1999 HOUSE FINANCE AND TAXATION

HB 1492

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1492

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 26, 1999

Tape Number	Side A	Side B	Meter #
1	x		15.2

Committee Clerk Signature Janice Stein

Minutes:

REP. BELTER Opened the hearing.

REP. JOHN DORSO, DIST. 46, FARGO, Introduced the bill. Referred to this bill as the Renaissance Zone Bill. This bill allows cities to set up zones and give tax abatements, and also to forgive some state tax. Gave an account of a school in Fargo with a loss of many students. Submitted a handout regarding Urban Sprawl, see attached copy. He stated this is something that is happening across the country. This bill can also help rejuvenate our inner cities. Related to the larger cities using this idea of Renaissance Zones. See attached handout, Michigan Jobs Commission.

BRUCE FURNESS, MAYOR OF FARGO, Testified in support of the bill. See written testimony. Pointed out two concerns - page 3, line 6, d. don't know why contiguous was put in, noncontiguous would be better., and; page 4, line 17, people exempted from taxes, we are not sure if that is clear enough, we are not sure if they mean property taxes or sales taxes. We are not sure if levied by the city means all the local governmental units in the city, such as school board and park board, etc.

JIM GILMOUR, PLANNING DIVISION CITY OF FARGO,, Testified in support, See written testimony.

REP. BELTER You talked about businesses moving to the outside of cities, while they are doing that, they have to pay the specials that go along with that, don't you within your city framework now, obviously, downtown must have a lower property value, taxes should be less, specials should be paid, isn't there already a tax incentive to stay there?

JIM GILMOUR There is some, but the older buildings are often unpredictable, so developers are less likely to renovate an older building, because they are afraid they will run into asbestos, or unexpectant problems. When they build a new building, it is more predictable. In these smaller two story buildings, they can't get an adequate return on their money. This bill would give them another tool to use the downtown.

REP. BYRON CLARK, DIST. 44, FARGO, Testified in support of the bill. This is a very valuable tool for North Dakota. It's most valuable asset is because it is flexible. It can be used for housing projects or business development. Referred to the Michigan Renaissance Zone. Answered the question relating to why it is contiguous blocks, the reason behind that is, they want the Renaissance Zone to be a specific zone within a city. They don't want the cities to divy up portions in this part of the city and that part. It is intended to be a unique Renaissance Zone.

DAN WALD, HAZEN, Testified in support of the bill. He stated he is a private venture capitalist in Oliver County. Related to an experience where he tried to bring a business to the city of Fargo, however regulations stopped them from taking it there. They took the business to Colorado Springs, CO., where they were able to finance the business. Related another experience of trying to bring a company to northwestern North Dakota, ran into problems, and again, looked at Colorado Springs, CO, where it now exists. This bill can help with some great opportunities in the state of North Dakota.

CONNIE SPRYNCYNATYK, LEAGUE OF CITIES, Testified in support of the bill. It may not be a tool that can be used in every community of the state, although it is fully optional. There are some concerns that the city governing boards have.

DINA BUTCHER, INTERGOVERNMENTAL ASSISTANCE, Testified in a neutral position. Should this bill pass, we are capable of taking on that charge of reviewing the community plans. We encourage communities of all sizes to look at strategic planning. We are encouraged, that in this bill there is an emphasis on communities looking at all of their assets in making plans for embracing economic development.

BARRY HASTI, SUPERVISOR OF ASSESSMENTS, STATE TAX DEPARTMENT, Testified to seek some clarification of the bill. On page 4, line 17, "taxes levied by that city", looking at that language and trying to harmonize it with the exemptions that are provided for in Section 5 on page 5, it appears that the only property tax exemption that might be available is that exemption from the city tax. If the intent of the legislature is to exempt them from all property taxes, you might want to remove the words on page 4, line 17.

JOSEPH BECKER, STATE TAX DEPARTMENT, Testified in a neutral position. Referred to page 4, line 21, talking about an income tax exemption, I would add that if we want to give the full benefits to this individual, we need to go into the short form provisions of the law and place this exemption language in there in some form. As it stands, the short form must be amended to do that. And; on page 5, line 1, submission of forms and information to the Office of Intergovernmental Assistance, etc., in that, it is confidential. That presents a problem, in that, they cannot share that information with our office and vice versa. Page 7, line 4, relative to examping all state tax levies, our concern is, how encompassing is that.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-26-99, Tape #2, Side B, Meter #9.5

Committee members voiced their concerns regarding the bill.

REP. CLARK Offered to have amendments prepared to cover the concerns of the committee. The bill will be held for action until the amendments are prepared.

COMMITTEE ACTION 2-3-99, Tape #2, Side A, Meter #27.5

REP. CLARK Presented amendments to the committee prepared by the legislative council. The amendments would allow a total investment of five million dollars for the renaissance zone. It would allow for two and a half million any given year. The biggest change was on page 7, line 13.

DONNITA WALD, STATE TAX DEPARTMENT, Appeared before the committee to answer questions regarding the amendments. Donnita Wald went through the whole set of amendments and explained what they did.

REP. CLARK AND REP. WINRICH offered to study the prepared amendments further and add more amendments because of all of the questions which arose from committee members.

COMMITTEE ACTION 2-8-99, Tape #2, Side A, Meter #22.5

REP. GROSZ Made a motion to adopt the amendments.

REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. GROSZ Made a motion for a DO PASS AS AMENDED.

REP. GRANDE Second the motion.

Questions arose from committee members regarding Sections 4, 5, and 7 of the bill versus the amendments. Some of the committee members felt the fiscal impact of the bill would be quite large.

Donnita Wald, State Tax Department was asked again to appear before the committee to answer questions regarding the amendments to the bill. The bill was layed aside until Donnita came to the committee room.

Tape 2, Side A, Meter #37.1

DONNITA WALD Answered questions regarding the amendments.

After a lengthy question and answer period, Rep. Grosz & Rep. Grande withdrew their motions for a Do Pass As Amended. Committee members were to review the amendments some more and the bill would be acted on at a later date.

COMMITTEE ACTION 2-10-99, Tape #1, Side A, Meter 23.8

REP. CLARK Presented amendments which addressed the questions the committee members had brought up during the last committee work.

REP. CLARK   Made a motion to remove the prior amendments which had been adopted.

REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. CLARK   Made a motion to adopt the new proposed amendments.

REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. GROSZ   Made a motion for a DO PASS AS AMENDED.

REP. RENNERFELDT Second the motion. MOTION CARRIED.

10 Yes   4 No   1 Absent

REP. CLARK   Was given the floor assignment.

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: HB 1492 | Amendment to: ____

Requested by Legislative Council | Date of Request: 1/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

   Narrative: HB 1492 provides various tax exemptions and credits for qualified investments in cities that have established renaissance zones. A portion of the revenue loss attributable to the tax exemption and credit provisions of the bill will be off set by economic expansion in participating communities. The overall net impact of HB 1492 is unknown.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	**Other Funds**	**General Fund**	**Other Funds**	**General Fund**	**Other Funds**
Revenues						
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:
   a. For rest of 1997-99 biennium: ____
   (Indicate the portion of this amount included in the 1999-2001 executive budget:)
   b. For the 1999-2001 biennium: ____
   (Indicate the portion of this amount included in the 1999-2001 executive budget:)
   c. For the 2001-03 biennium: ____

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**

If additional space is needed attach a supplemental sheet.

Date Prepared: January 25, 1999

Signed: ____

Typed Name: Kathryn L. Strombeck

Department: Tax

Phone Number: 328-3402

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: ____________ Amendment to: HB 1492

Requested by Legislative Council Date of Request: 2/12/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

   Narrative: HB 1492 provides various tax exemptions and credits for qualified investments in cities that have established renaissance zones. A portion of the revenue loss attributable to the tax exemption and credit provisions of the bill will be off set by economic expansion in participating communities. The overall net impact of HB 1492 is unknown.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		**1999-2001 Biennium**		**2001-03 Biennium**	
	General Fund	**Other Funds**	**General Fund**	**Other Funds**	**General Fund**	**Other Funds**
Revenues						
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:
   a. For rest of 1997-99 biennium: ____________
   (Indicate the portion of this amount included in the 1999-2001 executive budget:)
   b. For the 1999-2001 biennium: ____________
   (Indicate the portion of this amount included in the 1999-2001 executive budget:)
   c. For the 2001-03 biennium: ____________

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			**1999-2001 Biennium**			**2001-03 Biennium**		
Counties	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**

If additional space is needed attach a supplemental sheet.

Signed: ____________

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: February 15, 1999

Phone Number: 328-3402

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: ____________ Amendment to: Eng. HB 1492

Requested by Legislative Council Date of Request: 3-26-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

   Narrative: Engrossed HB 1492 as amended provides various tax exemptions and credits for qualified investments in cities that have established renaissance zones. A portion of the revenue loss attributable to the tax exemption and credit provisions of the bill will be offset by economic expansion in participating communities. The overall net impact of HB 1492 is unknown.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	**Other Funds**	**General Fund**	**Other Funds**	**General Fund**	**Other Funds**
Revenues						
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:
   a. For rest of 1997-99 biennium: ____________
   (Indicate the portion of this amount included in the 1999-2001 executive budget:)
   b. For the 1999-2001 biennium: ____________
   (Indicate the portion of this amount included in the 1999-2001 executive budget:)
   c. For the 2001-03 biennium: ____________

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**

If additional space is needed attach a supplemental sheet.

Signed: [illegible]

Typed Name: Kathryn L. Strombeck

Department: Tax

Phone Number: 328-3402

Date Prepared: March 26, 1999

Please type or use black pen to complete

Date 2-8-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1492

House HOUSE FINANCE & TAX Committee

☐ Subcommittee on

☐ Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number

Action Taken Do Pass as amended

Motion Made By Rep. Grosz Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
BELTER			WINRICH		
RENNERFELDT					
CLARK					
FROELICH					
GRANDE					
GROSZ					
HERBEL					
KROEBER					
MICKELSON					
NICHOLAS					
RENNER					
SCHMIDT					
WARNER					
WIKENHEISER					

Withdrawn

Total ______ (Yes) ______ (No)

Absent

Floor Assignment Rep

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

Please type or use black pen to complete

Date 2-10-99

Roll call vote # 1

DO NOT USE HIGHLIGHTER ON ANY FORMS

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1492

House HOUSE FINANCE & TAX Committee

☐ Subcommittee on ______

☐ Conference Committee

Identify or check where appropriate

Legislative Council Amendment Number ______

Action Taken Do Pass as amended

Motion Made By Rep. Grosz Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH		✓
RENNERFELDT	✓				
CLARK	✓				
FROELICH	A				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER		✓			
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT		✓			
WARNER		✓			
WIKENHEISER	✓				

Total 10 (Yes) 4 (No)

Absent 1

Floor Assignment Rep. Clark

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

REPORT OF STANDING COMMITTEE

HB 1492: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1492 was placed on the Sixth order on the calendar.

