

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2135**

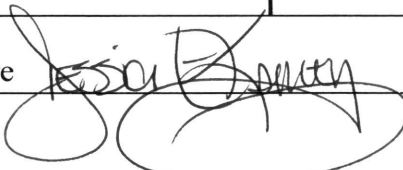
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2135

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
2	x		1-1619
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on SB2135. One senator was absent.

David Clinton testified in support of SB2135. His testimony is included. Senator Krebsbach asked for some information on this project in operation. Mr. Clinton handed out a packet of charts that are also enclosed.

Discussion took place.

Marilynn Foss testified in a neutral position on SB2135.

Senator Mutch concluded the hearing on SB2135.

Committee discussion took place on January 25, 1999.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2135

Hearing Date January 12, 1999

Senator Heitkamp motioned for a do pass committee recommendation on SB2135. Senator

Thompson seconded his motion. The motion for a do pass recommendation on SB2135 carried

with a 7-0-0 vote.

Senator Thompson will carry the bill.

50215140

Date: 1/25/99  
Roll Call Vote #: 2135

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate INDUSTRY, BUSINESS, & LABOR Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By HEITKAMP Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment THOMPSON

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

REPORT OF STANDING COMMITTEE (410)  
January 25, 1999 4:17 p.m.

Module No: SR-15-1145  
Carrier: Thompson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2135: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2135 was placed on the Eleventh order on the calendar.

**1999 HOUSE TRANSPORTATION**

**SB 2135**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2135

House Transportation Committee

Conference Committee

Hearing Date February 8, 1999

Tape Number	Side A	Side B	Meter #
1	x		3.6-15.0
Committee Clerk Signature <i>Jamieson</i>			

Minutes:

CHAIRMAN BERG OPENED THE HEARING ON SB 2135; A BILL RELATING TO BANKING ASSOCIATION INVESTMENTS.

DAVID CLINTON, Assistant Banking Commissioner, introduced SB 2135 on behalf of Commissioner Gary D. Preszler, Commissioner of Banking. (See written testimony).

REP. FROSETH asked if banks normally invest 100% unimpaired capital stock?

DAVID said only the ones at the top end come close.

REP. FROSETH further asked what the dangers are?

DAVID said that it is a safety and solemnest issue. State banks have concern if it get too high.

REP. KLEIN asked if it tightens or which way it goes?

DAVID said some banks loosen and some will be narrowed. It gives a little more room as it is marginal. This is just a better formula that adds profits and gives view to a better picture of the bank in 5 categories rather than two.

MARILYN FOSS, General Counsel for the North Dakota Banking Association testified neutrally on SB 2135. She said that this will affect different banks differently. There will be a smaller percentage of bigger capital base.

JOEL GILBERTSON, ICBND, testified in support of SB 2135. He implied the same claims as the Banking Commissioner. When they go across the level, they need the commissioner's office approval to expand on.

REP. FROSETH asked if this bill would curtail expansion.

JOEL said there would be no effect one way or another.

REP. THORPE asked why they are introducing this bill if it has no purpose.

JOEL said they were neutral on it and passed the question.

REP. SEVERSON asked about "undivided profits." Does it raise the accumulative total?

JOEL said it does raise it depending on the various numbers in different categories. I think it does.

REP. KEMPENICH asked David Clinton which grows faster or slower?

DAVID said in essence it would keep better track of the expansion. It is a better earning for the bank. This is just a better formula. It keeps track of the fluctuations of the bank. It allows us to maybe make that number artificial.

REP. ECKSTROM asked if this would allow big banks to get bigger and make small banks to get smaller?



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House Industry, Business, and Labor Committee

Bill/Resolution Number sb 2135

Hearing Date February 8, 1999

DAVID said if you look at it case by case, there is no discriminatory treatment.

CHAIRMAN BERG pointed out that presently we are seeing 100% without counting the undivided profits. So technically, a bank with a very small portion of undivided profits might qualify and just be at that limit, versus here we are going to add in the undivided profits.

CHAIRMAN BERG CLOSED THE HEARING ON SB 2135.

