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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1133

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1133

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1133

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-10-05

Tape Number
2

Side A
x

Side B

Meter #
25.-end

Committee Clerk Signature



Minutes:

Chairman Keiser: Called the hearing to order on HB 1133. All committee members were present.

Don Humann, SVP, of Lending, Bank of ND: Appeared in support of HB 1133 and provided written testimony. (SEE ATTACHED TESTIMONY.)

Representative Froseth: I know that the commerce department maintains a list of targeted industries for economic development growth, do you keep a list in reference to this type of loan program or do you use the commerce departments list?

Don Humann: What we do is keep track of what the eligible borrowers are under this qualified requirements on the second page, it is in our loan policy, we do review the list that the department of commerce uses upon a annual basis and we use that list to make changes to our loan policy. This is a loan, and the borrower earns that interest buy down over time, they don't get any interest buy down until they make a loan payment, so we set the money aside in a trust

account in the bank and as they make their loan payment they get the interest reduction, so it is actually a grant of the interest but what is nice about it is, the Bank of ND by state law, has to participate in a least of 50% of the PACE loan, so the Bank of ND makes interest earnings on that loan at the full interest rate, so we make some money on that, and that allows us to turn 60 million back to the general fund, and then those dollars will come back to appropriations process for the PACE fund.

Don Forsberg, Executive VP of Independent Community Bank: we are in support of HB 1133 and just for the record, community bankers are definitely in support of the changes in this bill, and ask for your recommendation of a do pass, this is economic development from communities all across the state, and anything that brings jobs to our local communities is a positive program.

Jim Schlosser, ND Bankers Association: appeared in support of HB 1133.

No opposition

Hearing closed.

Representative Thorpe: Motion to **DO PASS**.

Representative Froseth: **SECOND** the motion.

Motion carried.

VOTE: **14-YES** **0-NO** **0-Absent.**

Meeting adjourned.

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1133

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No fiscal impact to Bank of North Dakota or State of North Dakota

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.*

No fiscal impact to Bank of North Dakota or State of North Dakota

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.*

No fiscal impact to Bank of North Dakota or State of North Dakota

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

No fiscal impact to Bank of North Dakota or State of North Dakota

Name: Bob Humann
Phone Number: 328-5703

Agency: Bank of North Dakota
Date Prepared: 01/06/2005

Date: 1-10-05
Roll Call Vote #: HB 1133

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Thorpe

Seconded By

Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	✓		Rep. B. Amerman	✓	
N. Johnson-Vice Chairman	✓		Rep. T. Boe	✓	
Rep. D. Clark	✓		Rep. M. Ekstrom	✓	
Rep. D. Dietrich	✓		Rep. E. Thorpe	✓	
Rep. M. Dosch	✓				
Rep. G. Froseth	✓				
Rep. J. Kasper	✓				
Rep. D. Nottestad	✓				
Rep. D. Ruby	✓				
Rep. D. Vigasaa	✓				

Total (Yes)

14

No

0

Absent

-0-

Floor Assignment

Rep. Froseth

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

REPORT OF STANDING COMMITTEE (410)
January 10, 2005 3:19 p.m.

Module No: HR-05-0242
Carrier: Froseth
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1133: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1133 was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1133

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1133

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-23-05

Tape Number

1

Side A

xxx

Side B

Meter #

4000-5009

Committee Clerk Signature



Minutes: **Chairman Mutch** opened the hearing on HB 1133. **Senator Espegard** was absent.

HB 1133 relates to the definition of qualified businesses to which **Partnership in Assisting Community Expansion Act** loans may be made.

Bob Humann, SVP of lending at the **Bank of North Dakota**, introduced the bill.

See written.

Senator Klein: The word "service", would indicate what? How much muscle did we have with that word?

Bob: We felt the word "service" was restricting us from opening it up to some of the things that we are talking about here.

Senator Nething: In looking at your chart, for 2003 was down, I presume because interest rates were so low that there wasn't anything to buy down. Is that a fair conclusion?

Bob: That is correct.

Senator Nething: With the expansion by removing "service", you still have a cap on dollars available, do you not?

Bob: Yes, we do.

Senator Nething: What are your total dollars available for the PACE program?

Bob: Six million dollars minus five percent budget reduction. 5.7 million dollars in interest buy-downs.

Senator Nething: Will that six million dollars be eaten up faster?

Bob: We feel it will open it up somewhat. But really to use up that type of volume, we feel that we will use these PACE dollars that we have within the next biennium.

Senator Klein: We have a few more write-offs on this program than the others?

Bob: That's correct. A lot of these are economic development with no proven track record.

Senator Nething moved a DO PASS.

Senator Klein seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent.

Carrier: Senator Krebsbach

Date: 2-23-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1133

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Nothing

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nothing	X				

Total (Yes)

6

No

0

Absent

1

Floor Assignment

Krebsbach

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

REPORT OF STANDING COMMITTEE (410)
February 23, 2005 3:13 p.m.

