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DESCRIPTION

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2003 JOINT CONSTITUTIONAL REVISION

SCR 4017 -

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4017

Joint Constitutional Revision Committee

Conference Committee

Hearing Date 02-05-03

Tape Number	Side A	Side B	Meter #
1	X		2314-4739
Committee Clerk Signature <i>Thomas A. Judd</i>			

Minutes:

**SENATOR TOLLEFSON** opened the hearing on SCR 4017.

**REPRESENTATIVE BRUSEGARD** I am here to introduce SCR 4017. I would ask you favorable recommendation. It removes some language in section 18. It deals with the powers of states, counties, and cities This resolution will give people an opportunity to bring current practice in compliance with the Constitution.

**REPRESENTATIVE ECKRE** Is this from an Attorney Generals decision not to long ago.

**REPRESENTATIVE BRUSEGARD** I am sure that it might have been. There is a long history of Attorney Generals opinions.

**SENATOR TOLLEFSON** Would this bill include tax write-offs and tax abatements.

**REPRESENTATIVE BRUSEGARD** I am not sure if tax abatements and tax write-offs would be included in this.

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~~Senate Transportation Committee~~  
Bill/Resolution Number SCR 4017  
Hearing Date 02-05-03

*Joint  
Constitutional  
Revision*

**CURLY HAUGLAND** Bismarck Resident, appeared in favor of SCR 4017. (Testimony Attached)

**SENATOR TOLLEFSON** Is there any opposition to SCR 4017.

**RUSS STAIGER** Bismarck - Mandan Development Association. I am here to express my opposition SCR 4017. There is nothing broken, hence there is nothing that needs to be fixed. The existing statutes on the books should be left as is. The city of Bismarck has used them on a couple of occasions in the past and they were fine. I would urge that the existing statute be left as it is. I urge you to vote no.

**CONNIE SPRYCZYNATYK** ND League of Cities. In our conference call, people were trying to figure out why. It was noted that we can already accept donations, land, we can give donations under certain circumstances. There is an Attorney General's opinion that says it is legal. Please read those opinions very carefully. We can use sales tax for incentive packages, we can offer certain tax exemptions, we can do economic development. There is an Attorney General opinion about what we can do. We truly do not need this.

**SENATOR MUTCH** What is going on is that we have not been adhering to the constitution.

**CONNIE SPRYCZYNATYK** I can assure you that we take our duties very seriously as you do as legislators. If we felt that we were breaking the law, that we could not back up what we are doing by state law we would not do it. We feel comfortable in the environment that we are operating in.

**REPRESENTATIVE KRETSCHMAR** It is taking out the constitutional prohibitions of what cities can't do.

**CONNIE SPRYCZYNATYK** That would be cool.

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Senate Transportation Committee  
Bill/Resolution Number SCR 4017  
Hearing Date 02-05-03

*Joint  
Construction  
Revisions*

**REPRESENTATIVE HAWKEN** What if this did not pass. Would there be some other means.

**CONNIE SPRYCZYNATYK** I would assume that would be the case. People have a tendency to vote no when they do not understand.

**Hearing on SCR 4017 was closed.**

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4017

Joint Constitutional Revision Committee

Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1		X	334-1000

Committee Clerk Signature *Elizabeth R. Linn*

Minutes: **Rep. Kretschmar**: Opened discussion on SCR 4017. Rep. Kretschmar made known to the committee that line 15 from , "not" to the end of the line needs to be deleted as article XX of the constitution has not been in state law since the 1930's.

**Rep. Hawken** moved the proposed amendment. Rep. Winrich seconded the motion. The amendment is as following from line 15, ~~not prohibited by article XX of the constitution,~~

Discussion followed about whether or not XX was removed or renumbered. **Rep. Winrich** noted that there are currently only 13 articles in our state constitution.

**Sen. Tollefson**, moved DNP as amended. Seconded by Rep. Hawken.

Vote: **6** Yes **4** No **0** Absent and Not Voting

**Carriers**: Sen. Tollefson Rep. Kretschmar

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33080.0101  
Title. 0200

Prepared by the Legislative Council staff for  
Joint Constitutional Revision  
February 27, 2003

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4017

Page 1, line 15, overstrike "not prohibited by article XX of the constitution,"

Renumber accordingly

Page No. 1

33080.0101

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Date: 26 February 2003  
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SCR 4017**

HAW Joint Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DNP as amended

Motion Made By Tollefson Seconded By Hawken

Representatives	Yes	No	Senators	Yes	No
Rep. Kretschmar, Chair		x	Sen. Tollefson, Co-Chair	x	
Rep. Maragos		x	Sen. Mutch	x	
Rep. Hawken	x		Sen. Krebsbach	x	
Rep. Eckre	x		Sen. Nichols		x
Rep. Winrich	x		Sen. Seymour		x

Total (Yes) \_\_\_\_\_ 6 No \_\_\_\_\_ 4

Absent \_\_\_\_\_ 0

Floor Assignment Sen. Tollefson  
Rep. Kretschmar

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

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Deanna Tollefson 10/23/03  
Operator's Signature Date

**REPORT OF STANDING COMMITTEE (410)**  
February 28, 2003 9:07 a.m.

Module No: SR-36-3639  
Carrier: Tollefson  
Insert LC: 33080.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**SCR 4017: Joint Constitutional Revision Committee (Sen. Tollefson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (6 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SCR 4017 was placed on the Sixth order on the calendar.**

Page 1, line 15, overstrike "not prohibited by article XX of the constitution,"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-36-3639

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2003 TESTIMONY

SCR 4017

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TESTIMONY IN SUPPORT OF SCR4017

February 5, 2003

Mr. Chairman, and members of the committee;

My name is Curly Haugland. I am a resident of Bismarck and appear before you today in support of SCR 4017 which will, if approved by the legislative assembly, place this amendment to the constitution on the ballot in the primary election in 2004.

Article 10 of the constitution is entitled "Finance and Public Debt" and Section 18, while allowing the state and political subdivisions to engage in business activity (such as the Bank of North Dakota and State Mill) and to provide reasonable support of the poor, clearly prohibits the state and its political subdivisions from "otherwise" lending money, extending credit, and making donations to or investing in private ventures.

This section was last changed in 1918 and served well to protect public funds from misappropriation to private purposes until recently. Attorney General's Opinion 93-02 (#1 attached) restated the last sentence of Article 10, Section 18 by stating that "the State of North Dakota may use public funds to purchase stock in private corporations if the state does so through an industry, enterprise or business created for a public purpose".

Obviously, that interpretation does not harmonize with the constitution when read while respecting the normal rules of grammar.

Since the creation of the "enterprise rule", many "enterprises" have been created in North Dakota to carry out the general activity of "economic development". The North Dakota Future Fund, later to become the North Dakota Development Fund, Inc. is one example. Job Development Authorities are examples of local "fronts" or "enterprises" to make economic development loans, grants or equity contributions "legal".

And that's not just my opinion!

Nevin Van de Streek, City Attorney for the City of Minot, addressed this issue quite frankly in a memo dated August 29, 1997 (#2 attached). His memo indicates that this issue has been the subject of discussion at meetings of the

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Municipal Attorney's Association from time to time. He also offers his opinion as to how the North Dakota Supreme Court might rule if presented with a case on this point.

But it is his final thoughts on this issue that really demonstrate the need to act now when he says, in advising his client the City of Minot, "...I don't see that the City Council has any realistic alternative but to proceed as nearly every other community in the state is proceeding, and as the state itself is proceeding, to wit, as though Article 10, Section 10 (18) of the state constitution was a 'dead letter'".

In reading his words, one can sense the tremendous pressure that has been placed on him to provide an opinion that would allow the city to "do something" to stimulate the economy, provide good jobs for all, and generally use whatever means available to improve the standard of living and expand opportunities for its citizens.

For an attorney to advise his client to treat the constitution as a "dead letter" is an indication of the intensity of the pressure being applied to public officials at all levels to use public funds to fund private enterprises, especially when considering the oath and pledge he took prior to being admitted to practice. (#3 attached)

In a January 18, 1995 letter to David E. Clinton, an assistant attorney general, Van de Streek offers a very detailed discussion on this subject in response to Clinton's inquiry as to how cities handle the disbursement of economic development funds. (#4 attached) This letter is "must" reading before casting your vote on this resolution.

To further complicate this issue, recent Attorney General's Opinions have ruled it is unlawful for a county to donate money to a nonprofit organization to defray costs of a Fourth of July celebration and for a city to donate funds to a centennial association to support a city centennial celebration.

My testimony is not intended to deal with the wisdom of appropriations of public money to private enterprises, therefore, the attached lists of projects funded with state and local funds is simply to provide the committee with evidence that all of the types of prohibited activity are being indulged in.

Mr. Chairman, and members of the committee, I urge you to give this measure a do pass recommendation out of committee as the first step necessary to bring the rule of law into conformity with current practices.

Thank you.

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STATE OF NORTH DAKOTA  
ATTORNEY GENERAL'S OPINION 93-02

Const. Art X, Sec 18  
Const. Art I, Sec 16

①

Date issued: January 28, 1993  
Requested by: Senator Gary J. Nelson

- QUESTION PRESENTED -

Whether the State may use public funds to purchase stock in private corporations.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the State of North Dakota may use public funds to purchase stock in private corporations if the State does so through an industry, enterprise or business created for a public purpose.

- ANALYSIS -

The use of public funds in the context of the question presented is restricted by Article X, Section 18 of the North Dakota Constitution, the Fourteenth Amendment of the United States Constitution and its North Dakota counterpart, Article I, Section 16.

Article X, Section 18 of the North Dakota Constitution provides:

The state, any county or city may make internal improvements and may engage in any industry, enterprise or business, not prohibited by article XX of the constitution, but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation.

N.D. Const. art. X, § 18.

It has long been established that Article X, Section 18 does not prohibit the State from making loans, giving its credit or making donations provided those activities are performed through an "industry, enterprise or business." Gripentrog v. City of Wahpeton, 126 N.W.2d 230 (N.D. 1964). The present issue is whether Article X, Section 18 absolutely prohibits the State from

*Deanna K. Hall*  
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ATTORNEY GENERAL'S OPINION 93-02

January 28, 1993

Page 2

purchasing or owning capital stock in any association or corporation.

In interpreting Article X, Section 18, the North Dakota Supreme Court has concluded that the section contains two distinct portions. The second portion, which begins "but neither the state" and includes the phrase regarding the purchase of capital stock, sets the initial scope and limitation of legislative authority. Northwestern Bell Telephone Co. v. Wentz, 103 N.W.2d 245 (N.D. 1960). The first portion of the section sets "forth an exemption to the limitation." Id. at 253.

In other words, the second portion limits the State's actions by providing that unless "otherwise" allowed, the State may not "loan or give its credit or make donations to . . . nor subscribe to or become the owner of capital stock . . ." As explained by the North Dakota Supreme Court the word "otherwise" in this context means "contrarily." The effect of the use of the word "otherwise" is that the limitations placed on a governmental unit by the second portion of Article X, Section 18 do not apply if the governmental unit is making internal improvements or engaging in any industry, enterprise or business. Id. at 254.

