

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1413

2001 HOUSE FINANCE AND TAXATION

HB 1413

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1413

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 7, 2001

Tape Number	Side A	Side B	Meter #
1	X		48
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN, Opened the hearing and read the fiscal note.

REP. RICK BERG, DIST. 45, FARGO, Introduced the bill as the prime sponsor. He felt this bill is the most profound bill in all of his years in the legislature. This bill when it was first passed, was on the long form. However, no one has used this because of it being on the long form. This bill takes the money and puts it directly into the businesses. What separates this bill from all of the other economic development ideas, is the money is injected right into the business, it will turn that money to create jobs and grow that business. This is where we need to go with economic development. This has been on the statutes since 1993, but on the long form. In Section 1, we are moving it to the short form. If someone has a project they want to raise money for, they would go to the E D & F director, the director would tell them to go out and raise the money. When they raise the money, those investors will receive a tax credit. It is limited to two hundred and fifty thousand dollars of tax credit per project. Each investor is

limited to fifty thousand dollars. It is a thirty percent tax credit. The tax credit per investor would be fifteen thousand, which would have to be taken over two years. The down side, is you could invest fifty thousand and lose it. But, you could write off the fifty thousand, depending on your tax bracket, if you are in a forty percent tax bracket, you will get a twenty thousand dollar credit off of your other income.

REP. CARLSON The initial logic behind this is to make it available to more people?

REP. BERG Initially for start up companies. They may have owners who are in the business full time, but don't own the majority of the business.

REP. CARLSON Why would we remove some of the requirements?

REP. BERG Because we are requiring to take it over two years, an individual taxpayer would receive seventy five hundred per year. It is more, just trying to keep it simple.

REP. CARLSON It changed from fifteen years to four years, is that for a quicker chance to take those credits?

REP. BERG The purpose on page 2, line 27, is, if we are going to give an individual a tax credit, he may have other business losses, and may not use that tax credit for two years, the original statute says, we want to give him a tax credit, so they allow him up to fifteen years. This is something the committee can look at. We changed that to four years, and our intention there was, we don't want a lot of these tax credits hanging out there in the future. If they get a tax credit, we would like them to use it.

REP. CARLSON I saw in the other bills, it was ten years instead of fifteen. We would like one package with everything in that we need, instead of three packages.

REP. BERG Gave an overview of all of the three bills which had a tax credit for investors. He stated his preference would be to pass HB 1413 and do not pass HB 1041. HB 1291 adds value added agriculture as one of the qualified businesses. If you wanted to amend HB 1291 into HB 1413, then we would have one bill.

JACK DALRYMPLE, LIEUTENANT GOVERNOR OF NORTH DAKOTA, Testified in support of the bill. This bill has a lot of good features. First of all, you have a law that is already on the books. The confusing thing about the bill is that you do have a whole other section of code, dealing with the investment tax credit where it actually specifies that it is a thirty percent credit. You don't see that in this bill. This bill, in almost exactly the same form, did pass the last legislative session. Unfortunately, there was no fiscal limit on impact from the bill, which this bill does contain, which is a maximum credit allowable of 2.5 million dollars per year. I think that is a good safeguard. There is a potential for this program to be extremely popular, and we would certainly be happy if it was. We need to be aware if we are going to have everybody claiming credits on the short form. In my opinion, this is economic development at the grass roots. The E D & F plays a roll in this. These projects are going to have to be approved. Unless you have the rubber stamp of E D & F, you might not qualify for credit. I think that is a good control. There are many safeguards in the existing code. It must be a "for profit" partnership, limited partnership, etc. It must a primary sector business. It has to satisfy our own securities filing department. It has to have a principal office in North Dakota, or conduct the majority of its business in North Dakota. It has to have more than ten employees or sales of more than one hundred fifty thousand dollars. This will not be start up money. There is a minimum

and a maximum amount. This is not something someone can throw down on their short form without it being reviewed.

REP. CARLSON Are you envisioning it as a voucher which will have to be run through E D & F and then the Tax Commissioner?

JACK DALRYMPLE That is the discussion they have had up to now, that there would be some form of communication either in the form of a letter or voucher or something from E D & F over to the Tax Commissioner.

REP. CARLSON Are we assuming this will be done by Administrative Rule, that part of it,

JACK DALRYMPLE It is in the control of the director of E D & F.

It is accounted for in the Governor's Budget. The first tax year this will be available is 2002.

Most of them will be claiming this in 2003.

REP. CARLSON One of the deterrants of this has been because it has been on the long form, but another reason is because it is high risk, it takes a special kind of investor to not want to see a return on his money, or lose his money.

JACK DALRYMPLE Yes, there is that aspect to it. Referred to Lee Peterson of E D & F. We need people to take a look at our state. We will provide some safety, we think we can do that. It is very much a grass roots type of program.

REP. CARLSON Asked whether he would be in favor of amending HB 1291 into HB 1413.

JACK DALRYMPLE Stated it was great by him.

LEE PETERSON, DIRECTOR OF ECONOMIC DEVELOPMENT & FINANCE

Testified in support of the bill. He stated all of us in North Dakota have done a great job in providing capital for economic development. The Bank of North Dakota, the development fund,

a local fund, revolving loan funds at the planning councils, community development block grants, what we lack is private investments. We used to have private investments in North Dakota. He stated in Minot, they had a little Venture Capital Fund, which helped businesses that were trying to grow and expand. As the Magic Fund came into place, the Venture Capital Fund went away. We really don't have a lot of private investment in North Dakota, especially in the start up sector. We need private investors, and to do that we need some seed capital. One of the reasons people don't do that is because of the low return, and generally high risk. This would be to allow those people to get something back, with a tax credit. On the short form, I believe it will work.

REP. CARLSON Are you in agreement with the various provisions?

LEE PETERSON We are in favor of all of those provisions.

REP. CARLSON Have you had discussions with the tax department on how this would actually work?

LEE PETERSON I have not had direct discussions with Commissioner Clayburgh.

REP. KROEBER wanted to ask Joseph Becker or Donnita Wald the same question if it is appropriate the way it is in the bill.

JOSEPH BECKER, STATE TAX DEPARTMENT, Appeared to answer questions. He stated this is amending existing chapter in the code. It is taking away some of the obstacles, and putting them on the short form. We already have an investment reporting vehicle which is not reflected here. Right now, the way the chapter is set up, when an investor puts money into a qualified business, that business must send in an investment reporting form to the tax office, and that is how we know who the taxpayer is and what the credit is. That is how we track it.

REP. KROEBER That is not a problem for you?

JOSEPH BECKER No, this will just marry into what we are already doing.

REP. CARLSON As far as I can see, since 1999, no one has used this.

JOSEPH BECKER Stated that particular chapter has not had any use at all.

REP. CARLSON You don't see any problems, I am assuming you would work with the Administrative Rule side of it, to get that handled?

JOSEPH BECKER I don't see where we would have to do a lot of work, right now. We have already gone through the implementation, we may have to revise some of our existing forms to reflect the changes.

LEE PETERSON When you go about doing this, it is extremely important that we can fund, dairy projects, hog farms, poultry projects, whatever occurs in North Dakota, that they can also use the exemptions. We are struggling right now with, how do we fund these dairy operations, which are springing up around the state. This needs to be encompassed in this bill.

