

1999 HOUSE FINANCE AND TAXATION

HB 1383

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1383

House Finance and Taxation Committee

Conference Committee

Hearing Date January 26, 1999

Tape Number	Side A	Side B	Meter #
1	x		0.6
Committee Clerk Signature <i>Janice Steen</i>			

Minutes:

REP. BELTER Opened the hearing.

REP. JOHN DORSO, DIST. 46, FARGO, Introduced the bill. We call this bill the bank CDC bill. It allows North Dakota to set up a corporation of which banks in North Dakota could become a part of . It allows them an opportunity to provide gap financing for rural housing. I believe we have a real problem in rural North Dakota, in the smaller communities, such as Carrington. For example when the Dakota Growers Pasta plant came in, they attract people for the jobs, then they have to have houses for them. The problem is, how do you get those houses financed. There is a difference in the evaluation of the homes in a smaller community, because there are no comparable sales in that community. We have people that want the jobs, but where do you house them. We want to export jobs that are not low to moderate incomes. In order to do that, we need to provide gap financing.

PAUL GOVIG, BANK OF NORTH DAKOTA , Testified in support of the bill. There is a significant need for housing in the small towns throughout North Dakota. We will work with Rep. Dorso to make this work.

JOEL GILBERTSON, EXECUTIVE VICE-PRESIDENT AND GENERAL COUNCIL FOR THE INDEPENDENT COMMUNITY BANKS OF NORTH DAKOTA, Testified in support of this bill. We have worked for economic development throughout the communities in the state. The continued success and sometimes, survival of our communities, and for that matter some of our community banks, depends on new and exciting adventures for these communities, and this is the way, we hope, will bring some economic development to some of our smaller towns.

DINA BUTCHER, OFFICE OF INTERGOVERNMENTAL ASSISTANCE, Testified in support of the bill. We have been involved in a number of conversations about this. Our agency is primarily, dealing with low and moderate income projects. That is the reason why this is being addressed, because those with quality jobs, are having difficulty getting startups. This does provide for the findings of our housing task force, that we need to continue more housing, and there is a need in these economically developing communities to address this.

JIM SCHLOSSER, NORTH DAKOTA BANKING ASSOCIATION, Testified in support of the bill. They have some concerns, that the bill should possibly be amended to make it more workable.

REP. BELTER Is the main problem that the person doesn't have the cash flow to make the payments or is it the reality that the property, after it is constructed, probably doesn't have the value that is put into it?

JIM SCHLOSSER My understanding is that the market value is not there, after a \$250,000 building is constructed.

CLAUS LEMPKE, NORTH DAKOTA ASSOCIATION OF REALTORS, Testified in support of the bill. I was a member of that OIA Task Force. We support this bill. We see it working well in other areas already. If you put an additional loan in, and it does get repaid with interest. I don't think it is the case of affordability, those people can afford that \$100,000 house, but the market value will probably only be \$80,000. The banks by their own regulations can only loan you a percentage of that market value. The twenty thousand could be gap financed. We do that with FHA financing, the person can pay as little as three percent down, but the buyer pays a premium, and perhaps that should be considered in this bill too, it is more or less an insurance, only if the property ends up in foreclosure.

JIM SCHLOSSER Referred the committee to page 2, line 5, for further explanation.

DAVID CLINTON, NORTH DAKOTA BANKING COMMISSION, Testified in a neutral position. Submitted testimony from Gary D. Preszler, Commissioner, Department of Banking & Financial Institutions. See written testimony.

JIM NEUBAUER, SUPERVISOR OF CORPORATE INCOME TAX, STATE TAX DEPT., Testified in a neutral position. They do have a question regarding the administration. He felt there should probably be some amendments drafted to take care of this.

With no further testimony, the hearing was closed.

Discussion was held regarding pros and cons of the bill. Committee members felt this bill was pretty spendy. They also felt that a committment could possibly be made, then no money would be available.

The bill will be acted on at a later date.

COMMITTEE ACTION 2-10-99, Tape #1, Side A, Meter #53 to side B

REP. BELTER presented amendments which would take one million seventy two thousand dollars from the North Dakota Development Fund which is the money generated from the Sunday opening designated for rural development.

REP. CLARK Made a motion to adopt the amendments as presented.

REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. GRANDE Made a motion for a DO NOT PASS AS AMENDED.

REP. MICKELSON Second the motion. MOTION CARRIED

11 Yes 3 No 1 Absent

REP. RENNERFELDT Was given the floor assignment.

COMMITTEE ACTION 2-15-99, Tape #1, Side A, Meter #4.4

REP. MICKELSON Made a motion to reconsider the action by which the bill was passed out of committee. REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

JOHN WALSTAD, LEGISLATIVE COUNCIL Explained the amendments which were presented to the committee. The objective of the amendments is so that counties are not affected by this legislation. My understanding is that the million dollar loss to counties would still occur, there is no revenue being transferred to make up for that, it just sorts out where the loss hits.

REP. KROEBER Asked what is the big advantage then, the state is losing and the counties are losing?

JOHN WALSTAD It is not appropriate for me to say what is good or bad about this bill, just to make it clear, that revenue loss, the fiscal note that is attached, is not affected by these amendments. Those losses would still occur. The loss numbers is the high end.

REP. WARNER Asked if there was a credible method of determining values of buildings?

JOHN WALSTAD My understanding of the way the bill works, the financial institutions would pool money and make it available for loans that are eligible for this credit. They do not receive a credit necessarily based on the value of the structure, they receive an interest rate buydown, it is three percentage point spread. It allows a credit which makes it feasible for those institutions to make money available to project developers at a lower rate of interest than would otherwise be possible.

