

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1088

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1088

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1088

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1118

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1088.

Bob Humann, Bank of ND: See written testimony #1.

Rep. Dosch: Does it have any limitations as to the dollar amount of the loan guarantee approval?

Bob: No, there is not.

Rep. Keiser: Why is it so important to make a point that you can now guarantee loans in the future without limited concern about date?

Bob: I don't know if it's that important that you have that ability in the future so much, but it seems like we get more and more people asking us to guarantee loans as opposed to just being a participant in the loan.

Rep. Keiser: Should we be doing more in those programs, other than guaranteeing loans?

Bob: There are other things being done in relation to those programs, for example the feedlot loan guarantee program. There is legislation going through the session right now, that would open up the ability for the bank to be able to guarantee feedlot loans, and dairy loans that would take advantage of feeding the DVG's from ethanol and bio diesel facilities.

Rep. Dosch: Is there any regulatory limit as to the amount of dollars that can be out in guarantee loans? Are there some statutory limits out there?

Bob: Currently, at this time the bank is still composing the lending limit as \$25 million, and that's roughly 50% of our \$160 million in capital. So, of course we wouldn't be guaranteeing any loans that would exceed that \$25 million. If we had to pay that full amount out, what would that do to our entire capital position? We would also put in more specific program limitations on how much we could actually guarantee.

Rep. Keiser: The second part where you are now taking student loans out as the reserve source for the guaranteed program, how are we dealing with that student loan reserve when it is dedicated to this purpose?

Bob: From what I understand with the student loan trust, they mentioned the fact that there could be some liability there with the venture capital program. They mentioned that in their annual audit, but I don't think they were reserving any dollars for that. The bank actually is reserving dollars for that, and they're going off reserve thinking that there still had to be a decision made by the Industrial Commission whether or not we were going to get reimbursed by the trust.

Rep. Keiser: Is the reserve in that fund to large?

Karlene Fine, Industrial Commission: In regard to the Student Loan Trust, the majority of all loans are all guaranteed by the federal government. So, we were not setting aside a specific loan reserve, nor did our auditors enquire us to set aside a loan reserve. What we have is unencumbered to a certain extent, funds in the trust right now under our first resolution that is approximately \$20 million. That is what we were looking at as being the source for paying out any lot that they would have. So, each time that limitation was lifted, the fund could only guarantee up to \$10 million.

Rep. Keiser: Is that to much?

Karlene: Those funds that are held in that first resolution are getting a return of 9 ½ % so, as those loans are paid off we will no longer be able to receive a 9 ½.

Hearing Closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1088

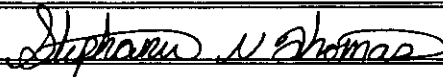
House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1495

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1088.

Rep. Dosch: They have these powers, but they are for specific programs that we have established, and the dollar amounts that we have established. We've given them authority with two guarantee leases for specific loan programs. Here we're saying we're not limiting these specific funds anymore, we're saying just go for it now.

Rep. Keiser: We're adding the adventure capital program, I believe, are we not?

Rep. Dosch: I think that was the bill with the Student Loan Trust Fund.

Rep. Clark: I think the bank feels that \$30 million reserve is more than accurate for their needs. That's their position on it.

Rep. Kasper: This also repeals the effective date through July 31, 2009. So, if we don't pass this bill they still have a program for the next two years, and then they have to come back and make their case.

Rep. Kasper: I move a do not pass.

Rep. Ruby: Second.

Rep. Thorpe: Has the bank board members had any input on this at all?

Rep. Keiser: I don't know the answer to that.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution No. HB 1088

Hearing Date: January 22, 2007

Roll call vote was taken. 8 Yeas, 3 Nays, 3 Absent, Carrier: Rep. Dosch

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1088

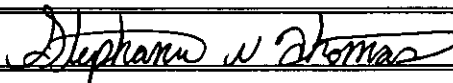
House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2403

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1088.

Rep. Dosch: Overview of proposed amendment. The only thing that we kept in the bill was on page 6; line 7 which is the repeal, section to repeal section 609.40 of the ND Century Code.