There is no grammatical logic for differentiating between the clause regarding loans and the clause regarding capital stock. Both portions are limited by the word "otherwise." The supreme court recognized as much when it offered the following logic for its conclusion that the limitation of the second portion did not apply to the first portion contained in Article X, Section 18. "It is common knowledge that a state or anyone else cannot successfully engage in an industry, an enterprise or a business without in some manner being involved in a loan, the giving of its credit or the making of donations, and that in some circumstances it might be advisable to become the owner of capital stock in an association or corporation." Wentz, 103 N.W.2d 245, 253. (Emphasis supplied.)

It is therefore my opinion that Article X, Section 18 of the North Dakota Constitution does not prohibit the State of North Dakota from purchasing capital stock in an association or corporation if it does so through an industry, business or enterprise.

The other relevant constitutional provision is the Fourteenth Amendment of the United States Constitution. That amendment provides that the State may not "deprive any person of life, liberty or property, without due process of law." U.S. Const. amend. XIV. North Dakota's Constitution contains a similar provision in Article I, Section 16. N.D. Const. art. I, § 16. Under these provisions the government may not use public moneys for a private purpose. Green v. Frazier, 253 U.S. 233 (1920). Thus, when the government spends tax dollars the legality of that

expenditure turns on whether the expenditure was for a public or private purpose.

A public purpose is one which has as "its objective the promotion of the general welfare of all the inhabitants or residents within a given political division . . ." Green v. Frazier, 176 N.W. 11, 17; 253 U.S. 233 (1920). In Green the North Dakota Supreme Court reviewed grain farming's impact on the state's economy and the welfare of the state's inhabitants. 176 N.W. at 18-20. Noting that little business activity was conducted in the state that did not depend upon the farmer's ability to obtain a fair price for wheat, the North Dakota court concluded that the State Mill was a public entity created for a public purpose. Id.

Recent economic development efforts undertaken by the Legislature in the form of Growing North Dakota were established to allow North Dakota to strengthen and diversify its economy. See Hearing on S. 2058 Before the Senate Industry, Business and Labor Comm., 52nd N.D. Leg. (Feb. 6, 1991) (Statement of John Olson). One of the Legislature's goals continues to be to increase the number and financial strength of businesses in the state and thereby promote the general welfare of the state's residents. When the Legislature has determined that a particular activity will promote the welfare of the residents of North Dakota, the courts will defer to the judgment of the Legislature on that issue. Green, 253 U.S. 233 (1920).

It is therefore my opinion that the legislative goal expressed through the enactment of Growing North Dakota, including the Future Fund, Inc., is a public purpose and public moneys may be spent to affect that purpose. It is my further opinion that the State may use public moneys to purchase stock in private corporations provided the purchase is made through an "industry, enterprise or business" which was created for a public purpose.

- EFFECT -

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.

Heidi Heitkamp  
ATTORNEY GENERAL

pg  
Assisted by: Rosellen M. Sand  
Assistant Attorney General

# city of Minot

CITY ATTORNEY

## Memo

To: Robert Frantsvog, City Finance Director  
From: Nevin Van de Streek, City Attorney  
Re: Communication from North Dakota Small Business Survival Committee  
Date: August 29, 1997

1. The Municipal Attorney's Association, of which I am a member, has discussed from time to time at our annual meetings, the point of state constitutional law which is raised in a letter to Mayor Backes and the City Council from the North Dakota Small Business Survival Committee dated August 28, 1997. In this connection I went on record some years ago as saying that, in my opinion, the frenzy for "economic development" was so intense and pervasive, both on the state-wide level and in numerous North Dakota communities, that I didn't see where the North Dakota Supreme Court had any practical alternative except to reject such constitutional challenge on one theory or another. The exact theory which would be used, I suggested, could be left to the court to figure out.

2. Now I am not as confident that the court would necessarily rebuff a challenge based upon Article 10, Section 18 of the state constitution. I think the ultimate outcome of such a suit would depend upon the economic climate at the time it was heard and decided. If there were an economic downturn, and if there had occurred a series of spectacular failures in the field of economic development, such that a sizable and vocal portion of the populace was disenchanted with economic development activity, quite conceivably the state supreme court might find that there is some residue of meaning in Article 10, Section 18, after all.

3. Quite frankly, it would be of benefit to the state if an entity like the Survival Committee sought a definitive ruling from the supreme court on the issue it raises. (Hopefully, however, we would not be the test case.) Then we would all know where we stand. In the meantime, I don't see that the City Council has any realistic alternative but to proceed as nearly every other community in the state is proceeding, and as the state itself is proceeding, to wit, as though Article 10, Section 10 of the state constitution was a "dead letter."

'Victor Hugo once said something to the effect that there is nothing so powerful as an idea whose time has come. Some years ago, government assistance of private economic development was, in North Dakota, an "idea whose time has come." As far as I know this is still true.

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*Dorinda H. H. H.*  
Operator's Signature

10/23/03  
Date

3

27-11-20. Oath and pledge to be taken by applicants admitted to the bar. Each applicant for admission to the bar of this state, upon being admitted to practice as an attorney and counselor at law, shall take, in open court, the oath prescribed in section 4 of article XI of the

Section 4. Members of the legislative assembly and judicial department, except such inferior officers as may be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability, so help me God" (if an oath), (under pains and penalties of perjury) if an affirmation, and no other oath, declaration, or test shall be required as a qualification for any office or public trust.

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# city of Minot

CITY ATTORNEY

January 18, 1995

David E. Clinton  
Assistant Attorney General  
600 East Boulevard Avenue  
Bismarck, ND 58505-0040

1. As I indicated in a telephone conversation held on December 21, I am enclosing a copy of an opinion I wrote in June of last year, which opinion demonstrates, I believe, my familiarity with the Attorney General's opinions you referenced in that conversation, and which you wanted to send me. I had intended to send this letter that day, but other more pressing (but not necessarily more important) events intervened and prevented me from so doing.

2. For the benefit of those to whom I am sending a copy of this letter, let me mention that you indicated to me in our conversation that your call was one of a number of calls you have been making to City Attorneys in the state in order to inquire about how their respective cities handle the disbursement of economic development funds. You further explained that Attorney General Heidi Heitkamp believes that it is essential - in order to stave off successful legal challenges to economic development activity undertaken by political subdivision of the state - that such political subdivisions, in accordance with the opinions of her office, act through "enterprises."

3. If there were no adverse consequences involved in subscribing to and endorsing the AG's "enterprise" theory, I would have no difficulty in so doing, if only as a gesture of solidarity and respect. But there are some such, (the nature of which I will discuss later) at least if the enterprise theory is accepted in the form which it has been presented to us to date.

4. Therefore, you can hardly blame us if we wish to pause, at least momentarily, before tinkering with what we have been doing in this City in the way of economic development (and on the whole, rather successfully). We are understandably reluctant to redo in a different guise the same thing we have already been doing, may be required by the opinions to which reference is made, if it is not absolutely necessary to do so.

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Moreover, entirely apart from the disadvantages which flow from adopting as our own creed the AG's "enterprise" theory, there are two other reasons not to do so, namely (1) the theory might not work and (2) the theory might not be necessary.

5. By saying the theory might not work I mean that the state supreme court could say something like the following:

We simply cannot read out of the constitution the prohibition on the loan or giving of credit or the making of donations to individuals and corporations. The prohibition must have some meaning. If we were to adopt the interpretation urged upon us by the Attorney General, it would have merely formalistic, and not substantive meaning. Although under the Attorney General's theory of the case the state or a political subdivision thereof could not make a direct grant of money to a private profit-making entity, it could accomplish exactly the same result by channeling the contribution through a self-created "enterprise," the sole purpose of which is to serve as a conduit for such otherwise prohibited donations. We refuse in that manner to exalt form over substance. Hence, we construe the word "otherwise" appearing in Article X, § 18, of the state constitution as applying to the clause "except for reasonable support of the poor," and as not applying to nor referring to the clause which precedes it.

6. In fact, if the court were to approach the constitutional provision in question from the perspective of an "original intent" analysis (which original intent would be the intent which prevailed in 1915 when the most recent amendment to this constitutional provision was framed), it would most likely find that "economic development," even if conducted by an "enterprise" chartered by the state or one of its political subdivisions, is unconstitutional. I should hasten to qualify the statement just made by giving "economic development" a special and limited meaning, to wit, the donation of money to a private business for its business purposes, with no intent that the money be repaid, as opposed to the practice of making a bona-fide loan to a business with every intent of being paid back with interest.

7. In other words, although the original intent behind the 1915 amendment was undoubtedly to allow the creation of the State Bank, and the State Mill and Elevator, etc., even so it is unlikely that the supporters of the amendment envisioned anything like the Future Fund or the Magic Fund. The reason I say this is that it is only logical that the original 1889 prohibition on grants to private individuals or corporations had its roots in some felt necessity of the time, and the fact that the 1915 amendment retained much of the language of the original prohibition suggests very strongly that the 1915 law-framers did not perceive this necessity to have diminished substantially.

8. Therefore, in seeking the present meaning of Article X, § 18, it is quite appropriate to inquire into the historical context in which the cognate provision in the 1889 constitution was formulated. That context is summed up in the following quotation from Fairman, History of the Supreme Court of the United States, Volume VI, Part One (New

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David E. Clinton  
January 18, 1995  
Page 3

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York, Macmillan: 1971):

We must now examine a matter long obscured with the passing of time. For a season, cases on municipal bonds bulked larger than any other category of the Court's business. Chiefly these were bonds issued to purchase stock in order to encourage the building of a railroad. In our period the Court decided some two hundred cases on these railroad aid bonds. When as often happened the railroad never came, or fraud and bribery in the bond issues came to light, or statutory prerequisites had been ignored, or people simply became disenchanted, communities would refuse to pay taxes, interest would be stopped, and then bondholders would sue to compel payment. (Fairman, *op. cit.* 918).

Fairman goes on to explain that some communities were bankrupted by these bond issues, and even when they were not, very unseemly legal proceedings would often result when bonds were repudiated, with federal judges attempting to push a wet noodle by threats of contempt, and by appointing receivers and the like, all in an often futile attempt to collect taxes to pay the bondholders.

9. I think it is a fair inference that this experience was in the minds of the drafters of the 1889 constitution, and that their assessment of the experience led to the original prohibition in question. Further, I assume that by 1915 unpleasant memories of such events had not faded to the extent that law makers of that era thought that the amendment which allowed for the formation of the state bank and the state elevator, would and should also allow for the issuance of municipal railroad bonds of the sort talked about by Fairman, or for other outright grants of assistance to private industry and commerce. Thus the prohibition on "donations" was retained in 1915.

