

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### ECONOMIC DEVELOPMENT COMMITTEE

Tuesday, October 12, 2004  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Rick Berg, Chairman, called the meeting to order at 1:11 p.m.

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

**Members absent:** Representatives Tracy Boe, Mary Ekstrom, Kenton Onstad

**Others present:** See Appendix A

**It was moved by Representative Svedjan, seconded by Representative Keiser, and carried on a voice vote that the minutes of the September 15, 2004, committee meeting be approved.**

#### BUSINESS CLIMATE STUDY

Chairman Berg reviewed the five main components of the Primary Sector Business Congress initiative:

1. Jobs.
2. Business services.
3. Image and marketing.
4. Support for local economic developers.
5. Education partnerships.

Chairman Berg called on Mr. Miles Friedman, National Association of State Development Agencies, for comments regarding the activities of the Primary Sector Business Congress. Mr. Friedman addressed the committee telephonically. He said at the beginning of the Primary Sector Business Congress activities there was a broad range of issues raised, and through the participation of the business community, the committee has been guided to these five main components.

#### Primary Sector Business Definition

Chairman Berg called on Mr. Gregory Wald, Job Service North Dakota, for comments regarding the definition of the term primary sector business. Mr. Wald provided written testimony, a copy of which is attached as Appendix B.

Mr. Wald said because there is no state agency collecting data that measures the components of primary sector businesses as defined under North Dakota law, it is impossible to get a true measure of

the number of primary sector business firms and workers in this state. He said the four state agencies that receive regular reports from state businesses include the Secretary of State, Job Service North Dakota, Tax Commissioner, and Workforce Safety and Insurance. He said the recommendation of Job Service North Dakota and the Department of Commerce is that the Secretary of State's office would be the most appropriate entity to collect the data needed to measure primary sector business firms and workers. The five reasons stated for choosing the Secretary of State were:

1. The Secretary of State collects data from foreign corporations on percentage of sales inside the state.
2. The Secretary of State collects data on total gross income for domestic corporations.
3. Providing for an annual collection through the Secretary of State would allow for the most comprehensive list of businesses in the state.
4. The Secretary of State receives annual reports, which would be consistent with the data collection needs for primary sector businesses.
5. The Secretary of State is a registration agency.

Mr. Wald said several issues would need to be resolved to implement data collection through the Secretary of State, including:

1. Legislative action would be required to change the forms and reporting requirements for all domestic businesses.
2. General partnerships and other sole proprietorships are not required to provide annual reports and therefore would be missing from this reporting requirement unless the law is changed.
3. Legislative action would be required to allow for information-sharing between the Secretary of State and Job Service North Dakota. Additionally, Job Service North Dakota would need to ensure the current information-sharing agreement with the Department of Commerce could include this primary sector business data information.
4. The Secretary of State's office would seek additional appropriations to update the

computer system and to account for additional administrative costs incurred in collecting this primary sector business data information.

In response to a question from Representative Berg, Mr. Wald said a data collection system through the Secretary of State's office could gather information regarding the amount of revenue a business receives from out of state.

In response to a question from Representative Keiser, Mr. Wald said there have not been any analyses regarding the expenditures and resources it may take for a business to report this information to the Secretary of State.

Mr. Wald said as an alternative to collecting data through the Secretary of State, the committee may consider tracking primary sector business data through the Department of Commerce benchmark and goals collected under the existing system.

### Bill Drafts

Chairman Berg said the committee would be receiving and reviewing three new committee bill drafts.

### Tax Exemptions for New and Expanding Businesses

Chairman Berg requested Mr. John Walstad, Code Revisor, Legislative Council, to present and review a bill draft [50196.0100] relating to property and income tax exemptions for new and expanding businesses. The Legislative Council staff said the bill draft would extend from 5 to 10 years the tax exemption a municipality may grant to a new or expanding business. Mr. Walstad said that for purposes of this bill draft, a municipality would be a city or a county. Additionally, he said, the bill draft would provide for these tax exemptions to be available within an urban renewal development or renewal area. He said the effective date provision of the bill draft provides the changes would be effective for taxable years beginning after December 31, 2004, but that the extended period of an exemption would be available for projects that received the exemption before January 1, 2005, if the project operator applies for the extended exemption and if the municipality chooses to extend the exemption for the longer period of time.

Representative Berg said the changes in this bill draft are driven by the needs of the Fargo-Cass County economic development community.

Chairman Berg called on Ms. Marcy Dickerson, Tax Department, for comments regarding the bill draft. She said because existing law allows for a 20-year period of payment in lieu of taxes, technically speaking, existing law allows for the same outcome; however, the payment in lieu of taxes does not include a requirement for application before construction. Additionally, she said, under Section 3 of the bill draft, she would suggest the committee consider

overstriking the last sentence of North Dakota Century Code Section 40-57.1-04.1: "The project operator shall apply to the governing body of the municipality annually for the exemption and the governing body of the municipality may grant the exemption for only one year at a time." She said the language in the last sentence applies to the preceding overstruck language.

