

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2019**

Revised  
 Amendment to: HB 1494

- 1 A. **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.*

|                       | 2017-2019 Biennium |             | 2019-2021 Biennium |             | 2021-2023 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| <b>Expenditures</b>   | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| <b>Appropriations</b> | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |

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

|                         | 2017-2019 Biennium | 2019-2021 Biennium | 2021-2023 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
| <b>Counties</b>         | \$0                | \$0                | \$0                |
| <b>Cities</b>           | \$0                | \$0                | \$0                |
| <b>School Districts</b> | \$0                | \$0                | \$0                |
| <b>Townships</b>        | \$0                | \$0                | \$0                |

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

Contrary to provisions of law, in making a loan, the Bank shall set interest at the market rate. This would not apply to a political subdivision loan except when this subdivision that is a taxing district imposes additional property or sales tax, or applies special assessments to repay the loan.

- 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.*

No Fiscal Impact: BND loans and loan programs are generally offered at market interest rates. In the event there is a disaster declaration, BND has developed loan programs to assist those affected at below market interest rates.

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.*

No Revenue Impact: BND loans and loan programs are generally offered at market interest rates. In the event there is a disaster declaration, BND has developed loan programs to assist those affected at below market interest rates.

- 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.*

No Expenditure Impact: BND loans and loan programs are generally offered at market interest rates. In the event there is a disaster declaration, BND has developed loan programs to assist those affected at below market interest rates.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Not Applicable

**Name:** Todd Steinwand

**Agency:** Bank of North Dakota

**Telephone:** 701-328-5671

**Date Prepared:** 01/17/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2019**

Revised  
 Bill/Resolution No.: HB 1494

- 1 A. **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.*

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NA. See Agency Comments.

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NA.

**Name:** Todd Steinwand

**Agency:** Bank of North Dakota

**Telephone:** 701-328-5671

**Date Prepared:** 01/17/2019

**2019 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1494**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1494  
1/21/2019  
31085

- Subcommittee  
 Conference Committee

Committee Clerk: Ellen LeTang

### Explanation or reason for introduction of bill/resolution:

Interest rates set by the Bank of North Dakota.

### Minutes:

Attachment 1, 2, 3

**Chairman Keiser:** Opens the hearing on HB 1494.

**Rep Ertelt~District 26:** Attachment 1.

**5:10**

**Rep Richter:** Asks about a scenario that is happening in Williston. They wanted the funding from the BND to drive the interest rate down. Without those loans, they are unable to build that water treatment building for the increase population. If I'm reading this right, you can't do that. You have to go at commercial rate. The difference in interest is a significant. Would that be exemption because it's a necessary project?

**Rep Ertelt:** That would not be exempt. However, in your scenario, there are a lot of presumptions being made. First you said, expanding population, that means that you have an expanding tax base. The addition of the rebuild of this plant, would need to be supported by the tax base.

**Rep Richter:** Wasn't the purpose of the Bank of ND to provide that service to help political subdivisions meet those emergency needs as the population grows?

**Rep Ertelt:** There are some assumptions & there is the definition of emergency. Most emergencies come from a lack of planning. What is an emergency, is it something that needs to be done tomorrow, I think not? This still allows what needs to be done without putting the tax burden on city taxes.

**Rep M Nelson:** Political subs seems to have a lot of debt in this state. Did you look at how much public debt we're currently carrying per capita compared to income?

**Rep Ertelt:** There isn't much information when I did some research.

**Chairman Keiser:** Anyone else here in support of HB 1494, opposition?

**12:45**

**Blake Crosby~Executive Director of the ND League of Cities:** Attachment 2.

**19:10**

**Chairman Keiser:** This would not impact your ability to bond market?

**Blake Crosby:** I'm not an expert in the bonds? There are a lot of factors that come into play.

**Chairman Keiser:** This bill would not affect your capacity to bond & use these sources of tax revenue to increases to pay that bond? Is that correct?

**Blake Crosby:** I would have the Bank of ND to answer that.

**Rep Richter:** Do political subs typically or how often at all use local banks to fund their projects?

**Blake Crosby:** I would have the Bank of ND to answer that.

**Todd Stienwand~Bank of ND:** In section 1, we would like that to be exempted out for the event of a disaster. The second issue, we make very few loans from the political subs. Infrastructure, in our mind, that is not a loan from the Bank of ND, but it's administered by us & is a separate program which the legislature has authorized & set aside. There is some confusion.

The bonding, this will not prevent a community to bond. Normally those are done at rates, we work together & look for the gap isn't funds from the within the state.

