

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### ECONOMIC DEVELOPMENT COMMITTEE

Thursday, August 5, 2004  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Rick Berg, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Rick Berg, Tracy Boe, Donald L. Clark, Mark A. Dosch, Mary Ekstrom, Glen Froseth, Nancy Johnson, Jim Kasper, George Keiser, Eugene Nicholas, Ken Svedjan, Don Vigesaa; Senators Dick Dever, Duaine C. Espegard, Tony S. Grindberg, John O. Syverson

**Members absent:** Representative Kenton Onstad; Senator Ryan M. Taylor

**Others present:** See Appendix A

**It was moved by Representative Keiser, seconded by Senator Syverson, and carried on a voice vote that the minutes of the May 11-12, 2004, and June 25, 2004, committee meetings be approved as distributed.**

#### REPORTS

##### Renaissance Zone

Chairman Berg called on Mr. Richard W. Gray, Division of Community Services, Department of Commerce, for the annual renaissance zone progress report required under North Dakota Century Code (NDCC) Section 40-63-03. Mr. Gray distributed written testimony, a copy of which is attached as Appendix B, and he distributed the document *Renaissance Zone Projects*, which details the renaissance zone activities in each of the zones in the state, a copy of which is on file in the Legislative Council office. Additionally, Mr. Gray distributed correspondence dated July 26, 2004, from Mr. Randy Mundt, Buffalo Economic Improvement, to Mr. Gray, supporting the activities of the Buffalo Renaissance Zone, a copy of which is on file in the Legislative Council office.

Representative Berg said now that the renaissance zone program has been implemented, it will be important for future annual renaissance zone reports to include information regarding whether renaissance zone projects have resulted in increased property tax values. He said how a renaissance zone may impact property values is an important policy consideration for legislators. In addition to considering increased property tax values, he said, it also may be important to include consideration of possible renaissance zone impact on income tax and sales tax collection.

Mr. Gray said the Department of Commerce does not collect renaissance zone data regarding property taxes collected or increased property tax valuation. He said this information would most appropriately be found at the local level. Additionally, he said, renaissance zone communities indicate they are not designed to collect this tax data.

##### Work Force 2000

Chairman Berg called on Mr. Randy Spitzer, Job Service North Dakota, for a status report on the Work Force 2000 program. Mr. Spitzer provided written testimony, a copy of which is attached as Appendix C. The testimony provided an overview of state-funded job training program projects approved during the 2003-05 biennium.

In response to a question from Senator Grindberg regarding the collection of data that may reflect how worker income increases as a result of increased productivity, Mr. Spitzer said although Job Service North Dakota is tracking this data, there is not yet enough data to draw conclusions. However, he said, this data will be available during the 2005 legislative session.

In response to a question from Senator Dever, Mr. Spitzer said Work Force 2000 and the Manufacturers Extension Partnership work closely together, especially in the area of lean manufacturing. Mr. Lee Peterson, Commissioner, Department of Commerce, said the Manufacturers Extension Partnership is a national program in the state to increase manufacturing productivity, which is typically provided through lean manufacturing analyses. He said the Manufacturers Extension Partnership provides service on a fee-for-service basis and although the Work Force 2000 and Manufacturers Extension Partnership programs complement each other, they do not duplicate services.

In response to a question from Representative Froseth, Mr. Spitzer said the Work Force 2000 data provided in his written testimony does not distinguish whether the workers trained are new or existing positions.

Representative Berg said the purpose of the Work Force 2000 program is to upgrade workers' skills, thereby increasing the income of these workers and the profit of the business.

In response to a question from Representative Berg, Mr. Spitzer said Job Service North Dakota is compiling suggested changes to the Work Force 2000 program for the committee for the upcoming meeting. Generally, he said, increasing funding of the program would assist in meeting unmet needs.

In response to a question from Representative Berg regarding whether there may be a better way to leverage workforce funds, Mr. Spitzer said in reviewing applications, there are a variety of factors considered, and if there is a determination to provide funding, that funding is frequently at less than 50 percent of the total cost of workforce training. He said although there were initial concerns regarding the statutory qualifications for the Work Force 2000 program, in implementation these qualifications have not turned out to be problematic.