10. Even though, as I have attempted to demonstrate above, our present state supreme court would be on sound historical footing to construe Article X, § 18, so as to disallow outright grants in aid by the Future Fund or the Magic Fund, I would be very surprised if it did so. As I indicate in the enclosed memorandum, currently the tide of public opinion pushes much too strongly in the opposite direction for it to do so. The practical difficulties which would result from a disabling interpretation of Article X, § 18, are also quite considerable.

11. For example, given the prohibition on the ownership of stock which is found in that section, which, one must presume, stands on an equal footing with the prohibition on grants in aid likewise found in that section, it follows that if the prohibition on grants in aid is upheld or interpreted broadly, then likewise the prohibition on stock ownership must be enforced with equal vigor, with the consequence of perhaps making unlawful much of what the State of North Dakota currently may be doing. That is, for example, the

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state has adopted the "prudent investor rule" (see NDCC 21-10-07) and, one must suppose, pursuant thereto, it and its political subdivisions are holding mutual fund type investments in the stock of many different corporations, in apparent contravention of Article X, § 18.

12. So, granting that the state supreme court will very likely uphold grants in aid to private business for purposes of economic development, it does not necessarily follow that the court will employ the Attorney General's method of analysis to arrive at that result. Rather than speaking in terms of "enterprise" analysis, the court might, for example, seize upon certain rhetoric found in Northwestern Bell Telephone Company v. Wentz, 103 N.W.2d 245 (ND 1960) to say that a public grant in aid to a private business is permissible under the North Dakota constitution as long as it is "an onerous donation, which is one burdened with some charge imposed upon the donee." (103 N.W.2d 254.)

13. This language would seem to fit quite nicely the typical economic development grant in aid which is conditioned upon the "onerous" requirement that the donee develop a given number of jobs, or that it refrain from moving its operations to another state or community. True, the Wentz court spoke about the "onerous condition" having a direct relation to internal improvements authorized by what is now Article X, § 18, but as the term "internal improvements" is not defined therein, there is nothing textually which prevents the court from adopting an expansive view as to what constitutes "internal improvements," including under that heading the promotion of economic development.

14. Even if the state supreme court does pick up and run with the AG's enterprise theory, still, it does not follow that the court would tote along all the excess baggage with which the AG encumbers that theory. It is this excess baggage to which I refer when I remark above about the adverse consequences of adopting the AG's enterprise theory unreservedly. More specifically, the excess baggage is the gloss applied to the enterprise theory in which, the AG opines (in A.G. Opinion 93-11), that the home rule ordinance which creates the enterprise must not only authorize the enterprise but must also contain language which "provides assurance that the [enterprise's] activity has a public purpose, details the manner of implementing the activity, and provides for supervisory controls to ensure the public purpose is met."<sup>1</sup>

15. At one level one can appreciate why the AG's office might wish to add the puppydogs requirements to the "enterprise theory" of promoting industrial and commercial

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<sup>1</sup>These requirements or criteria could be paraphrased and given an acronym thus: **PUBLIC PURPOSE Detailed Operative Guidelines and Supervision requirements, or PUB.PUR.D.O.G.S. requirements.** With some literary license, I will refer to them hereafter as the "puppydogs" requirements.

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development through direct grants in aid. The enterprise theory itself (which, as far as I know, has never been fully articulated), as I understand it, runs somewhat along the following lines: "It is true that the original 1889 provision was an outright ban on direct grants in aid (and loans, for that matter) to private enterprises. However, in 1915 a textual amendment was made whereby such direct grants in aid were authorized as long as they were not done directly, but rather through an 'enterprise' - the theory being that such a requirement would avoid the excesses and improvidence which gave rise to the 1889 prohibition in the first instance. In other words, what was a ban is now an authorization, but one which imposes procedural requirements." If what I have just related is in fact the reasoning behind the AG's enterprise theory, then it follows at first glance that the puppydogs requirements make sense, and are consistent with the enterprise theory.

16. The unintended consequences, however, of imposing the puppydogs requirements to the enterprise theory can be considerable. First, it is difficult to see how doctrinally one can confine the scope of puppydogs requirements to enterprises devised by home rule municipalities to make grants in aid of industrial and commercial development. In view of the broad and expansive meaning attributed by the AG to the term "enterprise,"<sup>2</sup> it is nearly impossible to conceive of an activity which (a), must be authorized by a home rule ordinance because it is not explicitly authorized by, nor authorized by fair implication from, statutory grants of municipal powers applicable generally to North Dakota municipalities, but which (b), at the same time is so simple, limited in scope, and free from risk, as not to constitute an "enterprise."

17. To be sure, the potentially great scope of puppydogs requirements would not be objectionable if the requirements were compelled by unambiguous rulings of the courts, or if, viewed as an original proposition, they were meritorious. But neither condition prevails. The theme - that the court rulings cited by AG Opinion 93-11 do not, in fact, support the propositions for which they are cited - is already developed in detail in the enclosure, so I will not repeat that analysis here (although in passing I will elaborate upon it somewhat).

18. This leaves the question whether the merits of the puppydogs requirements are so beneficial that they ought to be adopted for their own sake. On the balance, I cannot see that this is so.

19. The first puppydogs requirement is that the home rule ordinance - which authorizes the establishment and operation of an enterprise designed and operated to

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<sup>2</sup>"Given the foregoing authorities, it is my opinion the term 'enterprise' means any activity which does not violate the North Dakota Constitution or statutes and which is of some scope, complication, or risk." AG Opinion 93-11, p. 42.

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promote economic development -- provide "assurances of a public purpose." This requirement is somewhat puzzling because it is either tautological, and thus redundant, or if it not tautological, it is of uncertain meaning and application, and thus invites more trouble than it possibly could avoid. The "public purpose" requirement risks tautology, at least in the context of enterprises designed to foster economic development, because it is implicit under the enterprise theory that -- as a matter of state constitutional law -- an economic development enterprise serves a public purpose. Or one can put the proposition this way, how does a municipality go about creating an enterprise which promotes economic development without by that act alone "assuring a public purpose?"

20. Of course, the "assure a public purpose" puppydogs requirement could merely be a shorthand reference to the "details" and "supervisory controls" puppydogs requirements, but if so, then the redundancy is merely of another kind, and just as unnecessary.

21. If the "public purpose" criterion does not simply repeat whatever constitutional issue as may remain today under that heading,<sup>3</sup> but rather if it raises a statutory issue of non-constitutional dimensions, then one must ask what statute is being invoked? One could claim perhaps that it implicates questions under Ch. 40-05.1 of the North Dakota Century Code, but as NDCC 40-05.1-06(11) grants to home rule municipalities the power "to engage in any utility, business, or enterprise permitted by the constitution . . ." (emphasis added), it is difficult to see how one can justly wring an extra-constitutional "public purpose" issue out of Ch. 40-05.1, and it is even more difficult to see the wisdom of making the attempt.

22. The next puppydogs requirement is that the implementing ordinance contain "sufficient details." As noted in the accompanying materials, this requirement has dubious antecedents in the form of a dictum in a case -- Litten v. City of Fargo, 294 N.W.2d 628 (ND 1980) -- which case involved not at all the issue whether a particular home rule ordinance was "sufficiently detailed" so as to invoke properly the home rule powers found in NDCC 40-05.1-06. In fact the Litten court explicitly found that there was no ordinance before it which purported to invoke the particular power at issue which was claimed to have been granted therein (to change the form of the city government). There being no such ordinance whatsoever, the court can hardly be understood as complaining that the non-existing ordinance was not sufficiently detailed! (Obviously, anything which does not

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<sup>3</sup>At former times American constitutional case law and municipal case law included abundant instances in which the issue was raised whether a particular activity -- which activity is now a commonplace service of local government -- served the public interest and thus was constitutional. The scarcity of such cases in the last 30 years or so indicates that this issue may have lost most of whatever validity it once had.

exist will tend to lack somewhat in details.)

23. Actually, the court held that NDCC 40-05.1-06 did not in fact contain a grant to home rule cities of the power to change the form of city government, so that even if there had been in existence an ordinance which purported to invoke that power, the ordinance would have been ineffectual, without regard to the amount of detail it contained.

24. Litten also presents suspect credentials as an authority for the "sufficient detail" test sought to be imposed by the AG's office because of the context where the discussion of "sufficient detail" occurs. It is somewhat difficult to summarize that context precisely, because the opinion in Litten was written by the late Justice Paul Sand, whose opinions always tended to be somewhat diffuse, discursive, unfocused, and non-linear. Nevertheless, it appears as though Sand is saying in Litten that the court concludes for two reasons that NDCC 40-05.1-06(4) does not constitute a grant of authority to change the form of government of a home rule city.

25. First, says Sand, the word "officer" which appears therein is established by other provisions of the North Dakota Century Code to exclude members of the "executive or governing body."

26. Second, he continues (and here his argument becomes more difficult to trace), (a) when the legislature provided for a change in government of a non-home rule city it enacted statutes which contain a great deal of detail, (b) but NDCC 40-05.1-06(4) contains no detailed provisions whatsoever concerning how and to what extent the government of a home rule city may be changed, (c) many practical problems could develop in changing from one form of government to another in the absence of details as to how the change is to be accomplished, (d) if the absence of detail as to the form of government which might be adopted by a home rule city is tolerated, the voters might conceivably establish "a one man rule"<sup>4</sup> which the legislature hardly could have intended, (e) in the absence of detail as to form of government to be adopted and the manner in which the transition is to occur the electors cannot make an informed decision, (f) consequently, the court concludes that NDCC 40-05.1-06(4) does "not give home rule cities the authority to select any form of government it (sic.) may desire."

27. As the foregoing necessarily detailed discussion reveals, Litten does not stand for the general proposition that a home rule ordinance -- which invokes a statutory grant of powers to home rule cities found in NDCC 40-05.1-06 -- must be "sufficiently detailed" before it can be effective and lawful, but rather it stands for the proposition that NDCC 40-

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<sup>4</sup>As columnist Dave Berry says, "I am not making this up."

05.1-06(4)<sup>6</sup> cannot be construed as impliedly allowing for a change in the form of a home rule government, which change is not already allowed generally to a non-home rule city of the same category, because that subsection of the Century Code does not contain sufficient detail (a) as to how such a change is to be accomplished and (b) with regard to the permissible forms of alternate government which may be elected.

28. The continuing validity of any "sufficient detail" rule which one might read into Litten is called into question by virtue of subsequent amendments to Ch. 40-05, NDCC. Attached hereto is a copy of Chapter 455 of the 1985 Session Laws which, it is fair to say, is a legislative reversal of the result, if not of the reasoning, of Litten. You will note that this law created a new definitional section of Ch. 40-05.1 whereby for purposes of that chapter - including NDCC 40-05.1-06(4) - the term "city officers" was defined to include the members of the governing body and NDCC 40-05.1-06(4) was amended by adding (somewhat redundantly, given the definition just commented upon) the following: "To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer, and city officers."