Page 2, line 16, replace ""Primary place of residence" means the place of residence of the taxpayer or" with ""Taxpayer" means an individual, corporation, financial institution, or trust subject to the taxes imposed by chapter 57-35.3 or 57-38."

Page 2, remove lines 17 and 18

Page 2, line 25, after "to" insert "the office of intergovernmental assistance to" and replace ", and any" with ". Any"

Page 2, line 26, remove "with tax liability in"

Page 2, line 27, remove "the state"

Page 4, line 17, remove "levied by that city"

Page 4, line 19, replace "**- Confidentiality of records - Required**" with a boldfaced period

Page 4, remove line 20

Page 4, line 21, after "individual" insert "taxpayer" and after "purchases" insert "single-family residential"

Page 4, line 23, replace "in the year of the investment" with "with the date of occupancy"

Page 5, line 1, replace "The office of intergovernmental assistance, in cooperation with the state board of" with "The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapters 57-35.3 or 57-38."

Page 5, remove lines 2 through 8

Page 5, line 9, replace "**- Confidentiality of records - Required**" with a boldfaced period

Page 5, remove line 10

Page 5, line 11, replace "An individual who purchases property for the individual's primary place of" with "A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, located in a zone project if the property was purchased by an individual for the individual's primary place of residence. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition."

Page 5, remove lines 12 and 13

Page 5, line 14, replace "A business that purchases property" with "Buildings, structures, fixtures, and improvements purchased by a business"

Page 5, line 17, replace "An individual, partnership, limited partnership, limited liability company, trust, or" with "A municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements to residential or commercial property located in a zone project if the property was purchased solely for investment purposes. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition."

Page 5, remove lines 18 through 28

Page 5, line 29, replace "**- Confidentiality of**" with a boldfaced period

Page 5, remove line 30

Page 6, replace lines 1 through 15 with "A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone if the investment is made between January 1, 2000, and December 31, 2004. The amount of the credit is fifty percent of the amount invested during the taxable year. Any excess credit may be carried forward for a period of up to five taxable years from the date of the investment."

Page 6, line 16, replace the second boldfaced dash with a boldfaced period

Page 6, remove line 17

Page 7, line 4, replace "A renaissance fund corporation is exempt from all state tax levies. However, a" with "A renaissance fund corporation is exempt from any tax imposed by chapters 57-35.3 or 57-38. A corporation or financial institution entitled to the exemption provided by this subsection must file required returns and report income to the tax commissioner as required by the provisions of those chapters as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund corporation from complying with the income tax withholding laws.

5. A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund corporation. The amount of the credit is fifty percent of the amount invested in the renaissance fund corporation during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made."

Page 7, remove lines 5 through 11

Page 7, line 13, replace "twenty-five" with "two" and after "million" insert "five hundred thousand"

Page 8, remove lines 6 through 13

Page 8, line 17, after the first boldfaced period insert "**Rules and administration -**" and after the second boldfaced period insert "The tax commissioner shall administer this Act as it relates to an income tax exemption or credit and has the same powers as provided under section 57-38-56 for purposes of this Act. The office of intergovernmental assistance, in cooperation with the tax commissioner, shall issue forms to a taxpayer who may be eligible for the income tax exemption or tax credit sufficient for the tax commissioner to monitor the use of any exemptions or credits received by a taxpayer."

Page 8, line 18, replace "no" with "not"

Page 8, after line 20, insert:

"**SECTION 10. Pass-through of tax exemption or credit.** A partnership, subchapter S corporation, limited partnership, limited liability company or any other pass-through entity that purchases or leases property in a renaissance zone for any business purpose, invests in a historic preservation or renovation of property within a renaissance zone, or invests in a renaissance fund corporation must be considered to be the taxpayer for purposes of any investment limitations in sections 4, 6, and 7 of this Act, and the amount of the exemption or credit allowed with respect to the entity's investments must be determined at the pass-through entity level. The amount of the total exemption or credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the pass-through entity.

SECTION 11. A new subsection to section 57-38-30.3 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

> A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 4, 6, and 7 of this Act."

Renumber accordingly

1999 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1492

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1492

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 15, 1999

Tape Number	Side A	Side B	Meter #
1		x	0-end
2	x		0-end
Committee Clerk Signature			

Minutes:

Senator Mutch opened the hearing on HB1492. All senators were present.

Representative Dorso introduced HB1492 to the committee. He said that he felt that this is not only a big town problem. He said that, even in small towns, people are constructing new buildings that replace the buildings that they already have in the heart of the city. He thinks that using a renaissance zone will help restore the vitality that the downtown areas used to have years ago.

He said that the renaissance zones came out of some legislation modeled after what came out of Michigan. The Michigan legislation has worked to the betterment of many of their communities. He said that this will allow a city to find a geographic area in which certain tax incentives would be available. He said that they also must file a plan with The Office of Intergovernmental Assistance. He thinks that there are enough safeguards in the bill that they will have control of the renaissance that loans. He urged the committee to give HB1492 a do pass recommendation. He said that he believes that they can get ahead of the curve before they watch the core of the towns and cities deteriorate.

Senator Heitkamp asked him what makes this tax break more special than the other ones that don't make it through. Representative Dorso told him that he does feel that they have given to many tax breaks in the past years but this tax break is only for five years.

Senator Sand asked Representative Dorso if the park district taxes will be levied. He was told that the city would have to be the ones that decided on property taxes. They would have to trust the city commissioners or the city council to make the decision as to whether a loss of revenue for a period of time is in the best interests of the community.

Senator Thompson indicated that he had some concerns with the smallest limit being 4 block. Representative Dorso said that he did not think that it should be a concern. He also said that he did not want to think of a renaissance zone being just commercial and that he thought that it should also be known that this is meant for residential use.

Representative Clark testified in support of HB1492. His testimony is included. He also went through and explained the bill section by section to the committee.

Senator Thompson asked Representative Clark if when he said paired down to 2.5 million he meant income tax, property tax, etc. He was told that it is only the renaissance fund corporation.

Senator Thompson asked him why they didn't have a fiscal note saying what the total impact is.

Representative Clark said that it would be hard to determine how many people are going to invest in the corporation and how many cities are going to invest in the zone and what year the biennium investments will take effect.

Senator Sand asked him hypothetically if a bank were to go into the zone, build a $5 million dollar building and get half of it's money back right now in a tax credit if it was the first one to apply. Representative Clark told Senator Sand that he was partially correct. A state bank would benefit from this but an out of state bank would not.

Senator Thompson asked Representative Clark if he thought that HB1492 would help out new businesses. He said that he felt that it would.

Senator Heitkamp asked him how the schools are with this bill. He said that he thought that in the end the schools will get the money. At the end of the 5 years the taxable value of the property will have probably increased. If a business moves into a vacant building, you will increase your sales tax revenues, income tax revenues, plus people are going to buy homes, cars, and clothes. Michigan gained a rate of return of $16.20 for every tax dollar lost. Ohio had a rate increase of $15.20 for every tax dollar lost

Senator Mathern asked Representative Clark to explain section 5 of the bill. He said that section 5 of the bill. He told her that those are just additional taxes assessed to the property.

Bruce Furness, Mayor of Fargo, testified in support of HB1492. His testimony is included.

Senator Mutch asked Mr. Furness why, if The Office of Intergovernmental Assistance is not putting any money into the fund, did they need their approval. He said that it was because there needed to be a statewide look at renaissance zones so that one particular area of the state did not receive all of the benefits.

Senator Thompson asked Mr. Furness who decides which project gets funded. He said that the Office of Intergovernmental Assistance would make the determination between which zones get approved and which zones do not. Senator Thompson then asked him if there were sponsors that are not from Cass County that do not have their name on the bill. Mr. Furness said that it was a strategic error.

Gene Shannon, a private person, testified in support of HB1492. His testimony is included.

Galen Baker, Economic Development for Dickinson, testified in support of HB1492. He said that this is not just a Fargo bill. He feels that it reaches to his end of the state too. He said that this could be a great thing if they could make this thing work.

Mark Nisbet, Community Relations Manger for Northern States Power in Minot, testified in support of HB1492. His testimony is included.

Nancy Sand, North Dakota Education Association, testified in opposition to HB1492. She said that their concerns are for the kids, whose needs go on as these extensions are granted.

Danita Wald, Legal Council for the North Dakota State Tax Department, answered questions that the committee had.

Senator Heitkamp asked how are you going to determine what is profits mad in the new part of the store and what it profits from the old part. She told him that they will use a formula based on property payroll and sales prior to and after. She said that there will be some extra record keeping that will have to be done by the tax payer.

Dena Butcher, Office of Intergovernmental Assistance, testified in support of HB1492. She said they are involved with this because there is an initiative from the Rural Development Council to develop a vehicle that a community of any size to subscribe to that is a strategic planning tool. She feels that it will take a long time to see this happen because all of the discussion and concerns that were expressed today will have to take place in every community that will be considering a renaissance zone. She said that her group will make sure that they are fiscally prudent with the tools that they are given. She feels that this legislation is a piece of a tool kit that is sorely needed.

The Bismarck City Administrator read the testimony of Mayor Bill Sorenson. His testimony is included.

Ed McConnel, Mayor of Casselton, testified in support of HB1492. He said that he thinks that the small towns could really use a piece of legislation like this.

Senator Thompson asked if a 4 block area is too much and if he felt that it need to be reduced.

Mr. McConnel said that 4 was a number that they could manage but it would be nice if it could be reduced a little.

Curt Brown, Chamber of Commerce for Valley City, testified in support of HB1492. He said that he is not sure if his community would choose to use this bill or not, but is they would this is an excellent tool to help businesses with. He said that it is not just downtown Fargo that is deteriorating. Valley City has strip malls too. He said that, because he is a father of four, he is concerned about the schools. However, he feels that a a barometer for a school is the health and vitality of a business community.

Senator Heitkamp asked him to explain to the committee why the state should be responsible for revitalizing a section of a town that is already thriving and growing when they can't even invest dollars to help out a portion of the state that is dying (in relation to ag) Mr. Brown said that he can't answer that question. Senator Heitkamp said that in order to have a strong community, in Valley City, you need to have a strong rural community.

Senator Thompson expressed his concerns about education and asked Mr. Brown if it is better to invest in farm programs or if this is going to be the way to solve this problem. Mr. Brown said that in the short term this probably will effect the education dollars, but in the long term he is hopeful that the tax base will increased.

Senator Mutch closed the hearing on HB1492.

Senator Krebsbach motioned to pass the amendments that she proposed. Senator Thompson seconded her motion. The motion carried with a 7-0-0.