What that repeal section does is it repeals the banks ability to seek reimbursement from the Industrial Commission for a transfer from the Student Loan Trust Fund to reimburse the bank the losses incurred from the new venture capital program. Why the Student Loan Trust Fund ever was used to fund options from the venture capital program, I guess they had money at the time, and thought that well most venture capital programs dealt with some of the colleges and universities as they started to get some of these new businesses going, and that was kind of their justification. Basically, what the Bank of ND is saying now is we don't need to go to that Student Loan Trust Fund anymore, the bank has adequate reserves just out of its general loan loss reserves to cover this, and they don't want to take it out of the Student Loan Trust fund.

Rep. Dosch: I move a motion to amend.

Rep. Vigesaa: Second.

Voice vote taken, motion to amend passes.

Rep. Clark: I move a do pass, as amended.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution No. HB 1088

Hearing Date: January 31, 2007

Rep. Boe: Second.

Roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent, Carrier: Rep. Dosch

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
02/28/2007

Amendment to: Engrossed
 HB 1088

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Sec. 1 amends Sec. 6-09-15 of NDCC to allow BND to invest in ND based venture capital entities that invest in companies outside ND limiting the investment to \$200M per biennium. Sec. 2 repeals Sec. 6-09-40 of the NDCC re: reimbursement of BND losses from investments in NVCP from NDSLTT fund.

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.*

This legislation has no fiscal impact to the State of North Dakota. Investments and loans of the New Venture Capital Program are Bank of North Dakota assets.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Robert A. Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	02/28/2007

FISCAL NOTE
Requested by Legislative Council
02/07/2007

Amendment to: HB 1088

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Section 1 repeals Section 6-09-40 of the North Dakota Century Code regarding reimbursement of Bank losses resulting from investments in the New Venture Capital Program from the Student Loan Trust Fund.

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.*

This legislation has no fiscal impact to the State of North Dakota. Investments and loans of the New Venture Capital Program are Bank of North Dakota assets.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Robert A Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	02/08/2007

FISCAL NOTE
Requested by Legislative Council
12/27/2006

Bill/Resolution No.: HB 1088

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Section 1 relates to powers of Bank of North Dakota to guarantee loans and makes that provision permanent. Section 2 relates to the reimbursement of Bank losses to the New Venture Capital Program.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

None of the sections of this legislation have a fiscal impact to the State of North Dakota.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Robert A. Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	01/08/2007

Date: 1-22-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1088

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Kasper Seconded By Rep. Ruby

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

Total Yes 8 No 3

Absent 3

Floor Assignment Rep. Dosch.

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

REPORT OF STANDING COMMITTEE

HB 1088: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (8 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING).
HB 1088 was placed on the Eleventh order on the calendar.

**House Amendments to HB 1088 (78095.0101) - Industry, Business and Labor
Committee 02/01/2007**

Page 1, line 1, remove "amend and reenact section 6-09-15 of the North Dakota Century Code,"

Page 1, remove line 2

Page 1, line 3, remove "permanent; and to"

Page 1, line 4, remove "; and to provide an effective"

Page 1, line 5, remove "date"

Page 1, remove lines 7 through 23

**House Amendments to HB 1088 (78095.0101) - Industry, Business and Labor
Committee 02/01/2007**

Page 2, remove lines 1 through 30

**House Amendments to HB 1088 (78095.0101) - Industry, Business and Labor
Committee 02/01/2007**

Page 3, remove lines 1 through 31

**House Amendments to HB 1088 (78095.0101) - Industry, Business and Labor
Committee 02/01/2007**

Page 4, remove lines 1 through 31

**House Amendments to HB 1088 (78095.0101) - Industry, Business and Labor
Committee 02/01/2007**

Page 5, remove lines 1 through 31

**House Amendments to HB 1088 (78095.0101) - Industry, Business and Labor
Committee 02/01/2007**

Page 6, remove lines 1 through 6

Renumber accordingly

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1088

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS, as amended

Motion Made By Rep. Clark Seconded By Rep. Boe

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

Total Yes 13 No 0

Absent 1

Floor Assignment Rep. ~~Clark~~ Dosch

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

REPORT OF STANDING COMMITTEE

HB 1088: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1088 was placed
on the Sixth order on the calendar.