29. Given this clear expression of public policy it is difficult to imagine our state supreme court saying: "Nice try legislature. You clearly expressed a legislative intent that home rule cities have the power to change their form of government in a manner and to an extent not allowed to conventional cities. But you didn't provide sufficient detail! So your whole effort in that regard was but an exercise in futility." To be sure, one can speculate that the court might hold in some future case that Ch. 455 of the 1985 Session Laws prevailed in its purpose of creating a statutory grant of authority where none had existed before, but that the implementing ordinance which invokes that power, consistent with Litten, must be sufficiently detailed so that the voters (if the matter need be put to a vote, at least as an original proposition) "may make an informed choice." However, for reasons to be explained shortly, the court may just as likely, if not more so, decline to elevate what, at best, is but an attenuated dictum in Litten, into a rule of law.

30. And before proclaiming the "sufficient detail" concept as an Article of Faith, as the AG's Office appears to do in Opinion 93-11, one would have thought that it might have given more consideration to the question whether it was absolutely compelled to do so, and whether there were disadvantages in so doing. On the first point, the exhaustive discussion of Litten above demonstrates, I submit, that there exists an intellectually honest basis for declining to find a generally applicable "sufficient detail" test lurking therein. On

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<sup>6</sup>As it then read. It has since been amended; see below.

the second point, I submit, that as a practical matter the lack of "sufficient detail," if it is a problem, is a self-limiting and self-correcting problem, so that there is little to be gained, and much to be lost, by attempting to introduce yet another legal issue which lawyers can and will argue about, if a challenge is ever launched against economic development, either locally or at the state level.

31. Let me try to explain by what I mean when I claim that insufficiency of detail is a self-limiting and self-correcting problem. First, to the best of my knowledge courts generally, and the North Dakota Supreme Court specifically, simply do not invalidate statutes on the basis that they lack sufficient detail. They may invalidate statutes because they conflict with constitutional limitations, or are not constitutionally authorized, but they do not hold them to be invalid because of "insufficient detail."

32. This leaves the issue of "insufficient detail" to the practical world of politics and business. Therein, if a statute lacks "sufficient detail" from a political perspective -- in the sense that the executive branch which is charged with carrying it out does not do so to the extent and in the manner desired by the legislature which enacted it -- the legislature corrects the problem by amending the statute to add the desired detail. (The interplay between the Congress and the Reagan Administration concerning environmental laws provides an excellent case history of this process in action.)

33. Similarly, if a statute is lacking in "sufficient detail" from a business perspective, then the practical disabling effect is as great or greater than if a court of law had decreed the statute to be void under the court's own "sufficient detail" analysis. More concretely, if a home rule city creates an economic development enterprise and the local banks refuse to do business with it -- if they do not accept its guaranty of a loan or reject its commitment to buy down interest on a loan, for examples -- because the banks are looking for specific grants of authority in the "charter" of the economic development enterprise for it to undertake such activities, then the local governmental sponsor of the economic development enterprise will either enact the necessary ordinance changes to cure the insufficient detail problem, or it will abandon, formally or merely by inaction, the enterprise.

34. Thus, as I said above, the problem of "insufficient detail" is self-limiting and self-curing in the real world of practical affairs, and need not be made into an independent issue of law, at least when the issue is the sufficiency of an ordinance which is intended to be self-executing, as opposed to an ordinance which merely lays the groundwork for an election, where arguably the need for "sufficient detail" so as to allow the electorate to make an informed choice is perhaps greater.

35. Even in the context of an election, however, the zeal with which the state

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supreme court embraces and enforces the "sufficient detail" test (if it does so at all) is brought into question by the recent case of Municipal Services Corp. v. Kusler, 490 N.W.2d 700 (N.D. 1992). Kusler involved an attempt to prevent the placement on the ballot of an initiated measure relating to the disposal within the state of solid waste materials. Those who brought the action made an implicit "insufficient detail" argument. "They asserted that the Secretary [of State] should not have approved the petition, because the proposed measure's scheme for computing the fee on waste disposal was vague and confusing and because the measure inadequately described the conduct which could result in the imposition of criminal sanctions thereunder." 490 N.W.2d 703-704. The court did not even entertain the merits of this "insufficient detail" argument.

We hold that the Secretary's constitutional responsibility under Ar. III, § 2, N.D. Const., to approve the form of a petition, is limited to ascertaining whether the petition complies with the statutory requirements for form and whether the petition contains impermissible, extraneous statements. In reviewing a petition for form, the Secretary must not be concerned with the merits of the petition or with the substance of its text.

36. The remaining puppydogs requirement is that the implementing ordinance contain supervisory controls to provide that the public purpose sought to be accomplished by the creation of the economic development enterprise is met. In insisting upon this requirement the AG's Office suggests that it has been successfully inoculated against any sense of irony. After all, the entire thrust of the AG's enterprise theory, as best as I have been able to reconstruct it, is that whereas neither the state nor a political subdivision thereof can make a direct grant of aid to a private profit-making entity, with no expectation of repayment, nevertheless either or both lawfully can accomplish the same result indirectly by acting through an "enterprise." It would seem to follow inexorably, however, that to the greater extent such supervisory controls become detailed, comprehensive and inescapable, correspondingly the less plausible becomes the argument of the governmental sponsor of the enterprise that not it, but rather an independent "enterprise," is making the grants in aid.

37. This is not to deny, however, that in the context of governmental assistance to economic development that the concept of "supervisory control" has some real meaning as a potential issue of law. Rather my contention is that in such context the concept of "supervisory control" has a different origin and a different meaning than those attributed to it in AG Opinion 93-11. The goals of public administration and policy which are legitimately and usefully served under the AG's puppydogs "supervisory controls" requirement are already recognized, protected, and implemented through a hoary but vital doctrine of constitutional law, to wit, that legislative powers cannot be delegated excessively.

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38. Furthermore, this same constitutional doctrine already and independently accomplishes largely the same goals as the AG's Office seeks to accomplish by means of its puppydogs "sufficient detail" requirement. That is, one of the things the courts look at in determining whether there has occurred an impermissible delegation of legislative power is whether the act or law delegating the power contains sufficient details to guide the entity to whom the power is delegated in regard to the legislative intent and purpose behind the delegation, or whether, conversely, the delegate is given the unfiltered and unviewed power to impose its own notions of what constitutes sound public policy.

39. In view of the success over the decades of this doctrine of constitutional law in preserving the essence of public control over public lawmaking, one has to question the wisdom of creating a similar, but different and additional issue -- whether the "supervisory controls" test of AG Opinion 93-11 has been met -- particularly when the sole case cited in that opinion as the basis for the test does not, in fact, seem to announce or endorse any such test, as pointed out in the enclosed materials.

40. Of course, the City of Minot's Magic Fund, should have no difficulty in meeting the puppydogs "supervisory controls" requirement, as it acts only in an advisory capacity to the City Council concerning what entities should be provided assistance, and upon what terms and conditions. No money is spent without the Council's explicit authorization upon a formal roll call vote. No doubt you might contend that this itself is a fatal deficiency, as it demonstrates that no separate "enterprise" has been created to make grants in aid of economic development, so that consequently Article X, § 18 of the state constitution is breached. If so, I would be tempted to respond that a fundamental weakness in the "enterprise" theory is thereby revealed. If carried to its logical extremes it represents a complete abdication of public responsibility and accountability, a justly reprehensible result which the AG's office seeks to avoid through the puppydogs "supervisory controls" requirement, but which requirement, in turn, if carried to its logical conclusion, makes the "enterprise" nothing more than a legal fiction or Potemkin village.

41. In sum, rather than rushing headlong to embrace the AG's enterprise theory of economic development, and its attendant puppydogs requirements, there is much to be said for a deliberate policy of intentional vagueness with regard to the legal basis and theory of governmental assistance to economic development -- in the form of outright grants of aid -- until such time, if ever, the occasion arises for the state supreme court to offer guidance and lay down rules on that subject. The more general the authorization activity undertaken by governmental sponsors of economic development activity in the meantime, the easier it will be for them to claim at some later date that whatever the state supreme court requires in the way of authorization and control is already implicit in that



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which they have already done.

Sincerely yours,

  
Nevin Van de Streek

NV:nv

Enc.

cc: Bob Schempp  
Howard Swanson

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NORTH DAKOTA DEVELOPMENT FUND  
EQUITY INVESTMENTS

Company	Location	Date of Inv.	Amount	Fund	Type	Active/ Charge-Off	Chg-Off Amount
TAG	Grand Forks	7/16/1990	75,000	Dev. Fund	equity	C/O	71,031
Sawyer Beef	Sawyer	9/7/1990	50,000	Dev. Fund	equity	C/O	45,000
TAG	Grand Forks	10/9/1991	225,000	Dev. Fund	equity	C/O	225,000
Dakota Catalyst	Williston	4/9/1992	300,000	Dev. Fund	equity	C/O	300,000
Oral Logic	Minot	4/16/1992	300,000	Dev. Fund	equity	C/O	300,000
AdMed, Ltd.	Bismarck	5/20/1992	100,000	Dev. Fund	equity	In Settlement	
Mid-America Aviation	Finley	8/12/1992	38,000	Dev. Fund	equity	Paid	
Precision Fiberglass	Edgeley	8/12/1992	250,000	Rural Fund	equity	C/O	250,000
ATL, Ltd.	W. Fargo	7/16/1992	50,000	Dev. Fund	equity	C/O	50,000
Aatrix Software	Grand Forks	7/31/1992	300,000	Dev. Fund	equity	Active	
Hydrobikes	Jamestown	8/20/1992	300,000	Dev. Fund	equity	C/O	300,000
ADE	Regent	9/11/1992	50,000	Dev. Fund	equity	C/O	50,000
Harvest Fuel	Walhalla	9/11/1992	75,000	Dev. Fund	equity	Active	
Dakota Pasta	Carrington	10/28/1992	700,000	Dev. Fund	equity	Paid	
Mid-America Aviation	Fargo	10/29/1992	230,000	Dev. Fund	equity	Paid	
USA Technologies	Hillsboro	11/4/1992	150,000	Dev. Fund	equity	C/O	150,000
Technology Appl. Group	Grand Forks	11/19/1992	100,000	TTI	equity	C/O	100,000
Infrared Technologies	Grand Forks	12/10/1992	140,000	Dev. Fund	equity	C/O	140,000
Oral Logic	Minot	12/10/1992	100,000	Dev. Fund	equity	C/O	100,000
Mightylite	Hankinson	12/21/1992	200,001	Dev. Fund	equity	C/O	200,001
Ames Mfg.	Williston	12/31/1992	300,000	Dev. Fund	equity	C/O	198,600
ADE	Regent	1/4/1993	25,000	Dev. Fund	equity	C/O	25,000
Robodyne	Rugby	1/19/1993	300,000	Dev. Fund	equity	C/O	300,000
Kirschmann Mfg.	McClusky	4/7/1993	150,000	Dev. Fund	equity	C/O	150,000
Mightylite	Hankinson	4/7/1993	99,999	Dev. Fund	equity	C/O	99,999
LAS International	Carrington	4/30/1993	100,000	Dev. Fund	equity	Active	
Kirschmann Mfg.	McClusky	6/17/1993	150,000	Dev. Fund	equity	C/O	150,000
Tech Rom Libraries	Mandan	7/22/1993	75,000	Dev. Fund	equity	C/O	75,000
Buffalo City Wood Prod.	Jamestown	9/20/1993	50,000	Dev. Fund	equity	Active	
Precision Fiberglass	Edgeley	9/24/1993	20,000	Rural Fund	equity	C/O	20,000
ADE	Regent	10/27/1993	43,000	Dev. Fund	equity	C/O	37,769
Robodyne	Rugby	11/15/1993	100,000	TTI	equity	C/O	100,000
Mexican Village	Hillsboro	12/7/1993	60,000	Dev. Fund	equity	C/O	60,000
Dakota Catalyst	Williston	12/29/1993	250,000	Dev. Fund	equity	C/O	250,000
Kirschmann Mfg.	McClusky	1/28/1994	163,000	Rural Fund	equity	C/O	163,000
NuGrain	Harvey	3/4/1994	200,000	Rural Fund	equity	C/O	200,000
NYTAF Ind.	Edmore	3/10/1994	25,000	Rural Fund	equity	C/O	25,000
Banton Industries	Minot	5/23/1994	140,000	Dev. Fund	equity	C/O	140,000
Edmore Dev. Corp.	Edmore	5/27/1994	80,000	Rural Fund	equity	C/O	80,000
Dakota Fiber	Casselton	6/2/1994	33,700	Rural Fund	equity	C/O	33,700
QMAS	Walhalla	8/6/1994	150,000	Dev. Fund	equity	C/O	150,000
Q&R Processing	Tolna	8/8/1994	75,000	Rural Fund	equity	C/O	75,000
Chiefs Choice	Mandan	8/15/1994	175,000	Dev. Fund	equity	C/O	175,000
Bismarck Ind. (Unisys)	Bismarck	12/9/1994	700,000	Dev. Fund	equity	Active	
Hydrobikes	Jamestown	1/30/1995	175,000	Dev. Fund	equity	C/O	175,000
NuGrain	Harvey	2/14/1995	275,000	Rural Fund	equity	C/O	275,000
Banton Industries	Minot	2/15/1995	50,000	Dev. Fund	equity	C/O	50,000
NYTAF	Edmore	2/24/1995	125,000	Rural Fund	equity	C/O	125,000
Aviko USA LLC	Jamestown	9/15/1995	300,000	Dev. Fund	equity	Paid	
Noble Dev. Corp.	Hazen	1/8/1996	300,000	Rural Fund	equity	Active	
Dakota Fresh	Casselton	4/23/1996	50,000	Rural Fund	equity	C/O	50,000
Cirrus Design Corp.	Grand Forks	5/10/1996	500,000	Dev. Fund	equity	Active	
Flasher Dev. Corp	Flasher	5/31/1996	24,000	Rural Fund	equity	C/O	10,500

