

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1091

2007 HOUSE FINANCE AND TAXATION

HB 1091

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1091 A

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 794 32min 49sec

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter: We'll open the hearing on HB 1091.

Eric Hardmeyer, President of the Bank of North Dakota: (See attachment #1)

Representative Froseth: This program is open to anyone who invests in a college savings plan for a particular person, not only parents, grandparents, and uncles? The second question that I had some concern with the language on page 1, lines 15-19 about the administrative fees. It seems like it's kind of open. Do you have guidelines for what those fees are? Are there limitations on them? Another suggestion on the fee income, \$800,000.00; couldn't that be used to reduce the cost of interest on certain loans? It seems like the interest on student college loans are excessive.

Eric Hardmeyer: The fee is negotiated with Vanguard. It's been in existence since 2001 and will stay in place; it can't go up or down. Our contract is a seven year contract. The ten based points will remain intact. That's pretty typical what you see with other states. In terms of the use of the proceeds, what we had looked at was utilizing the proceeds of College SAVE to assist with College SAVE. It is utilizing the money to enhance the existing programs.

Representative Headland: How much in terms of dollars would you have to invest to get the maximum \$10,000.00 tax deduction?

Eric Hardmeyer: \$10,000.00

Representative Headland: So it's a dollar for dollar fix? This Bill is trying to make our plan as competitive as the other State government.

Eric Hardmeyer: There're two enhancements; one is the tax deduction. We've seen it from \$250.00 up to whatever you put in. Most programs allow you to put up to \$275 thousand in there. Some states, you can deduct the whole thing. Our State, we're limiting it from \$5,000 to \$10,000 depending on your status. The \$250 dollar matching contribution has a unique twist on it that we don't see in many other states. I think 5 or 6 other states and maybe those without an income tax write off.

Vice Chairman Drovdal: Just to clarify, the credit, is that all off the gross income? You knocked off the tax liability, is that correct?

Eric Hardmeyer: This is a tax deduction, not a tax credit.

Representative Weiler: Is that fee paid by Upromise to the Bank of North Dakota for the management?

Eric Hardmeyer: There're a total of 85 basis points in most mutual funds. You'll see a fee; a management fee. So these 85 basis points that are charged, the Bank of ND receives 10 basis points out of the 85.

Representative Weiler: The gross income level of \$20,000.00, how many approximately do you have at the Bank of ND that meet that income level that have actually put money into the 529 plan?

Eric Hardmeyer: At this point, we don't track that information. It's open to everyone right now. We have done some work with the Tax Dept. on how many filers might be eligible. That number depending on threshold, I think there're 100,000, probably.

Representative Weiler: Did I hear you correctly when you said "this \$250 dollar max would only be for new"? Is there a reason why you wouldn't do something for the people that have previously put into the plan that had income levels of \$20,000.00 or less?

Eric Hardmeyer: What we try to do is enhance new people to start. The moderate to upper level income people put money into these accounts. We're trying to encourage other income levels to participate in the program. So that's why we targeted at the low to moderate income levels. Another thing is resources. We have about \$800,000.00, and it might go up to another \$300,000.00 per year, so it just depends on the usage. I ran some numbers. Let's say that we have 800 people using the program. Let's say that 1,000 people start one up. At \$250.00, that's \$250,000.00. We're not sure what type of participation we're going to get and that's why we looked at limiting it to new participants. We purposely scaled to just new participants.

Representative Weiler: If a person were to begin this 529 plan for their 3 year old child and put in an x amount of dollars every month. When he's 18 years old he gets a full ride scholarship to play golf at the University of Arizona. What would you do with that money? Do you get that money back?

Eric Hardmeyer: You'd get it back but surely there'd be some tax ramifications to get it back. Or you could change beneficiaries. You could hold it there for your son's children's education.

Representative Froseth: On tax deductions, say I invest \$10,000.00 in the 529 plan. I don't need that exemption that I'm given here on my tax return. Can that be carried over in future tax returns?

Eric Hardmeyer: There are states that allow that carry forward, and we will look at that when we draft the rules for that.

Representative Owens: Can anyone contribute this North Dakota plan? Is it restricted to the North Dakota University System like some states do, where they can go anywhere?

Eric Hardmeyer: You can go anywhere.

Chairman Belter: So a grandparent can put money in up to the maximum of \$10,000.00. They would get a tax deduction. So whatever this account earns is not taxed during the earning period and is not taxed at the time of withdrawal either?

Eric Hardmeyer: That's correct.

Chairman Belter: Is there any federal tax benefit to being in the 529 plan?

Eric Hardmeyer: Well, the funds grow.

Chairman Belter: But there's no benefit for the initial pocket?

Eric Hardmeyer: No. On the Fiscal Note that you have, I may need to explain that. We show \$100,000.00. This was put together by the Tax Dept., but they put by the Bank of North Dakota. My numbers might be a little bit different. We've tracked the number of contributors in the last couple of years. What we found is that there have been about 300 to 400 in the last two years; about 70% of those contributions are \$2,500.00 or less. So if I use that figure of \$2,500.00 as a normal tax deduction, times one thousand people, add three and one half percent for the tax bracket, that amounts to about \$87,500.00 a year impact. That \$100,000.00 is per year. We're not sure of what kind of participation we're going to get. We've had 800 people in five years use the program. So we are estimating 1,000 new signers. Could be more than that.

