

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### WORKFORCE COMMITTEE

Tuesday, March 30, 2010  
Brynhild Haugland Room, State Capitol  
Bismarck, North Dakota

Senator Tony S. Grindberg, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Tony S. Grindberg, Tim Flakoll, Ray Holmberg, Karen K. Krebsbach, Dave Nething, Larry J. Robinson, Mac Schneider, Tom Seymour, Ryan M. Taylor; Representatives Donald L. Clark, Nancy Johnson, Lee Kaldor, Lisa Meier, Corey Mock, Lee Myxter, Michael R. Nathe, Clark Williams

**Members absent:** Representatives Eliot Glassheim, Ken Svedjan

**Others present:** See [Appendix A](#)

Chairman Grindberg reviewed the agenda, noting that today's meeting will be followed by a joint meeting of the Workforce, Education, and Higher Education Committees on Wednesday, March 31, 2010. He reviewed some current events relating to workforce, including a recent article in *The Forum* indicating in 2009 the population grew in 20 counties in North Dakota.

Chairman Grindberg stated the next committee meeting date is tentatively set for Wednesday, May 26, 2010, in Fargo. He said the meeting would be held the day before a centers of excellence summit, also being held at Fargo. He will be requesting authorization from the chairman of the Legislative Management for committee members to receive per diem as well as lodging reimbursements to attend the centers of excellence summit after the committee meeting. The next meetings are tentatively set for Monday, July 19 in Bismarck and September 28 or 29 in Grand Forks.

Chairman Grindberg distributed *Building Tech-based Economies: State Proposals and Actions* ([Appendix B](#)). This document provides a summary and review of initiatives aimed at growing state and local economies.

Chairman Grindberg called on committee counsel to review proposed questions for a survey of the private sector partners for centers of excellence. Committee counsel said as part of the committee's study charges relating to higher education as well as the review of the performance audit of the Department of Commerce, the committee may be surveying the private sector partners of the centers of excellence. She said in preparing proposed questions, the intent was to focus on gathering the information that is unique to private sector partners. She proposed the following tentative survey questions:

1. Year centers of excellence (COE) status was awarded (if more than one award, survey questions relate to most recent award).
2. Did you participate in preparing the COE application? (Y/N) (If yes, complete a through d, if not skip to No. 3.)
  - a. The required steps of the application process were clearly identified at the beginning of the application process (rate).
  - b. You participated in conducting due diligence to create a viable proposal (rate).
  - c. The institution of higher education took the lead in preparing the application (rate).
  - d. In preparing the application, you were able to contact the appropriate people to answer any questions that arose (rate).
3. In determining whether to participate in the COE program, you understood the economic impact goals of the proposed COE (rate).
4. If the distribution of COE funds took place over a period of time, the terms of distribution were clear (rate).
5. At the time of application, the terms of the ongoing monitoring were clear (rate).
6. Requests made as part of ongoing monitoring were clear (rate).
7. Monitoring report requirements are reasonable as they related to time requirements and information requested (rate).
8. The COE program incentivizes private sector partnerships with the University System (rate).
9. Without the COE program, you would not have partnered with this institution of higher education for this project (rate).
10. When questions arise regarding the COE program, you know whom to contact (rate).
11. The state applies the COE program requirements equitably (rate).
12. Comments on how to improve the program. Which elements are successful in furthering the economic development goals and which are not? (open)

In response to a question from Senator Seymour, committee counsel said at this time the proposed survey would be sent only to private sector partners. The survey would not go to Centers of Excellence Commission members. Senator Grindberg said it might be helpful to also survey commission members.

Representative Nathe suggested the survey gather information regarding the private sector partners'

attitude about the centers of excellence program both before entering the program as well as after participating in the program. He said his desire is to make the program attractive without creating too many barriers for participants.

Chairman Grindberg said the proposed survey questions will be e-mailed to committee members and they will have an opportunity to comment and make suggestions before the final survey is distributed. He said one suggestion as it relates to survey question No. 4 is that private sector partners may not be aware of how funds are distributed, so instead the question should focus on whether the scope of work has gone as expected or whether it has been slowed down due to lack of funds.