In response to a question from Representative Kasper, Mr. Spitzer said training under the Work Force 2000 program is provided by a variety of sources, including the University System and private trainers. He said Work Force 2000 training programs do not pay any of the costs of what is traditionally known as in-house workforce training.

In response to a question from Senator Syverson, Mr. Spitzer said it is difficult to describe a typical timeframe between application and the provision of training. He said some Work Force 2000 training applications allow for three months between the application and the actual training, whereas other applications may provide for training two days following application. Although it can be a challenge to meet short timeframes, he said, one benefit of the North Dakota system is that it is very accessible and responsive.

Representative Berg said it is very important for the committee to consider where state funding is having the most impact. He said Job Service North Dakota needs to coordinate the workforce training system with the Department of Commerce.

### Constitutional Revisions

Chairman Berg called on Mr. Alvin A. Jaeger, Secretary of State, for an update regarding the activities of an ad hoc committee to revise the constitutional provisions relating to business entities. Mr. Jaeger briefly reviewed the history of measure No. 1 on the June 2004 ballot, which would have allowed a corporation to adopt bylaws similar to those of cooperative associations dealing with electing directors and issuing stock. He said the issue was brought to his attention in fall 2002. A resolution was drafted and introduced. He said he is devastated the measure failed and believes because the measure was very specific, it was not easy for the voters to fully understand it. He said on June 29, 2004, he contacted the State Bar Association of North Dakota (SBAND) and SBAND has agreed to study Article XII of the North Dakota Constitution, relating to

corporations. He said because of time constraints, the ad hoc committee put together by SBAND will not have time to complete a full analysis regarding the constitutional provisions before the November Legislative Council meeting. Therefore, he said, the ad hoc committee will secure individual sponsors for a resolution to propose constitutional revisions to Article XII.

### Centers of Excellence

Chairman Berg called on committee counsel to present a memorandum entitled *Centers of Excellence Program - Review of Statutory Directives*. She said the memorandum lists the statutory requirements of NDCC Section 15-10-41, which was enacted in 2003, creating the centers of excellence program. Of particular interest, she said, may be the centers of excellence purposes laid out in subsection 2. Attached to the memorandum, she said, are minutes of the conference committee that reviewed 2003 House Bill No. 1019, of which the centers of excellence legislation was included.

Chairman Berg called on Mr. Eddie Dunn, North Dakota University System, for comments regarding definitions and eligibility criteria regarding the centers of excellence program, pursuant to NDCC Section 15-10-41. Mr. Dunn distributed a document entitled *Follow-Up Report to North Dakota Legislative Council Economic Development Committee*, a copy of which is attached as Appendix D. Additionally, he distributed a document containing the names and affiliation of individuals recommended and invited to participate in the May 27, 2004, centers of excellence industry workforce need assessment, a copy of which is on file in the Legislative Council office.

Mr. Dunn reviewed the information, which he prepared for the committee pursuant to the committee's request at the June 25, 2004, committee meeting. He said the related private sector parties listed on page 1 of the written material is not totally inclusive of all private sector parties involved in the centers of excellence.

Representative Berg said Mr. Dunn's report was responsive to the committee's request; however, it would be helpful to prioritize the centers of excellence purposes.

In response to a question from Representative Keiser, Mr. Dunn said in determining whether a center of excellence is self-sustaining, he would look at whether the center of excellence relies on state funding. He said a self-sustaining center of excellence would fund itself in part from fee-for-service activity, receipt of federal grant money, and private funding. He said his determination of self-sufficiency does not consider whether a center of excellence pays property tax.

Representative Keiser said although he appreciates the report provided by Mr. Dunn, he believes the report is a statement of the obvious. He questioned how the report would assist the committee in

determining whether a center of excellence actually accomplishes the statutory purposes. Mr. Dunn said there is accountability to the Legislative Assembly through reports to the Legislative Council, Budget Section of the Legislative Council, and to the Governor.

In response to a question from Representative Berg regarding commercialization and the ultimate purpose of the centers of excellence to ensure that jobs are created, Mr. Dunn said the information he provided to the committee at the June 25, 2004, meeting clarifies that there needs to be spinoffs in the private sector.