DALE ANDERSON, GNDA Testified in support of the bill. Offered comments regarding this bill. GNDA is currently involved in a new initiative called a new economy activity. The thrust of this new initiative is that a new economy is not composed of a new industry, rather, it is industries functioning in fundamentally different ways. He gave four points stating business in North Dakota lags the rest of the nation, we have a very limited venture capital activity with North Dakota ranking forty fourth, we have the lowest level of technology firms, and the state's economy is the least in the nation. GNDA supports this bill for these reasons: It fills a priority need of private investments on the short form, it focuses on primary sector, it provides a thirty percent tax credit, and it has a limit.

BILL SHALHOOB, REPRESENTING THE ECONOMIC DEVELOPMENT

ASSOCIATION OF NORTH DAKOTA, Testified in support of the bill. I think the seed capital thing is needed. Large companies come in to North Dakota with this kind of thing, such as Aetna, and U S Health Care. Gave information regarding a small business which wanted to come to Mandan, but was not able to raise enough capital to start up the business. He stated there is a risk with this, however, the greater the risk, the higher the return.

This is a very good step forward.

WADE MOSER, NORTH DAKOTA STOCKMEN'S ASSOCIATION, Testified in support of the bill. They support it with HB 1291 included.

REP. CARLSON Are you aware of what HB 1291 says?

WADE MOSER I am not that familiar with it, but I believe it would work.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-7-01, TAPE #2, SIDE A, METER #0

REP. BRANDENBURG Made a motion to adopt amendments which were presented to the committee.

REP. RENNERFELDT Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. CLARK Made a motion for a **DO PASS AS AMENDED.**

REP. RENNERFELDT Second the motion. **MOTION CARRIED**

14 YES 1 NO 0 ABSENT

REP. BRANDENBURG Was given the floor assignment.

FISCAL NOTE

Requested by Legislative Council

04/10/2001

Bill/Resolution No.:

Amendment to: Engrossed
HB 1413

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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.*

Engrossed HB 1413 with Senate Amendments modifies the seed capital provisions, alters the tax credit limitations and allows the tax credit on the short form.

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.*

The fiscal impact of Engrossed HB 1413 with Senate Amendments is unknown.

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

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, 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:	Kathryn L. Strombeck	Agency:	Tax Department
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Phone Number: 328-3402

Date Prepared: 04/11/2001

FISCAL NOTE
Requested by Legislative Council
01/23/2001

Bill/Resolution No.: HB 1413

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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.*

HB 1413 makes some changes to seed capital provisions and allows the tax credit on the short form.

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.*

There is no information available upon which to estimate the fiscal impact of HB 1413.

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

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, 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:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	02/06/2001

Date: 2-7-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1413

House FINANCE & TAXATION Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 10626.0201

Action Taken Do Pass as Amended

Motion Made By Rep. Clark Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR		✓	RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 14 No 1

Absent 0

Floor Assignment Rep. Brandenburg

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

REPORT OF STANDING COMMITTEE

HB 1413: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1413 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "a" and insert immediately thereafter:

"~~a~~ A"

Page 1, line 14, overstrike "a." and insert immediately thereafter "(1)"

Page 1, line 17, overstrike "b." and insert immediately thereafter "(2)"

Page 1, line 19, overstrike "c." and insert immediately thereafter "(3)"

Page 1, line 21, overstrike "d." and insert immediately thereafter "(4)"

Page 1, line 24, remove the overstrike over the semicolon

Page 2, line 2, after "~~activity~~" insert "or

b. An organization that:

- (1) Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state; and
- (2) Attracts investments to build and own a value-added agricultural processing facility that it leases with an option to purchase to a primary sector business that qualifies under subdivision a"

Renumber accordingly

2001 SENATE FINANCE AND TAXATION

HB 1413

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1413

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date 2/28/01

Tape Number	Side A	Side B	Meter #
1	x		0-33.2
3/6/01 - 2	x		19.3-35.6
3/7/01 - 1		x	11.2-15
Committee Clerk Signature <i>Lynelle G. Kregel</i>			

Minutes:

Senator Urlacher: Opened the hearing on HB 1413, relating to credits allowed on the short-form income tax return and the seed capital investments tax credit.

Lt. Governor Jack Dalrymple: Representing the Governor's Office, testified in support. This item is included in the Governor's budget. The only real change that this bill presents is that we are simply allowing seed capital investment tax credit to be claimed on the short-form as well as the long-form. This is not designed for a startup situations, it is available for small businesses, but you do have to have at least 10 employees. The amount of the credit may not exceed 50% of the taxpayers tax liability, the bill provides the credit must be taken over a period of two years. This bill is a great incentive to get North Dakotans to look at North Dakota and their own communities as places to find opportunities for investment. There are more paragraphs on the subject of the long-form credit that are not included in this bill. Some of that is in sections of law that are on the books but not in this bill. Among those restrictions is that the Director of the

ED & F has to review and approve the investment for a credit and then informs the Tax Commissioner that the investment qualifies. That process is workable, although there has been very little activity on this on the long-form.

Senator Stenchjem: In the amendment from the House, On pg. 2, subsection B what exactly is "in compliance with the requirements for filing with the Security Commission"?

Lt. Governor Jack Dalrymple: It has to be in compliance with our own Securities laws. The main reason for that amendment is it clarifies that value-added Ag processing investments in facilities would qualify for the credit.

Senator Stenchjem: That venture would also have the option to purchase?

Lt. Governor Jack Dalrymple: That's correct.

Senator Kroeplin: Would the expansion of a value-added venture be included?

Lt. Governor Jack Dalrymple: Yes-it has to be a primary sector.

Dale Anderson: President of Greater ND Assoc., testified in support. Written testimony attached.

Senator Christmann: Why 30%?

Dale Anderson: Our preference would be up in the 40 percent range. In the process of compromising, 30 was decided on.

Joseph Becker: State Tax Dept., appeared to explain the credit on the short-form. Let's take an investment of \$50,000-the maximum investment for which your credit could be. The credit would be 30% of that amount-that would leave you with \$15,000 as the credit amount but you could only take \$7,500 of that in the first year. Then under the bill as amended, you'd get to carry over the \$7,500 you couldn't use to the next 4 years. The credit is available for 5 years, it's just that you're limited to half of it in the first year.

Senator Stenehjem: This bill is saying you can't claim more than 50% of the credit, but you can zero out your tax liability, you've got 4 years to get it back.

Joseph Becker: That's correct.

Senator Christmann: After 4 years, if you don't use the credit, you loose the it then?

Joseph Becker: That's correct. It's not refundable.

Senator Kroeplin: Is the expansion of a beef stock included in this? Would there have to be an expansion of the business to get this credit? The 10 employees-do they have to be new employees?

Joseph Becker: The employees do not have to be new.

Lt. Governor Jack Dalrymple: In order to be approved by the Director of ED & F is that the investment is going to have to be tied to a new or expanding aspect business.

Senator Stenehjem: In existing law, we have a \$250,000 tax credit, this one changes if to 2.5 million. Have we had tax credits applied for under the \$250,000 level?

Joseph Becker: It has not been used to date.

Senator Nichols: Changing it to the short-form though, would make it quite a bit different as fas as the usage?

Joseph Becker: A number of things that have been stricken from the bill, have been hurdles to the its operation.

