

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1164

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1164

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1164

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-11-05

Tape Number
2

Side A
x

Side B

Meter #
20.8-36.8

Committee Clerk Signature



Minutes:

Chairman Keiser: Opened the hearing on HB 1164. All committee members were present.

Robert Entringer, Asst. Commissioner, Department of Financial Institutions: Appeared in support of HB 1164, and provided purposed amendments to the bill, and provided written testimony (SEE ATTACHED TESTIMONY).

Chairman Keiser: on page to you referred to the fact that your changing the limit so that the state banks will be more like the federally chartered banks? Why not use the same standards? Why not use the same definition?

Robert Entringer: I'm not sure why that 2% limit was put in place when that bill was introduced. It would change a significant number of sections in the law.

No opposition.

Representative Froseth: Made a motion to **Adopt** amendments as presented by Bob Entringer.

Representative Thorpe: SECOND the motion to adopt amendments.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1164

Hearing Date 1-11-05

Representative Froseth: Made a **DO PASS AS AMENDED** motion on **HB 1164**.

Representative Nottestad: **SECOND** the **DO PASS AS AMENDED** motion.

Motion carried. VOTE: 13-YES 0-NO 1-Absent (BOE).

FISCAL NOTE
Requested by Legislative Council
01/13/2005

Amendment to: HB 1164

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		\$0
Expenditures				\$1,500		\$0
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This Bill would not have any fiscal impact on the general fund and would cause very little impact to the Department of Financial Institutions regulatory fund 242.

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

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

No revenue would be collected from this bill.

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

The only expenditure to the Department would be to publish the administrative rules (\$1,200) required in section 3 of the bill, and a special Banking Board meeting(\$300).

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Joan M. Becker
Phone Number: 328-9958

Agency: Department of Financial Institutions
Date Prepared: 01/13/2005

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1164

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues					\$0	\$0
Expenditures				\$1,500		\$0
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This Bill would not have any fiscal impact on the general fund and would cause very little impact to the Department of Financial Institutions regulatory fund 242.

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The only expenditure to the Department would be to publish the administrative rules (\$1,200) required in section 3 of the bill, and a special Banking Board meeting(\$300).

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Joan M Becker
Phone Number: 328-9958

Agency: Dept of Financial Inst
Date Prepared: 01/05/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1164

Page 3, line 12, after "association" insert "association's common stock, surplus, and undivided profits as of the most recent report of condition and income", and remove the overstrike over ". For the purpose"

Page 3, remove the overstrike over lines 13 and 14

Page 3, line 15, remove the overstrike over "source."

Page 3, line 22, remove "association's common stock, surplus,"

Page 3, remove lines 23 and 24

Renumber accordingly.

January 11, 2005

VR
1/11/05

HOUSE) AMENDMENTS TO HOUSE BILL NO. 1164 IBL 1-11-05

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Page 3, remove the overstrike over lines 13 and 14

Page 3, line 15, remove the overstrike over "source."

Page 3, line 22, remove "association's common stock, surplus,"

Page 3, remove line 23

Page 3, line 24, remove "board shall adopt rules for the implementation and enforcement of this section" and overstrike the period

Renumber accordingly

Date: 1-11-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1164

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend HB 1164 as presented by Financial Institutions

Motion Made By Rep Froseth Seconded By Rep Thorpe

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	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment

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

Roll Call Vote #: **2** Date: **1-11-06**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1164

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amended.

Motion Made By

Rep. Froserh

Seconded By

Rep. Nottestad

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

Total (Yes)

13

No

0

Absent

(1) Representative Boe

Floor Assignment

Representative Froserh.

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

REPORT OF STANDING COMMITTEE

HB 1164: 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 1164 was placed
on the Sixth order on the calendar.

Page 3, line 12, after "association" insert "association's common stock, surplus, and undivided profits as of the most recent report of condition and income" and remove the overstrike over ". For the purpose"

Page 3, remove the overstrike over lines 13 and 14

Page 3, line 15, remove the overstrike over "source."

Page 3, line 22, remove "association's common stock, surplus,"

Page 3, remove line 23

Page 3, line 24, remove "board shall adopt rules for the implementation and enforcement of this section" and overstrike the period

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1164

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1164

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 16, 2005

Tape Number	Side A	Side B	Meter #
1	X		380- 1570

Committee Clerk Signature



Minutes: **Chairman Mutch called the hearing to order on HB 1164. All Senators were present.**

Bob Entringer, Assistant Commissioner for the Department of Financial Institutions appeared in support of the bill. See written testimony.