Page 1, line 1, remove "amend and reenact section 6-09-15 of the North Dakota Century Code,"

Page 1, remove line 2

Page 1, line 3, remove "permanent; and to"

Page 1, line 4, remove "; and to provide an effective"

Page 1, line 5, remove "date"

Page 1, remove lines 7 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 6

Renumber accordingly

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1088

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1088**

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **February 27, 2007**

Recorder Job Number: **3940**

Committee Clerk Signature



Business Incentives, agreements, reports

Eric Hardmeyer, President of Bank of ND - In Favor

TESTIMONY #1 *Explains the bill and goes over testimonies (3)*

HB 1088, short bill, it seeks to repeal Century code 60940 which give the Bank of ND the ability to seek reimbursement from the Student Loan Trust Fund for losses incurred from the New Venture Capital Program. That was a program that was authorized in 2001 and allows the bank to equity or debt investments in ND projects. We've been at this now for 3-4 years and we have a much better feel for equity investments and feel that the guarantee to the student loan trust is not necessary. Bank of ND has healthy reserves of 30 million plus, and would feel that we can handle that ourselves. This repeals the guarantee from the Student Loan Trust. Also provided an amendment to bill. Amendment does a couple things: It allows the Bank of ND to invest in ND Venture Capital Entities, namely RAIN funds, and limits that amount to \$200,000 per biennium. Current law does restrict our ability to invest in projects outside of ND, so we're not trying to circumvent that law, but invest in ND RAIN funds and some of their funds, a small percentage, could be invested outside of ND. If there's an ANGEL fund in Minneapolis that has a hot prospect and they run out of capacity in Minneapolis, they may go to the regional network and say, "hey, ND, do you want to do part of

this?" We have committed to 3 ND RAIN funds. One Bismarck, Fargo, and Grand Forks. \$50,000 each. As we've gotten into this, we realize that the language is restrictive in that if there is ANY investments by those ANGEL funds outside of ND, we can't play in that deal. We still want to invest our money in ND. There may be an opportunity to invest a portion of their funds into other regional RAIN funds.

S Klein: We're repealing that section but the amendment needs to have a vehicle to get through this and you realize you need an opportunity to attach this to something and that's where we're at.

S Hacker: How many players does a fund consist of? How big are the funds, is this 5, 25 pulling funds and investing?

Eric H: The RAIN funds?

S Hacker: Yes

Eric H: Each deal is different, but the bottom line is about \$500,000, some as high as 2 million dollars with a one million dollar average. There are multiple players.

S Hacker: You're going to put in \$50,000, and others...

Eric H: We're just repealing the guarantee from the Student Loan Trust on any losses that we made per in the venture capital program. We have incurred a few loses, but don't think it's necessary to go to the Student Loan Trust for the guarantee. We think we can handle it on our own.

S Klein: So instead of capping the Student Loan Trust, as a bad deal, it would stand alone.

Eric H: Yes

S Heitkamp: Core of the bill, tapping the Student Loan Trust, you may not need it, times are good, you got some money, is it wise to take it out, if you did need it, you're paying it back anyway? Having that in there is like an insurance policy isn't it?

Eric H: The potential is there depending on the opportunity for gains, then we would replenish the trust fund.

S Heitkamp: What about tagging on another bill, which is what you're doing into this bill.

That's really not, \$200 K to you on an investment side is like 2 cents to me. I understand all that, and it may be necessary, were there any red flags in this before this session? Because you are going out of state.

Eric H: Where the criticism had come from before in the ND Venture Program when it went out of state. Set up to help ND, we are still investing in ND.

S Heitkamp: Tied to out of state.

Eric H: There may be a small deal or two that they look at outside of ND and invest in. We have been handcuffed in providing a straight up investment unit into their RAIN fund.

S Heitkamp: Did you ever take out of the Student Loan Trust Fund for any of this?

Eric H: No

S Heitkamp: So there's nothing to pay back. So we're just breaking the bond of them used as your insurance policy.?

Eric H: That's correct.

S Klein: You talked about the potential of having \$37,500 invested in the \$10 million fund, that's just the top potential, it could be less, a lot less.

Eric H: Yes.

S Wanzek: It could be a lot less, but aren't we tapping that \$200,000 per biennium?

Eric H: That is the investment into the ND RAIN fund. How they invest their money, their prospectus will tell you that their intent is to invest into ND projects, most of them will invest in 75%.

S Wanzek: So with that cap, the most would be \$50,000? Aren't even the investments, even small ones made outside the state, if you have a gain or a profit in those investments, that money is coming back here anyway, isn't it?