Senator Christmann: Is there a fiscal note?

Donnita Wald: State Tax Dept., it was undeterminable. It's capped at 2.5 million.

Lt. Governor Jack Dalrymple: The Governor's budget assumes that the credit will be fully utilized. 2.5 million is in the budget.

Senator Kroeplin: These credits could be used for a startup business if they employ 10 people?

Lt. Governor Jack Dalrymple: That's correct. 10 full time employees, minimum of \$150,000 in annual sales.

Senator Urlacher: Closed the hearing.

Discussion followed.

Joseph Becker: Clarified the expansion issue.

Action delayed.

Discussion held 3/6/01. Meter number 19.3-35.6

Senator Christmann: I recommend that we get this to appropriations so they can get things put together.

Senator Kroeplin: Has a concern with the business being an expanding business. I think it should be the expansion of the business or they create ten more new jobs. It's not stated in the bill.

Senator Christmann: Sometimes maintaining a job is just as important as creating another one.

Senator Kroeplin: Proposed an amendment to include new or expanding and cooperative businesses.

COMMITTEE ACTION:

Motion made by Senator Christmann for a DO PASS, Seconded by Senator Wardner.
Vote was 4 yeas, 2 nays, 0 absent and not voting.

Motion made by Senator Wardner to RECONSIDER DO PASS, Seconded by Senator Christmann. Voice Vote taken. All in favor, motion carried.

Motion was made by Senator Kroeplin to move the amendment numbered 10626.0301.
Seconded by Senator Nichols. Voice Vote taken. Vote was 2 yeas, 4 nays, 0 absent and not voting. Motion failed.

Motion made by Senator Wardner for a DO PASS, Seconded by Senator Christmann.
Vote was 3 yeas, 3 nays, 0 absent and not voting. Motion failed.

The committee will come back to the bill. Senator Wardner and Senator Stenehjem to look into some things.

Discussion held 3/7/01. Meter number 11.2-15, Side B.

Senator Wardner: Talked to Lt. Governor Dalrymple, he was OK with the bill. In regards to the jobs having to be new jobs, that's one of the things that ED & F looks at before they approve the project.

COMMITTEE ACTION: 3/7/01

Motion made by Senator Wardner for a DO PASS, Seconded by Senator Christmann.
Vote was 6 yeas, 0 nays, 0 absent and not voting. Bill carrier was Senator Wardner.

Date: 3/6/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1413

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Christmann Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem		✓			
Senator Kroeplin	✓				
Senator Nichols		✓			

Total (Yes) 4 No 2

Absent 0

Floor Assignment _____

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

Date: 3/6/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~Bill~~ 1413

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to reconsider to PASS (voice vote)

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1413

Page 1, line 14, after "A" insert "new or an expanding"

Page 1, line 16, after "a" insert "cooperative,"

Page 1, line 21, remove "and"

Page 2, line 1, remove "ten" and overstrike "employees or"

Page 2, line 2, remove the overstrike over "and"

Page 2, line 4, after "activity" insert:

"(5) In the case of an expanding business, is projected to hire at
least ten additional full-time employees employed in the state."

Renumber accordingly

Date: 3/6/01
Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1413

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 10626.0301

Action Taken Move Amendment (voice vote)

Motion Made By Kroeplin Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) 2 No 4

Absent 0

Floor Assignment _____

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

Date: 3/6/01
Roll Call Vote #: 4

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~2001~~ 1413

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem		✓			
Senator Kroeplin		✓			
Senator Nichols		✓			

Total (Yes) 3 No 3

Absent 0

Floor Assignment _____

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

Date: 3/7/01
Roll Call Vote #: 5

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
March 7, 2001 5:47 p.m.

Module No: SR-39-5057
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1413, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)
recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1413 was placed on the Fourteenth order on the calendar.

2001 SENATE APPROPRIATIONS

HB 1413

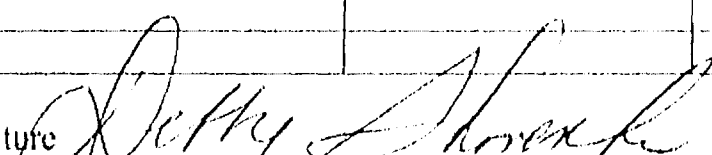
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1413

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 19, 2001

Tape Number	Side A	Side B	Meter #
1	X		10.5-39.1
Committee Clerk Signature 			

Minutes:

Senator Nething opened the hearing on HB 1413.

Lt. Governor Jack Dalrymple, testified. This is an investment tax credit bill. If you recall the Senate passed this bill last session and it was defeated in the House. Because of the fiscal impact it is open ended which solved this bill total credits of \$2.5 million. The credits are capped to the level affect of \$2.5 million per year of the budget, \$5 million for the biennium. This have been around for many years with long forms and not used. Important that we help North Dakota look for investment opportunities.

Senator Andrist: This bill is an incentive to spur economic activity but is over a year away to do this, maybe could be looked at as a disincentive?

Lt. Governor Dalrymple: The Tax Department set it up for a calendar year.

Senator Andrist: To have the bill retroactive ever considered?

Lt. Governor Dalrymple: We can't judge the affect on this credit with pre qualified controls with only planning investment participants.

Senator Heitkamp: The cap on this credit, better for fiscal note to tell the costs?

Lt. Governor Dalrymple: Value of the cap, we will know the maximum affect assumption when we reach the cap.

Senator Heitkamp: If it is maxed out?

Lt. Governor Dalrymple: Correct.

Senator Tomac: Who will really get the credit on the short form; businesses don't file short form. The credit to individuals that invest?

Lt. Governor Dalrymple: Yes. This is an attractive grass roots type program. To individuals, mainly to people that participate and who will benefit are here in North Dakota.

Senator Tomac: Individuals, those who invest in their own business with more than 10 employees are eligible for this credit not partnerships/corportations.

Lt. Governor Dalrymple: That was the intent of this legislation. Education, Development and Finance presume the investment with the type of business and who qualify with them.

Senator Thane: The work value added, does this determine the tax credit?

Lt. Governor Dalrymple: Keep in mind this is for new and expanding business situations. Investing expansion and new business.

Senator Heitkamp: Do you have to add an additional line for the short form?

Lt. Governor Dalrymple: Yes.

Senator Lindaas: The value added, is this also for the coop structure?

Lt. Governor Dalrymple: Yes. The House amended the bill specifically to allow the value added investments.

Representative Rick Berg, District #45, testified on the bill. This is neat legislation. We don't need a new program look, as those are already there. The difference is the short form verses the long form. This is a unique tool for economic development. This bill's projections will qualify to raise money into new business. When the credit is applied, the value is added. This will provide an alternative investment with not as much debt. Since 1993, nobody has used this program with the long form. We need to analyze to import this program. The amount is \$250,000 per project. Each investor receives a \$50,000 credit or 30% taken over two years or a total of 4 years.

Senator Grindberg: Are you introducing the 30% tax credit to a maximum of \$250,000 for the tax credits?

Rep. Rick Berg: The statute already has the 30%. The amount of \$250,000 for a maximum of 10 businesses totaling the \$2.5 million.

Lee Peterson, Education, Development and Finance, testified on the impact of the bill. This program has no expense to the State. This new tax credit is money creating jobs.

