

2011 SENATE FINANCE AND TAXATION

SB 2218

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2218
1/24/2011
Job Number 13242

Conference Committee

A. R. Miller

Explanation or reason for introduction of bill/resolution:

Relating to renaissance fund organization income tax credits

Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on SB 2218.

Senator Sorvaag – (See attached testimony A, introducing SB 2218)

Chairman Cook asked for further testimony in support of SB 2218.

Bob Stein, City Planner, City of Fargo – I'm here to speak in support of SB 2218. There have been 3 previous authorizations of this and currently \$1.1 million remaining which is verbally committed as I understand. In Fargo over the past several years we have had two funds. We had one that formed right after the renaissance zone legislation was approved in 1999. Then there was another one that was approved about 3 years ago I think. Over that same length of time the guidelines for the fund changed during several legislative sessions along with the amounts. The reason for bringing that up is because the fund has evolved. I feel we are now at a point where we have people that are in place and people interested in the fund who understand how to use it effectively. We are in a position where we have another developer/investor whos invested in starting another fund in Fargo. So we are very interested in having the credits available. It's another tool that we can use and when it comes to major projects, it seems like they have gotten more complex. It seemed like the funding package was a little different and a little less complex than the remaining projects. This renaissance zone fund program is very important to us.

Cal Klewin, Economic Development Association of North Dakota – (See attached testimony B in support of SB 2218)

Connie Sprynczynatyk, North Dakota League of Cities – I imagine one of your questions might be, why would we need to increase of the amount of credits available. I think the answer to that is really something that Bob Stein just mentioned in passing and that is, when a community establishes a renaissance zone, and it takes some time to get some energy behind it. As time goes on, the easy projects are completed. Sometimes the community encounters a project that is so complex that you really have to layer together

everything in order to get that project to a tipping point where investors will finally agree that, ok, now we can do it. We support the increase.

Senator Triplett – The previous speaker talked about sustainability for both rural and urban areas. Are there any renaissance zones in the rural parts of North Dakota or all they all concentrated in the urban areas?

Connie Sprynczynatyk, North Dakota League of Cities – I suppose that would depend on how you define rural vs urban. Someone from the Commerce Department would have to give you the current statistics, but it's been a remarkably successful program in lots of different sized cities.

Chairman Cook – A renaissance fund organization that has received investments that qualify for these additional credits, so these are on and above the normal renaissance zone credits that are out there?

Bob Stein, City Planner, City of Fargo – They are different credits, it's a different part of the program if I understand your question correctly.

Chairman Cook – Explain the different program.

Bob Stein, City Planner, City of Fargo – The renaissance zone program provides property and income tax credits for people doing projects. Property owners who come in and they buy or own a property that they want to improve. That's one way you do it. There is another provision for people who buy single family residents and they get tax credits for that. The renaissance zone fund was established to get people to invest in downtowns. The original legislation back in 1999, the purpose of the renaissance zone fund is solely to raise funds to be used to make investment in one's own projects that will encourage capital investment in downtowns and central portions of cities. We know that just following Senator Triplett's question that the cities large and small have all, to a certain degree, benefited from this. But this is just another part of the program that provides credits for investment. It took a while for that to catch on and what we're finding is that more of the people who are now the property owners are getting interested in investing as a part of their funding package.

Chairman Cook – You say this is just another part of the program. What's different? What's unique about this particular, other part?

Bob Stein, City Planner, City of Fargo – It doesn't involve the ownership or improvement to a property. It simply involves providing capital resources for projects to happen.

Senator Dotzenrod – On line 11 it says you can't use more than 50% of these investments outside of the renaissance zone. What would be a good example of how a renaissance zone would want to spend money outside of the zone? It seems like quite a bit of money to be spending outside of that zone.

Bob Stein, City Planner, City of Fargo – There were several changes to the renaissance zone law as time went. It was originally focused, as I read from that bill, to be invested in central cities. As that law evolved, it was opened up to non-renaissance zone projects in renaissance zones. The first renaissance zone fund that I was familiar with was in Fargo and that one did not invest in any renaissance zone projects. The law changed, they adapted, and they were having trouble getting investment at that time. There were a couple things that caused that. One was a 10 year investment period that was outlined in the law that the investment had to stay in the fund for a minimum of 10 years. That wasn't very attractive for a lot of investors who were investing with the expectation of some type of a return. The law was changed so you didn't have to invest any of it in a renaissance zone. When the second authorization of the \$2.5 million was made, the legislature went back and said, hold it, we want to put at least 50% in the renaissance zones. I think that was a wise choice to make at that time. What it did was open up the opportunity for the investors.

Chairman Cook – Are you saying there is no restrictions on the amount of money that could be invested outside the renaissance zone today?

Bob Stein, City Planner, City of Fargo – No I am not. There is a 50% restriction. 50% needs to be invested in a renaissance zone, and you can invest up to 50% outside of the zone.

Chairman Cook – I'm talking about that 50% outside the zone. There are no restrictions on what you invest that in?

Bob Stein, City Planner, City of Fargo – There is a pretty broad range. I don't have a list but I think it is interpreted fairly broadly that you would invest in the betterment of your area but it's not necessarily focused on the renaissance zone like the original legislation was written to be.

Chairman Cook – But there is still some local oversight as to what qualifies for an outside investment.

Bob Stein, City Planner, City of Fargo – Yes there is. In Fargo we have since changed our local policy to say that we will not approve another fund unless it's invested 100% in the renaissance zone. We found there is a synergy you get when you focus things.

Chairman Cook asked for testimony opposed to SB 2218. No one came forward.

Chairman Cook asked for neutral testimony for SB 2218. No one came forward.

Chairman Cook – I'm curious why there isn't a \$2.5 million fiscal note.

Joe Becker, Tax Department – The fiscal note is indicating, that's your potential. We don't know what the investment activity will actually be, if any, during the biennium.

Senator Dotzenrod – The credit that's available here, this dollar amount that's in the century code, is that a running accretive total that just keeps getting bigger or is there some of it that's getting paid off? So those credits have been exhausted, used up, the person that wanted that credit has used it, it's gone so now it drops off and the new total available is a current account of what is unused?

Joe Becker, Tax Department – The \$10 million if this is enacted, becomes a cap resealing on the program at large so for all investors and all funds once they hit \$10 million the state is done with it. The way the program, and Bob Stein did describe it well, came in steps. There was \$2.5 million authorized to begin with. There was no restrictions on that. That was indeed used up and so they approached the legislature and got \$2.5 million authorized and took it up to \$5 million. Yes, those dollars are getting used and that is why they are approaching for an increase.

Senator Dotzenrod – Part of the new \$10 million is actually credits that were asked for and were used back in 1999 or 2000 or 2001. It isn't a dollar amount that is per year or per biennium.

Joe Becker, Tax Department – To date, as the law stands, there are \$7.5 million credits authorized. Of those credits, \$3.8 million have actually been taken.

Chairman Cook closed the hearing on SB 2218.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2218
2/15/2011
Job Number 14552

Conference Committee

A. BittMiller

Explanation or reason for introduction of bill/resolution:

Relating to renaissance fund organization income tax credits

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2218.

Senator Dotzenrod – Do I understand this number of credits to be sort of an odometer that just keeps running? It doesn't reset to zero every biennium. It's just a total credit, accumulating total that just goes on from the day we began the renaissance zone.

Chairman Cook – This fiscal note says if enacted SB 2218 will increase the ceiling.

Senator Dotzenrod – It seems a little unusual to me to count expenses and to count what these things cost us as something that we accumulate as a running total that goes back over a number of biennium's rather than just what's the effect this biennium. Maybe it's because the credits are out there and can be unused credits. It seems like this way of accounting for a credit that we offer, doesn't seem to be the same as what I'm use to thinking of.

Senator Hogue – The testimony we have is, yes, it's an accumulative thing and it carries over to bienniums. It's actually an incentive that's been used and according to Senator Sorvaag we've got about \$1.1 million remaining on this \$7.5 million so if we don't increase the cap there is a possibility that somebody wouldn't be able to take advantage of it between now and the next time we meet.

Senator Triplett – I have notes that Joe Becker from the Tax Department told us that only \$3.8 million of the tax credits have actually been taken to date but there may be more in the process.

Chairman Cook – I'm looking at Senator Sorvaag's testimony. There are \$1.1 million remaining of the \$7.5 million credits, and those are being reserved for a renaissance fund that is being developed, so that tells me there is none left. So at this time there are no credits available for cities greater than 30,000.

Donnita Wald, Tax Department explained that there were some rules created by the Department of Commerce and she's not sure what they are but can find out for the committee.

Chairman Cook closed the hearing SB 2218.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2218
2/16/2011
Job Number 14594

Conference Committee

A. Bittmiller

Explanation or reason for introduction of bill/resolution:

Relating to renaissance fund organization income tax credits

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2218.

Donnita Wald, Tax Department walked through the Renaissance Fund Organization Investment Tax Credit chart attached.

Senator Triplett – I was intrigued by a question yesterday about why we just keep rolling the cap up as opposed to maybe changing the direction of this program and just suggesting it as a particular allocation by biennium. Maybe there is a good reason because these things are long-term projects that work their way through the system slowly.

Brief discussion between **Senator Triplett** and **Donnita Wald** followed. Ms. Wald believes there is indeed \$1.1 million available that has not been claimed.

Senator Oehlke – I would like to make a motion to change it from \$10 million to \$8.5 million.

Seconded by **Vice Chairman Miller**.

Chairman Cook – All in favor say yea. Opposed? (7-0-0)

Vice Chairman Miller – I will move a Do Pass as Amended.

Seconded by **Senator Oehlke**.

Carried by **Senator Triplett**.

FISCAL NOTE
 Requested by Legislative Council
 02/18/2011

Amendment to: SB 2218

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.*

| | 2009-2011 Biennium | | 2011-2013 Biennium | | 2013-2015 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.*

| 2009-2011 Biennium | | | 2011-2013 Biennium | | | 2013-2015 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).*

Engrossed SB 2218 increases the ceiling on the total tax credits allowed for investments in renaissance fund organizations set up by cities that have established a renaissance zone under the state's renaissance zone program.

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.*

If enacted, Engrossed SB 2218 will increase the ceiling on total tax credits allowed for investments in renaissance fund organizations from \$7.5 million to \$8.5 million, an increase of \$1 million. This ceiling applies to all investments made in renaissance fund organizations for all years. (Note: This ceiling only applies to credits for investments made in renaissance fund organizations; it does not apply to the other income, financial institution, or property tax incentives allowed under the renaissance zone program to taxpayers with zone projects.)

The fiscal impact of this change for the 2011-13 biennium cannot be determined because it is not known how much investment activity will occur during the 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: | 02/18/2011 |

FISCAL NOTE

Requested by Legislative Council
01/18/2011

Bill/Resolution No.: SB 2218

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.*

| | 2009-2011 Biennium | | 2011-2013 Biennium | | 2013-2015 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.*

| 2009-2011 Biennium | | | 2011-2013 Biennium | | | 2013-2015 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).*

SB 2218 increases the ceiling on the total tax credits allowed for investments in renaissance fund organizations set up by cities that have established a renaissance zone under the state's renaissance zone program.

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.*

If enacted, SB 2218 will increase the ceiling on total tax credits allowed for investments in renaissance fund organizations from \$7.5 million to \$10 million, an increase of \$2.5 million. This ceiling applies to all investments made in renaissance fund organizations for all years. (Note: This ceiling only applies to credits for investments made in renaissance fund organizations; it does not apply to the other income, financial institution, or property tax incentives allowed under the renaissance zone program to taxpayers with zone projects.)

The fiscal impact of this change for the 2011-13 biennium cannot be determined because it is not known how much investment activity will occur during the 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: | 01/21/2011 |

11.0340.01001
Title.02000

Adopted by the Finance and Taxation
Committee

February 16, 2011

JB
2-16-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2218

Page 1, line 8, replace "ten" with "eight"

Page 1, line 8, remove the overstrike over "~~five hundred thousand~~"

Renumber accordingly

Date: 2-16-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Oehlke Seconded By Senator Miller

| Senators | Yes | No | Senators | Yes | No |
|----------------------------|-----|----|-----------------|-----|----|
| Dwight Cook – Chairman | | | Jim Dotzenrod | | |
| Joe Miller – Vice Chairman | | | Connie Triplett | | |
| Randy Burckhard | | | | | |
| David Hogue | | | | | |
| Dave Oehlke | | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

verbal vote

Date: 2-16-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Senator Miller Seconded By Senator Oehlke

| Senators | Yes | No | Senators | Yes | No |
|----------------------------|-----|----|-----------------|-----|----|
| Dwight Cook - Chairman | X | | Jim Dotzenrod | X | |
| Joe Miller - Vice Chairman | X | | Connie Triplett | X | |
| Randy Burckhard | X | | | | |
| David Hogue | X | | | | |
| Dave Oehlke | X | | | | |
| | | | | | |
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| | | | | | |

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Triplett

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

REPORT OF STANDING COMMITTEE

SB 2218: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2218 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "ten" with "eight"

Page 1, line 8, remove the overstrike over "~~five hundred thousand~~"

Renumber accordingly

2011 HOUSE FINANCE AND TAXATION

SB 2218

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 7, 2011
Job #15014

Conference Committee

| | |
|---------------------------|------------------|
| Committee Clerk Signature | <i>Mary Main</i> |
|---------------------------|------------------|

Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

| |
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| <i>See attached testimony #1, #2.</i> |
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Chairman Belter: We'll open the hearing on SB 2218.

Senator Sorvaag: I'm here to present SB 2218. (See attached testimony #1.)

Bob Stein, Sr. Planner with the City of Fargo: I'm here to speak in support of SB 2218. When the renaissance zone first started, there was a lot of uncertainty how to use this tool. It started out slow and then it gathered steam and now it's been a real success. I believe 44 cities throughout the state have participated. The renaissance zone fund provision of that particular program also started slow, even slower and it took quite a while for people to figure out how to use that tool. Over the last 5 of 6 years, this tool has become more and more important. That in part is due to the fact that many of the remaining projects that we have to work on are really more difficult than the ones that we started with and consequently more tools are needed. We are strongly in support of this bill and ask that you consider increasing the aggregate to 10 million dollars. I'd be happy to answer any questions.

Representative Steven L. Zaiser: These tax credits have to be made up by somebody in the community. It's the people on fixed income are being exhausted in terms of their replacing the tax base that's being exempt. At what point in time do you think the communities ?

Bob Stein: We certainly have budgetary needs at the State level and at the local level that have to be met. That money has to come from some place. This does spread it out in other areas. When you look to the long term benefits of some of these projects, you can see what happens. I would use an area in Fargo where there's a difficult project that was done and there's a public involvement but after that project was done, the ancillary development that occurs is at least one of the remedies to that effect. There may be others as well but I know that if the project can spur further development, that also generate local

property tax increases, sales tax, state income tax, payrolls and those type of things. I think there's some redeeming value to that as well.

Representative Glen Froseth: Do you keep numbers on the increase in valuation on renaissance properties like the starting valuation that was originally on the property before it went into the renaissance zone and improved and today's valuation? Do you keep numbers on how much increase in valuation the city of Fargo has gained by the renaissance zone?

Bob Stein: Yes we do. If you just take the renaissance zone projects that add value such as the rehab project, the new construction projects, and we have about 75 or 80 of those throughout our downtown. The true and full value right now of those buildings as compared with what they were pre project, the values have increased fivefold. If you take the entire renaissance zone, all the parcels whether or not they have had the a renaissance zone project on them, but the entire 30 blocks, the overall value has doubled in taxable value. That came from a historic low 12 to 13 years ago. They were incredibly depressed.

Mike Allmendinger, Kilbourne Group: (See attached testimony #2.)

Vice Chairman Craig Headland: I don't recall what the income tax credit is? Is it so much for 5 years?

Mike Allmendinger: If the Kilbourne Group applies for a renaissance zone fund, there would be investors sought out that would have a North Dakota income tax liability and they can participate.

Vice Chairman Craig Headland: What is the credit?

Mike Allmendinger: Its 50 cents. They would pay 50 cents and they would receive a one dollar credit. So it's a 50% credit.

