

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1060

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1060

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1060

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-5-05

Tape Number
2

Side A
x

Side B

Meter #
0-26.6

Committee Clerk Signature



Minutes:

Chairman Keiser: called the hearing to order on HB 1060.

Representative Drovdal: appeared in support of HB 1060 and is the primary sponsor. I represent District #39 as everyone knows by far the largest district in ND. I hope this bill will help rural communities, smaller communities, so that we can start shrinking the size of my district to a more compatible district. What this bill does is allows one bank, instead of three or more, it allows one or more, to form a community development corporation in doing so the second change would allow that one bank to have 100% ownership. And the last thing it does it works better for smaller communities rather than large ones, it allows the board of directors to be down from the 15 members, that are currently allowed, to the 5 members this bill would allow.

I ask for your favorable consideration on HB 1060 and will answer any questions.

Senator Espegard: appeared in support of HB 1060. (See attached written testimony) This is a tremendous bill for economic development in rural communities particularly. It will allow the economic developers in N.D. to take advantage of a great federal program, and that is the new market tax credit program. I ask for a recommendation for a Do Pass on 1060.

Dave MacIver, President, GNDCC: appeared in support of HB 1060 (See attached testimony.)

Marilyn Foss, General Council for ND Bankers Association: appeared in support of HB 1060.

This bill conforms and brings our state banks into parity with national banks. This will encourage small banks to form a CDC, this will be a good deal for small communities, and a good deal for the banks. For the banks there is a tax credit, Credit Unions aren't taxed, so the tax credit isn't an incentive to them. We think this bill is a good deal all around and actually might make CDCs a desirable thing for our state to consider, and strongly endorse its approval.

Stephen L. Stenehjem, First National Bank & Trust, Watford City, ND: appeared in support of HB 1060. (See attached written testimony).

Donald Forsberg, Executive VP, Independent Community Banks of ND: appeared in support of HB 1060. (See attached testimony.)

Bob Entringer, Assistant Commissioner, Dept. of Financial Institutions: appeared in support of HB 1060.

Peter Stenehjem: appeared in support of HB 1060. I know a lot about this bill, being I'm the son of Steve Stenehjem. I would like to see this bill passed with an emergency clause.

Representative Ekstrom: I MOVE that we AMEND HB 1060, to add an emergency clause to help HB 1060.

Representative N. Johnson: I would SECOND that motion.

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1060

Hearing Date 1-05-05

No discussion.

All were in favor of amending HB 1060 with an emergency clause. **Motion carried.**

Representative Ekstrom: I move that HB 1060 as amended be given a **DO PASS**.

Representative Froseth: I would **SECOND** that motion.

13 YEAS 0-NAYS 1-ABSENT (Kasper)

Motion carried . Meeting adjourned.

Roll Call Vote #: Date: 1-5-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1060

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend HB 1060 (w/ emergency clause added)

Motion Made By Rep. Ekstrom Seconded By Rep. N. Johnson

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	Absent				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13- No -0-

Absent (1) Rep. Kasper

Floor Assignment Rep. Ekstrom

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

(add emergency clause)

Roll Call Vote #: 2 Date: 1-5-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House **INDUSTRY, BUSINESS AND LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50203.0101 .0200

Action Taken Do Pass As Amended HB 1060

Motion Made By Rep. EKstrom Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper		Absent			
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) -13- No -0-

Absent (1) Rep. Kasper

Floor Assignment Rep. EKstrom

If the vote is on an amendment, briefly indicate intent: (add emergency clause)

REPORT OF STANDING COMMITTEE (410)
January 6, 2005 9:19 a.m.

Module No: HR-03-0109
Carrier: Ekstrom
Insert LC: 50203.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1060: Industry, Business and Labor Committee (Rep. Kelser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1060 was placed
on the Sixth order on the calendar.

Page 1, line 3, after "requirements" insert "; and to declare an emergency"

Page 2, after line 12, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1060

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1060

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-16-05

Tape Number

1

Side A

xxx

Side B

Meter #

2260-4294

Committee Clerk Signature



Minutes: **Chairman Mutch** opened the hearing on HB 1060. All Senators were present.

HB 1060 relates to community development corporation formation requirements and board of director requirements; and to declare an emergency.

Rep. Drovdal introduced the bill. See written testimony.

Marilyn Foss, General Council for the North Dakota Bankers Associations, spoke in support of the bill. See written testimony.

