

2011 HOUSE JUDICIARY

HB 1096

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1096  
January 12, 2011  
12840

☐ Conference Committee

Committee Clerk Signature

*Openrose*

## Minutes:

Chairman DeKrey: We will open the hearing on HB 1096.

Bob Humann, Senior VP of Lending, Bank of ND: Sponsor, support (see attached testimony). I have been at the bank since 1992 and we have not had any problems with other lenders taking action against the BND. This has not come up during that time frame. I want to make it clear to the committee here that this really has nothing to do in a legal action between the borrower and the lead bank. This has to do with disputes amongst the participants in a loan package that have provided the loan dollars in a loan package, essentially is what this is involving. As we see these loan packages getting larger, even our ND banks that have locations here, US Bank and Well Fargo, they end up referring some of these large loans to their syndication areas that are located in Minneapolis. When they do large loan syndicated packages, they just refuse to allow the Bank of ND to be part of it, if they have to agree to a venue that would be in Burleigh County. That is why we are looking at making these changes. The other thing that we have in our favor is that these are large, strong financial companies in ND that in the event of default, the chance of that happening is very small.

Moving on to section 2 and 3 (read from testimony). The Beginning Entrepreneur Loan Guarantee program was put into place where the Bank of ND, as opposed to the SBA or the federal government with USDA's programs would come in and provide a guarantee. This is a guarantee that is provided by the Bank of ND to help take the risk out of a ND lender that would be providing a small business loan to a start-up business. Right now, the Bank of ND, provides up to an 85% guarantee on loans that would be a maximum amount of \$100,000. That's what the program is all about. In section 3, it would eliminate the \$100,000 maximum loan amount on this program. We would propose that the dollar amount would be determined by the Bank and be part of the Bank's loan policy. We are asking for these changes to allow the Bank more flexibility to adapt to changes in the business climate and to work around gaps that may exist by the federal guarantee programs. There was a period in the mid-2000's where SBA did away with their low documentation guarantee program and there wasn't a guarantee program that was available for

small businesses. That made this Beginning Entrepreneur Loan Guarantee program very popular to ND lenders to help take the risk out of financing start-up businesses. SBA is now back in that business; in fact, they are more aggressive than ever with some of the stimulus packages that went through. SBA is providing up to 90% guarantees with no fees at this point. They are acting very aggressively at this point. We think we need to take a look at our parameters and we're also looking at a tiered system where we end up adjusting the guarantee amount, depending on what the actual maximum loan amount would end up being. That's what we are looking at doing here. We need to have the flexibility to be able to determine those levels at the bank level, rather than coming up to the Legislature every two years and trying to make changes to this program. Keep in mind, we're not going to pull these numbers out of the sky. We will be getting input from ND lenders, economic developers in each of the communities, from the Small Business Development centers; those are the groups that helped put together the finance packages for small businesses located throughout ND. We are going to gather input and make sure that we are doing the right thing here with these guarantee percentages and these loan amounts. The second page is activity levels on what the Bank has done in providing guarantees with the Beginning Entrepreneur Loan Guarantee program. You can see that in 2010, we issued \$956,000 in guarantees for the year. We hit a high in 2008 of over \$2 million. It's slowed down a little bit for us at the Bank this year, because of the SBA program is just so much more aggressive at this point. I would note down below the chart, where the \* is at, a number of years ago, some of the legislators were worried that the Bank might be taking on a little bit too much risk with this program. So we put a stipulation in there that no more than five percent of the Bank's tier one capital can be dedicated toward providing guarantees with this program. Right now, 5% of our tier one capital would be \$16.2 million. We've only issued guarantees that we have outstanding right now, in the amount of \$4 million in total. So we have \$12 million of room to go there to make additional guarantees.