Senator Krebsbach said the survey could include a question regarding whether private sector partners would recommend the centers of excellence program to others, and if so, why and if no, why not.

Chairman Grindberg called on committee counsel to present followup information on the Wyoming Hathaway scholarship program. Committee counsel reviewed the information provided to committee members on February 4, 2010. A copy of this information is on file in the Legislative Council office.

Committee counsel said at the December 1, 2009, Workforce Committee meeting, committee members received information from Ms. Julie Magee, Hathaway Consultant, Laramie, Wyoming, regarding the state's Hathaway scholarship program. As a matter of followup, committee counsel requested additional information from Ms. Magee, including:

1. How many of the Hathaway students fall into each of the different scholarship levels?
2. How many of the Wyoming students take the American College Test (ACT), WorkKeys, or both?
3. Has there been a decrease in remedial needs for Wyoming higher education students with implementation of the new curriculum requirements?
4. How many full-time students are enrolled in each of the Wyoming higher education institutions?
5. How much does it cost Wyoming to pay for ACT testing for high school juniors?
6. Were the students who took the ACT paid by the state of Wyoming able to use those test scores when applying to non-Wyoming state-funded institutions?

In addition, committee counsel reviewed a copy of 2009 House Concurrent Resolution No. 3054, which would create and enact a new section to Article X of the Constitution of North Dakota relating to the establishment and use of a North Dakota legacy fund, and reviewed a November 2009 Legislative Council memorandum prepared for Senator Flakoll entitled *Higher Education Student Scholarship and Other Financial Incentive Programs*.

In response to a question from Senator Nething, Senator Flakoll said North Dakota scholarship

programs have very few requirements regarding North Dakota residency. Senator Nething said the committee may wish to continue adding residency requirements to the state scholarship programs and may wish to gather information regarding whether other states have residency requirements in their scholarship programs.

Chairman Grindberg called on committee counsel to present the memorandum [2007-08 Workforce Committee Consultant Recommendations and Corresponding 2009 Legislation](#).

Chairman Grindberg called on Ms. Kayla Effertz, Governor's office, to provide a status report on the activities of the North Dakota Youth Council ([Appendix C](#)).

Ms. Effertz said in October 2009, the members of the North Dakota Youth Council were selected from a pool of applicants who were recommended by a variety of individuals. She said 16 young people were selected ranging from 17 years to 24 years of age, and 4 legislators were appointed representing both houses and both parties. Lieutenant Governor Jack Dalrymple is the chairman of the Youth Council. The first meeting was held in October 2009, after which time several subcommittees have met.

Ms. Effertz introduced Mr. Tyler Liffbrig, member, North Dakota Youth Council, Williston, who is enrolled at the University of Mary. Mr. Liffbrig continued with the computer presentation. He said the Youth Council has prioritized its ideas in the following four categories:

1. Health, wellness, and safety;
2. Education;
3. Jobs; and
4. Recreation and entertainment.

Mr. Liffbrig said following the October meeting, subcommittees presented recommendations for the North Dakota Youth Council meeting on February 15, 2010. He said draft reports will be written and sent out by mid-April in order to be discussed at the Youth Council meeting in May. He said preliminary recommendations include ideas such as more career advising at the high school and college levels, a better connection between degrees and jobs, long-term funding for in-state scholarships, mental health assistance and education, incentives for businesses for hiring North Dakota graduates, driving safety, and discussions on alcohol and the consequences it could have on one's professional career. The Youth Council members have put a considerable amount of time into this charge of identifying the issues, gathering additional input, and translating the ideas and solutions for the legislators to review.

Ms. Effertz said the efforts of the North Dakota Youth Council will be reported back to the Workforce Committee no later than September 1, 2010. She said the efforts of the Youth Council and the Department of Commerce youth office in tandem are striving to achieve the following results:

1. Improving awareness of opportunities in North Dakota;

2. Identifying the needs and gaps of young people;
3. Leveraging expertise of various programs;
4. Establishing a statewide home for youth information and services;
5. Developing a process for youth input; and
6. Increasing retention of North Dakota youth.

