

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMERCE COMMITTEE

Monday and Tuesday, August 11-12, 2003
Dr. Jerry C. Olson Auditorium, Skills and Technology Training Center
Fargo, North Dakota
Room 211, Rural Technology Center
Grand Forks, North Dakota

Representative George Keiser, Chairman, called the meeting to order at 9:00 a.m. on August 11, 2003.

Members present: Representatives George Keiser, Mark A. Dosch, Mary Ekstrom, Pat Galvin, Eliot Glassheim, Ron Iverson, Kim Koppelman, Dan J. Ruby, Arlo E. Schmidt; Senators Dick Dever, April Fairfield, Tim Flakoll, Karen K. Krebsbach

Member absent: Representative Dale C. Severson

Others present: Maren Daley, Gregory Wald, John A. Graham; Job Service North Dakota, Bismarck
Marty Aas, Gene Gourde; Job Service North Dakota, Fargo

Tom Fetsch, Larry Anderson; Job Service North Dakota, Grand Forks

Bruce Gjovig, Center for Innovation, Grand Forks
John Boehle, Shaun O'Keefe, EASE LLC, Grand Forks

Terry Erickson, University of North Dakota Cooperative Education, Grand Forks

Dan Schenkein, Chamber of Commerce, Grand Forks

Tony S. Grindberg, Richard Brown; State Senators, Fargo

Kathy Hawken, Rick Berg, Al Carlson, Jim Kasper; State Representatives, Fargo

Ray Holmberg, State Senator, Grand Forks

Duane Mutch, State Senator, Larimore

Joyce Kingsbury, State Representative, Grafton

Lonny Winrich, Mike Grosz; State Representatives, Grand Forks

It was moved by Representative Ekstrom, seconded by Representative Schmidt, and carried on a voice vote that the minutes of the July 1, 2003, meeting be approved as distributed.

Chairman Keiser said the purpose of meetings outside Bismarck is to receive comments from citizens from around the state who may not have the opportunity to attend meetings in Bismarck.

CENTERS OF EXCELLENCE

Chairman Keiser called on Senator Tony S. Grindberg for comments regarding centers of excellence. Senator Grindberg said the facility in which the committee is holding its meeting is a good example of

the use of private sector and public funds to support workforce and economic development. He said the Legislative Assembly invested \$1.5 million in the Skills and Technology Training Center to bridge a gap in skills shortages in the workforce. He said private sector contributions of \$1.8 million and a \$.5 million federal government investment also contributed to the establishment of the center. He said the center is a classic example of risk-taking by the higher education system. He said the center had \$1 million in revenue last year and fees charged for services pay for the operation of the center. As a result of the success of the center, he said, training efforts are branching out in other areas of the state.

Senator Grindberg said by changing state law to allow the lease of state land to private entities, the Legislative Assembly opened the door for the universities to use the proceeds from the leases to pay for infrastructure and allowed for growth of the North Dakota State University campus to the west. He said that growth has resulted in the establishment of a research park which has positioned the university, the region, and the state to focus energy to use the University System for economic growth. He said the Higher Education Roundtable created an environment for a risk-taking in higher education and partnerships through private industry and the university are developing. In acting like a broker, he said, the technology park can bring business to the university that will engage the university in new ideas and advance the university. He said the technology park creates an entrepreneurship platform where ideas can be transformed into businesses.

Senator Grindberg said the announcement that Alien Technology will locate in the technology park is exciting for the university and the state. He said the smart tags that will be manufactured by Alien Technology are likely to replace bar codes on products within 10 years. He said the smart tags will be used for inventory control and supply chain management and will transform the consumer market. He said the smart tags could also help in tracking products with respect to administration of the streamlined sales tax.

Senator Grindberg said the centers of excellence at North Dakota State University and the University of

North Dakota are working to create an infrastructure for a research corridor. He said the universities are seeking to provide tools to assist businesses. By creating a successful business incubator, he said, a new business can operate without debt and have a better chance at being successful. He said by 2005 a \$6 million building should be complete using a combination of federal and private sector funds.