In response to a question from Senator Espegard, Mr. Dunn said the issue of whether a center of excellence needs to be research-based was an area of intense discussions during task force meetings. He said if a center of excellence is required to be research-based, the location of centers of excellence would be limited to the two research-based universities. He said the task force ultimately decided the legislative intent of the centers of excellence program was to have more than two locations for centers of excellence. Whether a center of excellence is research-based, he said, is one criteria to consider, but not the only or the determining criteria. He said in reaching this conclusion, the State Board of Higher Education did seek legal advice and it was the legal determination that not every single legislative purpose would need to be met for a program to qualify as a center of excellence.

Senator Espegard questioned whether an application for a center of excellence meeting only two of the seven criteria could qualify. Mr. Dunn said the State Board of Higher Education chosen centers of excellence meet more of the legislative purposes than the seven legislatively determined centers of excellence. Senator Espegard said legislative clarification is necessary to better determine what meets the centers of excellence legislative purposes.

Representative Berg said the centers of excellence criteria was established during the 2003 session. He said the Legislative Assembly may need to look at whether this criteria needs further clarification or definition during the 2005 session.

Senator Grindberg said he has met with Mr. Mark Nisbet, the chairman of the task force, and there are ongoing discussions on how to take the centers of excellence program to the next level; however, there is more work to do and more discussions to be had.

Representative Keiser said Mr. Dunn's written report clearly states the statutory requirements for the centers of excellence; however, this program needs to go to the next level. He said it needs to be addressed whether the centers of excellence need to be research-based and the task force needs to give the necessary information to the Legislative Assembly in order to make a well-informed decision regarding this and other matters.

Mr. Dunn said he believes the task force has been responsive to the legislative directive to establish criteria and if more work needs to be done the task force seeks legislative guidance. He said he invites legislators to work with the task force in order to assist the task force in being more responsive.

In response to a question from Representative Kasper, Mr. Dunn said if the committee would like to receive copies of the full proposal for each center of excellence, he can provide this information. He said the purpose for providing the written document he distributed was to provide a summary. Representative Kasper said he would like to receive copies of the proposals.

Senator Espegard said he would be concerned if each center of excellence were required to be research-based. He said he is glad the task force has determined this is not the sole determining factor for eligibility.

Chairman Berg requested that Mr. Dunn directly provide committee members with the specific information they requested.

#### **Four-Quadrant Workforce Training System**

Chairman Berg called on Mr. Dunn for a status report regarding the four-quadrant workforce training system. Mr. Dunn distributed a document entitled *UPDATE - Workforce Training System in North Dakota*, a copy of which is attached as Appendix E.

Mr. Dunn briefly reviewed the history of the four-quadrant workforce training system, stating that the workforce training system in North Dakota has been operational for five years. He said on January 21, 2004, a joint meeting of the task force steering committee and the private sector workforce training advisory committees met with representatives of the four private sector workforce training advisory boards, college presidents assigned primary responsibility for workforce training, and the workforce training directors from the four workforce training regions. At this meeting, he said, the group reviewed the progress in implementing the workforce training system, defined the next level of workforce training, and determined what needs to be done to move the program to the next level. Mr. Dunn reviewed the resulting observations, conclusions, and recommendations made at this January 21, 2004, meeting.

#### **BUSINESS CLIMATE STUDY Economic Development Information**

Chairman Berg called on Mr. Cory Finneman, Division of Economic Development and Finance, Department of Commerce, for comments regarding the definition of primary sector business. Mr. Finneman provided written testimony, a copy of which is attached as Appendix F.

Mr. Finneman said the North Dakota Century Code has several variations of the definition of

primary sector business; however, the basic definition is found in Section 10-30.5-01(4), which provides:

"Primary sector business" means an individual, corporation, limited liability company, partnership, or association which through the employment of knowledge or labor adds value to a product, process, or service that results in the creation of new wealth. The term includes tourism but does not include production agriculture.

Mr. Finneman said the basic principles for primary sector businesses are added value and new wealth. The difficulty, he said, with the use of the term primary sector businesses is related to tracking or measuring these businesses. Specifically, he said, tracking or measuring the new wealth component has subjective elements and is currently protected under confidentiality provisions.