Rep. Delmore: Why didn't you do the homework on those changes down below, rather than leaving blank amounts; guarantee loans should be determined by the Bank for the amount and the same with the percentage. Is there a reason why you didn't try to collaborate with people when you were going to bring this forth so you can have some kind of caps. I'm just looking at an industry right now that is being more tightly regulated than any other perhaps because of what has happened with our economy, and the market, etc. Why do you prefer not to have anything in there and set it for the duration.

Bob Humann: The reason is because we started on this process early in 2010; working with the lenders and economic developers, small business development centers; it takes time to put all these parameters together, and we don't have anything definite decided yet. We also find that once we get in the midst of the matter, the legislators have left town and we have the laws in place that we might get a year into the biennium and we find out that maybe we should be bumping our guarantee percentage up. We can't react at that point. We have to wait until the legislators get back to town to be able to make changes to this. We just feel that it

would let us be more flexible in determining the parameters. There is a fine line that we are looking at here, we want as a measurement of accomplishing our mission, we want to promote economic development and we want to help these small businesses out. Yet, we also have to guard the Bank's capital and we don't want to have a bunch of loan losses out there either, that are going to be high enough where it actually affects the financial strength of the Bank. There is a fine line, and we need the flexibility to determine what the parameters are going to be and let the Bank actually establish those. We've done that with a number of other loan programs that administer at the Bank, such as the Beginning Farmer program, the Family Farm Loan program, PACE program. We have now been given more flexibility to set the parameters of the programs and not have the legislators actually dictate what those parameters should be, because we just can't react fast enough to changing economic market conditions.

Rep. Delmore: Right now, you want us to trust you to set it wherever. Are you ever intending to come back and have a plan with limits and numbers to fill in.

Bob Humann: At this point, I agree with you. We are asking you to trust us. There's no doubt about that. If you want us to come back and tell you how this ended up, we're more than willing to do that.

Rep. Klemin: First of all, let's talk about the venue section first. In that section, that's where the Bank of ND would be participating in a loan, as opposed to what section 2 and 3 are talking about – loan guarantees. In other words, the participation of Bank of ND would actually be advancing some of the funds used in the loan, is that correct.

Bob Humann: That is exactly right. With the guarantee program we don't advance any dollars unless there would be a loss. We cover the 85% of the loss, once the assets of the business would be liquidated. In the participation section we are talking about in section 1, we advance loan dollars of the Bank that go out; based on the agreement that we have entered into with the originating lender.

Rep. Klemin: In that type of situation versus the section 2, guarantee limitation, are there any limitations on the Bank of ND as to the dollar amount in which you can participate.

Bob Humann: In Section 1, we would be protected there because the Bank follows the guideline that we will not exceed to any one borrower 15% of the Bank's capital. Right now that figure is about \$50 million. So \$50 million in total would be our self-imposed lending limit at the Bank. We don't call it a legal lending limit, like other ND financial institutions do, but that's what our lending limit is on a borrower basis. The other thing that I would say, when we get into these large packages, is that to approve loan policy, it has to be approved by the Bank's executive committee, Bank's advisory board, and the Industrial Commission, which governs the Bank. There are a lot of eyes looking at the loan policy to make sure that we're doing the

right thing. When it comes to loan approval authority, any loan over \$5 million, that's approved by the Bank of ND, also goes on and has to be approved by the advisory board, and the Industrial Commission. There are checks and balances there.

Rep. Klemin: Just to confirm my understanding of sections 2 and 3, I thought I heard you say that various other loan guarantee programs that the Bank of ND has do not currently have this type of limitation that is in the Beginning Entrepreneur Guarantee Programs. Is that correct, or are there different limits.

Bob Humann: I was referring to other programs that we administer, such as the Beginning farmer program and the family farm program, those are programs where we actually fund loan dollars to farmers. But they have limits, a maximum net worth limitation, where the net worth cannot exceed \$500,000 for a beginning farmer. If that net worth is less than \$500,000, then we could provide up to a maximum of \$400,000 in Beginning Farmer money to that beginning farmer to buy real estate or to buy chattels. Those limits have now been, we've been given the ability during the last legislative session to set those limits. Then this Beginning Entrepreneur Program, that currently has the guarantee limit, is the only type of program that has a guaranteed limit that is administered by the Bank.

