

**Testimony To
THE INTERIM WORKFORCE COMMITTEE
Prepared Friday, August 1, 2008 by
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REGARDING EQUITY POSITIONS OF COUNTY JDAs

Identical questions regarding the support of economic development projects through the taking of equity positions were distributed by the League of Cities (to City JDA/EDCs,) and by the North Dakota Association of Counties (to County JDA/EDCs). This testimony is the compilation of the responses received from the county organizations.

NDACo distributed the survey to 40 organizations, although several of the same individuals were also surveyed by the NDLC; as in some instances, a single staff manages both city and county JDA funding. Of those 40, only 6 county organizations indicated that they had used this financing tool for supporting economic development projects. The questions posed and the responses from these organizations are included in the table on the reverse side of this testimony.

In summary, it seems that most county job development authorities have never used this financing tool; and the few that have used it, generally use it rarely. (This seems to correlate with the NDLC survey results.) The average equity investment for the eight specific projects cited has been \$35,000 with a high of \$90,000.

Those local organizations using this financing tool report that they have employed the same due diligence that they would with a loan or incentive project, and most rely quite significantly on the due diligence conducted by the major project contributors, often the Bank of North Dakota and the North Dakota Development Fund. As stockholders, it appears that "clawback" options available are generally limited to those of a private investor (sale of assets, etc.). Of the eight specific projects discussed by the JDA's, the investment was lost in five, while in three there are ongoing dividends or repayment, or a stock buy back was the result.

I hope this is the information that the Committee was seeking, and would certainly attempt to answer any questions about this issue.

Equity Positions Taken by County JDA/EDC Organizations

JDA/EDC	Towner County EDC	Stark County Development Corp.	Bottineau County Development
Circumstances under which the JDA/EDC took the equity position, including the amount and terms of assistance.	Once – local manufacturer was restructuring its financing and needed additional equity. With private individuals, other businesses and three other development organizations, the TCEDC purchased \$25,000 of preferred stock. Also, local lenders and the Bank of North Dakota provided additional debt financing. The stock was to be redeemed with priority over common stock, at a fixed rate of 6% within 5 years of the investment.	Two Projects: Grizzella Inc. – Preferred stock, 10,000. Dakota Prairie Beef Feeders – Preferred Stock, \$25,000.	Once - In Feb 1994 DEVA Lifewear, a natural fiber clothing company, originally from Calif., moved its customer service and warehousing to Westhope. In 1999 former employees purchased the business. As a source Equity, preferred stock was sold to the Principals, Ottertail, Westhope Development, Bottineau County Development, Bottineau City Development and the MAGIC Fund in the amount of \$ 90,000.
What type of due diligence was done to ensure tax money was protected in taking the equity position?	The local lenders and Bank of North Dakota provided due diligence. Additional market information, including discussions with customers and potential customers was gathered by the TCEDC. Several "plans" were vetted until the final package was assembled with the lenders and other investors.	Review of full business plan plus meetings with the company's leadership	The parties each had the project reviewed by their attorneys. The Lead Bank - Peoples State Bank, Westhope, and Bank of North Dakota and ND Development Fund also assisted in the debt service as did USDA Rural Develop. with an 80% P & I Guarantee.
What actions were taken if the JDA/EDC assistance failed, for example, were there claw back provisions and were they exercised?	There were no claw back provisions. The business ultimately closed and the investment was not recovered.	No claw back provisions. In the same position as other preferred stock investors. We take our risk just like anybody else.	Yes there were claw back provisions - this project has not failed! DEVA now has 25 employees in its facility as well as employs approximately 20 to 25 home stitchers at any given time.
What actions were taken if the JDA/ EDC assistance succeeded? How did the JDA/EDC extract itself?	N/A	Paid dividends if company succeeds - lose you money if it does not. "Extracted" from Dakota Prairie when it folded. Still own Grizella stock	After 5 years the stock was converted to debt and the debt is being paid back satisfactorily.

Equity Positions Taken by County JDA/EDC Organizations

JDA/EDC	Jamestown/Stutsman County Development	Walsh County JDA	McKenzie County JDA
Circumstances under which the JDA/EDC took the equity position, including the amount and terms of assistance.	Too many to expound on – shares of the company, etc.	Once – the JDA purchased \$35,000 in Preferred B Stock in Veracity Communications in 2001. The redemption provision was for the stock to be redeemable on the fifth anniversary date of the closing, with the redemption price being two times the purchase price plus any accrued but unpaid dividends.	Once – 14 years ago the McKenzie County JDA took an equity position in Roughrider Elevator in Arnegard. The equity allowed the elevator to remain open. \$25,000 was infused and that was held for 6 years until the elevator was sold. JDA received full pay out
What type of due diligence was done to ensure tax money was protected in taking the equity position?	Due diligence is completed for each and every project we work on.	Most due diligence was conducted by the North Dakota Development Fund, the CDLF fund and the Red River Reg. Council, as the major contributors to this project. The project was deemed very viable; however, since it was a technology-based company, the 9-1-1 disaster very adversely affected this company.	Preferred stock
What actions were taken if the JDA/EDC assistance failed, for example, were there claw back provisions and were they exercised?	Yes, we use clawbacks as well as personal guarantees in our projects and they were exercised. Sometimes they work, however if a company has filed bankruptcy, it's difficult. We have foreclosed on projects	The Preferred B stock had no clawback provisions, and there was basically no recourse for collection.	No and no.
What actions were taken if the JDA/ EDC assistance succeeded? How did the JDA/EDC extract itself?	On one occasion the property was sold at the courthouse; on another an auction was held.	N/A	Elevator sold and stock paid back