In response to a question from Senator Grindberg, Ms. Effertz said the North Dakota Youth Council was not involved in formation of the North Dakota University System's strategic plan; however, the Youth Council has been invited to attend an upcoming higher education retreat in order to have an opportunity to share the Youth Council's ideas with the University System.

Chairman Grindberg called on Ms. L. Anita Thomas, counsel, Legislative Council, to present the memorandum entitled [Foundation Aid Stabilization Fund](#).

Senator Flakoll said the information provided in the memorandum is relevant to the committee's work because the North Dakota Youth Council is interested in providing more scholarships to young people. He said as a member of the Youth Council, he informed the council members of the merit-based scholarships provided under 2009 House Bill No. 1400. He said upon learning of this program, the Youth Council expressed an interest in institutionalizing the funding for these merit-based scholarships.

Senator Flakoll said in considering funding sources for scholarships, the common schools trust fund also might be a growing fund to consider. Additionally, he said, in reviewing these two funds committee members may wish to consider whether there may be other uses that are appropriate for these funds.

In response to a question from Representative Nathe, Senator Flakoll said that instead of returning the interest from the foundation aid stabilization fund to the general fund, it seems the most favorable approach would be to use that interest to fund scholarships.

Representative Kaldor said it is important for the committee members to investigate the original intent of the creators of the foundation aid stabilization fund.

Senator Taylor questioned whether the committee would be receiving the recommendations of the North Dakota Youth Council and forwarding them as legislative recommendations. Senator Flakoll said he is not sure how the Youth Council will pursue legislative recommendations. He said the current objective is to formulate the best possible plan. He said the Youth Council has only met as a full body two times, so it is still in the early stages of its study charges.

Representative Nathe requested additional information regarding the current balance and interest relating to the foundation aid stabilization fund.

Senator Holmberg said if ultimately any constitutional amendment is required in order to use principal or interest from the foundation aid

stabilization fund, it will be very important to have clear, unambiguous language.

In response to a question from Senator Schneider, Senator Flakoll said the North Dakota Youth Council is looking at the concept of providing identified funding for 5,000 scholarships per year; however, this concept is still in the early stages of formulation. The Youth Council has not yet taken the steps to define the possible qualifying factors for scholarship recipients. He said the Youth Council's current discussions support limiting scholarship eligibility to North Dakota high school graduates who are attending North Dakota higher education institutions. He said anecdotal evidence suggests that more high school students are taking advanced placement classes in order to qualify for the new merit-based scholarships.

Chairman Grindberg called on Mr. Peter A. Birkeland, Chief Financial Officer, RAIN Source Capital, St. Paul, Minnesota, and Mr. Ryan A. Rauschenberger, Deputy Tax Commissioner, for information regarding access to angel and seed capital in North Dakota; access to angel and seed capital in other states and regions; best practices in increasing access to angel and seed capital; and the possibility of allowing the sale or transfer of angel and seed capital tax credits, including challenges of how other states have addressed these challenges. Mr. Birkeland made a computer presentation ([Appendix D](#)).

Mr. Birkeland complimented North Dakota on the angel fund investment tax credit program.

In response to a question from Representative Nathe, Mr. Birkeland said that North Dakota's angel and venture capital tax credit programs are solid and provide good infrastructure. He said in order to improve the program, North Dakota should be forward-looking in addressing how to manage the gap that exists between angel and venture capital. He said the gap that is being experienced in North Dakota is nearly universal. He said in a perfect world, the funding gap solution would be a public-private partnership. He said in reality, economic incentives may be helpful in bridging this gap.

In response to a question from Senator Grindberg, Mr. Birkeland said transferability of tax credits is the current issue being addressed in angel venture capital. He said there are not many examples of programs allowing for transferable credits. But, he said, Wisconsin is just in the beginning phases of creating a program that provides for this transfer of credit, and it will be interesting to see how it is implemented. He said he supports the idea of transferability of tax credits because it makes the pool larger by bringing in more investors and allowing the funding of more businesses.