Mr. Finneman said in order to gain sales information to measure primary sector jobs and companies, three options include:

1. Creating new legislation to require businesses to provide sales information to the Department of Commerce.
2. Add the sales question to an existing agency collecting information from businesses.
3. Manage information-sharing while preserving business data from public disclosure.

Mr. Finneman said the Department of Commerce works very closely with Job Service North Dakota in gathering, clarifying, and interpreting primary sector business data. He said he recommends a standard definition to be used for primary sector business. The current definition, he said, has the needed flexibility to classify some e-commerce activity as primary sector business. He said although 100 companies have been formally certified as primary sector businesses, there are many more businesses in the state that are not formally certified. Without a method to track these businesses, he said, the primary sector business data will be incomplete. Whatever is ultimately done to better track primary sector businesses, he said, it will be paramount to respect confidentiality.

Representative Berg said he does not want the Department of Commerce to collect data under Option 1, which would provide for creating new legislation to require businesses to provide sales information to the Department of Commerce. He said for the last 10 years he has been asking about how to best track primary sector businesses and he has not yet received a clear answer. He said he wants a list of the types of businesses that qualify as primary sector businesses.

Mr. Finneman said in reviewing industry codes, there is a surprisingly high number of industries that fall under the miscellaneous classification; therefore, the North American Industry Classification System is an imperfect system to track primary sector businesses. Although the current definition of primary

sector business is workable for economic development policy and services, he said, it is not a good definition for purposes of tracking primary sector business data.

In response to a question from Representative Kasper regarding where in the definition of primary sector business there is a requirement that sales be outside the state, Mr. Finneman said the new wealth requirement relates to the sales activity outside the state. He said any analysis regarding classification of businesses is going to be complex.

Representative Kasper said jobs are jobs and we should not limit economic development efforts to businesses that meet the sales outside the state requirement.

Senator Grindberg said North Dakota does a good job of focusing resources for economic development. He said it is important to get the most bang for the buck and in comparison to other states North Dakota has a very sound economic development focus. For example, he said, some states' economic development systems allow the states to provide economic development money to Wal-Mart.

Representative Berg said he supports the third option, managing information-sharing while preserving business data from public disclosure. He said as the Department of Commerce has questions regarding what industries to include as primary sector, the department should request guidance from the Legislative Assembly.

Representative Keiser said he has always had a problem with the primary sector business definition. He said he is not convinced we are using the correct definition; therefore, the definition needs to continually be evaluated. He said local economic developers, such as the Bismarck economic development community, have done better jobs defining economic development focus. He said the real question should be whether the definition of primary sector business is still a useful definition. There may be a need to consider special and specific needs of a community, he said, in determining economic development focus.

Mr. Finneman said the Department of Commerce is charged with having a state perspective and needs to focus on how to best use limited resources.

Representative Berg said this discussion regarding primary sector businesses is a valuable discussion and should continue to be an ongoing discussion.

In response to a question from Representative Froseth, Mr. Finneman said sales data is currently available; however, existing confidentiality restrictions prevent the holders of the information from sharing this information with the Department of Commerce.

Chairman Berg called on Mr. Greg Wald, Job Service North Dakota, for comments regarding the definition of primary sector business. Mr. Wald said the current definition is based on state economic development policy.

In response to a question from Representative Berg, Mr. Wald said if Job Service North Dakota received a request for data regarding the number of primary sector businesses in the state, Job Service North Dakota would be unable to answer this question.

Representative Berg said he wants a uniform number and method of formulation for the Department of Commerce and Job Service North Dakota for the next Economic Development Committee meeting.

Chairman Berg called on Mr. Peterson for comments regarding the definition of primary sector business. Mr. Peterson said the purpose for having a definition of primary sector business is to determine whether a business is eligible for certain economic development incentives. He said classifying a business as a primary sector business is not discriminatory because regardless of classification a business may be eligible to receive assistance from a variety of other entities, including the Bank of North Dakota. Representative Kasper said the definition of primary sector business is discrimination and a more proper focus would be creating jobs. Mr. Peterson said although the focus of creating jobs is valuable, it is a limited focus.

In response to a question from Senator Grindberg, Mr. Peterson said with the exception of approximately two economic development programs, most states have economic development programs that are available to business regardless of classification as a primary sector business.