Bob Humann: Yes, this is the only guarantee program that we have. Most guarantees are provided by the federal government, such as the SBA, USDA, this is the only state guarantee program that we have that we administer.

Rep. Koppelman: If I'm reading this correctly, the section talking about the venue change, could be interpreted to say that, if an action were commenced in ND, that it would have to be in Burleigh County unless it was outside the state of ND. So, I think an unintended consequence of doing that, is you'd be saying, if this passed as written, you couldn't have an action in any court in ND except Burleigh County, but you could have one in any place else in the US if the Bank said it was okay. I don't think that was your intent, but I think if you read current law and your new section that would be the result.

Bob Humann: I guess the Attorney General's office put this language together for us. So I assume that's not how they were interpreting it.

Rep. Koppelman: I understand where you are going here, but it does raise a question and it kind of relates to my first question. I can understand the concern with some of these loans and contracts, etc. I've seen a lot of contracts where they specify where any civil action would brought if the contract is called into question. I assume in the case of some of our banks, for example, let's say headquartered in Minneapolis, they want to do the court case in Minneapolis. That would also imply then that they would do it under the laws of Minnesota, not under the laws of ND. I think this is bigger than just a change of venue, but there is another part to my question. Because a lot of our population resides in the eastern portion of the state, particularly with the financial industry, would it make sense to be able to try some of

these cases in that part of the state. I realize that being in Burleigh County makes it convenient for the Bank. Would it give a little bit of ease to some of these folks if something could be tried in Fargo or Grand Forks, Minot, Williston, Dickinson, other than Burleigh County.

Bob Humann: I think it's Burleigh County because our legal counsel is the Attorney General's office and they are the ones that want to drive down the street, it's not necessarily the Bank. That's how all of the state agencies are basically protected.

Rep. Koppelman: I'm aware of that, but that's why I raised the question because what you are seeking here is saying that this is a little bit provincial here and maybe we need to look outside and say we can have court cases other places, that's really what subsection 2 does here, but maybe we should look elsewhere in our state, if we're going to send people to Atlanta, maybe we should be willing to send them to Fargo. If that's the case, maybe we should take a look at changing that. The other question I had, is the overarching policy question. The Bank of ND is a unique animal in this country. We appreciate what you do, and you've generated a lot of revenue for the state over the years; that's very important. Mr. Hardmeyer tells me that he is getting calls all the time now from people around the country saying, we've discovered the secret to ND's economic success. You have a state-owned Bank, we're going to start one of those. I think we realize that isn't "the be all end all of the golden goose". However, we are a state entity, so in effect, an agency or arm of state government, do we really want to get into the business if the Bank is ever involved in legal wrangling of doing it somewhere else in the country. I know what you are trying to do here, and I support your intent. I'm just worried about opening it wide open and I trust the wisdom of the Bank, but do we want to keep this a ND thing.

Bob Humann: I'm all about keeping it in ND until it actually prohibits us from being a participant in these large loan packets. It's really not that we are greedy and we want to see that we build this loan volume to have a net interest margin that provides profits to the Bank that we can forward on to the State. It's the fact that these large companies, that we've developed relationships with, Basin Electric, MDU, American Crystal Sugar, they have such large borrowing needs that it cannot get done in ND. They are actually the ones requesting these large syndicated institutions work with the Bank of ND; they want the Bank of ND to be involved in the package; but it comes down to the fact that we can't be involved in the package because of this venue issue. It is prohibiting us from us being part of those packages and to be honest with you, it's these companies that are really wanting us the get it changed, so that we can be a part of the packages and help them continue to be part of their financing solution.

Rep. Onstad: On Section 2 and 3, for a little bit of clarification. The Bank of ND does not originate these loans, they all originate at a local level and they go to the Bank for participation, is that correct.