Representative Froseth: On an average, what kind of a return would be expected to get on this?

Eric Hardmeyer: You're putting your money into a fund that's mandated by Vanguard. You choose the list profile that you like that's subject to stock market valuations.

Chairman Belter: Do you track what returns have been?

Eric Hardmeyer: No we don't, the individual contributor does. The risk profile that they're interested in, and there is age based folios, depending on the risk and the age of the beneficiary who might start off pretty aggressive, and as they get closer to the school age, you may move to the much more conservative asset categories so that it stays intact.

Representative Pinkerton: Have you seen growth in the fund in ND use since you switched from the Morgan Stanley to Vanguard group? Has it been a good move for the bank?

Eric Hardmeyer: It's a little early and we just converted in November of 2006. Upromise does bring a very unique approach to these programs. They have what is called a rewards program. If you use their card or buy certain products from manufacturers, you get a cash reward that goes into your account.

Representative Pinkerton: Are there six or eight states using Vanguard?

Eric Hardmeyer: Yes. Upromise and Vanguard have teamed up on our proposal and in a number of other states. They're locked into contracts with their other providers. Ours came up and they bid on ours.

Chairman Belter: You can't manage your own personal account, can you? Is it more like a mutual fund?

Eric Hardmeyer: It's based on a choice. There are seven different plans you can choose from, depending on the risk that you want to put forth. It's a variety of stocks.

Chairman Belter: Is there further testimony in support of HB1091?

Peggy Wipf, Director of Financial Aid at NDUS: I just want to lend support to the Bill on behalf of the State Board.

Chairman Belter: Further support on HB1091?

Don Forgberg, Executive Vice President for Independent Community Banks of ND; The Bank of North Dakota happens to be one of our members. We are here in support of this

program. This will help different segments of the population, who can start investing earlier in their children's future. We urge a do pass.

Chairman Belter: Further support on HB 1091?

Vice Chairman Drovdal: Is this available at both colleges?

Chairman Belter: Yes.

Joe Becker, with the Tax Department:

Vice Chairman Drovdal: Joe, maybe you can answer my question. Is this deduction available on both courts?

Joe Becker: Yes it is. On page 2 of the Bill, section 2.

Rick Clayburgh, North Dakota Bankers Association: Our legislative committee has reviewed the legislation and we are in support as well. We just wanted to publicly state that.

Chairman Belter: Further support on HB 1091? Is there any opposition to 1091? Is there any neutral testimony? If not, we'll close the hearing on HB1091.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1091 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 797 06min 19sec

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter: We'll open the hearing on HB 1091. Are there any questions or comments?

Representative Weiler: We're always trying to help new businesses in North Dakota but we never want to help the ones that have been here. This is the same concept and I think that the people that have previously put into this plan that are under those income guidelines should also receive something. Maybe not dollar for dollar but they should get something. Certainly it's a great plan.

Vice Chairman Drovdal: Last session the debate about adding reductions on the short form and one of the great things about the short form is that it is short. We have a number of great causes that should go on that short form. My concern is should we eliminate this and put it on the long form? I'd like some time to think about this.

Representative Schmidt: If we do anything to reduce the profits of State bank, does that show a fiscal note to the State?

Chairman Belter: Yes

Representative Schmidt: Any profit?

Representative Froseth: There was a fiscal note of \$800,000.00 in the general fund. Does that take into consideration the Bank is turning over all the profits? Or is this just a loss?

Representative Weiler: I believe that the general fund hit under revenues has formed a tax deduction and that is \$100,000.00. The \$800,000.00 that they have in their fund for that fee that they are receiving is money that's in the fund that they can't spend. And they're looking to us to change some type of a law that says they can spend it. That \$800,000.00 does not get transferred over to general fund dollars.

Representative Pinkerton: I agree that it's probably not a whole lot of dollars but it does feel good to the public. For those that fit into those income guidelines and that they've made a contribution and we should try to reach back and give those people that same opportunity. It's a pretty restricted guideline, under \$20,000.00. There won't be a lot of folks that will fit into that guideline. I think it needs a sense of fairness.

Representative Weiler: I will need to check with Eric on this. That would cost them about \$300,000.00 of the \$800,000.00 that's currently in the bump. I don't want to do something that's all of a sudden going to eat all of that \$800,000.00

Representative Owens: Yes, you're right. The reason that they've written the beginning part of it, the \$800,000.00, they can't do anything with it and they were hoping to use that administration fee as a fund, which is low @ .85 by normal standards. They would use that to help advertise and promote. \$250 is the limit to the new income levels so that they could manage that if you want to take it to the existing one and only North Dakota residents. What they were hoping to do with what was left over is create a program, maybe scholarships, and that would go for everybody. They couldn't afford to go back and do everybody.

Chairman Belter: Are there any other questions or comments? If not, we'll adjourn.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1091 C

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: 1707

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1091 and asked for the committee's wishes on this Bill.

Representative Headland: I move a Do Pass.

