

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2385

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2385

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2385

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 12, 2001.

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|--------------|
| 1 | | x | 33.6 to end |
| 2 | x | | 0 to 8.4 |
| (Feb. 14/01) 1 | | x | 18.0 to 22.0 |
| Committee Clerk Signature <i>Dois E. Perez</i> | | | |

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2385 relating to agriculture partnership in assisting community expansion loans and partnership in assisting community expansion loans.

SENATOR AARON KRAUTER, District 35, cosponsor, in favor. This bill is an incentive type approach to bring an increase in wages in ND. Bill addresses PACE program and PACE agriculture program. Handed out information obtained from the BND web site regarding the two programs. Reviewed program requirements. Under this bill if employers can provide wages that exceeds regional average, or the average established by the department of commerce, they would be eligible for another two hundred basis points interest buy down.

SENATOR ESPEGARD: Instead of buying down 6 points, they buy down to eight?

A KRAUTER: Yes.

SENATOR ESPEGARD: Fiscal note on it.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2385

Hearing Date February 12, 2001.

A KRAUTER: Ag PACE has not been utilized 100% we will allow transfer from that program to the other.

BOB HUMANN, Loan Manager Bank of ND, fiscal note was made based only on Ag PACE that is why there is a confusion. It would use more of the dollars from the fund. Loans we did most of people self-employed. How commercial PACE will be affected we will run the numbers and bring them to the committee. Bank policy states that we cannot buy interest rate down by less than one percent, will have to keep an eye on it so we won't be buying down into principal. Also will have to figure out how to keep track of the wages been paid, will have to implement mechanism to do that. Right now we check on annual basis through lead lender, if we have any concern about accuracy we would verify that with Job Service.

SENATOR KREBSBACH: All this based on the premise of the commerce department law passing.

S KRAUTER: The bill takes that into account in section 4.

Discussion held regarding fiscal note and PACE portfolio.

SENATOR KLEIN: If no new money is going to be put in the fund money has to come from the PACE program.

SENATOR KREBSBACH: This program directly affects economic development and nobody has testified about that yet.

Hearing closed.

Feb. 14/01. Tape 1-B- 18.0 to 22.

Committee reconvened. All members present. New fiscal note reviewed and discussed.

SENATOR TOLLEFSON: Move do not pass. SENATOR KREBSBACH: Second

Roll call vote: 5 yes; 2 no. Carrier: SENATOR ESPEGARD

FISCAL NOTE

Requested by Legislative Council
02/12/2001

REVISION

Bill/Resolution No.: SB 2385

Amendment to:

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.*

| | 1999-2001 Biennium | | 2001-2003 Biennium | | 2003-2005 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.*

| 1999-2001 Biennium | | | 2001-2003 Biennium | | | 2003-2005 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.*

SB 2015 appropriates \$1,500,000 for the Ag PACE fund and \$6,000,000 for the PACE fund. With the changes contemplated to the program under SB 2385, BND does not anticipate the need for a fiscal note.

As for the Ag PACE fund, it should be noted that of the 15 loans funded during this biennium which could be affected by the proposed change, only three of the loan recipients are utilizing outside help with only one having full-time employees. For qualifying borrowers, the proposed change would affect the total usage of dollars in the Ag PACE interest buydown fund. For example, a Borrower which would qualify for \$10,000 of interest buydown under the existing program, would qualify for an additional \$4,000 with the additional 2% interest buydown as proposed with the necessary wage minimums. The additional interest buydown figure would double to \$8,000 if a Borrower had qualified for the existing program interest buydown maximum of \$20,000. The additional interest buydown proposed will not create usage problems for the Ag PACE fund since the funds have not been used up during the last few bienniums.

As for the PACE fund, all of the interest buydown funds have been used prior to the end of the biennium with the fund normally running short after 18 months. In review of the current biennium PACE activity, the \$6MM of interest buydown has provided a lower rate on \$61MM in total loans for total job creation of 1,260 new jobs. The average buydown amount per project is \$82,000 based on a 5% interest rate buydown. If the interest rate buydown was increased by another 2% to a total of 7% with the proposed bill change the buydown amount would increase by \$46,000 to \$128,000. If 100% of the PACE applicants created jobs which paid more than the regional average wage, the increase in interest buydown would cost \$2,160,000 which would eliminate 26 available PACE applicants from obtaining PACE funding. If 50% of the PACE applicants created jobs which paid more than the regional average wage, the increase in interest buydown would cost \$1,080,000 which would eliminate 13 available PACE applicants from obtaining PACE funding. The formula is that the additional 2% in interest buydown uses 36% more buydown than a normal 5% buydown and with an average loan using \$82,000 in interest buydown eliminates half of another PACE project from being funded.

It should also be noted that with PACE, the local Community economic development group is responsible for between 15% to 35% of the interest buydown in addition to the interest buydown provided by the State's PACE fund. The local economic development group is making the decision in regards to the type of companies their community wants to attract within an appropriate wage scale range.

One other area to note is that the current PACE program has an interest rate floor after interest buydown of 1% so that the State is not providing interest buydown which would be reducing loan principal.