REP. GROSZ Made a motion to reconsider the amendments which were previously adopted.

REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. GROSZ Made a motion to adopt the new amendments as presented.

REP. RENNER Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. GROSZ Made a motion for a DO PASS AS AMENDED.

REP. CLARK Second the motion. MOTION CARRIED

11 Yes 2 No 2 Absent

REP. CLARK Was given the floor assignment.

FISCAL NOTE

(1 original and 14 copies)

Bill/Resolution No.: _____

Amendment to: Reengrossed HB 1383

Requested by Legislative Council

Date of Request: 3/4/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: If enacted with amendments to reengrossed HB 1383, the fiscal impact is expected to be up to -\$1,500,000 in the 1999-2001 biennium as shown below:

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			up to -\$428,000			
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

a. For rest of 1997-99 biennium: _____

(Indicate the portion of this amount included in the 1999-2001 executive budget:)

b. For the 1999-2001 biennium: _____

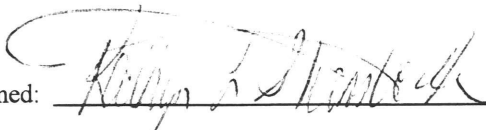
(Indicate the portion of this amount included in the 1999-2001 executive budget:)

c. For the 2001-03 biennium: _____

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			up to -\$1,072,000					

If additional space is needed
attach a supplemental sheet.

Signed: 

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: March 30, 1999

Phone Number: 328-3402

FISCAL NOTE

(Turn original and 14 copies)

Bill/Resolution No.: _____

Amendment to: Reengrossed HB 1383

Requested by Legislative Council

Date of Request: 3/4/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: This bill is expected to have a fiscal impact of up to -\$1,500,000 in the 1999-2001 biennium. Note that this amount represents the maximum tax credit as specified in the bill and does not address the possible revenue gains from additional sales and income taxes generated by economic expansion.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			up to -\$428,000			
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: _____
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: _____
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: _____

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			up to -\$1,072,000					

If additional space is needed
attach a supplemental sheet.

Signed: _____

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: March 5, 1999

Phone Number: 328-3402

FISCAL NOTE

(Turn original and 14 copies)

Bill/Resolution No.: _____

Amendment to: HB 1383

Requested by Legislative Council

Date of Request: 2/18/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: If enacted as amended, Engrossed HB 1383 would have a fiscal impact of up to -\$1,500,000 in the 1999-2001 biennium. Note that this amount represents the maximum tax credit as specified in the bill and does not address the possible revenue gains from additional sales and income taxes generated by economic expansion.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			up to -\$428,000			
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

a. For rest of 1997-99 biennium: _____

(Indicate the portion of this amount included in the 1999-2001 executive budget:)

b. For the 1999-2001 biennium: _____

(Indicate the portion of this amount included in the 1999-2001 executive budget:)

c. For the 2001-03 biennium: _____

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			up to -\$1,072,000					

If additional space is needed
attach a supplemental sheet.

Signed: Kathryn L. Strombeck

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: February 22, 1999

Phone Number: 328-3402

FISCAL NOTE

Return original and 14 copies)

Bill/Resolution No.: _____

Amendment to: HB 1383

Requested by Legislative Council

Date of Request: 2/12/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: If enacted as amended, HB 1383 would have a fiscal impact of up to -\$1,500,000 in the 1999-2001 biennium. Note that this amount represents the maximum tax credit as specified in the bill and does not address the possible revenue gains from additional sales and income taxes generated by economic expansion.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			up to -\$428,000	up to - \$1,072,000		
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

a. For rest of 1997-99 biennium: _____

(Indicate the portion of this amount included in the 1999-2001 executive budget:)

b. For the 1999-2001 biennium: _____

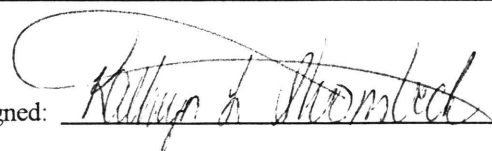
(Indicate the portion of this amount included in the 1999-2001 executive budget:)

c. For the 2001-03 biennium: _____

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed
attach a supplemental sheet.

Signed: 

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: February 15, 1999

Phone Number: 328-3402

Revised

FISCAL NOTE

Return original and 14 copies)

Bill/Resolution No.: HB 1383

Amendment to: _____

Requested by Legislative Council

Date of Request: 1/20/99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: If enacted, HB 1383 would have a fiscal impact of up to -\$1,500,000 in the 1999-2001 biennium. This represents the maximum amount as stipulated in Section 6 of the bill. The actual revenue loss would depend on financial institutions' decisions to participate in the housing development fund. A portion of the potential revenue loss could be offset by additional sales and income tax revenues generated by economic expansion.

- 2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			up to -\$428,000			
Expenditures						

- 3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: _____
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: _____
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: _____

- 4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			up to - \$1,072,000					

If additional space is needed attach a supplemental sheet.

Signed: Kathryn L. Strombeck

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: February 1, 1999

Phone Number: 328-3402

FISCAL NOTE

Return original and 14 copies)

Resolution No.: HB 1383

Amendment to: _____

Requested by Legislative Council

Date of Request: 1/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: If enacted, HB 1383 would have a fiscal impact of up to -\$1,500,000 in the 1999-2001 biennium. This represents the maximum amount as stipulated in Section 6 of the bill. The actual revenue loss would depend on financial institutions' decisions to participate in the housing development fund.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			up to -\$428,000			
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: _____
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: _____
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: _____

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			up to -\$1,072,000					

If additional space is needed
attach a supplemental sheet.

