2023 SENATE INDUSTRY AND BUSINESS

SB 2233

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee
Fort Union Room, State Capitol

SB 2233
1/23/2023

Relating to the audit of loan programs administered by the Bank of North Dakota

10:15 AM Chairman D. Larsen called the meeting to order.
Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Boehm, and Senator Klein

Discussion Topics:

- 3rd party audits
- Audit contract
- Money savings

10:16 AM Senator Klein introduced SB 2233 and testified in favor. No written testimony.

10:19 AM Rob Pfenning, CFO, Bank of North Dakota testified in favor of SB 2233. #14772

10:25 AM Lindsey Slappy, Auditor, ND Auditors Office testified in favor of SB 2233. #15667, #15547

10:34 AM Chairman Larsen closed the hearing.

10:35 AM Senator Barta moved to Do Pass SB 2233.
Senator Boehm Seconded.

Roll Call Vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion passed. 5-0-0

Senator Boehm will carry the bill.

10:48 AM Chairman D. Larsen adjourned the meeting.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2233: Industry and Business Committee (Sen. Larsen, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2233 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2233

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2233
3/13/2023

Relating to the audit of loan programs administered by the Bank of North Dakota.

Chairman Louser called meeting to order 9:26 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner.

Members absent: Representatives Christy, Warrey

Discussion Topics:

- Program audit fee
- ACFR audits
- Peer review

In Favor:
Senator Jerry Klein, District 14, Fessenden, ND (no written testimony)
Rob Pfennig, Chief Financial Officer, Bank of North Dakota, #23682, #24433.
Linsey Slappy, Audit manager, ND Office of the State Auditor, #24393, #24434
Josh Gallion, State auditor, ND Office of the State Auditor, (no written testimony)

Chairman Louser adjourned the meeting 10:02 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2233
3/13/2023

Relating to the audit of loan programs administered by the Bank of North Dakota.

Chairman Louser called meeting to order 11:04 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner.

Members absent: Representatives Christy, Warrey

Discussion Topics:

- Committee action

Representative Wagner moved a do pass.
Representative Ostlie seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	AB
Representative Josh Christy	AB
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Austen Schauer	N
Representative Paul J. Thomas	AB
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	AB

Motion passed 8-1-5

Representative Wagner to carry the bill.

Chairman Louser adjourned the meeting 11:06 AM

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2233: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **DO PASS** (8 YEAS, 1 NAY, 5 ABSENT AND NOT VOTING). SB 2233 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2233

BND
Bank of North Dakota

PO BOX 5509, 1200 Memorial Hwy.
Bismarck, ND 58506-5509

800.472.2166
800.366.6888 TTY
701.328.5600

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Testimony before Senate Industry and Business
January 23, 2023
Rob Pfennig, Chief Financial Officer
Bank of North Dakota

Mr. Chairman and members of the Committee. I am Rob Pfennig, Chief Financial Officer for Bank of North Dakota. I am here today to support Senate Bill 2233. If passed, this bill will remove the 3rd party audit requirement for the legislatively directed loan programs administered by the Bank. The essence of this bill is to save money and gain efficiencies while maintaining accuracy and accountability. This bill does not remove the audit requirement. What it does is allow for these loan programs to be audited by the State's Auditors Office as part of the State's Annual Comprehensive Financial Report. This is the same process followed by many state agencies and a few of the Bank's administered loan programs.

Currently the Bank has 17 individual financial statement audits per year, including the Bank's financial statements. This bill will enable BND to utilize the Auditor's office for 13 of the audits related to the legislatively directed loan programs administered by the Bank. This change will save an estimated $160,000 a biennium related to audit costs. In addition, it will reduce man hours related to these audits by approximately 50 percent or 250 hours per year. As an example, one loan program, Addiction Counselor Internship loses money due to audit costs.

As these administered loan programs continue to be successful and grow it is important that we seek efficient and effective management of them while maintaining accuracy and accountability and I believe this bill does just that.