Representative Owens: Second it.

Chairman Belter: Is there any discussion? Will the clerk read the roll; 12-y; 2-n; 0-absent; Rep. Weiler will carry the Bill.

Representative Kelsh: I was wondering where the amendment is?

Chairman Belter: I don't think we had an amendment. We'll have to rerefer it to Appropriations though.

Representative Grande: Yes we did.

Chairman Belter: Ok, do we want to reconsider our action?

Representative Kelsh: I move to reconsider our action.

Representative Grande: Second it.

Chairman Belter: Any questions? If not, all in favor signify by saying aye. The motion carries.

We have HB 1091 before us.

Representative Headland: I move a Do Pass & Rerefered to Appropriations.

Representative Grande: Second it.

Chairman Belter: Is there any discussion? Will the clerk read the roll; 11-y; 3-n; 0-absent;

Rep. Weiler will carry this Bill.

FISCAL NOTE
 Requested by Legislative Council
 12/27/2006

Bill/Resolution No.: HB 1091

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$100,000)			
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1091 provides an income tax deduction for contributions to the North Dakota higher education savings plan.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Sections 2 and 3 of HB 1091 allow a tax deduction for annual contributions up to \$10,000 to a higher education savings plan administered by the Bank of North Dakota. It is difficult to estimate the increase in participation in the plan that would occur due to the tax deduction provisions of this bill. Taxpayers in the highest income tax bracket making the annual maximum allowable contributions into the plan would receive an additional 5.54% return on their investment due to the tax deduction, which would equal an annual reduction of \$554 in their individual income tax liabilities.

Bank officials expect participation to grow to 1000 (an increase of 200 accounts), by primarily moderate income taxpayers (in the lower tax brackets) each making on the average \$1200 in annual qualifying contributions. This would result in an estimated reduction in state general fund revenues of \$100,000 for the 2007-09 biennium

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/07/2007

Date: 1-23-07
 Roll Call Vote #: 1091 #2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.

House Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment
 Number

Action Taken Do Pass ? Rerefered to Appropriations

Motion Made By Rep. Headland Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich	✓	
Vice Chairman Drovdal		✓	Rep. Kelsh	✓	
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande	✓		Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham		✓			

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Weiler

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

REPORT OF STANDING COMMITTEE

HB 1091: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1091 was rereferred to the Appropriations Committee.

2007 HOUSE APPROPRIATIONS

HB 1091

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1091

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2860

Committee Clerk Signature

Melby N. Sand

Minutes:

Chm. Svedjan opened the hearing on HB 1091.

Rep. Dave Weiler, Finance and Tax Committee, testified in support of HB 1091. Rep. Weiler described the bill. The limits are \$5,000 of contributions for single filers or \$10,000 if a joint return is filed. Taxpayers in the highest income tax brackets would see a \$554 reduction in their individual income tax liability affecting revenues to the general fund of \$100,000 for the 07-09 biennium. The Bank of North Dakota gets a fee for every 529 plan that they administer. There is approximately \$800,000 in that plan currently. The BND would like to use that money to give a \$300 matching amount for new accounts for individuals that open an account with \$20,000 or less adjusted gross income or \$40,000 or less for married couples.

Chm. Svedjan: There is no appropriation. It has a fiscal impact at \$100,000 reduction to revenues.

Rep. Hawken: Can these funds be used at schools outside of North Dakota?

Rep. Weiler: Yes.

Rep. Wald: Is this for immediate family only?

Rep. Weiler: There are no limitations as far as who can do this.

Rep. Klein moved a Do Pass to HB 1091. Rep. Gulleson seconded the motion.

Rep. Skarphol: Would it be wise of us to require a report on the results of this? Is anyone going to remember in two years to check what the fiscal impact has been?

Rep. Kempenich: Wouldn't it be part of the BND's report?

Rep. Skarphol: It should be, but whether or not we remember to ask for it may be a different story.

Rep. Aarsvold: If a student does not use the savings plan, what happens to the tax deduction? I presume it stays in place.

Rep. Weiler: It does. The money would still be allowed to go to that child or stay in the family. They don't lose the money.

Chm. Svedjan: If the student doesn't go to school what happens?

Rep. Weiler: Same thing.

Questions continued regarding different scenarios and tax implications (Ref. 6:13).

Rep. Wald: How is the administration fee calculated?

Rep. Weiler: It's based on 85 basis points. It's a management fee that is charged and it's based on .85 percent (85 basis points) of the total deposits.

Chm. Svedjan: If they get to the point that they no longer need 85 basis points, it could be lowered possibly. But according to this language the Bank monitors it.

Rep. Weiler: That's correct. But that fee is received from a company like Vanguard or UPromise who currently has a North Dakota plan, so they would have no reason to lower that.

Rep. Glassheim: If this is used for the purpose for which it's intended, I'm all for it. But you're giving \$550 of state money each year and if they don't go to college for ten years, you're giving \$10,000 to somebody and they didn't use it for the purpose it was intended. That doesn't sound right to me.

Rep. Weiler: The maximum is a \$5,000 income tax reduction and \$10,000 for joint.

Chm. Svedjan: That's over the life of this thing?