Signed: *Kathryn L. Strombeck*

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: January 25, 1999

Phone Number: 328-3402

Please type or use black pen to complete

Date 2-10-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1383

House HOUSE FINANCE & TAX Committee

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Not Pass as Amended

Motion Made By Rep. Grande Seconded By Rep. Mickelson

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK		✓			
FROELICH	A				
GRANDE	✓				
GROSZ		✓			
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER		✓			
WIKENHEISER	✓				

*Reconsidered
2-15-99*

Total 11 3
(Yes) (No)

Absent 1

Floor Assignment Rep. Rennerfeldt

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

Please type or use black pen to complete

Date 2-15-99
Roll call vote # 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1383

House HOUSE FINANCE & TAX Committee

- Subcommittee on _____
- Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep. Grosz Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT		✓			
CLARK	✓				
FROELICH	A				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	A				
RENNER		✓			
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 11 2
(Yes) (No)

Absent 2

Floor Assignment Rep. Clark

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

HB 1383, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1383 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first semicolon insert "; to amend and reenact sections 57-35.3-09 and 57-35.3-10 of the North Dakota Century Code, relating to allocation of financial institutions' tax revenues;"

Page 1, line 3, remove "to provide for a transfer;"

Page 1, line 5, underscore "**Definitions.** As used in this Act:"

Page 1, underscore lines 6 through 12

Page 1, line 13, underscore "**Establishment - Organization.** Any financial institution or group of"

Page 1, underscore lines 14 through 22

Page 1, line 23, underscore "**Housing development fund use.** The housing development fund"

Page 1, underscore line 24

Page 2, underscore lines 1 through 9

Page 2, line 10, underscore "**Loan administration.** An application for a loan from the fund must"

Page 2, underscore lines 11 through 20

Page 2, line 21, underscore "**Audited financial statement - Report of fund operations.** The"

Page 2, underscore lines 22 through 30

Page 3, line 1, underscore "**Financial institutions tax credit - Penalty.** If the requirements of this"

Page 3, underscore lines 2 through 21

Page 3, after line 21, insert:

"5. A financial institution claiming a credit under this section shall attach to its return a schedule identifying each county within this state within which are located housing development projects funded by loans for which credits are claimed by that financial institution. The schedule must identify the location of, and the dollar amount of credit attributable to, each project within each county."

Page 3, line 22, underscore "**Loans limited by assets of financial institutions.** The aggregate"

Page 3, underscore lines 23 through 27

Page 3, replace lines 28 through 31 with:

"SECTION 8. AMENDMENT. Section 57-35.3-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-35.3-09. Financial institution tax distribution fund - Continuing appropriation. The balance in the financial institution tax distribution fund on February first of 1999 and each subsequent year must be distributed in the following manner:

1. On or before February 1, 1999, the commissioner shall determine and certify to all county auditors:
 - a. The total amount of tax certified to each county under chapters 57-35 and 57-35.1 in the years 1993 through 1997; and
 - b. The amount determined under subdivision a for each county as a percentage of the amount determined under subdivision a for all counties.
2. On or before February fifteenth of 1999 and each subsequent year, the commissioner shall determine and certify to the state treasurer an amount for payment by the state treasurer to each county treasurer equal to:
 - a. The percentage for that county determined under subdivision b of subsection 1; multiplied by
 - ~~b. The~~ the balance in the financial institution tax distribution fund on February first of that year plus five-sevenths of the total amount of credits claimed and allowed in the state under section 6 of this Act for the taxable year for which the distribution is being made; minus
 - b. Five-sevenths of the total amount of credits claimed and allowed in that county under section 6 of this Act for the taxable year for which the distribution is being made. If the amount subtracted under this subdivision exceeds the county's share of fund distributions for the taxable year, any excess amount may be carried forward and deducted from distributions to the county for up to two taxable years.
3. On or before March first of 1999 and each subsequent year, the state treasurer shall pay to the treasurer of each county the amount determined for that county under subsection 2. The amounts necessary to make these payments are appropriated to the state treasurer as a standing and continuing appropriation for distribution under this subdivision.
4. On or before February 1, 1999, the treasurer of each county shall determine and certify to the state treasurer and to all affected political subdivisions of the county:
 - a. The total amount of tax apportioned and distributed to the state, the county, and each political subdivision of the county under sections 57-35-13 and 57-35.1-06 in the years 1994 through 1998; and
 - b. The amount determined under subdivision a for each distributee as a percentage of the amount determined under subdivision a for all distributees.

5. On or before the tenth working day of March in 1999 and each subsequent year, the treasurer of each county shall determine and distribute to each distributee described in subsection 4 an amount equal to:
 - a. The percentage for that distributee determined under subdivision b of subsection 4; multiplied by
 - b. The amount of the payment by the state to the county in that year under subsection 3.

SECTION 9. AMENDMENT. Section 57-35.3-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-35.3-10. Certification of estimated tax. On or before August 1, 1998, and each subsequent year, the commissioner shall provide a preliminary estimate of the distribution to be made to each county in the following year. The preliminary estimate must show the total amount of credits claimed and allowed in each county under section 6 of this Act for the taxable year and how those credits affect distributions. The preliminary estimate must identify the location of, and the dollar amount of credit attributable to, each project within each county. On or before November fifteenth of 1998 and each subsequent year, the commissioner shall determine the estimated amount of the distribution to be made to each county in the following year under section 57-35.3-09 and shall certify that amount to the county auditor."

Page 4, remove lines 1 through 7

Page 4, line 8, replace "Sections 1 through 7 of this Act are" with "This Act is"

Renumber accordingly

1999 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1383

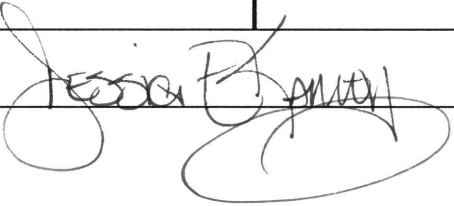
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1383

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
1	x	x	0-end & 0-605
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on HB1383. All senators were present.