Chairman Berg called on Ms. Bev Nielson, North Dakota School Boards Association, for comments regarding the bill draft. Ms. Nielson said that although the board has not had an opportunity to review the bill draft, it does have a standing resolution opposing tax abatements.

The committee discussed whether to approve and recommend the bill draft relating to the tax exemptions for new and expanding businesses.

**It was moved by Representative Keiser and seconded by Representative Kasper that the bill draft relating to tax exemptions for new and expanding businesses be approved and recommended to the Legislative Council.**

Senator Grindberg said he will be voting no on this motion because he is not convinced this bill draft will increase economic development. He said he would like to see additional information before he supported this concept.

Senator Taylor said the issue of taxes was low on the list of issues raised at the focus discussions. Additionally, he said, because there is going to be a price tag on the business initiative bill draft, he questions the wisdom of decreasing state revenue through decreasing taxes.

Representative Berg said he believes this issue of tax exemptions for new and expanding businesses will be an issue in 2005 and this bill draft could be a vehicle in which to address these issues.

After this discussion, **the motion carried on a roll call vote.** Representatives Berg, Clark, Froseth, Johnson, Kasper, Keiser, Svedjan, and Vigesaa and Senators Espgaard and Syverson voted "aye." Representatives Dosch and Nicholas and Senators Dever, Grindberg, and Taylor voted "nay."

### Return on Investment

Chairman Berg called on committee counsel to present a bill draft [50192.0200] relating to the Department of Commerce monitoring of return on investment of financial assistance programs. She said the bill draft would require the Department of Commerce to monitor return on investment for each of the department's financial assistance programs.

Representative Berg said he recognizes Representative Keiser has been working on a more comprehensive bill draft relating to return on investment of state and local economic development programs; however, because accountability has been a topic in the news, it may be valuable for the committee to have a bill draft addressing this issue.

Chairman Berg called on Mr. Lee Peterson, Commissioner, Department of Commerce, for comments regarding the return on investment bill draft. Mr. Peterson said one negative aspect of the bill draft is that it only relates to the Department of Commerce, whereas there are several state agencies providing economic systems programs, including the Tax Commissioner, Bank of North Dakota, and Department of Transportation. He said that in order to have a meaningful return on investment monitoring program, it would be necessary to receive this information from all state agencies providing economic development financing services. Additionally, he said, he has reservations about adopting return on investment policies through administrative rule.

The committee discussed whether to approve and recommend the bill draft relating to return on investment accountability for the Department of Commerce. Representative Keiser said he is working on an accountability bill draft and in the course of putting together this bill draft he is working closely with a broad range of economic development actors. He said he has reservations about using administrative rules as they relate to accountability and believes the citizens of the state would prefer that accountability be dealt with in statute.

#### **Business Initiative**

Chairman Berg called on committee counsel to present the business initiative bill draft [50180.0100], which is a compilation of all of the committee's previous bill drafts. Committee counsel said the primary substantive changes included in this bill draft are that the external image program has been changed to be a pilot program that expires in 2009; the technology commercialization study is provided by the State Board of Higher Education; the intellectual property study is performed by the Department of Commerce, in consultation with the State Board of Higher Education; the seed capital investment tax credit provides for a \$2.5 million annual credit cap and retains the existing statutory restriction on full-time professionals; the centers of excellence bill draft is included in this compilation as a committee bill draft; the transportation study is expanded to include consideration of how airports may be related to economic development; and the risk capital study is revised.

Representative Keiser said the studies contained in the business initiative bill draft will require funding and the bill draft should include an appropriation for these studies.

Representative Berg said he agrees that many of the provisions of the bill draft will require funding; however, he assumes this can be dealt with by standing committees receiving testimony during the session and then including the appropriate funding at that time.

Senator Grindberg said the bill draft provides agencies with sufficient time to gather in-depth financial information to present this information to the standing committees during the legislative session.

Representative Keiser said the portion of the bill draft dealing with the centers of excellence provides for the creation of a commission with a voting membership being an even number. He said he would recommend changing this to a membership with an odd number of voting members.

Representative Kasper questioned why the transportation study provision of the bill draft provides for the Upper Great Plains Transportation Institute to provide the study instead of having the study provided by the Department of Transportation.

Representative Berg said he assumes that the Upper Great Plains Transportation Institute would work closely with the Department of Transportation in performing the study.

Representative Svedjan reminded the committee that at a previous meeting a representative of the Department of Transportation suggested adding the Department of Transportation to parties participating in the study.

**It was moved by Representative Keiser, seconded by Representative Svedjan, and carried on a voice vote that the bill draft be amended to clarify that the Upper Great Plains Transportation Institute work with the Department of Transportation in performing the transportation study.**

Chairman Berg called on Dr. Robert L. Potts, Chancellor, North Dakota University System, for comments regarding the bill draft. Dr. Potts distributed written testimony, a copy of which is attached as Appendix C.

