

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1403

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1403

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1403

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: 01-23-2007

Recorder Job Number: 1648

Committee Clerk Signature

Lisa M Thomas

Minutes:

Minutes:

Chairman Keiser opened the hearing on HB 1403. HB 1403 relates to an individual and corporate income tax credit for operation of a micro business; and to prove an effective date.

Rep. Onstad introduced the bill. See written testimony.

Rep. Johnson: Let me clarify. The tax credit is twenty percent of the investment for a one year period. The limit is ten thousand dollars on a lifetime and a limited number of years that you qualify.

Rep. Onstad: I think you probably have a multiple expansion of several years. We will just take the one time unit to one year at a time. That would go toward this lifetime total cash credit. Maybe in year one, they expand. There are two employees and they expand and go to four employees. They still qualify that micro business because there are five or less employees. If you are three and expand to seven employees, they will no longer qualify for the micro business. Therefore, we look at it as that business it doing well.

Rep. Keiser: Why, if you are going to start a company out in rural ND, you meet all the criteria, and you invest one hundred and fifty thousand dollars. I get a ten thousand dollar tax credit. I

have three or four employees, so I qualify. I am successful and I haven't been able to use the tax credit because there hasn't been a lot of profit. Then in three years, I hire ten more people because I am busy. Why do we want take the tax credit away from the risk?

Rep. Onstad: I guess in discussion of working this bill that has never been expressed. I can't disagree with your comments. I think if the definition is five employees or less and you go out of that, you know longer fit that definition, so therefore you no longer get the tax credit. It is do deal with the smaller businesses.

Rep. Keiser: Would you support an amendment that would say for the first year or two years if you have five employees or less, you get the tax credit.

Rep. Onstad: Yes, I would.

Opposition was heard at this time.

Mary Loftsguard, North Dakota Tax Department, spoke in neutrally to the bill.

Loftsguard: I just wanted to affirm Rep. Onstad's mention that discussion is going to begin with our office. We have some concerns about the administration of the bill. This would be the first instance where the tax commissioner would be charged with determining something that is very new for us in the state. We have some questions to firm up some of the language in the bill. I think the way the bill reads, it could also include salary increases for their initial employees.

Rep. Vigesaa: Chances are that a new company like this may not earn any profits for the first year or two and wouldn't have any place to go with it. Can those credits be carried forward until there are profits there that can be used?

Loftsguard: No, it would have to be specified.

Rep. Kasper: Is it possible to share tax credits with another business?

Loftsguard: No, under state law, there are no saleable credits.

Rep. Keiser: You have a concern about the tax department and we would be setting the precedence for the tax commissioner to find credits and how they are applied. This is almost in a way, a new Pace Program.

Loftsguard: I am not familiar with the Pace Program.

There were no further questions. The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1403

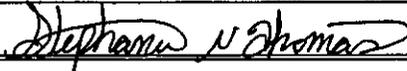
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2498

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1403.

Rep. Kenton Onstad, District 4: Overview of proposed amendment. A lot of the changes we received from the Tax Department. The other thing that we changed was that you take the value added invested credit, and you take the Seed Capital Investment Credit, the Tax Commission does not make that determination, and so they made a change there that the Department of Commerce does that. The Department of Commerce will determine the eligibility of who's qualified for this credit. Another change that we made is the \$2 million dollars was allocated; they have changed the seed capital investment to a certain number of projects. They've added investment credits to a certain number of projects, and the reason why we did that, I believe it's there so their trail energy qualifies for seed capital. If you're an investor, there's stuff that you got, and there is people that did not get that, because the state already released that cap, and so what they've done in the Tax Department is they've made that change that there is so many projects, and so it went to 200 projects in the Seed Capital. The other thing that was done is the tax credits could be carried out for 5 years. They also took 7,500 and went to 3,000 for less in population. Basically, the language was just to fit into the current ND tax code, and allowing the Department of Commerce that speculation.

Rep. Keiser: Where does the money come from, just in the tax credit?

Rep. Onstad: The money would come from the general fund.

Rep. Kasper: The tax credit would come from the person who would get the tax credit paying fewer taxes; there would be no general fund.

Rep. Keiser: It's an indirect hit.

Rep. Kasper: I'm having trouble on page 1; line 15 where you talk about new employment needs the amount by which the total compensation paid during the taxable year a ND resident employee exceeds the total compensation pay in ND resident employees in the taxable year before the application. Does that mean for that business?

Rep. Keiser: Yes.

Rep. Keiser: There remains a \$10,000 max over the lifetime per business.

Rep. Onstad: Yes, the discussion with the Tax Department, if you use \$100,000 that is the average investment.

Rep. Zaiser: This couldn't reauthorize, it only goes to the sunset.

Rep. Keiser: Correct.

Rep. Ruby: Did you leave in the part where it's only for companies that have 5 employees or less? Would that possibly be restricted? Say they want to hire one more, but to get this credit they can't?

Rep. Onstad: I'm going to leave it there. That is the definition of micro business, and a small business can develop a small business development, and find out that most of those are part of this.

Rep. Boe: I move the amendment.

Rep. Zaiser: Second.

Voice vote taken, the amendment is on the bill.

Rep. Boe: I move a do pass, as amended, and rereferred to appropriations.

Rep. Zaiser: Second.

Roll call vote was taken. 11 Yeas, 0 Nays, 3 Absent, Carrier: Rep. Johnson

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
03/08/2007

Amendment to: Engrossed
 HB 1403

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						
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).*

Eng. HB 1403 with Senate Amendments provides a corporate and individual income tax credit for operation of a new or expanding microbusiness in economically viable communities with a population less than 2,000.

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.*

Section 1 of Eng. HB 1403 with Senate Amendments sets out the parameters of the tax credit including the overall ceiling of the tax credit, which is capped at 200 certified microbusinesses, and a maximum tax credit of \$10,000 per business. The total tax credits cannot exceed \$2 million. It is not known if the tax credits will reach the cap in the 2007-09 biennium; the fiscal impact of Eng. HB 1403 with Senate Amendments is unknown.

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:	03/08/2007

FISCAL NOTE
 Requested by Legislative Council
 02/05/2007

Amendment to: HB 1403

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						
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).*

Eng. HB 1403 provides a corporate and individual income tax credit for operation of a microbusiness in smaller cities and rural towns.