Module No: SR-33-3522
Carrier: Krebsbach
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1133: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1133 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1133

TESTIMONY TO THE
HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
HOUSE BILL 1133
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA

The Bank of North Dakota supports House Bill 1133. This bill will expand the definition of qualified businesses for BND's PACE Loan program. The amendment in Section 1 proposes to remove the word "service" from targeted service industries. The change would allow BND to open up the definition of qualified businesses to include: developers of intellectual property and corporate headquarters for companies creating new wealth in North Dakota. The change would also allow BND the flexibility to define future targeted businesses that may not necessarily involve service businesses. BND will continue the procedure of having all changes to definitions of qualified businesses approved through BND's Loan Policy process. This process includes approval by BND's Executive Committee, Advisory Board and the Industrial Commission.

Further information on the PACE Loan program is attached to this testimony. BND has received favorable responses on this change from legislative review sessions held with the North Dakota Bankers Association and Independent Community Bankers of North Dakota. In addition, the Economic Developers of North Dakota have endorsed the proposed change.

In order to be more reactive to the changing needs of the business climate in North Dakota, more flexibility in defining PACE eligible businesses is needed. Your approval is recommended.



Commercial Loan Programs

[Beginning Entrepreneur](#) · [Business Development](#) · [Bank Participation](#) ·

[Bank Stock](#) · [Oil & Gas](#) · [SBA](#) · [PACE](#) · [MATCH](#)

PACE Program - (Partnership in Assisting Community Expansion)

The PACE Fund is designed to assist North Dakota communities in expanding their economic base by providing for new job development.

This program has two major elements: (1) the participation by BND with a local lender in a community based loan, and (2) the participation by the PACE Fund with the local community in reducing the borrower's overall interest rate.

Qualifying Requirements

Borrower - The borrower can be any person or entity whose business is in manufacturing, processing, value-added processing and targeted service industries. Targeted service industries are businesses involved in data processing, telemarketing, telecommunications and major destination tourist attractions.

Loan Limit - There are no maximum loan parameters for borrowing under this program.

Use of Proceeds - The proceeds of a loan may be used for the purchase of real property and equipment and certain working capital requirements. The program cannot be used to refinance any existing debt or for relocation within North Dakota.

Job Creation - The borrower shall demonstrate that within the first year, there will be a minimum of one job created and retained for every \$75,000 of total loan proceeds.

Variable or Fixed Interest Rate - Either a fixed or variable interest rate may be used in the loan participation.

Participation Requirements - BND will evaluate all requests under this program in the same manner as any regular bank participation. Therefore, qualifications, such as equity, collateral, and information requirements is determined on a case-by-case basis as outlined in the Participation Lending section of this booklet.

Application Process

Application by a lead lender is required for BND's participation. See application for additional documentation required when submitting a request to BND. Lead lender is responsible for servicing the loan.

Interest Rate Buy Down Participation

The second element of the PACE Fund combines the resources of the local community and the PACE Fund in buying down the interest rate on the loan.

Community Percentage Factor - A percentage factor has been assigned to most communities within the State. This factor determines the amount of the PACE Fund's participation (65% to 85%) in the funding of the interest rate buy down. This factor is based on four economic conditions (taxable sales and purchases, employment, taxable valuation and population).

Buy Down Funding - The PACE Fund may provide an interest rate buy down up to a maximum of \$250,000. In all cases, the buy down is matched by the community at the designated participation level described under Community Percentage Factor. In addition, the PACE Fund's participation is limited to the amount required to buy down the interest to the lower of 5% below the yield rate (Bank's rate) or 3% below the national prime rate, whichever is lower, but in no event may the interest rate be more than five hundred basis points below the national prime rate. In no event shall

the rate to the borrower fall below 1%.

Community Buy Down Funding - The community's portion of the buy down cannot be funded in any way, directly or indirectly, by the borrower or any individual or organization that has a financial interest in the borrower. The funds may come from a local development corporation, contributions, community funds or other community sources in the form of a grant or a loan. If the community provides its share of the PACE interest rate buy down as a loan, repayment of the loan shall not commence and no interest shall start to accrue until the PACE interest buy down has been fully expended.

Transfer of Funds - A trustee shall be appointed to act as the transfer agent for the buy down. Both the community and the PACE Fund will make periodic payments to the trustee to cover the interest rate buy down.

Default by the Borrower - If the borrower is in default under the loan agreements, the interest rate on the loan changes from the buy down rate to the original higher interest rate. The borrower shall accrue interest at the higher interest rate and all interest rate buy down funding is suspended until the loan is brought current.

Failure of the Community to Fund - If the community fails to fund any portion of its periodic payment, the PACE Fund's buy down payment shall continue and shall be shared by the lenders in proportion to their participation percentage in the loan. However, the community cannot apply for another PACE loan until its original PACE loan has been brought current. The community must prefund its entire portion of the buy down on any new loan prior to funding.

Fees

The lead financial institution may charge an origination fee of up to 1% of the total loan amount, which shall be shared with BND. A minimum PACE origination fee of \$250 is charged by BND and may be included in the origination fee.