Bob Humann: The loans are originated out of ND financial institutions, whether it is a credit union, a bank, savings and loan; the loans are originated there. We don't advance any loan dollars to that company. All we do is provide the guarantee. It's a five year guarantee, 85% of the outstanding principle amount. Say we get into the deal three years, with two years left on the loan, the business goes bad, they can't make it go, the business' assets are liquidated, any remedies against the owners are taken, if there is a loss, the Bank pays that lead lender 85% of the loss, is what ends up happened.

Rep. Onstad: So basically it is originated at another institution, so it really has to pass their tests, whether they want to continue with the loan.

Bob Humann: Yes, it has to pass their test and our test.

Chairman DeKrey: Thank you. Further testimony in support of HB 1096. Testimony in opposition. We will close the hearing. Let's take a look at HB 1096. I don't have a problem with that bill, but I do think that there should be something in there that they come back and report to the legislature. I know they report to the Industrial Commission, but I think that in a couple of years they should come back and report to somebody. I don't know if that would be the Legislative Management committee or who that should be.

Rep. Delmore: I think we can set it up to be either, but they also talked about having some more permanent changes because they would know about the other players which they haven't surveyed or done yet. I think to leave this cart blanche and just leave it open forever, probably isn't the wisest decision on our part.

Chairman DeKrey: How about if we put a sunset clause on it, and then pass it.

Rep. Klemin: I guess I wouldn't suggest putting a sunset clause on section 1 that has to do with their participation in out-of-state loans; it dealt with venues.

Chairman DeKrey: Okay, I guess we are more concerned with sections 2 and 3.

Rep. Delmore: Can we think about this and take it up on Monday. Just hold it, and if somebody has an idea for an amendment to do something and bring it at that time.

Chairman DeKrey: Okay, we'll look at it on Monday, 1/17/11.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1096  
January 19, 2011  
13908

☐ Conference Committee

Committee Clerk Signature



## Minutes:

Chairman DeKrey: We will take a look at HB 1096. What are the committee's wishes.

Rep. Klemin: I move a Do Pass.

Rep. Beadle: Seconded.

Rep. Klemin: I think it was made pretty clear to us by Bob Humann, from the BND that the Bank is not able to participate in certain kinds of loans, particularly with out of state lenders where it involves multiple banks, unless the Bank would agree to the venue outside of ND in the event of an action relating to the loan could be someplace other than ND. So that kept the BND out of a lot of these transactions. All this does is to say that the Bank can enter these and agree to venue outside of ND if it's approved by the Attorney General. It seems in the kind of lending that's going on today with these large loans dealing with major banks from outside of ND, they're not going to agree to the BND controlling where the suits are brought, particularly if we're just minor players in some of it.

Chairman DeKrey: The other sticking point is on the 2<sup>nd</sup> page where the Bank is going to determine the dollar amount that they'll participate in instead of being limited to \$100,000. These were the only loans that the Bank still had a dollar amount on and they just wanted to make it consistent with the rest of the Bank.

Rep. Koppelman: Should we include other cities in ND to have jurisdiction; that an action could be tried in other cities in ND.

Rep. Klemin: That's a substantive change that is not a clean-up. The AG's office presented information in the past as to why that wasn't a good idea. The action must be brought in Burleigh County; the reason for that is because the AG's office is located in this county. Here is where all the state agencies are physically located. If one of us were to get sued, the suit has to be brought in the county of our residence. That's the general rule. Burleigh County is the residence of all of these



agencies. Since the agencies are located here, their main offices and since all of their staff that deal with legal issues and the AG's offices are located here, it was deemed not to be in the best interest of the State to allow anybody to start suing the State of ND in Williams, Morton, Cass, etc. or wherever they wanted to bring a lawsuit and have it centrally located here in Burleigh County, and it's been like this probably since statehood.