S Klein: The reason the Bank of ND, the banks involved in these ANGEL funds, is...?

Eric H: These ANGEL funds are around the country. They're opportunities for people to invest in little investment funds through local projects. We've heard there is a shortage of Venture capital. The private sector is the one saving the day with Grand Forks, Fargo, Bismarck are coming together in a professional way and expert management to do this in aid of the Venture Capital.

S Klein: Then they're coming to you and asking you to be a participant..

Eric H: Yes

S Heitkamp: In any biennium, the most you're going to be out is \$200 K?

Eric H: Yes

S Heitkamp: Did you offer this amendment in the House?

Eric H: This amendment was offered on another bill, 2224. It had a hearing and apparently Senator Cook had an issue with it and it was taken out.

S Klein: So 2224 was the ANGEL FUND bill?

Eric H: It was the investment tax bill. We are going back on that bill as well, 2224, we're going to attach the same amendment.

S Klein: This is not a rebate or exemption, just a investment by the bank, a small investment of our portfolio going into the fund.

Q? F? O?

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1088 B

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **February 27, 2007**

Recorder Job Number: **3941 @ 8:44m**

Committee Clerk Signature



Business incentives, agreements, reports:

S Klein: You've heard the discussion, there's an amendment.

S Heitkamp: I'll move the amendment

Second by S Hacker

Roll Call on DO PASS AMENDMENT by Bank of ND – 7-0-0 – Passed

Motion to DO PASS AS AMENDED by S. Heitkamp

Second by S Wanzek

Roll Call on DO PASS AS AMENDED by Bank of ND – 7-0-0 – Passed

Carrier: S Hacker

Date: 2-27-07

Roll Call Vote : 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1088

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number AMMENDMENT
Action Taken DO PASS BY BOFA

Motion Made By HEITKAMP Seconded By HACKER

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Arthur	✓	
Senator Hacker, Nick VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 7 No 0

Absent 0

Floor Assignment _____

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

Date: 2-27-07

Roll Call Vote : 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1088

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DPAA (ENGROSSED)

Motion Made By Heitkamp Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Arthur	✓	
Senator Hacker, Nick VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 7 No 0

Absent

Floor Assignment HACKER

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

REPORT OF STANDING COMMITTEE

HB 1088, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1088 was placed on the Sixth order on the calendar.

Page 1, line 1, after the first "to" insert "amend and reenact subdivision c of subsection 4 of section 6-09-15 of the North Dakota Century Code, relating to defining eligible investments with the North Dakota alternative and venture capital investments; and to"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Subdivision c of subsection 4 of section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

- c. In North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, not to exceed ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may invest a maximum of two hundred thousand dollars per biennium in North Dakota-based venture capital entities that make investments in companies located outside North Dakota. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by the North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience."

Renumber accordingly

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1088

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1088

House Industry, Business and Labor Committee

☒ Check here for Conference Committee

Hearing Date: March 28, 2007

Recorder Job Number: 5599

Committee Clerk Signature



Minutes:

Rep. Dosch opened the hearing on HB 1088. Requested one of the senators explained the amendment.

Attendance: Rep. Dosch, Rep. Dietrich, Rep. Amerman, Senator Hacker, Senator Andrist, Senator Potter.

Senator Hacker: What this amendment deals with is the authority the Bank of North Dakota currently has 10 million dollars in funds for equity investments in industry and business in the state of North Dakota. The bank specifically can not invest in companies if outside of North Dakota. Currently there are (tape stops).

Motion Made By Senator Hacker; Seconded By Rep. Donald Dietrich

Vote: 6 Yes 0 No Recommends that the House Accede to the Senate
Amendments on pages 858.

Hearing closed.

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

Bill Number 1088 (, as (re)engrossed):

Date: 3-28-07

Your Conference Committee IB+L

For the Senate:

Roll

	Yes	No
X Sen. Hacker	X	
X Sen. Andrist	X	
X Sen. Potter	X	

Yes/No Roll

For the House:

Yes	No
X	
X	
X	

Yes/No

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

the (Senate/House) amendments on (SJ/HJ) page(s) 858 --

X and place 1088 on the Seventh order.