Chairman Berg called on Mr. Peterson for comments regarding the spectrum of economic development programs and risk capital programs. Mr. Peterson distributed three documents summarizing the spectrum of economic development incentives and venture capital incentives available in this state, copies of which are on file in the Legislative Council office.

Mr. Peterson said North Dakota has done an outstanding job in providing incentives for economic development and on getting a good return on investment for these incentives. He said if there is a need for additional incentives in the state, it would be in the area of early stage financing and seed capital financing. One drawback to the state's programs, he said, is that it is difficult to access the necessary financing for large, risky projects such as Alien Technology.

Chairman Berg called on committee counsel to address the committee's request for information from representatives of the energy industry. She said the committee has requested information regarding whether there are energy exportation constraints that could be addressed at the state level, incentives the state could offer to increase the exportation of energy, and specific legislative proposals necessary to increase the exportation of energy. She distributed a copy of a written response from Mr. Mark Nisbet, Xcel

Energy, Inc., a copy of which is on file in the Legislative Council office.

Chairman Berg called on committee counsel to present a memorandum entitled *Seed Capital Investment Tax Credit Limitations*. Committee counsel said it appears the legislative history supports the Tax Commissioner's conclusion that the \$2.5 million cap on seed capital investment tax credits has been exhausted.

### Bill Drafts

Chairman Berg called on committee counsel to present bill drafts prepared at the request of the committee at the June 25, 2004, meeting.

In response to a question from Representative Froseth regarding fiscal impacts of the bill drafts, Representative Berg said in considering all of the bill drafts it would be valuable to receive testimony regarding the fiscal impacts of the bill drafts. He said the committee could consider adding appropriation clauses to the bill drafts or to take testimony during the interim and have the appropriations added during the legislative session. Chairman Berg said he will consider assigning a member of the committee to each bill draft in order to help shepherd each bill draft through the remainder of the committee meetings.

In response to a question from Representative Svedjan, Chairman Berg said that as the committee reviews the bill drafts and makes determinations whether to recommend bill drafts to the Legislative Council, the committee can address whether to keep the bill drafts separate or compile into a single bill draft.

### Seed Capital Investment Tax Credit [50145.0100]

Committee counsel presented a bill draft relating to eligibility and qualifications for seed capital investment tax credits. She said pursuant to committee directives she worked with Mr. Art Rosenberg, Renaissance Ventures LLC, in preparing the bill draft. She said the bill draft expands who may be eligible for a tax credit under NDCC Chapter 57-38.5. Existing law, she said, provides that income tax credit under this chapter is limited to individuals, estates, trusts, and members of partnerships. Under this bill draft, she said, tax credit eligibility would be expanded to include corporations and passthrough entities.

Committee counsel said the bill draft provides for a \$5 million limitation of eligible, qualified investments a qualified business may receive. She said existing law does not limit the total amount of investments a qualified business may receive.

Committee counsel said the bill draft increases the aggregate annual investment for which a taxpayer may obtain a tax credit. She said existing law provides a maximum of \$250,000 and the bill draft increases the maximum to \$750,000.

Committee counsel said the bill draft provides for an annual cap on investment tax credits under the

chapter. She said existing law provides a total tax credit cap of \$2.5 million for investments and the bill draft provides for an annual tax credit cap of \$5 million beginning with taxable year 2005.

Committee counsel said the bill draft provides a method to deal with investments that occur after an annual tax credit cap is reached. Under existing law, she said, once the tax credit cap was reached in May 2004, additional investments were not eligible for the credit. She said the bill draft would provide that once an annual tax credit cap is reached, any additional qualified investments may be carried forward to a future year.

Committee counsel said the bill draft expands who may be a taxpayer for purposes of the seed capital investment tax credit. She said existing law prohibits the tax credits by an individual whose full-time professional activity is the operation of the qualified business. She said the bill draft removes this prohibition. Finally, committee counsel said, the bill would be effective beginning with taxable year 2005.

In response to a question from Representative Ekstrom regarding intent of the existing prohibition for tax credits by an individual whose full-time professional activity is the operation of the qualified business, Representative Berg said the purpose was to create incentives for other people to invest in businesses rather than provide incentives for business owners to invest in their own businesses.