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.*

Section 1 of Eng. HB 1403 sets out the parameters of the tax credit including the overall ceiling of the tax credit, which is capped at 200 certified microbusinesses, and a maximum tax credit of \$10,000 per business. The total tax credits cannot exceed \$2 million. It is not known if the tax credits will reach the cap in the 2007-09 biennium; the fiscal impact of Eng. HB 1403 is unknown.

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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:	02/06/2007

FISCAL NOTE
 Requested by Legislative Council
 01/16/2007

Bill/Resolution No.: HB 1403

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						
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 1403 provides a corporate and individual income tax credit for operation of a microbusiness in smaller cities and rural towns.

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.*

Section 1 of HB 1403 sets out the parameters of the tax credit including the overall ceiling of the tax credit, which is capped at \$2 million per year. It is not known if the tax credits will reach the annual caps; the fiscal impact of HB 1403 cannot be determined.

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:	01/22/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1403

Page 1, line 9, remove "personal"

Page 1, after line 11, insert

"b. "Director" means the director of the department of commerce division of economic development and finance."

Page 1, line 12, replace "b." with "c." and remove "and"

Page 1, line 13, remove "which does not have its primary business location"

Page 1, line 14, replace "seven" with "three", remove "five hundred" and replace "more" with "less"

Page 1, line 15, replace "c." with "d."

Page 1, line 18, after the period insert "For the purposes of calculating the increase in new employment, the employer must not include merit or equity based salary increases, cost of living adjustments, or any other increase in compensation not directly related to the hiring of new employees during the taxable year."

Page 1, line 19, replace "d." with "e."

Page 2, line 2, after the period insert "For the purposes of calculating the increase in new investment, the employer must not include any increases in rents for property leased prior to the current tax year. Only rents for leases completed in the current tax year may be included."

Page 2, replace lines 1-31 with:

"2. The director shall accept applications for qualification as a microbusiness under this section from a taxpayer who is actively engaged in the operation of a microbusiness or who will establish a microbusiness in which the taxpayer will be actively engaged in or operating within the current or subsequent taxable year. The application must be on a form provided by the director and must contain:

a. A description of the microbusiness;

b. The projected income and expenditures of the microbusiness;

7. The credit under this section may not exceed a taxpayer's liability as determined under this chapter for the taxable year and each year's unused credit amount may be carried forward for up to five taxable years.
8. The taxpayer must claim the tax credit under this section by filing a form provided by the tax commissioner and attaching the microbusiness certification letter.
9. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
10. The tax commissioner shall prepare a report for the director identifying the following aggregate amounts for the previous calendar year:
 - a. The actual amount of new investment and new employment in the previous calendar year that was reported by taxpayers certified as a microbusiness under this section; and
 - b. The tax credit claimed during the previous calendar year.

The report required by this subsection must be issued by January 1, 2009, and each January fifteenth thereafter. Information may not be included in the report which is protected by state or federal confidentiality laws."

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 26

Renumber accordingly

Date: 1-31-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1403

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass, AS Amended, Referred to Appop.

Motion Made By Rep Boe Seconded By Rep Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson			Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich			Rep. Thorpe	X	
Rep. Dosch			Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 11 No 0

Absent 3

Floor Assignment Rep Johnson

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

REPORT OF STANDING COMMITTEE

HB 1403: Industry, Business and Labor Committee (Rep. Kelsner, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1403 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "personal"

Page 1, after line 11, insert:

"b. "Director" means the director of the department of commerce division of economic development and finance."

Page 1, line 12, replace "b." with "c." and remove "and"

Page 1, line 13, remove "which does not have its primary business location"

Page 1, line 14, replace "seven" with "three", remove "five hundred", and replace "more" with "less"

Page 1, line 15, replace "c." with "d."

Page 1, line 18, after the underscored period insert "For the purposes of calculating the increase in new employment, the employer may not include merit or equity based salary increases, cost of living adjustments, or any other increase in compensation not directly related to the hiring of new employees during the taxable year."

Page 1, line 19, replace "d." with "e."

Page 2, line 2, after the underscored period insert "For the purposes of calculating the increase in new investment, the employer may not include any increases in rents for property leased before the current taxable year. Only rents for leases completed in the current taxable year may be included."

Page 2, replace lines 20 through 31 with:

"2. The director shall accept an application for qualification as a microbusiness under this section from a taxpayer that is actively engaged in the operation of a microbusiness or that will establish a microbusiness in which the taxpayer will be actively engaged in or operating within the current or subsequent taxable year. The application must be on a form provided by the director and must contain:

- a. A description of the microbusiness;
- b. The projected income and expenditures of the microbusiness;
- c. The market to be served by the microbusiness and the way the expansion addressed the market;
- d. The amount of projected new investment or employment increases;
- e. The projected improvement in income or creation of new self-employment or jobs in the area in which the microbusiness is located;

11. The report required by this subsection must be issued by January 1, 2009, and each January fifteenth thereafter. Information may not be included in the report which is protected by the state or federal confidentiality laws."

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 26

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HB 1403

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1403**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 21, 2007

Recorder Job Number: # 3556

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order and opened the hearing on HB 1403.

Rep. Onstad: prime sponsor of the bill appeared in support with written testimony. (See attached)

Sen. Urlacher: this 20% is there overlapping of other credits or exemptions that pertain to the same thing that you're aware of?

Answer: I'm not aware of any, it only deals with the business, if it's going to be expanding its only for the expansion part it's not for ____ previous business or whatever

Sen. Oehlke: do you know the average number of years a new business is in business before it turns a profit?

Answer: I believe the first 2 years you're not going to see a profit so it's probably near 3 that would happen. That the reason we are carrying out to 5 years so they can see a profit.

Sen. Horne: you talk about a sunset, what is a sunset?

Answer: the sunset is really the first 200 businesses and that would be total of 200 not 200 per year.

Sen. Cook: could it be a business that relocates also, what is considered a new investment?

Answer: the new investment is did they purchase a building? Did they bring in 2 new employees? Maybe some new inventory.

Sen. Cook: does it have to be 2 new employees? Or transferring?

Answer: I do not believe that would work; we talked about increased a person's salary that is not part of the program, bonuses, so I don't think we've created a new position.

Sen. Cook: so for a first year for a company that relocates, they spend 100,000 on a building that's going to count; they increase their inventory and increase salaries that would all count the first year?

Answer: Not salaries

Sen. Cook: is there an opportunity for the 2nd year also to receive this credit?

Answer: Correct, maximum of \$10,000 lifetime tax credit.

Sen. Cook: is there any number of years you have to reach that maximum?

Answer: No

Sen. Triplett: you mentioned twice now that there have been successful programs in Nebraska & Oklahoma, can you give us a little more detail.