Vice Chairman Craig Headland: For how many years?

Mike Allmendinger: I believe its 5 years. They can use the taxes over 5 years. The investment that they make need to stay in this fund for 10 years so then that fund continues to redevelop to keep active for 10 years.

Representative Dwight Wrangham: You used the phrase "Reduced urban sprawl" so I assume that means that you think urban sprawl is a bad thing if you want to reduce it. Can you define urban sprawl for me please?

Mike Allmendinger: We believe as developers and professionals that lower density developments around the edges of the community increase infrastructure cost, sewer, water, septic, curbs and gutter, fire departments, police, schools, a number of factors that increase the costs for cities to run a city. We feel there are many opportunities to increase the density and the amenities and the off rings that already exist on the city's infrastructure. We feel that can be very beneficial to the city.

Representative Dwight Wrangham: I think you told me why you don't think urban sprawl is good. So anything that isn't high density is urban sprawl? Is that your definition of what urban sprawl is?

Mike Allmendinger: The definition is probably interpreted differently among many communities. I don't have a specific definition. I feel like it's certainly happening in Fargo where there's leapfrogging taking place. There's open land in between the next development. That's how our group defines urban sprawl.

Representative Dwight Wrangham: The other phrase "smart growth" I've heard used and don't have a definition for that either. Is that just mean being intelligent?

Mike Allmendinger: Our group's interpretation of that would include a zoning and planning created by the city that would reduce infrastructure costs and also plan for the appropriate residential and commercial zoning throughout a community for its best interests.

Representative Steven L. Zaiser: I want to give you a chance again to explain the tax credit because I think you may have explained it incorrectly.

Representatives discuss in background without microphones on. Inaudible.

Mike Allmendinger: OK.

Representative Steven L. Zaiser: I want to commend you for your focus exclusively on urban core development because I think it is central to a larger city that has definition downtown and urban sprawl is another thing. In answer to that question, it's where there's a development and then there's a lot of open space and an additional development. As Mr. Allmendinger said, the infrastructure costs are pretty substantial. I support their efforts.

Representative Scot Kelsh: When you develop a condo or a series of condos in downtown. What tax credits are transferred to the subsequent property owners when they purchase that condo if any? Are there any tax credits that transfer to the new owner of the condo to the renaissance zone?

Mike Allmendinger: At this point, the Kilbourne projects that we've completed have an application to make them renaissance zone approved. That is separate from the renaissance zone fund that we are talking about today. The RZ application and under approval for example if you are a resident and buying a residential condo, you'd receive a \$10,000 no North Dakota income tax credit for 5 years. It's a maximum of \$10,000 a year. I'm not familiar with anyone who is maximizing that. You'd also receive no property taxes for 5 years if you're a resident owner buying a piece of property in downtown Fargo. If you're a commercial owner and develop a commercial property, there would be no property taxes for 5 years. So the RZ fund would be a different tool separate from these as a way to draw additional capital into downtown Fargo and that's where we hear that Grand Forks and Mandan are interested. It does take time for these ideas and pieces to be communicated to the State. We hear a lot of requests back to our group on how it's being done in Fargo and we think that there will be new opportunities between Williston, Minot,

Mandan, Bismarck, whomever. We'll see a demand for this fund to be used because it's a tool that can be used to attract additional capital into these downtown areas. Now that there's this momentum going, the next step is to take additional risk for developers and these projects are larger and these tools would be very helpful.

Representative Dave Weiler: You talked about something that has my curiosity peaked. You mentioned downtown area condos. Are you talking about condos that people lease out for business reasons or are they buying them and living in them? What I heard was that if somebody buys a condo and lives in it they get a 5 year State income tax exemption. That didn't make sense to me. Could you clarify that for me?

Mike Allmendinger: If you are an individual buying a piece of property as your personal residence in the renaissance zone and it's an approved renaissance project, you would not have to pay property taxes for five years and you would also be eligible for up to a \$10,000 North Dakota income tax exemption for 5 years. I believe that that is accurate.

Representative Dave Weiler: Has the renaissance zone project since 1999 always included residential because I remember when I came in 2001, I was under the assumption that it was just for commercial business. I understand the property tax exemption. I don't necessarily agree with it but I understand it. They are also getting a State income tax exemption?

Mike Allmendinger: We have heard people evaluate the impact for the property tax exemption. For example, the projects that we have worked on in downtown Fargo have been existing buildings with a very low tax base around \$6000 that after 5 years, the tax base will be over \$40,000 for that piece of property. I think that there are a number of people that feel like this is a good investment and a way to prevent these buildings from being torn down.

Representative Dave Weiler: If I'm a developer and I purchase and refurbished it and go through all the hoops that you need to and I lease out the building, the person that leases that building is eligible for that 5 year State income tax exemption. As the owner of that building, I am going to get a 5 year property tax exemption, correct?

Mike Allmendinger: Yes, to get the North Dakota income tax exemption, you have to purchase the piece of property.

Representative Dave Weiler: Does the purchaser of that property or the developer get a State tax exemption on the lease money that they collect from that building.

Mike Allmendinger: No. Are you asking if the developer gets an exemption on that lease money brought in from the tenant?

Representative Dave Weiler: Yes. As a developer you are leasing out the building. If there's 10 different businesses or offices and your taking in lease money from that, it's my understanding that the developer also on top of the property tax exemption and on top of the State income tax exemption that the tenants get, the developer also gets an income tax exemption from the money that he receives from those lease payments.

Mike Allmendinger: I don't believe that that is possible. Kilbourne Group is not doing that. I think maybe if you have a profit, you might be able to but at this point we're not profitable.

Representative Dave Weiler: Then you need to change your business practices.

Chairman Wesley R. Belter: Any further testimony in support of SB 2218? Any opposition to SB 2218? Any neutral testimony to SB 2218? Could the Tax Department answer representative Weiler's concerns?

Joe Becker, North Dakota State Tax Department: There is any number of projects with respect to a given building. You could have a taxpayer purchase a building that is empty, renovate it, refurbish it, then lease part of it out. They could even renovate the top floors into condominiums or personal residences and then sell those. For example, the purchaser of the property would have a property tax exemption available. The income that the owner would receive either from selling the condos or leasing the space for commercial purposes could be exempted under the business income exemption. The individual who purchases a condo will qualify for a property tax break relative to that space and up to a \$10,000 tax credit. Each of these breaks that I'm talking about is up to 5 years. An individual or business that leases the space say on the ground floor for retail or whatever will qualify for a business income exemption relative to that as well.

Representative Dave Weiler: All those property and income tax exemptions are great for the developer and the person who purchases it but as we all know it's just a tax shift to the rest of the people who aren't purchasing because it still takes a certain amount of money to run city government and county government. It's a tax exemption but it's a tax shift to everybody else.

Chairman Wesley R. Belter: In the past I think you had a diagram or scenario of how this whole thing works. Could you bring that in for the committee again?

Joe Becker: I do and I can bring that down.

Representative Glen Froseth: This 6.5 million that's been used to date, that's accumulative back to 1999 isn't it?

Joe Becker: That's correct.

Chairman Wesley R. Belter: Any other questions of the Tax Dept.? Any other testimony on 2218? If not, we'll close the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 7, 2011
#15029

Conference Committee

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| Committee Clerk Signature | <i>Mary Bruckler</i> |
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Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

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| <i>No attachments.</i> |
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Vice Chairman Craig Headland: I would move a DO PASS.

Representative Mark S. Owens: Seconded.

Representative Shirley Meyer: Were you thinking to amend it at all?

Chairman Wesley R. Belter: No.

Vice Chairman Craig Headland: Nor was my motion.

Representative Steven L. Zaiser: I was considering an amendment so if you would consider holding this bill for another day or so.

Vice Chairman Craig Headland: Withdrew motion.

Representative Mark S. Owens: Withdrew motion.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 15, 2011
Job #15472

Conference Committee

Committee Clerk Signature *May Main*

Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

See attachment #1

Chairman Wesley R. Belter: (Refer to attachment #1) I just had a handout and I have a question for Nathan. Looking at the front page, it says 'the Department of Commerce has dedicated \$1,963,750 to specific renaissance fund organizations'. What does that mean?

Nathan Bergman: I might have to go back and do some digging and possibly check with other staff in our office or even Ms. Keller. My understanding is that, of the 7.5 million of credits that have been available, what's remaining has been dedicated to specific renaissance fund organizations. That's basically repeating what's written here. I'm not aware of what specific funds those are. I can do some checking to find out. I'm wondering if it has something to do with certain funds being set up with the intension of almost earmarking some of those dollars. I will have to do some further checking which I may be able to do fairly quickly.

Chairman Wesley R. Belter: If you could check on it. Is there any other questions?

Representative Dave Weiler: Are you looking at the chart?

Nathan Bergman: Yes.

Representative Dave Weiler: Is item number 8 the one you're talking about that you believe that those dollar amounts, the 1.738 million dollars, are dedicated already?

Nathan Bergman: I believe those are not dedicated yet. That's my understanding based on what Ms. Keller's e-mail says on the 5th line of her 1st paragraph. It looks like that's the balance that's available to all renaissance fund organizations that hasn't been specifically earmarked.

Representative Dave Weiler: I thought that when we heard this bill, the comment was made by somebody that all the funds were spoken for.

Nathan Bergman: I know that in the sense that they have to go to specific population centers, they might be broken out that way where so much of the funds have to go to specific population groups or cities with a certain number of citizens. I'd have to do some checking on that. If I can find the right people, it shouldn't take me too long to get this information.

Representative Bette Grande: I specifically remember that they are earmarked for Grand Forks already. There is a project in Grand Forks and it's earmarked for it?

Representative Glen Froseth: On Senator Sorvaag's testimony, he stated there were only 1.1 million dollars remaining of the 7.5 million credits authorized for cities over 30,000 population and 638,000 for cities under 30,000 populations. That would be 1.738 million which aligns with the figures you have here. What is a renaissance fund organization? Is that a project and they call them organizations?

Nathan Bergman: A renaissance fund is an organization that's set aside solely to raise funds for dedication for certain projects. It's something separate from an actual renaissance zone project but it's looking to gather money to entice people to come into create these projects.

Representative Glen Froseth: I didn't realize they were able to file intentions of a project and be able to tie up the money that way. I thought the project had to be approved before the money was dedicated to it.

Nathan Bergman: I think we may be talking about two different things. The projects are going to be something completely separate from the renaissance fund organization. I am not aware of what the Department of Commerce has in place for administering the renaissance fund organizations, setting those up, and allocating some of these earmarks. I should be able to get some of that information for you. As far as the actual renaissance zone projects, they will be separate. The business income exemption, the tax credits that they can receive; that is separate from the renaissance fund organization tax credits that we're referring to here.

Representative Steven L. Zaiser: If you recall we had that one bill that we kicked out earlier that would have increased the reporting requirements for the cities. They didn't like it very much at all. I think it's a good thing so that it should provide additional accountability in terms of this funding.

Chairman Wesley R. Belter: Is there any other things that you need Nathan to research while he's gone?

Nathan Bergman: I'm going to see if I can find out where or what the 1.96 million was earmarked for and then I was going to try to address Representative Grande's question as far as she thought all of it was earmarked for Grand Forks. Are you referring to the 1.7 that the chart shows as being left?

Representative Bette Grande: It would be 1.1 because that would be the size of Grand Forks. I don't know what the 600,000 would be. Is there a way to quickly know when this

was established in the '99 session, were we intending this to be ongoing forever or was this set up as a onetime thing and now we've added to it every biennium almost?

Nathan Bergman: I'll see what I can find out.

Chairman Wesley R. Belter: Getting back to these specific renaissance fund organizations, how did you define them?

Nathan Bergman: They are an organization that is set up solely to raise funds that they can use to make investments into certain zone projects.

Chairman Wesley R. Belter: So the city of Fargo may have one it would be an organization within a given area?

Nathan Bergman: Correct. Each city is able to set up I believe one renaissance fund organization but I will have to do some checking on that.

Vice Chairman Craig Headland: Is there a limit to what they can use? Before crossover we had a bill in this committee from Representative Porter and he asked to increase something. *Inaudible discussion.* So he was just changing this formula then.

Representative Patrick Hatlestad: Is the renaissance zone kind of like an angel fund? If I kick money into the renaissance fund, I get a tax credit?

Nathan Bergman: That is correct. The renaissance fund identifies that 50% of your investment is going to be considered a tax credit. That's where the limit of what's currently 7.5 million in tax credits falls into. That's the ceiling for all tax credits under a renaissance fund organization. I believe the bill as it is currently stated is looking to raise it up to 8.5 million, up by 1 million.

Committee takes break while Nathan finds the answers to questions.

Nathan Bergman: I did want to correct one point. I did clarify that cities can have multiple renaissance fund organizations. They are not limited to just one.

In relation to Representative Grande's question on whether this was ongoing versus a onetime shot; I have no idea in relation to when that came about in 1999. The 2.5 million dollar cap was put on there to limit it and in 2003 and 2009 it was extended up to 5 million and 7.5 million.

In relation to the 1.9 million being dedicated to specific renaissance fund organizations; I just wanted to point out that is something that you won't see in century code and you won't see the population limits in century code either. Those are two points that the Department of Commerce has put on this section of century code and they are the ones that do control how much get dedicated to certain renaissance fund organizations so I'm going to be limited as to how much information I might have. The 1.93 million dollars of dedications is information that we did receive from the Department of Commerce and it means that even though these credits have not been earned because money has not come in for them, their identifying those certain or multiple renaissance fund organizations have those earmarked. If I were to start a renaissance fund organization, they might say we're going to set aside

one million dollars of these credits for your specific renaissance fund organization as opposed to letting them be open as the other 1.7 currently are.

Chairman Wesley R. Belter: The Department of Commerce under administrative rules has made these designations?

Nathan Bergman: I don't know if it's administrative rules or if it's operating procedures that they have. I'm not aware of what they've put in place for that.

Chairman Wesley R. Belter: If you go to the page with the chart on lines 9-11, are those the figures that the Department of Commerce came up with?

Nathan Bergman: That is correct.

Representative Shirley Meyer: Do you have an answer about Grand Forks?

Nathan Bergman: I spoke with Joe Becker in our office and he said that when he heard that he questioned it as well. He has not heard from anyone in Commerce that that has been dedicated to a Grand Forks renaissance fund organization. As far as we know, there is still 1.738 million remaining to be used.

Chairman Wesley R. Belter: Who is the contact person in Commerce that we would talk to?

Nathan Bergman: Zachery Weis is the person I would contact.

Representative Glen Froseth: Looking further on the bill itself starting on line 9 through line 12; I think that's beyond what the original intent of renaissance zone is. What's the use of having a renaissance zone if they can invest outside of the renaissance zone?

Chairman Wesley R. Belter: That's old language.

Representative Froseth: I realize it's old language but I don't think that was the original intent of the renaissance zone program back in 1999.

Representative Mark S. Owens: Did I hear you correctly in saying that there can be more than one renaissance zone in a city?

Nathan Bergman: Renaissance fund organization. The renaissance zone is going to be that group of blocks within the city. That's what their able to have but I did not gather in my conversation with Joe that there couldn't be multiple renaissance fund organizations.

Representative Dave Weiler: The \$7.5 million that was available back in 1999, does that \$7.5 million start over every biennium or is that total?

Nathan Bergman: That is a total amount.

Representative Dave Weiler: If there are 1.7 million dollars left that are not dedicated, and we decide to not increase this or kill this bill, once that 1.7 million is used up then there's nothing left and the renaissance zone can basically go away. Is that correct?

Nathan Bergman: The \$1.7 amount is not the only amount that hasn't been used. We also have the 1.9 million and even though it's dedicated the credits have not been earned for that. If this bill were to go away, it would be operating just as it has been since 1999. In '99, there was 2.5 million, in 2003 they added another 2.5 million, and in 2009 it was another 2.5 million. It's been a continual build up to the 7.5 lifetime of credits available under this section.

Representative Dave Weiler: If we choose to kill this bill then they are capped at \$7.5 million? All that is left of that 7.5 million, since the 1.9 is dedicated so that's, in my mind, is gone, is the 1.7 million. If that money get used up in the calendar year of 2011, then there's nothing left. Is that correct?