For more information about this program or other Bank of North Dakota programs, contact:

Bank of North Dakota
700 East Main Ave
PO Box 5509
Bismarck ND 58502-5509
(701) 328-5671
1-800-472-2166 ext. 5671
TDD (Telephone Device for the Deaf) 1-800-643-3916

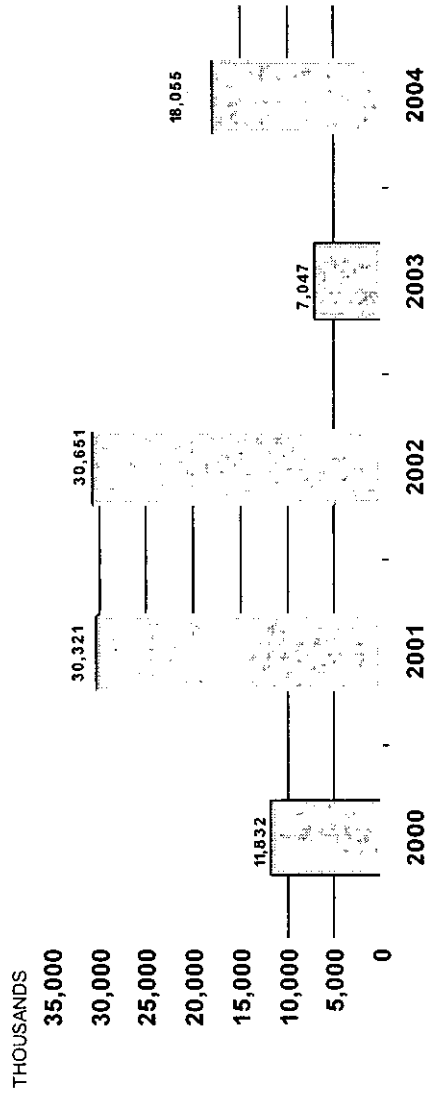
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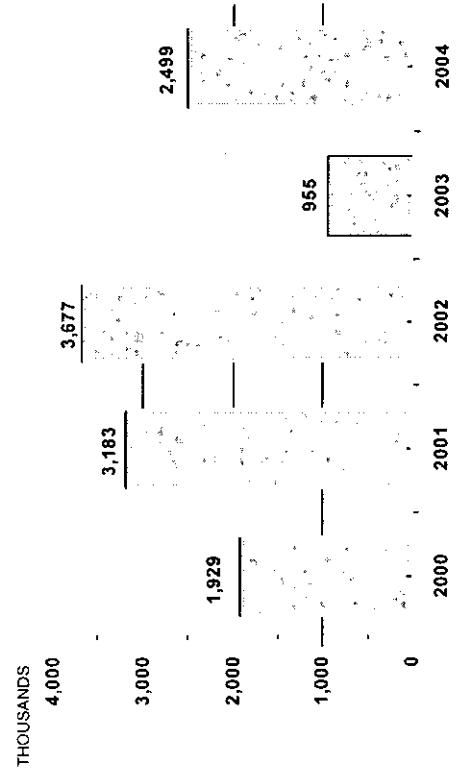
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PACE PROGRAM LOAN AMOUNTS



PACE PROGRAM INTEREST BUYDOWN



2003-2005 Biennium Buydown Fund

Total Available Funds \$8,559,641 *

Buydown Funds - Funded/Committed Loans \$4,183,764

Remaining Buydown Funds \$4,375,877

* \$700,000 was transferred to the Ag PACE Buydown Fund on 11/24/04.

A total of 32 PACE loans were funded in 2004 in comparison to 16 in 2003. Demand for PACE Loan Funds is improving as interest rates rise and deal flow increases.

CHAPTER 6-09.14
PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION

6-09.14-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Business" means a corporation, limited liability company, partnership, individual, or association involved in manufacturing, processing, value-added processing, and targeted service industries as defined by the Bank of North Dakota.
2. "Community" means the city or county in which an eligible business is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area.
3. "Partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to businesses under this chapter.

6-09.14-02. Fund - Continuing appropriation - Administration. A partnership in assisting community expansion fund is hereby established from a transfer of earnings from the Bank of North Dakota. This is a revolving fund, and all moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11. The Bank of North Dakota shall administer the fund.

6-09.14-03. Fund - Purpose - Interest rate buydown. Moneys in the partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.

6-09.14-04. Fund moneys - Eligible uses.

1. The fund moneys may be used to participate in an interest rate buydown on a loan to a new or expanding business for the following eligible uses:
 - a. Purchase of real property and equipment.
 - b. Expansion of facilities.
 - c. Working capital.
 - d. Inventory.

The loan funds cannot be used to refinance any existing debt or for the relocation of the business within North Dakota.

2. The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source.
3. The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.

4. The maximum amount from the fund in the interest rate buydown may not exceed three hundred thousand dollars per loan. The fund participation must be limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
5. The Bank of North Dakota shall adopt rules to implement this chapter.

TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
HOUSE BILL 1133
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA

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