REP. FROSETH moved a DO PASS on SB 2135. REP. KEISER seconded the motion. The motion carried.

ROLL CALL - 15 YEA, 0 NAE, 0 ABSENT AND NOT VOTING

FLOOR ASSIGNMENT - REP. LEMIEUX

Date: 2-8-99  
Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2135**

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do pass

Motion Made By Froseth Seconded By Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe	/	
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Lemieux

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

**REPORT OF STANDING COMMITTEE (410)**  
February 24, 1999 2:47 p.m.

**Module No: HR-33-3488**  
**Carrier: Lemieux**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2135: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2135 was placed on the Fourteenth order on the calendar.**

**1999 TESTIMONY**

**SB 2135**

## TESTIMONY FOR SENATE BILL NO. 2135

Senate Industry, Business, and Labor Committee

Testimony of David E. Clinton, Assistant Commissioner, Department of Banking and Financial Institutions in support of Senate Bill No. 2135.

Senate Bill No. 2135 merely changes the formula from the amount that a bank may invest in its building, furniture and fixtures, and equipment before requesting a higher amount from the commissioner or state banking board. Presently, banks must request approval from the commissioner or board to invest in fixed assets in an amount that exceeds one hundred percent of the bank's common (unimpaired capital) stock and surplus. Senate Bill No. 2135 proposes to change the amount to sixty-five percent of the bank's unimpaired capital stock and surplus, and undivided profits, unless approved by the commissioner or board. Senate Bill No. 2135 eliminates the question of inter-capital account transfers affecting when approval is necessary.

The sixty-five percent of capital stock, surplus, and undivided profits formula was used based upon a September 30, 1998, Department compiled listing showing all banks within the sixty-five percent limitation. Therefore, no bank will need to seek approval from the Commissioner or board to comply with enactment of Senate Bill No. 2135. The sixty-five percent limitation is high enough to accommodate nearly all banks' fixed asset investments for additional equipment,

remodeling projects, or even major building construction without approval. Additionally, the difference between the amount the bank had currently invested in fixed assets and the banks equity will change as bank earnings are added to undivided profits, and depreciation expense is charged against capitalized fixed assets.

Even if a bank is required to seek commissioner or board approval to invest in fixed assets, it is appropriate for regulatory oversight in the case of large investments, but avoids micro-management on day to day purchases. For example, regulatory approval is appropriate in situations where a large investment in non-earning assets compromise bank earnings, or situations where the bank is speculating in the commercial real estate rental market by constructing buildings much larger than the bank will ever need and becomes dependant upon commercial occupancy rates.

I urge your favorable consideration of Senate Bill No. 2135 and request a “Do Pass” recommendation from the Committee.