Rep. Koppelman: It just appears that the suit can be anywhere outside the state, but can only be brought in the state in Burleigh County; that is at the end of subsection 2, on lines 18 and 19.

Rep. Klemin: We're not talking about a bank in Fargo. Typically with these large multi-state banks, the bank in Fargo is just going to be doing Fargo business. They're not going to be doing these large multiple state/bank transactions.

Rep. Koppelman: The Bank said that it wasn't their intention to exclude any other cities in ND.

Rep. Maragos: Was Rep. Koppelman offering an amendment.

Rep. Koppelman: I would like to, but the motion was already made. If the motion would be withdrawn I would offer an amendment.

Rep. Klemin: I withdraw my motion.

Rep. Beadle: I withdraw my second.

Chairman DeKrey: So what is the amendment.

Rep. Koppelman: I move that on line 18, after the word North Dakota, or elsewhere in ND.

Rep. Boehning: Second the motion.

Rep. Klemin: It really doesn't do anything to say after that comma on line 19 that the Bank can agree to a venue outside of ND or elsewhere in ND if approved by the AG; the documents initially require the venue to be outside of ND. So I really don't see that the amendment does anything that would serve any useful purpose here, since the documents are required to be outside of ND, not someplace else in ND.

Rep. Koppelman: Actually the language I proposed should also be added after both times North Dakota appears on line 18 to make it flow.

Rep. Delmore: Were you asked to draw up something by the Bank, because it seems to me if they wanted that change, they had adequate time to bring it to the committee or to bring it in when they had it. Otherwise they can take it to the

Senate. I would think that would be their choice to make and put it on there if that is a venue they think they need.

Rep. Koppelman: No, the Bank did not ask for it. Obviously they came and testified. However when I spoke with them after to raise the question as often happens as we look at bills here, we see things that maybe should be changed and bring forth an amendment.

Rep. Maragos: I'm trying to understand what would happen if the AG did not approve.

Rep. Kretschmar: I think in answer to Rep. Maragos' question, if the AG didn't approve, the Bank couldn't make the loan.

Rep. Maragos: I don't know that it says the Bank couldn't agree to a loan, I thought, it talked about agreeing to a venue; it says here the Bank may agree to a venue outside of ND if approved by the Attorney General. Now, if he doesn't approve a venue outside of ND, what happens.

Rep. Klemin: The answer to that is, we have loan documents that say that if the Bank of ND wants to participate in this large syndication package that's been put together by these out-of-state bankers, they have to agree to a venue outside the state of ND. This presupposes that the Bank is inclined to participate in that syndication package. Certainly if they didn't want to do that to start with, then they wouldn't be going to the Attorney General to seek approval for an out-of-state venue. First of all, this doesn't affect the Bank's decision whether they are going to participate in a loan or not, only if they want to participate in a loan that has an out-of-state venue requirement, then they have to get the Attorney General's approval of the venue issue.

Ch. DeKrey: We will take a roll call vote on the Koppelman amendment proposed for HB 1096. Clerk will call the roll. **5 YES 8 NO 1 ABSENT KOPPELMAN AMENDMENT FAILS.** What are the committee's wishes in regard to HB 1096.

Rep. Klemin: I move a Do Pass on the original bill.

Rep. Delmore: Seconded.

**13 YES 0 NO 1 ABSENT**

**DO PASS**

**CARRIER: Rep. Beadle**

Date: 1/19/11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1096

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Koppelman Amendment

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey		✓	Rep. Delmore		✓
Rep. Klemin		✓	Rep. Guggisberg		✓
Rep. Beadle	✓		Rep. Hogan		✓
Rep. Boehning	✓		Rep. Onstad		
Rep. Brabandt	✓				
Rep. Kingsbury		✓			
Rep. Koppelman	✓				
Rep. Kretschmar		✓			
Rep. Maragos	✓				
Rep. Steiner		✓			