Rep. Weiler: \$554 per year to the maximum. Currently 796 ND residents have a ND 529. The total dollar amount is about \$7 million. Non residents have 17, 664 ND plans for \$311,000 and 1122 ND residents that participate in other state plans for \$7 million (Ref. 12:13). The reason is that ND's plan is not competitive at all. The primary reason is that we do not offer a tax break and that's what this bill is intended to do.

Donnita Wald, Special Assistant Attorney General, Office of State Tax Commissioner:

With respect to your question if a student does not go to college, the interest that was earned on that account is taxed when it is pulled out, otherwise it is tax-deferred when the child goes to school (Ref. 13:52). There may be other penalties that are applied if it is not used directly for college.

Rep. Glasheim: If \$500 in the tax you owe is not paid, is that recaptured? Or does it continue?

Ms. Wald: There is no claw back in this bill.

Chm. Svedjan: Rep. Glasheim, your concern is that someone could get the tax break and if the child decides not to go to college and you pull that money back out again, you pay tax on only the earnings. So you've gotten the benefit of the tax break during the time you've contributed to this plan but when you pull it out again, you pay only the tax on the earnings. Am I correct?

Ms. Wald: That's correct.

Chm. Svedjan: Is that how most 529 plans are designed?

Ms. Wald: Other states' plans are similar to what is in this bill.

Rep. Carlson: What is our role in this bill? Whether or not we can afford \$100,000 to put into it or to rewrite the rules that the tax department heard on this loan program?

Chm. Svedjan: Of course, the \$100,000.

Rep. Wald: The only advantage I see is that this is tax-deferred, not tax exempt. If the person in their older age would probably be in a lower tax bracket than when the money was put in.

Ms. Wald: That is correct.

Rep. Glassheim: As I read it, it's a tax deduction, not a referral. If you owe \$5,000 and you get \$500 off you get \$500 each year. And this \$100,000 is \$100,000 the first biennium. It's \$2 or \$3 million by the tenth year, right?

Chm. Svedjan: The \$100,000 fiscal note is based on the anticipated level of participation in this program in the 07-09 biennium.

Ms. Wald: That is correct?

Rep. Monson: You don't get the deduction unless you put the money in every year.

Ms. Wald: That's correct. You have to make a contribution. The fiscal note assumes high income tax bracket with the maximum contribution.

Rep. Aarsvold: What are the typical earnings on those funds as they accrue interest over the years?

Ms. Wald: I don't know. You'd have to ask the BND.

The Do Pass motion to HB 1091 carried by a roll call vote of 22 ayes, 2 nays and 0 absent and not voting. Rep. Weiler was designated to carry the bill.

Date: 2/5/07
 Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1091

House Appropriations Full Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Klein Seconded By Gulleson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim		✓
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams		✓
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 22 No 2

Absent 0

Floor Assignment Writes

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2007 9:29 a.m.

Module No: HR-24-2489
Carrier: Weller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1091: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS
(22 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1091 was placed on the
Eleventh order on the calendar.

2007 SENATE EDUCATION

HB 1091

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1091

Senate Education Committee

Check here for Conference Committee

Hearing Date: March 7, 2007

Recorder Job Number: 4542, 4543

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1091, a bill relating to an individual income tax deduction for contributions to the North Dakota higher education savings plan. All members were present.

Eric Hardmeyer, Bank of North Dakota, testified in favor of the bill. (Written testimony attached) North Dakota is second or third in debt per student. We need a better balance of savings, scholarships and debt. Six other states have matching grants, in Minnesota it is \$300. By the beginning of the biennium, there will be \$1.1 million to use.

Senator Flakoll asked if the fiscal note reflects income from the basis points.

Mr. Hardmeyer said no.

Senator Flakoll said the \$300 grant is appreciated; he had a bill last session with a similar feature that was killed. What is the income level based on?

Mr. Hardmeyer said it is two times the poverty level.

Senator Taylor asked if products in the Vanguard network can be purchased from any financial advisor.

Mr. Hardmeyer said they are a directly sold product at this time. Investment Centers of America will continue to sell based on a side agreement with UPromise and Vanguard.

UPromise has a very unique approach to College SAVE. It is a rewards program where a customer gets points for spending with the card which are converted to dollars in the College SAVE account. They have a lot of momentum. New York, Iowa, Arizona, Colorado and Florida have all moved their programs to UPromise/Vanguard.

Senator Taylor said the \$300 grant, with the income levels, would benefit families who would not benefit from the tax deduction.

Mr. Hardmeyer said that is correct.

Senator Gary Lee confirmed this is not just for North Dakota schools.

Mr. Hardmeyer said that is correct.

Senator Gary Lee confirmed this bill allows the Bank of North Dakota to use the funds earned from the College SAVE program.

Mr. Hardmeyer said the Bank of North Dakota is not restricted by administrative rules. If they get authority to spend the funds, they assume they could also set up the \$300 grant program.

Senator Gary Lee said we have heard earlier in the session in testimony the Bank of North Dakota is being asked this session to do more than they can do. Where does this issue stand now?