Descending by rank of Fixed Assets to total available capital

9-30-98

The First State Bank of Munich	MUNICH	3,603	800	0	3,200	1,575	70,212	90.08%	64.63%	5.13%
First State Bank	BUXTON	1,763	250	0	1,750	1,235	39,363	88.15%	54.50%	4.48%
United Community Bank of North Dakota	LEEDS	2,573	800	0	2,666	1,524	69,829	74.24%	51.56%	3.68%
First International Bank & Trust	WATFORD CITY	9,563	430	0	9,570	13,074	298,116	95.63%	41.44%	3.21%
United Valley Bank	CAVALIER	1,443	500	0	1,900	1,330	48,662	60.13%	38.69%	2.97%
Kirkwood Bank & Trust Co.	BISMARCK	1,634	690	0	2,310	1,418	48,875	54.47%	36.99%	3.34%
First Southwest Bank	BISMARCK	6,411	490	0	8,903	9,406	238,628	68.25%	34.10%	2.69%
American State Bank and Trust of Dickinson	DICKINSON	2,597	1,030	0	2,370	4,377	92,258	76.38%	33.39%	2.81%
Dakota Community Bank	HEBRON	2,026	170	0	3,030	3,098	73,217	63.31%	32.17%	2.77%
Bank Center First	BISMARCK	3,324	400	0	4,600	5,608	134,562	66.48%	31.33%	2.47%
Security State Bank of North Dakota	HANNAFORD	3,259	300	0	6,200	4,046	137,635	50.14%	30.90%	2.37%
The Goose River Bank	MAYVILLE	1,026	150	0	1,850	1,436	45,986	51.30%	29.86%	2.23%
Union State Bank of Fargo	FARGO	466	1,039	0	428	212	19,305	31.77%	27.75%	2.41%
Citizens State Bank Grafton-Petersburg	GRAFTON	668	100	0	2,488	387	39,562	25.81%	22.45%	1.69%
McKenzie County Bank	WATFORD CITY	504	553	0	961	748	26,735	33.29%	22.28%	1.89%
The Union Bank	BEULAH	476	200	500	800	678	25,642	31.73%	21.85%	1.86%
Security State Bank of Edgeley	EDGELEY	422	100	0	1,100	748	20,040	35.17%	21.66%	2.11%
Peoples State Bank	FAIRMOUNT	193	150	0	650	101	10,201	24.13%	21.42%	1.89%
Page State Bank	PAGE	165	75	0	475	243	6,954	30.00%	20.81%	2.37%
The Citizens State Bank at Mohall	MOHALL	405	400	0	1,200	385	21,329	25.31%	20.40%	1.90%
State Bank of Oliver County	CENTER	391	300	0	900	725	17,411	32.58%	20.31%	2.25%
Stutsman County State Bank	JAMESTOWN	1,667	600	0	3,500	4,178	116,821	40.66%	20.14%	1.43%
First State Bank Rolla	ROLLA	811	1,000	0	1,245	2,043	55,097	36.12%	18.91%	1.47%
First State Bank of Cando	CANDO	662	1,000	0	1,332	1,200	35,162	28.39%	18.74%	1.88%
American State Bank & Trust Company of Williston	WILLISTON	2,254	3,000	0	3,000	6,774	143,229	37.57%	17.65%	1.57%
Country Bank USA	CANDO	477	500	0	1,300	949	26,050	26.50%	17.35%	1.83%
West River State Bank	HETTINGER	391	400	0	600	1,287	24,386	39.10%	17.10%	1.60%
The First State Bank of La Moure	LA MOURE	743	350	0	1,985	2,023	59,614	31.82%	17.05%	1.25%
Bank of Glen Ullin	GLEN ULLIN	548	150	0	1,050	2,164	22,922	45.67%	16.29%	2.39%
First Western Bank & Trust	MINOT	3,415	1,600	0	6,400	13,192	193,348	42.69%	16.11%	1.77%
The Dakota Western Bank	BOWMAN	701	600	0	1,800	2,148	56,178	29.21%	15.41%	1.25%
Strasburg State Bank	STRASBURG	491	105	0	1,200	1,890	33,066	37.62%	15.37%	1.48%
Lincoln State Bank	HANKINSON	413	150	0	2,000	548	24,462	19.21%	15.31%	1.69%
Citizens State Bank of Pembina County	CAVALIER	1,117	300	0	3,700	3,433	77,768	27.93%	15.03%	1.44%
Bank of Steele	STEELE	652	100	0	1,300	3,051	39,766	46.57%	14.65%	1.64%
First Security Bank	UNDERWOOD	276	300	0	400	1,188	19,857	39.43%	14.62%	1.39%
State Bank of Bottineau	BOTTINEAU	432	200	0	1,200	1,867	33,218	30.86%	13.22%	1.30%
First United Bank	PARK RIVER	674	600	0	2,209	2,401	64,813	23.99%	12.94%	1.04%
Lakeside State Bank	NEW TOWN	702	300	0	2,100	3,109	43,220	29.25%	12.74%	1.62%
State Bank of West Fargo	WEST FARGO	537	461	0	2,239	1,836	67,708	19.89%	11.84%	0.79%
Bank of Turtle Lake	TURTLE LAKE	244	500	0	700	864	18,768	20.33%	11.82%	1.30%
Western State Bank	DEVILS LAKE	1,419	900	0	4,884	6,517	146,211	24.53%	11.54%	0.97%
State Bank of Fargo	FARGO	2,939	600	0	11,400	13,709	354,861	24.49%	11.43%	0.83%
Rolette State Bank	ROLETTE	275	100	0	700	1,672	23,891	34.38%	11.12%	1.15%
Drayton State Bank	DRAYTON	368	300	0	1,000	2,044	30,981	28.31%	11.00%	1.19%
Security State Bank of Hunter	HUNTER	199	100	0	700	1,025	18,769	24.88%	10.90%	1.06%
Merchants Bank	RUGBY	489	1,000	0	1,000	2,552	40,669	24.45%	10.74%	1.20%