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NORTH DAKOTA DEVELOPMENT FUND  
EQUITY INVESTMENTS

Robodyne	Rugby	7/15/1996	50,000	TTI	equity	C/O	50,000
Farmer's Choice Pasta	Leeds	10/29/1996	300,000	Rural Fund	equity	C/O	300,000
Dakota Aero	Devils Lake	8/8/1997	100,000	TTI	Equity	Active	
Biodigestor Technologies	Grand Forks	12/24/1997	200,000	Dev. Fund	equity	C/O	200,000
Noble Dev. Corp.	Hazen	5/18/1998	100,000	Rural Fund	equity	Active	
Cirrus Design Corp.	Grand Forks	8/31/1998	500,000	Dev. Fund	equity	Active	
Williston EDC	Williston	9/10/1999	300,000	Dev. Fund	equity	Active	
Halliday JDA	Halliday	11/22/1999	25,000	Rural Fund	equity	Active	
Drayton Grain Processors	Drayton	3/1/2000	204,846	Rural Fund	equity	Paid	
Schultz Creamery	Bismarck	3/3/2000	200,000	Dev. Fund	equity	C/O	200,000
Abrasives Inc.	Glen Ullin	8/31/2000	150,000	Rural Fund	equity	Active	
Napoleon Future Fund	Napoleon	10/24/2000	30,000	Rural Fund	equity	C/O	10,000
Dakota Aero	Devils Lake	5/7/2001	75,000	Rural Fund	equity	Active	
FarmNet Services, Inc.	Harvey	5/8/2001	75,000	Rural Fund	equity	Active	
Convexity LLC	Fargo	5/18/2001	150,000	Dev. Fund	equity	Active	
Veracity Communications	Grafton	12/27/2001	75,000	Dev. Fund	equity	C/O	75,000
Lisbon Area Development	Lisbon	4/18/2002	75,000	Rural Fund	equity	Active	
Bushel 42	Crosby	4/30/2002	50,000	Rural Fund	Equity	Active	
Data Tranz	Valley City	5/29/2002	50,000	Dev. Fund	equity	Active	
Peragon	Grand Forks	8/28/2002	75,000	Dev. Fund	equity	Active	
Feed Management Syst.	Fargo	11/13/2002	150,000	Dev. Fund	Equity	Active	

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*Deanna Hill*  
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## 1992 Development Fund Investments

Date	Awarded To	Address	Phone	Amount	Type
7/31/1992	Aatrix Software Inc	PO Box 5129 Grand Forks, ND	(701) 746-6801 58206-5129	\$300,000.00	Equity
9/11/1992	ADE	Regent, ND	( ) - - - - 58650	\$50,000.00	Equity
5/20/1992	Admed Ltd	2301 University Dr Bismarck, ND	(701) 224-9959 58504-7595	\$100,000.00	Equity
3/5/1992	Aetna	1800 E Interstate Ave Bismarck, ND	(701) 221-1000 58503	\$350,000.00	Loan
12/31/1992	Ames Manufacturing Inc	PO Box 1166 Williston, ND	(701) 572-1968 58802-1166	\$300,000.00	Loan
7/16/1992	ATL Ltd	West Fargo, ND	( ) - - - - 58078	\$50,000.00	Equity
10/28/1992	Dakota Growers Pasta Company	1 Pasta Ave Carrington, ND	(701) 652-2855 58421-2500	\$700,000.00	Loan
4/16/1992	Dental Healthway Inc	7000 Highway 2 E Minot, ND	(701) 852-9813 58701-9364	\$300,000.00	Equity
12/10/1992	Dental Healthway Inc	7000 Highway 2 E Minot, ND	(701) 852-9813 58701-9364	\$100,000.00	Equity
10/14/1992	Harriston Industries Inc	PO Box 378 Minto, ND	(701) 248-3286 58261-0378	\$200,000.00	Loan
9/11/1992	Harvest Fuel Inc	PO Box 69 Walhalla, ND	(701) 549-3450 58282-0069	\$75,000.00	Equity
8/20/1992	Hydro-Bikes, Inc.	3974 Highway 281 SE Jamestown, ND	(701) 252-4860 58401-9408	\$300,000.00	Equity
12/10/1992	Infrared Technologies	Grand Forks, ND	( ) - - - -	\$140,000.00	Equity
10/29/1992	Mid-America Aviation Inc	601 Main Ave W West Fargo, ND	(701) 282-7782 58078-1521	\$230,000.00	Equity
6/12/1992	Mid-America Aviation Inc	601 Main Ave W	(701) 282-7782 58078-1521		

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		West Fargo, ND		\$36,000.00	Equity
12/21/1992	MightyLight	302 1st St SE Hankinson, ND	58041	\$200,001.00	Equity
7/24/1992	ND Housing & ED/MAA	Fargo, ND	( ) - - -	\$34,000.00	Urban debt
6/12/1992	Precision Fiberglass	PO Box 326 Edgeley, ND	58433	\$250,000.00	Equity
3/2/1992	Pro Entry	Minot, ND	( ) - - - 58701	\$15,000.00	Loan
3/2/1992	Pro Entry	Kenmare, ND	( ) - - - 58746	\$15,000.00	Loan
4/9/1992	Sabin Metal West Corp	PO Box 1085 Williston, ND	(701) 572-3884 58802-1085	\$300,000.00	Equity
9/10/1992	Safe Corporation	Esmond, ND	( ) - - - 58332	\$300,000.00	Loan
8/31/1992	Turtle Mountain Mfg Co Inc	PO Box 770 Belcourt, ND	(701) 477-6404 58316-0770	\$307,000.00	Loan
11/4/1992	USA Technologies Inc	610 Main Ave Fargo, ND	58103	\$150,000.00	Equity

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**1993 Development Fund Investments**

Date	Awarded To	Address	Phone	Amount	Type
1/4/1993	ADE	Regent, ND	( ) - - - - 58650	\$25,000.00	Equity
10/27/1993	ADE	Regent, ND	( ) - - - - 58650	\$43,000.00	Equity
10/27/1993	Blo-Sunn Corp	PO Box 994 Garrison, ND	(701) 337-5315 58540-0994	\$100,000.00	Loan
9/20/1993	Buffalo City Wood Products	PO Box 975 Jamestown, ND	(701) 252-7908 58402-0975	\$50,000.00	Equity
7/20/1993	Dental Healthway Inc	7000 Highway 2 E Minot, ND	(701) 852-9813 58701-9364	\$200,000.00	Loan
9/20/1993	FACT	Fort Yates, ND	( ) - - - - 58538	\$17,000.00	Na lease
7/16/1993	FACT	Fort Yates, ND	( ) - - - - 58538	\$60,000.00	Na lease
7/29/1993	Insta-Screen	309 Burke Ave Harvey, ND	(701) 324-2475 58341-1126	\$80,000.00	Loan
4/7/1993	Kirschmann Manufacturing	McClusky, ND	( ) - - - - 58463	\$150,000.00	Equity
6/17/1993	Kirschmann Manufacturing	McClusky, ND	( ) - - - - 58463	\$150,000.00	Equity
4/30/1993	LAS International Ltd	326 Highway 281 NE Carrington, ND	(701) 652-2661 58421-8796	\$100,000.00	Equity
4/30/1993	LAS International Ltd	3811 Lockport St Bismarck, ND	(701) 222-8331 58503-5554	\$100,000.00	equity
12/7/1993	Mexican Village Wholesale Foods	PO Box 336 Hillsboro, ND	(701) 436-4608 58045-0336	\$60,000.00	Equity
4/7/1993	Mightylight	302 1st St SE Hankinson, ND	58041	\$99,999.00	Equity
9/24/1993	Precision Fiberglass	PO Box 326 Edgeley, ND	58433	\$20,000.00	Equity
1/19/1993	Robodyne Corporation	601 1st St NE Rugby, ND	(701) 776-5374 58368-1225	\$300,000.00	Equity

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9/15/1993	RSA Building	Fargo, ND	( ) - - - -	\$120,000.00 Loan
12/29/1993	Sabin Metal West Corp	PO Box 1085 Williston, ND	(701) 572-3884 58802-1085	\$250,000.00 Equity
7/22/1993	Tech-Rom Library Corporation	4007 State St Bismarck, ND	(701) 258-0800 58501-0620	\$75,000.00 Equity