Senator Fairfield: Can you give me an example of how CDC's works?

Foss: There are CDC's that are bank owned that engage in lending or financing. Some of them work with community agencies to benefit low and moderate income.

Senator Fairfield: They operate in some way like a foundation?

Foss: I would not say that because they are not charity.

David Straley, Chamber of Commerce, read testimony of Dave MacIver. See written testimony.

David also passed out the testimony of Don Forsberg. See attached.

Stephen Stenehjem, First International Bank and Trust, Watford City, spoke in support of the bill. See written testimony.

Senator Krebsbach: Are these strictly loans, or can there be grants involved?

Stephen: Marilyn Foss mentioned that it is not a charitable organization, but actually, it kind of is. A CDC would be a subsidiary of our bank. We would put money in this CDC from the bank. From that point, we would lend it out or give grants.

Senator Krebsbach: I'm sure that there is some restriction as to the amount of money you bank and invest into the CDC, what is that based on?

Stephen: It is based on our size and statutory legal lending limits and that sort of thing.

Senator Heitkamp: So you can be just a pass through on some of this stuff?

Stephen: Yes. I envisioned using this CDC for many projects.

Chairman Mutch: You would already have to have the project underway before you transfer the money?

Stephen: But that isn't entirely true to get the tax credits either.

Senator Espegard: You also have to have an entity that pays taxes.

Stephen: Like credit unions, they wouldn't be eligible.

Bob Entringer, DFI, spoke in support of the bill. See written testimony.

There were no questions.

Senator Espegard moved a DO PASS. Senator Klein seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Espegard

Date: 3-16-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1060

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Espegard

Seconded By Klein

Senators
Chairman Mutch
Senator Klein
Senator Krebsbach
Senator Espegard
Senator Nething

Yes No
X
X
X
X
X

Senators
Senator Fairfield
Senator Heitkamp

Yes No
X
X

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

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

REPORT OF STANDING COMMITTEE (410)
March 18, 2005 8:59 a.m.

Module No: SR-50-5385
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1060, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1060 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1060

Mr. Chairman and members of the House Industry, Business and Labor Committee, I am Senator Espegard (District 43) and I am here today as a sponsor for HB 1060.

There are just two quick points that I would like to make regarding this bill. First, this bill would allow the economic developers in rural areas of North Dakota to really take advantage of a great Federal Program (New Market Tax Credits Program). This would be just another tool in their belts to use for Economic Development purposes.

Second, I know there have been calls made from Senator Conrad's office in Washington back to the North Dakota Chamber's office asking if they would run a story in their publication, *The Business Report*, regarding this Federal Program. It is then that we learned that North Dakota is only one of three states that has never participated in this Federal Program.

Thank you Chairman Keiser and members of the House Industry Business and Labor Committee. I would ask for your recommendation of a **Do-Pass of HB 1060**. I'd be happy to answer any questions at this time, although there are others here today that can get more into the details.



Testimony of Dave MacIver
President, Greater North Dakota Chamber of Commerce
Presented to the
House Industry, Business and Labor Committee
January 5, 2005

HB 1060

Mr. Chairman and members of the House Industry, Business and Labor Committee, my name is Dave MacIver. I am the President of the Greater North Dakota Chamber of Commerce. I am here today representing a coalition of seventeen chambers of commerce in North Dakota with over 7,200 member businesses to urge you to **support** House Bill 1060.

HB 1060 would allow any **one** or more banks to form a Community Development Corporation (CDC). Currently, it takes at least three banks to form a CDC, of which, any one bank may not own more than 49% of the CDC. This becomes a problem for rural communities which may not have enough banks to form a CDC.

HB 1060 would also change the board of directors minimum requirement from fifteen to a minimum of five board of directors. As a minimum, this would allow one bank to meet the requirement without unnecessary burdening the smaller CDC with having to find extra directors just to fill the positions. It would just not be practical to require one bank to have fifteen board members. And please note this is a minimum, so CDC's comprised of more than one bank could have more than five board of directors if needed.

If eligible, these CDC's can then participate in the Federal New Markets Tax Credit (NMTC) Program. As I cannot offer you all the details of exactly what the Federal Program allows, I have attached a one-page brief description of the NMTC Program and I can tell you that this bill will be good for Economic Development in North Dakota. To get into more detail, I would like to introduce Mr. Steve Stenehjem from 1st International Bank and Trust of Watford City, North Dakota.