Senator Espgaard- So, we're adding the undivided profits?

Bob- Yes.

Senator Heitkamp- If a bank wants to open up a branch office, do they have to come to you and apply for it?

Bob- Yes. They would have to apply with us and follow the criteria.

Senator Krebsbach- Would you please repeat about the Wilton bank charter situation?

Bob- When they merge, the charter disappears, it would be automatic.

Senator Nething- On Section 3, you add the common stock and undivided profits.

Bob- The common stock is already in place, the capital is common stock. If a bank acquires another bank, the bank has to move its undivided properties.

Marilyn Foss appeared on behalf of the ND Bankers Association in support of the bill.

Senator Espegaard- The section that allows the bank to invest in an investment company, is that similar to 1060?

Marilyn- No.

Bob- SIBC are investments authorized under federal law, we don't see much of them in our state chartered banks.

There was no further testimony. Chairman Mutch closed the hearing on HB 1164.

Action taken:

Senator Espegaard moved a Do Pass recommendation on HB 1164. Seconded by Senator Heitkamp. The vote was 7-0-0. Senator Espegaard is the carrier of the bill.

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

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1164

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 Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Espesgard

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

REPORT OF STANDING COMMITTEE (410)
March 18, 2005 9:01 a.m.

Module No: SR-50-5387
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1164, as engrossed: Industry, Business and Labor Committee (Sen. Espegard, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1164 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1164

TESTIMONY FOR ENGROSSED HOUSE BILL NO. 1164

House Industry, Business, and Labor Committee

Robert J. Entringer Asst. Commissioner

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions, in support of Engrossed House Bill No. 1164.

Chairman Keiser and members of the House Industry, Business, and Labor Committee, I am Timothy Karsky, Commissioner of the Department of Financial Institutions. I am here to testify in support of House Bill No. 1164.

Mr. Chairman and members of the Committee, House Bill No. 1164 pertains to three sections in the banking laws under Title 6. The first amendment pertains to North Dakota Century Code Section 6-03-13.3 and is in Section 1 of the bill. As you will note, this Section deals with banks desiring to maintain and operate separate facilities which are apart from its main banking house or main office. Currently the law requires individual banks to apply to the State Banking Board for this authority, and we are asking you to give this authority to the Commissioner so that we can act more timely on applications. It should be noted that on page 2 of the bill, line 3, it states that the Commissioner's decision with respect to an application is unfavorable, the applicant bank may appeal the decision to the State Banking Board by filing a notice of appeal with the Commissioner within 20 days after the Commissioner has notified the applicant bank of that decision. In

addition, if the Department finds that there is an interested party who files a protest with respect to the application, that matter would be automatically referred to and decided by the State Banking Board.

Mr. Chairman and members of the Committee, the majority of the applications that the State Banking Board receives for additional facilities, apart from a bank's main banking house or to move a facility that was previously established, are never protested by any other banking institutions. The Commissioner would still ensure that the criteria set out by the North Dakota Century Code would be filed and that banks would be required to meet those criteria. Again, if there is a protest the application would be handled as previously in front of the State Banking Board.

The language beginning on page 1, line 22, would eliminate the need for a separate application by two merging banks to apply for a facility application to maintain the location of the non-surviving bank. By way of example, let's assume the bank in Wilton had agreed to a merger with the Kirkwood Bank here in Bismarck with the Bismarck bank as the surviving bank charter. Currently the Department would require an application by Kirkwood bank to merge the Wilton bank into the Kirkwood charter and the Kirkwood bank would also have to apply for a separate branch or facility in Wilton. The problem is once the charter for the Wilton bank disappears via the merger you need some authority for the location in

Wilton and the only way to accomplish that is to have the surviving bank apply for a facility. The new legislation would automatically give surviving bank a facility in place of the bank charter if the merger is approved; in our example, Kirkwood bank gets a facility in Wilton. The State Banking Board has never denied an application for a facility application when two institutions have merged, and we believe this would reduce some regulatory burden on the industry. As you will note, there is a fiscal note attached to this bill which indicates that there would be a total cost to the Department to implement this new law of approximately \$1,500. We would have to change our current administrative rules, which would be approximately \$1,200, and also more than likely this would entail a special State Banking Board meeting, with a cost of approximately \$300.