I appreciate your consideration of SB 2233 and will stand for any questions.

STATE OF NORTH DAKOTA

Combining Statement of Net Position
Nonmajor Enterprise Funds
June 30, 2021

	Addiction Counselor Internship Loan	Bonding	Community Water Facility Loan	Edutech	Fire and Tornado	Guaranteed Student Loan
ASSETS						
Current Assets:						
Cash Deposits at the Bank of ND	$ 95,922	$ 65,624	$ 22,232,000	$ 1,008,103	$ 312,262	$ 50,011,804
Cash and Cash Equivalents	—	1,731,443	—	—	2,283,236	—
Investments at the Bank of ND	—	—	—	—	—	—
Investments	—	2,101,781	—	—	20,474,754	—
Accounts Receivable - Net	—	151,219	—	2,730	5,749	—
Interest Receivable - Net	616	23,096	137,000	—	135,086	—
Intergovernmental Receivable - Net	—	—	—	4,629	—	—
Due from Other Funds	—	—	—	—	—	—
Prepaid Items	—	—	—	—	342,065	—
Inventory	—	—	—	—	—	—
Loans and Notes Receivable - Net	7,331	—	601,000	—	—	—
Other Assets	—	—	—	—	—	—
Restricted Cash at the Bank of ND	—	—	—	—	—	4,536
Restricted Cash and Cash Equivalents	—	—	—	—	—	—
Restricted Investments at the Bank of ND	—	—	—	—	—	—
Restricted Loans Receivable - Net	—	—	—	—	—	—
Total Current Assets	103,869	4,073,163	22,970,000	1,015,462	23,553,152	50,016,340
Noncurrent Assets:						
Loans and Notes Receivable - Net	84,265	—	13,466,000	—	—	—
Other Noncurrent Assets	—	—	—	—	—	—
Capital Assets:						
Nondepreciable	—	—	—	—	—	—
Depreciable, Net	—	—	—	—	—	—
Total Noncurrent Assets	84,265	—	13,466,000	—	—	—
Total Assets	188,134	4,073,163	36,436,000	1,015,462	23,553,152	50,016,340
DEFERRED OUTFLOWS OF RESOURCES						
Decrease in Fair Value of Hedging Derivatives	—	—	—	—	—	—
Derived from Pensions	—	—	—	—	—	—
Derived from OPEB	—	—	—	—	—	—
Total Deferred Outflows of Resources	—	—	—	—	—	—
LIABILITIES						
Current Liabilities:						
Accounts Payable	—	266	—	7,688	399	—
Accrued Payroll	—	—	—	15,383	—	—
Securities Lending Collateral	—	5,979	—	—	74,012	—
Interest Payable	—	1,756	—	—	21,662	—
Intergovernmental Payable	—	—	—	—	4,415	6,004,536
Due to Other Funds	—	—	18,000	45,647	—	151,626
Claims/Judgments Payable	—	134,068	—	—	1,808,842	—
Compensated Absences Payable	—	—	—	—	—	—
Bonds Payable	—	—	—	—	—	—
Unearned Revenue	—	—	—	—	—	—
Total Current Liabilities	—	142,069	18,000	68,718	1,909,330	6,156,162
Noncurrent Liabilities:						
Compensated Absences Payable	—	—	—	—	—	—
Bonds Payable	—	—	—	—	—	—
Financial Derivative Instrument	—	—	—	—	—	—
Net Pension Liability	—	—	—	—	—	—
Net Pension OPEB	—	—	—	—	—	—
Other Noncurrent Liabilities	—	—	—	—	—	23,337,976
Total Noncurrent Liabilities	—	—	—	—	—	23,337,976
Total Liabilities	—	142,069	18,000	68,718	1,909,330	29,494,138
DEFERRED INFLOWS OF RESOURCES						
Derived from Pensions	—	—	—	—	—	—
Derived from OPEB	—	—	—	—	—	—
Total Deferred Inflows of Resources	—	—	—	—	—	—
Net Position						
Net Investment in Capital Assets	—	—	—	—	—	—
Restricted for:						
Debt Service	—	—	—	—	—	—
Other	—	—	—	—	—	—
Unrestricted	188,134	3,931,094	36,418,000	946,744	21,643,822	20,522,202
Total Net Position	$ 188,134	$ 3,931,094	$ 36,418,000	$ 946,744	$ 21,643,822	$ 20,522,202

