rates and most favorable loan terms in the nation on their alternative student loans.

**BND's role as the State Guaranty Agency** - The "Guarantee Loan Program" establishing BND as a guaranty agency is located in NDCC chapter 15-62.1 and became effective when the Department of Education designation was approved in 1982. The guaranty agency known as Student Loans of North Dakota (SLND) was the designated guarantor for the Federal Student Loan program in North Dakota and derived its collection authority from the federal program. The passage of Federal legislation in 2010 eliminated SLND's role in guaranteeing any new federal student loans. As a result, our federal guarantee portfolio has been declining at a fast pace. As of April 1, 2016, a decision was made by the Industrial Commission, after recommendation by BND, to transfer BND's role as the State Guaranty Agency for Federal Loans to another Guaranty Agency. Today SLND's sole purpose is to guarantee all the DEAL loans made by BND. The guarantee for the \$1.065 billion DEAL student loan program provides BND with insurance to preserve state funds if borrowers are unable to repay their loans for a variety of reasons such as death, disability or default. The transfer of the Federal Guaranty necessitated a

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#1 p. 2

change in the law to clarify that SLND still has the authority to charge collection costs on defaulted DEAL student loans. This clarification is one of the objectives of SB2130.

**BND's role in College Planning** – BND helps parents and students plan for and navigate the path to a higher education. BND's commitment to education begins when a baby is born in ND by matching up to \$200 in contributions to a College SAVE account. Beginning in middle school we provide resources for career planning and preparation along with ACT test preparation. In high school BND provides funding for low income students to complete dual credit classes. In 2016, we also helped high school students prepare for college by paying for their 2017 College Application fee if they were applying to a ND college. We sponsor "Crash Courses" in rural areas throughout ND which provide students and parents with a variety of sessions on career planning, financial aid and scholarships.

Prior to turning this over to Wally Erhardt, who will review in detail the changes requested in SB2130, I would welcome any questions you have on the information I have provided thus far.

Chairman Schaible and members of the Education Committee, I am Wally Erhardt, Bank of North Dakota, Director for Student Loans North Dakota (SLND). Today, I am testifying on behalf of SLND which is the student loan Guaranty Agency administered by Bank of North Dakota (BND). I am asking for your consideration and support for Senate Bill 2130.

The proposed language in SB2130 will accomplish two key changes: (1) Clarify SLND's authority to charge and set limits for collection costs on defaulted student loans and (2) enable the utilization of an administrative process in obtaining a judgment for outstanding amounts on defaulted student loans. The proposed administrative process is similar to the federal process for collecting on defaulted federal student loans and the revisions are expected to decrease the time and cost of collecting on defaulted student loans in North Dakota.

To put the need for this bill in perspective, SLND's defaulted student loan portfolio currently consists of 608 borrowers with default claims totaling \$10.7 million. This is a sizable amount of defaulted loans that requires our attention.

In preparation for these proposed language changes, SLND considered research that was conducted of the defaulted student loan collection practices of other state-sponsored student loan programs.

Repayment of student loan debt is receiving considerable national attention. To reassure you about the customer focused approach we use in our collection strategy, I want to provide just a few details of our process for collecting student loans. After a student completes or leaves college, they are given a 6 month grace period prior to entering repayment. This allows a borrower time to transition from being in-school to beginning repayment.

After beginning repayment, if the borrower is having difficulty in meeting their DEAL loan obligation, BND works with the borrower by using various deferments, forbearances, and lower or interest only payments. These repayment tools are meant to help the borrower through a difficult time until they are able to resume making full payments.

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SB 2130  
#1 p.3

If we are not receiving payments, BND attempts to contact delinquent borrowers and co-signers many times throughout the repayment cycle by phone, email, text, billing notifications, and by other forms of correspondence. At times, however, we have borrowers that are unable or in some cases refuse to work with BND in repaying their loan. If the borrower continues to refuse to work with BND and fails to communicate with BND for a period of 330 days, this results in the Guaranty Agency paying a claim to BND for a student loan default.

Once a default claim is paid by the Guaranty Agency it becomes the Guaranty Agency's responsibility to collect the loan. This is often a challenging task, complicated by the frequent need to obtain reliable phone numbers, addresses or places of employment for the delinquent borrower. When we are able to make direct contact with a borrower or co-signer, in many cases they are unwilling to work with us since they feel there is nothing SLND can do to force repayment.