**24:30**

**Rick Clayburgh~President & CEO of the ND Banker's Association:** We oppose the concept of what the intent of what the bill would do. Community banks do have the ability to loan direct to political subdivision but there are restrictions in place. There are a lot of restrictions that the legislature puts on political subdivisions on terms of bonding & expanding the community.

**Chairman Keiser:** Do we have any examples where loans were made? Are there any projects that we should be concerned about?

**Rick Clayburgh:** I don't know or have those examples or answer.

**Chairman Keiser:** Anyone else here to testify in opposition, neutral of HB 1494.

**Todd Stiewand:** I initially was opposed & but with the amendment to do disaster, I would be in favor. When we administer these programs we do underwrite these them.

**Chairman Keiser:** Closes the hearing. What are the wishes of the committee?

**Rep Adams:** I would like to hold it until we get the amendments.

**Mayor Phil Riely~City of Watford City~Attachment 3.** Testimony submitted.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1494  
1/29/2019  
31672

- Subcommittee  
 Conference Committee

Committee Clerk: Ellen LeTang

### Explanation or reason for introduction of bill/resolution:

Interest rates set by the Bank of North Dakota.

### Minutes:

Attachment 1

**Chairman Keiser:** Reopens the hearing on HB 1494. We have an amendment. Rep Ertelt has this amendment drafted, 19.0949.03001.

**2:50**

**Chairman Keiser:** Everybody understand the amendment?

**Rep D Ruby:** Moves amendment 19.0949.03001.

**Rep M Nelson:** Second.

**Chairman Keiser:** Further discussion?

**Voice vote~motion carried.**

**Chairman Keiser:** HB 1494 is before us, what are the wishes of the committee?

**Rep M Nelson:** Moves a motion for a Do Not Pass as Amended.

**Rep Adams:** Second.

**Chairman Keiser:** Further discussion?

**Rep M Nelson:** I don't know that we really need to put it in the century code that the bank has to inquire how the political subdivisions are going to pay its loan back. I assume that happens somewhat earlier in the transaction. Setting the market rates, that can be an arbitrary thing. I'm going to vote for the do not pass.

**Rep D Ruby:** I understand the reasoning trying to protect some of the profits of the Bank of ND to make sure it's investing properly. The intent is fine but the application is not. I'm going to support the motion.

**Vice Chairman Lefor:** I don't think it's the business of the legislature to get involved in what the Bank of ND charges for interest rates & political subdivisions for their capital infrastructure of what they want to do. That's a local control issue, if they make a mistake, it's on them. I will also support the motion

**Chairman Keiser:** Further discussion?

**Roll call was taken on a Do Not Pass as Amended with 12 yes, 0 no, 2 absent & Rep M Nelson is the carrier.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1494

Page 1, line 6, after "loans" insert "to political subdivisions"

Page 1, line 7, remove "1."

Page 1, line 7, after "loan" insert "to a political subdivision that is a taxing district"

Page 1, line 8, remove the underscored period

Page 1, remove lines 9 and 10

Page 1, line 11, replace "extent that" with "if the"

Page 1, line 11, replace the second "or" with an underscored comma

Page 1, line 12, after "assessments" insert ", or increases relevant utility fees"

Page 1, line 14, replace the second "or" with an underscored comma

Page 1, line 15, after "assessment" insert ", or increase relevant utility fees"

Renumber accordingly

Date: Jan 29, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1494

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: 19.0949.03001

Recommendation

- Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

Other Actions     Reconsider     \_\_\_\_\_

Motion Made by Rep Ruby    Seconded By Rep Nelson

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Keiser     |     |    | Rep O'Brien     |     |    |
| Vice Chairman Lefor |     |    | Rep Richter     |     |    |
| Rep Bosch           |     |    | Rep Ruby        |     |    |
| Rep C Johnson       |     |    | Rep Schauer     |     |    |
| Rep Kasper          |     |    | Rep Adams       |     |    |
| Rep Laning          |     |    | Rep P Anderson  |     |    |
| Rep Louser          |     |    | Rep M Nelson    |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total    (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment voice vote - motion carried

Date: Jan 29, 2019

Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1494

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation

- Adopt Amendment
- Do Pass  Do Not Pass  Without Committee Recommendation
- As Amended  Rerefer to Appropriations
- Place on Consent Calendar

Other Actions  Reconsider  \_\_\_\_\_

Motion Made by Rep Nelson Seconded By Rep Adams

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Keiser     | x   |    | Rep O'Brien     | x   |    |
| Vice Chairman Lefor | x   |    | Rep Richter     | x   |    |
| Rep Bosch           | Ab  |    | Rep Ruby        | x   |    |
| Rep C Johnson       | x   |    | Rep Schauer     | Ab  |    |
| Rep Kasper          | x   |    | Rep Adams       | x   |    |
| Rep Laning          | x   |    | Rep P Anderson  | x   |    |
| Rep Louser          | x   |    | Rep M Nelson    | x   |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep Nelson

**REPORT OF STANDING COMMITTEE**

**HB 1494: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1494 was placed on the Sixth order on the calendar.

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Page 1, line 7, remove "1."