Nathan Bergman: I believe that is correct in the sense of the renaissance fund organization tax credit.

Representative Mark S. Owens: The Department of Commerce division of community services has specific requirements that it meets under the statute but none of it says it's divide up by cities so that's something they've done outside of that. To answer the question about was this onetime funding or not; while it may have been onetime funding, it was designed to last up to 15 years of the life of a renaissance zone and expire after that unless we want to add 10 million.

Chairman Wesley R. Belter: I was going to act on this but I think I would like the Commerce Department to come over so we can ask them some questions on this issue. Anything else for Nathan?

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 16, 2011
#15518

Conference Committee

Committee Clerk Signature

Mary Bruecker

Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

No attachments.

Chairman Wesley R. Belter: Could you explain the specific renaissance fund organizations?

Zachery Weis, ND Commerce Department: The renaissance fund organization was put in place with the original renaissance zone back in 1999. It gives the city the opportunity to allow these renaissance fund organizations (RFOs) to be established within their city. The whole point of the RFO is to acquire funds and investments to then in turn invest in buildings and projects within the renaissance zone. It is allowed to invest 50% of the RFO outside the zone within that city as well. It is a mechanism to invest in zone projects. You get a 50% tax credit on your investment with one hitch and that is you have to be invested with the RFO for 10 years or else you have to pay back your credit. The credit amount is a fixed amount; it will never exceed the amount in the century code. Right now we are at \$7 ½ million. This bill amends it up to \$8.5 million and that is the absolute maximum we could give out as far as credits.

Chairman Wesley R. Belter: This chart that shows the categories of the city sizes and it was our understanding that the city sizes were set up by the commerce department and are not legislatively set up is that correct?

Zachery Weis: That is correct. In establishing the guidelines for the renaissance zones they were put in place to make sure the credits didn't just go to the large cities in our state and some of the smaller cities establishing RFOs could also receive those credits.

Chairman Wesley R. Belter: I imagine those guidelines went through administrative rules?

Zachery Weis: I'm not sure but I can look into that.

Representative Roscoe Streyle: Do you know how many small cities have used it?

Zachery Weis: I have a list of cities that have a RFO. There is Casselton, Fargo, Jamestown, Hazen, Mayville, Valley City, and West Fargo who have renaissance fund organizations. Casselton, Mayville, and possibly Hazen are the smaller cities that have used it.

Representative Roscoe Streyle: So it's not being used by smaller cities for the most part?

Zachery Weis: That's correct. It's not hugely popular by smaller cities.

Representative Shirley Meyer: Doesn't Watford City and a few of those towns have renaissance zones they just don't have the RFO?

Zachery Weis: That's correct. I believe we have 50 cities with a renaissance zone but only seven or so with a RFO. Cities like Fargo have two RFOs and looking at having a third. I believe we have three cities; Mandan, Grand Forks, and Hope who are looking at starting a RFO. You have to have a renaissance zone established to have a RFO.

Representative Shirley Meyer: Was it the commerce department's designation that these RFOs could be outside the renaissance zone or was that in statute?

Zachery Weis: It is in statute that they can invest outside the zone, up to 50%. That wasn't with the original bill that was put in afterwards, maybe in 2003. There was a bill introduced that would allow up to 80% investment outside the zone and allow only a five year investment period instead of a ten year but that failed.

Representative Glen Froseth: How is it that the commerce department sets aside funds to a dedicated project. I thought it was the opinion that a RFO had to be firmly in place before they could apply for the renaissance exemptions. The commerce department is pre-dedicating funds before a specific project has been approved. Is that also in the commerce department's rulings as it wasn't in the original law I don't believe?

Zachery Weis: A lot of these projects, especially in the larger cities, are large projects. There are two right now in Fargo that we have reserved a credit for; I think its \$1,963,000 or so. We reserved that credit so their investors know that they will be receiving this amount. It was mentioned before in the senate that the city of Grand Forks has the remaining \$1.1 million reserve for their city and I would like to see Grand Forks use those funds but we haven't reserved those funds because there is no potential or no existing projects for those funds to go to. We reserve funds in the case where there is a project in place.

Representative Glen Froseth: At what point do you have a project in place to reserve those funds? Is it just an idea or do you have to have a preliminary planning and stages completed before you can go to the renaissance zone fund to get funds set aside for your project?

Zachery Weis: We want them to have it hammered out so the project is going to be fulfilled. It would be in our best interest to get some better guidelines to establish when credits are reserved and at what point in a project we can designate certain credits to a zone project. At the same time, these reserved amounts aren't in stone to these projects, they can still be used if something falls through or if the project is taking too long and we see that it isn't going to happen.

Representative Patrick Hatlestad: Can I invest in a renaissance zone organization and get the tax credits without them actually investing in a project at this time because maybe we need more money than what we currently have?

Zachery Weis: I believe you could. I'm not going to say you can't because you already invested in the renaissance fund organization and that allows you to claim those credits I believe. In Fargo and some of these larger cities they aren't receiving those investments until they have a project in mind.

Representative Steven L. Zaiser: When do you determine when it's been a project?

Zachery Weis: We have a lot more rules for a project that is just a renaissance zone project. In Fargo they had the project in place and knew how much it was going to cost and they had information on it.

Vice Chairman Craig Headland: Is there history of funds that have been dedicated and you've had to pull back because they haven't moved forward with the projects?

Zachery Weis: Yes. The third RFO that was supposedly starting in Fargo has been supposedly starting for a couple years now and the prior renaissance zone manager dedicated some credits to that cleared RFO but it took them substantial time to get to this time today so we pulled those credits back and reserved them for projects that are actually going to happen. This third RFO most likely will start and at that time we will have to discuss with them the reserving of credits.

Vice Chairman Craig Headland: Say we would not move this bill forward, what happens when the \$7 ½ million is used, is it done?

Zachery Weis: Yes, when it's done it's done.

Representative Dave Weiler: I want to give a scenario just so I understand this, let's say the 14 members of this committee we have Representative Meyer and she's going to put together a RFO for the city of Killdeer because they have a renaissance zone set up. We all put in \$1,000 and we are all going to get a \$500 tax credit whether that's over two years or five years it doesn't matter for the purpose of this. Then we are going to buy this building to refurbish it and we have to follow the guidelines of the renaissance zone, etc. The 14 of us then own that building or is it the fund that owns that building?

Zachery Weis: I guess it depends on how the fund was set up. I would assume that the RFO owns the building but you own the RFO so you would own building.

Representative Dave Weiler: So if somebody comes along later and wants to invest in the RFO in Killdeer, who is in charge of the RFO, would it be the 14 members?

Zachery Weis: In the bylaws of setting up a RFO it touches on who can be in the RFO and who manages the RFO. The annual audit is in place through the bylaws. There is a board that represents the RFO and decides on their investments and who is in or out of the RFO.

Representative Dave Weiler: Yes, I think I understand that. Are those bylaws in statute or are they something that has been developed by the department of commerce?

Zachery Weis: They are determined by the RFO.

Representative Wayne Trottier: If you do a project and its a million dollar project and all the investors come up with 40%, do all of us get the \$1 million tax credit or do we just get the cash that we put in?

Zachery Weis: It is on your investment, so however much you put into that RFO you get 50% of that back as a tax credit.

Representative Wayne Trottier: Does the RFO get a loan at the bank?

Zachery Weis: A loan for their project?

Representative Wayne Trottier: Right.

Zachery Weis: It's possibly for portions of their project.

Representative Wayne Trottier: If the bank makes us personally sign on there, is that part of the project?

Zachery Weis: So you're saying that the extra amount you are loaning would you be able to claim that as a credit?

Representative Wayne Trottier: Right.

Zachery Weis: In the form that the tax department put together it says the amount that you invested so you would put that amount in and claim it.

Representative Scot Kelsh: If you're an investor and the commerce department pulls back the credits you can pull those funds out at any time if they are still there, is that right?

Zachery Weis: I don't believe that we have the power to pull back credits that are already being claimed. But we can pull credits back that we have reserved.

Representative Scot Kelsh: If you're an investor are you considered to be a silent partner?

Zachery Weis: I believe so.

Vice Chairman Craig Headland: I will move a Do Pass on 2218.

Representative Steven L. Zaiser: I had amendments. (Inaudible) I make a motion to move my amendments.

Representative Scot Kelsh: Seconded.

Representative Roscoe Streyle: We just increased this in 2009 \$2 ½ million and I don't see any reason why we should increase it \$2 ½ million again two years later. If we want to do the \$8 ½ million there is still plenty of credits available. I totally oppose raising it to \$10 million.

Representative Steven L. Zaiser: I recognize that but there are a number of worthy projects being considered in Fargo and some of these as Zach mentioned have been talked about for some time now. One of them is the Bergum Organization which has been a little slow in coming to the party as they are having problems but I think it would enhance downtown and I think an improvement in the city and therefore an improvement in the state. I see these credits being used up quite quickly actually.

Representative Glen Froseth: I agree that I'm not going to vote for the amendment. It's interesting to see what happens over the years in the legislative process. I was on the IBL Committee when this renaissance program was offered and it's changed dramatically, I don't think there is anything in that original legislation that allowed renaissance fund organizations to take over the majority of the tax credits. Those tax credits were meant to go to the individual that was developing the property and being prime owner of the property. I think we should let this thing play out and maybe when they reach the \$7 ½ million cap we could revisit the whole program.

Representative Dave Weiler: You had mentioned yesterday in committee that of the \$1.9 million that was left was already claimed by either Fargo or Grand Forks so everything was all used up, is that accurate?

Representative Steven L. Zaiser: That was just in response to Representative Grande's comments and I don't recall. I would like to respond to Representative Froseth in that the credits always did go to the investor. The part of the renaissance fund that I disagree with is where they made it allowable to go outside the zone. It has made some changes over time. I still support the amendment and if it isn't used then it isn't used and then we can end it. I think Fargo definitely seems to think they have worthy projects where they could use up a significant chunk of those dollars.

Representative Wayne Trottier: If I'm reading this right on the chart from 1999 there were \$2 ½ million credits claimed and then from 2003 there were \$1.297 claimed and zero claimed from 2009 so it leaves \$3.797 to date and there are \$1.9 million that is dedicated so it still leaves \$1.738 that are non-dedicated or open. With the dedicated there are still \$3.7 million left and never having that many been used so it is still fully open yet, am I

right? So there's not a problem here because people have not used that much in any of those periods.

Representative Lonny B. Winrich: What happens to the unused credits? If we increase the limit to \$10 million as this amendment suggests and it isn't used could a future legislature say to take it back because it really isn't expended is it?

Zachery Weis: I believe so; you have the power to do that. In the allocation of 2009 none of that is used right now so you could amend the bill to take all that back. These credits are totally separate from renaissance zone projects. An investor can come into a zone and doesn't have to be any part of a RFO and invest in a building and rehab a building and claim a renaissance zone project which wouldn't affect these funds at all. If the \$7 ½ million that is in here right now was all cleaned we would still be running the renaissance zone program and individuals with projects in renaissance zones would still have their different projects that are currently available for them to invest in.

Representative Dave Weiler: The 50% that is allowed outside the renaissance zone, does it have to be a business or a building or can it be a four-plex or eight-plex, or condominiums?

Zachery Weis: I believe it is very open-ended in what the RFO invests in and that is inside or outside the renaissance zone. That 50% was added in 2003.

Representative Scot Kelsh: The department of commerce has the criteria for what qualifies for the renaissance zone, don't they? It's not that open-ended.

Zachery Weis: We have very specific criteria for the state tax exemptions and the city for their property exemptions but the renaissance zone projects are a little more open-ended. If they are investing in the zone most likely it will be a renaissance zone project as well so they will adhere to those criteria.

Representative Roscoe Streyle: I would offer an amendment to change that 50% to 20%.

Chairman Wesley R. Belter: I'm not going to take any amendments right now.

Representative Shirley Meyer: Do these investments outside of the zone have to be contiguous? Or say I have a RFO project in Fargo in the renaissance zone and they could get this credit in Killdeer or does it have to be contiguous?

Zachery Weis: It has to be in the city limits of Fargo.

Chairman Wesley R. Belter: Do you have any idea how many of these credits have been taken outside the renaissance zones?

Zachery Weis: I don't have that information.

Representative Dave Weiler: The RFO that has \$50,000 and they invest \$25,000 in a downtown renaissance zone project they have \$25,000 left in this fund so they could go buy an apartment building that has nothing to do with the renaissance zone. It could be in the south end of the city and they can buy this apartment building and they get the 50% tax credit.

Representative Scot Kelsh: If we pass this amendment and we don't use the full \$10 million there is no exposure to the state but if we do that means people are investing and it gives people the opportunity if they have new found wealth that they could invest these dollars and go up to that \$10 million, is that an accurate statement?

Zachery Weis: Yep.

Representative Glen Froseth: You can buy the property but the purpose of the renaissance zone is to add value to that property so you'd either have to remodel it or tear it down and build a new one.

Representative Dave Weiler: That's not it at all. You do not have to invest in a renaissance zone. You can take the other half and buy an apartment building.

Zachery Weis: The bylaws of that RFO could say any investments made by this RFO must be done within the rules of the renaissance zone program. I'm not sure if that's in there or not. That could happen.

Representative Mark S. Owens: I want to tell you a story and tell me if I get this wrong; five business people in a city and three of them own businesses inside a 45 square block renaissance zone, two are outside the zone. They form a RFO and create the bylaws themselves and each invests \$100,000. Some of that money is used to do projects with their own businesses that they would have done anyway but now they can get a 50% credit over the next 10 years as there is no restriction in the law on ownership as far as investing and utilization of those investments in business. Since we have 50-50 the other two can do the same thing even though they are outside the renaissance zone or they can simply leave some of that money in the RFO and let it collect interest for five years while they are collecting the tax credit and then in the last five years start but either way it has to be in there for 10 years. If the credits run out before they use them up and they pull their money out of the RFO before the 10 years is up then they have to repay the credits they got because they didn't leave it invested even just in the RFO whether it was being used or not for 10 years. Please correct me on anything in that story if that was incorrect.

Zachery Weis: I believe those were correct statements.

Representative Lonny B. Winrich: I want to raise a point of order. I realize Representative Streyle has indicated his desire to introduce another amendment but we are debating the amendment to raise the limit on this and we seem to be way off the track here.

Chairman Wesley R. Belter: Any debate on Representative Zaiser's amendment which would raise the fund level back up to \$10 million?

A voice vote was taken to adopt the Zaiser amendments: MOTION FAILED.

Representative Dave Weiler: I would like to propose an amendment to change on page 1 line 9 starting with a all the way through line 12 just delete that. I apologize, Representative Winrich, for getting off topic and you were correct but this is something that the government has set up that a fund organization can invest 50% of their money and buy a condominium building or buy an apartment building and get 50% tax credit. The person that is the investor has to compete with a group of people who are getting a 50% tax credit and that's just wrong. I'm a little ashamed that I never saw this two sessions ago or last session when we adopted this.

Chairman Wesley R. Belter: I would like to ask you to withdraw your amendment. I would like to get some further information. Are there some administrative rules or something that this committee could look at?

Representative Dave Weiler: I will withdraw my amendment.

Zachery Weis: I will get some more information. I would seem it obvious that the city and the state would require that the RFO adheres to the renaissance zone requirements even though it is investing outside the zone. However, it is not in statute that you have to do that but we might have required that in our guidelines and we might be using it in the RFOs around the state.

Chairman Wesley R. Belter: If you could get that information for us and get back to us later this morning or this afternoon.

Zachery Weis: Yes.

Representative Shirley Meyer: In addition to that would you also check and see what would happen to the contracts that we have previously that are outside of the zone or the credits?

Zachery Weis: I will but it sounds like that would take a bit longer because we would have to work with the tax department to get that information.

Representative Dwight Wrangham: I think this has been a great success. It wasn't used in 2009 or 2010 and so far not in 2011. It has done its job. They can still do renaissance zones. Let's end the fund.

