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10/3/03  
Date

2003 HOUSE FINANCE AND TAXATION

HB 1369

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1369

House Finance and Taxation Committee

Conference Committee

Hearing Date January 27, 2003

Tape Number	Side A	Side B	Meter #
1	X		13.1

Committee Clerk Signature *Jamie Stein*

Minutes:

**REP. WESLEY BELTER, CHAIRMAN** Called the hearing to order.

**REP. KENTON ONSTAD, DIST. 4** Introduced the bill. See written testimony plus amendments to the bill, an ag commodity processing investment report form and an offering memorandum.

**REP. BELTER** You mentioned in your initial comments that it was a tax credit, is that in the amendments?

**REP. ONSTAD** It is in the bill, it was at twenty percent, then changed to thirty.

**REP. BELTER** Asked if the fiscal note was prepared before the amendments?

**REP. ONSTAD** Yes, the only real fiscal note here would be the Bank of North Dakota. In visiting with them, it would really be minimal, it would just be setting up a basic funding mechanism.

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**REP. KLEIN** Referred to the testimony, you related to letting in certain entities, what is it letting in that wasn't in before?

**REP. ONSTAD** The original bill references the bonds, and issuance of bonds and how tht would be related. We just take away that portion of it. An entity can make an investment. We would like to put dollars in your project, but we would like some guarantees. We would also like to be taken out of it in approximately seven to ten years.

**REP. BELTER** Why funnel these entities through the Bank of North Dakota, why not just let them make their investment directly into the value added projects?

**REP. ONSTAD** Because of some state laws, corporate farming, for example. Related to his dairy, it sometimes eliminates some people to become a participant, they would rather come in as a business, and not as an individual. This provides a tool that they can come through the Bank of North Dakota, and the Bank of North Dakota makes those adjustments on behalf of that business.

**REP. BELTER** Are we not, in a sense, circumventing our corporate farming laws?

**REP. ONSTAD** I don't believe so. They come in as a class B member, they have a special ranges, they can have deferred status. The majority has to be ag producers. In our particular situation, we had a bank come in and make a substantial investment.

**REP. CLARK** Don't you have to be ag involved in anyway?

**REP. ONSTAD** That is the reason we are applying this mechanism, because if you limit it just to the ag sector, sometimes you can't get enough dollars in the project. A partnership allows for both producers and non producers to be a part of your entity.

**REP. GROSZ** What is the average rate of return on such an investment.

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**REP. ONSTAD** It depends on the product. Some will show over a seven year period or a nine year period, maybe fifteen percent, or a seven percent rate of return. In a start up business, a lot of times there is no return for the first couple of years, but in the third or fourth year it starts.

**ROGER JOHNSON, STATE AGRICULTURAL COMMISSIONER** Testified in support of the bill. He stated he wasn't aware of the amendments to the bill. We need more tools for investments in value added ventures. In my recollection, this was a bill that passed both houses, four years ago, and was vetoed over the bonding provision and the concern that the State of North Dakota may be obligated. That was not my reading of the bill. I haven't seen the amendments, I am not prepared to comment on them.

**REP. KLEIN** With the bonding portion taken out, I don't see how effective this will be?

**ROGER JOHNSON** You would still have the tax credit. I haven't thought through the trust fund and how that will be used without the bonding authority as part of it. Presumably, you could have a business, who would want to invest in this value added venture, and rather than make the investment directly, they would simply make the investment to the trust fund at the bank and the dollars would be managed by APUC, in conjunction with the project. You still would have two tools.

**REP. BELTER** In a sense, what we are doing here, because of our corporate farming laws, we are eliminating potential investors from getting this value added, and this bill is strictly a mechanism to circumvent the corporate laws.

**ROGER JOHNSON** I understand your concern, in fact, my recollection tells me that it was this very bill that, four years ago, both the Farmers Union and Farm Bureau stood up in favor of it, saying it was a neat thing to have this kind of break through in the farm organizations, saying

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they would support this kind of investment. As I understand it, as the bill is written here, you would still have the organizing structure of the value added venture in a position to say how much equity could come from wherever, and the oversight from the Bank of North Dakota or the Industrial Commission through the Bank of North Dakota, as well as APUC.

**BILL PATRIE REPRESENTING THE NORTH DAKOTA ASSOCIATION OF RURAL ELECTRIC COOPERATIVES** Testified in support of the bill. He stated, the conflict that

occurs on value added enterprises which deals with North Dakota law is, there are two conflicts. The first, is if it is an incidence of farming, such as a dairy operation, corporations, themselves, cannot invest in it. If it is not involved in farming, such as just processing a product, anyone can invest. It is only a problem part of the time. The real problem HB 1369 seeks to address is, how do you find investors in the first place, the non farmer investors. When this bill was first discussed, we wanted to aggregate a definite interest in value added processing across the state. So, the idea of a farmer's equity trust fund was aimed at those people in North Dakota, those potential investors, who may no longer be farming, but still have an interest in it. There are lots of those folks around, and they may have a couple hundred thousand dollars in C D's. Gave an explanation of applying for value added investments.

**REP. HEADLAND** A person seeking this type of investment, would receive a return on his investment in the form of an interest rate, and he would also have thirty percent tax credit on the gain of that interest rate?

**BILL PATRIE** With the record of the value added, in the past, do you really see anybody utilizing this?

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**BILL PATRIE** To look at the spirit of what's been done in the last twelve years, it has been around value added enterprises, we list one hundred four of those investments which have been made, worth about six hundred million dollars of equity invested in debt. There has been a lot of activity. The ones you hear about are the ones that are failing or have failed. You have to look at the broad spectrum. The idea, on this project, to create an aggregate, of bonds that could be invested and get a professional group to place those investments.

**REP. BELTER** You made the comment about the ag utilization committee reviewing these projects, what makes you think that particular committee, and they are all fine outstanding individuals who serve on that, what your comments would imply is that they know something all the rest of us don't know, that is going to make this a wise investment.

**BILL PATRIE** Yes, I do think they know something the rest of us don't know. He stated he used to serve with the executive director of the utilization commission for a number of years, and the reason they know is, they have funded, over the last twenty years, hundreds and hundreds of feasibility studies. They have, in their corporate memory, a strong idea of what doesn't work. It would be very good to apply that wisdom when you are making that investment in the first place. At the current moment, APUC goes up to the jumping off point, where other investors come in. Speaking about one other issue which is absolutely critical, projects don't succeed and fail simply because of their business plan and their feasibility study. They almost always succeed or fail because of the fire in the belly of someone who really wants to make them work, and the character and the management and leadership that is placed in that enterprise.

**BRIAN KRAMER, NORTH DAKOTA FARM BUREAU** Testified in support of the bill.

In looking at this bill, I think it is an attempt to provide some more equity opportunities for

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expansion into agricultural areas and from that standpoint we support the bill. The question was raised whether or not people would invest. I think there is a lot of agricultural history in North Dakota, and a lot of people have made substantial money in agriculture, who may be willing to invest those dollars back into the state and that industry.

**REP. BELTER TO BOB HUMAN, BANK OF NORTH DAKOTA** What exposure do you see in this to the bank and ultimately to the state of North Dakota?

**BOB HUMAN** Answered, stating as they looked at the bill, but had not seen the amendments until this morning, they envision this account to be a pass through account. He stated he was hearing to conflicting versions, where investors would invest money into this fund and it would be a pool, and then those dollars would go toward equity in some value added processing facility or else we have an investor identify a processor then pass the money to this fund. As I see this, from the Bank of North Dakota, it will be more of an administrative role. We will just be passing funds through and doing paper work. We will charge some type of a fee to those investors for that paper work.

With no further testimony, the hearing was closed.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1369

House Finance and Taxation Committee

Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
1		X	28.4

Committee Clerk Signature *Janice Stein*

Minutes:

**COMMITTEE ACTION**

Amendment 30567.0102 was presented to committee members. This is the Onstad amendments plus Rep. Belter stated he had the Ag Products Utilization Commission removed and the Ag Promotion Board added.

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

**REP. KLEIN** Second the motion. Motion carried by voice vote.

**REP. CLARK** Made a motion for a **DO PASS AS AMENDED.**

**REP. KLEIN** Second the motion. **MOTION CARRIED.**

14 YES      0 NO      0 ABSENT

**REP. NICHOLAS** Was given the floor assignment.

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