Answer: first to work on leadership, second to work on community endowments and the third was for tax incentives for micro businesses enterprise. I believe Nebraska has 51 or 5200 businesses that have qualified under their particular program.

Sen. Cook: the cap is that 200 per year?

Answer: only allows for 200 no matter how long

Sen. Tollefson: that 200 could vary, say you had a small business in a town less than 3000 that moved, they moved to a larger community, they would then be subtracted from that

number of 200?

Answer: yes

Donita Wald: Tax Dept. appeared stating when amendments were drafted some things were missed and had some minor corrections.

Sen. Cook: a small business in Mandan, sole proprietorship goes to New Salem and buys a \$100,000 building for a warehouse, that investment in New Salem is going to constitute as a micro business and you put an employee in there.

Answer: if you look, you have to have new investment means an increase of what you had the previous year. I don't think you'd have a new investment. If you were expanding then yes possibly.

Sen. Oehlke: it only works inside city limits apparently, is that correct?

Answer: yes

Sen. Cook: does the sole proprietor have to live in New Salem then or can he live in Mandan?

Answer: no requirement that the owner or operator live anywhere.

Closed the hearing.

Sen. Triplett: made a Motion to Move the Amendments, seconded by Sen. Horne

Sen. Urlacher: this seems to be in my opinion in small communities where there is some businesses could be very viable in the service area.

Sen. Oehlke: I'd be surprised if they turn it into any meaningful profit by the 3rd year.

Sen. Tollefson: it's usually 5 or 6.

Voice vote: 7-0-0 Amendment carries

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1403

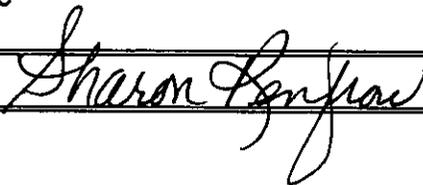
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: # 3819

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for discussion on HB 1403.

Sen. Triplett: what I was looking for in 1403 was something that would help us define a viable community for the purpose of kind of eliminating that tax credit instead of just anything that was under 3000 they had drafted for us. A viable community under 2,000 works for me but maybe we put some kind of a bottom number on it like 500 or whatever and give the Dept. of Commerce the ability to determine whether an intercommunity has level of viability before we start pumping tax credits into them in between that range between 500 and 3,000. it as to mean that they have some kind of basic services already in terms of grocery stores, convenience stores or some minimal health care facilities or whatever

Sen. Tollefson: would the definition of a city where it has a city government, a post office, that would be a good definition of a viable community.

Sen. Triplett: some of these communities I think cling onto their post office until the very last moment if they can and there are a lot of post office communities out there that really aren't viable communities I think.

Sen. Cook: I'm just thinking that a viable community is a community under 3000 that has a high school with at least so many students in it.

Sen. Oehlke: what about the business that wants to locate just outside the city limits of the town or in the township, they are certainly part of the community but they might not be inside the city limits. There are certainly many rural communities that have those type of ventures and they might be home businesses in some regard or they might just be established a mile or so away but they still contribute to that community. I'm not sure why we are limiting it to cities of 3000 or less population however you figure out. Any city that's got 3000 population believe me is going to have enough stuff there to make it a city. 3000 is a pretty big city.

Sen. Triplett: it could get down to zero theoretically that's why we need to have a bottom on it.

Sen. Oehlke: the problem with drawing the line is then you beat em up even more. There is no chance for em to come back. They'll never get there and just keep deteriorating.

Sen. Anderson: two things, I just had the clerk look up how many counties are under 10,000 and of the 53 there is 40, so maybe if you wanted to put something in about in a county of 10,000 or less. My home town of 250 people is very viable but some nearby ones that aren't as viable. I look it as the person who does the plumbing and heating there is getting older and if somebody wanted to come in and start up a new one they might be able to take advantage of something like this. I thought it was a good idea when I heard it just with my own personally experience.

Sen. Horne: I think we are going to have a hard time describing who should be eligible based on viability I agree with Sen. Oehlke on not to close the door on a community trying to make a difference and a come back. I think we should just approve the bill and let the course of economics sort it out.

Sen. Tollefson: I agree with Sen. Horne, defining viability is a very difficult thing to do. You can't.

Sen. Urlacher: I see the especially a service area is getting farther and farther away to get service in a small outlying communities and they can be viable so I tend to think that if the peoples will is there to do it and we shouldn't restrict that to the point that they can't.

Sen. Cook: there's a big picture here and the statement I want to make is we are talking about a micro business that's a new business that is going to be competing against existing businesses that are paying taxes, so my question is, is it right to set down policy that is going to allow somebody to move from West Fargo to Mapleton and start a new business in Mapleton and get a tax advantage to compete against the tax paying businesses in West Fargo? That's always my problem when we start giving financial incentives to new businesses. To me it's a fairness issue and I don't care what you do with the bill, I don't like it.

I hope that when weigh out our opinions on this bill that we consider the fairness issue that's out there. I'm a firm believer in just treating everybody the same. We certainly aren't doing that with this piece of legislation.

Sen. Triplett: I agree, I think the bill as written is not a good bill and I don't think I could support it.

Sen. Oehlke: it mentions carrying forward this tax credit for 5 years and frankly on a real new business, that person is probably going to be eligible for that tax credit for all those years. A real new business, the first 5 years chances are they are not going to have a tax liability to have to pay anyway. If you want to really do something to encourage new business, I don't think this is really it.

Sen. Cook: the reason these towns are dying is because the people that live there didn't shop there. So now they are trying to offer a tax incentive to put something back there, all they need to have a business is to support a business.

Sen. Anderson: I'm thinking of the service type businesses who could be helped with this bill and I don't know how to determine which town being viable or not, but I'm willing to give them a chance.

Sen. Tollefson: I like the term primary sector business, that's a real key. In economic development that's used in a lot to determine what is a viable, in a sense what's a viable business? But the fate of a small town in ND or any other state is good highways and fast cars. The service end of it would be a viable type business in some of these communities if we could help them some how.

Sen. Cook: could our intern contact someone from the Dept. of Commerce to see if we still do have some sort of a definition for primary sector and what is that definition and to what degree are they actually even looking at it.

Sen. Anderson: Sen. Triplett is going to put something together, could we put something in there like non-competing and counties of under 10,000? That would take care of the Mapleton/Casselton type thing. There's bound to be services there in some of those communities that could need help.