Representative Shirley Meyer: Aren't there funds that have been dedicated but the projects just haven't been completed?

Representative Dwight Wrangham: (inaudible)

Representative Shirley Meyer: But when you say the funds haven't been used sometimes you can't get the project done that quickly. They are being used because the projects have been dedicated to it, right?

Representative Dwight Wrangham: I don't think they have been started because if they had been started the funds would have been put out to the project. The \$1.9 has been dedicated but hasn't been put out through the project because the projects haven't started. The \$1.7 isn't even attached to anybody.

Representative Patrick Hatlestad: If Zack's answer to my question was correct they haven't invested any money at all yet because he indicated that if you invested money in the RFO you could get the tax credit, right?

Zachery Weis: If any project invests in a RFO I believe they could claim those credits.

Chairman Wesley R. Belter: Can you clarify when they get the credit or if you don't get the credit until they actually start pouring concrete or whatever?

Zachery Weis: I will definitely look into that.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 21, 2011
#15729

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

See attached amendments.

Representative Mark S. Owens: Distributed and reviewed amendments. Please refer to attached amendments.

Representative Shirley Meyer: Isn't that why they want to have a renaissance fund organization?

Representative Mark S. Owens: Let's say you own a company in the renaissance zone and the gentleman that has business two doors down from you that competes with you and forms a renaissance fund organization with three other business owners. Then they go after the money and get the tax credit and reinvest in their own business. Now you can't get that same benefit that they've created. This would prevent them from doing that from the standpoint of businesses they control not that they own a share in but if they control it. There are two parts to this; the first part deals with a single individual owning more than 49% indirectly or directly, which would be owning or controlling the passthrough entity, the proprietorship or whatever type of arrangement it is. The second part goes one step further and prevents those five people from coming together and if they own more than 49% together doing the same thing. That way they can't say they each own 49% controlling interest but together they own 55% so it prevents them from doing that too. It just creates a more balanced and fair renaissance zone for all of the people in the renaissance zone rather than the few who decide to create the renaissance fund organization. That's why I brought the amendment. **I will move the amendment.**

Representative Bette Grande: Seconded.

Representative Steven L. Zaiser: I was wondering if the person who proposed the amendment would accept what I would consider a friendly amendment to preclude investment outside the renaissance zone to be eligible for the renaissance zone credits. That's the way it was initially and then it got changed. I think the intent is to invest within that zone.

Vice Chairman Craig Headland: Let's address this amendment and then we can further amend if that's what the committee chooses to do.

Representative Mark S. Owens: I did consider that but this one was such a big issue that I thought it would be better to do them in separate amendments.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I would like to make the amendment a little clearer by fixing the effective date to identify that would be for investments made after a certain date. There would be some confusion if they were cut off in taking the investment. I don't know how you would like that to apply but I can help you draft something. I think it would be for investments made after a certain date. I would just like to put the word "investments" in there.

Representative Mark S. Owens: Since we're amending it I have no problem with adapting my motion to include an effective date by section. In other words, the current one would be for section one and this would be section two so we would create a new effective date for section two, say December 31, 2011 so there's time once it goes into effect so that those who have renaissance fund zones they would understand what the rules are.

Representative Scot Kelsh: Is this a problem, are people complaining of this that they are being unfairly competed against? I have a little trouble with a substantive change without any of the stakeholders being able to weigh in on what this amendment actually does to the renaissance zone funds.

Representative Mark S. Owens: Your point is well taken and I don't know of anyone complaining of this. It was just my interest in making sure the playing field was leveled across all these funds. We have a number of these funds for revitalization in these different areas. This fund particularly is now 50% inside the zone and 50% outside the zone. We just had a bill where they wanted to make it 80% and we killed it. We could wait until couple years but I didn't see any sense waiting because all we're doing is equalizing the rules across these investment funds.

Representative Shirley Meyer: In an angel fund investment is an angel fund investor not allowed to have collectively more than 49% ownership interest in an angel fund?

Representative Mark S. Owens: In the process of looking for information in the renaissance zone and talking to John Walstad we noticed the second half of that sentence was incorrectly written in the current angel fund. The intent is there but it is incorrectly written. I have another amendment for the angel fund bill to correct that later. The intent was there it was written to do that but it was incorrectly written on the second portion of that and we just discovered that on Thursday. It will read like the angel fund bill once we do both amendments.

Representative Shirley Meyer: The intent of whom? During the testimony I thought part of the provision was that they could own part of the investment.

Representative Mark S. Owens: That we took care of in 2007. The angel fund started in 2005 and I was one of the sponsors of the original bill. In 2007 we deliberately added this language in there. What we thought we were doing was exactly this in 2007 but the second portion about the collectively 49% we had worded wrong. It's been there the whole time. The first has been correct and it's been that way. The second part is just legal wise just worded incorrectly.

Vice Chairman Craig Headland: Would you like to get together with the tax department and incorporate the date to this amendment?

Donnita Wald, General Counsel for Office of State Tax Commissioner: I believe the way Representative Owens articulated it earlier was just fine.

Representative Mark S. Owens: I will move this amendment with the addition of "this act is effect for taxable years and investments beginning after December 31, 2010 at the request of the tax department." If we do it after December 31, 2011 it would delay the increase in \$1 million. The way I have just done it would make the effective date for both sections. I didn't divide it by sections.

Representative Shirley Meyer: I think that you should split them.

Representative Glen Froseth: I also think this should be split because I think the projects people are working on now would be affected if you don't split the implementation of this.

Vice Chairman Craig Headland: I think maybe we should vote on what the date should be.

Representative Shirley Meyer: As long as you're working on this and Representative Zaiser also offered an amendment why don't you just work on it a little more and bring the whole amendment in perfect shape to us tomorrow.

Representative Steven L. Zaiser: I would agree with Representative Meyer. I passed out an amendment that would have increased the renaissance zone back to the original bill and I don't want to mess up some of these other amendments with that amendment. I think they should be separate amendments.

Representative Roscoe Streyle: I think we already defeated the \$10 million amendment.

Representative Dave Weiler: Did we have an amendment to go back to the original \$7.5 million? Where are we on this bill without Representative Owens' amendment?

Representative Bette Grande: Right now it's a clean bill.

Representative Roscoe Streyle: I offered that as a suggestion and got an evil eye on it. I would definitely support that though.

Vice Chairman Craig Headland: Can you repeat exactly what your amendment is going to say?

Representative Mark S. Owens: As written on the handout and also on line 13 section 2 this act would be removed and section 1 would be inserted and read "section 1 is effective for taxable years beginning after December 31, 2010." Following that you would insert "section 2 is effective for investments beginning after December 31, 2011." **I move that amendment.**

Representative Bette Grande: Seconded.

Representative Dave Weiler: Point of order, we haven't acted on his first amendment yet. I think we should probably act on the first one and then further amend.

Vice Chairman Craig Headland: You have amendment 02002 in front of you. Any further discussion on that proposed amendment? **Voice vote taken: MOTION CARRIED.**

Representative Mark S. Owens: I further amend 2218 as is currently amended to replace this act on line 13 with section 1 and to add on line 14 after the period after 2010 section 2 is effective for investments for taxable years beginning after December 31, 2011.

Representative Bette Grande: Seconded.

A voice vote was taken: MOTION CARRIED.

Representative Dave Weiler: (Inaudible as speaker wasn't on.)

Representative Steven L. Zaiser: I don't have a prepared amendment but I think it would be pretty simply stated to say any investment outside the renaissance zone from getting any kind of renaissance zone tax credits.

Representative Bette Grande: On line 9 starting with the word "a" and delete all the way through line 12. So we would remove the language "a renaissance fund organization that has received investments that qualify for this additional credit under this subsection may not use more than 50% of such investments for organization investments outside of the renaissance zone." I move that amendment.

Vice Chairman Craig Headland: Before you move that Representative Weiler had a question.

Representative Dave Weiler: As I'm reading this I want to make sure that we are not leaving any loop hole here. I agree 100% with the proposed amendment. Does the committee feel we should put some language in stating that they cannot use any funds for investment outside of the renaissance zone?

Representative Shirley Meyer: If you just remove the sentence it could mean they could use 100% outside the renaissance zone.

Representative Dave Weiler: If we're going to leave it up to an attorney eventually we know where this is going.

Donnita Wald, General Counsel for Office of State Tax Commissioner: Based on my interpretation by taking it out you would not be able to invest outside your zone. However, you could add a sentence that says "A RFO cannot invest outside its renaissance zone." Just to make it clear.

Representative Glen Froseth: If you simply took out of line 11 "more than 50% of" then it would read "under this subsection may not use such investments for organization investments outside the renaissance zone."

Representative Bette Grande: I withdraw my motion.

Representative Dave Weiler: I would hope we could insert the word "shall" instead of "may" as I want to make it very clear.

Representative Mark S. Owens: Subsection 2 is the one that restricts them. The purpose of renaissance fund organization is solely to raise investments in designated renaissance zone cities. The RFO may provide financing to projects undertaken by And then you come down to where we are in the section where it allows 50% of such investments outside the renaissance zone. They are restricted earlier and this is what leaves it out. We can word it any way you want to but I think we'll be fine to do it in this section.

Representative Steven L. Zaiser: I would suggest that I talk with Mr. Walstad and come up with language that would preclude any investment outside the renaissance zone and an effective date for that.

Vice Chairman Craig Headland: I think we have the ability to take care of it here and make it perfectly clear with what Representative Owens just said to us.

Representative Dave Weiler: Starting on line 9 state "A renaissance fund organization that has received investments that qualify for these additional credits under this subsection shall not use such investments for organization investments outside of a renaissance zone." We're changing the word "may" to "shall" and we're getting rid of on line 11 "more than 50% of".

Vice Chairman Craig Headland: Is that a motion then?

Representative Dave Weiler: Yes.

Representative Steven L. Zaiser: Seconded.

Representative Scot Kelsh: Regardless of whether we support this motion or not this is another substantial change and its being done without input from the stakeholders. I would like to know the history of why it was opened up to beyond the renaissance zone, the 50%. There must have been a compelling reason. I think if we do this it should be a standalone bill so that it has a fair hearing.

Donnita Wald, General Counsel for Office of State Tax Commissioner: When the renaissance fund organization tax credit was created at that time there was one renaissance fund organization created and it was created in Fargo. At the time they were very difficult to organize and so the president and CEO of the Fargo RFO and said they couldn't get the organizations up and running in cities like Valley City and some of those other smaller communities. They were working with them and would like to invest in those communities so they asked for this change so they could do so and spread it out to other communities. Subsequent to that some of the RFO qualifiers and requirements were loosened up a bit and now you see a number of them throughout the state. It was really to help the Fargo fund spread its wealth and get a better return on its investment.

Representative Scot Kelsh: So that means they were expanded so a fund in Fargo could invest in cities whether or not they had a renaissance zone?

Donnita Wald, General Counsel for Office of State Tax Commissioner: These cities had a zone at the time and this Fargo RFO was allowed to become the organization for also Valley City at the time and some of the smaller cities. So instead of just being the RFO for Fargo they were also able to administer the fund for other cities.

Representative Patrick Hatlestad: If you read this how we've structured this last amendment it said "may not use the investments for organizations outside a renaissance zone" so it would allow me to invest in any renaissance zone anywhere would it not?

Donnita Wald, General Counsel for Office of State Tax Commissioner: No, I think the intent is to keep it in the zone for which it was organized.

Representative Patrick Hatlestad: It doesn't say that.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I thought it said that when I was listening to Representative Weiler's articulation of the amendment. To make it clear you could say "within the renaissance zone for which that RFO was established." Legislative history always helps with that.

Representative Patrick Hatlestad: If we're interested in keeping it loose enough so that they can invest outside of Fargo but continue inside a renaissance zone for which we would think it would be created for that purpose. Could we do it that way?

Donnita Wald, General Counsel for Office of State Tax Commissioner: It could be that way.

Representative Mark S. Owens: It says for organizations and investments outside a renaissance zone. Doesn't that already imply that these RFOs the way it's written here even if we take out that 50% the issue is not any renaissance zone in that statement the issue is being outside of a renaissance zone. I'm in agreement with him because even if we take that out now it just restricts them to within a renaissance zone even if that zone is in Dickinson or whatever.

Donnita Wald, General Counsel for Office of State Tax Commissioner: After looking at the rest of this section we may also want to amend subsection two. I thought that would have limited to that particular zone but it doesn't, it's broader than that. In order to achieve what I believe you're trying to do with this amendment we need to work a little bit more on the rest of the code section.

Representative Mark S. Owens: I thought our goal was not to limit them to a specific renaissance zone we are just trying to limit them from going outside of any renaissance zone. Currently, we don't mind if Fargo invests in a renaissance zone in Valley City or Dickinson as long as it's inside a renaissance zone. We just don't want them to say "Here's a renaissance zone credit and by the way we have these businesses in a renaissance zone but you're not going invest in them you're going to invest in this other thing outside of the renaissance zone." It seems to me that's what the law reads now if we take this 50% out.

Donnita Wald, General Counsel for Office of State Tax Commissioner: In subsection 2 it says "the purpose of the RFO is solely to raise funds to be used to make investments in zone projects which are within the zone and to make investments in designated renaissance zone cities." That's different than zone projects. Zone projects are like updated the Northern Supply Building in Fargo. If you have a renaissance zone in Grand Forks I can invest in something in Grand Forks it doesn't have to be a zone project or within a zone is what that says.

Representative Steven L. Zaiser: Perhaps I could talk to Mr. Walstad to get a clear amendment.

Representative Glen Froseth: The object of a renaissance zone is to get the tax credits and tax exemptions. If they invest outside of a renaissance zone are they still taking the tax credits and tax exemptions?

Donnita Wald, General Counsel for Office of State Tax Commissioner: Yes they are.

Representative Glen Froseth: That was not the original intent of organizing a renaissance zone.

Donnita Wald, General Counsel for Office of State Tax Commissioner: That changed. The things the fund could invest in changed 100% from how it was originally written.

Vice Chairman Craig Headland: Representative Weiler, was it your intent of your amendment to limit the renaissance fund organization to only investing in one particular renaissance zone in which they were located or can they invest in any renaissance zone?

Representative Dave Weiler: The purpose of my amendment is I don't think it is right to have a renaissance fund organization to be able to invest outside of the renaissance zone of that city. After listening to this discussion I was not aware that the RFO in Fargo can invest in a RFO in Valley City. I thought you could only invest in the renaissance zone for which the city that it was established. Originally that's the way it was set up. When did they sneak that one by us?

Donnita Wald, General Counsel for Office of State Tax Commissioner: 2001.

Representative Dave Weiler: These renaissance zone fund organizations have gone so far out of the scope of what this bill was originally intended. Some of the amendments that have been through the years are probably fine but I think that this whole thing has gotten way out of control and has gone way too far and I don't think it's at all for us to make changes without certain hearings.

Representative Patrick Hatlestad: Do you want it limited to just the renaissance zone in that city or in any city?

Representative Dave Weiler: My amendment is to restrict them from investing outside the renaissance zone in their city. I would hope that we could pass that amendment we are discussing now. If the committee feels it necessary to further amend that we restrict it only to the city in which the RFO was set up then that's fine but my amendment is simply stating outside the renaissance zone and I think that's a separate issue.

Donnita Wald, General Counsel for Office of State Tax Commissioner: There are a number of different investments that a renaissance fund organization can make. You can make an investment in a zone project which is for Bismarck the Old Front Page Building. You could invest in a zone that is not a project, you can invest in another city zone project, another city that has a zone, and a number of different items a renaissance zone can invest in. I would like to offer the departments assistance along with Joe Becker who has gone around the state and talked about the renaissance fund. I want to make sure we are getting it correct and removing the language that needs to be removed.

Representative Scot Kelsh: The original bill just dealt with the threshold of which the credits could be taken. We are adding a bunch of amendments that are very substantive changes that haven't had hearings. We've had hearings on these changes over the years so I think that we all had opportunities to introduce bills at the beginning of the session where we could have taken care of some of these things. These are being done without the stakeholders who are making plans and investments in projects without them being able to weigh in on some of these things. It finally came back to me why we went outside the zone and I remember the discussion where we were talking about projects along the highway going into New Salem and little towns where there were some blighted areas that were not within the renaissance zones because they were required to be contiguous blocks. There were some projects there that they wanted to be able to tap into some of those funds to fix up some of those properties. That's why we had the legislation to be able to have the fund invest outside the zone itself. I think we might want to draft an amendment to address all these things but I think we are going down the scope of what the original bill was intended to do which did have a hearing.