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

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

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

DATE: _____

HOUSE CARRIER: Rep Dosch

SENATE CARRIER: _____

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

MOTION MADE BY: Sen Hacker

SECONDED BY: Rep Dietrich

VOTE COUNT: 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1088, as engrossed: Your conference committee (Sens. Hacker, Andrist, Potter and Reps. Dosch, Dietrich, Amerman) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 858 and place HB 1088 on the Seventh order.

Engrossed HB 1088 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1088

TESTIMONY TO THE
HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
HOUSE BILL 1088
BOB HUMANN – SVP OF LENDING
BANK OF NORTH DAKOTA
JANUARY 15, 2007

Section 1 of House Bill 1088 removes the expiration date of July 31, 2009 for Bank of North Dakota's Powers. The bill also makes permanent the Banks ability to guarantee loans as listed on line 10 of page No. 1 and the ability to continue with the New Venture Capital Program as described on lines 6-17 on page No. 3. Each of these powers were passed in the 2003 legislative session. BND currently administers 3 guarantee programs that consist of the Beginning Entrepreneur Loan Guarantee Program, the Farm Real Estate Loan Guarantee Program, and Feedlot Loan Guarantee Program.

Section 2 repeals the Banks ability to seek reimbursement by request to the Industrial Commission a transfer from the Student Loan Trust Fund to reimburse the Bank for any losses incurred from the New Venture Capital Program. Bank reasons for seeking the repeal are that the Bank has a \$30 million loan loss reserve to help offset any losses, and it removes the complexity related to seeking a loss reimbursement. Attached is additional information from the Bank's Loan Policy that fully describes Section 6-09-40 and additional program information on the New Venture Capital Program.

Your approval of House Bill 1088 is recommended.

NEW VENTURE CAPITAL PROGRAM

In compliance with Section 4c of N.D.C.C. § 6-09-15, the Bank will provide flexible financing through debt and equity investments for new or expanding businesses in the State of North Dakota. The Bank may have no more than ten million dollars in outstandings under this program. This program expires July 31, 2009.

In compliance with N.D.C.C. 6-09-40, the Bank of North Dakota shall request from the Industrial Commission a transfer from the Student Loan Trust Fund to reimburse the Bank for any losses incurred from investments in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota Development Fund, incorporated. Any gains from investments in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota Development Fund, incorporated, must first be applied to offset any losses reimbursed by the Student Loan Trust Fund under this section. Once the Student Loan Trust Fund has been made whole, the Bank of North Dakota and the trust fund shall share any additional revenue on a mutually agreed formula as determined by the Industrial Commission.

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New Venture Capital Program

Program available Aug. 1, 2003 through July 31, 2009)

The New Venture Capital Program is an innovative financial program that provides flexible financing through debt and equity investments for new or expanding businesses in the state of North Dakota. BND can fund rapidly growing companies which require equity funding.

The Bank may provide funding for early stage companies which can show clear proof of completed product development and market acceptance as evidenced by growing sales. The Bank will invest in a variety of technologies and types of businesses, including North Dakota Department of Commerce strategic target industries. BND will also invest in growth and later stage manufacturing, service and businesses with profitable growth potential.

Qualifying Requirements

Business Criteria –

- North Dakota industries or businesses that will benefit the state and/or local communities within the state.
- A successful and experienced management team.
- Cooperative management predisposed to communicate and work closely with outside investors toward common goals.
- A market with favorable size, growth and competitive characteristics.
- Adequate capital being raised to support operating objectives.
- Companies working to commercialize university-developed technology within the North Dakota University System.

Loan Limit –

The New Venture Capital Program will invest up to \$300,000 with appropriate capital structures favoring the following investment instruments:

- Subordinated debt with warrants to acquire common stock.
- Preferred stock with warrants to acquire common stock.
- Common stock.

Use of Proceeds –

BND's capital may be used to develop production and increase sales growth and management capabilities.

Application Process –

New Venture Capital
Program Application
Recipient Report
State Grantor Report
Business Incentive Agreement

For more information about this program or other Bank of North Dakota programs, contact:

Bank of North Dakota

**TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
HOUSE BILL 1088
ERIC HARDMEYER - PRESIDENT
BANK OF NORTH DAKOTA**

FEBRUARY 27, 2007

This bill seeks to repeal NDCC 6-09-40 which gives the Bank of North Dakota (BND) the ability to seek reimbursement from the Student Loan Trust Fund for any losses incurred from the New Venture Capital Program. Under this Program, BND can make equity investments or fund subordinated debt in expanding or early-stage companies up to a program maximum of \$10,000,000. We feel that BND has sufficient reserves to handle any loss associated with the New Venture Capital Program. This "guaranty" from the Trust was originally set up to limit BND's exposure in offering a venture capital program in which we had no experience.