Senator Dorso introduced HB1383 to the committee. He felt that it would be impossible to export success with out people there to take the jobs and that there won't be people there if there isn't housing.

Representative Clark testified in support to HB1383. His testimony is included.

Ron Kramer, CDC, testified in support of HB1383. He said that 2/7 of this will go to the general fund and that 5/7 will go to the counties. He also said that the counties that do not receive these projects will not be affected. Senator Mathern asked what the financial institutions will require. Kramer told her that they would require a down payment towards the construction cost of the house and or the permanent financing. Senator Sand asked him how much a person could make and still qualify for this. Mr. Kramer told him that this is not going to mean low-income

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number Hb1383

Hearing Date March 01, 1999

housing. Senator Mathern asked him if this would just be for new construction. Mr. Kramer told her that it is also meant to assist moderate income families in purchasing a home.

Joel Gilbertson testified in support of HB1383.

Jim Schlausser testified in support of HB1383.

Dena Butcher testified in support of HB1383.

Gary Prezler testified in support of HB1383. Senator Sand asked him if this had anything for or against credit unions. Mr. Prezler told him that the credit unions are not included in this piece of legislation.

Mark Johnson testified and said that he is fine with the amendment.

Committee discussion took place on February 1, 1999.

Senator Heitkamp motioned to adopt the amendments that were offered to HB1383. Senator Klein seconded his motion. The motion carried with a 7-0-0 vote.

Senator Klein motioned for a do pass committee recommendation on HB1383. Senator

Thompson seconded his motion. The motion was successful with a 7-0-0 vote.

Senator Heitkamp will carry the bill.

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1383

Page 1, line 4, remove "and"

Page 1, line 5, after "date" insert "; and to provide an expiration date"

Page 5, line 29, after "**DATE**" insert "**- EXPIRATION DATE**" and after "for" insert "the first four"

Page 5, line 30, after "1998" insert ", and is thereafter ineffective"

Renumber accordingly

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1383
BY THE NORTH DAKOTA
DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS
MARCH 1, 1999

Page 2, line 18, remove "The commissioner of the"

Page 2, removes line 19, 20, 21, and 22

Page 2, line 29, remove ", the commissioner of the"

Page 2, line 30, remove "department of banking and financial institutions,"

Renumber accordingly

Date: 3/1
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
HOUSE BILL/RESOLUTION NO. 1383

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken TO AMEND

Motion Made By HEITKAMP Seconded By KUEN

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 67 No 0

Absent X 0

Floor Assignment _____

Date: 3/1
Roll Call Vote #: 2
SR 383896

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
HOUSE BILL/RESOLUTION NO. 1383

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By KLEN Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment HEITKAMP

REPORT OF STANDING COMMITTEE

HB 1383, as reengrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1383 was placed on the Sixth order on the calendar.

Page 2, line 18, remove "The commissioner of the"

Page 2, remove lines 19 through 22

Page 2, line 29, remove ", the commissioner of the"

Page 2, line 30, remove "department of banking and financial institutions,"

Renumber accordingly

1999 SENATE APPROPRIATIONS

HB 1383

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1383

Senate Appropriations Committee

Conference Committee

Hearing Date March 15, 1999

Tape Number	Side A	Side B	Meter #
1	X		1560-5145
3/23/99 1	X		3830-5445
Committee Clerk Signature <i>Kathy C. Kottelrock</i>			

Minutes:

SENATOR NETHING: A BILL FOR AN ACT TO PROVIDE FOR ESTABLISHMENT AND OPERATION OF THE HOUSING DEVELOPMENT FUND AND TO PROVIDE A FINANCIAL INSTITUTION TAX CREDIT FOR PARTICIPATION IN THE FUND; TO AMEND AND REENACT SECTIONS 57-35.3-09 AND 57-35.3-10 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO ALLOCATION OF FINANCIAL INSTITUTIONS' TAX REVENUES; TO PROVIDE A PENALTY; AND TO PROVIDE AN EFFECTIVE DATE.

JOHN DORSO: State Representative from District 46 to testify in support of HB1383 (tape 1, side A, meter 1560-2160). I will be explaining the rationale of the bill and why it's before you. Over the last two years a study was done on housing. It seemed to me it was fairly clear that part of the problem was rural housing. It's what's called the "gap", between the actual construction cost of new buildings and what they can be financed for. That problem takes two different directions. The first, as an example, you were to build an A-Plex apartment building in one of our more rural communities. If the cost for construction is \$.5M, you probably couldn't get financing for more than \$200,000-\$250,000. We have a \$250,000 gap between the actual cost of construction and the financing. That makes investors reticent to make a \$250,000 cash investment in an income producing piece of property. They could go to another community, such as Bismarck and probably could get financing for at least 90%. It would make more economic sense to build in Bismarck than it would in a rural community. What this bill proposes to do is to allow that gap financing to be taken care of through this bank CDC. What that is, the standard market portion of the mortgage that the market would not except under today's scenario would be taken up by the bank CDC. Another problem in rural North Dakota, is in the resale of properties and construction of new properties. When you go to get financing for them, there are no comparables to measure the properties against. An example, if an A-plex hasn't been sold in Grafton in the last couple years, there is no comparable to be used when you take that mortgage