In response to a question from Representative Ruby, Senator Grindberg said North Dakota State University has partnerships with other colleges in the state with respect to research and jobs development.

In response to a question from Representative Keiser, Senator Grindberg said the investment of \$5 million for venture capital and expansion of the investment options for renaissance zones are two examples of actions taken by the 2003 Legislative Assembly to enhance economic development. In addition, he said, the funding for centers of excellence maximizes the state's investment through the leveraging of private and public funds. He said the state needs to focus on economic return and not spreading money among multiple centers of excellence.

UNEMPLOYMENT INSURANCE STUDY

At the request of Chairman Keiser, committee counsel presented a memorandum entitled *North Dakota's Unemployment System - Background Memorandum*.

Chairman Keiser called on Mr. John A. Graham, Director, Centralized Services, Job Service North Dakota, who presented information regarding the unemployment insurance system in North Dakota, copies of which are on file in the Legislative Council office.

Mr. Graham said the federal Social Security Act and the Federal Unemployment Tax Act require that state unemployment insurance laws conform to federal requirements and provide that failure to conform could result in all employers in the state losing the 5.4 percent federal unemployment tax credit. He said the loss of that credit would have amounted to approximately \$95 million in taxes for North Dakota employers during the last year. He said the federal government suggests a model for unemployment insurance trust funds solvency but does not mandate tax rates or solvency levels. He said if the state's unemployment trust fund is exhausted, the state may borrow funds from the federal government but must pay interest on the amount borrowed. He said the loan cannot be repaid using unemployment tax revenues. He said if the state were determined to be in noncompliance with the federal requirements, the state could also lose its unemployment insurance administrative funding.

In response to a question from Senator Krebsbach, Mr. Graham said the last time the state had to borrow from the federal government was 1984 or 1985.

Mr. Graham said the federal government funds the administrative costs of the state unemployment insurance program through the use of the Federal Unemployment Tax Act tax. He said some states have supplemented the federal funding with state funds from other sources. He said North Dakota employers have been paying more in Federal Unemployment Tax Act taxes than the state receives from the federal government for administration of the state's unemployment insurance and employment service programs.

In response to a question from Representative Ekstrom, Mr. Graham said money in the federal unemployment trust fund cannot be used by the federal government for other purposes. He said the fund holds the money for use by the states. He said all state unemployment insurance taxes collected from employers must be deposited in the unemployment trust fund. He said the trust fund may be used only to pay unemployment insurance benefits.

In response to a question from Representative Koppelman, Mr. Graham said there is no real relationship between unemployment rates and unemployment claims. Because unemployment rates are calculated through the use of a survey on the 12th of each month, the unemployment rate could appear low while there is an increase in benefits paid due to short-term layoffs between that date and the 12th of the next month.

In response to a question from Representative Ekstrom, Mr. Graham said the 1997 Red River Valley flood had an impact on the unemployment trust fund. He said Job Service could attempt to do an analysis of the impact of that event.

Mr. Graham said the unemployment trust fund financing is based upon experience-rating principles under which employers that do not control costs pay more and the greater an employer's risk the more the employer must pay. He said an employer is given a negative experience rating if the accumulated benefits charged to the employer's account exceed the accumulated contributions and an employer is given a positive experience rating if the accumulated total contributions paid by the employer exceed the accumulated benefits charged to the employer's account.

In response to a question from Representative Glassheim, Mr. Graham said benefits are calculated based upon a percentage of the state's average wage. He said the current maximum rate is \$301 per week and the minimum rate is \$43 per week. He said those amounts are set by a statutory formula.

Mr. Graham said 1999 House Bill No. 1135 was enacted to stabilize the average unemployment insurance tax rate, shift part of the negative burden from positive balance to negative balance employers, and to raise the unemployment trust fund balance to a solvency target over a seven-year period. He said unemployment tax rates were extremely volatile

during the 1980s and tax revenue to the fund from 1994 to 2002 was less than benefit payouts.