Discussion closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1403

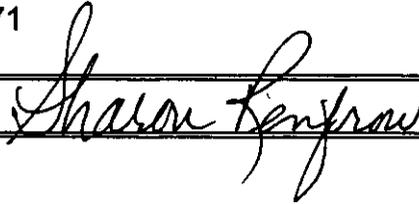
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: # 4071

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for discussion on HB 1403.

Sen. Triplett: gave explanation on the information she received as to putting a new definition in the definition section that would define economically viable small community as meaning a community with a population of at least 100 but less than 2000 according to the last census and it has an active community economic development organization. That was Connie Spryncynatyk's suggestion. Agree to define micro business to add within 3 miles of an economically viable small community to catch some of Sen. Oehlke's concerns that it was just limited to inside the city. D & E are new with requirements that new business would not compete with any established business located within 15 miles of the proposed new business. And the last one subsection e is a new business located in an area determined by the director to be economically viable small community located at least 50 miles from the city limits of the population of 2000 or more. Those are my ideas of how to make it a better bill.

Sen. Urlacher: I think there are some areas have a regional economic development too.

Sen. Triplett: ya and do you think maybe just active economic development organization without defining and without saying community unlimited (_?_) okay. I'm okay with that.

Sen. Horne: Minot does two things. 1) Minot has over the years, the Magic Fund provided promotional money to these communities within our service area, up to \$2000 a year depending on their size and 2) it has also help fund projects that are applied for and are specifically reviewed one by one.

Sen. Tollefson: they will make loans or buy downs to encourage business in its community. You the definition of anything is very very difficult to me but an economically viable small community, who defines that? Who says it's economically viable? That definition is really tough to come by. Because what you may think is viable, I may not.

Sen. Triplett: exactly, the business would have to be certified by the Director of the Department of Commerce. And I would think it would be loosely interpreted

Sen. Anderson: on 3d, its pretty absolute will not compete.

Sen. Cook: for the State to qualify to be a full member state of the streamline sales tax governing board the definition says they must be in substantial compliance. That word substantial was a tremendous word for bringing a lot of attorneys and ____ing them. I got one suggestion to add to Sen. Triplett's section 3 here. And that's language such as "an employer must not be closing or reducing its operation in one area of the State and relocating substantially with the same operation in another state. The other thing is I suggested primary sector businesses and we should discuss that a little bit. Basically the definition for primary sector business means an employer engaged in locating to or in this state which previously had no presence in the state or is expanding its operation within its estate which through the employment of knowledge or labor adds value to a product process or export service that results in the creation of new wealth

Sen. Triplett: that's my point, I think if people have primary sector businesses there already are plenty of avenues where they can go and get help through their regional economic

development or applications of the state, state programs and all of that sort of thing. But I don't think there is a need to do another tax incentive for primary sector. What I heard the big proponents of the bills saying was they wanted something specifically outside of the definition of primary sector for these small towns where a grocery store is primary sector for us. What I heard Rep. Onstad saying was they wanted a tax incentive for things that are not under the definition of primary sector because of these little towns' grocery stores, convenience and craft stores really matter to them.

Closed the discussion

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1403

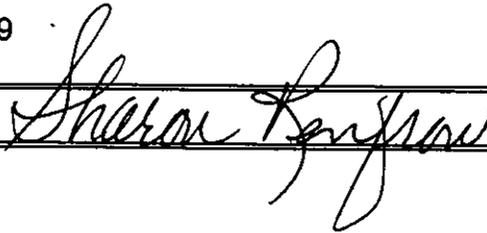
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 5, 2007

Recorder Job Number: # 4389

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee back to order for action on HB 1403.

Sen. Triplett: These are the amendments that we talked about that redefine economically viable small community in an attempt to tighten up the proponents bill well making some time remaining true to there objection which I think is to provide tax incentives for non primary sector investments in small towns and they suggested any towns under 3000 and I changed it to towns between 100 and 2000. So it significantly reduces the number of towns that would be eligible and then also puts in a requirement that the town either have an active economic developmental organization or an ongoing relationship with regional or urban economic development organization or have an existing sales tax on or all part of the revenue from which is dedicated to economic development. Those 3 subparts are intended to provide a notion that the community has to have some level of energy and be working at staying viable and then in addition that we would respond to the concerns that were expressed in this committee that as a new business would not directly compete with any established business located within 15 miles. We're talking mostly about service kind of business I think that makes some better sense and it would be located in an area determined by the Director of the Dept. of Commerce to be an economically viable small community and located at least 15 miles from

the city limits of a city with population of 2000 or more and that's to cut out a piece of the ration of just tax incentives those communities that are essentially ___ communities larger to larger to larger cities. Also would not allow tax incentive for anybody who was reducing or closing a business in one place just to reopen it so that they could get the tax incentive. We are trying say that we are looking for new investment in these small towns.

Sen. Urlacher: There's a certain amount of oversight as what might develop or not develop , what are their obligations and how enthusiastic they are in developing them. I think there is up front discussion and pin pointing certain areas of concern

Sen. Horne: so this development couldn't be located 15 or 20 miles away from Bismarck or Minot it would have to be outside the city limits of a city of 2000.

Sen. Triplett: It couldn't be within the 15 mile perimeter of a larger city. This is trying to encourage business in remote towns.

Sen. Anderson:; it was dropped from 3000 to 2000, why?

Sen. Triplett: the top 20 cities get down to the 2000 level, I just thought that those cities probably have enough going on in terms of economic development and we're primary sector business development would spontaneously spurred the kind of service sector stuff that's being discussed here, where as the ones that are small for the most of them there is no primary sector business going on and so if they are going to maintain a service economy they just need help.

Sen. Tollefson: the economically viable small community has to have one of the 3 which active community development organization would not have, but an on going relationship of the regional or urban economic development organization. For example Magic City funding to Sherwood ND they would then qualify for this type, they'd be classified as a viable community which is a necessity to get any kind of assistance.

Sen. Triplett: yes, the notion is that there should be community involvement encouraging economic development, it's not an individual thing.

Sen. Triplett: I would **Move the Amendments 0501**, seconded by Sen. Tollefson

Voice Vote: 6-0-1 Amendments carry

Sen. Tollefson: made a **Motion for DO PASS as Amended**, seconded by Sen. Triplett.

Roll call vote: 6-0-1 Sen. Triplett will carry the bill.