to the secondary market. That's a problem. Hopefully, by putting a bank CDC in place, they will be able to make up that "gap" where standard financing would not be able to finance it and too, there are no comps out there to justify a larger loan. Secondly, this bill through a certain extent is also part of HB1492, when we were looking at rural housing, it seems to me that if you want to get that housing built in those rural communities, you're going to have to put not only the financing in place but some tax incentives. If you don't have the tax incentives to build, I think the rents available to an investor in an A-plex are not necessarily what they would be, with the cost of construction about the same. To kick start rural housing, you're going to have to have a bank CDC plus some tax incentive to make it work. Each bill could stand on it's own but together, they would work very well. The other thing that's important in trying to kick start housing in rural North Dakota, in our economic development scheme, if we want to export the successes we've had in more major metropolitan areas of the State, you're going to have to provide adequate housing in the rural areas. Part of the problem I see out there is, even though we have low and moderate housing programs in place, when you attract a facility to your community, not all of those people that work their would be of lower and moderate income. They might even be high income people. If they cannot finance the dwelling they want to live in, then they really don't have a reason to stay in those communities. I think it's important that we take care of those above the moderate income level. As an example, if you're going to attract a manufacturing facility to someplace, the plant manager, engineer and etc. are going to want to have better than moderate income housing and they have to have a way to get it financed to build. I think this bill will also work for single family dwellings, however, I think it probably is more appropriate to multiple family dwellings.

BRYON CLARK: Representative, District 44, north Fargo to testify in support of HB1383 (tape 1, side A, meter 223-2420). The fiscal note was amended in the House to take care of the State's fiscal responsibility from this part of the fiscal note, \$1.072M for counties and \$428,000 to the State. This bill was amended in the House to take care of the \$428,000 State's liability. Basically it's from the financial institution's taxes a 2/7 and a 5/7; 2/7 is collected by the State and the other 5/7 is returned to the county where the tax is collected. The counties where the projects are completed are the only ones that will take a hit in their appropriation for that tax. Counties where no development occurs will not take any fiscal loss.

JOHN KRAMER: President of the Dakota Certified Development Company to testify in support of HB1383 (testimony attached (tape 1, side A, meter 2420-2840). As reflected in the bill, the managers of the farm, the managers of the organization is the Certified Development Company, supported by SBA. We are the one in the State. We do 504 loans with SBA and we do interment lending with rural development. The fund we manage with SBA, we in essence go into a lot of rural communities where the problem that Representative Dorso indicated in housing is also there for small business. The 504 program solves the problem for small business, and we don't have to look at the appraisal as significantly as the financial institution does. We look at the ability for the business to pay, although the appraisal is important, we look at the cash flow and credit worthiness. The 504 program cannot be used on housing. This program is using the 504 concept on residential housing.

SENATOR SOLBERG: I thought this as a multi-dwelling but, it goes all the way down to single family residential, correct?

JOHN KRAMER: Yes, sir. In looking at the situation, we felt that taking \$25M, of that \$5M would go to residential, single family and \$20M in multi-family, townhouse, condo and etc.

SENATOR SOLBERG: This would exclude four towns in North Dakota. There is only four towns in North Dakota over 20,000.

JOHN KRAMER: The big concern is that we are outlining the need. It's not going to be able to be used in cities, like, Jamestown, Fargo, Bismarck, Minot. They don't have that appraised value to construction costs problem. They don't have the down stroke problem or the other considerations. The towns that you will find this fund being used on are probably the towns from 1000-5000, Valley City and smaller. The definition we took in writing this, was the definition that State Legislature uses for the Sunday Fund. Because it had been there, we just used that. The intent of the fund is to use it in rural communities where those problems are.

SENATOR SOLBERG: Would you have any problem amending this down to 8,000-10,000 and if so why?

JOHN KRAMER: I would have no problem with doing that. The underlining problem is, we've indicated is between the appraised value and the construction costs. If you want to do that it's fine, except in the future, maybe a Jamestown would have that type of a problem because of a major plant layoff or a major downturn in the economy where you might want to go into those size of communities. We've excluded the four metropolitan areas. The intent is to reach those communities of 1,000-5,000.

SENATOR ST. AUBYN: In this example, what does the 5/7 amount to, single family housing. I guess that wouldn't apply, would it?

JOHN KRAMER: In talking to the Tax Department, and the Association of Counties, it would be very difficult to do it on the residential, single family.

SENATOR ST. AUBYN: In this particular case, the \$1M construction, would you anticipate that 5/7?

JOHN KRAMER: For instance, a multi-family project of \$1M, a twelve-plex. We would come in as a 504 program and put upwards of 40% in, take a second, the developer puts 10% down, we adjust the interest rate closer to the market rate. It's a \$1M project to which the fund has put in \$400,000. We took that and we said, \$1M project, \$500,000 is labor and \$500,000 materials. The materials are sales taxed, roughly \$500,000. Taking as an example, the \$20M that would go into the multi-family, that would do about 50 twelve-plexes. That's how the number of \$1.5M in sales taxes off multi-family came about. This was done to show you the revenue side of the fiscal note.

SENATOR ST. AUBYN: What is the hit to the county in this \$1M project?

JOHN KRAMER: The 5/7 of the corporate income tax that the bank's pay goes back to the counties in a proportionate formula as to how many banks they have and whatever that formula is. The 5/7 that goes back to the counties, the tax credit comes out of those 5/7. The counties that don't get any of these developments will not be effected. The ones that do get the developments, are the ones that will be effected. Every time we finance a development, we have to notify the tax commissioner so they have data on who gets the projects.

SENATOR ST. AUBYN: Is the 5/7, 5/7 of their corporate income tax?

JOHN KRAMER: It's a bank tax that was passed in the last session. 2/7 goes to the State's General Fund, the State's not taking any hit in their General Fund. 5/7 would go back to the county is where the tax credit comes from or goes to. Then the counties that are affected will get the property tax increase from the projects.