Senator Solberg: Since this hasn't been used in the past, do you advise any investors of this program?

Lee Peterson: No. With the long form there was no interest. With the short form producers are gearing up for the program in agriculture. The interest in ND is for the investment.

Senator Solberg: Was there any incentive before?

Lee Peterson: The program was sold for businesses but the larger ones look at other tax incentives.

Senator Grindberg: Is there any concern with the \$2.5 million eligibility, is there growth industry thoughts.

Lee Peterson: This investment tax credit has not been used. This program will work well with the needs.

Bill Shalhoob, ND Hospitality Association, Bismarek, ND: Spoke in favor of the bill. The issue here is to get more money to invest in North Dakota. Returns are questionable, but this tax credit is a good way to get ND investments for ND with some return.

Dale Anderson, President, GNDA, (testimony attached). Encouraged a Do Pass recommendation from the committee.

Rick Clayburg, Tax Commissioner, North Dakota, spoke in support of the bill. Told the committee if they have questions on the income tax part of this bill they are welcomed to ask his department.

Senator Grindberg: The \$2.5 million, is this per year or biennium, can you clarify this?

Rick Clayburg: This bill starts in year 2002. Fiscal for two years is \$5 million, so \$2.5 million is for a year.

Senator Schobinger: Section 5, page 4 of the bill; investment credit limits, explain chronological order.

Rick Clayburg: First come first served.

Senator Schobinger: Is this after the \$2.5 million is used up?

Rick Clayburg: Just when we get close to the cap.

Senator Robinson: The fiscal notes, will this cost your department to enact this legislation?

Rick Clayburg: No; this program is already up and running and there will be no additional costs to our department except for the form design which will be less than \$5,000.

Senator Grindberg: Are you aware of any other states offering this type of exemption? Have you looked into other states with the same type of tax incentive?

Page 5
Senate Appropriations Committee
Bill/Resolution Number HB 1413
Hearing Date March 19, 2001

Rick Clayburg: I'm not aware of any other states right off hand but would assume there are others.

Senator Grindberg: Could you provide this information to the committee?

Rick Clayburg: I will provide this information to the committee.

With no further testimony, the hearing was closed on HB 1413.

Tape #1, Side A, meter 39.1

4-2-01 Full Committee Action (Tape #3, Side A, Meter # 21.8 - 30.2)

Senator Nething reopened the hearing on HB1413 - Credits allowed on short-form income tax return; and seed capital investment tax credit.

Senator Grindberg, Subcommittee Chair reviewed the bill, testimony, and reported the findings of the subcommittee. He presented the amendments drawn by the Subcommittee, #10626.0303.

Discussion on the amendments. Senator Grindberg moved for the adoption of the amendments; seconded by Senator Solberg. Discussion; call for the vote: Voice Vote; carried.

Senator Grindberg moved a DO PASS AS AMENDED; seconded by Senator Solberg.

Discussion; call for the vote: 12 yes; 1 no; 1 absent and not voting.

Senator Grindberg will carry the amendment; Senator Wardner the bill.

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1413

Senate Appropriations Committee

☐ Conference Committee

Hearing Date April 2, 2001 (Committee Work)

Tape Number	Side A	Side B	Meter #
3	X		21.8-30.2
Committee Clerk Signature			

Minutes:

Committee Work - verbatim from tape - per request of Senator Grindberg on 4/3/01

Discussion on HB 1413.

Senator Grindberg: House Bill 1413 basically does a couple things and I'll touch on the amendment. It amends law that we passed in 1993 that was setup to be used on the long form for the Seed Capital Tax Credit Program which is a venture capital tax credit for angel or angel investors if you will or start up companies. The bill as it came out the House and Senate committees added in the value added agriculture where it was part of the definition would qualify for this program. The amendment that I passed out addressed Section 5 on page 4, that do to following. The bill was written for up to \$2.5 million tax credits per year after December 31, 2001. So every tax year beginning 2002 would be eligible if there were enough projects to cap out \$2.5 million in tax credits. The amendment realigns that a little bit and as such, it allows for \$1 million in tax credits for the 2002 taxable year and then would allow up \$2.5 million. I got to

get this right because Mr. Wulstad walked this through so that I would make sure it was right what we intended. \$1 million for taxable year 2002 tax credits, and then a total of \$2.5 through 2003, i.e., another \$1.5 million in tax credits eligible for the 2003 tax year. Now it is important that stop here and recognize that the next biennium budget there will only be \$1 million in reduction of revenues if this was fully maximized. The additional \$1.5 would carry at the end of 2003 in the next biennium. Then it goes on to say after the 2003 taxable calendar year is limited to a total of \$5 million. So what this says is that for this next biennium the \$1 million in tax credits, for the 2003 year it would be another \$1.5 million and after 2003 however long it took to do another \$2.5 it would stop at \$5 million. And at some time in the future we could come back and say has it worked. The bill as introduced is open-ended. Two other thoughts for the committee to consider, one that stays general fund money and the poor tax, (Senator Nothing: How much?) \$1.5 million or that's \$2.5. (Senator Nothing: Go ahead Senator.) I said that I do in vision this to be part of Department of Commerce negotiations so nobody latches on to my money, our money. Anyway, two points I think that need to be understood, I had a conversation with the Governor on this, is that when we passed this in 1993 for some reason, I mean there no organized effort without promoting this other than some people knowing it's available, the reason it hasn't been used everyone says is because of the long form. We are putting on the short form now and it is expected to utilize. The Council has done research from Tax Commissioner's office, E D & F, no one can determine how it will be used. The State of Maine passed this a number of years ago and I've read the language and there is a recent amendment this year to allow venture capital to invest in this type of activity. It took many, 11 years to use \$2.8 million tax credits. Additionally, Legislative Council analyzed it at \$2.5 million it would take \$17 millions in private sector investment to use the full \$2.5. So I guess what I am saying is we have

cut it down to be a little more realistic and let it graduate as it moves into this biennium and the next biennium to make sure that it is more practical.

Senator Nething: Okay, Senator Grindberg moves the amendment followed by Senator Solberg.
Discussion.

Senator Lindaas: Chairman, should there be an updated fiscal note on this now?

Senator Nething: I don't think we'll do that, we get that on a permanent picture, but when I read the fiscal note you'll have to explain that count before this because it always seems to make the confusion.

Senator Nething: All for the amendments, vote Yea.

All Yea, motion carried. Senator Tallackson moved a Do Pass, seconded by Senator Solberg.
Further discussion.

Senator Tomac: The only question, I've got one question now, I thought the amendments put the bill into better form but my question is after 2003 it's limited to \$5 million per year.

Senator Grindberg: In total, Mr. Chairman, Senator Tomac, in total aggregate amount of tax credits is \$5 million, so let's just say that in 2002 a \$1 million is fully utilized and in 2003 there is another \$1.5 utilized, there is only \$2.5 left as it progresses into the future and then it stops when it reaches \$5 million.

Senator Tomac: As I read that I read per year but I had a hard time putting added into the engrossed bill, but I didn't, it was referred through any taxable year if the same sentence and there really wasn't clarifying language.

Senator Nething: So after \$5 million. It comes after the last dollars on line 13 and so the period comes right after \$5 million.