Farmers Security Bank	WASHBURN	320	600	0	1,000	1,416	26,288	20.00%	10.61%	1.22%
Security State Bank	DUNSEITH	375	250	0	750	2,582	32,405	37.50%	10.47%	1.16%
The Citizens State Bank of Finley	FINLEY	318	250	0	1,150	1,659	29,818	22.71%	10.40%	1.07%
Security State Bank of New Salem	NEW SALEM	251	400	0	841	1,224	22,606	20.23%	10.18%	1.11%
Bank of Beulah	BEULAH	513	600	0	1,000	3,614	49,341	32.06%	9.84%	1.04%
Peoples State Bank of Velva	VELVA	379	300	0	1,500	2,114	24,636	21.06%	9.68%	1.54%
Farmers & Merchants Bank of Valley City	VALLEY CITY	778	410	0	2,590	5,436	68,343	25.93%	9.22%	1.14%
Bank of Minto	MINTO	172	250	0	750	970	16,479	17.20%	8.73%	1.04%
Walhalla State Bank	WALHALLA	375	300	0	1,700	2,513	36,885	18.75%	8.31%	1.02%
Bank of Hazleton	HAZELTON	204	150	0	1,050	1,257	21,295	17.00%	8.30%	0.96%
Security State Bank of Robinson	ROBINSON	127	150	0	850	593	14,178	12.70%	7.97%	0.90%
First State Bank Langdon	LANGDON	457	1,000	0	1,799	3,058	64,534	16.33%	7.80%	0.71%
State Bank of Lakota	LAKOTA	322	100	0	1,900	2,173	35,416	16.10%	7.72%	0.91%
Farmers State Bank	ELGIN	132	150	0	1,050	645	20,331	11.00%	7.15%	0.65%
Union State Bank of Hazen	HAZEN	377	800	0	800	3,926	49,722	23.56%	6.82%	0.76%
The Farmers & Merchants State Bank of Tolna	TOLNA	291	150	0	1,000	3,116	31,123	25.30%	6.82%	0.93%
Security State Bank	WISHEK	258	175	0	1,225	2,456	38,024	18.43%	6.69%	0.68%
First State Bank of Golva	GOLVA	126	50	0	1,050	830	20,231	11.45%	6.53%	0.62%
Peoples State Bank	WESTHOPE	187	750	0	750	1,396	31,724	12.47%	6.46%	0.59%
Farmers and Merchants State Bank	LANGDON	227	200	0	1,800	1,682	33,669	11.35%	6.17%	0.67%
Citizens State Bank of Lankin	LANKIN	196	125	0	1,975	1,261	26,156	9.33%	5.83%	0.75%
Grant County State Bank	CARSON	135	200	0	1,200	926	22,183	9.64%	5.80%	0.61%
First State Bank of Hope	HOPE	76	75	0	525	744	14,162	12.67%	5.65%	0.54%
McVille State Bank	MCVILLE	87	150	0	1,193	223	13,923	6.48%	5.56%	0.62%
Kulm State Bank	KULM	82	50	0	650	811	12,479	11.71%	5.43%	0.66%
State Bank & Trust of Kenmare	KENMARE	249	1,000	0	3,000	643	53,545	6.23%	5.36%	0.47%
First State Bank of Gackle	GACKLE	187	50	0	2,050	1,537	24,148	8.90%	5.14%	0.77%
First State Bank of North Dakota	ARTHUR	269	100	0	2,700	2,432	43,289	9.61%	5.14%	0.62%
The First and Farmers Bank	PORTLAND	171	210	0	1,190	1,935	27,997	12.21%	5.13%	0.61%
Garrison State Bank and Trust	GARRISON	302	600	0	2,200	3,147	50,925	10.79%	5.08%	0.59%
Commercial Bank of Mott	MOTT	167	100	0	2,450	853	34,494	6.55%	4.91%	0.48%
Harwood State Bank	HARWOOD	102	100	0	900	1,131	16,041	10.20%	4.79%	0.64%
McIntosh County Bank	ASHLEY	400	300	0	1,700	6,605	50,149	20.00%	4.65%	0.80%
Kindred State Bank	KINDRED	61	100	0	700	783	15,914	7.63%	3.85%	0.38%
First State Bank of Wilton	WILTON	66	250	0	750	771	19,296	6.60%	3.73%	0.34%
First State Bank of Goodrich	GOODRICH	59	150	0	1,050	396	17,105	4.92%	3.70%	0.34%
Liberty State Bank	POWERS LAKE	126	200	0	700	2,527	20,061	14.00%	3.68%	0.63%
The Bank of Tioga	TIOGA	210	300	0	2,200	3,723	42,334	8.40%	3.37%	0.50%
Peoples Bank and Trust	PARSHALL	171	100	800	1,500	2,727	33,426	7.13%	3.34%	0.51%
State Bank of Streeter	STREETER	42	125	0	575	626	8,186	6.00%	3.17%	0.51%
The Fingal State Bank	FINGAL	38	50	0	950	271	9,026	3.80%	2.99%	0.42%
Farmers State Bank of Crosby	CROSBY	228	300	0	1,700	5,979	45,478	11.40%	2.86%	0.50%
Citizens State Bank	ENDERLIN	129	100	0	3,300	2,428	51,634	3.79%	2.21%	0.25%
Stock Growers Bank	NAPOLEON	187	200	0	1,500	6,931	36,514	11.00%	2.17%	0.51%
Sargent County Bank	FORMAN	164	200	0	1,400	8,495	53,916	10.25%	1.62%	0.30%
Scandia American Bank & Trust	STANLEY	159	400	0	2,200	8,413	48,850	6.12%	1.44%	0.33%
First State Bank of Sharon	SHARON	41	50	0	1,200	2,452	29,457	3.28%	1.11%	0.14%