Mr. Hardmeyer said most of those bills have been killed. SB 2015, the OMB bill, still has the \$60 million transfer in it; it has been amended back in. Another Senate bill allows the Bank of North Dakota to keep the last \$30 million of the transfer this biennium.

Senator Gary Lee asked about the bill that reduces interest rates and the \$3.1 million, if it passes will the bank be ok?

Mr. Hardmeyer said the \$3.1 million is from the student loan trust. They will lose some interest income if they are allowed to offer an interest reduction but they are prepared to do that.

Senator Flakoll asked about the typical return on the College SAVE program.

Mr. Hardmeyer said there are various risk categories and it is up to the investor. There is no guarantee and they could lose money. They have what they call age based folios.

Peggy Wipf, North Dakota University System, testified in favor of the bill. It encourages families to save for college.

Chairman Freborg closed the hearing on HB 1091.

Senator Flakoll moved a Do Pass on HB 1091, seconded by Senator Gary Lee.

Senator Flakoll said last session he had a late bill that got killed and he appreciates the consideration of the Bank of North Dakota and others.

The motion passed 5-0-0. Senator Flakoll will carry the bill.

REPORT OF STANDING COMMITTEE (410)
March 8, 2007 2:42 p.m.

Module No: SR-44-4781
Carrier: Flakoll
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1091: Education Committee (Sen. Freborg, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1091 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

HB 1091

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1091

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-16-07

Recorder Job Number: 5239

Committee Clerk Signature

Alice DeLuz

Minutes:

Chairman Holmberg opened the hearing on HB 1091 at 1:30 pm on March 16, 2007 regarding individual income tax reduction for contributions to the North Dakota higher education savings plan.

Eric Hardmeyer, President, Bank of North Dakota (BND) presented written testimony (1) and oral testimony in support of HB 1091. His testimony included information regarding the Qualified state Tuition Programs, commonly referred to as 529 plans, the college SAVE plan, matching grants, scholarship programs, a management fee and continuing appropriation to spend this fee to recover expenses, establish programs that enhance the plan or promote attendance at an institution of higher education.

Chairman Holmberg stated that the target audience mentioned in the fiscal note, the one that would probably take advantage of the increases would be the moderate income tax payers, those in the lower income tax bracket. He was informed there are no restrictions. The \$300 matching grant is what we are targeting the moderate income folks.

Senator Robinson asked if there were any discussions about the possibility of restricting this to North Dakota schools and border schools. He was informed there was no discussion regarding this and the administration of that would be very difficult. Senator Robinson stated his concern is to promote attendance within the state. He was told by Mr. Hardmeyer that the

\$300 grant probably would not be enough incentive to keep students here if they really wanted to go out of state to college.

Senator Mathern asked if those families with greatest needs would benefit from this, and if they thought about putting some of the profit out of this into our student financial aid programs in our state so that those people who really can't benefit from this could benefit.

Eric Hardmeyer talked about the UPromise Program and what it does for college students.

Peggy Wilson, ^{PF} Director of Financial Aid in University System Office gave oral testimony in support of HB 1091.

Rick Clayburg, President and CEO Of North Dakota Banking Association gave oral testimony in support of HB 1091.

Chairman Holmberg stated that the subcommittee on higher education will look at this bill.

The hearing was closed on HB 1091.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1091

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-21-07

Recorder Job Number: 5378

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1091.

Chairman Holmberg indicated the bill has \$100,000 revenue fiscal.

Senator Tallackson moved a do pass, Senator Krauter seconded. Discussion was held.

Senator Kilzer indicated he is against this because it is a select population.

Senator Krauter indicated this is for anyone

A roll call vote was taken resulting in a tie.

Senator Christmann moved do not pass, Senator Bowman seconded. No discussion was held. A roll call vote was taken and it failed.

Senator Krebsbach moved without committee recommendation, Senator Christmann seconded. The vote results were 7 yes 6 no 1 absent. The motion carried

Date:
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1091

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Tallackson Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm		✓	Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm		✓	Senator Tim Mathern		
Senator Randel Christmann		✓	Senator Larry J. Robinson	✓	
Senator Tom Fischer			Senator Tom Seymour	✓	
Senator Ralph L. Kilzer		✓	Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner		✓			

Total (Yes) 6 No 6

Absent _____

Floor Assignment _____

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

Date:
Roll Call Vote #:

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP

Motion Made By Christ Seconded By Bowman

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	✓
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	✓
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	✓
Senator Randel Christmann	✓		Senator Larry J. Robinson		✓
Senator Tom Fischer			Senator Tom Seymour		✓
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		✓
Senator Karen K. Krebsbach		✓			
Senator Rich Wardner	✓				

Total (Yes) 6 No 7

Absent _____

Floor Assignment _____

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

Date: 3/21
Roll Call Vote #: 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1091

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken W O Comm Rec

Motion Made By Krebs Seconded By Christ

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter		✓
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas		✓
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern		✓
Senator Randel Christmann	✓		Senator Larry J. Robinson		✓
Senator Tom Fischer			Senator Tom Seymour		✓
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		✓
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 7 No 6

Absent _____

Floor Assignment Flakoll Ed

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

REPORT OF STANDING COMMITTEE

HB 1091: Appropriations Committee (Sen. Holmberg, Chairman) recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1091 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1091

#1

HB 1091

1-9-07

10:30 AM

**TESTIMONY TO THE
FINANCE AND TAXATION COMMITTEE**

JANUARY 9, 2007

HOUSE BILL 1091

ERIC HARDMEYER, PRESIDENT

Good Morning Mr. Chairman and members of the Finance and Taxation Committee. I am appearing today in support of House Bill 1091. This bill provides a tax deduction for contributions to North Dakota's 529 Plan and allows for a continuing appropriation for BND to spend fee revenue generated from the administration of this plan.