In response to a question from Senator Grindberg, Mr. Birkeland said if a tax credit were to be transferable, that credit would need to have an economic value. He said the transferability would not impact the new business directly but may help indirectly by increasing investments in that business.

In response to a question from Representative Kaldor, Mr. Birkeland said it seems like one way to make the transferability system work would be to require a fair arbitrator to assist in the transfers. Representative Nathe said he envisions allowing for a sale of the credit that lets the private market set the price. Mr. Birkeland said the transfer transaction could be done as a private transaction.

In response to a question from Senator Nething, Mr. Birkeland said in his business he finds angel investors in a variety of processes, most frequently by making presentations to communities. He said in the process of making these presentations he identifies people who are investing in the community. He said over time people become more and more comfortable with angel investments as a form of investment.

In response to a question from Senator Grindberg, Mr. Birkeland said the current financial environment will likely result in capital being disaggregated from the East and West Coasts in such a way that it will make its way to the Heartland.

Senator Grindberg requested the Legislative Council provide information regarding Wisconsin's program to provide for transfer or sale of angel investment tax credits.

Mr. Rauschenberger provided written information summarizing the seed capital investment tax credit and angel fund investment tax credit programs ([Appendix E](#)).

In response to a question from Representative Kaldor, Mr. Rauschenberger said the angel fund investment tax credit certification requirement that the fund consist of at least six credit investors does not address whether those investors are located in North Dakota or outside North Dakota.

Chairman Grindberg called on Mr. Joseph J. Becker, Tax Department, for additional information regarding the North Dakota seed capital investment tax credit program ([Appendix F](#)) and the North Dakota angel fund investment tax credit program ([Appendix G](#)). As part of his review of North Dakota's programs, Mr. Becker compared the angel fund investment tax credit program to the programs provided in Kansas and Wisconsin, and he compared the seed capital investment tax credit program offered in North Dakota to the programs offered in Iowa, Kansas, Minnesota, and Wisconsin.

In response to a question from Representative Johnson, Mr. Becker said under the seed capital investment tax credit program, before 2005 there was a \$2.5 million ceiling on tax credits. He said that ceiling was reached on May 25, 2004. He said in response to the situation, the Legislative Assembly enacted legislation in 2005 authorizing a retroactive tax credit for those 2004 investments that did not qualify for the tax credit due to reaching the \$2.5 million ceiling.

In response to a question from Representative Nathe, Mr. Rauschenberger said the Legislative Assembly in 2009 repealed the transferability provision of the wind energy tax credit. He said that

transferability provision was very limited regarding to whom it could be transferred. He said because this transferability clause was so restrictive, it was not used and was therefore repealed. However, he said, the wind energy tax credit does provide for a longer carryforward period to help make it more appealing.

Chairman Grindberg called on Mr. James Burgum, Managing Director, Arthur Ventures, Fargo, for comments regarding venture and seed capital. Mr. Burgum made a computer presentation ([Appendix H](#)). He discussed his experience in establishing an angel fund--Arthur Ventures. He said he credits the success in large part to the state's angel fund investment tax credit. He said the fund has raised \$11 million and is reviewing approximately one deal per day.

In response to a question from Representative Kaldor, Mr. Burgum said the state of New Jersey is dealing with the concept of net operating losses, but at this point he does not have any details on how New Jersey is pursuing this.

In response to a question from Senator Grindberg, Mr. Burgum said federal legislation proposing accreditation caps would be detrimental to angel funds in that it would result in smaller pools of investors.

Chairman Grindberg called on Mr. Bruce Gjovig, Director, Center for Innovation, University of North Dakota, Grand Forks, for comments regarding angel investment tax credits. Mr. Gjovig provided written testimony ([Appendix I](#)).

In response to a question from Senator Schneider, Mr. Gjovig said it is difficult to quantify the impact transferability of tax credits would have on angel investments. However, he said, he senses that transferability would provide a significant pool of out-of-state investors. He estimates transferability would translate to \$10,000 or more if North Dakota had a well-tuned system to allow for the sale and transfer of angel fund tax credits.