March 2, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1403

Page 1, after line 12, insert:

- "c. "Economically viable small community" means a community with a population of at least one hundred but fewer than two thousand, which has one or more of the following:
- (1) An active community economic development organization;
 - (2) An ongoing relationship with a regional or urban economic development organization; or
 - (3) An existing city sales tax, all or part of the revenue from which is dedicated to economic development."

Page 1, line 13, replace "c." with "d."

Page 1, line 14, replace "the city limits of a city of three thousand or less population" with "an economically viable small community"

Page 1, line 15, replace "d." with "e."

Page 1, line 22, replace "e." with "f."

Page 2, line 9, replace "e." with "g."

Page 2, line 17, replace "f." with "h."

Page 3, line 15, remove "and"

Page 3, line 17, replace the underscored period with an underscored semicolon

Page 3, after line 17, insert:

- "d. The new business will not directly compete with any established business located within fifteen miles of the proposed new business;
- e. The new business will be located in an area determined by the director to be an economically viable small community located at least fifteen miles from the city limits of a city with a population of two thousand or more; and
- f. The applicant is not closing or reducing its business operation in one area of the state and relocating substantially the same business operation in another area."

Re-number accordingly

Date: 3.5.07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1423

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen. Tollefson Seconded By Sen. Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook			Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Triplett

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

REPORT OF STANDING COMMITTEE

HB 1403, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1403 was placed on the Sixth order on the calendar.

Page 1, after line 12, insert:

"c. "Economically viable small community" means a community with a population of at least one hundred but fewer than two thousand, which has one or more of the following:

- (1) An active community economic development organization;
- (2) An ongoing relationship with a regional or urban economic development organization; or
- (3) An existing city sales tax, all or part of the revenue from which is dedicated to economic development."

Page 1, line 13, replace "c." with "d."

Page 1, line 14, replace "the city limits of a city of three thousand or less population" with "an economically viable small community"

Page 1, line 15, replace "d." with "e."

Page 1, line 22, replace "e." with "f."

Page 2, remove lines 9 through 25

Page 3, line 15, remove "and"

Page 3, line 17, after "located" insert ";

- d. The new business will not directly compete with any established business located within fifteen miles of the proposed new business;
- e. The new business will be located in an area determined by the director to be an economically viable small community located at least fifteen miles from the city limits of a city with a population of two thousand or more; and
- f. The applicant is not closing or reducing its business operation in one area of the state and relocating substantially the same business operation in another area."

Page 4, line 17, remove "this" and after "subsection" insert "10"

Renumber accordingly

2007 SENATE APPROPRIATIONS

HB 14 03

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1403

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-14-07

Recorder Job Number: 5056

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1403.

Representative Kenton Onstad, District 4, Parshall, testified introducing HB 1403 indicating it is a rural initiative program which has been adopted in other states on hometown

competitiveness. It is designed to turn around the statistics of people leaving small towns.

The bill is designed for communities of 2000 or less to provide incentives to bring micro business (5 or fewer employees) to expand, relocate, or start up into those communities.

Incentives work. This will allow for the commerce department to determine the eligibility, set the qualifications, allows for a 20 percent state tax credit and is limited to the first 200

businesses so it creates its own sunset. This has been effective in other states. Part of the bill is a lifetime credit of \$10,000. He indicated on page 4, line 5 is a technical correction that the state tax department will discuss.

Chairman Holmberg asked if the Tax Department would also walk through the fiscal note. The response was yes.

Senator Grindberg posed two questions; what does he envision to relocate and expand or new and what it would be in your mind and did you have discussions with the commerce

Department on having this cleaner. At the end of the day it depends if they can keep the

business open. The response was that relocating is not cheap but hopefully the business can

be attracted and no the discussion was not with the Commerce Department to change that definition.

Senator Grindberg questioned then this shift of one business from point a to point b it is not bringing in new business which adds value. The response is that is partially correct.

Senator Bowman indicated he had been an auctioneer for 30 plus years and every year he watches the rural communities and it gets harder to put up sales bills because businesses are closing. It is difficult for small communities to survive. Do you see the same thing in your area as I see in Southwest ND. The response was yes it is.

Representative Connie Triplett, District 18, Grand Forks, testified indicating she worked on this bill in finance and tax and she expects from the bill that this would entice local residents to make investments for tax credits. There are guidelines for communities of 100 to 2000 population. On page 3, line 13, subsection F specifically says they do not want to steal from businesses elsewhere to move to the small communities.

Deena Wald, Legal Counsel, Tax Department, distributed a technical amendment that this bill needs. She then discussed the fiscal note indicating the bill is limited by the first 200 businesses, and the \$10,000 per tax payer lifetime limit on the business. This means there would only be a \$2 million effect through the bill and the general fund.

Chairman Holmberg asked how this turns up on the balance sheet. Does it just say amount cannot be determined? Roxanne responded that yes that is all it would say is unknown.

Chairman Holmberg closed the hearing on HB 1403.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1403

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-21-07

Recorder Job Number: 5426

Committee Clerk Signature

Janet Pinks (a9)

Minutes:

Chairman Holmberg opened the hearing on HB 1403.

Senator Krauter moved a do pass on the amendment, Senator Mathern seconded. An oral vote was taken resulting in a pass.

Senator Krauter moved a do pass as amend on HB 1403, Senator Robinson seconded. The roll call vote resulted in 13 yes, 1 no and 0 absent. The motion passed. Senator Tripplett will carry the bill.

Chairman Holmberg closed the hearing on HB 1403.

Date: 3/21
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1403

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as amend

Motion Made By Krauter Seconded By Robinson

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) 13 No 1

Absent _____

Floor Assignment ~~Krauter~~

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

unless
Fin/Tax wants
Tripplett.

REPORT OF STANDING COMMITTEE

HB 1403, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1403, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the Senate as printed on page 733 of the Senate Journal, Engrossed House Bill No. 1403 is further amended as follows:

Page 4, line 5, after "entity" insert "entitled"

Renumber accordingly

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1403

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1403**

House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **9 April 2007**

Recorder Job Number: **5832**

Committee Clerk Signature



Minutes:

Attending: Representatives Johnson, Nottestad, Gruchalla, and Senators Tollefson, Urlacher, Triplett.

Chairman Johnson opened the conference committee meeting on HB 1403. Would the Senate explain the amendments they put on the bill?