Representative Keiser questioned whether the existing \$5,000 minimum annual investment should be lowered, for example to \$1,000. Representative Berg said he would consider getting rid of the minimum entirely.

In response to a question from Representative Keiser, Mr. Joseph Becker, Tax Department, said he would agree with the rationale behind lowering the minimum investment. He said it may resolve even more issues if the minimum were removed entirely. He said under the existing law with the \$5,000 minimum, the department is faced with issues regarding investments by married couples and how to treat the minimum and maximum investment provisions for these married couples.

Mr. Rosenberg said the removal of the full-time manager provision prohibition would assist small startups that have a manager who would like to invest. He said the purpose of providing for a business's lifetime maximum investment of \$5 million is to limit the seed capital investment tax credit to smaller startup companies. He said once a business is up and running, that business does not have the same need for the investment incentives.

In response to a question from Representative Johnson regarding whether there may be problems associated with allowing investment to roll forward for an unspecified number of years, Mr. Rosenberg said his preference would be to remove the annual tax credit cap in its entirety but the approach in this bill

draft is an attempt to retain a tax credit cap and address the problem that may arise when an annual cap is reached.

Representative Berg said the effect of the roll forward provision is to essentially remove the annual tax credit cap.

Representative Keiser said the carryforward provision is problematic. He said the seed capital investment tax credit will be used by investors and the Legislative Assembly needs to better control the use of this program.

Senator Syverson said he would like to see clarification regarding a promoter's ability to claim tax credits. Mr. Rosenberg said the securities laws apply to the seed capital investment tax credit.

Senator Grindberg said there is a need to tighten the parameter of the program in order to limit the seed capital investment tax credit to investors in early and seed-stage financing. Mr. Finneman said under existing law there are no limits regarding what stage of financing a qualified business is in order to be a qualified business. Representative Kasper said the seed capital investment tax credit should be limited to early and seed-stage financing.

In response to a question from Representative Svedjan, Mr. Rosenberg said a formal cost analysis of the impact of the bill draft has not yet been performed; however, he is familiar with stories in which a company has stated that but for the seed capital investment tax credit, the company would not have been successful.

Chairman Berg requested a representative of the Tax Department report to the committee at a future meeting regarding the fiscal impact of the bill draft.

Following the luncheon recess, Mr. Miles Friedman, National Association of State Development Agencies, joined the committee via telephone.

### **Targeting Industry [50107.0100]**

Committee counsel presented a bill draft relating to the Commissioner of Commerce's duty to identify target industries and to report to the Legislative Council. She said the bill draft would provide that the Commissioner of Commerce has a duty to identify target industries and every two years to make a report to the Legislative Council regarding these target industries.

Mr. Friedman said one purpose for the bill draft is to narrow the Department of Commerce target industries.

Representative Keiser said it would be important for the Department of Commerce to retain flexibility to designate and assist industries related to the target industries.

Representative Ekstrom suggested changing the reference to "special focus target industry" to some other term such as "selected target industry."

**External Image [50108.0100]**

Committee counsel presented a bill draft relating to the Commissioner of Commerce's duty to establish an image information program to assist in providing a positive image of the state and to provide for a report to the Legislative Council. She said the bill draft would require the Commissioner of Commerce to implement a program for use by state agencies to present to the public a positive image of the state and to provide for a report to the Legislative Council during the 2005-06 interim.

Representative Ekstrom said she would suggest authorizing the Department of Commerce to contract with a third party. Chairman Berg assigned Representative Ekstrom to assist with this bill draft.

**Internal Image [50109.0100]**

Committee counsel presented a bill draft relating to the Commissioner of Commerce's duty to establish a two-year pilot program for a toll-free business development program and to provide for a report to the Legislative Council. She said the commissioner would be required to implement a toll-free business development program for in-state and out-of-state callers and then report to the Legislative Council during the 2005-06 interim.

In response to a question from Representative Kasper, Mr. Friedman said use of a toll-free number would address issues raised during the focus group discussions, such as lack of economic development information as well as address the issue of the need to improve the state's internal image.