Senator Sand motioned for a do not pass with amendments committee recommendation on HB1492. Senator Heitkamp seconded his motion. The motion was unsuccessful with a 3-4-0 vote.

Senator Krebsbach motioned for a do pass with amendments committee recommendation on HB1492. Senator Thompson seconded her motion. The motion carried with a 4-3-0 vote.

Senator Krebsbach will carry the bill.

Date: 3/16
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
HOUSE BILL/RESOLUTION NO. 1492

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on ______
or
☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken AMEND TO CHANGE WORDING ON PAGE 3 LINE 4 SO THAT IT WILL READ THE PROPOSED RESIDENCE IS NOT MORE THAN 20 BLOCKS

Motion Made By KREBSBACH Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment ______

Date: 3/16
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1492

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken AMEND (JASON HENDERSON)

Motion Made By HEITKAMP Seconded By THOMSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

Date: 3/16
Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1492

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on ______
or
☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken AMEND (KREBSBACH)

Motion Made By KREBSBACH Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment ______

Date: 3/16
Roll Call Vote #: 4

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
House **BILL/RESOLUTION NO.** 1492

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Sand Seconded By Heitkamp.

Senators	Yes	No	Senators	Yes	No
Senator Mutch		X			
Senator Sand	X				
Senator Krebsbach		X			
Senator Klein	X				
Senator Mathern		X			
Senator Heitkamp	X				
Senator Thompson		X			

Total (Yes) 3 No 4

Absent 0

Floor Assignment

SR5455TO

Date: 3/16

Roll Call Vote #: 5

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1492

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on ______
or
☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass as Amended

Motion Made By Krebsbach Seconded By Thompson

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	\	X			
Senator Krebsbach	X				
Senator Klein		X			
Senator Mathern	X				
Senator Heitkamp		X			
Senator Thompson	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Krebsbach

REPORT OF STANDING COMMITTEE

HB 1492, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1492 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to tax exemptions and credits for investments in renaissance zones;"

Page 1, line 4, after "in" insert "sections 1 through 10 of"

Page 2, line 26, after "under" insert "sections 4 through 7 of"

Page 3, line 4, remove "less than four square blocks nor"

Page 4, line 17, after "in" insert "sections 4 through 7 of"

Page 4, after line 18, insert:

"6. Property in a renaissance zone may receive an exemption one time only. An exemption on property in a renaissance zone may be transferred if ownership of the property is transferred."

Page 7, line 24, after "administer" insert "sections 1 through 10 of" and replace "as it relates" with "with respect"

Page 7, line 25, after "of" insert "sections 1 through 10 of"

Page 7, line 29, after "under" insert "section 6 of"

Page 7, line 30, replace "chapter" with "Act"

Page 7, line 31, after "under" insert "section 6 of" and replace "chapter" with "Act"

Renumber accordingly

1999 TESTIMONY

HB 1492

Testimony Presented to the

House Finance and Taxation Committee
Representative Wes Belter, Chair

by

Mayor Bruce W. Furness
City of Fargo

January 26, 1999

Mr. Chairman and Members of the Committee:

Good morning, I am Bruce Furness, Mayor of Fargo. Thank you for this opportunity to testify before your committee. I am here to support HB 1492 relating to the establishment of Renaissance Zones in North Dakota cities.

This legislation is similar to that currently in effect throughout the State of Michigan. It was developed in concept by a consultant, Lupke & Associates, who was familiar with Michigan law and met with several cities in our state to determine our needs.

It is intended to assist with the revitalization of Central Business Districts or downtown areas. The claim of property owners in Fargo is that downtown property is valued too high and thus causes a detrimental effect on their property and the entire downtown area.

Though this claim is not universally true, it does cause concern among elected leaders in Fargo. We basically feel if some positive action is not taken soon, a downward spiral will take place and the property owners concerns will be substantiated. We feel incentives are needed to encourage private investment in certain target areas.

HB 1492 accomplishes this purpose by providing property tax exemptions, income tax exemptions and historic preservation and renovation tax credits for developers, investors and owners. Though it is difficult to assess the fiscal impact of those exemptions and credits, we feel that doing nothing to encourage downtown development will also have a significant fiscal impact on our community.

A vibrant, vital downtown will generate sales taxes, property taxes and ultimately income taxes to enhance the revenue streams of both the cities and the state.

I urge your support of HB 1492 to assist cities in the revitalization of the cities of our state.

Testimony Presented to the

House Finance and Taxation Committee
Representative Wes Belter, Chair

by

Jim Gilmour, Planning Director
City of Fargo

January 26, 1999

Mr. Chairman and Members of the Committee:

I am Jim Gilmour, Planning Director for the City of Fargo. On behalf of the Fargo City Commission, I ask for your support of HB1492 that would allow for the creation of Renaissance Zones in North Dakota.

The City of Fargo has been working to create an environment downtown that will both strengthen current businesses and attract new businesses. In addition, city leaders feel that the development of new housing downtown is an important component to improving the downtown. This bill would provide the City of Fargo and other North Dakota cities with another tool to encourage reinvestment downtown.

Downtown Fargo has problems with blighted and under-used buildings. A study by the Planning and Development Department identified 62 buildings with some level of deterioriation. Often, the cost of remodeling on older buildings does not provide an adequate return on property owners' investments. Low rents leave property owners with insufficient funds to maintain and improve buildings. These additional incentives contained in HB1492 should encourage investment in the downtown by giving property owners a greater return on their investment and provide an incentive to businesses that locate downtown.

Fargo has seen hundreds of new housing units built each year during the 1990's, but few of these are located in the downtown. Faced with higher land and site clearance costs, it has been easier for housing developers to build on the fringe of the city. This fringe development requires the extension of utilities and services, and adds to the costs of operating the city. Encouraging development in the downtown, where city services are already available, saves local government money. Housing downtown also brings more people and activity to the downtown after business offices are closed. Other downtown's which have successfully redeveloped housing have found it led to enhanced overall safety, more businesses moving in, increased investment and higher property values.

I anticipate this legislation will be used by the City of Fargo in a targeted way in areas of the downtown where property values are lower, buildings are in need of renovation and where land is vacant. These short term tax exemptions should provide for increased property values in the long run.

Rep Dorso
HB 1492

Michigan Jobs Commission

January 1, 1997 through September 30, 1998
Renaissance Zone Activity

	Jobs	Investment	Year
Benton Harbor			
Nuway Paper(Oakbrook Int'l) paper products	300	$ 20,000,000	97
WAVE ceiling suspension systems	75	$ 10,000,000	97
Old World Stone construction materials	5	$ 100,000	98
Product Design Services CNC prototyping	12	$ 1,000,000	98
subtotal (4 projects)	392	$ 31,100,000	
Detroit			
SBF Automotive seat mechanisms for Ford	20	$ 700,000	97
Strong Steel Products scrap metal recovery	50	$ 14,500,000	97
Renaissance Global Logistics export packaging operations	400	$ 16,650,000	97
Prestressed Systems precast concrete manuf.	30	$ 1,000,000	98
Johnson Controls auto parts manufacturing	220	$ 5,000,000	98
subtotal (5 projects)	720	$ 37,850,000	
Flint			
Rossner Engineering design engineering	0	$ 850,000	97
Genesee Packaging, Inc. packaging/assembly	120	$ 4,000,000	97
Rizzo's Pizza restaurant	4	$ 85,000	97
subtotal (3 projects)	124	$ 4,935,000	
Grand Rapids			
Polymer Products specialty resins,polyester gels	10	$ 1,000,000	97
Fab Tool specialty tooling for auto industry	7	$ 50,000	97
SEED Inc. / Calatico Inc. Yellowstone and Carolina apts.	0	$ 242,000	97
Radiology Imaging Solutions x-ray sales and repair	3	$ 40,000	97
Home Repair Services non-profit organization	2	$ 2,000,000	97
SEED Inc. / Wealthy St. Theatre theatre and community center	2	$ 1,960,000	97
Ainslie Upholstry upholstry	0	$ 160,000	97
The Hair Net hair salon	2	$ 10,000	97
McGraw Construction commercial building construction	5	$ 225,000	97
Acanthus Antiques antiques	2	$ 75,000	97
St. Mary's Health Service non-profit health clinic	20	$ 1,500,000	97
St. Mary's Health Service non-profit health clinic	15	$ 1,500,000	97
Half Moon Entertainment Center restaurant, night club	30	$ 400,000	97
Dwelling Place housing	30	$ 1,230,000	97

Miller Welding Supply commercial	3	$ 400,000	97
Mr. Cornbeef restaurant	0	$ 10,000	97
McDonald's restaurant	50	$ 500,000	97
Allen-White Group (Ferris Hotel) offices	5	$ 675,000	97
John Widdicomb Co. residential furniture mfg.	10	$ 3,000,000	97
Roosevelt Market grocery store	16	$ 500,000	97
Chuck Posthumus Architect architecture firm	2	$ 25,000	97
Spectrum Industries electrodeposition coating	100	$ 6,500,000	97
P.B. Gast janitorial equipment & supplies	10	$ 1,600,000	97
Franklin Metals metals processor and recycler	25	$ 1,000,000	97
Canal Street Foundry, LLC developer	400	$ 5,000,000	97
Ed DeVries Properties developer	150	$ 3,610,000	97
Haviland Enterprises chemical products	35	$ 10,000,000	97
Grand Rapids Housing Comm. assisted housing center	0	$ 85,000	97
Perfit Corporation wholesale auto parts distributor	1	$ 135,000	97
Kregel Inc. publisher/printer	1	$ 56,000	97
KL Lawn Sprinkling lawn sprinkling system installation	1	$ 150,000	98
Hat HMS hat and clothing retailer	0	$ 35,000	98
Old Kent Bank Franklin Street bank branch office	0	$ 300,000	98
Half Moon Two nightclub/banquet hall	15	$ 275,000	98
Pridgeon & Clay metal stamping	0	$ 125,000	98
Madison Square Christian Reformed Church	0	$ 760,000	98
Canal Street Brewing Co. microbrewery and tasting room	8	$ 1,300,000	98
Peninsular Plating Co. plating and metal finishing	30	$ 1,300,000	98
subtotal (38 projects)	**990**	**$ 47,733,000**	
Lansing			
BRD Printing printing	7	$ 300,000	97
subtotal (1 project)	**7**	**$ 300,000**	
Manistee			
Pandrol-Jackson railway maintenance machinery	30	$ 208,000	97
Stewart Investment Group residential housing	0	$ 2,382,667	98
Myers Engineering tool and die mfg./rubber molds	10	$ 300,000	98
Metal-Line Inc. machine repair/fabrication	25	$ 800,000	98
Sadler Machine Tool Inc. rebuild industrial machinery	10	$ 350,000	98
Robert Gentz Forest Products wood moldings/landscape timbers	10	$ 700,000	98
subtotal (6 projects)	**85**	**$ 4,740,667**	
Montcalm/Gratiot			
Paulstra CRC Corp. (Gratiot) auto component supplier	115	$ 24,000,000	97
National Surface Preparation (M.) steel blasting, scarifying concrete	35	$ 800,000	97