Senator Triplett: I thought that the way it was written as it came the house with just allowing the credit for pretty much anybody who lived in the community under 3000 was a little untargeted. There are a lot of communities out there that very small. I got a list of all the organized cities in the ND and there were 328 of them. One hundred and twenty four are under 100 population. That group of communities is so small that were kind of like beyond reactivating and there only 24 communities that are above 2000. I thought that be redefining that way it would tighten the focus up a little bit to communities that actually can have a chance of maintaining some viability. I made an effort to try to define an economically viable community and put the 100 as a lower limit. I picked 100 because Medora has 100 people and I thought if Medora can do it, maybe some other community of a 100 if they happen to have an interstate going by and some really fine landscape out the back way can make it work.

Chairman Johnson: Do you remember how many communities there were between 100 and 2000?

Senator Triplett: It would be the difference if you take 328 and subtract 124 and then subtract

24. That range would find some level of economic viability so we came up with the notion of having an economic development organization of your own or having a relationship with the regional economic development organization or having a sales tax. It just seemed like a reasonable indicia of whether or not it can engage in its own growth or if it was just sitting out there doing nothing. So that was the idea—to focus the investments so that they actually might be productive. Some of the other amendments were suggested by other members of the Committee. We wanted to make sure that we weren't giving credits to people who be competing against like interests in the same area. So that someone didn't just close down a business in one place and reopen in a different community just for the purpose of getting the tax credit. We thought that wouldn't be fair. We were looking to trying to stimulate new investment in communities that actually have a chance of maintaining some viability.

Chairman Johnson: I noticed that on the bill that you received you deleted the section on related person definition and the taxpayer definition.

Senator Triplett: That was at the recommendation of Dewald. She said that was actually just a mistake and that those things were in there from some previous version and the need for those definitions had been taken away by the fact of some amendments made before it was ever filed and they just missed pulling those out.

Chairman Johnson: The other two were just Appropriations put in "entity entitled." I looked at it and thought they all made sense.

Representative Gruchalla: The 15 miles in—that wasn't in the first bill. That's something that has been added. Was that an arbitrary number?

Senator Triplett: Absolutely. It's all arbitrary. We were trying not to give tax credits to communities that are presumably viable because of their close proximity to other communities. For example, Thompson which is a bedroom community of Grand Forks is ten miles away. It

exists because of Grand Forks being there. It was an arbitrary number and if we don't like it we can change it.

Senator Gruchalla: I was thinking of my community Fargo with Casselton, Kindred, Harwood, and all those and how it would affect them.

Senator Triplett: Because of their proximity they are okay. We were trying to focus just on the ones that are not okay. There are a lot of towns out there that really are struggling and that's what we were trying to get to.

Chairman Johnson: I think they are good amendments and I have no problems with any of them.

Representative Nottestad: I Move that we Accede to the Senate Amendments.

Representative Gruchalla: I second.

A roll call vote was taken: Yes: 6, No: 0, Absent: 0.

The motion carried.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1403 (, as (re)engrossed):

Date: 4-9-07

Your Conference Committee FBAL

For the Senate:

For the House:

	Yes/No			Yes/No	
x Sen Tollefson	X		x Rep. Johnson	X	
x Sen Urbacher	X		x Rep. Nottestad	X	
x Sen Triplett	X		x Rep. Gruchalla	X	

recommends that the (SENATE/HOUSE) (ACCEDE)to (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1407 -- 1408

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

HOUSE CARRIER: _____

SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Rep. Nottestad

SECONDED BY: Rep. Gruchalla

VOTE COUNT: 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1403, as engrossed: Your conference committee (Sens. Tollefson, Urlacher, Triplett and Reps. N. Johnson, Nottestad, Gruchalla) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1407-1408 and place HB 1403 on the Seventh order.

Engrossed HB 1403 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1403

Chairman Kaiser and members of the Industry, Business, and Labor Committee:

Representative Kenton Onstad, District 4, Parshall

HB 1403 is a rural initiative bill to help stimulate and provide a tax credit for small businesses to locate and expand in smaller communities. Incentives work and we have, through this legislative body, provided incentives before for various reasons. HB 1403 can help provide a tool to end the out-migration from our rural communities.

Rural Economic Development groups with their regional councils work diligently to retain and expand businesses but also to attract new businesses. Many rural communities have the traffic, skilled workforce, and the need for a viable business to come to their area. Statistics will show the majority of small business start-ups are companies with 5 or less employees. In states that have adopted micro-business tax credits, they have stimulated their rural economies and that provides for an even healthier state economy.

Incentives do work.

Page one and two of HB 1403 provides several definitions for what qualifies for the Tax Credit.

Page 2-3 gives description for the tax commissioner to who qualifies and outlines a general procedure to accept applications.

The tax credit is 20% of the investment and employment for a one year period. It provides a total lifetime tax credit of \$10,000. Bottom of page 3 and top of page 4.

The tax commissioner would accept applications, approve and authorize tentative tax credits to any qualifying business and a requirement to report any findings for each calendar year.

HB 1403 has an effective date of beginning after December 31, 2006.

Micro-business tax credits are used in other rural states. They have proved to be quite effective to help stimulate those rural communities. Mr. Chairman and members of this committee, carefully consider HB 1403 and give it a Do Pass.

I am here to answer any questions, thank you.

PROPOSED AMENDMENTS TO SENATE BILL NO. 1403

Page 2, remove lines 9 through 25

Page 4, line 17, replace "11" with "c"

Renumber Accordingly

HB1403

1. For purposes of the section:

- c. "Economically viable small community" means a community with a population of at least one hundred but less than two thousand according to the last decennial census; and which has an active community economic development organization;
- d. "Microbusiness" means a business employing five or fewer employees inside the city limits or within three miles of an economically viable small community;

3. A business may be certified by the director as a microbusiness if:

- a. The applicant is actively engaged in the operation of the microbusiness or will be actively engaged in the operation of the microbusiness upon its establishment;
- b. The applicant will make new investment or employment in the microbusiness;
- c. The new investment or employment will create new income or jobs in the area in which the business is located;
- d. The new business will not compete with any established business located within fifteen miles of the new proposed new business; and
- e. The new business will be located in an area determined by the director to be an economically viable small community located at least 15 miles from the city limits of a city with a population of 2000 or more.

Mr. Chairman Urlacher and Members of Senate Finance and Tax

I am Representative Kenton Onstad, District 4, Parshall

HB 1403 can be called a rural initiative. It is part of a program called Home Town Competitiveness being adopted by several rural states.

HB 1403 is specific to rural areas, communities of 3000 or less. If you are from a rural community or currently living in a rural community, the need for businesses is very important.

Many programs we currently have in the state of North Dakota is developed for primary sector. Every business in a small community is primary.

