

July 1999

INDUSTRIAL COMMISSION STUDY - BACKGROUND MEMORANDUM

Senate Concurrent Resolution No. 4030 (attached as an appendix) directs the Legislative Council to study:

1. The management responsibilities of the Industrial Commission.
2. The mission and location of each entity within and under the direction of the Industrial Commission.
3. The membership of the Industrial Commission.
4. The voting structure of the Industrial Commission.

Members of the Industrial Commission include the Governor, Attorney General, and Agriculture Commissioner. Entities the Industrial Commission is responsible for include:

1. Bank of North Dakota.
2. Mill and Elevator.
3. Municipal Bond Bank.
4. Housing Finance Agency.
5. Oil and Gas Division.
6. Geological Survey.
7. North Dakota Building Authority.
8. Lignite research, development, and marketing program.

PREVIOUS STUDIES AND REPORTS

The 1993-94 Budget Section heard a report from the Industrial Commission on its development of a conflict of interest policy for its members. The Budget Section was informed that the policy addressed the use of state-owned property, private interests in matters before the commission, prohibition on the use of confidential information for personal gain, loans at the Bank of North Dakota and Housing Finance Agency, employment issues, definitions regarding family involvement, and a compilation of current laws which may affect how an employee of the commission does his or her job.

The 1991-92 Industry, Business and Labor Committee studied the collocation of the Bank of North Dakota and the Department of Economic Development and Finance pursuant to a provision included in Senate Bill No. 2058. Although the committee made no recommendation regarding the collocation of the Department of Economic Development and Finance and the Bank of North Dakota, the committee determined that collocation of the two agencies was not necessary, would not produce the results desired, and would be at great expense to the state.

The 1989-90 Budget Committee on Government Finance studied, pursuant to Senate Concurrent Resolution No. 4035, the purposes, powers, duties,

management, and operations of the Bank of North Dakota. The committee recommended Senate Bill No. 2029, which was not approved by the 1991 Legislative Assembly, but which would have allocated the Bank's profits on a percentage basis to the general fund, various loan programs, and to the Bank of North Dakota.

This committee also recommended that the Legislative Assembly be encouraged to include in the Bank's appropriations bill a separate section providing for a contingency appropriation allowing the Bank to respond to unforeseen events, including profit enhancement programs, subject to Budget Section approval. The committee made this recommendation to provide the Bank flexibility for enhancing its services and profits potential.

RELATED STATUTORY PROVISIONS

North Dakota Century Code Chapter 54-17 provides the statutory references relating to the Industrial Commission. Major provisions of the chapter provide that:

1. The Governor is the chairman of the commission and that its attorney is the Attorney General.
2. All orders, rules, regulations, bylaws, and written contracts adopted or authorized by the commission, before becoming effective, must be approved by a majority of the commission.
3. The Industrial Commission must appoint a six-member advisory board consisting of representatives of lenders, the residential real estate industry, the mobile home and manufactured housing industry, and homeowners and buyers, and in consultation with such board may adopt rules and regulations for the conduct of its housing finance program.
4. The Industrial Commission is authorized to determine the location of all utilities, industries, enterprises, and businesses and business projects established, owned, undertaken, administered, or operated by the state and to make the rules, regulations, orders, and bylaws for the management and operation, and for the transaction of the business, of such utilities, industries, enterprises, and business projects. In the management and operation of its industries, the Industrial Commission shall:
 - a. Acquire by purchase, lease, or by the exercise of the right of eminent domain,

- a. all necessary property or property rights, and hold and possess or sell the whole or any part thereof.
- b. Construct and reconstruct necessary buildings on the properties required.
- c. Equip, maintain, repair, and alter any and all properties acquired and the improvements.

- d. Use the properties acquired and improvements made to promote the enterprise.