The amendment allows BND to invest in North Dakota based venture capital entities that may invest in companies outside of North Dakota and limits the amount we can invest in these companies to \$200,000 per biennium. Current law restricts investment under the New Venture Capital to North Dakota projects only. With this amendment we are not intending to circumvent that requirement but to allow for investment into North Dakota venture capital funds that may invest a small portion of their total funds outside of North Dakota.

We have made 3 separate commitments of \$50,000 each in Regional Angel Investor Network (RAIN) Funds in Bismarck, Fargo, and Grand Forks. The RAIN Funds are separate community based venture capital groups consisting of individual local angel investors. Because of the possibility of the RAIN Funds investing in companies outside of North Dakota, the bank cannot purchase membership units of the RAIN Funds. Instead, the bank has been forced to enter into separate "co-investment" agreements for each of the individual RAIN fund investments. This arrangement is very cumbersome adding both complexity and expense to a very small transaction. The amendment will allow for the purchase of membership units and eliminate the need for separate "co-investment" documentation with each of the RAIN funds.

The three separate community-based RAIN Funds will invest in North Dakota companies, but they also have the ability invest in companies outside of North Dakota as a result of referrals from out of state RAIN Funds. On a percentage basis, the three RAIN Funds project an investment mix of 75% North Dakota companies and 25% out of state companies. Based on a total commitment of \$150,000, only \$37,500 of the \$10,000,000 fund would potentially be invested in out-of state companies.

Your approval is recommended.

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PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL 1088

Page 1, line 1, after the first "to" insert "amend and reenact subdivision c of subsection 4 of section 6-09-15 of the North Dakota Century Code, relating to defining eligible investments with the North Dakota alternative and venture capital investments; and"

Page 1, after line 3, insert:

SECTION 1. AMENDMENT. Subdivision c of subsection 4 of section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

- c. In North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, not to exceed ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early stage-capital funds, and a maximum of two hundred thousand dollars per biennium may be invested in North Dakota based venture capital entities whose investments may include companies outside of North Dakota. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by the North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

Renumber accordingly.

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NDCC, 6-09-40

NORTH DAKOTA CENTURY CODE
TITLE 6. BANKS AND BANKING.
CHAPTER 6-09. THE BANK OF NORTH DAKOTA.
6-09-40 Reimbursement of Bank losses.

The Bank of North Dakota shall request from the industrial commission a transfer from the student loan trust fund to reimburse the Bank for any losses incurred from investments in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated. Any gains from investments in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, must first be applied to offset any losses reimbursed by the student loan trust fund under this section. Once the student loan trust fund has been made whole, the Bank of North Dakota and the trust fund shall share any additional revenue on a mutually agreed formula as determined by the industrial commission.

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Dosch, Mark A.

From: Hardmeyer, Eric A.
Sent: Monday, March 26, 2007 4:40 PM
To: Dosch, Mark A.
Subject: FW: HB 1088

Reserve Raffle

Equity -

Rep. Dosch, do you think it would be helpful if I sent this information to your other House conference committee member? Eric

I understand that you have been appointed to the conference committee reviewing HB 1088. I know that you are all familiar with the bill and the concept of removing the student loan trust fund as the backstop against loss on our New Venture Capital program- that piece also passed the House. The other part of 1088 that was amended onto the bill is equally important to BND. This allows BND to invest in North Dakota Regional Angel Investment Network (RAIN) funds without concern of project location.

Background

BND's New Venture Capital program allows BND to invest directly into a project as an equity participant. The program is capped at \$10 million with each deal limited to \$300,000. We have wanted to invest a small portion of the program (\$200,000 per biennium) into ND RAIN funds. These RAIN funds are locally driven investment clubs that provide equity financing to local projects. The RAIN funds are professionally managed and are networked together so that if a project needs additional equity money over and above what the local RAIN fund can provide they can use the Network of funds (usually a regional component like a tri-state or upper Midwest designation) to pull down funds. A typical RAIN fund may be capitalized at \$1 to \$2 million. Generally their prospectus will indicate that at least 75% of their money must be invested locally.