Senator Tomac: And so it almost seems like it is inside per calendar year, it isn't really crystal clear clarified but if you are satisfied with that, the only other concern I have in it begs one other question is this goes on the short form and by the way if we pass the coupling what happens to the short form?

Senator Grindberg: Mr. Chairman, my understanding it is going if we passed that earlier it would be revamped and this would be considered part of that revamping process.

Senator Nething: Other discussion.

We have a motion Do Pass as Amended. If there is no further discussion the clerk will take the roll, Sen. Nething, Yea; Sen. Solberg, Yea; Sen. Schobinger, Yea; Sen. Lindaas Yea; Sen. Tallackson Yea; Sen. Robinson Yea; Sen. Tomac No; Sen. Heitkamp Yea; Sen. Grindberg Yea; Sen. Thane Yea; Sen. Kringstad Yea; Sen. Holmberg Yea; Sen. Bowman Yea; Sen. Andrist, Absent.

The motion is approved 12-1 and Senator Grindberg I'll have you carry that, the Amendment, then Senator Wardner will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1413

Page 4, line 12, overstrike "in any taxable" and insert immediately thereafter "through calendar"

Page 4, line 13, after "year" insert "2002 is limited to one million dollars, through calendar year
2003", after "is" insert "limited to", and after "dollars" insert ", and after calendar year
2003 is limited to five million dollars"

Renumber accordingly

Date: 4-2-01

Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1415

Senate Appropriations

Committee

☐ Subcommittee on _____
or

☐ Conference Committee

Legislative Council Amendment Number

LC 26.0303

Action Taken

Do pass as amended

Motion Made By

Senator

Grindberg

Seconded

By

Senator

Salberg

Senators	Yes	No	Senators	Yes	No
Dave Nothing, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac		✓			
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist					

Total Yes

12

No

1

Absent

1

Floor Assignment

Senator

Grindberg - Amend

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

Wardrobe bill

REPORT OF STANDING COMMITTEE (410)
April 9, 2001 9:34 a.m.

Module No: SR-62-8121
Carrier: Grindberg
Insert LC: 10626.0303 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1413, as engrossed: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1413 was placed on the Sixth order on the calendar.

Page 4, line 12, overstrike "in any taxable" and insert immediately thereafter "through calendar"

Page 4, line 13, after "year" insert "2002 is limited to one million dollars, through calendar year 2003", after "is" insert "limited to", and after "dollars" insert ", and after calendar year 2003 is limited to five million dollars"

Renumber accordingly

2001 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1413

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1413 Conf.

House Finance and Taxation Committee

☒ Conference Committee

Hearing Date April 16, 2001

Tape Number	Side A	Side B	Meter #
1	X		54
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN Called the conference committee to order, and reviewed how the House Finance & Tax committee passed the bill out of committee.

SEN. WARDNER Gave an overview of what the Senate did to the bill. He stated other than the appropriations, the bill is the same as it was sent to them. The only difference is that instead of being 2.5 million dollar appropriation, it was changed to one million, and it was done in the Senate Appropriations.

SEN. GRINDBERG Explained what happened in appropriations. He stated they dug into some of the details of the history of the actual law that was passed in 1993, in the appropriations committee. They did an analysis trying to get some kind of plan which would look at whether or not 2.5 million dollars in tax credits would be used in the taxable year 2002. There really was no plan how this was going to be engaged. The basic change moved it from the long form to the short form. It would take seventeen million dollars in private sector investments in the taxable

year, 2002, to get to 2.5 million in tax credits. So, the sub committee in appropriations looked at that and thought it was a little rich to actually happen. That was one of the reasons we looked at paring it back. The second reason is, we researched the history in this bill as it was passed in 1993, on the long form, the law came from the state of Maine. Submitted a handout to committee members relating to proposed changed to the state of Maine's law, which allows venture capital profit making entities to invest in seed and tax credit businesses. Also related to second page of handout, stating it took them eleven years to use 2.8 million in tax credits on an authorized eight million dollar amount. With the combination of the opinion the legislative council worked on with the various efforts that would be involved, by looking at the Maine model and by looking at the fact that HB 1460, which had a 2.5 million dollar additional trigger for renaissance zone tax credit, which was not in the budget. That program is off the ground and moving and there will be an attempt to create another fund in Bismarck. There is a total of five million dollars allowed, thinking that we would come back here in the year, 2005, and get some kind of report that five million dollars was given out in tax credits for projects. We could then get some kind of benchmark of how that will work.

SEN. WARDNER Asked if this was 2.5 per year, the bill says it is limited to five million.

SEN. GRINDBERG Stated it would be one million, 1.5, then 2.5.

REP. CARLSON Stated this was originally budgeted in the Governor's Office, the 2.5 million, but did not have the additional 2.5 million. You were balancing the money from the renaissance zone off of this program?

SEN. GRINDBERG Yes, trying not to hinder the growth of a program that is growing.

REP. CARLSON Read from the bill, for the amount the taxpayer could take.

He asked anyone from the Tax Department who will monitor this, how will we know when we reach the plateau of whether it be two and a half million or the one million?

JOSEPH BECKER, STATE TAX DEPARTMENT. Answered stating that they have some reporting forms which would have to be completed when they receive investments. That is what they use to track this.

REP. CARLSON Asked what they will do when they reach the limit.

JOSEPH BECKER The investment firm who is receiving the investments, will know about the caps and will be advising their investors. When we receive an investment form that goes over the cap, we will have to get back to the firm and notify them, once the cap is reached, that last investment will get cut off.

REP. CARLSON Asked whether it will be available in the next year again.

JOSEPH BECKER Stated it will have to be a new investment again.

SEN. KROEPLIN Asked what if you come up with only seven hundred fifty thousand credits, will the two hundred fifty carry forward?

JOSEPH BECKER My understanding is, a credit is based on your tax year, if there is still credits remaining, they are still remaining for new investors that come in.

LT. GOVERNOR, JACK DALRYMPLE Appeared before the committee to gave his observations of the bill. He related to the three tax credit bills that are still about. He felt there is a little inconsistency on how we are treating the credits. He related to Sen. Kroeplin's bill which did not have a fiscal note. This bill has been statutorily limited to one million dollars, although, it would appear that if the Council analyzed it and said they will only use one million dollars, you could have left the language the way it was when the House passed it, and still get a one million

dollar fiscal effect. Likewise, on the renaissance fund bill, I don't think the Governor's office has any objection to that legislation. It seems like we should have some way of putting a reasonable fiscal effect on all three bills.

During committee discussion, committee members agreed that HB 1460 and HB 1413 were a lot alike.

REP. CARLSON Suggested that they would wait with action on HB 1413 until HB 1460 was acted on and passed out of the conference committee. With that, the conference committee meeting was adjourned.

CONFERENCE COMMITTEE 4-18-01, TAPE #2, DID NOT RECORD

REP. CARLSON Called the conference committee meeting to order with all members present. Asked what the intent was with the five million dollar cap in the amendment.

SEN. GRINDBERG Stated the intent was to minimize the impact in the 2001-2003 biennium. It allows 1.5 for 2003 and 2.5 for 2004, then caps at five million which could take up to 2009. He felt that would be more fiscally responsible, and would follow what the state of Maine did.

REP. CARLSON Stated, this could stretch out quite a ways.