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## 1994 Development Fund Investments

Date	Awarded To	Address	Phone	Amount	Type
5/23/1994	Banton Industries Inc	3825 S Broadway Minot, ND	(701) 852-3009 58701-7535	\$140,000.00	Equity
3/10/1994	Brite Filte	Hazen, ND	( ) - - - 58545	\$30,000.00	Loan
8/15/1994	Chief's Choice	Mandan, ND	( ) - - - 58554	\$175,000.00	Equity
6/2/1994	Dakota Fiber	Carrington, ND	( ) - - - 58421	\$33,700.00	Equity
8/8/1994	Dakota Kosher Inc	RR 1 Box 124b Tolna, ND	(701) 262-4955 58380	\$75,000.00	Equity
5/27/1994	Edmore Area Development Corp	PO Box 38 Edmore, ND	( ) - - - 58330-0038	\$80,000.00	Equity
8/9/1994	Foam Technologies	Williston, ND	( ) - - - 58801	\$70,000.00	Loan
2/9/1994	FSP Inc	201 15th St Walhalla, ND	(701) 549-3228 58282	\$150,000.00	Loan
9/23/1994	Heart Of The Valley LLC	30 Main St E Mayville, ND	(701) 786-4164 58257	\$50,000.00	TTI
3/4/1994	Image Inc	Minot, ND	( ) - - - 58701	\$25,000.00	Grant
10/18/1994	Integra Castings USA LLC	PO Box 577 Cando, ND	(701) 968-4560 58324-0577	\$600,000.00	Loan
1/28/1994	Kirschmann Manufacturing	McClusky, ND	( ) - - - 58463	\$163,000.00	Equity
10/7/1994	LAS International Ltd	326 Highway 281 NE Carrington, ND	(701) 652-2661 58421-8796	\$100,000.00	Loan
10/7/1994	LAS International Ltd	3811 Lockport St Bismarck, ND	(701) 222-8331 58503-5554	\$100,000.00	Loan
10/26/1994	ND Envelope Company	PO Box 547 Kenmare, ND	(701) 385-3202 58746-0547	\$125,000.00	Loan
3/4/1994	Nugrain Products Company	505 North St W Harvey, ND	(701) 324-4649 58341-1011	\$200,000.00	Equity
3/10/1994	NYTAF Industries,	PO Box 86 Edmore, ND	(701) 644-2305 58330-0086	\$25,000.00	Equity

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	Inc.				
6/22/1994	Oster - E United Test	Hazen, ND	( ) - - - 58545	\$5,000.00	Loan
3/8/1994	Pugsley's Sandwiches	PO Box 1196 Devils Lake, ND	(701) 662-2309 58301-1196	\$200,000.00	Loan
8/6/1994	QMAS Inc	Hwy 32 N Walhalla, ND	(701) 549-3951 58282	\$150,000.00	Equity
8/26/1994	Roger Rausch	Hazen, ND	( ) - - - 58545	\$2,880.00	Loan
3/31/1994	T J Manufacturing Inc	RR 2 Box 208 Harvey, ND	(701) 324-4123 58341-9295	\$40,000.00	Loan
12/9/1994	Unisys Corporation	PO Box 5551 Bismarck, ND	(701) 221-7000 58506-5551	\$700,000.00	Equity

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## 1995 Development Fund Investments

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1/4/1995	Advanced Architecture	Fargo, ND	( ) - - - -	\$28,300.00	TTI
2/15/1995	Banton Industries Inc	3825 S Broadway Minot, ND	(701) 852-3009 58701-7535	\$50,000.00	Equity
9/15/1995	Cavendish Farms	PO Box 1980 Jamestown, ND	(701) 252-5222 58402-1980	\$300,000.00	Loan
9/29/1995	CD Sound Inc	PO Box 2756 Bismarck, ND	(701) 223-7316 58502-2756	\$50,000.00	Loan
2/13/1995	Community Development Corp	PO Box 324 Kenmare, ND	(701) 385-4249 58746-0324	\$15,000.00	Grant
2/1/1995	Falcon Fiberglass Products	PO Box 1937 Williston, ND	(701) 572-6962 58802-1937	\$42,500.00	Loan
3/9/1995	Fisher Flying Products	PO Box 468 Edgely, ND	(701) 493-2286 58433-0468	\$45,000.00	Loan
3/13/1995	Harvey Nordin	8724 50th St NE Devils Lake, ND	( ) - - - - 58301-9561	\$5,000.00	Loan
1/30/1995	Hydro-Bikes, Inc.	3974 Highway 281 SE Jamestown, ND	(701) 252-4860 58401-9408	\$175,000.00	Equity
9/11/1995	L & S Feist Family LLP	Minot, ND	( ) - - - - 58701	\$300,000.00	Loan
2/14/1995	Nugrain Products Company	505 North St W Harvey, ND	(701) 324-4649 58341-1011	\$275,000.00	Equity
2/24/1995	NYTAF Industries, Inc.	PO Box 86 Edmore, ND	(701) 544-2305 58330-0086	\$125,000.00	Equity
5/24/1995	Orbtech International	121 E Broadway Steele, ND	(701) 475-2533 58482	\$10,000.00	Grant
1/23/1995	Red River Trading Company	Grand Forks, ND	( ) - - - -	\$30,000.00	Loan
2/28/1995	Red River Trading Company	Grand Forks, ND	( ) - - - -	\$30,000.00	Loan

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7/21/1995	Thermal Line Windows Inc	PO Box 579 Mandan, ND	(701) 663-1832 58554-0579	\$111,000.00	Loan
1/13/1995	TRJ Enterprises Inc	PO Box 506 Hazen, ND	(701) 748-2558 58545-0506	\$26,000.00	Loan
6/29/1995	U.S. Foodservice	PO Box 14489 Grand Forks, ND	(701) 795-5900 58208-4489	\$100,000.00	Loan
5/22/1995	U.S. Foodservice	PO Box 14489 Grand Forks, ND	(701) 795-5900 58208-4489	\$67,500.00	Grant
1/19/1995	Unisys Corporation	PO Box 5551 Bismarck, ND	(701) 221-7000 58506-5551	\$50,000.00	Grant
3/15/1995	Unisys Corporation	PO Box 5551 Bismarck, ND	(701) 221-7000 58506-5551	\$50,000.00	Grant

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## 1996 Development Fund Investments

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8/21/1996	Baker Boy Supply	170 GTA Dr W Industrial Park Dickinson, ND	(701) 225-4444 58601	\$67,500.00	Loan
5/1/1996	Cargill Financial Service Center	PO Box 6012 Fargo, ND	(701) 271-3500 58108-6012	\$500,000.00	Loan
6/3/1996	Cargill Financial Service Center	PO Box 6012 Fargo, ND	(701) 271-3500 58108-6012	\$100,000.00	Grant
5/31/1996	CD Sound Inc	PO Box 2756 Bismarck, ND	(701) 223-7316 58502-2756	\$20,000.00	Loan
5/10/1996	Cirrus Design Corp	1400 S 48th St Grand Forks, ND	(701) 787-5229 58201-3814	\$500,000.00	Equity
1/4/1996	Cobra Hose Inc	PO Box 5120 Fargo, ND	(701) 234-0100 58105-5120	\$35,000.00	Loan
4/23/1996	Dakota Fresh	PO Box 248 Casselton, ND	(701) 347-5687 58012	\$50,000.00	Equity
3/5/1996	Dakota Medical Laboratory	Fort Totten, ND	( ) - 58335	\$21,600.00	TTI
4/18/1996	Drayton Grain Processors	703 N Main St Drayton, ND	(701) 454-3430 58225	\$300,000.00	Loan
12/30/1996	Dynarnics Marketing Inc (Grafton)	PO Box 590 Cooperstown, ND	(701) 352-1356 58425-0590	\$125,000.00	Loan
5/31/1996	Flasher Development Corp	72 2nd Ave E Flasher, ND	(701) 597-3028 58535-7227	\$24,000.00	Equity
6/10/1996	GFG Food Service Inc	3500 Saratoga Ave Bismarck, ND	( ) - 58503-0726	\$335,000.00	Loan
1/31/1996	Glenmac Inc	PO Box 2135 Jamestown, ND	(701) 252-9300 58402-2135	\$300,000.00	Loan
10/29/1996	Golden Plains Frozen Foods LLC	PO Box 410 Leeds, ND	(701) 466-2200 58346-0410	\$300,000.00	Equity
8/7/1996	Harriston Industries Inc	PO Box 378 Minto, ND	(701) 248-3286 58261-0378	\$250,000.00	Loan

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9/27/1996	Hebron Cheese Company	PO Box 445 Hebron, ND	(701) 878-4290 58638-0445	\$130,000.00 Loan
9/24/1996	Inventory Control Systems Inc	808 151/2 Ave SE Minot, ND	(701) 838-4350 58701	\$90,000.00 Loan
9/24/1996	Inventory Control Systems Inc	808 151/2 Ave SE Minot, ND	(701) 838-4350 58701	\$37,500.00 Grant
5/29/1996	Leeds Economic Development Corp	105 Central Ave S Leeds, ND	(701) 466-2232 58346-7007	\$16,000.00 Loan
12/18/1996	Microlap Technologes Inc	PO Box 280 Rolla, ND	(701) 477-3193 58367-0280	\$300,000.00 Loan
7/31/1996	National Information Solutions Cooperative	PO Box 728 Mandan, ND	(701) 663-6511 58554-0728	\$300,000.00 Loan
1/8/1996	Noble Games	108 12th Ave SW Hazen, ND	(701) 748-6555 58545-4010	\$300,000.00 Equity
3/18/1996	Noble Games	108 12th Ave SW Hazen, ND	(701) 748-6555 58545-4010	\$12,716.00 Loan
6/4/1996	Noble Games	108 12th Ave SW Hazen, ND	(701) 748-6555 58545-4010	\$82,284.00 Loan
4/19/1996	North American Bison Cooperative	PO Box 672 New Rockford, ND	(701) 947-2505 58356-0672	\$300,000.00 Loan
1/12/1996	Pugsley's Sandwiches	PO Box 1196 Devils Lake, ND	(701) 662-2309 58301-1196	\$100,000.00 Loan
7/31/1996	Roadmaster	202 E 4th St Mott, ND	(701) 824-2290 58646-7556	\$120,000.00 Loan
9/23/1996	Schepps Dakota Deli Inc	PO Box 33 Lansford, ND	(701) 784-5529 58750-0033	\$25,000.00 Loan
9/19/1996	Steffes Corporation	3050 Highway 22 N Dickinson, ND	(701) 483-5400 58601-9413	\$67,490.00 Loan
9/19/1996	Steffes Corporation	3050 Highway 22 N	(701) 483-5400 58601-9413	\$282,510.00 Loan