Vice Chairman Craig Headland: From your recollection have substantive changes to the renaissance zone law all happen through a bill or have there been amendments along the way like we are proposing now?

Donnita Wald, General Counsel for Office of State Tax Commissioner: I am not sure. I know there has been tweaking of it throughout the years and mostly with caps. One thing

that might have changed was adding the election to take the credit and I don't know if you had that bill in front of you where you had the opportunity to take the credit or the deduction. I couldn't say for sure though.

Vice Chairman Craig Headland: Representative Weiler, if you would withdraw your motion and maybe willing to work with the tax department in cleaning up what your intent would be? I think that is something that would be beneficial at this point.

Representative Patrick Hatlestad: Was it in the last session where we expanded the renaissance zone to have three blocks not contiguous to those original sections so you could have a zone here and a zone over there too?

Representative Shirley Meyer: You're correct but the point being is that was a bill.

Representative Dave Weiler: I don't know how to make my amendment more clear. It is strictly whether to allow or not to allow these renaissance fund organizations to invest outside of a renaissance zone. If you would like me to withdraw my motion I would certainly respect that and do so but the other issue is a separate issue as to whether or not they can invest in another city's renaissance zone. That is not what I am addressing, that is a separate issue. **I withdraw my motion.**

Vice Chairman Craig Headland: Dee brought it to the committee's attention that if we are to follow the intent of your amendment we need to amend another subsection of that law and that's why she has offered further help from the tax department.

Representative Dave Weiler: Would you like me to work with them to get further clarification?

Donnita Wald, General Counsel for Office of State Tax Commissioner: We will work with Joe Becker.

Representative Patrick Hatlestad: My concern with limiting it to the city is that Fargo may have a lot of bucks but New Salem can't generate enough money so if Fargo would invest in New Salem's renaissance zone then we get the project done in New Salem. So I would resist restricting it just to Fargo if that's where it's at.

Representative Dave Weiler: Maybe that's a good point to where some other fund organization could go outside of their own city and invest in another city's renaissance zone. However, the reason that I disliked this part of the law is that RFOs could go on the south end of Bismarck and invest in a 18 unit apartment complex and compete with somebody else that is not getting a tax credit. I think that's an unfair advantage and I don't think that was the intent of this law when it was set up in 1999.

Vice Chairman Craig Headland: Would it be possible to put further language in that we can restrict investment from a RFO only if we want to allow it to other renaissance zone only to other renaissance zones that do not have a RFO already established? Then there wouldn't be two competing funds.

Representative Wayne Trottier: Do you know if anything was ever done in New Salem?

Representative Scot Kelsh: No, I don't know.

Representative Steven L. Zaiser: Back in the mid 90s I was involved in some of the planning to establish what a renaissance zone was and in Fargo it was to further develop downtown because it was really going downhill. I think it got expanded in the 2000 sessions. I think I like the amendment that Representative Hatlestad and Froseth talked about. That was my intent. There have been substantial amendments to this law that I think are not appropriate. I think there are other investments. I know Mr. Kramer who was the head of economic development at the time wanted this expanded so that they could invest in other places. I think the key is investing in those other zones whether its in Fargo or not in Fargo.

Vice Chairman Craig Headland: I would hope that anyone that has amendments should work with the tax department and bring them down this afternoon.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 21, 2011
#15752

Conference Committee

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| Committee Clerk Signature <i>Mary Bricker</i> |
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Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

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|---------------------------------|
| <i>See attached amendments.</i> |
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Joe Becker, Tax Department: Distributed amendments and reviewed. Please refer to attached amendments.

Representative Dave Weiler: The purpose was to not allow the RFOs to finance projects outside the renaissance zone.

Joe Becker: That's the direction I took with the amendments then. Continued to review amendments.

Representative Dave Weiler: On the amendment subsection 2 the second line where it says "provide financing to" is underlined and "zone projects and and" so whichever "and" you want to cross out.

Representative Steven L. Zaiser: My question is about the effective date, is that going to create a problem for committed and dedicated dollars or should that be moved back?

Joe Becker: In working through the amendments I wasn't sure what the committee's intent was if you wanted to require the renaissance fund organizations to begin using their funds from some date forward or if we're just talking about the investments they get relative to the addition credits that would be authorized by the bill. I wasn't sure what you were looking for. What you're looking at in the amendments is an indication that we're going to tell the RFOs that from July 1, 2011 any financing you provide after that point in time must be within a zone. If that's not the way the committee wants to go then we'll have to change it.

Representative Steven L. Zaiser: My concern is that there have projects developed and funds have been dedicated to that project based on the assumption that they would receive credits then I would like to move it back.

Joe Becker: My suggestion would be that the last amendment in the proposal there should just be stricken then I think we would be fine. Then we wouldn't interfere with any funding or dedication or whatever financing they are in the middle of taking care of now.

Vice Chairman Craig Headland: Could you repeat what should be stricken?

Joe Becker: In the proposed amendments on line 14 I think if you just remove that then I think that would take care of the concern.

Representative Lonny B. Winrich: I think we already did that. (Inaudible as speaker was not on).

Joe Becker: I was not privy to that change before. Apparently that had been taken care of.

Representative Patrick Hatlestad: (Inaudible as speaker was not on).

Joe Becker: No it doesn't. That is understood. The commerce department designates all zones and it has to be a city in North Dakota in which the zone is located.

Representative Shirley Meyer: With the passage of Representative Owens' amendments this morning this has to be clarified, doesn't it? I don't see this reading right with Representative

Representative Mark S. Owens: You're right. What you see on what he handed out in section 2 would become section 3 and what I had in my amendment would become section 2. He didn't know about it so he didn't add it in his example of what it would look like in the final. He was focused on adding that subsection 2 and showing you the changes in there to get to the 50% but still allow for investment in renaissance zones elsewhere in the state.

Representative Shirley Meyer: My point with that is just that we need to fix this before we vote on it.

Vice Chairman Craig Headland: Does everybody understand how the bill is going to read? I'm going to ask Representative Owens to repeat it back to us.

Representative Mark S. Owens: Section 1 is going to change subsection 2 and 5 as presented before us now. Section 2 will then include the amendment I presented earlier and it will read a new subsection to 40-63-07 and then section 3 will read "Section 1 is effective for taxable years beginning after December 31, 2010 and section 2 is effective for investment for taxable years after December 31, 2011." That's the way it would read based on the earlier amendment we adopted as well.

Representative Lonny B. Winrich: I think we still need the last sentence in Joe's amendment to deal with the financing language. But that applies to section 1 in your scenario as well.

Representative Mark S. Owens: That's correct. If that needs to be clarified then I apologize but that's what I did. I put in that first section when I said "Section 1 would begin..."

Vice Chairman Craig Headland: Does everybody understand what we are doing?

Representative Wayne Trottier: I'm still confused. It says "and to financing a renaissance fund organization provides after June 30, 2011." I thought the amendment earlier that Representative Owens had said December 31, 2011.

Representative Mark S. Owens: That's correct. We would actually be adopting this amendment as he presented except for that last part of the underlined wording in his section 2 in lieu of what we had already placed. We would accept this amendment minus the "and to finance".

Vice Chairman Craig Headland: I'm wondering if we should have that language drafted and strip the bill of the other amendments that we already put on and address it all in one amendment so we all understand it, would that be in agreement? Joe, you understand what we are asking?

Joe Becker: Does somebody have what was written up on those other amendments? We can integrate that and bring one set down for you.

Vice Chairman Craig Headland: Committee, I think we will adjourn for today and we will review the new amendment tomorrow.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2218
March 22, 2011
#15803

Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to renaissance fund organization income tax credits; and to provide an effective date.

Minutes:

See attached amendments.

Vice Chairman Craig Headland: I think we first need to strip the bill of the amendments we put on it so I think we need a motion to reconsider.

Representative Dave Weiler: I make a motion to reconsider.

Representative Scot Kelsh: Seconded.

A voice vote was taken: MOTION CARRIED.

Joe Becker, Tax Department: Distributed and reviewed amendments. Please refer to attached amendments. The effective date is not in here yet as I need to see where the committee wants to go with that. The other sheet has three options for effective dates. You want to restrict the RFO to put its money into zones only so we need to know at what point in time you want that condition to take effect. All three options incorporate Representative Owens' effective date for investments made after December 31, 2011 and that's when that ownership restriction takes effect. The item we are focusing on is when the RFO has to restrict its investments into the zones only. Reviewed the options on the attachment.

Representative Dwight Wrangham: My understanding was that we were going to look at an amendment that investors in the renaissance fund organization could not also be an investor in an enterprise. I see they can be investors up to 49%. If I invest in a renaissance fund organization I would get all the benefits of investing in the fund and if I'm 40% of the enterprise I will also get 40% of the tax benefits in the enterprise, is that correct?

Joe Becker: Yes, assuming the benefits you are referring to are that the organization might be a zone project in its own right and if the investor owns an interest in then sure you would benefit from all that.

Representative Dave Weiler: The wording at the bottom of page 1, do you think that language is strong enough? I was thinking of language more like "they shall not use investments for projects outside of a renaissance zone." If this is the same thing and when you have attorneys look at this if there are any loop holes here but if you believe that your wording and my wording are one in the same then I just want to make sure.

Joe Becker: Yes, it means the same thing. Rather than using "shall not" they prefer to use "shall" so I had to revise that language to fit that term.

Vice Chairman Craig Headland: Representative Owens, do you have questions on the dates that he presented?

Representative Mark S. Owens: No, I don't. To me, it's either the first or the third, whatever the committee desires. The second one seems less logical to me than the first and third one.

Vice Chairman Craig Headland: Is there an impact with certain dates? Are there projects out there that could be impacted by the date change?

Joe Becker: That's why we used the term "new financing initiated" so that if a RFO is already involved with something they will be fine with what they started, they won't be affected.

Vice Chairman Craig Headland: Does everybody understand what the amendment is going to say now? I guess we'll decide on a date.

Representative Mark S. Owens: I'll move option 1 of the amendment.

Representative Patrick Hatlestad: Seconded.

A voice vote was held: MOTION CARRIED.

Representative Patrick Hatlestad: I'll move the amendment.

Representative Roscoe Streytle: Seconded.

A voice vote was held: MOTION CARRIED.

Vice Chairman Craig Headland: You have the amended version of 2218 before you. What are your wishes?

Representative Mark S. Owens: I'll move a DO PASS AS AMENDED on 2218.

Representative Patrick Hatlestad: Seconded.

Representative Dave Weiler will carry SB 2218.

Date: 3-22-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider previous amendments

Motion Made By Rep. Weiler Seconded By Rep. Kelsh

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE -
MOTION CARRIED

Date: 3-16-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Headland Seconded By _____

WITHDRAWN

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 8, replace "eight" with "ten"

Page 1, line 8, overstrike "five hundred thousand"

Renumber accordingly

Date: 3-16-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2278

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
Zaiser's 02001
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Zaiser Seconded By Rep. Kelsh

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE
MOTION FAILED.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers, employees, and investors;"

Page 1, after line 12, insert:

"**SECTION 2.** A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers, employees, and investors may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization investor owns more than forty-nine percent of the ownership interests in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers, employees, and investors collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interests in a passthrough entity."

Renumber accordingly

Date: 3-21-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Owens Seconded By Rep. Grande

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE
MOTION CARRIED.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 1, replace "subsection" with "subsections 2 and"

Page 1, line 5, replace "Subsection" with "Subsections 2 and"

Page 1, line 6, replace "is" with "are"

Page 1, after line 6, insert:

- "2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in~~ provide financing to zone projects and ~~to make investments and other projects located~~ in designated renaissance ~~zone cities~~ zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, after "for" insert "the", overstrike "these additional", and overstrike "may not" and insert immediately thereafter "shall"

Page 1, line 11, overstrike "more than fifty percent of" and overstrike "for organization investments outside of" and insert immediately thereafter "to provide financing to projects within"

Page 1, line 14, after "2010" insert ", and to financing that a renaissance fund organization provides after June 30, 2011"

Date: 3-21-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass ^{Further} Amended Adopt Amendment
_{by R. Owens}
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Owens Seconded By Rep. Grande

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE
MOTION CARRIED

Date: 3-21-11
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass ^{Further} Amended Adopt Amendment
_{by R. Zaiser}
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Grande Seconded By Rep. Froseth

★ WITHDRAWN ★

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-21-11
 Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass ^{Further} Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Weiler Seconded By Rep. Zaiser

** WITHDRAWN **

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-22-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
option 1
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Owens Seconded By Rep. Hatlestad

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE
MOTION CARRIED.

March 22, 2011

JV3
3-23-11
lot 2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers, employees, and investors;"

Page 1, line 1, replace "subsection" with "subsections 2 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in~~ finance zone projects and to make investments other projects located in designated renaissance zone ~~cities~~ zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, overstrike "these additional" and insert immediately thereafter "the"

Page 1, line 10, overstrike "may not" and insert immediately thereafter "shall"

Page 1, line 11, overstrike "more than fifty percent of such" and insert immediately thereafter "those"

Page 1, line 11, overstrike "for organization investments outside of" and insert immediately thereafter "to finance projects within"

Page 1, after line 12, insert:

"SECTION 3. A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers, employees, and investors may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization investor owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers, employees, and investors collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interest in a passthrough entity."

Page 1, line 13, replace "This" with "The changes in sections 1 and 2 of this"

Page 1, line 13, replace "is" with "requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are"

2012

Page 1, line 13, replace "taxable years beginning" with "new financing initiated"

Page 1, line 14, replace "December 31, 2010" with "June 30, 2011"

Page 1, line 14, after the period insert "Section 3 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

Renumber accordingly

Date: 3-22-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Hatlestad Seconded By Rep. Streyle

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | | | Scot Kelsh | | |
| Vice Chair. Craig Headland | | | Shirley Meyer | | |
| Glen Froseth | | | Lonny B. Winrich | | |
| Bette Grande | | | Steven L. Zaiser | | |
| Patrick Hatlestad | | | | | |
| Mark S. Owens | | | | | |
| Roscoe Streyle | | | | | |
| Wayne Trottier | | | | | |
| Dave Weiler | | | | | |
| Dwight Wrangham | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE
MOTION CARRIED

Date: 3-22-11
 Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2218

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Owens Seconded By Rep. Hatlestad

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|------------------|-----|----|
| Chairman Wesley R. Belter | AB | | Scot Kelsh | AB | |
| Vice Chair. Craig Headland | ✓ | | Shirley Meyer | ✓ | |
| Glen Froseth | ✓ | | Lonny B. Winrich | ✓ | |
| Bette Grande | ✓ | | Steven L. Zaiser | AB | |
| Patrick Hatlestad | ✓ | | | | |
| Mark S. Owens | ✓ | | | | |
| Roscoe Streyle | | ✓ | | | |
| Wayne Trottier | ✓ | | | | |
| Dave Weiler | ✓ | | | | |
| Dwight Wrangham | | ✓ | | | |
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Total (Yes) 9 No 2

Absent 3

Floor Assignment Rep. Weiler

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

REPORT OF STANDING COMMITTEE

SB 2218, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2218 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers, employees, and investors;"

Page 1, line 1, replace "subsection" with "subsections 2 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in finance zone projects and to make investments other projects located~~ in designated renaissance ~~zone cities zones~~. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, overstrike "these additional" and insert immediately thereafter "the"

Page 1, line 10, overstrike "may not" and insert immediately thereafter "shall"

Page 1, line 11, overstrike "more than fifty percent of such" and insert immediately thereafter "those"

Page 1, line 11, overstrike "for organization investments outside of" and insert immediately thereafter "to finance projects within"

Page 1, after line 12, insert:

"SECTION 3. A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers, employees, and investors may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization investor owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers, employees, and investors collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interest in a passthrough entity."