HB 1403 creates an incentive for a Micro-business, 5 or less employees, to relocate, expand or a new start up in a community of 3000 or less. Many small communities simply do not have the funds to attract businesses. Incentives do work. We have many examples of incentives created for business development in targeted industry across North Dakota.

HB 1403 allows for the Commerce Department to determine the eligibility of a business.

20% state tax credit for an expansion, relocation or a new startup of a qualified business.

HB 1403 limits it to the first 200 businesses. Practice currently being used by the Tax Department. It has it's own sunset and has an effective date of Dec 31, 2006

Maximum lifetime credit of \$10,000

Mr. Chairman and members of the Senate Finance and Tax. I hope you will recognize the need of rural North Dakota and give HB 1403 a Do Pass

Any questions.

Nebraska Advantage Microenterprise Tax Credit Act Statutes (LB 312)

[Tax Incentives Home](#) | [Back to Microenterprise Information](#)

- ◆ [77-5901. Act, how cited.](#)
 - ◆ [77-5902. Act; administration; purpose.](#)
 - ◆ [77-5903. Terms defined.](#)
 - ◆ [77-5904. Tax credit; application, contents, advisory board.](#)
 - ◆ [77-5905. Applications, approval, limit.](#)
 - ◆ [77-5906. Tax credit; amount; claim, expiration.](#)
 - ◆ [77-5907. Report.](#)
-

77-5901 Act, how cited.

Sections 77-5901 to 77-5907 shall be known and may be cited as the Nebraska Advantage Microenterprise Tax Credit Act.

Source:

Laws 2005, LB 312, § 66.

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77-5902 Act; administration; purpose.

The Nebraska Advantage Microenterprise Tax Credit Act shall be administered by the Department of Revenue. The purpose of the act is to provide tax credits to applicants for creating or expanding microbusinesses that contribute to the revitalization of economically distressed areas through the creation of new or improved income, self-employment, or other new jobs in the area.

Source:

Laws 2005, LB 312, § 67.

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77-5903 Terms, defined.

For purposes of the Nebraska Advantage Microenterprise Tax Credit Act:

(1) Actively engaged in the operation of a microbusiness means personal involvement on a continuous basis in the daily management and operation of the business;

(2) Distressed area means a municipality , county, unincorporated area within a county, or census tract in Nebraska that has (a) an unemployment rate which exceeds the statewide average unemployment rate, (b) a per capita income below the statewide average per capita income, or (c) had a population decrease between the two most recent federal decennial censuses ;

(3) Equivalent employees means the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year;

(4) Microbusiness means any business employing five or fewer equivalent employees;

(5) New employment means the amount by which the total compensation paid during the tax year to employees who are Nebraska residents exceeds the total compensation paid to employees who are Nebraska residents in the tax year prior to application;

(6) New investment means the increase in the applicant's purchases of buildings and depreciable personal property located in Nebraska and expenditures on repairs and maintenance on property located in Nebraska, not including vehicles required to be registered for operation on the roads and highways of this state , during the tax year. If the buildings or depreciable personal property is leased, the amount of new investment shall be the increase in average net annual rents multiplied by the number of years of the lease for which the taxpayer is bound, not to exceed ten years;

(7) Related persons means (a) any corporation, partnership, limited liability corporation, cooperative, including cooperatives exempt under section 521 of the Internal Revenue Code of 1986, as amended, or joint venture which is or would otherwise be a member of the same unitary group, if incorporated, or any person who is considered to be a related person under either section 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as amended, and (b) any individual who is a spouse, parent if the taxpayer is a minor, or minor son or daughter of the taxpayer; and

(8) Taxpayer means any person subject to the income tax imposed by the Nebraska Revenue Act of 1967, any corporation, partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, or joint venture that is or would otherwise be a member of the same unitary group, if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of such entity are, subject to such tax, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, or joint venture when the partners, shareholders, or members representing an ownership interest of at least ninety percent of such entity are subject to such tax.

Source:

Laws 2005, LB 312, § 68; Laws 2006, LB 1003, § 17.

Cross References:

Nebraska Revenue Act of 1967, see section 77-2701.

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77-5904 Tax credit; application; contents; advisory committee.

(1) The Department of Revenue shall accept applications for tax credits from taxpayers who are actively engaged in the operation of a microbusiness in a distressed area or who will establish a microbusiness that they will actively operate in a distressed area within the current or subsequent tax year.

(2) The department may convene an advisory committee of individuals with expertise in small business development, lending, and community development to evaluate applications and advise the department in authorizing tentative tax credits.

(3) The application shall be on a form developed by the department and shall contain:

- (a) A description of the microbusiness;
- (b) The projected income and expenditures;
- (c) The market to be served by the microbusiness and the way

the expansion addresses the market;

(d) The amount of projected investment or employment increase that would generate the credit;

(e) The projected improvement in income or creation of new self-employment or other jobs in the distressed area;

(f) The nature of the applicant's engagement in the operation of the microbusiness; and

(g) Other documents, plans, and specifications as required by the department.

Source:

Laws 2005, LB 312, § 69.

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77-5905 Applications; approval; limit.

(1) If the Department of Revenue determines that an application meets the requirements of section 77-5904 and that the investment or employment is eligible for the credit and (a) the applicant is actively engaged in the operation of the microbusiness or will be actively engaged in the operation upon its establishment, (b) the majority of the assets of the microbusiness are located in a distressed area or will be upon its establishment, (c) the applicant will make new investment or employment in the microbusiness, and (d) the new investment or employment will create new income or jobs in the distressed area, the department shall approve the application and authorize tentative tax credits to the applicant within the limits set forth in this section and certify the amount of tentative tax credits approved for the applicant. Applications for tax credits shall be considered in the order in which they are received.

(2) The department may approve applications up to the adjusted limit for each calendar year beginning January 1, 2006, through December 31, 2010. After applications totaling the adjusted limit have been approved for a calendar year, no further applications shall be approved for that year. The adjusted limit in a given year is two million dollars plus tentative tax credits that were not granted by the end of the preceding year. Tax credits shall not be allowed for a taxpayer receiving benefits under the Employment and Investment Growth Act, the

Nebraska Advantage Act, or the Nebraska Advantage Rural Development Act.

Source:

Laws 2005, LB 312, § 70.

Cross References:

Employment and Investment Growth Act, see section 77-4101.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

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77-5906 Tax credit; amount; claim; expiration.