Thank you, Chairman Keiser and members of the House Industry Business and Labor Committee, for this opportunity to discuss the business community's position on HB 1060. The Greater North Dakota Chamber of Commerce urges a **DO PASS** for HB 1060. Thank you and I would be happy to answer any questions at this time.

The following chambers are members of a coalition that support our policy statements:

Beulah
Bismarck Mandan
Bottineau
Cando
Crosby
Devils Lake
Dickinson
Fargo
Grand Forks
Greater North Dakota Chamber of Commerce
Jamestown
Langdon
Minot
Wahpeton
Watford City
West Fargo
Williston

Total Businesses Represented= 7279

NEW MARKETS TAX CREDIT PROGRAM
Community Development Financial Institutions Fund
United States Department of the Treasury

General Overview: The New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against Federal income taxes for making Qualified Equity Investments (QEIs) in designated Community Development Entities (CDEs). QEIs must be made in cash. Substantially all of the QEIs must in turn be used by the CDE to provide qualified investments in low-income communities. The credit provided to the investor totals 39 percent of the investment in a CDE and is claimed over a seven-year credit allowance period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period.

The Community Development Financial Institutions Fund (Fund), a wholly owned government corporation within the United States Department of the Treasury, has been delegated the responsibility of certifying CDEs and allocating NMTCs to such entities. General information on the NMTC Program may be found in the Fund's General Guidance (66 Federal Register 21846, May 1, 2001).

CDE Certification: To qualify as a CDE, an entity must be a domestic corporation or partnership that: 1) has a mission of serving, or providing investment capital for, low-income communities or low-income persons; 2) maintains accountability to residents of low-income communities through their representation on a governing board of or advisory board to the entity; and 3) has been certified as a CDE by the Fund. Information on the CDE certification process may be found in the Fund's CDE Certification Guidance (66 Federal Register 65806, December 20, 2001).

Allocation of NMTCs: The Fund will allocate NMTCs to CDEs through an annual competitive application process. Throughout the life of the NMTC Program, the Fund is authorized to allocate to CDEs the authority to issue to their investors up to the aggregate amount of \$15 billion in equity as to which NMTCs can be claimed. To date, the Fund has completed two award rounds under the program. Through these two rounds, the Fund has made 129 awards totaling \$6 billion in allocation authority. The third round of the NMTC Program is likely to open in the summer of 2004, and will announce the availability of up to \$2 billion in total allocation authority.

Use of QEI Proceeds: A CDE that is awarded an allocation of NMTCs by the Fund will have five years from the date of notification of its allocation to close QEIs with its investors. The CDE will have 12 months to place "substantially all" of the proceeds from the QEIs into Qualified Low Income Community Investments (QLICs), which generally are: 1) loans to, or investments in, qualifying businesses (including certain real estate projects); 2) loans to, or investments in, other CDEs; 3) the purchase of qualifying loans originated by other CDEs; and 4) financial counseling and other services. The requirements relating to how QEI proceeds must be used, including events that could trigger the recapture of NMTCs by the Internal Revenue Service, are described in the IRS Temporary and Proposed Income Tax Regulations governing the NMTC Program (26 CFR 1.45D-1T, published on December 26, 2001 and amended March 11, 2004).

For more information on the NMTC Program and other Fund initiatives, please phone the Fund at 202-622-6355, email the Fund at cdhelp@cafi.treas.gov, or visit the Fund's website at www.cafifund.gov.

1060

New Markets Tax Credits Program North Dakota Eligible Counties

The following North Dakota counties are either entirely or partially eligible to qualify for the New Markets Tax Credits. Shaded maps on the Web can be found at www.agventuresalliance.com/

(Please note: There may be smaller Census tracts in other counties that may qualify, such as a township or townships that qualify based on income and poverty levels.)

Adams
Benson
Burke
Burleigh
Dunn
Emmons
Grant
Hettinger
Kidder
Logan
LaMoure
McIntosh
McKenzie
McLean
Mercer

Morton
Mountrail
Pierce
Renville
Rolette
Richland and Sargent (only
the portion of Lake Traverse
Indian Reservation)
Sheridan
Sioux
Slope
Stark
Towner
Wells



Testimony of Stephen L. Stenehjem

First International Bank & Trust, Watford City, ND

Presented to the

House Industry, Business and Labor Committee

January 5, 2005

HB 1060

Mr. Chairman and members of the House Industry, Business and Labor committee, my name is Stephen L. Stenehjem. I am the President of First International Bank & Trust. I am here today to urge you to **support House Bill 1060.**

Almost two years ago our bank, First International Bank & Trust, headquartered in Watford City, North Dakota, starting working to form a CDC. We wanted to form a CDC so that we could work for an economic development project in our community. This project would include a new headquarters for our bank and also provide an entertainment complex for our community including a steakhouse lounge, a twin movie theater along with other retail shops.