REP. WINRICH Projected what he thought was the purpose of the bill. He commented, if this caused 2.5 million in tax credits, what would the effect be on the economy, he felt we may get that back.

REP. CARLSON Stated the bill is a good concept, but questioned the methodology.

SEN. WARDNER Agreed with Rep. Winrich's comments. He felt it will have some real benefits. The only change in the bill is the 2.5 million, it could be cut back to one million.

SEN. GRINDBERG Stated that the subcommittee concentrated on balancing the budget. He stated he is going on six years working with economic development, and it has taken two years to get to one million, and that is structured. He felt this would not be structured, it will just hang out there.

REP. CARLSON Commented that we would be encumbering the next biennium by going to 2003.

SEN. GRINDBERG Stated it is a matter of taxable years.

REP. CARLSON Asked Sen. Grindberg, what his reaction would be if they didn't address the five million, but addressed the 2.5 million. He stated, we may want to look at the renaissance zone fund and see that that is doing real good, and we may want to adjust those numbers.

SEN. GRINDBERG Stated he would like to check out if the tax department thought that could work. He related to HB 1413 and SB 2386 regarding value added portions of the bills.

SEN. KROEPLIN Commented that he understood that an investor would get tax credits, owners in the value added co-op would not.

SEN. GRINDBERG Submitted a handout showing funding programs available to businesses by development stages. See attached copy.

REP. CARLSON Stated they would have amendments drafted, and come back tomorrow to act on the bill. The meeting was adjourned.

CONFERENCE COMMITTEE 4-19-01, TAPE #1, SIDE A, METER #0

REP. AL CARLSON, Called the conference committee meeting to order with all members present.

Page 6
House Finance and Taxation Committee
Bill/Resolution Number HB 1413
Hearing Date April 16, 2001

SEN. GRINDBERG Explained the amendments which were presented to the committee. They followed up on what was discussed at the last meeting. Rather than have available five million dollars in tax credits, the amendments pare back a total of 2.5 million, one million in taxable year 2002, 1.5 million in taxable year, 2003, and it would carry forward as far as 2006. Section 6 adds that the Department of Economic Development shall report on useage of this section to the fifty eighth assembly, between the fifth and tenth legislative day, on the number of businesses, qualifying businesses, the amount of investments, with growth and employment details.

SEN. GRINDBERG Made a motion to adopt the amendments #10626.0304 presented.

SEN. WARDNER Second the motion. **MOTION CARRIED BY VOICE VOTE.**

SEN. GRINDBERG Made a motion that the Senate recede from the Senate amendments and adopt the following amendments.

SEN. WARDNER Second the motion. **MOTION CARRIED 6 YES 0 NO**

SEN. GRINDBERG Made a motion for a **DO PASS AS AMENDED**

REP. WIKENHEISER Second the motion. **MOTION CARRIED 6 YES 0 NO**

Meeting was adjourned.

Date: 4-19-01
Roll Call Vote #

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1413

House	FINANCE & TAX	Committee
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☐ Subcommittee on _____
or
☒ Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By Sen. Grindberg Seconded By Rep. Wikenheiser

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

REPORT OF CONFERENCE COMMITTEE

HB 1413, as engrossed: Your conference committee (Sens. Wardner, Grindberg, Kroeplin and Reps. Carlson, Wikenheiser, Winrich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1418, adopt amendments as follows, and place HB 1413 on the Seventh order:

That the Senate recede from its amendments as printed on page 1418 of the House Journal and page 1266 of the Senate Journal and that Engrossed House Bill No. 1413 be amended as follows:

Page 1, line 4, after the semicolon insert "to provide for a report on seed capital investment tax credits;"

Page 4, line 12, overstrike "in any taxable" and insert immediately thereafter "through calendar"

Page 4, line 13, after "year" insert "2002 is limited to one million dollars and after calendar year 2002" and after "is" insert "limited to"

Page 4, after line 17, insert:

"SECTION 6. SEED CAPITAL INVESTMENT TAX CREDIT REPORT. The department or division of economic development and finance shall report on usage of the credit under chapter 57-38.5, to the finance and taxation committees of the house of representatives and the senate of the fifty-eighth legislative assembly. The report must be filed at a public hearing of each committee between the first and tenth legislative day of the fifty-eighth legislative assembly and must include information identifying each business that has been certified as a qualifying business under chapter 57-38.5. The aggregate amount of investments in each qualified business as shown by investment reporting forms filed with the director, and any available indicia of success of each qualified business including growth in employment and sales or revenues."

Renumber accordingly

Engrossed HB 1413 was placed on the Seventh order of business on the calendar.

=====
REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420
=====

07398

(Bill Number) HB 1413 (, as (re)engrossed):

Your Conference Committee

For the Senate:

SEN. WARDNER

SEN. CHRISTMANN

SEN. KROEPLIN

For the House:

REP. CARLSON

REP. WIKENHEISER

REP. WINRICH

[] recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
the (Senate/House) amendments on (SJ/HJ) page(s)

[] and place on the Seventh order.

[] adopt (further) amendments as follows, and place
on the Seventh order:

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

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

DATE:

4 / 19 / 01

CARRIER:

LC NO. of amendment

LC NO. of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

(1) LC (2) LC (3) DESK (4) COMM.

2001 TESTIMONY

HB 1413



GARY J. NELSON
State Senator
Chairman

JOHN D. OLBRUD
Director

JAY E. BURINGRUD
Assistant Director

JIM W. SMITH
Legislative Budget
Analyst & Auditor

JOHN WALSTAD
Code Revisor

North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360 (701) 328-2916 TTY 1-800-366-6888

February 5, 2001

Honorable Al Carlson
State Representative
House Chamber
State Capitol
Bismarck, ND 58505

Dear Representative Carlson:

This letter is in response to your request for a brief analysis of the similarities and differences between House Bill Nos. 1041, 1291, and 1413, regarding the seed capital investment tax credit.

- House Bill Nos. 1041 and 1413 extend the seed capital investment tax credit so it can be used on the short-form and the long-form income tax return instead of limiting it to its current use on the long form. This change does not affect the other provisions of the seed capital investment tax credit law and could be included in or excluded from any of the three bills.
- House Bill Nos. 1041, 1291, and 1413 amend the definition of "qualified business" as it applies to the seed capital investment tax credit. Except for the conflicting amendments regarding the minimum number of employees and annual sales, these amendments in these bills do not conflict with each other and may be combined in any manner:

House Bill No. 1041 expands the term by allowing for the qualified business to be formed as a limited liability limited partnership or a sole proprietorship; removes the requirement that a majority of the qualified businesses' employees be North Dakota residents; removes the requirement that a qualified business with a significant operation in the state have more than 25 employees or \$250,000 of sales annually; and removes the requirement that a qualified business have a majority of its ownership interests owned by one or more individuals for whom operation of the business is their full-time profession.

House Bill No. 1291 keeps the term as it exists under current law, except it expands the term to include an organization that complies with state securities laws and which attracts investments to build and own a value-added agricultural processing facility that it leases with an option to purchase to a qualifying primary sector business.

House Bill No. 1413 expands the term by decreasing the number of required employees from 25 to 10 and decreasing the amount of annual sales from \$250,000 to \$150,000; and removes the requirement that a qualified business have a majority of its ownership interests owned by one or more individuals for whom operation of the business is their full-time profession.