Taxpayers shall be entitled to refundable tax credits equal to twenty percent of the taxpayer's new investment or employment in the microbusiness during the tax year not to exceed the amount of tentative tax credits approved by the department under section 77-5905. The taxpayer shall claim the tax credit by filing a form developed by the Tax Commissioner and attaching the tentative tax credit certification granted by the department. Tentative tax credits expire after the end of the tax year following the year the tentative tax credit was certified. The total lifetime tax credits claimed by any one taxpayer and any related person under the Nebraska Advantage Microenterprise Tax Credit Act shall be limited to ten thousand dollars.

Source:

Laws 2005, LB 312, § 71.

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77-5907 Report.

The Tax Commissioner shall prepare a report identifying the following aggregate amounts for the previous calendar year: (1) The amount of projected employment and investment anticipated by taxpayers receiving tentative tax credits and the tentative tax credits granted; (2) the actual amount of employment and investment made by taxpayers that were granted tentative tax credits in the previous calendar year; (3) the tax credits used; and (4) the tentative tax credits that expired. The report shall be issued on or before July 15, 2007, and each July

15 thereafter. No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source:

Laws 2005, LB 312, § 72.

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Oklahoma Statute

§68-2357.72. Definitions.

Definitions.

As used in this act:

1. "Acquisition" means the use of capital by an Oklahoma rural small business venture within six (6) months after obtaining the capital to purchase fifty-one percent (51%) or more of the voting interest entitled to elect the governing board, or its equivalent, of any other legal entity, regardless of the legal form of the entity. As used in this act, "acquisition" does not mean the right to participate in the proceeds from sale of goods or services, whether denominated a royalty, royalty interest or otherwise, and does not mean the right to intellectual property, whether the rights arise from copyright, trademark or patent law;
2. "Capitalization" means the amount of:
 - a. any funds that have actually been contributed to the qualified rural small business capital company,
 - b. any contractual commitment to provide funds to the qualified rural small business capital company to the extent that such commitment is payable on demand and has substantial economic penalties for breach of the commitment to provide such funds,
 - c. any allocation of tax credit authority awarded to the qualified rural small business capital company by the Community Development Financial Institutions Fund pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, to the extent such allocation has not been previously designated by the qualified rural small business capital company as contemplated by Section 45D(b)(1)(C) of the Internal Revenue Code of 1986, as amended, and
 - d. any funds loaned to the qualified rural small business capital company, which is licensed as a rural business investment company under 7 U.S.C., Section 2009cc et seq., or any successor statute, by the U.S. Small Business Administration or U.S. Department of Agriculture;
3. "Equity and near-equity security" means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a limited liability company, partnership, or subordinated debt that is convertible into, or entitles the holder to receive upon its exercise, common stock, preferred stock, a royalty or net profits interest, or an interest in a limited liability company or partnership;
4. "Financial lending institution" means a bank, credit union, savings and loan, commercial finance company or other entity principally engaged in the extension of credit;
5. "Nonmetropolitan area" means all areas of the state except a county having a population in excess of one hundred thousand (100,000) persons according to the most recent Federal Decennial Census;
6. "Oklahoma rural small business venture" means a business, incorporated or unincorporated, which:
 - a. has or will have, within one hundred eighty (180) days after a qualified investment is made by a qualified rural small business capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,
 - b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services,
 - c. has its principal place of business within a nonmetropolitan area of the state and conducts the

- activity resulting in at least seventy-five percent (75%) of its gross annual revenue from a nonmetropolitan area of the state,
- d. except as otherwise provided by this subparagraph, is engaged in a lawful business activity under any Industry Number appearing under any Major Group Number of Divisions A, C, D, E, F or I of the Standard Industrial Classification Manual, 1987 revision with the following exceptions:
 - (1) Major Group 1 of Division A, and
 - (2) Major Group 2 of Division A,
 - e. qualifies as a small business as defined by the federal Small Business Administration, and
 - f. expends within eighteen (18) months after the date of the qualified investment at least fifty percent (50%) of the proceeds of the qualified investment for the acquisition of tangible or intangible assets which are used in the active conduct of the trade or business for which the determination of the small business qualification pursuant to subparagraph e of this paragraph was made. Provided, that the Oklahoma Tax Commission, upon request and demonstration by a qualified rural small business capital company or an Oklahoma rural small business venture, or an investor or an authorized agent of any such entities, may extend the 18-month period otherwise required by this subparagraph for a period not to exceed six (6) months. Provided, the expenditure of the invested funds by the Oklahoma rural small business shall otherwise comply with the requirements applicable to the usage of tax credits for qualified investment in the Oklahoma rural small business venture. As used in this subparagraph, "tangible assets" shall include the acquisition of real property and the construction of improvements upon real property if such acquisition and construction otherwise comply with the requirements applicable to the usage of tax credits for qualified investment in the Oklahoma rural small business venture, and "intangible assets" shall be limited to computer software, licenses, patents, copyrights and similar items;

7. "Qualified investment" means an investment of funds in the form of "equity" and "near-equity" as defined in paragraph 3 of this section or "subordinated debt" as defined in paragraph 9 of this section; provided, an investment which is contingent upon the occurrence of an event or which is subject to being refunded or returned in the absence of such event shall only be deemed to have been made upon the occurrence of the event;

8. "Qualified rural small business capital company" means a C corporation or a subchapter S corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma, limited liability company or a registered business partnership with a certificate of partnership filed as required by law, which meets the following criteria:

- a. the corporation, limited liability company or partnership is organized to provide the direct investment of equity and near-equity funds to companies within this state,
- b. the principal place of business of the corporation, limited liability company or partnership is located within this state,

- c. the capitalization of the corporation, limited liability company or partnership is not less than Five Hundred Thousand Dollars (\$500,000.00), and
- d. the corporation, limited liability company or partnership has investment of not more than twenty-five percent (25%) of its capitalization in any one company at any time during the calendar year of the corporation, limited liability company or partnership; and

9. "Subordinated debt" means indebtedness with a maturity date of not less than five (5) years that is subordinated to all other indebtedness of the issuer that has been issued or is to be issued to a financial lending institution. The indebtedness shall not have a repayment schedule that is faster than a level principal amortization over five (5) years.

Added by Laws 2000, c. 339, § 2, eff. Jan. 1, 2001. Amended by Laws 2001, c. 382, § 7, emerg. eff. June 4, 2001; Laws 2004, c. 508, § 4, emerg. eff. June 9, 2004; Laws 2005, c. 479, § 19, eff. July 1, 2005; Laws 2006, c. 281, § 18, emerg. eff. June 7, 2006.

Comment [1]: BDERIV

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