SENATOR BOWMAN: Can this money be used for alternative housing for rural communities?

JOHN KRAMER: When we surveyed, the demand out there indicated we have a lot of communities that are growing in their economics but, not in their housing. Most are a two income family and can't buy a house because they can't cover that gap and/or can't get into an apartment building because of the area. Could it be used? Yes, but there are other programs that probably could use it more effectively. This was to be used so the companies that come into the State and are grown here would be able to have housing for their employees. That was the intent.

SENATOR KRAUTER: You just said the State is not going to lose anything in the 2/7. How come the fiscal note goes up to \$428,000?

JOHN KRAMER: That was amended out in the House and the Association of Counties agreed to take it out of the 5/7.

SENATOR KRAUTER: But, our fiscal note is March 5.

PAUL KRAMER: Legislative Council. The fiscal note you have is the latest we have and that's what is reflected in the budget status. As far as what was to be amended out, I'm not sure what the intentions were on that side. It is coming out of the General Fund revenues at this point.

SENATOR SOLBERG: The comment that this is to free up housing in these smaller towns for workers coming in, is it not the problem of the housing to be able to build a housing complexes that are affordable to these entry level workers? Is it not the problem of young families coming in cannot afford these units that are built in these small towns rather than not being able to build it?

JOHN KRAMER: The problem is nothing is getting built. Some of the communities are at 100% occupancy. Nothing is getting built for the reasons we laid out. If you're going to build a

twelve plex in, Gwinner, the down stroke would be 40-60% on behalf of the developer. They are not going to do that. Secondly, the appraisals, they aren't there to justify the expense. If it cost a \$1M to build, it will probably appraise for 85% of that, on an average. Third, is the market rate. Maybe the market rate in Gwinner for a two bedroom complex is \$350, where to cash flow this unit would be somewhere in the neighborhood of \$500,000. If we come in and put the 40% in, we're able to adjust our interest rates because of the tax credit as well as help it get closer to the market rate.

SENATOR SOLBERG: What kind of interest rates are you talking about?

JOHN KRAMER: We don't own the fund, we manage it and currently it would be prime plus several points. It has to be a rate to make the project go.

SENATOR SOLBERG: If it's at that interest rate, why or how could that be at a cheaper rental rate to make it cash flow from what it is now when you have loans made at 7-8%?

JOHN KRAMER: This is risk fund. When you're not protected by an appraisal in real estate, it's risk. We're not using the appraisal, we're using the ability for the developer to repay us, it's their balance sheet. Just like on a 504 loan, the ability for the developer and or business owner to repay us, is what we look at as the primary concern and secondly is the appraisal. To help get that project to cash flow, we're able to help in adjusting our interest rate on our percentage of the loan. The lead bank has the first mortgage, with 100% protection, their protected. If there's a hit, it would come from us.

SENATOR ROBINSON: Would we not be creating a situation where we could end up with a whole lot of this housing taking place in areas like Harwood, where we have a boom already. What's the reality of getting this in the real rural areas of the State that are twenty-five miles away from the large communities?

JOHN KRAMER: The reason were are doing and promoting this, in looking at the communities who are now experiencing difficulties are those communities of 1,000-5,000, as it reflects housing only. If we don't get in and provide housing, they are not going to make it, there is no place to live. People aren't going to stay. Would we do every community in the State, no. It has to be a community who's economy is starting to grow.

JACK MCDONALD: I am here today on behalf of the Independent Community Banks of North Dakota, the smaller community banks in the State (tape 1, side A, meter 4785-4825). We would be in support of this bill, it would enable us to do some more of the financing Mr. Kramer has talked to you about. The small banks have loan limits and we're not able to handle some of these bigger loans. We would support the bill.

DINA BUTCHER: I hadn't intended to speak because this is on the fiscal note, of which we are not a part (tape 1, side A, meter 4838-5045). I believe all of you have received that housing task force study. The reason for this bill and HB1492, were to address some of the gaps. Our office, Intergovernmental Assistance, deals with low and moderate income housing and that takes care

of some of those needs in communities through non-profits and etc. Those facilities are always tied to lower and moderate income families. In this whole continuum of housing, this was an area that was not being addressed for those people who are not in that low to moderate income area but, may want to move out of some homes that they have been living in that would add to the housing stock for those young families. For instance, Sykseton, where you have your schools and inter-structure and you have an older couple who wants to move out into an apartment, we were able to help some but, you were missing this piece of that continuum of housing and that is what this bill addressed. This "gap" exists and it was addressed in the task force and that is why we were part of the conversation on this particular bill.

SENATOR NETHING: Closed the hearing on HB1383.

SENATOR NETHING: I am going to appoint a subcommittee; Senator Grindberg, Chair, Senator Kringstad, Senator Lindaas.

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3/23/99

Tape 1, side A, meter 3830-5445

SENATOR NETHING: Reopened the hearing on HB1383.

SENATOR GRINDBERG: Presented the subcommittees finding on the bill and noted those changes in the proposed amendments. The amendment will place a four year sunset clause on the bill. It's the feelings of the Association of Counties that to have a four year sunset clause on this will allow it to be implemented to see how it works and the Legislature will have the authority to extend it or repeal this effort.

SENATOR GRINDBERG: Moved a Do Pass of the amendment on HB1383.

SENATOR KRINGSTAD: Seconded the motion.

ROLL CALL: The Chair declared yeas voice vote prevailed to approve amendment.

SENATOR GRINDBERG: Moved a Do pass as amended on HB1383.

SENATOR KRINGSTAD: Seconded the motion.