Issue

The existing statute authorizing the New Venture Capital fund is written so tightly that if we were to invest a small portion (\$50,000) into say a Bismarck RAIN fund and they looked at a project in Minnesota for investment we could not do it because our investment is limited to ND deals. Our stance has been that we are investing in a ND project, but a small piece may be going out of ND.

To put this into perspective if our \$50,000 investment into the Bismarck Rain fund constitutes 1/20 th of the total RAIN fund and they are limited to 25% out of state projects that could mean only \$12,500 of our investment could go out of state. To put it into an even bigger picture if we limit our total involvement into ND RAIN funds to \$200,000 and the same investment parameters exist on investment location, \$50,000 out of our total \$10 million fund could potentially be invested outside of ND that equates to .5%. That means 99.5% of our New Venture capital funds will stay in ND.

At this point we have identified RAIN funds in Grand Forks, Bismarck, and Fargo that we would like to invest in. We would limit the investment to \$50,000 for each fund.

Eric Hardmeyer
 President
 Bank of North Dakota
 PO Box 5509
 Bismarck, ND 58506-5509

Note: My new email address is ehardmeyer@nd.gov

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3/27/2007

custodian of all securities that are required to be deposited with the state except that the state treasurer is the custodian of all securities resulting from the investment of funds by the state treasurer, or except as otherwise required by this section and sections 6-05-04, 6-05-05, 6-05-27, 7-07-03, 7-07-04, 7-07-12, 39-16-10, and 39-16.1-15, subsection 1 of section 39-16.1-17, and subsection 1 of section 39-16.1-19.

6-09-37. Sale and leasing of acquired agricultural real estate. The sale and leasing of agricultural real estate with an appraised value of ten thousand dollars or more acquired by the Bank of North Dakota through foreclosure or deed in lieu of foreclosure must be done in accordance with chapter 15-07 or 15-09 and policies adopted by the industrial commission. The sale and leasing of agricultural real estate with an appraised value of less than ten thousand dollars, acquired by the Bank of North Dakota through foreclosure or deed in lieu of foreclosure, may be done in a manner as the Bank determines is appropriate given the circumstances. In the case of a lease by the party holding the right of redemption, that party has the right to purchase at any time.

6-09-38. North Dakota higher education savings plan - Administration - Rules. The Bank of North Dakota shall adopt rules to administer, manage, promote, and market a North Dakota higher education savings plan. The Bank shall ensure that the North Dakota higher education savings plan is maintained in compliance with internal revenue service standards for qualified state tuition programs.

6-09-39. (Effective through June 30, 2007) Truckdriver training programs - Loans to students.

1. The Bank of North Dakota shall administer a loan program to assist residents of this state during the period in which the residents are enrolled as students in a truckdriver training program offered in this state. The maximum amount allowable per loan is seven thousand five hundred dollars, less any amount received by the student in the form of employer matching grants, financial aid, third-party training program dollars, income, unemployment insurance benefits, or workforce safety and insurance benefits, during the period of the truckdriver training program.
2. The Bank of North Dakota shall provide a schedule for repayment of any loan provided under subsection 1. The schedule must require that the student begin repayment no later than sixty days after completion of or withdrawal from the truckdriver training program and that the loan be repaid in full within sixty months of the first payment.

6-09-40. Reimbursement of Bank losses. The Bank of North Dakota shall request from the industrial commission a transfer from the student loan trust fund to reimburse the Bank for any losses incurred from investments in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated. Any gains from investments in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, must first be applied to offset any losses reimbursed by the student loan trust fund under this section. Once the student loan trust fund has been made whole, the Bank of North Dakota and the trust fund shall share any additional revenue on a mutually agreed formula as determined by the industrial commission.

6-09-41. (Effective through June 30, 2009) Livestock loan guarantee program - Establishment - Rules.

1. The Bank of North Dakota shall establish and administer a livestock loan guarantee program that is designed to expand livestock feeding in this state.
2. Under the program, the Bank may guarantee a loan made by a bank, a credit union, a savings and loan association, or any other lending institution in this state to the owner of a commercial feedlot that backgrounds or feeds cattle to harvest-ready