First State Bank of Harvey	HARVEY	55	400	0	2,000	3,651	53,903	2.29%	0.91%	0.10%
Bank of Hamilton	HAMILTON	0	150	0	550	1,150	12,698	0.00%	0.00%	0.00%

## TESTIMONY FOR SENATE BILL NO. 2135

House Industry, Business, and Labor Committee

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions in support of Senate Bill No. 2135.

Senate Bill No. 2135 merely changes the formula from the amount that a bank may invest in its building, furniture and fixtures, and equipment before requesting a higher amount from the commissioner or state banking board. Presently, banks must request approval from the commissioner or board to invest in fixed assets in an amount that exceeds one hundred percent of the bank's common (unimpaired capital) stock and surplus. Senate Bill No. 2135 proposes to change the amount to sixty-five percent of the bank's unimpaired capital stock and surplus, and undivided profits, unless approved by the commissioner or board. Senate Bill No. 2135 eliminates the question of inter-capital account transfers affecting when approval is necessary.

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remodeling projects, or even major building construction without approval. Additionally, the difference between the amount the bank had currently invested in fixed assets and the bank's equity changes daily as bank earnings are added to undivided profits, and depreciation expense is charged against capitalized fixed assets.

Even if a bank is required to seek commissioner or board approval to invest in fixed assets, it is appropriate for regulatory oversight in the case of large investments, but avoids micro-management on day to day purchases. For example, regulatory approval is appropriate in situations where a large investment in non-earning assets compromise bank earnings.

I urge your favorable consideration of Senate Bill No. 2135 and request a “Do Pass” recommendation from the Committee.