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		Dickinson, ND		
11/18/1996	TRJ Enterprises Inc	PO Box 506 Hazen, ND	(701) 748-2558 58545-0506	\$57,500.00 Loan
10/22/1996	US Bank Service Center	4325 17th Ave S Fargo, ND	(701) 461-3471 58125-6200	\$100,000.00 Grant

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## 1997 Development Fund Investments

Date	Awarded To	Address	Phone	Amount	Type
10/1/1997	AgSCO Inc	PO Box 13458 Grand Forks, ND	(701) 775-5325 58208-3458	\$200,000.00	Loan
4/15/1997	Alloway Industries LLC	1330 43rd St N Fargo, ND	(701) 282-7014 58102-2859	\$300,000.00	Loan
9/29/1997	American Woods Inc	PO Box 13097 Grand Forks, ND	(701) 775-7388 58208-3097	\$200,000.00	Loan
11/3/1997	Associated Potato Growers	2001 N 6th St Grand Forks, ND	(701) 775-4614 58203-1584	\$200,000.00	Loan
3/6/1997	Bandy Technology Systems	PO Box 7037 Fargo, ND	58106-7037	\$50,000.00	TTI
12/24/1997	BioDigerstor Technologies Inc	PO Box 12015 Grand Forks, ND	(701) 775-8775 58208-2015	\$200,000.00	Equity
8/14/1997	Gates Manufacturing	8710 33rd Ave NW Lansford, ND	(701) 784-5434 58750-9716	\$200,000.00	Loan
7/9/1997	Grand Forks Truss Inc	PO Box 5514 Grand Forks, ND	(701) 775-3173 58206-5514	\$150,000.00	Loan
2/21/1997	Harvest Fuel Inc	PO Box 69 Walhalla, ND	(701) 549-3450 58282-0069	\$100,000.00	Loan
9/17/1997	Northern Interlink	3001 12th Ave N Fargo, ND	(701) 293-8451 58102	\$100,000.00	Loan
4/23/1997	Northern Plains Premium Beef	PO Box 651 Mandan, ND	58554-0651	\$25,000.00	Loan
2/3/1997	Northern Plains Premium Beef	PO Box 651 Mandan, ND	58554-0651	\$100,000.00	Loan
7/30/1997	Northern Valley Growers	PO Box 130 Hoople, ND	(701) 894-6464 58243-0130	\$300,000.00	Loan
10/3/1997	Oilseed Growers LLC	PO Box 179 Carrington, ND	(701) 652-1990 58421	\$300,000.00	Loan
12/12/1997	Paulson Premium Seed	PO Box 723 Bowman, ND	(701) 523-5392 58623-0723		

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*Deanna [Signature]*  
Operator's Signature

10/23/03  
Date

	& Conditioning			\$30,000.00 Loan
12/2/1997	Philadelphia Macaroni Co	1801 N 36th St Grand Forks, ND	(701) 772-0080 58203-0801	\$200,000.00 Loan
9/8/1997	Residual Materials Inc	222 Red Dot Place Grand Forks, ND	(701) 746-9381 58203	\$200,000.00 Loan
12/15/1997	Shea Technologies	PO Box 211284 Eagan, MN	(701) 284-7577 55121-2784	\$250,000.00 Loan
7/10/1997	Young Mfg Inc	2331 N 42nd St Grand Forks, ND	(701) 772-5541 58203-1325	\$100,000.00 Loan

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*Deanna K. Hill*  
Operator's Signature

10/23/03  
Date



## 1998 Development Fund Investments

Date	Awarded To	Address	Phone	Amount	Type
5/28/1998	AgPark LLC	Grand Forks, ND	( ) -	\$500,000.00	Loan
5/28/1998	Alchem Ltd LLLP	PO Box 32 Grafton, ND	(701) 352-0602 58237-0032	\$350,000.00	Loan
12/23/1998	Blue Thunder Hawks Inc	PO Box 684 Larimore, ND	(701) 343-6334 58251-0684	\$16,100.00	Loan
8/31/1998	Cirrus Design Corp	1400 S 48th St Grand Forks, ND	(701) 787-5229 58201-3814	\$500,000.00	Equity
4/29/1998	Dacco Inc	2300 Main Ave Fargo, ND	(701) 232-2467 58103-1340	\$400,000.00	Loan
8/14/1998	Drayton Grain Processors	703 N Main St Drayton, ND	(701) 454-3430 58225	\$240,000.00	Loan
10/19/1998	Enoch Schultz Creamery Inc	210 S 13th St Bismarck, ND	(701) 223-6340 58504-6043	\$200,000.00	Loan
7/13/1998	Falcon Fiberglass Products	PO Box 1937 Williston, ND	(701) 572-6962 58802-1937	\$2,797.00	Loan
4/1/1998	Golden Plains Frozen Foods LLC	PO Box 410 Leeds, ND	(701) 466-2200 58346-0410	\$50,000.00	Loan
6/15/1998	Hebron Cheese Company	PO Box 445 Hebron, ND	(701) 878-4290 58638-0445	\$156,250.00	Loan
2/24/1998	Hettinger County Crop & Livestock Improvement Assn	PO Box 607 Mott, ND	( ) - 58646-0607	\$36,000.00	TTI
9/1/1998	International Peace Garden	Dunseith, ND	( ) - 58329	\$50,000.00	Loan
10/1/1998	LAS International Ltd	326 Highway 281 NE Carrington, ND	(701) 652-2661 58421-8796	\$40,000.00	Loan
10/1/1998	LAS International Ltd	3811 Lockport St Bismarck, ND	(701) 222-8331 58503-5554	\$40,000.00	loan
6/11/1998	Microlap Technologies Inc	PO Box 280 Rolla, ND	(701) 477-3193 58367-0280	\$36,248.00	Loan

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*Deanna Talbot*  
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5/18/1998	Noble Games	108 12th Ave SW Hazen, ND	(701) 748-6555 58545-4010	\$100,000.00 Equity
7/23/1998	Northern Interlink	3001 12th Ave N Fargo, ND	(701) 293-8451 58102	\$53,754.00 Loan
9/1/1998	Ollseed Growers LLC	PO Box 179 Carrington, ND	(701) 652-1990 58421	\$200,000.00 Loan
9/1/1998	Olaf Anderson & Son	PO Box 2766 Fargo, ND	( ) - 58108-2766	\$175,000.00 Loan
1/2/1998	Pribbs Steel & Mfg Inc	1726 US 2 Grand Forks, ND	(701) 780-1726 58203-8917	\$250,000.00 Loan
12/18/1998	Pribbs Steel & Mfg Inc	1726 US 2 Grand Forks, ND	(701) 780-1726 58203-8917	\$200,000.00 Loan
5/11/1998	R & S Casework Inc	3362 35th Ave SW Fargo, ND	(701) 298-0252 58104-8835	\$65,000.00 Loan
3/16/1998	Relter Industries Inc	926 E Industrial Dr Dickinson, ND	(701) 225-7000 58601-7506	\$25,000.00 Loan
10/21/1998	Relter Industries Inc	926 E Industrial Dr Dickinson, ND	(701) 225-7000 58601-7506	\$100,000.00 Loan
3/5/1998	Robodyne Corporation	601 1st St NE Rugby, ND	(701) 776-5374 58368-1225	\$19,737.00 Loan
1/30/1998	Rolla Job Development Authority	PO Box 1200 Rolla, ND	(701) 477-9130 58367-1200	\$50,000.00 Loan
12/7/1998	SureWay Systems	Winter Show Rd Valley City, ND	(701) 845-0720 58072	\$299,000.00 Loan

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*Deanna L. H. [Signature]*  
Operator's Signature

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Date

**1999 Development Fund Investments**

Date	Awarded To	Address	Phone	Amount	Type
2/12/1999	Aaseby Industrial Machining Inc	PO Box 218 Wahpeton, ND	(701) 642-8820 58074-0218	\$95,000.00	Loan
5/19/1999	Ameritech	Watford City, ND	( ) - - - 58854	\$97,000.00	Loan
2/9/1999	Blue Thunder Hawks Inc	PO Box 684 Larimore, ND	(701) 343-6334 58251-0684	\$15,671.00	Loan
6/28/1999	Central Machining & Pump Repair Inc	4127 Burdick Expy E Minot, ND	(701) 870-2405 58701-5460	\$225,000.00	Loan
12/3/1999	Commercial Group West LLC	12222 N Central Ave Kenmare, ND	(701) 385-3333 58746	\$400,000.00	Loan
12/22/1999	Countryside Equipment	Hc 2 Box 19 Hope, ND	(701) 945-2777 58046-9514	\$250,000.00	Loan
12/15/1999	Creative Industries Inc	PO Box 248 Kenmare, ND	(701) 385-3244 58746-0248	\$75,000.00	Loan
5/21/1999	Dale's Clothing	115 S Main St Bowman, ND	( ) - - - 58623-4014	\$5,500.00	Loan
1/20/1999	DEVA Lifewear Inc	PO Box 266 Minot, ND	(701) 245-6688 58702-0266	\$300,000.00	Loan
11/22/1999	Halliday Job Development Authority	Halliday, ND	( ) - - - 58636	\$25,000.00	Equity
8/10/1999	LaMoure Feed & Seed Inc	PO Box 585 LaMoure, ND	(701) 883-5755 58458-0585	\$75,000.00	Loan
9/20/1999	Lewis & Clark Regional Council	400 E Broadway Ave Ste 418 Bismarck, ND	(701) 255-4591 58501-4071	\$37,500.00	Loan
12/7/1999	Meridian Environmental Technology Inc	PO Box 14178 Grand Forks, ND	(701) 787-6044 58208-4178	\$90,000.00	Loan
4/8/1999	Oakes Enhancement Inc	PO Box 365 Oakes, ND	(701) 742-3508 58474-0365	\$201,000.00	Loan
2/18/1999	Oakwood Associates	Grand Forks, ND	( ) - - -	\$420,000.00	Loan

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Operator's Signature

10/23/03  
Date

7/8/1999	Oakwood Associates	Grand Forks, ND	( ) -	\$62,878.00	Loan
5/28/1999	Prairie Truck Equipment	2907 4th St SW Minot, ND	(701) 838-7439 58701	\$150,000.00	Loan
5/20/1999	Reiter Industries Inc	926 E Industrial Dr Dickinson, ND	(701) 225-7000 58601-7506	\$25,000.00	Loan
6/15/1999	Rolla Job Development Authority	PO Box 1200 Rolla, ND	(701) 477-9130 58367-1200	\$25,000.00	Loan
9/27/1999	SEI Information Technology	51 Broadway Ste 202 Fargo, ND	(701) 298-8866 58102-4933	\$329,714.00	Loan
4/14/1999	Vector Training Systems	917 46th St S Grand Forks, ND	(701) 775-8830 58201	\$200,000.00	Loan
4/14/1999	Vector Training Systems	917 46th St S Grand Forks, ND	(701) 775-8830 58201	\$100,000.00	Loan
9/10/1999	Wahpeton Community Development Corp	PO Box 608 Wahpeton, ND	(701) 642-8257 58074-0608	\$300,000.00	Loan
11/15/1999	West Dakota Feed & Seed	PO Box 33 Ross, ND	(701) 755-3207 58776-0033	\$100,000.00	Loan
9/10/1999	Williston Area Development Corp	PO Box 1306 Williston, ND	(701) 577-8110 58802-1306	\$300,000.00	Equity
5/28/1999	Workforce ROI Corp	4733 Amber Valley Pkwy S # 5 Fargo, ND	(701) 235-3390 58104-8614	\$86,000.00	Loan