While setting up the CDC for us, our lawyers discovered that North Dakota law did not allow us to own 100% of a CDC community development corporation. National Banks are allowed to own 100% of one and the Bank of North Dakota is allowed to own 100% of one. State Chartered Banks are only allowed to own 49%. This forces three banks to group together to own one. This requirement is not fair to State Chartered Banks and not practical as many communities only have one bank.

We wanted to form a CDC to access a program called the New Market Tax Credit. This is a law that has been in effect for a couple of years and operated through the US Treasury. Congress allocated approximately \$15 billion to be used for this program and approximately \$5 billion as been allocated to date.

North Dakota is one of only six states that have not received any credits to date under this program. We worked for over a year to get approved and were not successful. We would like to try again and our efforts would be much easier if our bank could own the CDC directly. The New Market Tax Credit allows for a 39% credit of the amount spent on the project and you are allowed to take the credit over seven years against your Federal Income taxes.

Thank you Chairman Keiser and members of the House Industry Business and Labor Committee. I urge a **DO PASS for HB 1060**. I could go into much greater detail but I will take this opportunity to answer any questions you may have.

Enhancing Investment Yield and Project Success Through Use of New Markets Tax Credits

- **The New Markets Tax Credit Program provides a 39% Federal tax credit for business investments in qualified low-income communities.**
- **Investors can utilize the tax credit against other income (versus income from the project), and can apply it in conjunction with other incentive or guarantee programs.**
- **The credit is taken at the rate of 5% for the first three years, and 6% for the next four years.**
- **Investments must be made in census tracts exhibiting household income of less than 80% of the state average, or poverty in excess of 20%. This area encompasses as much as 40% of the U.S. geography.**
- **The tax credit is obtained by channeling investment proceeds through a Community Development Special Purpose Entity that has received an allocation from the Treasury. These SPV shells are single purpose tax vehicles, unique for a given investment activity. Qualified equity investments are made into a CDE shell, and it simultaneously downstreams capital (either equity or debt) to the project via terms established by investors.**
- **Core investment capital must remain in the business for no less than seven years. However, projects can return dividends on equity and interest on loans during that period. Sinking funds and other structures can be applied to "ear-tag" investment capital returns during the interim tax period. If any portion of the initial investment capital (that receives the credits) is returned prior to seven years, another investment must be made in a qualified business in order for the investor to avoid recapture risk.**
- **Levered investment companies can also be created, whereby third party tax credit investors infuse equity in exchange for only the tax credits. Their equity can then be blended with strategic equity or debt to enhance the returns or ownership position of other strategic investors.**

HOUSE BILL 1060

Good morning Chairman Keiser and members of the Industry Business and Labor Committee. For the record my name is Donald Forsberg and I am the Executive Vice President of Independent Community Banks of North Dakota (ICBND). On behalf of the membership of ICBND I am testifying in support to house bill 1060

This bill will allow state chartered banks the ability to have access directly to a federal tax credit "tool" to stimulate their local economies. It will also give state chartered banks the same access to using New Market Tax Credits that national banks and other corporate entities already have. I will also point out that the changes to this bill do not guarantee the award of the federal tax credits to anyone making application to them since it is a competitive process and the amounts of the awards to date have been far less than the amount being applied for. These federal tax credits also are limited to counties meeting certain income or poverty criteria and only 29 counties in North Dakota qualify.

In summary, we believe the bill will provide one more tool for state chartered banks to use in the qualified counties of North Dakota to assist economic development in their area. Mr. Chairman and members of the Industry, Business and Labor Committee, on behalf of the membership of the

Independent Community Banks of North Dakota I therefore respectfully request this committee give this bill a DO PASS recommendation.

Mr. Chairman and members of the Committee this concludes my testimony and I will try and answer any questions you may have.

Testimony of Dave MacIver
President, Greater North Dakota Chamber of Commerce
Presented to the Senate IBL Committee
March 16, 2005



HB 1060

Mr. Chairman and members of the Senate Industry, Business and Labor Committee, my name is Dave MacIver. I am the President of the Greater North Dakota Chamber of Commerce. I am here today representing a coalition of a number of associations, many of which are in this room together with 17 chambers of commerce that speak for over 7,400 member businesses. I am here today to urge you to **support** House Bill 1060.