SENATOR SOLBERG: I have trouble with this entire bill. It was sold in here to help rural areas; page 2, line 10; it still states; rural areas not within corporate limits of a city of a population of 20,000 or more. I guess I have a different definition of rural areas. If we're concerned about rural areas, maybe we should amend that down to 6,000 and then not with thirty miles of an urban area of 10,000 or more. We would then have a bill as the gentlemen from Cass County was trying to sell it as. Until that it is done, it is not a rural housing development bill. I could offer an amendment here or on the floor. I speak against the entire bill.

SENATOR TOMAC: I share the concerns with Senator Solberg. We do have a problem with the rural areas, for example in Flasher, even though they are a city of a couple hundred people,

there is no lending institution that would give them money. This bill will not help them. Technically on page 3 of the Reengrossed Bill, line 5, this is a tax credit on the short form. That concerns me because we're going to allow a tax credit with a limit of \$1.5M. The third point, when I look at the fiscal note dated March 4, 1999, and there are several fiscal notes attached, it's a fiscal impact of \$1.5M and it's a property tax increase. It shifts it from the premium tax paid to the counties and that's put into a special fund. The only way the county replaces that revenue is to increase their property taxes. To me, it's a property tax increase pure and simple and we're taking some of the county funds away. This is a property tax increase, a hit to the counties of \$1M and that's my opposition to the plan.

SENATOR GRINDBERG: If the committee wishes to amend that size of city down lower, I think the individuals that testified have no problem with that. I don't think the subcommittee would have a problem as well. The Association of Counties is on record to support this concept with one caveat, the four year concept. It would allow them to try this to see if it works to stimulate housing in rural North Dakota. I think the corporation that is in charge of these funds and these programs record speaks for itself for it's involvement statewide. Having sights in both Fargo and Bismarck for reaching both sides of the State and involvement in rural North Dakota is the intent of this language. I just hope that the committee doesn't think that it's not going to happen, because that is the intent of what we are trying to do here.

There was discussion among the committee. Senator Nething stated that it's Jamestown biggest problem, financing housing that's suitable for multiple housing for workers and that they are still not a high enough wage level where people can build new apartment units and make them pay. They need to have a boost. Senator Solberg was concerned about a guarantee to make sure this would be affordable housing. Senator Grindberg noted that with the sunset clause, it would prompt them to come back to the Legislature in four years to report on the projects and the completion's. Senator St. Aubyn also noted that what investor would do anything or run any risk if they don't have some market to do it.

ROLL CALL: 6 YEAS; 8 NAYS; 0 ABSENT & NOT VOTING.

Yeas: Nething; Tallackson; St. Aubyn; Grindberg; Holmberg; Kringstad.

Nays: Naaden; Solberg; Lindaas; Tomac; Robinson; Krauter; Bowman; Andrist.

SENATOR TOMAC: Moved a Do Not Pass on HB1383.

SENATOR SOLBERG: Seconded the motion.

ROLL CALL: 8 YEAS; 6 NAYS; 0 ABSENT & NOT VOTING.

Yeas: Naaden; Solberg; Lindaas; Tomac; Robinson; Krauter; Bowman; Andrist.

Nays: Nething; Tallackson; St. Aubyn; Grindberg; Holmberg; Kringstad.

CARRIER: SENATOR LINDAAS

SENATOR NETHING: Closed the hearing on HB1383.

Date: 3-23-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1383

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

✓ Legislative Council Amendment Number 90430.0404

Action Taken DO PASS

Motion Made By SENATOR GRINDBERG Seconded By SENATOR KRINGSTAD

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) VOICE PASSED No _____

Absent _____

Floor Assignment _____

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

Date: 3-23-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1383

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 90430.0404

Action Taken DO PASS AS AMENDED

Motion Made By SENATOR GRINDBERG Seconded SENATOR KRINGSTAD

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman		✓			
Senator Solberg		✓			
Senator Lindaas		✓			
Senator Tallackson	✓				
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman		✓			
Senator Andrist		✓			

Total (Yes) 6 No 8

Absent _____

Floor Assignment SENATOR

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

Date: 3-23-99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1383

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By SENATOR TOMAC Seconded By SENATOR SOLBERG

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman		✓			
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson		✓			
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn		✓			
Senator Grindberg		✓			
Senator Holmberg		✓			
Senator Kringstad		✓			
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 8 No 6

Absent 0

Floor Assignment SENATOR LINDAAS

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

REPORT OF STANDING COMMITTEE (410)
March 23, 1999 3:57 p.m.

Module No: SR-52-5430
Carrier: Lindaas
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1383, as reengrossed and amended: Appropriations Committee (Sen. Nething, Chairman) recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1383, as amended, was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1383

TESTIMONY FOR HOUSE BILL NO. 1383

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions

House Bill No. 1383 raises several issues that need clarification.

First, as with any bank investment, prudent investment practices require diversification of risk and appropriate limits must be established as to the maximum equity investment a single bank can make. Although House Bill No. 1383 does not define "housing development projects", it is our interpretation that a financial institution equity investment falls under Section 6-03-47.2(2) and would therefore be limited to ten percent of banks' combined capital and surplus.

Second, section 4 (lines 16-19) provides that the Commissioner for the Department of Banking and Financial Institutions may examine the fund and activities to assure compliance with applicable laws. Since the Commissioner does not presently possess any enforcement authority over the "fund", there is no way to ensure that the fund is in compliance with applicable laws. Although the language appears to apply to a financial institution's compliance with applicable laws, if that is so then there is no need to examine the fund as compliance can be monitored while conducting bank examinations.