Total (Yes) 5 No 8

Absent 1

Floor Assignment \_\_\_\_\_

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

*Motion Failed*

Date: 1/19/11  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1096

House JUDICIARY Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad		
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Beadle

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

**REPORT OF STANDING COMMITTEE**

**HB 1096: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1096 was placed on the  
Eleventh order on the calendar.

2011 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1096

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

HB 1096  
March 2, 2011  
Job Number 14816

☐ Conference Committee

Committee Clerk Signature



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

Relating to venue of civil actions involving the Bank of North Dakota and the beginning entrepreneur loan guarantee program

## Minutes:

Testimony attached

**Chairman Klein:** Opened the hearing on House bill 1096.

**Bob Humann, Senior Vice President of lending at the Bank of North Dakota:** Written testimony attached.

**Chairman Klein:** Asked if it needed addressing because they don't think they are getting an opportunity to participate because of a North Dakota law.

**Bob:** Answered yes.

**Senator Nodland:** Stated that the first section doesn't apply to an entrepreneur beginning program.

**Bob:** No that is totally separate from the beginning entrepreneur loan program, which I will go into next. He said they tried to put all the farm bills together and their business bills together. He continued with his written testimony.

**Chairman Klein:** Said that one of the questions would be if they had a lot of delinquencies.

**Bob:** Said they had some losses but they also collect a fee. He said that the losses have exceeded the fees but they view this as part of their mission. It is an economic development program and it is part of their mission to get small businesses started out and to work with North Dakota banks. The state has the risk of 85% of the loan, the other 15% stays with the local financial institution.

## Comments

**Chairman Klein:** Asked if they are concerned not having an amount or percentage.

**Bob:** When this goes into effect we will have caps and guarantee percentages already established. Also said that they bring the loan policy changes to the industrial commission and they get a good look at it.

**Senator Nodland:** Moved a do pass.

**Senator Schneider:** Seconded the motion.

Roll Call Vote: Yes-7 No-0

Senator Larsen to carry the bill



Date: 3/2/2011  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1096

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Schneider

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Philip Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Larsen

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

**REPORT OF STANDING COMMITTEE**

**HB 1096: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1096 was placed on the Fourteenth order on the calendar.**

**2011 TESTIMONY**

**HB 1096**

TESTIMONY TO THE  
JUDICIARY COMMITTEE  
HOUSE BILL 1096  
BOB HUMANN – SVP OF LENDING  
BANK OF NORTH DAKOTA  
JANUARY 12, 2011

Section 1 of House Bill 1096 provides flexibility to allow for venue of a civil action between Bank of North Dakota (Bank) and an originating financial institution to be located outside of Burleigh County. The approval to allow a venue outside of Burleigh County would be given by the North Dakota Attorney General. We believe this is necessary to allow BND to participate in loan transactions that generally are larger in volume and have a significant impact to the state. These transactions generally are originated by larger out of state financial institutions and may involve many participating financial institutions in a loan syndication package. The originating financial institution may find it burdensome to agree to a Burleigh County venue, and therefore, refuse to allow BND to participate in the loan.

Section 2 eliminates the eight-five percent guarantee amount of loan principal on a Beginning Entrepreneur Loan Guarantee. The guarantee percentage will be determined by the Bank by establishing an appropriate guarantee percentage in the Bank's loan policy.

Section 3 eliminates the \$100,000 maximum loan limit on a Beginning Entrepreneur Loan Guarantee. The maximum loan amount will be determined by the Bank and made part of the Bank's loan policy.