We often hear that saving for your children or grandchildren's college education can be an overwhelming experience. At BND, we are in a unique position to understand this given our involvement in the student loan business. A 2006 survey of parents of pre-college-age children found that 94% of parents believe that "helping with college expenses is the best investment in their children's future".

In 1996, Congress created Qualified State Tuition Programs. The term "qualified State tuition program" means a program established and maintained by a State, or instrumentality thereof. Today these programs are commonly referred to as 529 plans, named after Section 529 of the Internal Revenue Code. 529 plans have paved the way for parents and grandparents to save for college, similar to the way 401(k) plans revolutionized retirement savings. Many experts consider 529 plans to be the best option when saving for college expenses. What makes these plans so attractive is the tax-deferred growth and tax-free withdrawals. The savings and accumulated earnings are exempt from federal income tax if the distributions are used for qualified higher education expenses. The Pension Protection Act signed by President Bush on August 17, 2006 makes this favorable tax treatment permanent.

By the states running their own plans, they realize that education is an essential function of state government, and that establishing a tax-advantaged savings program focusing on education allows more people to obtain a college degree without taking on enormous debt.

The North Dakota Legislature passed a bill in the 1999-2001 session authorizing BND to administer North Dakota's 529 Plan. All 50 states offer plans, with 31 states and the District of Columbia now offering a state tax deduction on contributions ranging from \$250 to fully deductible contributions. Of the remaining states that do not offer an income tax deduction, seven of them don't have an income tax.

Our plan, called College SAVE, is open to all and the maximum amount that can be invested is \$269,000. There are no income limitations or age restrictions. From inception in September of 2001 to November 2006, College SAVE investment services were provided by Morgan Stanley (MS) through a variety of proprietary mutual funds. MS sold this plan nationally through their financial advisor network. Through separate agreements, they also used local broker dealers that desired to sell North Dakota's plan. In November 2006, management services for College SAVE were transitioned to Upromise Investment Advisors, LLC serves. The Vanguard Group, Inc. provides investment management services.

For the period ending November 30, 2006, participation statistics reveal that there are 796 North Dakota residents with accounts totaling \$6,906,783. Out-of-state residents have 17,664 accounts for \$311,470,479 for a total of \$318,377,261 managed under North Dakota's College SAVE Plan.

Nationally, the participation in section 529 plans is growing rapidly. In 2000, a total of \$2.6 billion dollars was invested in 529 plans. This grew to more than \$92 billion by mid 2006.

We feel an important step to encourage saving for college is to provide enhancements to the program. A survey by Vanguard and Upromise in 2005 showed that of the parents that had established 529 savings plans, 87% cited the tax benefits as their primary reason for using the plans. During the day-to-day operation of College SAVE, Bank of North Dakota frequently receives phone calls from North Dakotans with questions about the plan. One of the most frequently asked questions is, "Does North Dakota offer any tax benefits?"

We propose that the State of North Dakota offer a yearly state income tax deduction up to \$5,000 for individuals and \$10,000 for married couples on all contributions from North Dakota residents investing in College SAVE. With a state tax deduction on money contributed, North Dakotans would have an incentive for choosing College SAVE over the many options that are currently available nationwide. Bank of North Dakota recently requested data from the 50 states of which 14 responded indicating that there are 1,122 North Dakota residents participating in other state plans for a total of \$7,179,225.

As with most funds, a management ^{Admin. Fee} fee is charged. Under the College SAVE Plan, Upromise/Vanguard charges .85% (85 basis points). This is considered a moderate fee. Of the 85 bps charged, BND receives 10 basis points. We had also received 10 basis points from Morgan Stanley. To date, BND has accumulated nearly \$800,000 in fee income.

House Bill 1091 authorizes BND a continuing appropriation to spend this fee to recover expenses and to establish programs that promote attendance at an institution of higher education. One such program we would offer is a matching contribution of up to \$250 for all new College SAVE accounts opened by North Dakota residents with adjusted gross incomes of \$20,000 or less for individuals and \$40,000 or less for married couples. Other programs could include scholarships or the promotion of College SAVE through education and ongoing awareness initiatives.

House Bill 1091 helps to send a clear message about North Dakota's commitment in helping families save for their children's higher education costs and I respectfully request your approval. Thank you for your consideration of Bank of North Dakota's comments on House Bill 1091. I would be happy to respond to any questions the Committee may have.