Section 2 of the bill changes the amount that banks would be permitted to invest in a small business investment company from two percent to an amount to be determined by the State Banking Board which would not exceed 10% of the bank's capital and surplus. When this authorization was introduced in 1993 it also amended Subsection 3 of Section 6-03-47.2; however, that section did not include a limitation. There has been some confusion and in fact previous legal counsel advised the State Banking Board they could establish a limit different than the limit in 6-03-38. Our present legal counsel advised us that the specific controls the general and therefore the limit is in fact 2%. Raising this limit to an amount

determined by the State Banking Board not to exceed 10% of capital and surplus will get state-chartered banks closer to parity with national banks for this type of investment. The remainder of the changes in Section 2 is simply to improve readability.

Section 3 of the bill pertains to North Dakota Century Code Section 6-03-59 which limits the amount that state-chartered banks can lend to any one particular customer. As you will note, we are eliminating the language beginning on line 12 through line 22, and changing the limit from 25% of the unimpaired capital and surplus to 25% of the association's common stock, surplus, and undivided profits as of the most recent report of condition and income. Please be advised that state-chartered banks file these reports quarterly. In addition, the State Banking Board would adopt rules for the implementation and enforcement of this Section. The Department is seeking this change as a large number of our banks are agricultural lenders and small cities throughout the State of North Dakota. As farms continue to decline and other farmers get bigger the demand for credit, even though there are fewer in numbers, becomes larger. This would help banks to meet these demands and not have to participate loans out to other financial institutions. This would help the banks profitability and eventually better service to their communities. Although the lending limit will increase for a substantial number of

state-chartered banks, the Department will still have its enforcement authority if problems exist.

Mr. Chairman, the Department is offering amendments which will put back some of the original language in 6-03-59. This was done on advice of legal counsel as we thought we could handle this through the rulemaking process

Member Chairman and members of the Committee, I would be happy to answer any questions that you would have at this time.

Thank you.

TESTIMONY FOR ENGROSSED HOUSE BILL NO. 1164

Senate Industry, Business, and Labor Committee

Testimony of Robert J. Entringer, Assistant Commissioner, Department of Financial Institutions, in support of Engrossed House Bill No. 1164.

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 testify in support of Engrossed House Bill No. 1164.

Mr. Chairman and members of the Committee, Engrossed House Bill No. 1164 pertains to three sections in the banking laws under Title 6. Section 1 pertains to North Dakota Century Code Section 6-03-13.3. As you will note, this Section deals with banks desiring to maintain and operate facilities separate and apart from its main banking house or main office. Currently the law requires individual banks to apply to the State Banking Board for this authority, and we are asking you to give this authority to the Commissioner so that we can act more timely on applications. I would like to highlight that on page 2 of the bill, line 3, it states that if the Commissioner's decision with respect to an application is unfavorable, the applicant bank may appeal the decision to the State Banking Board by filing a notice of appeal with the Commissioner within 20 days after the

Commissioner has notified the applicant bank of that decision. In addition, if the Department finds that there is an interested party who files a protest with respect to the application, that matter would be automatically referred to and decided by the State Banking Board.

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the charter for the Wilton bank disappears via the merger you need some authority for the location in Wilton and the only way to accomplish that is to have the surviving bank apply for a facility. The new legislation would automatically give the surviving bank a facility in place of the bank charter if the merger is approved; in our example, Kirkwood bank gets a facility in Wilton. The State Banking Board has never denied an application for a facility application when two institutions have merged, and we believe this would reduce some regulatory burden on the industry. As you will note, there is a fiscal note attached to this bill which indicates that there would be a total cost to the Department to implement this new law of approximately \$1,500. We would have to change our current administrative rules, which would be approximately \$1,200, and also more than likely this would entail a special State Banking Board meeting, with a cost of approximately \$300.

Section 2 of the bill changes the amount that banks would be permitted to invest in a small business investment company from two percent to an amount to be determined by the State Banking Board which would not exceed 10% of the bank's capital and surplus. When this authorization was introduced in 1993 it also amended Subsection 3 of Section 6-03-47.2; however, that section did not include a limitation. There has been some confusion and in fact previous legal counsel to the Department advised the State Banking Board they could establish a limit different than the limit in 6-03-38. Our present legal counsel advised us that the

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Mr. Chairman and members of the Committee, I would be happy to answer any questions.

Thank you.