SB2130 will clarify the authority of BND to charge delinquent borrowers for the costs of collecting on defaulted student loans, and transitions the collection process from a lengthy, expensive district court process to an affordable and less time consuming administrative process for obtaining judgments. This change will preserve state resources and incentivize borrowers to establish repayment plans with the Bank rather than go into default. It will also strengthen our ability to negotiate with borrowers when they realize there is a process that can force repayment through various mechanisms such as wage garnishments or liens on property.

To familiarize you with the proposed, legislation, I want to provide a brief synopsis of each section.

Section 1. 15-62.1-04 Repayment on loans.

This change allows BND to not establish rules for federally guaranteed loans, but allows BND the flexibility to do this again should this ever become an option in the future.

Section 2. 15-62.1-06. Procedure on default of guaranteed loan.

This section defines default and the consequences to the borrower in defaulting on their student loan. It establishes the procedures that BND may follow for collection of a defaulted student loan by referencing what steps may be taken described in different sections of the proposed law. It provides that BND must send the borrower a notice of default that the borrower may contest by filing a request with BND within 30 days of receiving the notice. Today under NDCC 28-25-11 SLND has the authority to send notice to a professional licensure board requesting suspension of a professional license held by the borrower after providing the proper 30-day notice to the borrower and giving the borrower the opportunity to establish satisfactory repayment. This code has been consolidated within this section and further defines the process, and is expanded to include other type of licenses. Lastly, it further defines other collection actions available to SLND within this chapter or in other NDCC chapters as consequences of default.

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#1 p. 4

Section 3. 15-62.1-07. Fees for insurance and other reasonable costs.

It is a standard practice of the Guaranty Agency to include collection costs on defaulted accounts. This section specifies that these costs will be the actual collection costs or no more than 25 percent of the loan balance.

With this proposed legislation SLND is attempting to recover or defray a portion of the collection costs excluding legal fees which are not allowed by law. Today, SLND charges 20 percent which is generally less than the actual cost to collect an account. Collection costs on federal student loans range from 18.5 percent to 40 percent of the loan balance depending on the type of loan.

Section 4. 15-62.1-10. Eligibility for participation in federal student loan program.

This change would no longer require BND to participate in a guarantee loan program with the Federal Government, but leaves BND with the option of doing so in the future should that ever be a possibility again.

Section 5. 15-62.1-16. Collection order equivalent to judgment for garnishment proceedings.

This section defines that a collection order, described in more detail in the following sections, obtained through an administrative judgment process is equivalent to a judgment for garnishment secured in a court. The collection order can be sought after notice of default is given if the borrower does not contest the notice of default with BND or if BND disagrees with the borrower's contention of the initial notice of default. The collection order is subject to a hearing at the Office of Administrative Hearings if the borrower wishes to contest the collection order as described later in the following sections.

Section 6. 15-62.1-17 Lien.

This section defines that a collection order can be used to obtain a lien on real or personal property if the borrower does not contest the collection order or is unsuccessful in contesting the collection order.

Section 7. 15-62.1-18 Authority and procedure to administratively establish and enforce a collection order.

This section defines that if a court hasn't entered a judgment itself, SLND is allowed the discretion to pursue a collection order using the administrative judgment process described in the following sections.

Section 8. 15-62.1-19 Initiation of administrative action to establish a collection order; required notice.

This section provides that notice must be given to a borrower prior to establishment of a collection order in the manner described for service of a complaint in the ND Rules of Civil

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Procedure. This section also describes what must be included in the notice to be sent to the borrower.

Section 9. 15-62.1-20 Hearings in administrative action to establish a collection order.

Until now, SLND sought judgments through the district court in conjunction with the Attorney General's office for non-paying borrowers. As proposed in this section, NDCC will be changed to allow SLND to use an administrative process to obtain a judgment. If the borrower wishes to contest the collection order, the borrower has the right to do a hearing before the Office of Administrative Hearings. Additionally, the decision of the hearing officer may still be appealed to district court under NDCC chapter 28-32. This proposed language will increase efficiency, decrease legal expenses; streamline the process and better position SLND should the borrower be simultaneously defaulting on their federal student loans. The U.S. Department of Education also uses this practice and often garnishes available wages before SLND has the opportunity to do so. Administrative judgment would give SLND equal opportunity to garnish available wages.