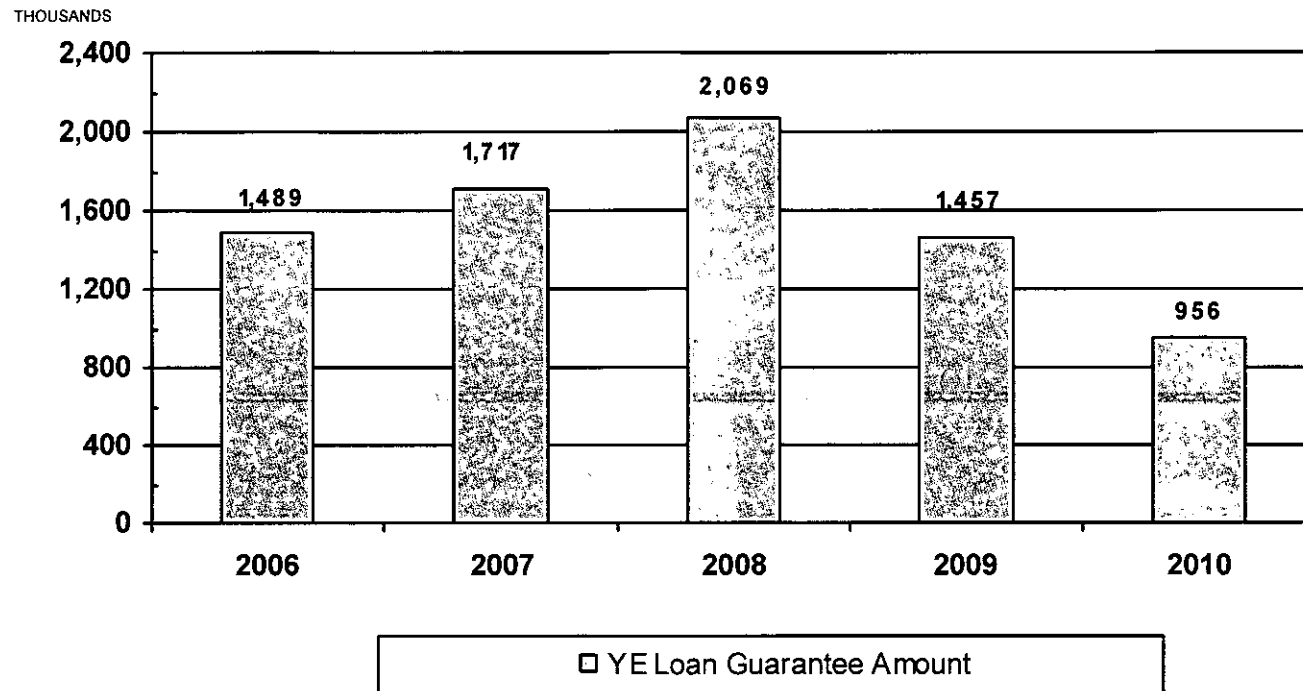
These changes will allow the Bank more flexibility to adapt to changes in the business climate and to work around gaps that may exist by federal guarantee programs. The Bank plans on gathering input from North Dakota lenders, economic developers and small business development centers to determine the appropriate levels. We have even had preliminary discussions about a tiered system where the amount of the loan guarantee varies depending upon the maximum loan amount threshold.

Attached is a graph detailing the loan guarantee activity levels in the recent years.

Your approval of the proposed changes is recommended.

# BEGINNING ENTREPRENEUR PROGRAM HIGHLIGHTS

## 2006 – 2010



### 2009-2011 Biennium Beginning Entrepreneur Guarantee Program

Maximum Guarantee Amount Available	\$16,244,859*
Guarantee Amount - Funded/Committed Loans	<u>\$4,061,734</u>
Remaining Guarantee Amount Available	\$12,183,125

\*5% of BND's Tier I Capital

BND issued 26 guarantees during 2010 in comparison to 31 during 2009.

TESTIMONY TO THE  
SENATE IBL COMMITTEE  
HOUSE BILL 1096  
BOB HUMANN – SVP OF LENDING  
BANK OF NORTH DAKOTA  
MARCH 2, 2011

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Section 3 eliminates the \$100,000 maximum loan limit on a Beginning Entrepreneur Loan Guarantee. The maximum loan amount will be determined by the Bank and made part of the Bank's loan policy.