Combining Statement of Revenues, Expenses and Changes in Fund Net Position
Nonmajor Enterprise Funds
For the Fiscal Year Ended June 30, 2021

	Addiction Counselor Internship Loan	Bonding	Community Water Facility Loan	Edutech	Fire and Tornado	Guaranteed Student Loan
OPERATING REVENUES						
Sales and Services	$ —	$ 1,240	$ —	$ 216,689	$ 1,046,989	$ 6,973,189
Grants and Contributions	—	—	—	—	—	—
Royalties and Rents	—	—	—	—	—	—
Interest and Investment Income	3,229	—	503,000	—	—	—
Miscellaneous	—	19,875	—	—	—	—
Total Operating Revenues	3,229	21,115	503,000	216,689	1,046,989	6,973,189
OPERATING EXPENSES						
Cost of Sales and Services	—	—	—	—	—	—
Salaries and Benefits	—	—	—	182,762	—	—
Operating	5,950	—	90,000	142,134	653,522	6,364,286
Claims	—	58,691	—	—	4,290,040	—
Interest	—	—	—	—	—	—
Depreciation	—	—	—	—	—	—
Miscellaneous	—	—	—	—	73,985	—
Total Operating Expenses	5,950	58,691	90,000	324,896	5,017,547	6,364,286
Operating Income (Loss)	(2,721)	(37,576)	413,000	(108,207)	(3,970,558)	608,903
NONOPERATING REVENUES (EXPENSES)						
Grants and Contracts	—	—	—	—	—	—
Interest and Investment Income	90	67,139	28,000	—	3,489,505	71,430
Interest Expense	—	(4,432)	—	—	(52,794)	—
Gain (Loss) on Sale of Capital Assets	—	—	—	—	—	—
Other	—	—	121,000	—	—	—
Total Nonoperating Revenues (Expenses)	90	62,707	149,000	—	3,436,711	71,430
Income (Loss) Before Contributions and Transfers	(2,631)	25,131	562,000	(108,207)	(533,847)	680,333
Transfers In	—	—	—	—	—	—
Transfer Out	—	—	—	—	—	—
Change in Net Position	(2,631)	25,131	562,000	(108,207)	(533,847)	680,333
Total Net Position - Beginning of Year, as Restated	190,765	3,905,963	35,856,000	1,054,951	22,177,669	19,841,869
Total Net Position - End of Year	$ 188,134	$ 3,931,094	$ 36,418,000	$ 946,744	$ 21,643,822	$ 20,522,202

Testimony for Senate Bill 2233

Chairman Larsen and members of the committee my name is Lindsey Slappy. I am an audit manager for the State Auditor's Office. I am here to support Senate Bill 2233.

I have been working with the Bank of North Dakota on a new approach for the audits of the legislatively directed loan programs. The current law requires that the audits of the legislatively directly loan programs must be completed by a CPA firm. It does not give us the flexibility to complete these audits within our office. This is different than all the other state agencies. Our office does contract for audits of other state agencies but those are done at our discretion.

Our office does currently spend time on these legislatively directed audits. There would be some time built into the RFP process as well as the approval of each of the 13 reports. The private firms submit the reports to our office for review and approval prior to issuance. These reports are then incorporated into the Annual Comprehensive Financial Report (ACFR). I have provided an example of how the information is presented in the ACFR. Each of the individual loan programs can be found in their own column. The main difference is the information isn't contained within its own separate cover.