HB 1060 would allow any **one** or more banks to form a Community Development Corporation (CDC). Currently, it takes at least three banks to form a CDC, of which, any one bank may not own more than 49% of the CDC. This becomes a problem for rural communities which may not have enough banks to form a CDC.

HB 1060 would also change the board of directors minimum requirement from fifteen to a minimum of five board of directors. As a minimum, this would allow one bank to meet the requirement without unnecessary burdening the smaller CDC with having to find extra directors just to fill the positions. It would just not be practical to require one bank to have fifteen board members. And please note this is a minimum, so CDC's comprised of more than one bank could have more than five board of directors if needed.

If eligible, these CDC's can then participate in the Federal New Markets Tax Credit (NMTC) Program. As I cannot offer you all the details of exactly what the Federal Program allows, I have attached a one-page brief description of the NMTC Program and I can tell you that this bill will be good for Economic Development in North Dakota. To get into more detail, I would like to introduce Mr. Steve Stenehjem from 1st International Bank and Trust of Watford City, North Dakota.

Thank you, Chairman Mutch and members of the Senate Industry Business and Labor Committee, for this opportunity to discuss the business community's position on HB 1060. The Greater North Dakota Chamber of Commerce urges a **DO PASS** for HB 1060. Thank you and I would be happy to answer any questions at this time.

3-16-2005

TESTIMONY FOR ENGROSSED HOUSE BILL NO. 1060

Senate Industry, Business, and Labor Committee

Testimony of Robert J. Entringer, Assistant Commissioner, Department of Financial Institutions in support of Engrossed House Bill No. 1060.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee, I am Bob Entringer, Assistant Commissioner of the Department of Financial Institutions. I am here to urge your support of House Bill No. 1060.

Mr. Chairman and members of the Committee Mr. Stenehjem made us aware of the issues his bank faced with regard to this statute. Had this bill not been introduced by others it was on our legislative priority list because of the anti-competitive aspect of this bill. It is and has long been our stance that the playing field should be equal for state and national banks; this bill will level that area of the playing field. In addition, this bill will provide further economic stimulus as can be seen from the project undertaken by Mr. Stenehjem's bank.

Chairman Mutch and members of the Committee, I would urge your favorable consideration of Engrossed House Bill No. 1060, and I would be happy to answer any questions you may have.

Thank you.



Testimony of Stephen L. Stenehjem

First International Bank & Trust, Watford City, ND

Presented to the

Senate Industry, Business and Labor Committee

March 16, 2005

HB 1060

Mr. Chairman and members of the Senate Industry, Business and Labor committee, my name is Stephen L. Stenehjem. I am the President of First International Bank & Trust. I am here today to urge you to **support House Bill 1060.**

Almost two years ago our bank, First International Bank & Trust, headquartered in Watford City, North Dakota, starting working to form a CDC. We wanted to form a CDC so that we could work for an economic development project in our community. This project would include a new headquarters for our bank and also provide an entertainment complex for our community including a steakhouse lounge, a twin movie theater along with other retail shops.

While setting up the CDC for us, our lawyers discovered that North Dakota law did not allow us to own 100% of a CDC community development corporation. National Banks are allowed to own 100% of one and the Bank of North Dakota is allowed to own 100% of one. State Chartered Banks are only allowed to own 49%. This forces three banks to group together to own one. This requirement is not fair to State Chartered Banks and not practical as many communities only have one bank.

We wanted to form a CDC to access a program called the New Market Tax Credit. This is a law that has been in effect for a couple of years and operated through the US Treasury. Congress allocated approximately \$15 billion to be used for this program and approximately \$5 billion as been allocated to date.

North Dakota is one of only six states that have not received any credits to date under this program. We worked for over a year to get approved and were not successful. We would like to try again and our efforts would be much easier if our bank could own the CDC directly. The New Market Tax Credit allows for a 39% credit of the amount spent on the project and you are allowed to take the credit over seven years against your Federal Income taxes.

Thank you Chairman Mutch and members of the Senate Industry Business and Labor Committee. I urge a **DO PASS for HB 1060 with the "emergency clause"**. I could go into much greater detail but I will take this opportunity to answer any questions you may have.