Page 1, line 13, replace "This" with "The changes in sections 1 and 2 of this"

Page 1, line 13, replace "is" with "requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are"

Page 1, line 13, replace "taxable years beginning" with "new financing initiated"

Page 1, line 14, replace "December 31, 2010" with "June 30, 2011"

Page 1, line 14, after the period insert "Section 3 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

CONFERENCE COMMITTEE

SB 2218

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2218
4/6/2011
Job Number 16394

Conference Committee

A. Bittmiller

Explanation or reason for introduction of bill/resolution:

Relating to renaissance fund organization income tax credits

Minutes:

Conference Committee

Senator Hogue opened discussion on SB 2218.

Senator Hogue – I see the House made some changes to it and I think the best way to precede Representative Weiler or anybody from the House is to explain the reasons for the changes the House made.

Representative Weiler – I'm going to explain the changes that we made in sections 1 and 2 and allow Representative Owens to explain the changes in sections 3 and 4 since he was primarily responsible for those. Basically the change in section 1, a little bit of that is some clean up language but it also I believe strengthens the fact that these renaissance fund organizations are allowed to make investments in other cities. In other words if there is a renaissance fund organization in Fargo but there's not one in Valley City it allows the renaissance fund organization from Fargo to basically borrow money to a project in another city as long as that is in a renaissance zone because not every city has a renaissance fund organization. That is my understanding on section 1. Section 2 we did not change, on line 21 the ceiling of \$7.5 million for investments in renaissance fund organizations, that came across as a change from the Senate to \$8.5 million there was some discussion in committee as to whether that should go to \$10 million or whether it should just stay at \$7.5 million. The committee decided that it's best just to leave it at \$8.5 million. I don't know if the Senate has had an opportunity to see the information but basically of all the renaissance or what has happened so far there is still \$1.73 million available under the \$7.5 million. What has been actually claimed is \$3.79 million. So there is \$3.7 million available however some of this has been dedicated apparently and that is \$1.96 million so the available left is \$1.73 so there was extensive discussion in our committee as to whether or not we should change that but we didn't change it.

Representative Weiler – The change on page 2 lines 1 and 2 the way that use to read is that these renaissance fund organizations could invest up to 50%, this is current law, they could invest up to 50% of whatever they have in their fund in projects outside of a renaissance zone. We changed that so that any investment that they make would need to

be within a renaissance zone. I think the heartache that the House had with the way that read before, and I'll give a simple scenario, if there's a renaissance fund organization in Bismarck and they have \$100,000 in this fund they could spend \$50,000 on a project in south Bismarck where there is no renaissance zone. So if this renaissance fund organization which is receiving a tax credit, all the members are receiving a tax credit, if they wanted to go down to the south end of Bismarck where there is no renaissance zone and by a condo building or an apartment building, current law allows them to do that. I think the heartache we had with that is that there are people that are constantly looking for investment properties whether to buy an apartment building or something of that nature, or any type of building that is not in a renaissance zone and that private investor is now competing with a renaissance fund organization that is receiving a tax credit.

Representative Owens – I will add one other thing to your statement about the 50%. It was testified in committee that the reason that 50% was added is that some of the RFO's wanted to invest in like, Valley City and other places where they didn't have any RFO's and the only way to invest outside of a renaissance zone was to put in that 50%, we were told, to allow them to invest in other renaissance zones in smaller cities. That is why we changed that is so they can still do this, it's just now you can no longer invest outside of any renaissance zone. Section 3 was to prevent quite frankly, double dipping. It was testified, story was provided for; by a number of people in a renaissance zone create a renaissance fund organization. They put their money in and then they turn around and reinvest in their own business to capture the tax credit and to deduct and on top of that because they are having to pay that back they get the tax credit, they have \$1000,000 that they invested in the renaissance fund organization and they get \$100,000 invested in their own company because they're the owners, and then they turn around and because they have invested that and it's a loan and they have to pay it back on top of that they get to deduct it. They get almost 2.5 times the value and it's quite frankly an unfair competitive advantage to whoever is not a member of the RFO. Section 4 simply provides for two different effective dates because we felt that there were some situations where they were already currently under projects. The committee just wanted to do section 1 and 2 at the end of the state fiscal year but the renaissance fund organization for investment purposes is at the end of the calendar taxable year.

Representative Zaiser – Very briefly I just want to make a statement regarding lines 1 and 2 on page 2 which talks to the issue of where renaissance zone organizations should put its investment. I was in a periphery way involved in the initial project as they were talking about a renaissance zone in Fargo and clearly the intent was that the development should, initially anyway, occur with the renaissance zone.

Senator Hogue – I wanted to go back to section 3 because I think I get what the House did in section 1 and 2. The policy is going to be that the renaissance zone funds are just going to be able to invest in renaissance zones and they can take that money, that excess money that they are not using on a project in their own town and take it to Valley City or wherever but it's got to be within the renaissance zone. It seems to me, and I don't think there are very many of these funds out there, but it seems to be they might have some stranded money. Let's say they've got \$1 million and they do their project so they've got \$50,000 or \$100,000 or a phenomenal amount sitting in the fund and my question I guess on for the House side is, would the House be comfortable with some figure that is not 50% but is a

smaller fraction that they could use to get rid of the rest of that money so it's not in the fund and have a little more discretion in terms of where they put that money.

Representative Owens – I'm not sure how the whole House would feel. The only reason that 50% was in there to invest in renaissance zones in other locations that was the excuse we were told or the testimony used to get that original 50% put in to law back when. I didn't go back and research exactly when that occurred and when they heard that they said okay well we'll certainly allow that to still be able to invest in other renaissance zones but because of the way it was worded naturally there has been events where up to 50% has been invested outside of any renaissance zone.

Representative Zaiser – I just wanted to reiterate and perhaps embellish what Representative Owens said. Going back, again the intent was to invest in the zone and I do know that in my caucus there were some people that were very reticent about supporting the renaissance zone because it was kind of loosely defined. They are more supportive of this concept and project now that the definition for the development is in the zone. To me there is greater support for it the way it is now then there has been over the years.

Representative Weiler – I just want to clarify one thing in section 1 and there was a comment that these renaissance fund organizations could take up to 50% of the money and use it in another city and that is true, however there in another city that has a renaissance zone. The intent of that is if the city of Towner does not have a renaissance zone set up, then the group in Fargo could not, they would have to have a renaissance zone set up. I believe it was a strong feeling among the members of the House Finance and Tax Committee that what's happened to the renaissance zone and renaissance fund organizations since the bill was first passed in 1999, we've gone way beyond the scope of what the bill was originally intended to do. The Finance and Tax Committee in the House also believes that the renaissance zone project has been a successful one. There is a lot of good things that have been done but over the last session and with the changes that have been made over the last session or 2 we feel that it's getting way beyond the scope of what it was intended to do and we would like to see it tapered back a little bit.

Senator Hogue – Mr. Olson approached me on the Senate floor and said there was someone who wanted to offer some explanation or clarification of the House amendments. Mr. Olson do you want to distribute that?

John Olson, City of Fargo – Jim Gilmore, Director of Planning and Development in Fargo was unable to attend so I will pass out his comments. We feel there should not be restrictions.

Senator Hogue – As I understand the House's concern and the reason for section 3 is that while the purpose of the legislation is to stimulate investment in dilapidated or rundown portions of the city, the benefits they get from forming the renaissance fund organization is a sufficient incentive and therefore there shouldn't be any further incentive. Is that a fair assessment?

Representative Owens – Reading this I understand how he's misreading section 3 because this talks about the investor owning the project but the investor is not part of the

renaissance fund organization. This only deals with those people in charge of the renaissance fund organization not being allowed to invest in their own property. If we run the renaissance fund organization and you invest we can turn around and invest in your property, we just can't own a piece of the property.

Representative Weiler – You had asked earlier as to how the House would feel in regards to a percentage, maybe not as high as 50% that they could invest in the renaissance zone and although I can't speak for the other members of the House I guess my real concern there is that the renaissance zone projects and the renaissance zone, the entire law was set up to upgrade, if you will, certain areas of downtown that need some upgrades and needs some investments and I think that has served its purpose, it is doing some really good things in certain cities in the state of North Dakota but for these groups for these RFO's to be able to take money that is in the their fund organization and invest outside of a renaissance zone, it's competing I believe unfairly.

Senator Hogue closed discussion on SB 2218.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2218
4/11/2011
Job Number 16474

Conference Committee

A. B. Miller

Explanation or reason for introduction of bill/resolution:

Relating to renaissance fund organization income tax credits

Minutes:

Conference Committee

Senator Hogue opened discussion on SB 2218.

Senator Hogue - The last meeting we spent most of the time talking about the House amendments. I thought you guys did a good job, I don't know how the other 2 Senators felt, but I thought it was pretty good work. The only issue that concerns me was the possibility that the investors in the fund could have some stranded assets if they invested in a particular zone or project within a zone and didn't invest all of their money that they set up in their funds. How do they end up getting that money out? Can they invest it somewhere else? I alluded to it at our first conference committee and I'll just throw it out to everyone. I had an amendment drafted that said essentially that they would have to invest 90% within the zone and that if they had some capital sitting around 10% that they would have the latitude to invest that somewhere else. It would not be restricted to a renaissance zone. I'll just put that out there, I'm not firm on it, but I think it would be good policy.

Representative Weiler - Is there anything in the code, and you bring up a good point about there might be some money stranded, they had \$20,000 in the fund and they only invested \$15,000 and they have \$5,000 laying around, is there any provision in the law where they can take that out and just get that money back if they aren't going to use it and would they still then at that point get the tax credit on the \$20,000?

Representative Zaiser - I can understand and appreciate your proposed amendment at least that you are considering. My concern is that we started this whole concept with, we create a zone and we have development within that zone and it gradually started to leak wider and the leak got larger and larger to the point where it got to be 50%. That concerns me on a philosophical standpoint. From a statutory standpoint and a practical standpoint it would seem to me that those additional funds would be able to be invested in other renaissance zone projects throughout the state.

Representative Weiler - Perhaps Joe Becker might be able to let us know about whether there is any provision.

Senator Hogue – Can you enlighten us on whether there's possibility if I'm investing in one of these funds and let's say we invest in a couple of renaissance zone projects either in one city or multiple cities, and we've capitalized the projects that we want to, we still have some funds, let's say \$1 million and we've invested \$900,000 in different projects. Under current law can we take that \$100,000 out and just distribute it as a dividend without any tax consequences or are we obliged to reinvest it in a renaissance zone project?

Joe Becker, Tax Department – Under the renaissance zone program in order to qualify for the tax credit the monies once invested in the RFO must remain in there for 10 years. If the investor would ask for any part of that to be returned they would lose that proportion of the credit.

Senator Hogue – Let's go out 10 years and say they've used that money and their capital is depleted. What do they do with the remaining capital?

Joe Becker, Tax Department – I'm not sure if I have an answer to that. Those are some of the questions early on when the program was first instituted, what will happen after the 10 years, what kind of requirements the RFO has in terms of making its investors whole, what have you. I don't have an answer off hand I'd have to look at the statute.

Senator Hogue – Representative Owens, do you have another amendment?

Representative Owens – I do. My amendment basically is as follows. It takes in to consideration 2 issues that we discussed last time we were together. One was that there was pending projects currently out there dealing outside of a renaissance zone that have gone quite a ways into the process, but under this new law right now, they would only be grandfathered until June and that may not be quite enough time for those projects to complete in time to capture the remaining tax credits. It grandfathers that and pulls that back to the end of the year to satisfy those existing. Second, there was a point when you invited Mr. Olson up and he handed out testimony about one thing and we explained the intent of that section of code as far as the renaissance funds organization. It turns out there was an error in that paragraph and that Mr. Olson and the people he represents were correct so I have corrected that in here. The goal was to limit the people, the organizational officers and employees of the renaissance fund organization, not the investors. So, what I would like to do even before, and this doesn't rule out your amendment, but what I would like to do is move that the House recede from its amendment and further amend.

Representative Weiler – Page one of your amendments, section 3 it says, renaissance fund organization officers and employees. Give me an example of an employee.

Representative Owens – They could very well have a bookkeeper or secretary or somebody to run the office. Or they may not, we just didn't want to assume.

Representative Weiler – I have 2 thoughts. I understand the intent of what this is trying to do if there were people in the state that invested in renaissance fund organizations that invested under the premise that they could invest the money in renaissance zones or not in renaissance zones. I guess if we are going to change the law kind of midstream on some of these, I believe it's a mistake that they are able to invest outside of a renaissance zone,

however, it's only in fairness that the individuals that have invested and maybe thought they could invest outside of a renaissance zone I think that we need to do something to allow them to do that and if the end of the year 2011 is enough time for that, if it needs another 6 months, I don't know, but I certainly understand that we need to do something so that some investors don't get caught up in us changing the law midstream. However, I do think we need to tighten it up a little bit because with all due respect I just don't believe that it's good tax policy to let investors that are receiving a tax credit be able to invest anything outside of a renaissance zone. I do agree with the amendment.

Senator Hogue – Representative Owens did you make a motion or did you just present that?

Representative Owens – I did make a motion for the House to recede from its amendments and further amend.

Seconded by **Senator Triplett**.

Representative Owens – If we could, just so there is no misunderstanding, ask Mr. Becker if he would answer one question. On section 3 we had a discussion immediately after that where you corrected me in my statement about what it was doing. Have we taken care of that issue now? I just want to be sure I haven't overlooked something else. By removing the word investors we've restricted the officers and employees of the RFO but we've freed up the issue that was brought up about the investors. Is this correct?

Joe Becker, Tax Department – Yes

Representative Weiler – In the discussion we had earlier about what happens with a fund organization after 10 years it's in law that there is a 10 year limit and we are now at that 10 years or a little more than the 10 years because this law is now 10 or 11 years old, I'm just wondering if there's any interest among the committee to make a determination or provide something in the tax code that would better clarify what would happen after 10 years if there is some money left over. Whether we want to go down that road or not I just thought I would throw that out there for discussion.

Senator Hogue – Any further discussion on the proposed amendment .02004? All in favor of the amendment say yea, opposed? (6-0-0) Amendment adopted.

Senator Hogue – Let's go to the question posed by Representative Weiler. That was sort of a thought process for my amendment, is I'm not completely familiar with these organizations but I can see in other different types of organizations where you invest in them because you are motivated by the tax law. The incentive either goes away or there is some money that is left and nobody knows what to do with it so that was my reason for the 10% rule that would allow these organizations to invest or require them to invest 90% in a renaissance zone whether it's in one city or multiple cities that have renaissance zones but at some point that they have an outlet to get either invest that other 10% or distribute it.

Representative Zaiser – On the House floor Representative Keiser who was one of the leading individuals pushing for this and actually to widen it, and I had a bill that talked about the reporting requirements and he then, when I talked about that, it was a pretty no brainer bill, he got up and responded to my encouraging supportive vote on that he said “what about the grants and some of the other problems” and I was just wondering if anybody else here has heard of some of those might know what Representative Keiser’s referring to.

Representative Weiler – Representative Keiser was talking about, I believe the auditing or something like that of TIF accounts and I know there is another conference committee dealing with TIF accounts and I believe they have gotten message that they should probably deal with what Representative Keiser was talking about in that because it’s more germane to the TIF accounts.

Senator Hogue closed discussion on SB 2218.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2218
4/13/2011
Job Number 16551

Conference Committee

A. Ritter

Explanation or reason for introduction of bill/resolution:

Relating to renaissance fund organization income tax credits

Minutes:

Conference Committee

Senator Hogue opened discussion on SB 2218.

Senator Hogue – Is there any further discussion on any further amendments?

Representative Owens – I will make a motion to adopt the committee report with the amendments.

Seconded by **Senator Burckhard**.

Senator Hogue – Ask the clerk to take the roll. (6-0-0)

Senator Hogue closed discussion on SB 2218.