In response to a question from Senator Taylor, Mr. Gjovig said the concept of refundability of tax credits is interesting; however, he is not hearing complaints regarding this matter. He said he would not rule out the possibility that refundable tax credits may have a positive impact on the availability of angel funds.

Mr. Gjovig said in the committee's review of how other states are dealing with transferability of tax credit, it may wish to consider Connecticut's transferability laws.

Chairman Grindberg called on Ms. Andrea Pfennig, Division of Community Services, Department of Commerce, to present the annual renaissance zone progress report. Ms. Pfennig provided written testimony ([Appendix J](#)) and the *2009 Renaissance Zone Program Assessment* ([Appendix K](#)).

In response to a question from Senator Taylor, Ms. Pfennig said the data from 2009 that indicates the renaissance zones in the state have accounted for 111 new jobs and 555 new residents relies on the

data reported by the individual communities. She said each community may calculate the new jobs and new resident figures differently. She said of the 555 new residents reported, 500 of those residents are attributable to Watford City.

In response to a question from Representative Grindberg, Mr. Gordon La France, Division of Community Services, Department of Commerce, commented the Tax Department should have significant data regarding the renaissance zone projects that have returned to the tax rules.

Chairman Grindberg called on Dr. Phyllis E. Johnson, Vice President for Research and Economic Development, University of North Dakota, Grand Forks, for a presentation regarding a proposal for creating a North Dakota technology development corporation (ND TEDCO). Dr. Johnson provided a computer presentation ([Appendix L](#)).

In response to a question from Senator Schneider, Dr. Johnson said creation of a ND TEDCO could complement the centers of excellence program. She said centers of excellence funding tends to be of a greater amount and focuses on a broader topic area than a ND TEDCO. She said both of these programs should be viewed as tools in our state's economic development toolkit.

In response to a question from Senator Holmberg, Dr. Johnson said she would need to further explore the question of whether creation of a ND TEDCO would utilize existing personnel or if it would require new personnel. She said in Maryland, the TEDCO is quasi-state and has its own staff. She said in evaluating North Dakota's system it would be key to consider what North Dakota already offers in order to improve the system of tools available.

In response to a question from Representative Johnson, Dr. Johnson said if North Dakota implemented a TEDCO, it would increase the use of technology showcases, thereby providing matchmaking events to link researchers to companies and investors.

In response to a question from Senator Grindberg regarding how the University of North Dakota approaches intellectual property issues versus how Maryland approaches intellectual property issues, Dr. Johnson said it is a very complicated subject, being impacted by a couple factors.

Dr. Johnson said the University of North Dakota recently completed its draft of a proposed intellectual property policy. The draft will be reviewed by the University Senate before it becomes final. She said she senses this new intellectual property policy may be easier to understand than the current policy. This should be a positive change.

Additionally, Dr. Johnson said the University of North Dakota has been operating with an interim associate vice president of intellectual property as a national search is currently underway. As a result of this lapse, she said, there appears to have been a negative impact on the staff's understanding of the

university's intellectual property policy. The filling of this position should also bring about positive change.

Senator Grindberg said he has a sense the centers of excellence program may tie into some of the elements of this proposed ND TEDCO being proposed by Dr. Johnson.

Senator Nething requested Dr. Johnson and the Department of Commerce work together to create a proposal on how best to put together ND TEDCO. Senator Grindberg requested that the proposal include input from the state's two research institutions--the University of North Dakota and North Dakota State University.

Senator Grindberg called on Mr. William G. Goetz, Chancellor, North Dakota University System, for a presentation of the University System strategic plan. Mr. Goetz provided a written document entitled *2009-13 NDUS Strategic Plan and Objectives* ([Appendix M](#)).

Mr. Goetz reviewed the strategic plan and objectives. He said he seeks to have individual institution's strategic plans harmonize with the University System strategic plan and objectives. He said the University System plan will be reviewed and updated annually.