Riverside Plastics (Montcalm) extrudes plastic parts	13	$ 950,000	97
Montcalm Fibre Corp. (Montcalm) fuel pellets	50	$ 1,800,000	97
Mountain Town Mfg. (Gratiot) wood chippers	20	$ 1,000,000	97
Wolverine Worldwide (Montcalm) distribution center	100	$ 13,000,000	97
subtotal (6 projects)	333	$ 41,550,000	
Oscoda (Wurtsmith AFB)			
Fletcher Coated Products paper coating	10	$ 5,000,000	97
American International Airways aircraft maintenance	20	$ 0	97
subtotal (2 projects)	30	$ 5,000,000	
Saginaw			
Michigan Photo commercial photo film finishing	8	$ 154,500	97
Gallade Technologies automotive chassis components	30	$ 9,000,000	97
Health Delivery, Inc. nonprofit medical services	12	$ 1,500,000	97
Browne's Mortuary mortuary services	2	$ 500,000	97
Discount Transmission auto repair firm	8	$ 100,000	97
Spicer Engineering engineering services	30	$ 1,220,000	97
Peerless Environmental environmental services firm	10	$ 120,000	97
subtotal (7 projects)	100	$ 12,594,500	
Warren			
DCT auto supplier	1,700	$ 6,300,000	97
subtotal (1 project)	1,700	$ 6,300,000	
Western U.P.			
Superior Polymer (Houghton) polymer coatings	5	$ 150,000	97
Rippa Products screw machine products	5	$ 250,000	98
Blizzard Corp. snow & ice removal equipment	12	$ 700,000	98
subtotal (3 projects)	22	$ 1,100,000	
1998 Totals (19 projects)	**393**	**$ 16,827,667**	
1997 Total (57 projects)	**4,110**	**$ 176,375,500**	
Overall Totals (76 projects)	**4,503**	**$ 193,203,167**	

The State vs. Sprawl

Maryland has launched a bold experiment in growth control. It is being watched closely all over the country. But will it work?

BY ROB GURWITT

SPEND FIVE MINUTES BY THE SIDE of the road, and you will understand why Manchester, Maryland, is a desperate town. Manchester's main street is also state Route 30, which winds from the Pennsylvania border down to the outskirts of Baltimore. On the map, Route 30 has all the slender innocence of a country lane, and indeed there are long stretches where it passes rolling fields planted to corn and beans, parallels time-worn, single-track rail lines and fronts white frame farmhouses and orderly patches of woodland. Manchester itself is just a speck of a town, with the low-slung, drowsy mien of a farm hamlet.

Unless, that is, you happen to pull over and park there. Then Manchester is transformed, revealed as a congested and unappealing vehicular doormat. Trucks thunder by. Late-model sport utility vehicles elbow their way in and out of town. And, if it happens to be rush hour, an impossibly long, impatient line of cars makes the thought of trying to get out on the driver's side laughable.

Rush hour in Manchester: Only the brave dare cross the street.

Some of this traffic comes from Manchester itself, but most of it is on its way elsewhere: commuters going home to one of the developments carved out of the fields of surrounding Carroll County; workers who've taken advantage of cheaper housing across the state line in Pennsylvania; truckers ferrying goods to and from Hanover, Pennsylvania, which the Utz potato chip and Snyder's pretzel companies are rapidly transforming into the snack-food capital of the mid-Atlantic.

All of this growth in other places has imposed itself on Manchester. "This once-quiet little farming community is no more, at least on Main Street," says David Warner, the recently retired town manager. "Now you take your life into your hands just to back up." Homeowners don't live on Main Street these days—it's too noisy—so the venerable brick fronts wear the neglected look of downscale rentals. It's hard to find a restaurant open past lunchtime, since there is no real point to serving dinner if no one can cross the street to get to you. And shopkeepers worry openly about how long they'll be able to stay in business, because fewer and fewer locals want to visit and rush-hour passers-by wouldn't dream of losing their place in the stream of cars.

It was precisely to get a handle on problems such as Manchester's—to find a way of reducing the fallout from untrammeled development—that Maryland Governor Parris N. Glendening proposed "Smart Growth" and pushed it through the legislature. The idea was appealingly straightforward: steer the state's infrastructure dollars in such a way as to discourage sprawl and encourage development or redevelopment in already settled communities. Under the measure—actually a series of laws—the state no longer provides funding for infrastructure projects outside specifically designated growth areas, which are for the most part in existing communities. Enacted in 1997 and put into force last year, Smart Growth has been trumpeted nationally—by environmentalists, planners, slow-growth advocates, anti-sprawl enthusiasts and pro-

Steve Barrett photographs

Tractors and new houses rub against each other in Maryland's Howard County. It's the sort of development Smart Growth was meant to stop.

moters of regionalism—as one of the most compelling solutions yet devised by any state for the inequities and public expenses created by sprawl.

You might expect the citizens of a place such as Manchester to have nothing but kind thoughts about Smart Growth. Actually, their feelings are a little more tangled. That is because the only way town leaders can see to regain some of their lost community life is to build a bypass that would redirect the traffic around them. It's a simple solution, and there was a time when Maryland's highway department would have been happy to oblige. But not anymore. Projects such as this are now subject to Smart Growth considerations, and bypasses often have the side effect of promoting new peripheral growth.

So while state officials haven't given Manchester a flat "no," they haven't exactly embraced the idea, either. "What I've been saying is, 'You've got a problem, let's find a solution in Manchester consistent with Smart Growth,'" says Jim Noonan, coordinator of the Smart Growth Policy Team at the Maryland Office of Planning. "At least look at options that are consistent with the concept of Smart Growth." And this, in turn, frustrates many Manchester residents. "Its full name is 'Smart Growth and Neighborhood Revitalization,'" says David Warner. "Well, Main Street won't be revitalized until there is a bypass."

Maryland is not, of course, the only place in the country where conversations like this are taking place: Development and sprawl have become hot-button issues virtually everywhere. Two months ago, voters in New Jersey approved a measure to spend $1 billion over the next 10 years on preserving half of the state's remaining undeveloped land. Arizonans agreed to spend $220 million on open-space preservation. In Tennessee, the state legislature last year required counties and municipalities to put growth boundaries in place, as part of an innocuous-seeming measure to reform the state's annexation laws. At meetings with other governors, Glendening invariably finds his growth policies a leading topic of discussion. "I believe sprawl will be one of the powerful vote-moving issues of the next several elections," he says. "People are focused, they're frustrated, and they're demanding change."

Over the next few years, no state is likely to see more ferment on the matter than his own. Glendening's Smart Growth policy has pretty much guaranteed that: In essence, it has made Maryland the first state to lift the veil from the growth agenda of every town and county within its boundaries. Where particular development issues were once left to the counties to sort out entirely on their own, Smart Growth has made them an automatic state concern—every proposed subdivision, every widened road, every new school and sewer extension and wastewater treatment expansion can now be examined not just for its impact on the county it's located in but also its impact on neighboring counties and on the state as a whole. "In the past, things happened on a piece-by-piece basis without looking at the whole framework," says Ron Young, deputy director of the state planning office. "What we're doing now is bringing the issues up front where they have to be addressed, rather than hidden away."

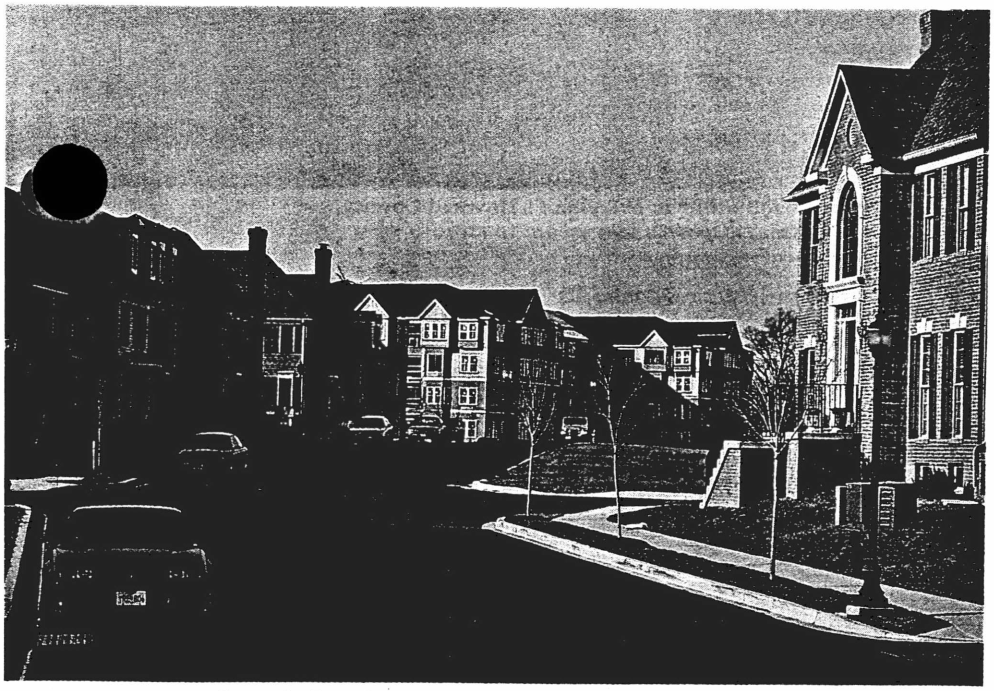
In the process, though, Maryland has begun to demonstrate a somewhat ironic fact: Sprawl, it turns out, is much easier to label an unambiguous ill when it's left abstract. Smart Growth has particularized it. By shining a light on all the little decisions that, together, can create or reverse sprawl, it has revealed a landscape filled with Manchesters, where arguments over growth and development are laced with subtlety and complication.

One measure of the impact Glendening's policy has had in a very short time is the degree to which the term "Smart Growth" has lost its meaning around the country. It has become a handy and inoffensive label—no one, after all, favors *stupid* growth—for anything connected to growth management. Directing development away from drinking-water sources in Austin, Texas, is called "Smart Growth." So is Colorado's policy of providing small financial awards to localities for new efforts to manage growth. And so is Little Rock's decision not to annex land to help a private school relocate, for fear of contributing to sprawl. Even in Maryland, says Dru Schmidt-Perkins, executive director of the environmental group 1000 Friends of Maryland, "The term is so compromised now—because everyone is using it—that the folks working on it now use 'Smarter Growth' and the home builders are using 'Sensible Growth.'"