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Renumber accordingly

**2019 TESTIMONY**

**HB 1494**

HB 1494

Attachment 1  
Jan 21, 2019  
Page 1

Testimony in Support of House Bill 1494  
Rep. Sebastian Ertelt  
ND District 26

Chairman Keiser and Members of the House Industry, Business, and Labor Committee,

For the record, I am Representative Sebastian Ertelt, representing District 26 in southeast North Dakota which includes all of Sargent County, the eastern half of Dickey County, the southern half of Ransom County, and the western half of Richland County.

House Bill 1494, relating to interest rates set by the Bank of North Dakota, is a means of correcting the dangerous course of creating false demand in the marketplace by the availability of cheap credit. If this sounds familiar to you, that is because it is an all too familiar practice of central banks the world over and a cause of The Housing Bubble and The Great Recession still fresh in our minds.

Whether low interest debt is issued for student loans, ag loans, business development loans, infrastructure loans, or any other, the result is the same. It encourages artificial demand in the market sector in which the loan is offered and which otherwise would not exist beyond the extent that the true market rate encourages activity. It also places downward pressure on interest rates in the marketplace in order to compete, which in turn encourages additional artificial demand.

With regard to loans to government entities, the guarantors of the loan are truly the taxpayers of the government entity, which includes townships, cities, counties, park districts, water resource districts, and school districts. When low interest loans are available to these entities they are enticed to take on projects, some of which they cannot afford with their current tax base. In order to pay for these low interest loan enticed projects, they often increase the tax burden through sales tax, utility fees, property tax, or special assessments (another property tax).

House Bill 1494 would prohibit these political subdivisions that are taxing districts from increasing taxes to repay a low interest loan that they otherwise would not have taken out. This will encourage them to be more fiscally responsible with the taxes they already generate. Let's not forget that they already have a nearly guaranteed increase in property tax revenue every year due to increasing property valuations and now have increased sales tax revenue due to the United States Supreme Court decision on internet sales tax last year.

I understand that there is a cost to expand and maintain infrastructure. My concern is potentially driving away the taxpayers who use that infrastructure with seemingly ever increasing taxes. In the 2018 edition of the Mercatus Center's Ranking the States by Fiscal

HB 1494

Attachment 1  
Jan 21, 2019  
Page 2

Condition<sup>1</sup>, North Dakota ranks 49<sup>th</sup> in service-level solvency, which is a measure of how much “fiscal slack” states have to raise taxes or increase spending through the calculation of three ratios: total taxes, revenues, and expenses relative to state personal income. This next to bottom ranking means that the state, and thereby its political subdivisions, have little room to raise taxes without causing economic harm.

Let's pass this bill to prevent unnecessary and unwanted tax increases (or projects) on the citizens of North Dakota. Let's do what we can to keep our citizens in the state and attract others here too.

Chairman Keiser and members of the committee, I thank you for your time today and urge a unanimous DO PASS recommendation on House Bill 1494.

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<sup>1</sup> Eileen Norcross and Olivia Gonzalez. “Ranking the States by Fiscal Condition, 2018 Edition.” Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, October 2018. <https://www.mercatus.org/system/files/norcross-fiscal-rankings-2018-mercatus-research-v1.pdf>

Good morning. For the record I am Blake Crosby, Executive Director of the North Dakota League of Cities. I am here in opposition to HB 1494.

A little history on the function of the Bank of North Dakota may be in order. Bank of North Dakota was incorporated in 1919 by the Legislature. Its operating policy goes on to say "...not in any manner to destroy or to be harmful to existing financial institutions". Its mission, that has not changed in 100-years, is to deliver quality, sound financial services that promote agriculture, commerce and industry in North Dakota. BND utilizes a cooperative, not a competitive, model with the private sector that supports community banking and the private sector. BND's participation helps spread the risk for private banks and provides seed funding where the private banking sector will not.