Under the new approach, the Bank of North Dakota would still prepare the financial information and submit it to the Office of Management and Budget to include in the ACFR. This information would then be included and subjected for audit in the audit of the ACFR. This would prevent loan funds that have as few as a single loan from needing an individual audit. There are a variety of required standards that must be followed if each loan fund is audited separately. Putting all of this information into the ACFR testing would help reduce auditing time. We would be able to build the activity into our current testing and still present the information in a way that you could see it by individual loan program. The auditing processes we would apply for these loan funds would be the same as those applied for the other state agencies.

The final component to the change is related to billing. Since the ACFR is really an audit for the Office of Management and Budget, we do not actually bill for the ACFR. This means the individual loan funds would not be paying for their audit services.

This concludes my testimony and I can answer any questions.

BND
Bank of North Dakota

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Testimony before House Industry, Business, and Labor
March 10, 2023
Rob Pfennig, Chief Financial Officer
Bank of North Dakota

Mr. Chairman and members of the Committee. I am Rob Pfennig, Chief Financial Officer for Bank of North Dakota. I am here today to support Senate Bill 2233. If passed, this bill will remove the 3rd party audit requirement for the legislatively directed loan programs administered by the Bank. The essence of this bill is to save money and gain efficiencies while maintaining transparency, and accountability. This bill does not remove the audit requirement. What it does, is allow for these loan programs to be audited by the State's Auditors Office as part of the State's Annual Comprehensive Financial Report. This is the same process followed by many state agencies and a few of the Bank's administered loan programs.

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Inventory	—	—	—	—	—	—
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Securities Lending Collateral	—	5,979	—	—	74,012	—
Interest Payable	—	1,756	—	—	21,662	—
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Due to Other Funds	—	—	18,000	45,647	—	151,626
Claims/Judgments Payable	—	134,068	—	—	1,808,842	—
Compensated Absences Payable	—	—	—	—	—	—
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Bonds Payable	—	—	—	—	—	—
Financial Derivative Instrument	—	—	—	—	—	—
Net Pension Liability	—	—	—	—	—	—
Net Pension OPEB	—	—	—	—	—	—
Other Noncurrent Liabilities	—	—	—	—	—	23,337,976
Total Noncurrent Liabilities	—	—	—	—	—	23,337,976
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Net Position						
Net Investment in Capital Assets	—	—	—	—	—	—
Restricted for:						
Debt Service	—	—	—	—	—	—
Other	—	—	—	—	—	—
Unrestricted	188,134	3,931,094	36,418,000	946,744	21,643,822	20,522,202
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Grants and Contributions	—	—	—	—	—	—
Royalties and Rents	—	—	—	—	—	—
Interest and Investment Income	3,229	—	503,000	—	—	—
Miscellaneous	—	19,875	—	—	—	—
Total Operating Revenues	3,229	21,115	503,000	216,689	1,046,989	6,973,189
OPERATING EXPENSES						
Cost of Sales and Services	—	—	—	—	—	—
Salaries and Benefits	—	—	—	182,762	—	—
Operating	5,950	—	90,000	142,134	653,522	6,364,286
Claims	—	58,691	—	—	4,290,040	—
Interest	—	—	—	—	—	—
Depreciation	—	—	—	—	—	—
Miscellaneous	—	—	—	—	73,985	—
Total Operating Expenses	5,950	58,691	90,000	324,896	5,017,547	6,364,286
Operating Income (Loss)	(2,721)	(37,576)	413,000	(108,207)	(3,970,558)	608,903
NONOPERATING REVENUES (EXPENSES)						
Grants and Contracts	—	—	—	—	—	—
Interest and Investment Income	90	67,139	28,000	—	3,489,505	71,430
Interest Expense	—	(4,432)	—	—	(52,794)	—
Gain (Loss) on Sale of Capital Assets	—	—	—	—	—	—
Other	—	—	121,000	—	—	—
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Transfer Out	—	—	—	—	—	—
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Total Net Position - End of Year	$ 188,134	$ 3,931,094	$ 36,418,000	$ 946,744	$ 21,643,822	$ 20,522,202