In response to a question from Representative Berg, Mr. Friedman said his experience with similar toll-free information programs is once the program is established, the use is so great there is a need to have the telephone lines staffed by trained economic developers.

Mr. Peterson said the state currently has a toll-free number for out-of-state callers; however, this number is not available for in-state callers primarily because of issues related to the state overstepping the role of local economic developers. He said the department has put a great amount of work into establishing good relationships with local economic developers and it is very important for him to retain this good working relationship.

In response to a question from Representative Kasper, Mr. Peterson said the department is marketing the existing toll-free number outside the state.

Representative Ekstrom said the concept of a toll-free number would complement web-based activities.

**International and Tribal Business [50110.0100]**

Committee counsel presented a bill draft relating to creation of an international trade division of the Department of Commerce and expansion of the Economic Development and Finance Division North

Dakota American Indian business development office as well as to provide a report for the Legislative Council. She said the current Division of Economic Development and Finance statutory structure requirements are that there be a finance office, an international trade office, a North Dakota Indian business development office, a North Dakota women's business development office, and any other office determined necessary by the director of the Division of Economic Development and Finance. She said the bill draft removes the division's international trade office and creates a Department of Commerce division of international trade. She said the bill draft also clarifies duties of the North Dakota American Indian business development office and North Dakota women's business development office. Additionally, she said, the bill draft provides for a report to the Legislative Council during the 2005-06 interim. Chairman Berg assigned Representative Kasper to assist with this bill draft.

**Local Economic Developers [50111.0100]**

Committee counsel presented a bill draft relating to local economic development services provided by the Division of Economic Development and Finance and a report to the Legislative Council. She said the bill draft provides for the Division of Economic Development and Finance to implement a program to provide services to local economic developers as well as for a report to the Legislative Council during the 2005-06 interim. Additionally, she said, the bill draft provides for a continuing appropriation of any fees collected under the program.

Chairman Berg said during the course of the focus group discussions, local economic developers indicated there is a broad range of experience of economic developers across the state. He said there would be value to having ongoing training for economic developers as well as training for new developers. He assigned Representative Froseth to assist with this bill draft.

**Manufacturing [50112.0100]**

Committee counsel presented a bill draft relating to the creation of a statewide manufacturers' association and a report to the Legislative Council. She said the bill draft provides for the Division of Economic Development and Finance, through the Manufacturers Extension Partnership, to form a statewide manufacturers' association. She said the association would be allowed to charge a membership fee that through a continuing appropriation would be used to help the association be self-funded. Under the bill draft, she said, the state's role in assisting the implementation of the statewide manufacturers' association would be temporary and the law would expire August 1, 2009. Additionally, she said, the bill draft would provide for a report to the Legislative Council during the 2005-06 and 2007-08 interims.

Mr. Friedman said the bill draft is based on the best practices of other states. He said the bill draft would allow for capitalization of an existing infrastructure, with the intent that the program evolve into a private association.

Representative Svedjan said it might be necessary to reevaluate how to transfer any unobligated money to the resulting private association.

Chairman Berg assigned Representative Johnson to assist with this bill draft.

### **Procurement [50113.0100]**

Committee counsel presented a bill draft relating to an information program relating to the state's purchasing practices and to provide for a report to the Legislative Council. She said under the bill draft, the Office of Management and Budget would be required to implement a program to inform potential vendors of state purchasing systems as well as to provide for a report to the Legislative Council during the 2005-06 interim.

Representative Berg said it may be valuable to add to this bill draft a provision regarding state contracting provisions, such as the term of contracts and the insurance requirements.

Chairman Berg assigned Representative Dosch to assist with this bill draft.

### **Risk Capital [50115.0100]**

Committee counsel presented a bill draft relating to a risk capital network program and a report to the Legislative Council. She said this bill draft was in response to a committee directive to address access to risk capital. She said existing law authorizes the Division of Economic Development and Finance to create a venture capital network. Under the bill draft, she said, the Division of Economic Development and Finance would be required to create a risk capital network. Additionally, she said, there is a Legislative Council report requirement.

Chairman Berg assigned Senator Grindberg to assist with this bill draft.