Third, section 4 also provides that the fund will pay examination costs. Since the proponents of the bill have not given me any idea as to the fund's growth

potential, I have no way of knowing at this point the costs in time and personnel that would be needed to conduct an examination. The Department's budget appropriation does not contemplate examination authority over a "housing development fund" and, consequently, a fiscal note and possible adjustment to the Department's budget is needed once time and resources can be reasonably estimated.

Fiscal Note
House Bill No. 1383

Utilizing the tax credit would create a fund in the amount of \$25,000,000.

The fund will be broken down into: \$5,000,000 – Rural Single-Family Housing
\$20,000,000 – Rural Multi-Family Housing

Single-Family Housing:
(\$5,000,000)

Project:	Construction cost	\$100,000
	Appraised value	<u>\$ 90,000</u>
	Gap (loaned by the fund)	\$ 10,000

*The total invested into projects across the state is \$50,000,000

50% is sales taxable (materials) or \$25,000,000

$\$25,000,000 \times 5\% = \$1,250,000$ of sales tax to the state of North Dakota

Multi-Family Housing:
(\$20,000,000)

Project:	Rural housing Fund Loan	\$ 400,000 (participate in 50 projects)
	Local Bank Loan	\$ 500,000
	Developer Equity	<u>\$ 100,000</u>
	Total construction cost	\$1,000,000

*The total invested into projects across the state is \$50,000,000

50% is sales taxable or \$25,000,000

$\$25,000,000 \times 5\% = \$1,250,000$ of sales tax to the state of North Dakota

Total sales tax to the state of North Dakota: \$2,500,000

*The developers may also be paying corporate income tax if structured as a corporation

Property Taxes

Single Family Housing:

- The average property taxes across the state are 1 ½ % of Market Value

\$ 100,000 cost per house
X 500 total number of possible projects
\$50,000,000

\$50,000,000 X 1 ½ % = \$750,000 per year or \$7,500,000 for 10 years

- **On the average the county receives 1/3 of the property taxes or \$2,500,000**

Multi-Family Housing:

- The average property taxes across the state are 2% of Market Value

\$ 1,000,000 cost for each complex
X 50 total number of projects possible
\$50,000,000

\$50,000,000 X 2% = \$1,000,000 per year or \$10,000,000 for 10 years

- **On average the county receives 1/3 of the property taxes or \$3,333,333**

Tax Exemption

- North Dakota banks pay corporate income taxes in which $5/7$ is allocated to the counties and $2/7$ to the general fund. This tax credit will be taken from the $5/7$ to the counties.

TESTIMONY FOR REENGROSSED HOUSE BILL NO. 1383
SENATE INDUSTRY, BUSINESS, AND LABOR COMMITTEE

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions

My testimony before the House Industry, Business, and Labor Committee raised several issues.

First, prudent investment practices require diversification of risk and appropriate limits must be established as to the maximum equity investment a single bank can make. Although House Bill No. 1383 does not establish any limit, it is our interpretation that a financial institution's equity investment falls under Section 6-03-47.2(2) and is therefore limited to ten percent of the banks' combined capital and surplus.

Second, Sections 4 and 5 establish examination and compliance responsibilities over the Housing Development Fund that is simply not necessary. The proponents have never contacted me and their testimony before the House IBL Committee did not provide any reason for the examination responsibilities. Therefore, I am asking that the attached proposed amendments be adopted to remove the Department from the examination responsibility for the following reasons:

- The fund already must contract with a certified public accountant for annual audits.
- Although the examination responsibility is discretionary ("may examine"), having examination power implies some contemplated oversight as the bill directs the Department to "assure compliance with applicable laws".
- The bill lacks enforcement authority that is needed to assure "compliance with applicable laws".
- Discretionary examination authority intent is not clear, but if the intent is to supervise a state-chartered bank's investment or loan participation in the fund the Department can adequately conduct the necessary review during a regular safety and soundness examination of the bank.

- Examination fees are not directed to the Departments' Regulatory Fund.
- There has been no indication what the Department's examiner time requirements would be and how many examiners would be needed. There has not been a fiscal note request made.

For the above reasons I ask the Senate IBL Committee to adopt the proposed amendments to simply remove the Department from having any examination authority and responsibility.

FACT SHEET

House Bill No. 1383

Problem: The state has recognized the lack of rural housing as a crucial issue across the state. A main obstacle to construction of single-family housing in rural areas of North Dakota is the difference between the appraised value of housing and its actual construction cost. As a result of this "gap," financing of single-family housing is often unavailable to all but the most affluent families. Lack of financing has often stopped the construction and purchase of new housing in rural areas. In our research of why multi-family housing is not being built in North Dakota, we have found three concerns that developers have, which prevents them from developing and constructing multi-family housing in communities below 15,000. The first major problem is that the amount of downstroke money required for these projects, which normally in metropolitan areas varies from 10-20% in rural areas requires somewhere in the 40-60% range. The second problem is that normally the appraised value does not equal the construction cost. Lastly and equally as serious is that the market rents in communities under 15,000 are not comparable to the rent needed for the cash flow, principal and interest in a new facility.

Purpose: House Bill No. 1383 will spur the development of multi-family and single-family housing in rural areas of North Dakota. By offering a tax credit to financial institutions, the bill will give incentive for private sector dollars to be leveraged which will be utilized to address this problem in rural communities. A fund will be created by these investments and will begin to participate with local communities and banks to start housing projects.

Benefit:

- * Rural communities will be able to address their housing needs
- * Additional revenue for North Dakota through sales and income taxes on the developments
- * Additional revenue for the counties

Support: Association of Counties
North Dakota Bankers Association
Independent Community Banks of North Dakota
Bank of North Dakota
Dakota Certified Development Corporation
Office of Intergovernmental Assistance