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.*

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.*

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.

| | | | |
|----------------------|-------------------|-----------------------|----------------------|
| Name: | Eric A. Hardmeyer | Agency: | Bank of North Dakota |
| Phone Number: | 328-5674 | Date Prepared: | 02/02/2001 |

FISCAL NOTE

Requested by Legislative Council
01/29/2001

Bill/Resolution No: SB 2385

Amendment to:

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.*

| | 1999-2001 Biennium | | 2001-2003 Biennium | | 2003-2005 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.*

| 1999-2001 Biennium | | | 2001-2003 Biennium | | | 2003-2005 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.*

SB 2015 appropriates \$1,500,000 for the Ag PACE fund. With the changes contemplated to the program under SB 2385, BND does not anticipate the need for a fiscal note. It should be noted that of the 15 loans funded during this biennium which could be affected by the proposed change, only three of the loan recipients are utilizing outside help with only one having full-time employees. For qualifying borrowers, the proposed change would affect the total usage of dollars in the Ag PACE interest buydown fund. For example, a Borrower which would qualify for \$10,000 of interest buydown under the existing program, would qualify for an additional \$4,000 with the additional 2% interest buydown as proposed with the necessary wage minimums. The additional interest buydown figure would double to \$8,000 if a Borrower had qualified for the existing program interest buydown maximum of \$20,000. One other area to note is that the current program has an interest rate floor after interest buydown of 1% so that the State is not providing interest buydown which would be reducing loan principal.

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.*

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.*

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.*

| | | | |
|----------------------|-------------------|-----------------------|----------------------|
| Name: | Eric A. Hardmeyer | Agency: | Bank of North Dakota |
| Phone Number: | 328-5674 | Date Prepared: | 02/02/2001 |

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 11:47 a.m.

Module No: SR-27-3308
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2385: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2385 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

SB 2385

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PACE

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 whose business is in manufacturing, processing, value-added processing, major destination tourist attractions, 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, expansion, 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 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

A lead lender makes application for this program and is responsible for servicing the loan.

INTEREST RATE BUY DOWN PARTICIPATION

The second phase of PACE Fund combines the resources of the local community and the PACE Fund in buying down the interest rate on the loan. If the loan is approved by the lenders, the interest rate buy down will automatically be approved.

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 participate in the interest rate buy down 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% the yield rate (Bank's rate) or 3% 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 loan has been paid in full.

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.

Call (701) 328-5674 for further information.

1-800-472-2166 Ext. 85674

TDD (Telephone Device for the Deaf) 1-800-643-3916

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AGPACE

Agriculture Partnership in Assisting Community Expansion

The AG PACE program provides low interest financing to on-farm businesses. The program funds are used to buy down the interest rate on loans which have been approved by a local lender and BND. It is available to any business, except traditional production agriculture, which is integrated into the farm operation and is used to supplement farm income.

This program is available to North Dakota farm families for business ventures that are conducted on real estate which is operated and owned or leased by a farmer or other organization permitted to engage in the business of farming. The farmer shall have as his principal occupation, prior to applying for the program, the production of agricultural commodities or livestock.

Qualified businesses include any activity which is conducted by the farmer or the farmer's family and which is integrated into the farm operation. These businesses include nontraditional agriculture, manufacturing, processing, value-added processing, and targeted services industries. Eligible uses also include the purchase of equity shares in a new or expanding value added ag processing facility, the purchase of irrigation equipment, and purchase of feedlot improvements. Traditional production agriculture will not qualify for this program but may qualify under other Bank programs. The borrower has a lifetime cap of \$20,000 of interest buydown.

PROGRAM PARAMETERS

The AGPACE program is an interest rate buy down program. Monies in the fund are used to reduce the borrower's interest rate on loans made by a local lender and BND.

The loan is handled through a local lending institution - bank, savings and loan, credit union, or farm credit services - which will request the participation of BND. Together with the borrower, the lenders establish the terms and conditions of the loan, including the interest rate. The lead lender then requests that the AGPACE fund be used to buy down the interest rate.

INTEREST RATE

If the project qualifies as an AGPACE project, the borrower receives an interest rate equal to 5% below the yield rate with a minimum rate of 1%. The AGPACE fund is limited to spending no more than \$20,000 on any one project. Up to \$10,000 of buydown maximum be used when purchasing equity shares. The lead financial institution sets the interest rate to be yielded by the lenders. The difference between the interest charged by the lenders (yield rate) and that paid by the borrower is paid to the lenders by the AGPACE fund.

QUALIFIED PROJECTS

The program may be used to reduce the interest rate on loans for the purchase of real property or equipment, expansions, equity shares, working

capital and the purchase of inventory. The program will not reduce the interest rate on loans that are a refinancing of existing debt.

LENDING CRITERIA

Once a project has been determined to qualify, BND will use its normal credit standards in reviewing the loan. These standards are a factor of the loan size and the type of project. BND is required to take at least 50 percent, and not more than 80 percent, of the loan.

DEFAULT BY THE BORROWER

If the borrower goes into default under the loan agreements, the AG PACE fund will no longer buy down the interest rate. The borrower will then have to pay the full amount of interest due to the lenders. If the farmer wishes to reinstate the AG PACE buy down, he must first bring the loan current or cure the default. The AG PACE program will also consider the relocation of the business from the on-farm location as a possible event of default.

Call (701) 328-5624 for further information.
1-800-472-2166 Ext. 85624
TDD (Telephone Device for the Deaf) 1-800-643-3916