What Glendening had in mind, though, was something quite specific: the idea that state infrastructure spending should be used to shore up existing communities and limit the spread of development into greenfields. He ran for his first term in 1994 on a platform promoting the revitalization of older communities and insisting that it made no sense for the state to close down schools in older areas and spend its resources on new ones just a few miles away.

Once in office, Glendening found he could shift school spending by executive order—roughly 80 percent of the state's school funds now go to improve existing facilities and 20 percent to build new ones, rather than the other way around. But for the rest—roads, sewers, new state facilities and the like—he needed to lay out a clearer vision. What made the idea politically attractive was its low up-front cost: Smart Growth did not require a new bureaucracy or big investments in new money to achieve its goals; it was really just a new set of fiscal priorities.

The chief opposition to the proposal came not from the development community but from the Maryland Association of Counties. In Maryland, as in many other states, planning is a local affair. The idea of the state telling counties where and how they could grow was simply anathema to county officials. "It scares the hell out of me and any planning director when you have to sit down with staff at the state level and convince them that something's the right thing to do," says Joe Rutter, planning director for Howard County, a fast-growing jurisdiction near Baltimore. "You never know what their answer is going to be, and it's millions of dollars at stake. This is something we didn't have to do before."



Growth that the state likes: a new mixed-use development at Worman's Mill in Frederick, Maryland.

To Smart Growth backers, on the other hand, what Glendening wanted simply made sense. "What we're talking about are state funds," says Democratic Senator Brian Frosh, who was one of the senate's lead negotiators on the matter. "Maryland and most other states have funded stupid growth for decades. It is only common sense that if growth or sprawl is a problem, that state funding for projects should be targeted at areas where you want growth to occur and not where you don't want growth." In the end, what Glendening got from the legislature was a compromise: Smart Growth passed, but it left great discretion in the hands of the counties.

The heart of the policy lies in two measures. One created the so-called Rural Legacy Program, which allows counties to apply for state funds to set aside and protect undeveloped and agricultural land; so far, the state has handed out $38 million to protect about 19,000 acres. The other created what are called "Priority Funding Areas," which are, simply put, where the state has agreed to put its money. Existing cities and towns automatically became Priority Funding Areas; so did all the areas inside the state's two beltways, around Baltimore and Washington, D.C. But the legislation also allowed counties to designate whatever additional land they chose as Priority Funding Areas, with specific—but not especially restrictive—criteria for what might qualify.

This leeway given the counties, not surprisingly, is what has most worried environmentalists and other backers of growth management. Simply put, says Al Barry, a planning consultant and former assistant planning director in Baltimore, "the legislation, as high-minded as it is, is not going to be successful if the counties take the view that these Priority Funding Areas should cover most of their land."

So far, at least, only some of them have taken that view. The counties' initial priority funding maps began coming in to the Maryland Office of Planning last fall, and they range widely, from narrow and carefully targeted plans for growth to just the thing Barry feared—plans that essentially declare the entire county open for growth. That is what Allegany County did, for instance. Allegany sits near the end of Maryland's mountainous western arm, and has seen little growth in recent decades. It wants to keep its options open, so that it can respond favorably to anyone who comes in

Steve Barrett photograph

Everything depends on 'the political winds that blow,' complains home builders' executive John Kortecamp.

ple in the permitting process at the state level said it was the most thorough application and one of best land-use plans they'd ever seen, yet in the face of strong opposition by some environmental groups, it's gone," says John Kortecamp, executive vice president of the Home Builders Association of Maryland. "You get the feeling that everything's up for grabs, depending on the political winds that blow."

Charges such as this are bound to come up, given the program's goals: Smart Growth is explicitly designed to favor older, already established communities—where the heart of the Democratic political base lies—at the expense of undeveloped suburban territory, which tends to be Republican. So, for instance, when the state cited Smart Growth in its decision not to shift the state police crime laboratory from the older, Baltimore County suburb of Pikesville to the newer, Carroll County suburb of Sykesville, the Republican leadership of Carroll County contended the decision had nothing to do with sound growth policy. "With the state and its funding decisions, it's *always* political," says Benjamin Brown, who was a county commissioner at the time.

All this is inescapable, not just because development issues are always political, but because, at its heart, Smart Growth is *about* creating friction between competing interests—or, more precisely, about making clear where the points of friction lie. This is true for the big-ticket decisions such as Chapman's Landing, but it is just as true for the mundane, day-to-day growth challenges where the policy will, in the long run, succeed or fail.

You can get a sense of this by heading south from Manchester on Route 30, through the somewhat larger town of Hampstead—which is facing precisely the same traffic problems—and into Baltimore County. The area adjacent to the Carroll County line is astonishingly rural for land so close to a major metropolitan area—small country churches, tiny settlements of scattered housing, rickety bridges over creeks and rail lines and big stretches of farmland and forest. All this is the result of Baltimore County's decision 20 years ago to create an urban growth boundary, beyond which it simply would not provide much in the way of services. "The greatest conflict with an agricultural area is a house," says the county's planning director, Pat Keller. "So if you live in a rural area, we're not going to fix the roads, we're not going to fix the bridges. The

with a development proposal. Other counties have been slightly more artful. Harford County, which sits right in the middle of the suburban Baltimore growth corridor, chose to interpret Smart Growth loosely, contending that *proposed* developments qualify as existing communities for the purposes of state funding. This did not sit especially well with the state planning office. "Our view is the law meant the built environment and infill lots inside the built environment—*that's* 'existing community,' " says Jim Noonan. "We don't consider areas that don't actually have structures on them to be 'existing.' We hear what they're saying, but we can't accept that interpretation and still achieve anything consistent with the intent of the law."

Despite the softening of the law in its final enactment, the state planning office is not entirely toothless in such cases. Although it is required to accept any territory a county wants to declare open to growth, it can also "comment" when it thinks counties have stepped over the bounds. Those comments are bound to have an impact on other state agencies making critical decisions about siting and infrastructure. Legally, these agencies can ignore the planning office, just as the counties can. But that is not currently a good way to win political favor in Annapolis. After the November elections, Glendening replaced the heads of the state's transportation and housing departments, in part, he says, because "I was not convinced they had taken the leadership in promoting Smart Growth up and down the bureaucracy."

One thing Smart Growth clearly will not do is make the politics of development in Maryland any less contentious. Not long after Smart Growth passed, Glendening decided to cancel a long-proposed, controversial development known as Chapman's Landing in rural Charles County, along the Potomac River south of Washington, D.C. There were legitimate reasons for doing so: The project would have required bigger roads and more schools in the area, and was to have been built in one of the largest unbroken forests left in that part of the state. "It became a matter of, if you really say you support Smart Growth, how can you allow Chapman's Landing to happen?" says John Frece, Glendening's special assistant for Smart Growth.

But to those who favor development, Glendening's actions on Chapman's Landing represented something else altogether: a Democratic politician running for re-election trying to shore up his base among environmentalists. "The governor had lauded that project many times, and peo-

Robert Burke photograph

police response time will be 20 minutes, not two. The fire department will be volunteer, and your house may well burn down. Take any service county government provides, and the way the county provides the services will be very different in an urban area versus a rural area."

The result, though, is exactly what you'd expect: Over the past decade and a half, residential growth has leapfrogged over the Baltimore County rural zone and into Carroll County. Once almost entirely rural, Carroll has just eight towns, the largest of which, the county seat of Westminster, has managed to guard its small-town feel and easily walkable Main Street despite the presence not far away of a large regional mall. But Carroll is changing. Its southern end now houses commuters to both Baltimore and Washington, and people living in and around Westminster, Manchester and Hampstead commute to Baltimore and the burgeoning edge city of Owings Mills, which is where the Baltimore subway ends.

And so Carroll has a couple of problems. For one thing, it has to struggle to make the residential growth pay for itself. Carroll is a middle-class county, not one chockablock with high-end custom homes. But in order for the county to break even on services to a new home, the house must be worth at least $220,000 and its residents pulling down about $100,000 in income—hardly something the county can guarantee. Moreover, it is a commuting county; something on the order of 60 percent of its adults leave it each weekday morning. With the county's population projected to rise by about 55,000 people over the next two decades, Carroll has, in the words of Philip Rovang, its planning director, "the makings of a very serious traffic problem"—as if traffic on Route 30 weren't already bad enough.

All of this leaves Carroll County with only one real choice, which is to grow its way out of its troubles. But it needs a different kind of growth than it has been getting. Rather than more residential subdivisions, it must attract new employers who can stabilize its tax base and keep its residents from having to commute elsewhere for work. Adhering to Smart Growth principles, Carroll County wants that growth to go in and around its existing towns, which means that it foresees a good chunk of it occurring around Manchester and Hampstead—right up against Baltimore County's rural zone. As Baltimore County's Pat Keller sums up the conflict in goals, "I see Route 30 and I see a country road. Carroll County sees it as a major arterial."

Before Smart Growth went into effect, there was no way to foresee, let alone ease, such conflicting priorities. Now, at least, the priority funding process gives the state a sense of how the counties' plans affect each other, and some ability to encourage the counties to work out their differences—or risk losing the possibility of state infrastructure funding. As Keller says, "Smart Growth provides a basis for conflict, and then it provides for a process to sort it out."

In the end, of course, Smart Growth is about more than whether Manchester should get a bypass or whether Carroll County needs help in attracting businesses. Smart Growth is essentially a plan to reorder how people live: By changing the way state government spends its resources, it asserts, we can reverse the past half century of development—we can make cities and older suburbs, the places that people have been leaving for decades, attractive again. By fixing up schools, putting roads in the right places and funding water and sewer improvements strategically, Smart Growth says, the state can affect where people live, work and create jobs. It can alter not only the physical but also the political environment. "We want to create a political ethos," says Glendening, "where it becomes one of the givens of the landscape."

This is untrod ground, and plenty of critics believe that Smart Growth will fail—that it cannot change a market that has generally favored movement outward, toward less densely settled areas. "Those plans," says Sam Staley of the market-oriented Reason Public Policy Institute, "are based on certain assumptions and forecasts about population, household size and preferences for transportation. But we don't know enough about the way people move or what they want to do to be able to make those kinds of forecasts in the way that Maryland's plans presume."

Ron Kreitner, the state planning director, thinks the critics are wrong. "Look," he says, "we've been affecting the market for decades, by saying that regardless of the costs we'll be there to provide schools, roads, sewers and other community infrastructure support. That has impacted the market tremendously over the decades. Smart Growth is really a return to a discipline we'd gotten away from with regard to decision-making on public resources—shared community resources."

What Maryland is about to discover—and the rest of the country has an opportunity to watch—is just how politically complicated that discipline can be. As John Frece admits, "These aren't easy decisions. There will always be those gray areas: One person's sprawl is another person's economic development."