BND
Bank of North Dakota

Legislative Directed Loan Programs Administered by BND

BND Balance Sheet vs Legislative Directed Programs

Balance Sheet
$ in thousands

	12/31/2022
Cash and due from banks	405,718
Federal funds sold	44,605
Securities	4,344,352
Loans	
Commercial	3,199,277
Farm	709,866
Residential	351,076
Student	1,104,408
	5,364,627
Less allowance for loan loss	(108,752)
	5,255,875
Other assets	145,265
Total assets	10,195,815
Deposits -	
Non-interest bearing	632,498
Interest bearing	7,679,449
Federal funds purchased and repurchase agreements	205,845
Borrowings -	
Short-term	675,000
Other liabilities	5,835
Total liabilities	9,198,627
Equity	997,188
Total liabilities and equity	10,195,815

Loans "On Balance Sheet" in which BND participates with a Lead FI and takes the Risk / Reward that contributes to the earnings at the end of the year.

The funding for these loans is backed by the "Capital" of BND.

Why "Off Balance Sheet"

- Established by the Legislature
- Long-term fixed interest rate at 2%.
- Provides for up to 30 / 40 Year Terms

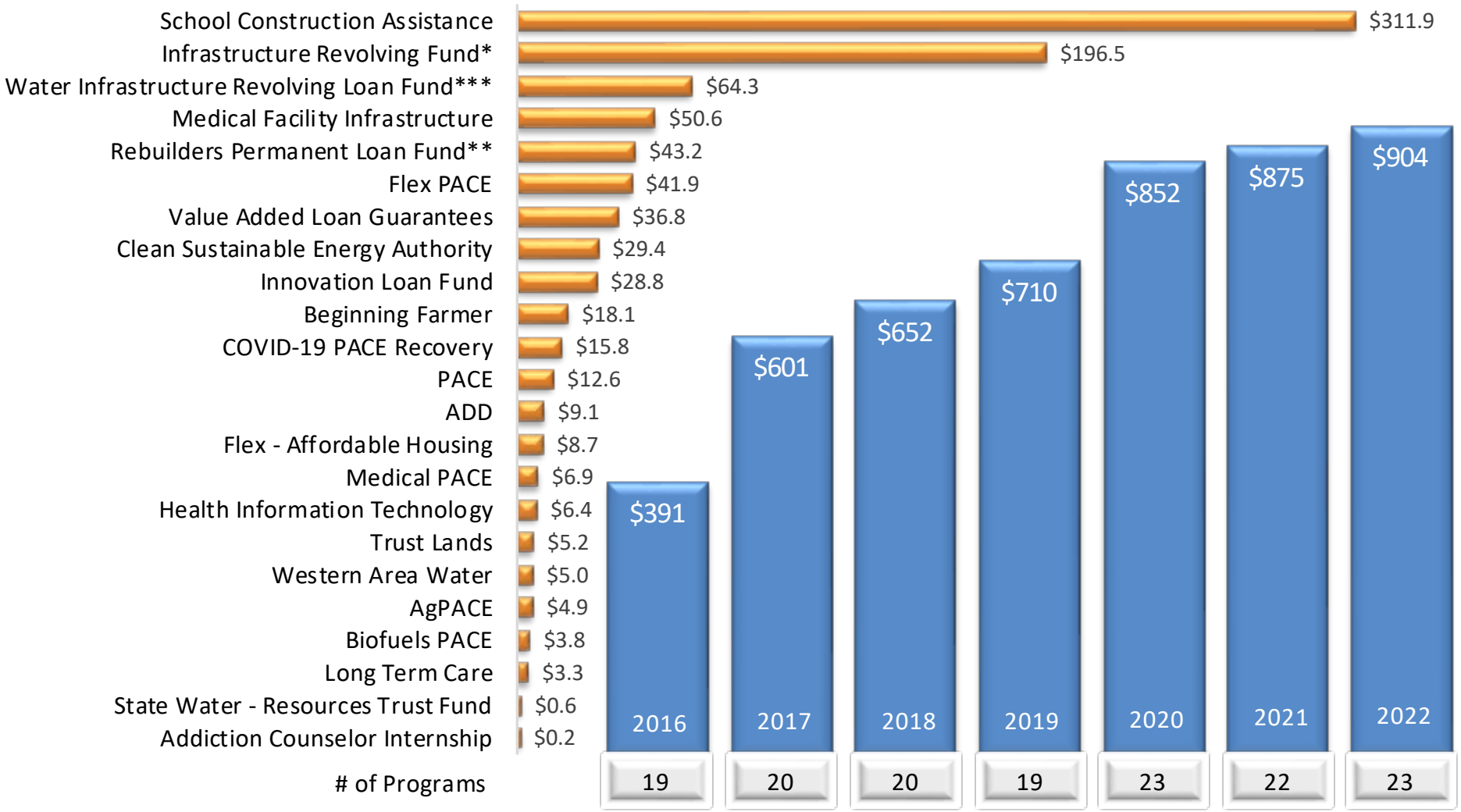
Procedurally:

- BND underwrites and administers loans
- Principal and interest returned to the funds
- BND receives a .50bp service fee
- Audits of the Funds

BND
Bank of North Dakota

Legislatively Directed Loan Programs

BND administers 23 programs and $904 million in assets for the Legislature



- BND currently administers programs that serve a wide range of purposes, including school construction, water projects, general and medical infrastructure, and disaster recovery.
- *Infrastructure Revolving Fund includes $52 million to be transferred from BND's capital.
- ** HB 1187 created The Rebuilders Permanent Loan Fund (RPLF) during the 67th Legislative Session. This permanent revolving loan fund was established by transferring $50 million in loans and cash from the Small Employer Loan Fund (SELF) created by BND during the Covid 19 pandemic to the RPLF.
- ***The Water Infrastructure Revolving Loan Fund was created by HB 1431. The Fund combined previously reported Community Water and State Water – Revolving Loan Fund.

BND
Bank of North Dakota

Testimony for Senate Bill 2233

Chairman Larsen and members of the committee my name is Lindsey Slappy. I am an audit manager for the State Auditor's Office. I am here to support Senate Bill 2233.

I have been working with the Bank of North Dakota on a new approach for the audits of the legislatively directed loan programs. The current law requires that the audits of the legislatively directly loan programs must be completed by a CPA firm. It does not give us the flexibility to complete these audits within our office. This is different than all the other state agencies. Our office does contract for audits of other state agencies but those are done at our discretion.

Our office does currently spend time on these legislatively directed audits. There would be some time built into the RFP process as well as the approval of each of the 13 reports. The private firms submit the reports to our office for review and approval prior to issuance. These reports are then incorporated into the Annual Comprehensive Financial Report (ACFR). I have provided an example of how the information is presented in the ACFR. Each of the individual loan programs can be found in their own column. The main difference is the information isn't contained within its own separate cover.

Under the new approach, the Bank of North Dakota would still prepare the financial information and submit it to the Office of Management and Budget to include in the ACFR. This information would then be included and subjected for audit in the audit of the ACFR. This would prevent loan funds that have as few as a single loan from needing an individual audit. There are a variety of required standards that must be followed if each loan fund is audited separately. Putting all of this information into the ACFR testing would help reduce auditing time. We would be able to build the activity into our current testing and still present the information in a way that you could see it by individual loan program. The auditing processes we would apply for these loan funds would be the same as those applied for the other state agencies.

The final component to the change is related to billing. Since the ACFR is really an audit for the Office of Management and Budget, we do not actually bill for the ACFR. This means the individual loan funds would not be paying for their audit services.

This concludes my testimony and I can answer any questions.