Representative Keiser said the 1999 Legislative Assembly took responsibility for the solvency in the fund. He said the Governor had reduced rates in previous years which reduced the trust fund balance.

Mr. Graham said the 1999 legislation created arrays to provide an incentive for employers to manage risk more effectively and imposed rate limiters that restricted an employer's tax rate increase to 30 percent per year for the first three years of the legislation. Because the rate limiters expired in 2002, many employers' 2003 tax rates increased at a greater rate than during the previous three years. However, he said, Job Service was very proactive in notifying employers of the change and explaining the reasons for that change. He said the most significant increase in rates in 2003 was experienced by positive balance employers that were not close to the base rate for 2003. He said the rates for 2003 through 2006 should remain relatively stable while the trust fund reserve is increased to the solvency target.

Mr. Graham said if benefit payments rose during 2003 through 2005 at the same rate the benefits rose between 1975 and 1977, the unemployment trust fund would be bankrupt by 2005 without substantial rate increases. He said it is crucial for the trust fund to reach the solvency target so that the state is protected against the highest-benefit payouts in recent history and to help soften the impact of an economic downturn. He said the trust fund solvency target is set using a model which uses the highest-benefit payout year in the last 20 years and the two highest-benefit payout years in the most recent 10-year period in determining one year of benefit payments. He said the model calls for a target trust fund reserve of \$56.7 million in 2007.

In response to a question from Senator Krebsbach, Mr. Graham said he would attempt to provide the committee with information regarding the negative balance employers' deficit during the 1990s.

In response to a question from Senator Flakoll, Mr. Graham said he is not aware of any attempt to have a regional administrative structure for unemployment insurance. He said that approach would likely require changes in the federal law because each state is required to administer its own unemployment insurance system.

Ms. Maren Daley, Executive Director, Job Service North Dakota, said the trend at the federal level is to shift the cost of the entire unemployment insurance program, including administration, to the states.

In response to a question from Representative Ruby, Mr. Graham said the solvency target will likely be decreased when the year 1984 is removed from the model that is used to determine the target.

In response to a question from Senator Krebsbach, Mr. Graham said the \$18,000 level on which employers must pay unemployment insurance

taxes is based on a percentage of the average wage in the state. He said the average weekly benefit amount for employees in 2003 was \$219.27. He said the average duration of a claim was 11 weeks and the average benefit payout per employee was \$2,412.

In response to a question from Representative Ekstrom, Mr. Graham said he will provide the committee with information regarding how the \$18,000 wage base compares with other states.

Ms. Daley said the solvency target projections do not anticipate increases in the tax rate schedule. She said other states are now seeing trust funds decimated by unemployment. She said North Dakota seems to be ahead of the other states in addressing this issue. With respect to the positive employer rate schedule, she said, North Dakota is 36th in the country in average tax rate. She said the negative rate for employers is the highest in the country.

Mr. Graham presented written comments regarding the unemployment insurance tax and benefits computing system, a copy of which is on file in the Legislative Council office. He said the mainframe computing system must be replaced in the near future because the system is written in a programming language that is archaic and with which only a few individuals are familiar. He said the United States Department of Labor has made it clear that the department no longer intends to fund major information technology projects. Because the unemployment administrative funding is inadequate to allow the accumulation of a reserve for information technology projects or to pay off large projects in substantial annual installments, he said, Job Service is left with few options when major projects are necessary. He said Job Service commissioned a study in 2002 to analyze technical requirements for a replacement system. He said the study estimated that the cost of a replacement system is approximately \$22 million.

Mr. Graham said one option for funding a new computer system may be to use funds distributed by Congress under the Reed Act in response to the terrorist attacks in September 2001. He said North Dakota's share of that distribution was \$15.2 million. He said the state is constrained to using the money to pay benefits and administration, which would include the purchase of computer hardware and software. He said the funds would have to be appropriated by the Legislative Assembly for that purpose. He said another option is to create a surtax similar to that done by Minnesota. He said that process would hold potential if the trust fund is solvent. Although there is no question the computer system must be updated, he said, questions remain as to when and how the system should be updated, what the cost will be, and how that update will be financed.