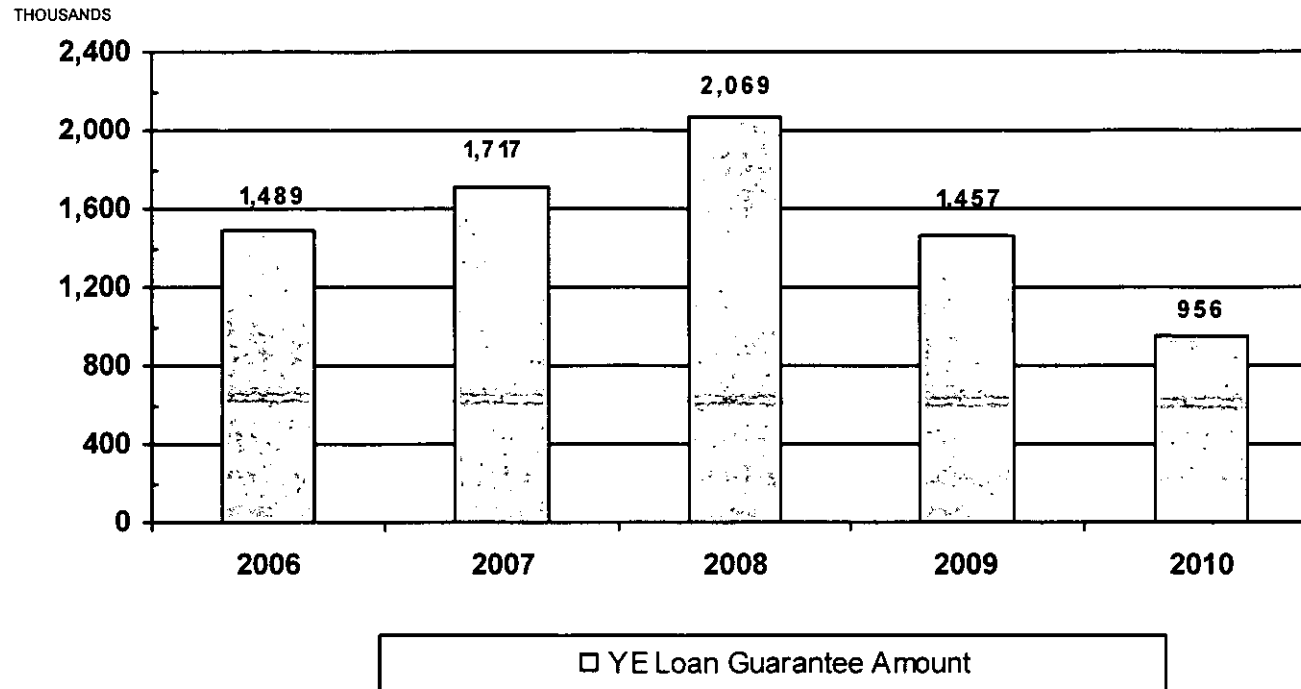
These changes will allow the Bank more flexibility to adapt to changes in the business climate and to work around gaps that may exist by federal guarantee programs. The Bank plans on gathering input from North Dakota lenders, economic developers and small business development centers to determine the appropriate levels. We have even had preliminary discussions about a tiered system where the amount of the loan guarantee varies depending upon the maximum loan amount threshold.

Attached is a graph detailing the loan guarantee activity levels in the recent years.

Your approval of the proposed changes is recommended.

# BEGINNING ENTREPRENEUR PROGRAM HIGHLIGHTS

## 2006 – 2010



### 2009-2011 Biennium Beginning Entrepreneur Guarantee Program

Maximum Guarantee Amount Available	\$16,244,859*
Guarantee Amount - Funded/Committed Loans	<u>\$4,061,734</u>
Remaining Guarantee Amount Available	\$12,183,125

\*5% of BND's Tier I Capital

BND issued 26 guarantees during 2010 in comparison to 31 during 2009.