- House Bill No. 1413 provides that the qualified business certification issued by the director of the Department of Economic Development and Finance must include the period of time the certification covers. This amendment does not affect the other provision of the seed capital investment tax credit law and could be included in or excluded from any of the three bills.
- House Bill Nos. 1041 and 1413 amend the law relating to the amount of the seed capital investment tax credit available to the taxpayer. Except for the conflicting amendments regarding the number of years a credit may be carried forward, these amendments in these bills do not conflict with each other and may be combined in any manner:

House Bill No. 1041 removes the minimum credit requirement of \$5,000; removes the limitation that the amount of the credit in any taxable year not exceed 50 percent of the taxpayer's tax liability; decreases the number of years the credit may be carried forward from 15 years to 10 years; allows for a possible increase in the amount of tax credits allowed for investments in one qualified business by replacing the existing provision that the credits may not exceed the lesser of 30 percent of the total amount of investments in the qualified business during the year or \$250,000 with the provision that the tax credits allowed for investments in one qualified business may not exceed \$250,000; and removes the existing requirement that a qualified business expend the entire amount of a qualified investment for plant, equipment, research and development, marketing and sales activity, or working capital.

House Bill No. 1413 removes the limitation that the amount of the credit in any taxable year not exceed 50 percent of the taxpayer's tax liability; decreases the number of years the credit may be carried forward from 15 years to four years; and allows for a possible increase in the amount of tax credits allowed for investments in one qualified business by replacing the existing provision that the credits may not exceed the lesser of 30 percent of the total amount of investments in the qualified business during the year or \$250,000 with the provision that the tax credits allowed for investments in one qualified business may not exceed \$250,000.

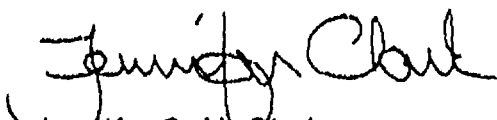
- House Bill Nos. 1041 and 1413 amend the law regarding the aggregate amount of seed capital investment tax credits allowed for investments in any taxable year. The amendments made in these two bills are in direct conflict with each other:

House Bill No. 1041 increases the limit from \$250,000 to \$500,000.

House Bill No. 1413 increases the limit from \$250,000 to \$2 million.

Please do not hesitate to contact this office if you would like additional information regarding this matter.

Sincerely,


Jennifer S. N. Clark
Counsel

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BILLS RELATING TO THE SEED CAPITAL INVESTMENT TAX CREDIT

North Dakota Century Code Chapter 57-38.5 allows individuals completing a long-form individual income tax return to claim a 30 percent tax credit on a qualifying investment in a qualified business. Various limits apply to the amount of credit available to an individual taxpayer and the aggregate amount of tax credit allowed each year may not exceed \$250,000.

The following schedule identifies bills being considered by the 2001 Legislative Assembly affecting the seed capital investment tax credit (a copy of each bill is attached) and the major provisions included in each bill.

House Bill No. 1041	House Bill No. 1291	House Bill No. 1413
<p>Allows the seed capital investment tax credit also on the short-form individual income tax return.</p> <p>Changes the definition of a "qualified business" to:</p> <ul style="list-style-type: none"> • Include a limited liability limited partnership and sole proprietorship. • Remove the requirement that the business have North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation. • Remove the requirement that the business have or project to have more than 25 employees or \$250,000 of annual sales. • Remove the requirement that a majority of its ownership interests be one or more individuals for whom the operation of the business is their full-time professional activity. <p>Allows the tax credit on qualified investments of up to \$50,000 rather than investments of \$5,000 to \$50,000.</p> <p>Removes the requirement that the credit allowed for any taxable year may not exceed 50 percent of the taxpayer's tax liability.</p> <p>Allows unused tax credits to be carried forward for up to 10 rather than 15 taxable years.</p> <p>Provides that tax credits for investments in one qualified business may not exceed \$250,000 rather than the least of:</p> <ul style="list-style-type: none"> • \$250,000. • 30 percent of the total amount of investments in the qualified business during the taxable year. 	<p>Changes the definition of a "qualified business" to also include an organization that is in compliance with the requirements for filings with the Securities Commissioner and attracts investments to build and own a value-added agricultural processing facility that it leases with an option to purchase to a primary sector business.</p>	<p>Allows the seed capital investment tax credit also on the short-form individual income tax return.</p> <p>Changes the definition of a "qualified business" to:</p> <ul style="list-style-type: none"> • Include a business that has or is projected to have more than 10 employees or \$150,000 of annual sales. • Remove the requirement that the business have a majority of its ownership interest owned by one or more individuals for whom the operation of the business is their full-time professional activity. <p>Removes the requirement that the credit allowed for any taxable year may not exceed 50 percent of the taxpayer's tax liability.</p> <p>Allows unused tax credits to be carried forward for up to 4 rather than 15 taxable years.</p> <p>Provides that tax credits for investments in one qualified business may not exceed \$250,000 rather than the least of:</p> <ul style="list-style-type: none"> • \$250,000. • 30 percent of the total amount of investments in the qualified business during the taxable year.

- Gross receipts from out-of-state sales of the business during the taxable year.

Removes the requirement that the entire amount of an investment for which a credit is claimed must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.

Increases the aggregate amount of the seed capital investment tax credit allowed in any taxable year from \$250,000 to \$500,000.

- Gross receipts from out-of-state sales of the business during the taxable year.

Increases the aggregate amount of the seed capital investment tax credit allowed in any taxable year from \$250,000 to \$2,500,000.

Governor Hoeven's executive budget recommendation provided for a 20 percent individual income tax credit on qualified business investments of up to \$50,000 and limited the aggregate tax credit allowed each year to \$2.5 million. Governor Hoeven's recommendation is similar to the provisions of House Bill No. 1413 except that Governor Hoeven recommended a tax credit of **20 percent** of qualified investments of up to \$50,000 while House Bill No. 1413 provides for an investment tax credit of **30 percent** of qualified investments of up to \$50,000. Both Governor Hoeven's recommendation and House Bill No. 1413 limit the aggregate amount of tax credits allowed each year to \$2.5 million.

The Legislative Council's February 1, 2001, budget status report **does not** include the effect on general fund revenues of Governor Hoeven's recommendation regarding the investment tax credit nor the effect of any of these bills (House Bill Nos. 1041, 1291, and 1413).

ATTACH:3



STATEMENT BY DALE O. ANDERSON, PRESIDENT, GREATER NORTH DAKOTA ASSOCIATION, REGARDING ENGROSSED HB 1413, NORTH DAKOTA SENATE FINANCE AND TAXATION COMMITTEE; February 27, 2001.

Chairman Urlacher and members of the Senate Finance and Taxation Committee. I am Dale O. Anderson, President, Greater North Dakota Association. Thank you for this opportunity to provide comments regarding Engrossed HB 1413.

The Greater North Dakota Association is the voice for business and principal advocate for positive change for North Dakota. GNDA was organized in 1925 as a statewide, general business organization. The organization's membership of 1,000 is an economic and geographic cross section of North Dakota's private sector, including statewide associations and local chambers of commerce, development organizations and convention and visitors entities. GNDA is governed by a 25 member Board of Directors elected by GNDA's membership. The Board of Directors establishes the organization's policy.