Developers have noticed, for instance, that while the state is essentially calling for denser living, neither it nor the counties seem entirely comfortable with the idea. If you want some areas to be protected, the development community has begun to argue, then you have to accept the flip side: Other areas will have to take denser development. But that will mean facing down opposition from residents who don't want their communities to change. "All of this works if government has the backbone to stand up with a developer against communities that say, 'If I have to spend one more cycle at the light, then I'm against that field behind my house being developed,' " says John Colvin, a suburban Baltimore developer and member of the state planning commission. "I don't think local government has figured out that the key component of Smart Growth is supporting appropriate development against local opposition from people who just arrived and want to pull up the drawbridge behind them."

Both sides agree that it's entirely too soon to jump to any conclusions about the policy's impact—too much has yet to happen before anyone can decide what Smart Growth will do to the Maryland landscape. "What has been done in Maryland at this point," says Ron Young, "is not the answer to sprawl, it's not the savior alone of the cities or the final protector of open space. It is a real big step in the direction of doing all those things, but it's just a beginning. Has it solved every problem? No. Is every problem solvable? Maybe not. But because some bad things happen, is the program going to be a failure? No." G fiscal

This lodge house celebrating black history in Arrow Rock, Mo., built in 1881, is being renovated under the Neighborhood Assistance Program.

Tax diversion for a cause

Missouri uses tax credits to promote community improvements.

BY ELIZABETH M. GRUGIN

While many politicians may say government can't do everything, officials in Missouri and 10 other states are putting their money where their mouth is. These states are giving up tax revenues to encourage businesses to contribute to community needs that would otherwise go unmet.

For more than 20 years, Missouri has been operating the Neighborhood Assistance Program, administered by the Department of Economic Development. The program allows businesses to redirect their state tax dollars to local community improvement projects.

"The Neighborhood Assistance Program is one of our department's most successful programs," said Joseph L. Driskill, director of the Missouri Department of Economic Development. "The truth is, local community organizations and businesses understand best how to approach the challenges faced in their respective towns and communities. The beauty of NAP is that it allows these organizations, with the support of local businesses, to customize a program that will best address those needs."

In 1978, Missouri became the third state to adopt legislation that links tax credits to community improvement. Since that time, more than 40,000 donors have contributed in excess of $220 million to more than 4,000 nonprofit organizations in Missouri. And it doesn't appear that these numbers will wane. In 1998, the NAP awarded credits to 167 projects that should leverage some $24 million in donations.

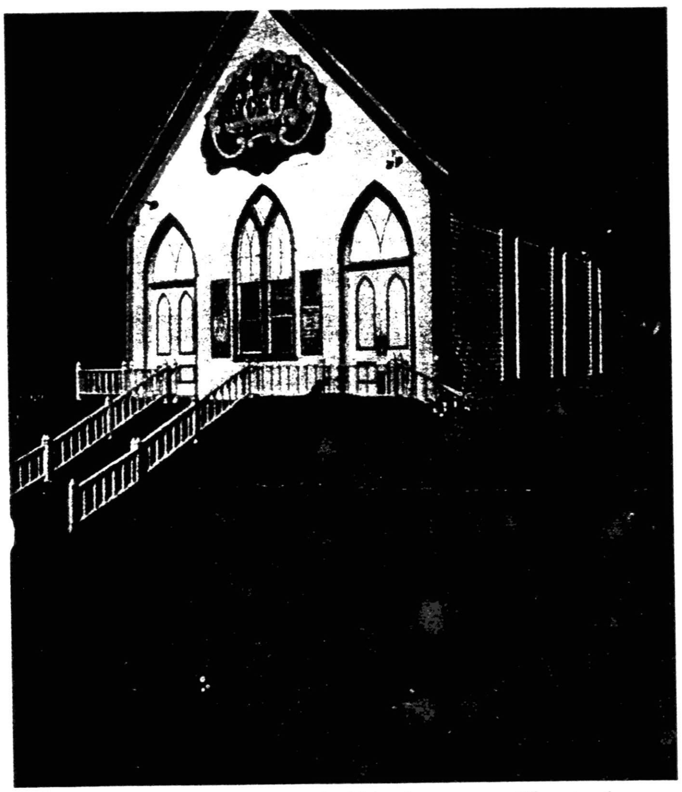
Each year NAP holds a competition, in which nonprofit organizations and businesses compete for state tax credits to attract donors for community and economic development projects. Once credits have been awarded, the nonprofit organizations and businesses assume full responsibility for securing donations to fund the projects.

In return for contributing cash or in-kind donations, qualified donors receive a tax credit equal to 50 percent or 70 percent of the contribution, depending on the project location. Unlike a government grant, this tax credit

Elizabeth M. Grugin is coordinator of the Missouri Neighborhood Assistance Program, (573) 751-5967.

program involves no transfer of state dollars. Donors finance local projects with money they would otherwise owe on their state taxes. At the same time, the government incurs no administrative and overhead costs for the project.

Businesses contributing to NAP projects may receive a second financial benefit. If the Internal Revenue Service classifies the recipient as a 501(c) 3 organization, donors to those organizations can claim a federal charitable deduction in addition to state tax credit.



Annual attendance at events held in the Lyceum Theatre in Arrow Rock, Mo., more than doubled after its renovation under the Neighborhood Assistance Program.

The legislation creating NAP designated six broad categories for business to invest money: community services, crime prevention, education, job training, physical revitalization and economic development. These categories encompass a wider variety of projects. Among them are projects that address welfare-to-work, downtown revitalization, low-income housing, emergency assistance, abuse shelters, food banks, community/recreational facilities, services for the handicapped, alternative schools and community information networks.

Among those benefiting is the Children's Center for the Visually Impaired in Kansas City, Mo., which helps blind children and their parents. Using donations received with the help of NAP tax credits, the center is able to immediately respond to ophthalmologists' referrals by sending a teacher, social worker, speech/language therapist and an occupational therapist to a family's home.

"Participating in the Neighborhood Assistance Program has allowed the center to secure corporate donations they would otherwise have not received, making it possible to provide immediate services to families," said Mary Lynn Dolembo, executive director of the Children's Center for the Visually Impaired.

Another project is the Good Samaritan Center in Excelsior Springs, Mo., which helps families with food, rent, utilities, clothing and other basic needs. Mary Lou Greim, the center's executive director, said local business people will give to a specific local program that helps their own community.

Money can also be used for construction, renovation and beautification projects. In historic Arrow Rock, Mo., NAP tax credits have attracted donors for downtown revitalization, including the renovation of the Lyceum Theatre that now attracts 35,000 visitors annually. Currently, Arrow Rock is renovating two buildings, the Black Lodge Hall and a church in an effort to preserve African American history in the town.

NAP works because approved projects address pressing needs in the community and have local support. Applicants submit to NAP letters of support as well as a local government certification stating that the project will not conflict with city plans or ordinances.

State Rep. Tim Vanzant of Kansas City, a former Neighborhood Assistance Program project director, said that "having support at the local level for a project takes much of the guess work out of decision-making at the state level regarding a project's ability to get results."

State support also ensures the success of projects. Carol Wayman, writing in a report from the National Housing Institute, said that NAP projects survive because they are protected from political shifts due to the "active and vocal support from state government and the private sector, especially when state budget cuts are being contemplated."

The Missouri Legislature last session passed Senate Bill 827 making $22 million available in tax credits for NAP, with $18 million dedicated to community development projects. The expansion made NAP the largest program of its kind in the nation. Pennsylvania is the second largest with $18 million in tax credits available annually. Other states with similar programs are Connecticut, Delaware, Florida, Indiana, Kansas, Maryland, Nebraska, Virginia and West Virginia. Wayman said Illinois and Michigan have legislatively mandated programs that are no longer funded.

NAP creates a partnership among the state, nonprofit organizations and businesses, which empowers people to help their communities. Missouri's success is generating interest by other states for similar tax credit legislation.

STATE OF NORTH DAKOTA

OFFICE OF STATE TAX COMMISSIONER

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RICK CLAYBURGH
COMMISSIONER

February 4, 1999

MEMORANDUM

To: Chairman Belter, and Members of the House Finance and Taxation Committee

From: Donnita A. Wald, Legal Counsel, Office of State Tax Commissioner

Re: House Bill 1492

During the committee's discussion of the amendments to House Bill 1492, an issue was raised regarding what types of projects within a renaissance zone could be considered "historic preservation", what the federal requirements were for property being placed on a historical preservation register, and whether there was a similar federal tax credit for investments made in these types of property. Because there is extensive information available concerning these issues, I am providing only a portion of the laws and regulations for the committee to review.

Criteria for historical property designation is located in volume 36, part 65.1 of the Code of Federal Regulations. I have enclosed only that portion of the federal regulations which specifically set forth those requirements. In addition, there are state laws regarding historical sites designations. The state provisions are located in Chapter 55-10 of the North Dakota Century Code.

Finally, an investment tax credit is available for expenditures made to historical structures and rehabilitated buildings. This credit, which in part relies on registration in a state or federal historical sight registry, is found in Section 47 of the Internal Revenue Code. Copies of the tax credit laws are also enclosed for the committee's review.

I hope the enclosed information assists the committee with its deliberations regarding these issues. If you need additional assistance, please do not hesitate to contact me at 328-2777.

f their resources. In addition, Historic Landmarks may be by NPS for possible rection to Congress for inclusion tional Park System.

ion 9 of the Mining in the Narks Act of 1976 (90 Stat. 1342, 1980) directs the Secretary of or to submit to the Advisory report on any surface mining hich the Secretary has determ y destroy a National Historic in whole or in part, and to ie advisory Council's advice tive measures to mitigate or activity.

initions.

n this rule:

ory Council means the Advicil on Historic Preservation, by the National Historic on Act of 1966, as amended 470 *et seq.).* Address: Executor, Advisory Council on Hisrvation, 1522 K Street NW, 1, DC 20005.

l local official means y judge or otherwise el administrative offith ed head of the local urisdiction in which the located.

ory Board means the Na System Advisory Board body of authorities in sevof knowledge appointed by ry under authority of the es Act of 1935, as amended.

t means a geographically rea, urban or rural, that significant concentration, continuity of sites, buildures or objects united by or aesthetically by plan or elopment. A district may e individual elements sepaphically but linked by ashistory.

ered property means a hisy which is or is about to to a major impact that or seriously damage the hich make it eligible for storic Landmark designa-

Preservation Officer means designated by the head of

each Federal agency responsible for coordinating that agency's activities under the National Historic Preservation Act of 1966, as amended, including nominating properties under that agency's ownership or control to the National Register.

(g) *Keeper* means the Keeper of the National Register of Historic Places.

(h) *Landmark* means National Historic Landmark and is a district, site, building, structure or object, in public or private ownership, judged by the Secretary to possess national significance in American history, archeology, architecture, engineering and culture, and so designated by him.

(i) *National Register* means the National Register of Historic Places, which is a register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture, maintained by the Secretary. (Section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and section 101(a)(1) of the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470), as amended.) (Address: Chief, Interagency Resource Management Division, 440 G Street NW, Washington, DC 20243.)

(j) *National Historic Landmarks Program* means the program which identifies, designates, recognizes, lists, and monitors National Historic Landmarks conducted by the Secretary through the National Park Service. (Address: Chief, History Division, National Park Service, Washington, DC 20240; addresses of other participating divisions found throughout these regulations.)

(k) *Object* means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(l) *Owner* or *owners* means those individuals, partnerships, corporations or public agencies holding fee simple title to property. "Owner" or "owners" does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

(m) *Property* means a site, building, object, structure or a collection of the above which form a district.

(n) *Site* means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

(o) *State official* means the person who has been designated in each State to administer the State Historic Preservation Program.

(p) *Structure* means a work made by human beings and composed of interdependent and interrelated parts in a definite pattern of organization.

[48 FR 4655, Feb. 2, 1983, as amended at 62 FR 30235, June 3, 1997]

§65.4 National Historic Landmark criteria.

The criteria applied to evaluate properties for possible designation as National Historic Landmarks or possible determination of eligibility for National Historic Landmark designation are listed below. These criteria shall be used by NPS in the preparation, review and evaluation of National Historic Landmark studies. They shall be used by the Advisory Board in reviewing National Historic Landmark studies and preparing recommendations to the Secretary. Properties shall be designated National Historic Landmarks only if they are nationally significant. Although assessments of national significance should reflect both public perceptions and professional judgments, the evaluations of properties being considered for landmark designation are undertaken by professionals, including historians, architectural historians, archeologists and anthropologists familiar with the broad range of the nation's resources and historical themes. The criteria applied by these specialists to potential landmarks do not define significance nor set a rigid standard for quality. Rather, the criteria establish the qualitative framework in which a comparative professional analysis of national significance can occur. The final decision on whether a property possesses national significance is made by the Secretary on the basis of documentation including the comments and recommendations of the public who participate in the designation process.

(a) Specific Criteria of National Significance: The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering and culture and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling and association, and:

(1) That are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or

(2) That are associated importantly with the lives of persons nationally significant in the history of the United States; or

(3) That represent some great idea or ideal of the American people; or

(4) That embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or

(5) That are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

(6) That have yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.

(b) Ordinarily, cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings and properties that have achieved significance within the past 50 years are not eligible for designation. Such properties, however, will qualify if they fall within the following categories:

(1) A religious property deriving its primary national significance from architectural or artistic distinction or historical importance; or

(2) A building or structure removed from its original location but which is nationally significant primarily for its architectural merit, or for association with persons or events of transcendent importance in the nation's history and the association consequential; or

(3) A site of a building or structure no longer standing but the person or event associated with it is of transcendent importance in the nation's history and the association consequential; or

(4) A birthplace, grave or burial if it is of a historical figure of transcendent national significance and no other appropriate site, building or structure directly associated with the productive life of that person exists; or

(5) A cemetery that derives its primary national significance from graves of persons of transcendent importance, or from an exceptionally distinctive design or from an exceptionally significant event; or

(6) A reconstructed building or ensemble of buildings of extraordinary national significance when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other buildings or structures with the same association have survived; or

(7) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own national historical significance; or

(8) A property achieving national significance within the past 50 years if it is of extraordinary national importance.

§ 65.5 Designation of National Historic Landmarks.

Potential National Historic Landmarks are identified primarily by

§ 47 Rehabilitation credit.

(a) General rule.

For purposes of section 46, the rehabilitation credit for any taxable year is the sum of—

(1) 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure, and

(2) 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.

(b) When expenditures taken into account.

(1) In general.

Qualified rehabilitation expenditures with respect to any qualified rehabilitated building shall be taken into account for the taxable year in which such qualified rehabilitated building is placed in service.

(2) Coordination with subsection (d).

The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified rehabilitated building shall be reduced (but not below zero) by any amount of qualified rehabilitation expenditures taken into account under subsection (d) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

(c) Definitions.

For purposes of this section—

(1) Qualified rehabilitated building.

(A) In general. The term 'qualified rehabilitated building' means any building (and its structural components) if—

(i) such building has been substantially rehabilitated,

(ii) such building was placed in service before the beginning of the rehabilitation,

(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

(iv) depreciation (or amortization in lieu of depreciation) is allowable with respect to such building.

(B) Building must be first placed in service before 1936. In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

(C) Substantially rehabilitated defined.

(i) In general. For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulation) and ending with or within the taxable year exceed the greater of—

(I) the adjusted basis of such building (and its structural components), or

(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

(ii) Special rule for phased rehabilitation. In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

(iii) Lessees. The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

(D) Reconstruction. Rehabilitation includes reconstruction.

(2) Qualified rehabilitation expenditure defined.

(A) In general. The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

(i) for property for which depreciation is allowable under section 168 and which is—

(I) nonresidential real property,

(II) residential rental property,

(III) real property which has a class life of more than 12.5 years, or

(IV) an addition or improvement to property described in subclause (I), (II), or (III), and

(ii) in connection with the rehabilitation of a qualified rehabilitated building.

(B) Certain expenditures not included. The term 'qualified rehabilitation expenditure' does not include—

(i) Straight line depreciation must be used. Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

(ii) Cost of acquisition. The cost of acquiring any building or interest therein.

(iii) Enlargements. Any expenditure attributable to the enlargement of an existing building.

(iv) Certified historic structure, etc. Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

(I) such building was not a certified historic structure,

(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the

Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

(v) Tax-exempt use property.

(I) In general. Any expenditure in connection with the rehabilitation of a building which is allocable to the portion of such property which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

(II) Clause not to apply for purposes of paragraph (1)(C). This claus hall not apply for purposes of determining under paragraph (1)(C) whethe building has been substantially rehabilitated.

(vi) Expenditures of lessee. Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

(C) Certified rehabilitation. For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(D) Nonresidential real property; residential rental property; class life. For purposes of subparagraph (A), the terms 'nonresidential real property,' 'residential rental property,' and 'class life' have the respective meanings given such terms by section 168.

(3) Certified historic structure defined.

(A) In general. The term 'certified historic structure' means any building (and its structural components) which—

(i) is listed in the National Register, or

(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

(B) Registered historic district. The term 'registered historic district' means—

(i) any district listed in the National Register, and

(ii) any district—

(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(d) Progress expenditures.

(1) In general.

In the case of any building to which this subsection applies, except as provided in paragraph (3)—

(A) if such building is self-rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year for which such expenditure is properly chargeable to capital account with respect to such building, and

(B) if such building is not self-rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year in which paid.

(2) Property to which subsection applies.

(A) In general. This subsection shall apply to any building which is being rehabilitated by or for the taxpayer if—

(i) the normal rehabilitation period for such building is 2 years or more, and

(ii) it is reasonable to expect that such building will be a qualified rehabilitated building in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the rehabilitation begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

(B) Normal rehabilitation period. For purposes of subparagraph (A), the term 'normal rehabilitation period' means the period reasonably expected to be required for the rehabilitation of the building—

(i) beginning with the date on which physical work on the rehabilitation begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

(ii) ending on the date on which it is expected that the property will be available for placing in service.

(3) Special rules for applying paragraph (1).

For purposes of paragraph (1)—

(A) Component parts, etc. Property which is to be a component part of, or is otherwise to be included in, any building to which this subsection applies shall be taken into account—

(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the building, and

(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such building.

(B) Certain borrowing disregarded. Any amount borrowed directly or indirectly by the taxpayer from the person rehabilitating the property for him shall not be treated as an amount expended for such rehabilitation.

(C) Limitation for buildings which are not self-rehabilitated.

(i) In general. In the case of a building which is not self-rehabilitated, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to the portion of the rehabilitation which is completed during such taxable year.

(ii) Carry-over of certain amounts. In the case of a building which is not a self-rehabilitated building, if for the taxable year—

(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

(D) Determination of percentage of completion. The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to rehabilitation completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the rehabilitation shall be deemed to be completed not more rapidly than ratably over the normal rehabilitation period.

(E) No progress expenditures for certain prior periods. No qualified rehabilitation expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

(F) No progress expenditures for property for year it is placed in service, etc. In the case of any building, no qualified rehabilitation expenditures shall be taken into account under this subsection for the earlier of—

(i) the taxable year in which the building is placed in service, or

(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such property,

or for any taxable year thereafter.

(4) Self-rehabilitated building.

For purposes of this subsection, the term 'self-rehabilitated building' means any building if it is reasonable to believe that more than half of the qualified rehabilitation expenditures for such building will be made directly by the taxpayer.

(5) Election.

This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

Testimony Presented to the

Senate Industry, Business and Labor Committee
Senator Duane Mutch, Chair

by

Mayor Bruce W. Furness
City of Fargo

March 11, 1999

Mr. Chairman and Members of the Committee:

Good morning, I am Bruce Furness, Mayor of Fargo. Thank you for this opportunity to testify before your committee. I am here to support HB 1492 relating to the establishment of Renaissance Zones in North Dakota cities.

This legislation is similar to that currently in effect throughout the State of Michigan. It was developed in concept by a consultant, Lupke & Associates, who was familiar with Michigan law and met with several cities in our state to determine our needs.

It is intended to assist with the revitalization of Central Business Districts or downtown areas. The claim of property owners in Fargo is that downtown property is valued too high and thus causes a detrimental effect on their property and the entire downtown area.

Though this claim is not universally true, it does cause concern among elected leaders in Fargo. We basically feel if some positive action is not taken soon, a downward spiral will take place and the property owners' concerns will be substantiated. We feel incentives are needed to encourage private investment in certain target areas.

HB 1492 accomplishes this purpose by providing property tax exemptions, income tax exemptions and historic preservation and renovation tax credits for developers, investors and owners. Though it is difficult to assess the fiscal impact of those exemptions and credits, we feel that doing nothing to encourage downtown development will also have a significant fiscal impact on our community.

A vibrant, vital downtown will generate sales taxes, property taxes and ultimately income taxes to enhance the revenue streams of both the cities and the state.

I urge your support of HB 1492 to assist in the revitalization of the cities of our state.

test1492

Testimony of Mark Nisbet on HB 1492
Northern States Power Company
To the North Dakota Senate Industry, Business & Labor Committee
Monday, March 15, 1999

Mr. Chairman and members of the committee. My name is Mark Nisbet and I represent Northern States Power Company. NSP strongly supports the passage of HB 1492.

We recognize the importance of redeveloping the downtown areas of our cities. We believe it is important to keep these areas vital and growing rather than deteriorating. This bill would benefit cities, economic developers, current businesses in downtown areas, and utilities like NSP.