To ensure the process is fair to both parties, this section defines the process to be followed:

1. A 30-day notice is given in which the borrower has the opportunity to challenge the default or the balance.
2. Challenges result in a hearing with Office of Administrative Hearings. Both parties are present either in person or by phone to present their case and a decision is rendered by a judge. Either party has the opportunity to appeal this decision to district court.
3. If the borrower requests a hearing but then fails to appear at the hearing, a judge may enter into a decision and issue the collection order.

Section 10. 15-62.1-21 Collection order as judgments.

This section defines when the collection order becomes vested as a judgment. This is either 30 days after receipt of a notice of collection order if the borrower does not request a hearing, or when the hearing officer with the Office of Administrative Hearings enters a decision in favor of BND.

Section 11. 15-62.1-22 Nature of remedies.

This section gives the authority to SLND to use any other available remedies or legal process to obtain a judgment should we choose. It also provides that any actions to enforce the loan against the borrower may also be taken against the co-signors, if any, and that the co-signors also have the right to contest any notice of default or collection order as if they were the borrower.

In closing, I want to reiterate that BND services a vast amount of DEAL student loans and the majority of borrowers make their student loan payment responsibly. For those having payment

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difficulties, BND is more than willing to assist the borrower with many options but it requires agreement and follow-through by the borrower.

If a borrower has defaulted on his or her student loans, that borrower was unwilling to work with BND after many months of attempted contacts by every means available, or did not follow-through with the arrangements that were made. If a borrower defaults, the Guaranty Agency needs these tools in order to ensure success in collection of this state-owed debt so that responsible borrowers are not harmed by the borrowers who choose to ignore their obligation to repay their debt to the state of North Dakota. Thank you for your consideration of SB2130 and I will stand for any questions.

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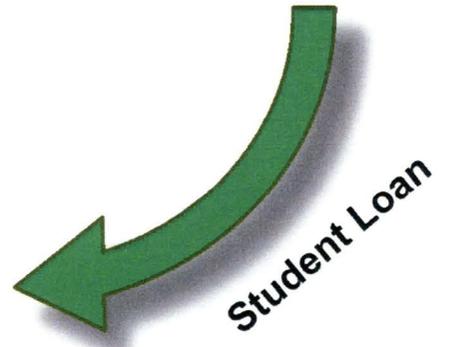
Guaranty  
Agency  
(SLND)