College SAVE

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Vanguard is one of the world's largest investment companies with a single focus on the needs of our investors and a dedication to outstanding performance, superior service, and low costs. [Learn more.](#)

College SAVE Plan Highlights

College SAVE gives you the opportunity to save for future higher education expenses. Here are some of the valuable benefits of establishing an account:

Participation

- You can establish and contribute to a College SAVE account no matter how much you earn.
- Anyone can contribute to the Plan— grandparents, aunts and uncles, and even friends.
- The designated beneficiary can be any age and may live in any state.
- College SAVE is available to residents of all 50 states.

Investment Flexibility

- College SAVE provides families with six individual investment options that can be tailored to build a portfolio according to your specific investment goals. Your risk tolerance and time horizon will determine which investments best meet your needs.
- For those who prefer a simplified approach to investing, College SAVE offers three age-based options – conservative, moderate and aggressive. When you select any of these options, your assets will be managed according to the age of your account's designated beneficiary and your risk tolerance through a series of investment portfolios that change over time.

Tax Benefits

- Earnings from College SAVE accounts are exempt from federal and state income tax.
- Distributions for qualified higher education expenses are tax-free.*
- You may contribute as much as \$12,000 per designated beneficiary each year (or \$24,000 for married couples filing jointly) without incurring gift-tax consequences.
- A special gift-tax exclusion allows you to make a \$60,000 (\$120,000 married filing jointly) contribution in a single year and treat it as though it were made over five years for tax purposes.**

Account Control

- As the participant, you maintain control of the assets at all times. In fact, you can even change the designated beneficiary.***

Using the Money

- The account assets can be used at any accredited public or private college in the country.†
- The account's designated beneficiary may apply the distributions to qualified higher education expenses including tuition, certain room and board costs, books and supplies for undergraduate and/or graduate education.

Return to top

* Earnings on non-qualified distributions may be subject to federal income tax and a 10% federal penalty tax, as well as state and local income taxes. The availability of tax or other benefits may be contingent on meeting other requirements.

** In the event the donor does not survive the 5-year period, a pro-rated amount will revert to the donor's taxable estate.

*** For designated beneficiary changes to occur without federal or state income taxes, the new designated beneficiary must be a Member of the Family of the former designated beneficiary.

†Eligible institutions include all post-secondary institutions that participate in the Federal Financial Aid Program.

For more information about North Dakota's College SAVE Plan, call 1-866-SAVE-529 (1-866-728-3529) or click [here](#) to obtain a Plan Disclosure Statement. Investment objectives, risks, charges, expenses, and other important information are included in the Plan Disclosure Statement; read and consider it carefully before investing. Upromise Investments, Inc., Distributor and Underwriter.

If you are not a North Dakota taxpayer, consider before investing whether your or the designated beneficiary's home state offers any state tax or other benefits that are only available for investments in such state's qualified tuition program.

The College SAVE Plan is a 529 Plan established by the State of North Dakota. Bank of North Dakota acts as trustee of the College SAVE Trust and is responsible for administering the Plan. Upromise Investments, Inc. and Upromise Investment Advisors, LLC serve as the Plan Manager and Recordkeeping and Servicing Agent, respectively, with overall responsibility for the day-to-day

operations, including effecting transactions and marketing and distribution of the Plan. The Vanguard Group, Inc., provides underlying investments for the Plan. The Plan's Portfolios, although they invest in mutual funds, are not mutual funds. Units of the Portfolios are municipal fund securities and the value of units will vary with market conditions.

Investment returns are not guaranteed, and you could lose money by investing in the College SAVE Plan.

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**TESTIMONY TO THE
SENATE EDUCATION COMMITTEE**

MARCH 7, 2007

HOUSE BILL 1091

ERIC HARDMEYER, PRESIDENT

Good Morning Mr. Chairman and members of the Senate Education Committee. I am appearing today in support of House Bill 1091. This bill provides a tax deduction for contributions to North Dakota's 529 Plan and allows for a continuing appropriation for BND to spend fee revenue generated from the administration of this plan.

We often hear that saving for your children or grandchildren's college education can be an overwhelming experience. At BND, we are in a unique position to understand this given our involvement in the student loan business. A 2006 survey of parents of pre-college-age children found that 94% of parents believe that "helping with college expenses is the best investment in their children's future".

In 1996, Congress created Qualified State Tuition Programs. The term "qualified State tuition program" means a program established and maintained by a State, or instrumentality thereof. Today these programs are commonly referred to as 529 plans, named after Section 529 of the Internal Revenue Code. 529 plans have paved the way for parents and grandparents to save for college, similar to the way 401(k) plans revolutionized retirement savings. Many experts consider 529 plans to be the best option when saving for college expenses. What makes these plans so attractive is the tax-deferred growth and tax-free withdrawals. The savings and accumulated earnings are exempt from federal income tax if the distributions are used for qualified higher education expenses. The Pension Protection Act signed by President Bush on August 17, 2006 makes this favorable tax treatment permanent.

By the states running their own plans, they realize that education is an essential function of state government, and that establishing a tax-advantaged savings program focusing on education allows more people to obtain a college degree without taking on enormous debt.

The North Dakota Legislature passed a bill in the 1999-2001 session authorizing BND to administer North Dakota's 529 Plan. All 50 states offer plans, with 31 states and the District of Columbia now offering a state tax deduction on contributions ranging from \$250 to fully deductible contributions. Of the remaining states that do not offer an income tax deduction, seven of them don't have an income tax.