North Dakota cities have reached the point of having infrastructure that will require significant reinvestment in streets; roads; sewer lines, water lines and related infrastructure. In response to these needs, the Legislature created and charged the Bank to administer the Infrastructure Revolving Loan Fund (IRLF) which create a mechanism to provide low interest, long-term loans to local cities and counties. These low interest rate loans serve to replace infrastructure and reduce the tax burden for local residents.

To utilize the IRLF, a community must have a specific need identified by the IRLF; approve a resolution by the governing board and apply to the program with an identified repayment source. The applications are vetted and approved by the Department of Transportation; Health Department; Public Finance Agency and Bank of North Dakota.

The most common repayment sources used by communities are sales tax or specials. Under HB1494, if a political subdivision were to increase revenues to utilize as a repayment source for a loan from the infrastructure revolving loan fund, they would be forced to use market rate financing instead of a low interest loan from the Infrastructure Revolving Loan Fund. This idea is totally contrary to the philosophy established by the Legislature with the IRLF.

The proposal in House Bill 1494 will penalize political subdivisions that are seeking to enhance infrastructure in their communities. Instead of a low-interest loan at 2%, local elected officials will need to access market rate financing that is currently 4.5%. This proposed bill, is in essence, a proposed tax increase to local residents.

It appears a concern of this bill is that communities will "create" projects to access the IRLF because it is "cheap" money. There are two things that counter this idea:

1. Local elected officials are restricted by ND Century Code as to what projects qualify for the IRLF. Loans are for critical infrastructure. Capital construction or quality of life projects such as pools; recreation centers or community centers DO NOT qualify.

2. Bank of North Dakota in cooperation with their state partners review the applications to ensure the project complies with the program and to coordinate funding sources. BND and Public Finance Authority (PFA) also monitor the overall debt structure of the community to ensure the communities remain within the limits of their revenue capabilities.

BND does not make direct loans to political subdivisions for infrastructure development unless it is an extraordinary situation such as a disaster or related to a specific directive by the Industrial Commission or Legislature. A couple of examples:

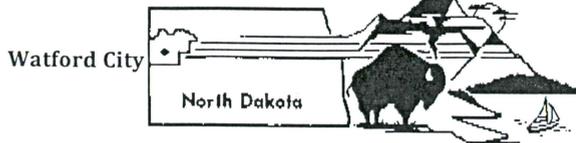
- When Minot flooded in 2011, BND partnered with the community banks to offer a flood relief loan to affected individuals.
- During the oil boom, BND was directed by the Industrial Commission to develop a loan program for those communities utilizing their local Gross Production Tax as a repayment source.
- Last session, the Legislature directed BND to work with Williston to initiate a letter of credit to support their Airport development project.

Thank you for your time and consideration. I ask for a DO NOT PASS on HB 1494.

I will try to answer any questions.

HB 1494

Attachment 2  
Jan 21, 2019  
Page 2



Attachment 3  
Jan 21, 2019  
Page 1

City of Watford City  
213 2<sup>nd</sup> St. NE | P.O. Box 494  
Watford City, ND 58854  
Ph. 701-444-2533  
Fax 701-444-3004  
[www.cityofwatfordcity.com](http://www.cityofwatfordcity.com)

1/21/2019

8:00 AM – Peace Garden Room

## Urge a DO NOT Pass recommendation on HB 1494

Chairman and Committee members of House Industry, Business, and Labor,

The City of Watford City opposes the proposed addition to NDCC chapter 6-09. In a rapid growth environment such as that of our community, we do everything we can to organize financing packages in a way that holds taxes at bay to the greatest extent possible. The elected officials of Local Political Subdivisions are friends and neighbors of their constituents and live in the districts that they tax. For those reasons and others, all consideration is made to hold taxes at bay while still meeting the funding needs of new and aging community infrastructure.

The City of Watford City asked that you not place onerous and burdensome laws on Local Political Subdivisions, which would hamper their budgeting efficiencies and impede their fiduciary responsibility to their friends, neighbors, and constituents.

Again, the **City of Watford City urges a DO NOT PASS of this addition to NDCC 6-09 due to concerns with Section 1.2**, *“If the Bank makes a loan to a political subdivision, the Bank shall inquire whether the political subdivision is a taxing district, and if so, whether the political subdivision is a taxing district, and if so, whether the political subdivision will impose any property or sales tax or apply a special assessment to repay the loan.”*

Thank you for your time and consideration of our concerns.

Mayor Phil Riely, Watford City  
(701) 570-4338  
[phil\\_riely@yahoo.com](mailto:phil_riely@yahoo.com)

Attachment 1  
Jan 29, 2019

19.0949.03001  
Title.

Prepared by the Legislative Council staff for  
Representative Ertelt  
January 21, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1494

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