Bank of  
North  
Dakota

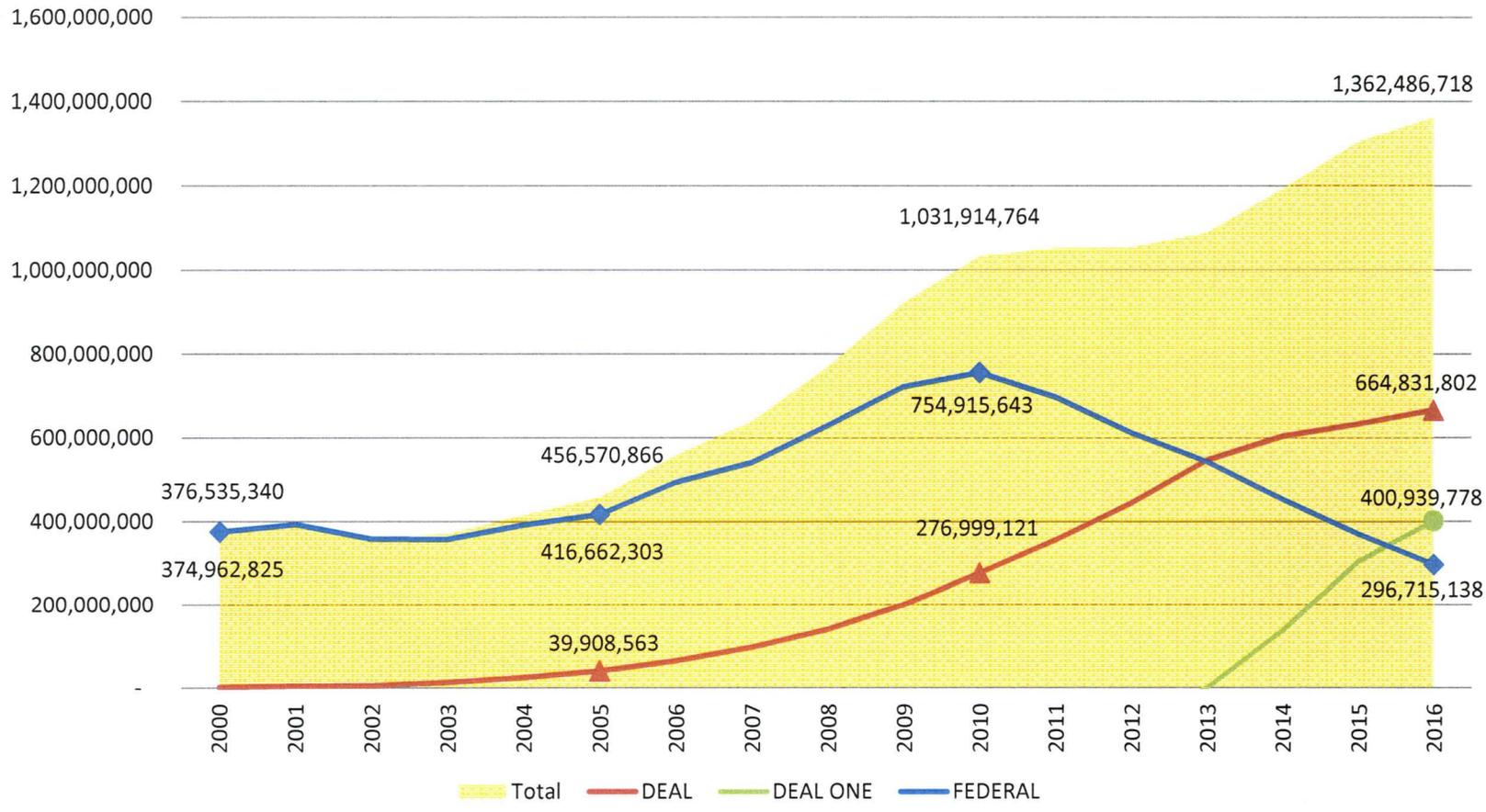


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### BND Student Loans



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**SB 2130 – Defaulted Student Loan Collection**

**Testimony in Opposition**

**North Dakota Council of Educational Leaders – Russell Ziegler**

Good Morning Chairman Schaible, Vice Chairman Rust, and members of the Senate Education Committee. For the record, I am Russ Ziegler the assistant director at the North Dakota Council of Educational Leaders. I would like to thank you for the opportunity to speak in opposition of SB 2130 today.

The concern that we have with this bill is the nonrenewal or suspension of a license or licenses held by the individuals who have defaulted on their student loans. This would be in Section 2 paragraph 2 c. These individuals have received their educators license based on their experience and preparation in the given field. Nonrenewing or suspending a license would deem those individuals not qualified to work in their field, and as such would lose their income. To us this would be counterproductive to the goal of having them repay their loans. Currently North Dakota Century Code 28-25-11 states that an individual can have their occupational or professional license suspended by court order after considering all of the factors involved. (Please see attached document.) We feel that the authority of suspension or nonrenewal of licenses should remain with the licensing agencies and/or the court system and not be given to financial institutions.

SB 2130 would give financial institutions authority over North Dakota's teacher licensing agency, the Education Standards and Practices Board. Along with this overstepping of territory we feel the individual would have no appeal process with the ESPB board on getting or retaining their license, that would be at the discretion of the financial institution.

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The Education Standards and Practices Board does a fantastic job of licensing our school personal. Giving the financial institution the right to overstep ESPB's hearings and other due processes worries the educational leaders in the state. If the financial institution feels that their only remedy is for suspension or nonrenewal of a license they currently may take the individual to court and make that request. Our goal is to keep the individuals due process rights intact. I ask for a Do Not Pass vote on SB 2130 and am able to answer any questions that you have at this time.