In response to a question from Senator Krebsbach, Mr. Graham said Unisys is phasing out support of the computer system when the state's contract with Unisys expires in December 2006.

In response to a question from Representative Ekstrom, Mr. Graham said no one knows when Congress will distribute Reed Act funding again. He said the proposal for devolution of the unemployment compensation program would provide for a distribution of two payments of \$25 million. However, he said, there is no current legislation to provide for further distributions.

In response to a question from Senator Dever, Mr. Graham said the computer project would be done in phases over a three- to four-year period.

Chairman Keiser requested the Legislative Council staff to invite negative rate employers to address the committee in the future regarding what would happen if the negative categories were changed or a surtax were imposed for the worst negative rate employers.

Representative Ekstrom requested representatives of Job Service North Dakota to provide information regarding programs in other states which emphasize reemployment opportunities.

In response to a question from Representative Dosch, Mr. Graham said Job Service will provide the committee with information at a future meeting regarding the impact of an increase of the \$18,000 taxable rate threshold to \$20,000.

Chairman Keiser recessed the meeting at 1:50 p.m. and reconvened the meeting at 9:00 a.m. on August 12, 2003, in Room 211 of the Rural Technology Center in Grand Forks.

CENTERS OF EXCELLENCE

Chairman Keiser called on Mr. Bruce Gjovig, Director, University of North Dakota Center for Innovation, for comments regarding the Center for Innovation and centers of excellence. Mr. Gjovig said the Rural Technology Center was built using federal funds and an additional 20,000 square feet will be added for an entrepreneur center. He said the University of North Dakota Center for Innovation Foundation received an appropriation of \$800,000 from the Legislative Assembly based on its proposal for an entrepreneur center. He said the Ina Mae Rude Entrepreneur Center will be a unique, intensive, and experimental peer-to-peer entrepreneur center with comprehensive entrepreneur and innovation training, coaching and mentoring, hands-on assistance, and incubator space. He said the center will increase the number of new entrepreneur employers formed, substantially increase venture acceleration, improve the rate of success of entrepreneurs, and result in a significant economic impact.

Mr. Gjovig said the Center for Innovation was established in 1984 and has helped launch more than 340 ventures and products. He said the technology incubator was opened in 1996 with the assistance of \$3.5 million in federal grants. He said over 60 ventures have shared the incubator in the last six years and 17 ventures are currently sharing the incubator. He said 95 percent of the center's budget is

derived from fees for services, contracts and grants from entrepreneurs and foundations, and operating support from the University of North Dakota Center for Innovation Foundation. The success of the center, he said, is reflected in national awards that have been awarded in entrepreneurship, innovation, and rural economic development.

Mr. Gjovig said the new entrepreneur center will be adjacent to the existing technology incubator and will include a high-tech distance learning laboratory for entrepreneur and innovation training. He said the space will host entrepreneur interns, university faculty, researchers, startups, successful entrepreneurs, advisers, and private investors. He said the purpose of the center is to focus on new ventures around new ideas, research, technologies, and processes in a continuous entrepreneur forum. He said the total cost of the facility will be \$3.2 million, including \$1.5 million from entrepreneur Ray Rude of Stanley and \$300,000 from seed capitalist James Ray who was also responsible for the building of the Hilton Garden Inn, which is attached to the Rural Technology Center. He said \$500,000 of the funds will come from private and federal grants and there will be an \$800,000 match by the Center for Innovation Foundation.

In response to a question from Representative Koppelman, Mr. Gjovig said the business incubators at the universities are similar to incubators operated by other entities such as economic development corporations. However, he said, the universities are able to provide access to resources that may not be available to other incubators and the university incubators generally focus more on technology. He said of the approximately 800 incubators in the country, about 100 are affiliated with universities.