GNDA is involved in a new initiative referred to as "The New Economy Initiative." The thrust of this initiative is that the "New Economy" is not composed of new industries, rather it is industries – agriculture, energy, manufacturing, and tourism – functioning in fundamentally different ways.

One important aspect of the New Economy is the breakdown of borders and physical distances as relevant in company location strategies. This means that North Dakota no longer simply must compete with its neighbors, but must consider each state in the U.S. – if not global peers – as its true competitors.

Growing pains are a fact of life in the New Economy. At some point, every entrepreneur needs flexible financial support.

According to research by Standard and Poor's, DRI, the research firm working with the New Economy Initiative Committee, North Dakota has challenges:

1. Overall business vitality lags the rest of the nation;
2. Limited venture capital activity, with North Dakota ranking 44th;
3. Lowest level of technology firms in the nation; and
4. State's economy is among the least diverse in the nation.

ENGROSSED HB 1413

GNDA supports Engrossed HB 1413 for the following reasons:

- **Provides a tax credit which is available to tax payers on the short form;**
- **Fills a priority capital need for North Dakota to prosper in the New Economy;**
- **Focuses on primary sector;**
- **Provides a 30 percent tax credit as an incentive to attract private investors;**
- **Tax credit can be carried forward for four taxable years;**
- **Must remain in the business for three years; and**
- **Aggregate amount of seed capital tax credit is \$2.5 million.**

We look forward to working with the Finance and Taxation Committee in creating and enacting programs to fill gaps in the capital continuum from early state financing to acquisition/buyout financing to maximize North Dakota's capacity to participate in North Dakota's New Economy.

Chairman Urlacher and members of the Senate Finance and Taxation Committee, GNDA, the voice of business and principal advocate for positive change for North Dakota, recommends a do pass for Engrossed HB 1413. I welcome your questions.

Submitted by
Sen. Gary Berg

Prepared by the North Dakota Legislative Council
Staff for Senator Grubb
January 2001

FUNDING PROGRAMS AVAILABLE TO BUSINESSES BY DEVELOPMENT STAGE (AS IDENTIFIED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND FINANCE)

The schedule below presents information provided by representatives of the Department of Economic Development and Finance on the various development stages of businesses, funding programs available to businesses in each development stage, and the categorization of bills under consideration by the 2001 Legislative Assembly in the various business stages. Appendix A provides definitions for the business development stages. Appendix B lists bills being considered by the 2001 Legislative Assembly relating to economic development. Appendix C provides information on North Dakota Development Fund projects approved during the 1998-2001 legislative session.

Seed Financing	Startup Financing	First Stage Financing	Second Stage Financing	Third Stage Financing	Bridge Financing	Open Market Financing	Acquisition Financing	RETAIL Financing
Angel Investors Agricultural Products Utilization Commission (APUC) Entrepreneur seed fund (HB 1040) Business Products Utilization Commission (HB 1414) Corporate tax deduction for research and development (SB 2336) Value-added agriculture entrepreneur program (SB 2379)	Certified Development Corporation (CDC) 504 program Micro loan program USDA intermediary lending program (IRP) Local development corporation grant/loanship (Star Fund, Magic Fund, Growth Fund) Bank of North Dakota startup and beginning entrepreneur programs ND Development Fund (debt and equity) Regional councils Angel Investors Renaissance fund Farmers equity trust fund (HB 1051) Rural growth incentive program (HB 1400) Beginning farmers loan program (SB 2194) Seed capital investment tax credit (HB 1041)	ND Development Fund (debt and equity) Regional councils Renaissance fund Bank of North Dakota small business loan program Bank of North Dakota business development loan program Local development corporation Micro loan program Certified Development Corporation (CDC) 504 program USDA intermediary lending program (IRP) Farmers equity trust fund (HB 1051) Renaissance zone (SB 2272) Rural growth incentive program (HB 1400)	ND Development Fund (debt and equity) Regional councils Renaissance fund Certified Development Corporation (CDC) 504 program USDA intermediary lending program (IRP) Micro loan program Local development corporation Farmers equity trust fund (HB 1051) Renaissance zone (SB 2272) Venture capital fund (HB 1039) Venture Capital Corporation, Inc. (HB 1042) Rural growth incentive program (HB 1400) Seed capital investment tax credit changes (HB 1413)	Small Business Investment Center (SBIC) Financial institutions (Bank of North Dakota) ND Development Fund (debt and equity) Regional councils Investment bankers Local development corporation Certified Development Corporation (CDC) 504 program USDA intermediary lending program (IRP) Renaissance fund Micro loan program Renaissance zone (SB 2272) Rural growth incentive program (HB 1400) Mutual fund for state business investments (HB 1454)	Small Business Investment Center (SBIC) Renaissance fund ND Development Fund (debt and equity) Regional councils	Public lending	Venture capital firm Buyout firm ND Development Fund (debt and equity) Small Business Investment Center (SBIC) Regional councils Renaissance fund Financial institutions	Buyout firm Small Business Investment Center (SBIC)

ATTACH:3

Stage Definitions

EARLY STAGE FINANCING

Seed Financing:

This stage is a relatively small amount of capital provided to an inventor or entrepreneur to prove a concept and to qualify for start-up capital. This may involve product development and market research as well as building a management team and developing a business plan. If the initial steps are successful.

Start-Up Financing:

This stage provides financing to companies completing development and initial marketing. Companies may be in the process of organizing or they may already be in business for one year or less, but have not sold their products commercially. Usually such firms will have made market studies, assembled the key management, developed a business plan, and are ready to do business.

First-Stage Financing

This stage provides financing to companies that have expended their initial capital, often in developing and market testing a prototype, and require funds to initiate full-scale manufacturing and sales.

EXPANSION FINANCING

Second-Stage Financing

This stage is working capital for the initial expansion of a company that is producing and shipping, and has growing accounts receivables and inventories. Although the company has made progress, it may not yet be showing a profit.

Third-Stage Financing

This stage provides major expansion of a company whose sales volume is increasing and that is breaking even or profitable. These funds are used for further plant expansion, marketing, working capital, or development of an improved product.

LATER STAGE FINANCING

Bridge Financing

This stage is needed at times when a company plans to go public within six months to a year. Often bridge financing is structured so that it can be repaid from the proceeds of a public underwriting. It can also involve restructuring of major stockholder positions through secondary transactions. Restructuring is undertaken if there are early investors who want to reduce or liquidate their positions, or if management has changed and the stockholdings of the former management, their relatives and associates are being bought out to relieve a potential oversupply when public.

Open Market

This stage involves acquiring securities of companies whose common shares trade publicly.

ACQUISITION/BUYOUT

Acquisition Financing

This stage provides funds to finance the acquiring of another company. Venture Economics tracks these deals when calculating venture capital disbursements in situations where the funding is by a venture capital firm, but not when it is by a buyout firm.

Management/Leveraged Buyout

These funds enable an operating management group to acquire a product line or business, at any stage of development, from either a public or private company. Often these companies are closely held or family owned. Management/leveraged buyouts usually involve revitalizing an operation, with entrepreneurial management acquiring a significant equity interest. Venture Economics tracks these deals when calculating venture capital disbursements in situations where the funding is by a venture capital firm, but not when it is by a buyout firm.