Making full use of downtown areas with their existing infrastructure is very important to city leaders and city budgets. It is very capital-intensive for cities to keep expanding on the outer fringes while existing infrastructure in inner city areas is not utilized to its fullest potential. We recognize there are some concerns about the tax exemptions offered in this bill but we believe the long-term benefits far outweigh the temporary loss in tax revenues. It is far better to attract businesses and consumers to these areas than to have empty, deteriorating buildings in the area eventually become a burden to the city.

HB 1492 also benefits economic development organizations. Their efforts are enhanced with this tool that could help attract growth to areas that are less desirable. One example of a business being attracted by this proposal is NSP's own subsidiary called the Eloigne Company. This subsidiary is in the business of developing affordable housing. The CEO of Eloigne Company is supportive of this bill, and says that incentives like this provide additional reasons to develop housing in downtown areas.

This bill also would assist current downtown businesses. In visiting with several business owners in Minot, I found that they were very supportive of this proposal. They recognize that bringing more development to their part of the city will only spur further business for them. Within the last year in Minot, we've seen Bridgeman Creamery, Porter Brothers, and Walter's Women's Wear move out of central Minot. These buildings now stand empty. The YMCA is scheduled to move out as soon as their new facility is complete. We **need** to stop this outward migration! Each business moving out chips away at the nucleus of businesses downtown, making it harder for the remaining businesses to stay.

Recognizing how important it is to keep our downtown areas vital, last year we offered a special incentive for businesses locating in flood-ravaged downtown Grand Forks. Any businesses located in the Business Incentive Zone there are offered a three-year 25% electric rate reduction. We now have 100 customers that have taken advantage of this rate reduction. NSP implemented this incentive to support the city's redevelopment efforts there, and to protect our own investment in that community. Renaissance Zones would give us the framework to establish similar rates in other cities.

In conclusion, we believe that redeveloping the downtown districts in our communities is very important. Deteriorating downtown areas have a negative effect on apartment occupancy, further reducing retail trade and continuing the downward spiral. Redeveloped down towns tend to be vibrant and trendy, attracting younger working adults. I've seen this type of legislation successfully implemented in other areas of the country. Last year I visited Tampa, and Ybor City, Florida – where Renaissance Zones have been used successfully. Ybor City was once the cigar capital of the world. It had deteriorated to the point of being unsafe, but with partnerships such as this bill would encourage, it has now become a very desirable neighborhood. Old buildings and history have been preserved and new structures complement the old. Because of the benefits this bill would offer to cities, economic development organizations, current downtown businesses, and utilities like NSP, I urge you to support HB 1492.

That concludes my formal testimony. I would be happy to answer any questions the committee might have.

March 15, 1999

I'm here to support passage of HB 1492 for possible use by local governments towards encouraging residential redevelopment of older buildings and neighborhoods in our state's once vibrant downtowns. I believe these old central business districts can only be truly revitalized when they become desirable places for people to live.

The valuations of property in these old city centers is flat and, in many cases, falling.

Downtown neighborhoods are home to most of our state's oldest buildings. These properties typically are served by inconvenient and outdated transportation access and often face many parking difficulties. Many, including my hometown, are plagued by endless, ear-splitting railroad traffic.

Governmental regulation and public policies controlling older buildings often makes their reconstruction and reuse both difficult and unprofitable. Compliance with Americans with Disabilities Act, state building codes and numerous complications and conflicts with historical interests are just some of the challenges to be met.... and.... they must be met ahead of the fundamental marketplace requirements for fixing old heating and cooling systems, making repairs to leaking roofs, bad windows and refurbishing poor storefront presentations.

Cost and risk in redevelopment of older buildings continues to push new construction out of our state's downtown neighborhoods into open, easy-to-develop fringe areas of our cities. These locations also tend to be served by the best streets, the brightest lighting and the newest schools. This, of course, simply continues pressure to expand roads and schools and all the other public costs that comes with urban sprawl. This, not surprisingly, continues to drain life from the original downtown neighborhoods.

If this legislation is not passed, and major local efforts not pursued to stop this decline, we can expect taxable valuations of downtown properties to keep dropping.

I do not believe that HB 1492 is a magic pill.

But if passed, it provides hope which, in time, may help overcome some of the tremendous redevelopment burdens to be carried by our state' downtown neighborhoods. The intent of HB 1492 will only be accomplished where its potential is vigorously pursed by local governments and business risk takers. If this rare opportunity is provided, it is my hope that successful, revitalized and stabilized downtowns will once again become great places of pride in our communities. It is my hope that taxable valuations of property will grow with them. And it is my hope that <u>the need for this legislation will go away and that you will take it off the books.</u>

Gene Shannon, Fargo 280-9007

Gene Shannon

Testimony Presented on HB1492 to the

Senate Industry, Business, and Labor Committee
Senator Duane Mutch, Chair

by

Jim Gilmour, Planning Director
City of Fargo

March 15, 1999

Mr. Chairman and Members of the Committee:

I am Jim Gilmour, Planning Director for the City of Fargo. I ask for your support of HB1492 that would allow for the creation of Renaissance Zones in North Dakota.

The City of Fargo has been working to create an environment downtown that will both strengthen current businesses and attract new businesses. In addition, city leaders feel that the development of new housing downtown is an important component to improving the downtown. This bill would provide the City of Fargo and other North Dakota cities with another tool to encourage reinvestment downtown.

Downtown Fargo has problems with blighted and under-used buildings. A study by the Planning and Development Department identified 62 buildings with some level of deterioration. Often, the cost of remodeling on older buildings does not provide an adequate return on property owners' investments. Low rents leave property owners with insufficient funds to maintain and improve buildings. These additional incentives contained in HB1492 should encourage investment in the downtown by giving property owners a greater return on their investment and provide an incentive to businesses that locate downtown.

Fargo has seen hundreds of new housing units built each year during the 1990's, but few of these are located in the downtown. Faced with higher land and site clearance costs, it has been easier for housing developers to build on the fringe of the city. This fringe development requires the extension of utilities and services, and adds to the costs of operating the City. Encouraging development in the downtown, where city services are already available, saves local government money. Housing downtown also brings more people and acti~~vity~~ to the downtown after business offices are closed. Other downtown's which have successfully redeveloped housing have found it led to enhanced overall safety, more businesses moving in, increased investment and higher property values.

I anticipate this legislation will be used by the City of Fargo in a targeted way in areas of the downtown where property values are lower, buildings are in need of renovation and where land is vacant. These short term tax exemptions should provide for increased property values in the long run.

CITY OF CASSELTON

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ELWOOD L. GUNDERSON, Auditor | EDWARD McCONNELL, Mayor | BRAD BURGUM, City Attorney

Senate Committee on Industry, Business and Labor

Testimony on House Bill 1492

Ed McConnell, Mayor of Casselton, ND
March 15, 1999

Mr. Chairman and members of the Committee, I am Ed McConnell, Mayor of Casselton. This morning I appear before you in support of House Bill 1492, a bill that would allow North Dakota cities the authority to create Renaissance Zones. Creating such a zone would permit us to provide stronger incentives to investors interested in developing and redeveloping property in the heart of our city. It would allow us to more fully utilize the quality infrastructure already in place in our downtown area.

Several years ago, the Casselton City Council established a Job Development Authority, which has worked hard to diversify our economic base, with some success. Part of that success is the development of an Industrial Park to attract primary sector businesses. An additional development tool such as contained in HB 1492 would allow us a more comprehensive economic development program.

We believe the property tax exemption our city would provide would serve our citizens well when it expires and the new investments are added to our property tax base. We further believe that the sales tax collections derived from the new investments and increased business taxes will offset the income tax exemptions to the state over the life of the projects.

We realize that Casselton's economic future depends significantly on development patterns throughout Cass County. But, our citizens feel strongly about maintaining our small-town atmosphere while strengthening the business vitality of our community. We believe providing incentives to the private sector is good public policy for small and large towns alike.

Mr. Chairman, I encourage your committee to look favorably on this legislation, and send it to your Senate colleagues with a "do pass" recommendation.

Thank you for giving me this opportunity to testify in its support.

Bismarck City Administration

Senator Duane Mutch
Senate Industry, Business and Labor Committee
State Capitol
Bismarck, North Dakota

Dear Senator Mutch and Committee Members:

One of the bills on your hearing schedule on Monday, March 15, 1999 will be House Bill 1492. This bill would allow the creation of urban renaissance zones that will be invaluable to the redevelopment of downtown areas in our state's cities.

For many years I have been a proponent of renewal in the downtown area. This portion of the community can continue to function as a major commerce center in the community if basic improvements are continued. If public improvements lag, on the other hand, it can become a most undesirable and costly part of a city. Since the downtown area is responsible for much activity in our cities an unhealthy downtown can drag a city down with it.

House Bill 1492 is based on a highly successful model in use in the State of Michigan. Twelve other states have similar pieces of legislation and most report success using renaissance zone tools. We would also like a chance to let this concept work for North Dakota and to use it before the downtown areas of our state become negative economic areas.

Please carefully consider the merits of House Bill 1492 and the good it could do for North Dakota's cities. I will appreciate your consideration of this matter and ask for a DO PASS recommendation from the committee.

Thank you for your consideration and review of this matter.

Sincerely,

Bill Sorensen

Bill Sorensen
President, Board of City Commissioners

Proposed Amendments to Engrossed H.B. 1492

Drafted by Jason Henderson
At the request of Legislative Council

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 57-38-30.3 of the 1997 Supplement to the North Dakota Century Code, relating to tax exemptions and credits for investments in renaissance zones;"

Page 7, line 31, replace "chapter" with "act"

Park

primary sector.

School

1553

Counts.

Impact on ~~state~~

more than 100%

7.5 Million

7.5 Now

Downtown Bank could get it all

Fargo B.F. Short.

80

20

Rent House

Bond N.D. Trus

Shoppers

Small

Grandy opening

Furness

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Before The 56th Legislative Assembly of North Dakota

House Bill 1492
Industry, Business and Labor Committee

Statement of Support from Grand Forks Mayor Patricia Owens

Chairman Mutch and Members of the Committee thank you for this opportunity to submit testimony in support of House Bill 1492 providing for the creation of Renaissance Zones. This important legislation provides our communities the opportunity to use public investment as the foundation for long-term private growth and redevelopment of North Dakota cities.

I anticipate our North Dakota communities to experience many changes in the next several years as a result of the changing socioeconomic characteristics of our residents. Some of this change will include the relocation of residents into central city locations as well as underdeveloped areas of our cities. It is important that we take this opportunity to prepare for these changes. This preparation includes recognizing that over the long term the private reinvestment in central city locations, and developing municipal areas will provide the best return on our public dollars.

Chairman Mutch and members of the Committee please support a "do pass" recommendation on House Bill 1492. This is a powerful tool to assist in the growth of North Dakota communities. The growth and success of our communities is an important part of the continuing growth and success of the State of North Dakota.


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