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*Deanna K. Johnson*  
Operator's Signature

10/23/03  
Date

### 2000 Development Fund Investments

Date	Awarded To	Address	Phone	Amount	Type
8/31/2000	Abrasives Inc	4090 Highway 49 Glen Ullin, ND	(701) 584-3422 58631-9742	\$150,000.00	Equity
1/14/2000	BioDigestor Technologies Inc	PO Box 12015 Grand Forks, ND	(701) 775-8775 58208-2015	\$300,000.00	Loan
2/1/2000	Bismarck Canvas Company	Andre Industrial Park Menoken, ND	( ) - 58558	\$35,000.00	Loan
11/29/2000	Buffalo City Wood Products	PO Box 975 Jamestown, ND	(701) 252-7908 58402-0975	\$125,000.00	Loan
11/20/2000	CD Sound Inc	PO Box 2756 Bismarck, ND	(701) 223-7316 58502-2756	\$125,000.00	Loan
3/10/2000	Cobra Hose Inc	PO Box 5120 Fargo, ND	(701) 234-0100 58105-5120	\$250,000.00	Loan
1/11/2000	Countryside Equipment	Hc 2 Box 19 Hope, ND	(701) 945-2777 58046-9514	\$45,000.00	Loan
8/31/2000	Crane Creek Gardens	4551 78th Ave NW New Town, ND	(701) 627-4904 58763-9574	\$50,000.00	Loan
10/13/2000	Gross USA	1204 4th Ave NE Watford City, ND	(701) 842-4000 58854-7007	\$60,000.00	Loan
9/11/2000	Dacco Inc	2300 Main Ave Fargo, ND	(701) 232-2467 58103-1340	\$800,000.00	Loan
2/17/2000	DEVA Lifewear Inc	PO Box 266 Minot, ND	(701) 245-6688 58702-0266	\$100,000.00	Loan
3/1/2000	Drayton Grain Processors	703 N Main St Drayton, ND	(701) 454-3430 58225	\$204,846.00	Equity
6/8/2000	Echelon	300 45th St SW Fargo, ND	(701) 356-3300 58103-1189	\$70,000.00	Loan
3/3/2000	Enoch Schultz Creamery Inc	210 S 13th St Bismarck, ND	(701) 223-6340 58504-6043	\$200,000.00	Equity
5/19/2000	Enoch Schultz Creamery Inc	210 S 13th St Bismarck, ND	(701) 223-6340 58504-6043	\$33,333.00	Loan
10/20/2000	Enoch Schultz Creamery Inc	210 S 13th St Bismarck, ND	(701) 223-6340 58504-6043	\$33,333.00	Loan
11/8/2000	Federal	308 11th St W	(701) 282-8134		

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Operator's Signature

10/23/03  
Date

Date	Machine	Address	Phone	Amount	Type
		West Fargo, ND	58078	\$150,000.00	Loan
12/15/2000	FSP Inc	201 15th St Walhalla, ND	(701) 549-3228 58282	\$94,999.71	loan
12/14/2000	Glass Busters	West Fargo, ND	( ) - - - 58078	\$300,000.00	Loan
1/28/2000	Halliday Job Development Authority	Halliday, ND	( ) - - - 58636	\$13,750.00	Loan
1/28/2000	Halliday Job Development Authority	Halliday, ND	( ) - - - 58636	\$6,000.00	Loan
6/27/2000	Kenmare Motel	Kenmare, ND	( ) - - - 58746	\$250,000.00	Loan
5/22/2000	Lighted Impressions	Columbus, ND	( ) - - - 58727	\$50,000.00	Loan
8/9/2000	Minot Area Development Corp	PO Box 940 Minot, ND	(701) 852-1075 58702-0940	\$500,000.00	Loan
10/24/2000	Napoleon Development Corp	7631 Highway 3 Napoleon, ND	(701) 754-2999 58561-9783	\$30,000.00	Equity
2/17/2000	North American Bison Cooperative	PO Box 672 New Rockford, ND	(701) 947-2505 58356-0672	\$200,000.00	Loan
6/8/2000	Polar Ware Company	910 E 4th St McClusky, ND	(701) 363-2700 58463	\$400,000.00	Loan
9/1/2000	Pump Systems Inc	PO Box 1940 Dickinson, ND	(701) 225-4494 58602-1940	\$20,000.00	Loan
8/2/2000	Pump Systems Inc	PO Box 1940 Dickinson, ND	(701) 225-4494 58602-1940	\$31,250.00	Loan
9/8/2000	Ray-Mac Inc	PO Box 457 Gwinner, ND	(701) 678-2452 58040-0457	\$250,000.00	Loan
8/7/2000	Rosenbluth International Inc	190 26th St E Dickinson, ND	(701) 227-6800 58601-6532	\$20,000.00	Loan
11/8/2000	Sakakawea Lake Cabin Adventure LLC	Hazen, ND	( ) - - - 58545	\$64,600.00	Loan
7/7/2000	Sonne Labs Inc	896 22nd Ave N Wahpeton,	(701) 642-3068 58075-3026	\$225,000.00	Loan

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		ND			
1/12/2000	Souris River Grain	Newburg, ND	( ) - - - - 58762	\$100,000.00	Loan
6/8/2000	Top Taste Inc	PO Box 297 Finley, ND	(701) 524-1380 58230-0297	\$300,000.00	Loan
8/17/2000	TRAX+	Blismarck, ND	( ) - - - - 58501	\$200,000.00	Loan
12/15/2000	TRAX+	Blismarck, ND	( ) - - - - 58501	\$500,000.00	Loan
12/11/2000	Ultra TEC Products Inc	PO Box 269 Dickinson, ND	(701) 483-4800 58602-0269	\$3,333.25	Loan
3/2/2000	West Dakota Feed & Seed	PO Box 33 Ross, ND	(701) 755-3207 58776-0033	\$150,000.00	Loan
2/10/2000	Young Mfg Inc	2331 N 42nd St Grand Forks, ND	(701) 772-5541 58203-1325	\$125,000.00	Loan

Date Requested: Wednesday, January 22, 2003

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*Deanna Galt*  
Operator's Signature

10/23/03  
Date

## 2001 Development Fund Investments

Date	Awarded To	Address	Phone	Amount	Type
3/30/2001	Agri ImaGIS	PO Box 159 Maddock, ND	(701) 438-2242 58348-0159	\$33,333.00	Loan
2/14/2001	All-In-One Products Inc	PO Box 1406 Watford City, ND	(701) 842-4028 58854-1406	\$125,000.00	Loan
2/21/2001	Botanical Silk Accents Inc	3521 Memorial Hwy Mandan, ND	(701) 667-9570 58554-4648	\$100,000.00	Loan
2/14/2001	CadGraphics Incorporated	411 4th Ave Devils Lake, ND	(701) 665-2104 58301-2417	\$60,000.00	Loan
11/1/2001	Contact Centers Unlimited	PO Box 205 Grenora, ND	(701) 694-3000 58845-0205	\$100,000.00	Loan
5/18/2001	Convexity	720 Main Ave Ste 10 Fargo, ND	(701) 235-5525 58103-1807	\$150,000.00	Equity
4/11/2001	Countryside Equipment	Hc 2 Box 19 Hope, ND	(701) 945-2777 58046-9514	\$50,000.00	Loan
5/7/2001	Dakota Aero Manufacturers	300 Dakota Aero Dr Devils Lake, ND	(701) 662-2376 58301	\$75,000.00	Equity
8/10/2001	Dakota Welding and Manufacturing Inc	PO Box 2117 Bismarck, ND	(701) 250-9300 58503-8330	\$36,300.00	Loan
8/2/2001	Data Tranz LLC	PO Box 3102 Fargo, ND	(701) 293-3295 58108-3102	\$50,000.00	Loan
4/19/2001	Echelon	300 45th St SW Fargo, ND	(701) 356-3300 58103-1189	\$140,000.00	Loan
5/8/2001	FarmNet Services Inc	114 9th St W Harvey, ND	(701) 324-4242 58341-1505	\$75,000.00	Equity
2/7/2001	Financial Business Systems	PO Box 3163 Fargo, ND	(701) 235-7300 58108-3163	\$291,000.00	Loan
3/29/2001	Hoselton Reindeer	7928 County 4 Drayton, ND	(701) 454-6387 58225-9677	\$150,000.00	Loan
1/11/2001	Killdeer Mountain Manufacturing	PO Box 450 Killdeer, ND	(701) 764-5651 58640-0450	\$500,000.00	Loan

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*Deanna Halverson*  
Operator's Signature

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2/13/2001	Minot Area Development Corp	PO Box 940 Minot, ND	(701) 852-1075 58702-0940	\$125,000.00 Loan
8/1/2001	NXS Security Group Inc	PO Box 9022 Fargo, ND	(701) 239-1707 58106-9022	\$75,000.00 Loan
7/25/2001	Red River Software	1424 44th St N Fargo, ND	(701) 281-0780 58102-2855	\$90,000.00 Loan
8/9/2001	Ritescreen	Fargo, ND	( ) - - - -	\$75,000.00 Loan
11/1/2001	Sew Worthy	116 E 6th St Bottineau, ND	(701) 228-3550 58318	\$30,000.00 Loan
6/22/2001	Space Age Synthetics Inc	1402 39th St NW Fargo, ND	(701) 277-5631 58102	\$400,000.00 Loan
5/7/2001	Spring Wheat Bakers	4614 Amber Valley Pkwy S Fargo, ND	(701) 281-3800 58104-8612	\$300,000.00 Loan
8/30/2001	Spring Wheat Bakers	4614 Amber Valley Pkwy S Fargo, ND	(701) 281-3800 58104-8612	\$300,000.00 Loan
2/6/2001	Steffes Corporation	3050 Highway 22 N Dickinson, ND	(701) 483-5400 58601-9413	\$20,000.00 Loan
1/5/2001	Ultra TEC Products Inc	PO Box 269 Dickinson, ND	(701) 483-4800 58602-0269	\$20,000.00 Loan
2/20/2001	WebSmart Interactive Inc	609 30th Ave NW Minot, ND	(701) 857-6301 58703	\$300,000.00 Loan
6/22/2001	Will-Rich LLC	PO Box 1030 Wahpeton, ND	(701) 642-2621 58074-1030	\$376,000.00 Loan
4/11/2001	Workforce ROI Corp	4733 Amber Valley Pkwy S # 5 Fargo, ND	(701) 235-3390 58104-8614	\$300,000.00 Loan

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Operator's Signature

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Date