In response to a question from Senator Dever, Mr. Gjovig said businesses using the facilities of the incubator are generally limited to four years of service. However, he said, many do not access the services for that long because the businesses have developed a customer base and financing.

In response to a question from Representative Keiser, Mr. Gjovig said approximately 90 people are employed in the Rural Technology Center and over 50 percent of those individuals possess graduate degrees.

In response to a question from Senator Fairfield, Mr. Gjovig said the entry criteria utilized by the incubator is standard for the industry. He said they perform a viability check, evaluate the business model, and assess the entrepreneur's commitment to the project. He said the incubator will accept a business that does not have a business plan and assist with development of the business plan because it is more important in this area to assist a business at an earlier stage than in some other areas of the country.

In response to a question from Representative Koppelman, Mr. Gjovig said the rent for a business is determined by the number of workstations used. He said student-based businesses receive a room rent free. He said the businesses operate in the incubator on a 12-month lease and the rent goes up yearly so that at the end of the four-year period the rent is at approximately the market rate.

In response to a question from Representative Keiser, Mr. Gjovig said the beginning entrepreneur loan fund has provided funding for entrepreneurs and the Development Fund and various city funds have provided equity financing. He said the legislation adopted last legislative session to provide for \$5 million of venture capital funding will be vital because investment is essential for growth in the economy.

Mr. Gjovig introduced Mr. Shaun O'Keefe and Mr. John Boehle, EASE LLC, Grand Forks, who have utilized the services of the business incubator and received \$206,000 of centers of excellence funding to assist in an Upper Great Plains alternative air service market analysis. Mr. Boehle said their business is specializing in needs assessment and analysis relating to the application of next-generation aviation technologies. He said the business is focused on on-demand air service for small communities and implementation of communications systems for air navigation. He said the business has received \$206,000 in state funding from the centers of excellence, a \$125,000 grant from NASA, a \$250,000 federal grant received in conjunction with the city of Bismarck, and \$100,000 in-kind contributions from the Center for Innovation and private contributions. He said a conservative preliminary analysis indicates that total economic impacts in North Dakota as a result of the ventures being studied include the creation of more than 350 new jobs and the creation of new wealth estimated in the tens of millions of dollars. He said improved air service will provide business and corporate transportation needs with the essential elements for a competitive, profitable business environment and leisure travelers will benefit from the addition of new air service, which could increase tourism. He said a robust air-taxi system will spur commercial activity in the region by facilitating convenient, safe, reliable, and economical air travel.

In response to a question from Representative Glasheim, Mr. Boehle said the new generation technologies being examined include new aircraft and infrastructure technologies for managing air traffic. He said the technology has the potential to reduce the workload for pilots.

STUDENT INTERNSHIPS

Chairman Keiser called on Ms. Terry Erickson, University of North Dakota Cooperative Education, for comments regarding student internships and cooperative education. Ms. Erickson submitted written

materials, copies of which are on file in the Legislative Council office. She said cooperative education is an educational program that enables students to integrate classroom learning with practical professional experience in their field of study and is based on the philosophy that learning extends beyond the classroom. She said when a student enrolls in a cooperative education course, the student is considered a full-time student regardless of the actual number of enrolled credits. She said cooperative education is offered for a total of one to eight credits per semester up to a total of 24 credits. She said the difference between cooperative education and an internship is that cooperative education employers are interested in retention and recruitment with emphasis being on work performance, productivity, and training; cooperative education students may return to the workplace up to three times while interns may go only once; supervision, duties, homework, and the evaluation process between a cooperative education experience and an internship differ; and in cooperative education programs, students are paid while internships may or may not be paid.

Ms. Erickson said cooperative education programs can begin after a student's first year in college while internships often start at a later point. She said the average wage paid last year for a cooperative education program was between \$7.50 and \$8.50 per hour. She said the average wage this year is over \$10 per hour.

Ms. Erickson said the University of North Dakota Career Services Office provides students with a career development timeline and has begun a mentoring program in which former students are being asked to mentor current students. She said employers are permitted to post jobs on-line with Career Services and may view students' resumes. In addition, she said, career fairs are held to allow employers to meet students.

In response to a question from Representative Koppelman, Ms. Erickson said a cooperative education program must be tied to the student's major or minor course of study. She said programs for social work and teaching are generally channeled through the department rather than through Career Services.

In response to a question from Senator Krebsbach, Ms. Erickson said Career Services will refer students to Job Service North Dakota when appropriate and also receives referrals from Job Service.

In response to a question from Representative Glasheim, Ms. Erickson said Career Services is working on getting more state agencies involved in cooperative education programs. She said there are some positions in state government that would be perfect for internships or cooperative education which are now being advertised as temporary or nonbenefited positions. She said South Dakota's executive internship program has increased from approximately

30 internships to over 300 internships. She said the students who perform cooperative education or internships are well-trained when they graduate.

UNEMPLOYMENT INSURANCE STUDY

Chairman Keiser called on Mr. Larry Anderson, Job Service North Dakota, Grand Forks, for comments regarding Job Service efforts in the north-east quadrant of the state. Mr. Anderson said Job Service has been making an effort to help existing businesses expand and help new businesses locate in the state. He said a Workforce Development Service Center has been created through which 13 service-providing entities in the area have formed a consortium to provide employment and education or training programs.

Chairman Keiser called on Mr. Graham who repeated the presentation he made at the meeting in Fargo.

In response to a question from Representative Ruby, Mr. Graham said when the reserve solvency target is met, there may be a need to review the target and examine whether a different model for maintaining the reserve is appropriate. He said projections estimate that the reserve target and rates should remain stable.

Ms. Daley said the reserve target model is designed to continue working beyond solvency.

Representative Keiser requested representatives of Job Service North Dakota to demonstrate how one bad year could affect the reserve solvency target.

Chairman Keiser called on Mr. Dan Schenkein, Grand Forks Chamber of Commerce, for comments regarding unemployment insurance rates. Mr. Schenkein said unemployment compensation insurance rates do not appear to be a big issue among local employers. He said representatives of Job Service North Dakota brought the rate issues to employers a year ago and did a good job of communicating the potential and the reasons for rate increases this year. He questioned whether there may be areas to decrease expenses in managing the unemployment insurance program. He said he has heard suggestions to establish a roundtable to discuss issues such as the reduction of expenses. He said another issue to examine in reviewing the reserve fund target is how much of the target is attributable to government and nonprofit employers, which are reimbursing employers.

In response to a question from Representative Koppelman, Mr. Schenkein said Job Service has had a positive working relationship with local chambers of commerce and the Greater North Dakota Association.

Representative Koppelman requested representatives of Job Service North Dakota to explore the impact of reimbursing employers on the reserve fund target.

Representative Glassheim requested an analysis of the number of government and nonprofit reimbursing employers and the number of claims of the various employers.

In response to a question from Representative Ruby, Mr. Graham said when a claim for unemployment compensation is filed, the adjudication of the claim is supposed to balance the employer's and employee's cases. He said if an employee does not respond to the filing of a claim, only one set of facts is used in the adjudication.

In response to a question from Representative Koppelman, Ms. Daley said some states have enacted supplemental taxes for workforce training or other reemployment programs. She said administrative funding for Job Service comes directly from the Federal Unemployment Tax Act taxes.

Representative Glassheim said if the state invested in hiring more individuals to implement reemployment strategies, unemployment insurance payments could be reduced.

Representative Keiser requested representatives of Job Service North Dakota to provide historical data to show the average length of benefits.

Representative Koppelman requested information regarding the impact of seasonal employers on the insurance trust fund reserve.

Chairman Keiser said the lack of input from employers at these meetings indicates there may not be much concern with the increase in unemployment insurance rates after the rate limiters ended. He said the committee will hold at least one more meeting similar to this in which employers are invited to provide input regarding the unemployment insurance program.

There being no further business, Chairman Keiser adjourned the meeting at 1:45 p.m.

John Bjornson
Committee Counsel

John D. Olsrud
Director