### **Technology Commercialization Study and Report to Legislative Council [50116.0100]**

Committee counsel presented a bill draft to provide for an agency study of how to stimulate technology commercialization and for a report to the Legislative Council. She said she drafted the bill draft needs to clarify whether the study should be performed by the Department of Commerce or the State Board of Higher Education. Additionally, she said, the agency would be required to report the outcome to the Legislative Council before July 1, 2006.

Chairman Berg assigned Representative Keiser to assist with this bill draft.

### **Tax Study and Report to Legislative Council [50118.0100]**

Committee counsel presented a bill draft providing for an agency study of corporate taxes and tax incentives to stimulate the business climate and for a report to the Legislative Council. She said the bill draft would provide for the Tax Commissioner to study the corporate taxing system and tax incentives to stimulate economic development. Additionally, she said, the bill draft provides for the commissioner to report to the Legislative Council before July 1, 2006.

Representative Keiser said the study should also be required to include the study of tax provisions that inhibit economic development.

Chairman Berg said the primary purpose of the study would be to further create a business-friendly environment in this state. He assigned Senator Dever to assist with this bill draft.

### **Business Liability Study and Report to Legislative Council [50120.0100]**

Committee counsel presented a bill draft relating to a study by the Insurance Commissioner of North Dakota's liability laws as they relate to business and liability insurance. She said the bill draft would require the commissioner to report to the Legislative Council before July 1, 2006.

Chairman Berg called on Mr. Doug Holloway, Deputy Insurance Commissioner, for comments regarding the bill draft. Mr. Holloway distributed a document with proposed changes to the bill draft, a copy of which is attached as Appendix G. Mr. Holloway said the committee's bill draft might be interpreted to include a review of the entire civil justice system so the proposed amendments he provided focus the activities of the study to address the insurance marketplace and the affordability of liability insurance coverage.

In response to a question from Representative Berg, Mr. Holloway said there may be insurance issues related to state contracts resulting in barriers to contracting with the state. He said the Attorney General's office has contract guidelines that may act as barriers of contracting with the state.

Representative Keiser said the state is transitioning to a more business-friendly relationship with private businesses. He said an example of this is the statutory requirements for bonds were recently changed to allow for a business to provide a letter of credit.

Representative Kasper questioned why the study has a travel and tourism focus. Mr. Peterson said North Dakota is losing travel and tourism business due to the inability of these businesses to obtain liability insurance.

In response to a question from Representative Svedjan, Representative Berg said this study could conceivably include issues relating to medical liability. Mr. Holloway said the Insurance Commissioner is

actively studying the issue of medical liability and would be happy to provide the committee with an update at a future meeting.

Representative Dosch said the impetus for this bill draft was that during the focus group discussions, it was raised by the travel and tourism industry that there is an issue of the inability to get liability insurance. He said he would like to limit this study to the travel and tourism study.

Chairman Berg assigned Representative Dosch to assist with this bill draft.

#### **Intellectual Property Study and Report to Legislative Council [50122.0100]**

Committee counsel presented a bill draft to provide for an agency study of intellectual property rights and for a report to the Legislative Council. She said the bill draft is drafted in a way the committee would need to determine whether the Department of Commerce or the State Board of Higher Education would be required to conduct this study and report to the Legislative Council.

Representative Keiser said he would support combining this bill draft with the bill draft relating to technology commercialization.

Chairman Berg said the technology industry is growing expedientially and North Dakota should be focusing energy on creating a niche for this industry. He assigned Representative Keiser to assist with this bill draft.

#### **Economic Development Incentives Study and Report to Legislative Council [50123.0100]**

Committee counsel presented a bill draft relating to an agency study of economic development incentives and a report to the Legislative Council. She said the bill draft would provide for the Department of Commerce to perform this study and to report to the Legislative Council before July 1, 2006.

Mr. Friedman said information gathered at the focus groups and the Primary Sector Business Congress indicated it might be helpful to evaluate whether the current economic development incentive mix is up to date.

#### **Business Climate [50124.0100]**

Committee counsel presented a bill draft relating to providing for a continuing North Dakota business climate study by the Legislative Council and the Department of Commerce. She said the study would be performed during the 2005-06 and 2007-08 interims and would provide for continuing focus groups and primary sector business congresses.

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

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Jennifer S. N. Clark  
Committee Counsel

ATTACH:7