April 8, 2011

JB
4-13-11
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

That the House recede from its amendments as printed on pages 996 and 997 of the Senate Journal and pages 1111 and 1112 of the House Journal and that Engrossed Senate Bill No. 2218 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers or employees;"

Page 1, line 1, replace "subsection" with "subsections 2 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in~~ finance zone projects and to make investments other projects located in designated renaissance zone ~~cities~~ zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, overstrike "these additional" and insert immediately thereafter "the"

Page 1, line 10, overstrike "may not" and insert immediately thereafter "shall"

Page 1, line 11, overstrike "more than fifty percent of such" and insert immediately thereafter "those"

Page 1, line 11, overstrike "for organization investments outside of" and insert immediately thereafter "to finance projects within"

Page 1, after line 12, insert:

"SECTION 3. A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers and employees may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization officer or employee owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers and employees collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interest in a passthrough entity."

Job 2

Page 1, line 13, replace "This" with "The changes in sections 1 and 2 of this"

Page 1, line 13, replace "is" with "requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are"

Page 1, line 13, replace "taxable years beginning" with "new financing initiated"

Page 1, line 14, replace "2010" with "2011. Section 3 of this Act is effective for investments made in or by a renaissance fund organization after December 31, 2011"

Renumber accordingly

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Finance and Taxation

Bill/Resolution No. SB 2218 as (re) engrossed

Date: 4/13/2011

Roll Call Vote #: 1

- Action Taken**
- SENATE accede to House amendments
 - SENATE accede to House amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) 996 -- 997

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) SB 2218 was placed on the Seventh order of business on the calendar

Motion Made by: Representative Owens Seconded by: Senator Triplett

| Senators | | | | Yes | No | | Representatives | | | | Yes | No |
|-------------------|---|---|---|-----|----|--|-----------------------|---|---|---|-----|----|
| Senator Hogue | X | X | X | X | | | Representative Weiler | X | X | X | X | |
| Senator Burckhard | X | X | X | X | | | Representative Owens | X | X | X | X | |
| Senator Triplett | X | X | X | X | | | Representative Zaiser | X | X | X | X | |

Vote Count: Yes 6 No 0 Absent 0

Senate Carrier Senator Hogue House Carrier Representative Weiler

LC Number 11.0340 . 02004 of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

A meeting 4/13/2011 followed where a motion was made to adopt the committee report with the amendments. Motioned by Representative Owens and seconded by Senator Burckhard.

REPORT OF CONFERENCE COMMITTEE

SB 2218, as engrossed: Your conference committee (Sens. Hogue, Burckhard, Triplett and Reps. Weiler, Owens, Zaiser) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 996-997, adopt amendments as follows, and place SB 2218 on the Seventh order:

That the House recede from its amendments as printed on pages 996 and 997 of the Senate Journal and pages 1111 and 1112 of the House Journal and that Engrossed Senate Bill No. 2218 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers or employees;"

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Page 1, line 13, replace "taxable years beginning" with "new financing initiated"

Page 1, line 14, replace "2010" with "2011. Section 3 of this Act is effective for investments made in or by a renaissance fund organization after December 31, 2011"

Re-number accordingly

Engrossed SB 2218 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2218

Senate Finance and Tax Committee

January 24, 2011

Testimony Senator Ronald Sorvaag Senate Bill 2218

Mr. Chairman and members of the Finance and Tax Committee, I introduce you to Senate Bill 2218. This bill would increase the Renaissance Fund Organization tax credits from \$7.5 million to \$10 million for investments in the Renaissance Fund Organization.

North Dakota Legislature authorizes a North Dakota city to apply to the state for designation of part of the city as a "renaissance zone." Property, income, and financial institution tax incentives are available to taxpayers for investing in zone projects within a zone. Approval of zone status and general administration of the zone are the responsibility of the North Dakota Commerce Department's Division of Community Services. The tax incentives, other than the property tax incentives, are administered by the North Dakota Office of State Tax Commissioner.

A renaissance fund organization is an entity established by a city for the purpose of raising funds for financing zone projects or non-zone projects in designated renaissance zone cities. This may include equity investments, loans, guarantees, and commitments for financing, or any combination of these. A city may establish a renaissance fund organization by either creating and managing its own fund or contracting with an outside entity to create and manage the city's fund.

- The original Renaissance legislation in 1999 authorized \$2.5M in state tax credits;
- The 2003 legislature authorized another \$2.5M in state tax credits;
- The 2009 legislature authorized another \$2.5M in credits;
- There are only \$1.1M remaining of the \$7.5M credits authorized (and those credits are being reserved for a Renaissance Fund that is being developed), so at this time there are no credits available for cities >30,000.

I respectfully request you consider raising the income tax credits to \$10 million so that this successful program can continue to help our communities revive and increase the tax base of established areas of our communities.



Senator Ronald Sorvaag



Testimony of

Economic Development Association of North Dakota

SB 2218

January 24, 2011

Chairman Cook and members of the committee, my name is Cal Klewin. I am representing the Economic Development Association of North Dakota (EDND).

EDND is the voice of the state's economic development community and provides networking for its 80 members, which include development organizations, communities, businesses and state agencies. Our mission is to increase economic opportunities for residents of the state by supporting primary sector growth, professionalism among economic development practitioners and cooperation among development organizations.

A Renaissance Zone can be a very important and beneficial tool for community redevelopment and economic investment if properly developed, implemented, and managed. Continued support of the Renaissance Zone will provide opportunities for business growth from within the community, attracting new business growth and community sustainability for both rural and urban areas.

EDND supports the increase in tax credits from \$7 million to \$10 million as outlined in this legislation.

EDND urges a **DO PASS** on SB 2218.

Thank you. I would be happy to answer your questions.

Renaissance Fund Organization Investment Tax Credit

| City Population Category | | Credit Allocations by Div. of Comm. Services | | | | |
|--------------------------|--|--|-------------|-------------|-------------|-----------------------------|
| | | From 1999 | From 2003 | From 2009 | Total | |
| 1 | 0 - 5,000 | \$68,750 | \$250,000 | \$0 | \$318,750 | |
| 2 | 5,001 - 30,000 | \$250,000 | \$432,500 | \$0 | \$682,500 | |
| 3 | Over 30,000 + | \$2,181,250 | \$1,817,500 | \$2,500,000 | \$6,498,750 | |
| 4 | Total Allocations | \$2,500,000 | \$2,500,000 | \$2,500,000 | \$7,500,000 | Sum (Lines 1 - 3) |
| 5 | Credits actually Claimed - | \$2,500,000 | \$1,297,800 | \$0 | \$3,797,800 | |
| 6 | Available Credits | \$0 | \$1,202,200 | \$2,500,000 | \$3,702,200 | Difference (Lines 4 & 5) |
| | Available Credits Dedicated to specific RFO by DCS - | \$0 | \$563,750 | \$1,400,000 | \$1,963,750 | |
| 8 | Not Dedicated - Available to all RFOs | \$0 | \$638,450 | \$1,100,000 | \$1,738,450 | Difference (Lines 6 & 7) |

Not Dedicated by city population category

| | | | | | | |
|----|---------------------------------------|-----|-----------|-------------|-------------|-----------------------|
| 9 | 0 - 5,000 | \$0 | \$205,950 | \$0 | \$205,950 | |
| 10 | 5,001 - 30,000 | \$0 | \$432,500 | \$0 | \$432,500 | |
| 11 | Over 30,000 + | \$0 | \$0 | \$1,100,000 | \$1,100,000 | |
| 12 | Not Dedicated - Available to all RFOs | \$0 | \$638,450 | \$1,100,000 | \$1,738,450 | Sum (Lines 9 - 11) |

Testimony # 1

House Finance and Tax Committee

March 7, 2011

Testimony Senator Ronald Sorvaag Senate Bill 2218

Mr. Chairman and members of the Finance and Tax Committee, I introduce you to Senate Bill 2218. The original bill would increase the Renaissance Fund Organization tax credits from \$7.5 million to \$10 million for investments in the Renaissance Fund Organization. The Senate later amended that to \$8.5 million.

North Dakota Legislature authorizes a North Dakota city to apply to the state for designation of part of the city as a "renaissance zone." Property, income, and financial institution tax incentives are available to taxpayers for investing in zone projects within a zone. Approval of zone status and general administration of the zone are the responsibility of the North Dakota Commerce Department's Division of Community Services. The tax incentives, other than the property tax incentives, are administered by the North Dakota Office of State Tax Commissioner.

A renaissance fund organization is an entity established by a city for the purpose of raising funds for financing zone projects or non-zone projects in designated renaissance zone cities. This may include equity investments, loans, guarantees, and commitments for financing, or any combination of these. A city may establish a renaissance fund organization by either creating and managing its own fund or contracting with an outside entity to create and manage the city's fund.

- The original Renaissance legislation in 1999 authorized \$2.5M in state tax credits;
- The 2003 legislature authorized another \$2.5M in state tax credits;
- The 2009 legislature authorized another \$2.5M in credits;
- There are only \$1.1M remaining of the \$7.5M credits authorized for cities over 30,000 population and \$638,00 for cities under 30,000 population

I respectfully request you consider raising the income tax credits to \$10 million so that this successful program can continue to help our communities revive and increase the tax base of established areas of our communities.



Senator Ronald Sorvaag

Testimony on Senate Bill 2218
Senate Finance and Taxation Committee
March 7, 2011

Mr. Chairman and Members of the Committee: My name is Mike Allmendinger; I'm the General Manager for the Kilbourne Group, a real estate company whose focus is on the redevelopment of downtown Fargo. We believe strong urban cores in North Dakota communities reduce urban sprawl and promote smart growth for cities. I'm writing in support of Senate Bill 2218 with the request to add \$1.5m back to the bill for a total of an additional \$2.5m tax credits for the RZ Funds.

The Kilbourne Group has intentions to apply for RZ Fund tax credit allocations with 100% of the investment to go toward new businesses and real estate in downtown Fargo. The RZ program in downtown Fargo has been a successful redevelopment program started by North Dakota. Since this program began 10 years ago, \$95m has been invested in Fargo's Renaissance Zone. There are currently \$1m of remaining RZ Fund tax credits available. We believe there is a demand for \$2.5m additional credits in the state for a total of \$10m.

The projects that are a part of a RZ fund take more planning and a 10 year investment commitment for all investors. For Kilbourne Group, a profit motive is not absent, but it isn't the priority. The mission of the Kilbourne Group is to maintain a strong Urban Core. It took time for developers to become active in downtown and to understand how the RZ Fund could be utilized for investors. There are now more projects planned and more interest from investors to bring capital to Renaissance Zones. This RZ Fund is a very important tool to attract investments to Renaissance Zones in Fargo and across the state. This tool is critical for Renaissance Zones because construction costs are much higher in downtown areas, rents are lower and the communities agree that having a strong downtown is very important for communities to attract new residents and create amenities for current residents.

From: Delzer, Jeff W.
Sent: Tuesday, March 15, 2011 1:44 PM
To: Belter, Wesley R
Subject: FW: renaissance fund tax credits
Attachments: Document.pdf

From: Keller, Becky J.
Sent: Tuesday, March 15, 2011 1:43 PM
To: Delzer, Jeff W.
Cc: Knudson, Allen H.
Subject: renaissance fund tax credits

Representative Delzer,

This email is in response to your question regarding the amount of available renaissance fund organization tax credits. Subsection 5 of NDCC Section 40-63-07 provides for a total amount of credits not to exceed \$7.5 million. Based on information received from the Tax Department, credits totaling \$3,797,800 have been claimed. Of the remaining \$3,702,200 of available credits, the Division of Community Services of the Department of Commerce has dedicated \$1,963,750 to specific renaissance fund organizations. The remainder of \$1,738,450 in credits is available to all renaissance fund organizations.

The attached document, prepared by the Tax Department, provides detailed information on the credit allocations by city population ranges for each authorization period and the total authorizations.

Please contact this office if you have questions or need additional information.

Becky Keller
Senior Fiscal Analyst
ND Legislative Council
328-2916

Renaissance Fund Organization Investment Tax Credit

| City Population Category | | Credit Allocations by Div. of Comm. Services | | | | |
|--------------------------|---|--|-------------|-------------|-------------|-----------------------------|
| | | From 1999 | From 2003 | From 2009 | Total | |
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in the following year. After the county auditor shall certify the collection at the time when, and be certified. Upon receipt by the amount of taxes under this section, the amount to taxing districts on the apportioned and distributed. The with the local school district and the agreement for an alternate an agreement is entered into, the money according to the written cement, administration, collection, orem taxes apply to payments in discount for early payment of taxes ents in lieu of taxes under this mprovements comprising a project ider this section must be excluded ct for purposes of determining the

rs for tax exemption or payments ncil or commission if the project is city, and by the board of county ated outside the corporate limits of percentage of the total ad valorem governing body of the municipality in the municipality for which the at the project operator shall publish prescribed by the tax on ents in lieu of taxes in one week apart. The publications more than thirty days before the the application. The municipality tion or payments in lieu of taxes, and if it so determines, shall give

if a property tax exemption or the this chapter, a municipality shall governing body, a representative rict affected by the proposed action of township supervisors of each

CHAPTER 369

HOUSE BILL NO. 1492

(Representatives Dorso, Clark, B. Thoreson)
(Senators Grindberg, G. Nelson)

RENAISSANCE ZONES

AN ACT to provide for renaissance zones in cities and to provide tax exemptions and credits for investments in renaissance zones; to create and enact a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to tax exemptions and credits for investments in renaissance zones; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 through 10 of this Act:

1. "Boundary" means the boundary established by vote of the city governing body and approved by the office of intergovernmental assistance.
2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 3 of this Act and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries, the total area, and the present use and conditions of the land and structures within those boundaries.
 - b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
 - c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
 - d. A description of proposed projects including public and private investments, and the programming and planned events to support and enhance the projected investments.
 - e. A description of the promotion, development, and management strategies to maximize investment in the zone.
 - f. A plan for the promotion and use of the renaissance fund corporation, including commitments by one or more investors to the corporation, if such use is intended.
3. "Investor" means the individual, partnership, limited partnership, limited liability company, trust, or corporation making an investment in a renaissance fund corporation.

4. "Local zone authority" means the city or the entity designated by the city to promote, develop, and manage the zone and may include any nonprofit incorporated entity such as an economic development corporation, community development corporation, main street organization, or chamber of commerce.
5. "Original principal amount" means the funds invested in a renaissance fund corporation after designation of the renaissance zone and before the sunset of that zone.
6. "Taxpayer" means an individual, corporation, financial institution, or trust subject to the taxes imposed by chapter 57-35.3 or 57-38.
7. "Zone" means a renaissance zone proposed by a city and designated by the office of intergovernmental assistance.
8. "Zone project" means any project contained within a designated renaissance zone and approved for zone incentives by a majority vote of the city governing body or zone authority.

SECTION 2. Eligibility - Local zone authority designation. Any incorporated city may apply to the office of intergovernmental assistance to designate a portion of the city as a renaissance zone. Any individual, partnership, limited partnership, limited liability company, trust, or corporation may apply for a tax credit or exemption under sections 4 through 7 of this Act. The governing body of a city may designate a local zone authority to implement a development plan on behalf of the city.

SECTION 3. Renaissance zones.

1. A city may apply to the office of intergovernmental assistance to designate a portion of that city as a renaissance zone if the following criteria are met:
 - a. The geographic area proposed for the renaissance zone is located wholly within the boundaries of the city submitting the application.
 - b. The application includes a development plan.
 - c. The proposed renaissance zone is not more than twenty square blocks.
 - d. The proposed renaissance zone has a continuous boundary and all blocks are contiguous.
 - e. The proposed land usage includes both commercial and residential property.
 - f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years.
2. The office of intergovernmental assistance shall:
 - a. Review all applications for renaissance zone designation against the criteria established in this section and designate zones.

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shall:

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- b. Approve or reject the duration of renaissance zone status as submitted in an application.
- c. Approve or reject the geographic boundaries and total area of the renaissance zone as submitted in an application.
- d. Promote the renaissance zone program.
- e. Monitor the progress of the designated renaissance zones against submitted plans in an annual plan review.
- f. Report on renaissance zone progress to the governor and the legislative council on an annual basis until all designated zones expire.