The following table identifies the entities that the Industrial Commission is responsible for and each entity's mission and location.

| Entity | Mission | North Dakota Century Code Section | Location |
|--|---|-----------------------------------|---|
| Bank of North Dakota | To encourage and promote agriculture, commerce, and industry in North Dakota | 6-09-01 | Bismarck |
| Mill and Elevator | To encourage and promote agriculture, commerce, and industry in North Dakota | 54-18-02 | Grand Forks |
| Municipal Bond Bank | To foster and promote the provision of adequate capital markets and facilities for borrowing money by political subdivisions and for financing of their respective public improvements and to encourage political subdivisions to continue their independent undertakings of public improvements in the financing thereof by making funds available at reduced interest costs | 6-09.4-02 | Bismarck |
| Housing Finance Agency | To make North Dakota's housing more affordable by providing financing, management, information, and other appropriate assistance | Chapter 54-17 | Bismarck and Fargo |
| Oil and Gas Division | Effectively accomplish the statutory responsibility for the regulation of drilling, geophysical exploration, development, and production of oil and gas in a manner that will be most beneficial to the producer, royalty owner, and the citizens of the state | 38-08-04 | Bismarck, Minot, Williston, and Dickinson |
| Geological Survey | To investigate and report the geology of North Dakota emphasizing the state's energy resources based on applied research leading to economic benefits for quality of life improvements for residents of the state; to provide public service, and to collect, create, and disseminate geologic and map-related information; and to administer regulatory programs and act in an advisory capacity to other state and federal agencies | Chapter 54-17.4 | Bismarck and Grand Forks |
| North Dakota Building Authority | To promote the general welfare of the citizens of this state by providing projects for use by the state in providing public services by altering, repairing, maintaining, or constructing buildings primarily for use by the state and making any improvements connected to those buildings or pertaining to those buildings and necessary to the use of those buildings in providing services to the public | 54-17.2-04 | Bismarck |
| Lignite research, development, and marketing program | To provide for financing of research, development, and marketing of the state's lignite resources as well as to assist in the financing of studies which will allow for the preservation of the lignite industry | 57-61-01.5 | Bismarck |

STUDY PLAN

1. Receive testimony from the Industrial Commission members regarding its management responsibilities, the mission and location of each entity under its control, the membership of the commission, and its voting structure.
2. Receive testimony from representatives of the entities within and under the direction of

the Industrial Commission regarding their mission and location.

3. Receive testimony from interested persons regarding the Industrial Commission study, including its management responsibilities, the mission and location of each entity under its control, the membership of the commission, and its voting structure.

4. Review the powers, responsibilities, and duties of the Industrial Commission and its related entities and consider the effectiveness of its management responsibilities, the appropriateness of the mission and location of each entity under its control, and evaluate the commission membership and its voting structure.
5. Develop committee recommendations and prepare the necessary legislation to implement committee recommendations.

ATTACH:1

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE CONCURRENT RESOLUTION NO. 4030
(Senator G. Nelson)
(Representative Dorso)

A concurrent resolution directing the Legislative Council to study the management responsibilities of the Industrial Commission, the mission and location of each entity within and under the direction of the Industrial Commission, the membership of the Industrial Commission, and the voting structure of the Industrial Commission.

WHEREAS, the Industrial Commission is responsible for managing the Bank of North Dakota and the North Dakota Mill and Elevator Association; and

WHEREAS, the Industrial Commission also directs the operation of the Municipal Bond Bank, the North Dakota Housing Finance Agency, the Oil and Gas Division, the Geological Survey, the North Dakota Building Authority, and the Lignite Research Council; and

WHEREAS, the entities under the direction of the Industrial Commission are diverse in purpose and involve the supervision and expenditure of hundreds of millions of dollars in state funds; and

WHEREAS, the Governor, Attorney General, and Agriculture Commissioner each have varied responsibilities as members of the Industrial Commission; and

WHEREAS, legislation throughout the years has raised questions regarding the management responsibilities, membership, and voting structure of the commission; and

WHEREAS, because the Attorney General serves the dual roles of member of the Industrial Commission and legal counsel for the commission, the responsibilities of these roles may conflict at times;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council study the management responsibilities of the Industrial Commission, the mission and location of each entity within and under the direction of the Industrial Commission, the membership of the Industrial Commission, and the voting structure of the Industrial Commission; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly.