

COMMITTEE STATEMENT

LB 1389

HEARING DATE: February 14, 2000

COMMITTEE ON: Banking, Commerce, and Insurance

TITLE: (Landis) Adopt the Capital Access Program Act

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

8 Yes Senators Landis, Tyson, Aguilar, Bourne, Bruning,
Jensen, Kremer, Schmitt

No

Present, not voting

Absent

PROPOSERS

Senator David Landis

George Davis

Marilyn Schlake

Ron Sedlacek

REPRESENTING

Introducer

Omaha Small Business Network

NE Enterprise Opportunity Network

NE Bankers Assn.

NE Chamber of Commerce

OPPOSERS

REPRESENTING

NEUTRAL

REPRESENTING

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 1389 (Landis) would enact the Capital Access Program Act, the purpose of which is to provide capital to businesses, particularly small and medium-sized businesses, to foster economic development in Nebraska.

The bill would provide, section by section, as follows:

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Section 1. would provide for a named act: the Capital Access Program Act.

Section 2. would provide for definitions.

Section 3. would provide that the Department of Economic Development (DED) shall establish a capital access account to consist of all money that is appropriated from the General Fund to be used for payment of expenses of DED attributable and allocated to the capital access program.

Section 4. would provide for duties of DED under the act.

Section 5. would provide for a lender to be eligible to participate in the program upon entering into an agreement with DED.

Section 6. would provide that DED has no legal or equitable interest in any collateral, security, or other right of recovery in connection with an enrolled loan, except in the case of DED's rights of subrogation.

Section 7. would provide for what types of loans are eligible under the program (industrial, commercial, and agricultural), and what criteria eligible loans shall meet (no housing projects or passive real estate ownership); and would provide that an eligible loan may provide for an interest rate, fees, and other terms and conditions agreed to by the lender and borrower.

Section 8 and 9. would provide for enrollment of eligible loans with DED.

Section 10. would provide that when filing a loan enrollment form, the lender may specify an amount to be covered under the program, and that the amount to be covered may be less than the total amount of the loan.

Section 11. would provide for refinancing a loan previously made to the borrower by the lender that was not enrolled under the program, and for refinancing an enrolled loan.

Section 12. would provide for when an enrolled loan or an enrolled loan that is a line of credit is no longer an enrolled loan.

Section 13. would provide that upon execution of an agreement, DED shall establish a reserve fund with the lender in the name of DED for receiving premium charges to be paid by the lender and by the borrower and for receiving transfers made by DED.

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Section 14. would provide that DED shall not accept loans for enrollment in the program if DED does not have sufficient funds to make the necessary transfer from DED to the reserve fund account under section 15.

Section 15. would provide that the lender shall determine the premium charges payable to the reserve fund account by the lender and by the borrower in connection with a loan filed for enrollment. The premium paid by the borrower shall be not less than one and one-half percent or greater than three and one-half percent of the amount of the loan, and the premium paid by the lender shall be equal to the amount of the premium paid by the borrower. When enrolling a loan, DED shall transfer into the reserve fund account from the capital access account premium match amounts of between one hundred percent and one hundred fifty percent of the combined premiums paid into the reserve fund account by the borrower and by the lender for each enrolled loan calculated as provided in this section. A maximum premium match amount of one hundred fifty thousand dollars may be transferred into the reserve fund accounts of all lenders participating in the program by DED over any three-year period in connection with any one borrower or any group of borrowers.

Section 16. would provide for the control by DED of money credited to the reserve fund account.

Section 17. would provide for pledges to be made by DED to the lender.

Section 18. would provide that DED shall provide to the lender quarterly transaction reports if the reserve fund account is not maintained with the lender.

Section 19. would provide that a lender may file a claim with DED if the lender charges off all or part of an enrolled loan.

Section 20. would provide that, upon receipt of a claim, DED may pay or authorize the lender to withdraw from the reserve fund account the amount of the claim.

Section 21. would provide for repayment by the lender to DED for deposit in the reserve fund account if, subsequent to payment of a claim to the lender by DED, the lender makes recovery from the borrower.

Section 22. would provide for DED to be subrogated to the rights of the lender upon payment of a claim by DED.

Section 23. would provide requirements for when DED shall transfer excess funds in the reserve fund account to the capital access account.

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Section 24. would provide that if DED determines that a lender is not in substantial compliance with the requirements of the program, DED may terminate its obligation to the lender to enroll loans under the program.

EXPLANATION OF AMENDMENTS, IF ANY:

Senator David Landis