3. The office of intergovernmental assistance shall consider the following criteria in designating a renaissance zone:

- a. The viability of the development plan.
- b. The incorporation and enhancement of unique natural and historic features into the development plan.
- c. Whether the development plan is creative and innovative in comparison to other applications.
- d. Public and private commitment to and other resources available for the proposed renaissance zone, including the provisions for a renaissance fund corporation.
- e. How renaissance zone designation would relate to a broader plan for the community as a whole.
- f. How the local regulatory burden, in particular that burden associated with the renovation of historic properties and that burden associated with mixed use development, will be eased for developers and investors in the renaissance zone.
- g. The strategies for the promotion, development, and management of the zone, including the use of a local zone authority if designated.
- h. Any other information required by the office.

4. The office of intergovernmental assistance may not designate a portion of a city as a renaissance zone unless, as a part of the application, the city provides a resolution from the governing body of the city that states if the renaissance zone designation is granted, persons and property within the renaissance zone are exempt from taxes as provided in sections 4 through 7 of this Act.

5. A city may not propose or be part of more than one renaissance zone.

6. A parcel of property may be exempted from property taxes under section 5 of this Act only once, but during the five taxable years of eligibility for that exemption, the property tax exemption transfers with the transfer of the property to a qualifying user. The ownership or lease

BISMARCK, N. DAK.

of, or investment in, a parcel of property may qualify for exemption or credit under section 4 of this Act only once, but during the five taxable years of eligibility for that exemption or credit, the exemption or credit under section 4 of this Act transfers with the transfer of the property to a qualified user and with respect to the year in which the transfer is made must be prorated for use of the property during that year.

SECTION 4. Income tax exemptions.

1. An individual taxpayer who purchases single-family residential property for the individual's primary place of residence as part of a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3 for five taxable years beginning with the date of occupancy.
2. A business that purchases or leases property for any business purpose as part of a zone project is exempt from income tax for five taxable years beginning in the year of the investment or lease for income derived from the business locations within the zone.
3. An individual, partnership, limited partnership, limited liability company, trust, or corporation that purchases residential or commercial property as an investment as part of a zone project is exempt from any income tax for five taxable years resulting from income earned from that investment.
4. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapters 57-35.3 or 57-38.

SECTION 5. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, located in a zone project if the property was purchased by an individual for the individual's primary place of residence. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition.
2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements purchased by a business for any business purpose, excluding investment, as part of a zone project. An exemption granted under this subsection may not extend beyond five taxable years beginning in the year of the investment.
3. A municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements to residential or commercial property located in a zone project if the property was purchased solely for investment purposes. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition.

SECTION 6. Historic preservation and renovation tax credit. A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3 is allowed for investments in the historic preservation or

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renovation of property within the renaissance zone if the investment is made between January 1, 2000, and December 31, 2004. The amount of the credit is fifty percent of the amount invested during the taxable year. Any excess credit may be carried forward for a period of up to five taxable years from the date of the investment.

SECTION 7. Renaissance fund corporation - Exemption from taxation.

1. Each city with a designated renaissance zone may establish a renaissance fund corporation, if the provisions for such a corporation are clearly established in the development plan and approved with the plan. The renaissance fund corporation may be a for-profit subsidiary of the local authority if one is designated.
2. The purpose of a renaissance fund corporation is solely to raise funds to be used to make investments in zone projects, and to provide financing to enterprise zone projects in a manner that will encourage capital investment in downtowns and central portions of cities, encourage the establishment or expansion of commercial businesses in downtowns and central portions of cities, and encourage the purchase of homes and encourage residency in the downtowns and central portions of cities.
3. A renaissance fund corporation may provide financing to zone projects, including projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this Act.
4. A renaissance fund corporation is exempt from any tax imposed by chapters 57-35.3 or 57-38. A corporation or financial institution entitled to the exemption provided by this subsection must file required returns and report income to the tax commissioner as required by the provisions of those chapters as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund corporation from complying with the income tax withholding laws.
5. A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund corporation. The amount of the credit is fifty percent of the amount invested in the renaissance fund corporation during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.
6. The total amount of credits allowed under this section may not exceed, in the aggregate, two million five hundred thousand dollars for all taxpayers in all taxable years.
7. Income to a renaissance fund corporation derived from the sale or refinancing of zone properties financed wholly or in part by the corporation may be dispersed as annual dividends equal to the income, minus ten percent, derived from all sources and proportional to the investment. In the event of a loss to the fund resulting in a temporary diminishment of the fund below the original principal amount, no annual dividend may be paid until the fund is restored.

BISMARCK, N. DAK.

8. Income to a renaissance fund corporation derived from interest or the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or securities may be used for administration.
9. If an investment in a renaissance fund corporation which is the basis for a credit under this section is redeemed by the investor within ten years of the date it is purchased, the credit provided by this section for the investment must be disallowed, and any credit previously claimed and allowed with respect to the investment must be paid to the tax commissioner with the appropriate return of the taxpayer covering the period in which the redemption occurred. When payments are made to the tax commissioner under this section, the amount collected must be handled in the same manner as if no credit had been allowed.
10. A renaissance fund corporation may invest in any housing, commercial, or infrastructure project in a zone project.
11. Each petition for investment must include a plan for sale or refinancing that results in proceeds equal to or in excess of the proportional investment made by the renaissance fund corporation.

SECTION 8. Contributions - Use. A local zone authority shall use contributions received under sections 4, 5, 6, and 7 of this Act for the support of the renaissance zone, including promotion, development, and management of the zone.

SECTION 9. Rules and administration - Income tax secrecy exception. The tax commissioner shall administer sections 1 through 10 of this Act with respect to an income tax exemption or credit and has the same powers as provided under section 57-38-56 for purposes of sections 1 through 10 of this Act. The office of intergovernmental assistance, in cooperation with the tax commissioner, shall issue forms to a taxpayer who may be eligible for the income tax exemption or tax credit sufficient for the tax commissioner to monitor the use of any exemptions or credits received by a taxpayer. The secrecy provisions of section 57-38-57 do not apply to exemptions or credits received by taxpayers under sections 4, 6, and 7 of this Act, but only when a local zone authority inquires of the tax commissioner about exemptions or credits claimed under sections 4, 6, and 7 of this Act with regard to that local zone authority or to the extent necessary for the tax commissioner to administer the tax exemptions or credits.

SECTION 10. Pass-through of tax exemption or credit. A partnership, subchapter S corporation, limited partnership, limited liability company or any other pass-through entity that purchases or leases property in a renaissance zone for any business purpose, invests in a historic preservation or renovation of property within a renaissance zone, or invests in a renaissance fund corporation must be considered to be the taxpayer for purposes of any investment limitations in sections 4, 6, and 7 of this Act, and the amount of the exemption or credit allowed with respect to the entity's investments must be determined at the pass-through entity level. The amount of the total exemption or credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the pass-through entity.

²⁶⁶ SECTION 11. A new subsection to section 57-38-30.3 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 4, 6, and 7 of this Act.

SECTION 12. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1998, and does not apply to any investments or activities that occurred before January 1, 1999.

Approved April 8, 1999
Filed April 8, 1999

STATE TAX COMMISSIONER
BISMARCK, N. DAK.

²⁶⁶ Section 57-38-30.3 was also amended by section 6 of Senate Bill No. 2009, chapter 31, and section 1 of House Bill No. 1113, chapter 512.

Engrossed Senate Bill No. 2218 With Proposed Amendments In Place

A BILL for an Act to amend and reenact subsections 2 and 5 of section 40-63-07 of the North Dakota Century Code, relating to renaissance fund organization income tax credits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 2 and 5 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~The purpose of a renaissance fund organization is solely to raise funds to be used to make investments in~~ provide financing to zone projects and to make investments and other projects located in designated renaissance zone cities zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter.
5. The total amount of credits allowed under this section may not exceed, in the aggregate, ~~seven~~ eight million five hundred thousand dollars for investments in renaissance fund organizations. A renaissance fund organization that has received investments that qualify for the ~~these additional~~ credits under this subsection may ~~not shall~~ use more than fifty percent of such investments for organization investments ~~outside of~~ to provide financing to projects within a renaissance zone.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010, and to financing that a renaissance fund organization provides after June 30, 2011.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers, employees, and investors;", and replace "subsection" with "subsections 2 and"

Page 1, line 5, replace "Subsection" with "Subsections 2 and"

Page 1, line 6, replace "is" with "are"

Page 1, after line 6, insert:

- "2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in~~ provide financing to zone projects and to make investments other projects located in designated renaissance ~~zone cities zones~~. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, after "for" insert "the", overstrike "these additional", and overstrike "may not" and insert immediately thereafter "shall"

Page 1, line 11, overstrike "more than fifty percent of" and overstrike "for organization investments outside of" and insert immediately thereafter "to provide financing to projects within"

Page 1, after line 12, insert:

"SECTION 2. A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers, employees, and investors may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization investor owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers, employees, and investors collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interests in a passthrough entity."

Renumber accordingly

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2218

Introduced by

Senators Sorvaag, Krebsbach, Triplett

Representatives Kempenich, Kreun, Thoreson

1 A BILL for an Act to create and enact a new subsection to section 40-63-07 of the North Dakota
2 Century Code, relating to restrictions on renaissance fund organization investments in
3 enterprises owned by renaissance fund organization officers, employees, and investors; to
4 amend and reenact ~~subsection~~ subsections 2 and 5 of section 40-63-07 of the North Dakota
5 Century Code, relating to renaissance fund organization income tax credits; and to provide an
6 effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** ~~Subsection~~ Subsections 2 and 5 of section 40-63-07 of the
9 North Dakota Century Code is are amended and reenacted as follows:

- 10 2. The purpose of a renaissance fund organization is solely to raise funds to be used to
11 ~~make investments in~~ provide financing to zone projects and to make investments
12 other projects located in designated renaissance ~~zone cities~~ zones. A renaissance
13 fund organization may provide financing to projects undertaken by individuals,
14 partnerships, limited partnerships, limited liability companies, trusts, corporations,
15 nonprofit organizations, and public entities. The financing may include any
16 combination of equity investments, loans, guarantees, and commitments for financing.
17 The amount of financing is not limited by this chapter.
- 18 5. The total amount of credits allowed under this section may not exceed, in the
19 aggregate, ~~seven~~ eight million five hundred thousand dollars for investments in
20 renaissance fund organizations. A renaissance fund organization that has received
21 investments that qualify for ~~the these additional~~ credits under this subsection ~~may not~~
22 shall use more than ~~fifty percent~~ of such investments for ~~organization investments~~
23 outside of to provide financing to projects within a renaissance zone.

1 **SECTION 2.** A new subsection to section 40-63-07 of the North Dakota Century Code is
2 created and enacted as follows:

3 Renaissance fund organization officers, employees, and investors may be actively
4 involved in the enterprises in which the renaissance fund organization invests but the
5 renaissance fund organization may not invest in any enterprise if any one renaissance
6 fund organization investor owns more than forty-nine percent of the ownership
7 interest in the enterprise. A renaissance fund organization may not invest in an
8 enterprise if renaissance fund organization officers, employees, and investors
9 collectively own more than forty-nine percent of the ownership interests, either
10 through direct ownership or through ownership of interests in a passthrough entity.

11 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
12 December 31, 2010.

EFFECTIVE DATE OPTIONS

- In all three options listed on this page, per Rep. Owens' amendments, the ownership restriction (in the new section 2 of the bill) will be effective for new investments made after December 31, 2011.
- The effective date for the change limiting an RFO's financing activity to projects within a zone is different in each option.

Prepared for the House
Finance and Taxation Committee
March 22, 2011

PROPOSED AMENDMENT TO ENGROSSED SENATE BILL NO. 2218

OPTION 1: New financing initiated after June 30, 2011

Page 1, replace lines 13 through 14 with:

"SECTION 3. EFFECTIVE DATE. The changes in section 1 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after June 30, 2011. Section 2 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

OPTION 2: New financing initiated after September 30, 2011

Page 1, replace lines 13 through 14 with:

"SECTION 3. EFFECTIVE DATE. The changes in section 1 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after September 30, 2011. Section 2 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

OPTION 3: New financing initiated after December 31, 2011

Page 1, replace lines 13 through 14 with:

"SECTION 3. EFFECTIVE DATE. The changes in section 1 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after December 31, 2011. Section 2 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

March 22, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers, employees, and investors;"

Page 1, line 1, replace "subsection" with "subsections 2 and"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

indented
→
2. The purpose of a renaissance fund organization is solely to raise funds to be used to ~~make investments in finance zone projects and to make investments other projects located~~ in designated renaissance zone ~~cities~~ zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, overstrike "these additional" and insert immediately thereafter "the"

Page 1, line 10, overstrike "may not" and insert immediately thereafter "shall"

Page 1, line 11, overstrike "more than fifty percent of such" and insert immediately thereafter "those"

Page 1, line 11, overstrike "for organization investments outside of" and insert immediately thereafter "to finance projects within"

Page 1, after line 12, insert:

"SECTION 3. A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

indented
→
Renaissance fund organization officers, employees, and investors may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization investor owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers, employees, and investors collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interest in a passthrough entity.

Page 1, line 13, replace "This" with "The changes in sections 1 and 2 of this"

Page 1, line 13, replace "is" with "requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are"

Page 1, line 13, replace "taxable years beginning" with "new financing initiated"

Page 1, line 14, replace "December 31, 2010" with "June 30, 2011"

Page 1, line 14, after the period insert "Section 3 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2218

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 40-63-07 of the North Dakota Century Code, relating to restrictions on renaissance fund organization investments in enterprises owned by renaissance fund organization officers, employees, and investors;" and replace "subsection" with "subsections 2 and"

Page 1, line 1, replace "subsection" with "subsections 2 and"
Page 1, line 5, replace "Subsection" with "Subsections 2 and"

Page 1, line 6, replace "is" with "are"

Page 1, after line 5, insert:
Page 1, after line 6, insert: Section 1. AMENDMENT. . .

"2. The purpose of a renaissance fund organization is solely to raise funds to be used to make investments in ^{Finance} provide financing to zone projects and to make investments other projects located in designated renaissance zone cities zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter."

Page 1, line 10, after "for" insert "the", overstrike "these additional" ~~and~~ overstrike "may not" and insert immediately thereafter "shall")

Page 1, line 10, ← such and insert immediately thereafter "those"
Page 1, line 11, overstrike "more than fifty percent of" and overstrike "for organization investments outside of" and insert immediately thereafter "to provide financing to projects within") Finance

Page 1, line 11, ↓
Page 1, after line 12, insert:

^{3.}
"SECTION 2. A new subsection to section 40-63-07 of the North Dakota Century Code is created and enacted as follows:

Renaissance fund organization officers, employees, and investors may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization investor owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers, employees, and investors collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interests in a passthrough entity."

Renumber accordingly

Page 1, insert changes to Effective date (Clause please see no xl page)

Renumber accordingly:

EFFECTIVE DATE OPTIONS

- In all three options listed on this page, per Rep. Owens' amendments, the ownership restriction (in the new section 2 of the bill) will be effective for new investments made after December 31, 2011
- The effective date for the change limiting an RFO's financing activity to projects within a zone is different in each option

Prepared for the House
Finance and Taxation Committee
March 22, 2011

PROPOSED AMENDMENT TO ENGROSSED SENATE BILL NO. 2218

OPTION 1: New financing initiated after June 30, 2011

Page 1, replace lines 13 through 14 with:

"SECTION 3. EFFECTIVE DATE. The changes in section 1 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after June 30, 2011. Section 2 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

OPTION 2: New financing initiated after September 30, 2011

Page 1, replace lines 13 through 14 with:

"SECTION 3. EFFECTIVE DATE. The changes in section 1 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after September 30, 2011. Section 2 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

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"SECTION 3. EFFECTIVE DATE. The changes in section 1 of this Act requiring a renaissance fund organization to limit its financing to projects located in a renaissance zone are effective for new financing initiated after December 31, 2011. Section 2 of this Act is effective for investments made in a renaissance fund organization after December 31, 2011."

Committee has adopted this option (option 1)