In response to a question from Senator Holmberg relating to the goal of North Dakotans recognizing the University System is affordable at a level that can be sustained, Mr. Goetz said the relating policy focus area of supporting productivity improvements could include activities such as greater use of technology, i.e., use of technology to address remedial education needs, and may include collection of transfer statistics. He said once the longitudinal data system is implemented the University System will have access to more complete data.

In response to a question from Senator Seymour, Mr. Goetz said the kindergarten through grade 12 system is one of the University System strategic plan considerations. He said in particular, the issue of student readiness is considered. He said student readiness is a joint issue of the kindergarten through grade 12 system and higher education.

Representative Kaldor said in looking at productivity improvements and clarification of institutional missions, at times it seems the mission statements almost seem to be roadblocks to productivity. Mr. Goetz said the issue of mission is very challenging. He said on this note a mission task force has been established to address this ongoing issue.

Representative Kaldor said the discussion of the institutions' missions should not turn into a discussion of closure of institutions. He said the reality is that all of our North Dakota institutions have lost several programs to Minnesota over the years. He said he would like to see the strategic plan include the goal of responsiveness to the state's needs. When North Dakota students go to Minnesota for a two-year program, he said, North Dakota needs to be asking why and needs to address these issues.

Dr. Marsha Krotseng, Vice Chancellor for Strategic Planning, North Dakota University System, reviewed how the strategic plan has calculated the baseline for each of these measurements. She said as it relates to the number of graduates and professional degrees awarded, the 2 percent goal was the baseline of the number of degrees awarded in the 2008-09 academic year. She said the 6 percent goal of increasing the percentage of North Dakota's total young adult population enrolled in University System institutions for credit is based upon the 2008-09 enrollment of 4 percent. Additionally, she said, the increase of the percentage of North Dakota's total population enrolled in University System institutions for credit to 2 percent is based upon the 2008-09 enrollment of 1.2 percent.

Senator Schneider raised the issue of the 3.5 percent increase cap on tuition. He said although there is the limitation on tuition, the institutions seem to be circumventing this cap by instituting increased fees. Mr. Goetz said a task force is working on a long-term finance policy. He said the task force is considering the issues of tuition and fees, including consideration of how fees are being used and how fees are being created. He said he anticipates the work of the task force will be completed before the 2011 legislative session.

In response to a question from Senator Robinson, Mr. Goetz said for the 2010-11 academic year, fees are in what he thinks of as a holding pattern until the report of the task force is available. He said at this point he is not building fees into the budget recommendations.

Senator Grindberg said in looking at the strategic plan and objectives it is important to keep in mind that in 2009, 20 North Dakota counties experienced a growth in population. He said his hope is that committee members leave the committee meetings this week with a sense of direction. In looking at the strategic plan and objectives, Senator Grindberg said,

he noticed the strategic plan does not include flexibility or the associated accountability. Additionally, he said, the plan does not include entrepreneurship, which should be a critical element of the strategic plan.

Mr. Goetz said if the committee would further delve into the action steps that are behind the strategic plan, it would see that research and flexibility are part of the strategic plan as well as the objectives.

To prepare for the upcoming meeting, Senator Taylor said, he would like to see additional information regarding how Connecticut provides for transferability of tax credits.

Representative Nathe said at a future meeting he would like Tax Commissioner Cory Fong and Mr. Rauschenberger to present additional information regarding the transferability and sale of credits.

In response to a question from Representative Nathe, Mr. Rauschenberger said from an administrative standpoint and the issue of whether there may be unintended consequences in allowing for transferability of tax credits, the Tax Department does have some concerns. He said the department would need to consider how best to track and audit transferred credits. He said from a fiscal perspective, committee members need to keep in mind that if more people used the credit there would be decreased tax revenues; however, additional use of the program should also result in increased investments in North Dakota businesses.

No further business remaining, Chairman Grindberg adjourned the meeting at 2:20 p.m.

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Jennifer S. N. Clark  
Committee Counsel

ATTACH:13