The following chambers are members of a coalition that support our policy statements:

Beulah
Bismarck-Mandan
Bottineau
Cando
Crosby
Devils Lake
Dickinson
Fargo
Grand Forks
Greater North Dakota Chamber of Commerce
Hettinger
Jamestown
Langdon
Minot
Wahpeton
Watford City
West Fargo
Williston

Total Businesses Represented= 7429

TESTIMONY OF MARILYN FOSS IN FAVOR OF HB 1060
STATE BANK OWNERSHIP OF COMMUNITY DEVELOPMENT
CORPORATION

Chairman Mutch, Members of the IBL Committee, my name is Marilyn Foss.

I am general counsel for the North Dakota Bankers Association. I am appearing before you this morning to support HB 1060. The bill allows a state chartered bank to establish and be the sole shareholder for a "community development corporation". Current North Dakota law limits a state bank to a minority (49%) ownership of a CDC. From the reference in section 10-30.6-01 to the limits of federal law, I am assuming the original 49% ownership limitation reflected national bank regulations as they existed when 10-30.6-01 was adopted. However, national banks now have the authority to form and be the sole owner of a CDC. We believe state chartered banks should have equal investment authority and that the state as a whole will benefit from the proposed change.

A community development corporation is formed and operated to conduct activities for the primary benefit of low- and moderate- income individuals, low- and moderate- income geographic areas, other areas that have been targeted by government entities for redevelopment, or for activities for the primary purpose of community development under regulations implementing the federal Community Reinvestment Act.

As an aside, I would note that a bank's investment in a CDC is subject to statutory limits on the amount which may be invested (as a proportion of the bank's capital) and are subject to on going regulatory scrutiny for safety and soundness.

In closing I want to point out that NDBA's legislative committee members were enthusiastic about supporting this change to state law and urged me to convey to the IBL committee NDBA's strong support for this bill.

Thank you.

Senate Industry, Business and Labor Committee

Senator Mutch and members of the Senate Industry, Business and Labor Committee. For the record I am David Drovda, Representative for District 39 that covers 6 counties in Western North Dakota. I am the prime sponsor of HB 1060 and have carried it for a constituent of mine. I would like to briefly explain what the bill changes and why I think it is necessary at this time. There will be people much more knowledgeable in community development, banking and economic development that will testify and be able to provide expert testimony to any questions you may have.

Basically this bill will allow one bank to form a community development corporation (CDC) rather than three or more under current law. It also lowers the number of directors from 15 to 5, a much more practical number. It would also allow one bank to own 100% which needs to be included because of current language.

When CDC were first allowed there was probable one bank in each small community and that bank only served that one community. The requirement to have three or more banks was probable required to assure that one bank couldn't dominate. Today in my community we have three banks and one credit union, all serve many communities and no one could dominate. This bill just brings our requirements up to the current business climate. It doesn't restrict any other banks from forming similar or competing CDC's in any communities.

I thank the committee for its time and ask for your favorable recommendation on HB 1060. I'd be happy to answer any questions.

Rep. David Drovda

INDEPENDENT COMMUNITY BANKS OF NORTH DAKOTA

TESTIMONY OF DONALD FORSBERG

In Support of HB 1060

Good Morning Chairman Mutch and members of the Industry Business and Labor Committee. For the record my name is Donald Forsberg, I am the Executive Vice President of Independent Community Banks of North Dakota (ICBND). ICBND is a trade association for state and national banks who are "Independent" for purposes of eligibility.

I am providing this written testimony in support of HB 1060 on behalf of the membership of ICBND. If passed, this bill will allow state chartered banks to have the ability to directly utilize a federal tax credit "tool" to stimulate local economies through economic development projects. It will also give state chartered banks the same access to using these "New Market Tax Credits" that national banks already have by increasing the amount of a Community Development Corporation (CDC) that a state chartered bank can own from 49% to 100%.

The current limit in state law requires a bank to have 1 or more partners which would own 51% of such a corporation. This is a potentially limiting factor in using the CDC in economic development.

To be awarded "New Market Tax Credits" a competitive application process is followed and the amount awarded to date is far less than that applied for. As of the end of 2004 no awards have been made in North Dakota. One of our member banks attempted to develop and own a CDC to

apply for the credits and was stymied by the existing 49% ownership limitation for banks.

In summary, this bill more will increase the access to one more economic development tool for local communities. We respectfully ask that you give this bill a DO PASS recommendation.