Our plan, called College SAVE, is open to all and the maximum amount that can be invested is \$269,000. There are no income limitations or age restrictions. From inception in September of 2001 to November 2006, College SAVE investment services were provided by Morgan Stanley (MS) through a variety of proprietary mutual funds. MS sold this plan nationally through their financial advisor network. Through separate agreements, they also used local broker dealers that desired to sell North Dakota's plan. In November 2006, management services for College SAVE were transitioned to Upromise Investment Advisors, LLC serves. The Vanguard Group, Inc. provides investment management services.

For the period ending January 31, 2007, participation statistics reveal that there are 850 North Dakota accounts totaling \$7,156,687. Out-of-state residents have 17,248 accounts for \$314,920,474 for a total of \$322,077,161 managed under North Dakota's College SAVE Plan.

Nationally, the participation in section 529 plans is growing rapidly. In 2000, a total of \$2.6 billion dollars was invested in 529 plans. This grew to more than \$92 billion by mid-2006.

We feel an important step to encourage saving for college is to provide enhancements to the program. A survey by Vanguard and Upromise in 2005 showed that of the parents that had established 529 savings plans, 87% cited the tax benefits as their primary reason for using the plans. During the day-to-day operation of College SAVE, Bank of North Dakota frequently receives phone calls from North Dakotans with questions about the plan. One of the most frequently asked questions is, "Does North Dakota offer any tax benefits?"

We propose that the State of North Dakota offer a yearly state income tax deduction up to \$5,000 for individuals and \$10,000 for married couples on all contributions from North Dakota residents investing in College SAVE. With a state tax deduction on money contributed, North Dakotans would have an incentive for choosing College SAVE over the many options that are currently available nationwide. Bank of North Dakota recently requested data from the 50 states of which 14 responded indicating that there are 1,122 North Dakota residents participating in other state plans for a total of \$7,179,225.

As with most funds, a management fee is charged. Under the College SAVE Plan, Upromise/Vanguard charges .85% (85 basis points). This is considered a moderate fee. Of the 85 bps charged, BND receives 10 basis points. We had also received 10 basis points from Morgan Stanley. To date, BND has accumulated nearly \$800,000 in fee income.

House Bill 1091 authorizes BND a continuing appropriation to spend this fee to recover expenses, establish programs that enhance the plan or promotes attendance at an institution of higher education. One such program we would offer is a matching contribution of up to \$300 for all new College SAVE accounts opened by North Dakota residents with adjusted gross incomes of \$20,000 or less for individuals and \$40,000 or less for married couples. Other programs could include scholarships or the promotion of College SAVE through education and ongoing awareness initiatives.

House Bill 1091 helps to send a clear message about North Dakota's commitment in helping families save for their children's higher education costs and I respectfully request your approval. Thank you for your consideration of Bank of North Dakota's comments on House Bill 1091. I would be happy to respond to any questions the Committee may have.

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**TESTIMONY TO THE
SENATE APPROPRIATION COMMITTEE**

MARCH 16, 2007

HOUSE BILL 1091

ERIC HARDMEYER, PRESIDENT

Good afternoon Mr. Chairman and members of the Senate Appropriation Committee. I am appearing today in support of House Bill 1091. This bill provides a tax deduction for contributions to North Dakota's 529 Plan and allows for a continuing appropriation for BND to spend fee revenue generated from the administration of this plan.

We often hear that saving for your children or grandchildren's college education can be an overwhelming experience. At BND, we are in a unique position to understand this given our involvement in the student loan business. A 2006 survey of parents of pre-college-age children found that 94% of parents believe that "helping with college expenses is the best investment in their children's future".

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Vanguard

Vanguard is one of the world's largest investment companies with a single focus on the needs of our investors and a dedication to outstanding performance, superior service, and low costs. [Learn more.](#)

Investment Flexibility to Build a Solid Plan

College SAVE offers 9 investment options managed by Vanguard:

- [3 age-based options](#) that reallocate your savings over time to more conservative investment options as the child nears college age.
- [6 individual portfolios](#) you manage yourself according to your own strategy.

[Check prices and performance.](#)

Investment Management by Vanguard

When you choose College SAVE, you gain the expertise of [Vanguard](#), one of the world's largest investment management firms. Vanguard's reputation for integrity, world-class service, and exceptional value is second to none. Vanguard is committed to providing a low-cost, wide-ranging choice of investments to help College SAVE participants accumulate the assets they need to send their children to college.

Vanguard focuses on attaining superior long-term performance for investors rather than short-term results. By using sophisticated portfolio management tools, Vanguard keeps costs low while striving to ensure that its index funds—such as those held within the College SAVE portfolios—track market benchmarks more closely than other index funds.

For more information about North Dakota's College SAVE Plan, call 1-866-SAVE-529 (1-866-728-3529) or click [here](#) to obtain a Plan Disclosure Statement. Investment objectives, risks, charges, expenses, and other important information are included in the Plan Disclosure Statement; read and consider it carefully before investing. Upromise Investments, Inc., Distributor and Underwriter.

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