Thank you

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**28-25-11. Property applied - Wages exempt - Suspension of occupational or professional license for nonpayment of defaulted state guaranteed student loans.**

1. The judge may order any property of the judgment debtor not exempt from execution in the hands either of the judgment debtor or of any other person or due the judgment debtor to be applied toward the satisfaction of the judgment, except that the earnings of the debtor for the debtor's personal services at any time within sixty days next preceding the order cannot be so applied when it is made to appear, by the debtor's affidavit or otherwise, that the earnings are necessary for the use of a family supported wholly or partly by the debtor's labor.
2. If the debt for which a judgment is entered is for a guaranteed student loan, the court, after considering the factors in subsection 1, shall address and make specific findings on the issue of whether the judgment debtor has an occupational or a professional certificate license or permit issued by or on behalf of the state or any occupational or professional boards, which the judgment debtor is required to obtain before engaging in the judgment debtor's occupation or profession. The court, based on principles of fairness, including consideration of whether the judgment debtor has been unjustly enriched, may suspend a judgment debtor's certificate, license, or permit. Following a decision to suspend a judgment debtor's certificate, license, or permit, the court shall notify the judgment debtor that the decision becomes final thirty days after the notification unless the judgment debtor satisfies the entire outstanding payment due or makes regular payment on the judgment in a manner and at times satisfactory to the court. The court shall notify the proper licensing authority of the court's decision to suspend a judgment debtor's certificate, license, or permit. A certificate, license, or permit suspended by an order issued under this section may be reissued only by order of the court. An appeal by a judgment debtor who has had a certificate, license, or permit suspended under this section is an appeal from the court's order and may not be appealed to the licensing authority.

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Title.

Prepared by the Legislative Council staff for  
Senator Schaible

January 23, 2017

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2130

Page 2, line 1, remove "may provide notice of the default to a licensing entity for nonrenewal"

Page 2, replace lines 2 through 20 with ", under section 28-25-11, may request the court to order suspension of any occupational or professional certificate, license, or permit issued by or on behalf of the state or any occupational or professional board;"

Page 6, line 8, remove "may provide notice of the default to a licensing entity for nonrenewal"

Page 6, replace lines 9 and 10 with ", under section 28-25-11, may request the court to order suspension of any occupational or professional certificate, license, or permit issued by or on behalf of the state or any occupational or professional board;"

Renumber accordingly

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**Changes to be made to NDCC 15-62.1-06(2)(c):**

c. The agency may pursue before the court under section 28-25-11 suspension of any occupational or professional certificate license or permit issued by or on behalf of the state or any occupational or professional boards provide notice of the default to a licensing entity for nonrenewal or suspension of any license or licenses held by the borrower or cosigner after establishment of a collection order under section 15-62.1-21. The agency shall provide the borrower or cosigner with notice that the license or licenses of the borrower or cosigner will be suspended or not renewed after thirty days have passed from the date of notification unless the borrower or cosigner satisfies the entire outstanding debt or enters an agreement to repay the debt and makes regular payment on the debt in a manner and at times satisfactory to the agency. If the borrower or cosigner fails to satisfy the entire outstanding debt or enter an agreement to repay the debt and make payment on the debt in a manner and at times satisfactory to the agency, the agency shall notify the proper licensing authority to suspend or fail to renew the borrower's or cosigner's certificate, license, or permit. If the borrower or cosigner satisfies the entire outstanding payment due or enters an agreement to repay the debt and makes regular payment on the debt in a manner and at times satisfactory to the agency, the agency shall notify the licensing entity within thirty days the borrower's or cosigner's certificate, license, or permit must be reinstated. An appeal by a borrower or cosigner who has had a certificate, license, or permit suspended under this section is an appeal from the agency's final collection order under chapter 28-32 and may not be appealed to the licensing authority;

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Changes to be made to NDCC 15-62.1-19:

2. The notice served under subsection 1 must state:

d. That the agency may pursue before the court under section 28-25-11 suspension of any occupational or professional certificate license or permit issued by or on behalf of the state or any occupational or professional boards provide notice of the default to a licensing entity for nonrenewal or suspension of any license or licenses held by the borrower under section 15-62.1-06(2)(c);

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