Dr. Potts said there are provisions of the centers of excellence portion of the bill draft which may cause problems for the State Board of Higher Education; however, he looks forward to the opportunity to work with the Legislative Assembly in order to address these possible constitutional issues.

Senator Grindberg said that more time is needed to address the centers of excellence provisions of the bill draft and it is not the committee's intent to subject the program to constitutional challenges.

Representative Kasper suggested increasing the size of the centers of excellence commission by adding a member representing the Greater North Dakota Chamber of Commerce.

Representative Berg said he has an aversion to naming private associations as members to committees but would support adding a member of the State Board of Higher Education or the Economic Development Foundation.

**It was moved by Representative Keiser and seconded by Senator Grindberg to increase the membership of the newly created centers of excellence commission by adding an additional**

**member from the State Board of Higher Education.**

Representative Kasper said he would prefer adding a member of the private sector instead of adding an institutional member.

Representative Berg said that one positive aspect of having a commission membership of an even number of voting members is that if the vote is a tie it may require the foundation and the State Board of Higher Education to come to some type of agreement.

Representative Keiser said stalemates can be problematic and one benefit of adding a member representing the State Board of Higher Education is that sometimes the Legislative Assembly fails to include the State Board of Higher Education in economic development discussions.

After this discussion, **the motion carried on a voice vote.**

Chairman Berg called on Mr. Joe Becker, Tax Department, for comments regarding the seed capital investment tax credit portion of the bill draft. In response to a question from Representative Keiser, Mr. Becker said the definition of a passthrough entity is related to who may be a qualified investor and does not address nor is it intended to address what type of business may be a qualified business.

Chairman Berg called on Ms. Linda Belisle, Office of Management and Budget, for comments regarding the procurement information and procurement assistance study portions of the bill draft. Ms. Belisle provided written testimony, a copy of which is attached as Appendix D.

Ms. Belisle provided suggested changes to the procurement information portion of the bill draft and reported that the Office of Management Budget would request an appropriation of approximately \$150,000 to \$175,000 for the biennium to fund an additional employee and to fund the web site for the online posting system. She said the proposed changes would essentially provide the Office of Management and Budget with more teeth in providing the online posting of state purchasing opportunities.

In response to a question from Representative Keiser, Ms. Belisle said the procurement information provision of the bill draft would help local businesses because it would help vendors be aware of state purchasing needs. She said vendors have commented there is a need to have state procurement opportunities listed in one place.

Representative Keiser said he thinks a comprehensive online list of government procurement opportunities would have the effect of helping out-of-state vendors.

In response to a question from Representative Kasper, Ms. Belisle said under the current system some state agency's post procurement opportunities on the agency's individual web site, but there is no consistency, and the postings are not maintained in a single location.

Representative Berg said the real issue is whether there are ways the state can make procurement opportunities more available to vendors.

Ms. Belisle said a single online site for procurement opportunities is common practice in other states.

**It was moved by Representative Keiser, seconded by Representative Kasper, and carried on a voice vote that the committee adopt the procurement information amendments proposed by Ms. Belisle.**

Chairman Berg called on Mr. Peterson for comments regarding the business incentive bill draft. Mr. Peterson provided the following fiscal requirements:

Fiscal Requirements for Bill Drafts Directly Associated With the Department of Commerce	
Bill Title	Fiscal Requirement
Target industries report	\$50,000
North Dakota image information program	\$100,000 (+ 1 full-time equivalent position that will be split with the business hotline program)
Business hotline	\$30,000
Division of International Trade/American Indian Development	\$413,103 (+ 1.5 full-time equivalent position)
Local developer's certification program	\$50,000 general fund + \$100,000 special funds and authority to collect fees
Dakota manufacturing initiative	\$165,000 general fund
Intellectual property rights study	\$50,000
Economic development incentives study	\$30,000 - \$70,000
North Dakota business climate initiative	\$50,000 - \$70,000

Mr. Peterson said the Department of Commerce is fully extended with the financial resources that have been made available. He said adding additional duties to the department will mean either more money is provided or, if no more money is provided, other Department of Commerce services will need to be reduced.

Mr. Peterson said he would support changing the name of the Division of International Trade to the Division of International Business and Trade. Additionally, he said, he would support expanding the local developer certification program to include services to other economic development actors, such as the convention and visitors bureaus.

The committee discussed whether to incorporate the bill draft the committee received regarding tax exemptions for new and expanding businesses into the consolidated business incentive bill draft. Representative Froseth said he would prefer the tax exemption bill draft remain separate from the consolidated business initiative bill draft. Senator Grindberg concurred.

**It was moved by Representative Keiser, and seconded by Senator Espgaard to amend the consolidated business initiative bill draft to**

**include the Department of Commerce appropriations provided by Mr. Peterson.**

Representative Keiser said it is important to discuss the cost of the committee-proposed legislation and if the committee truly supports the concept, the committee should include funding for the programs in the bill draft. He said the legislative process will provide ample opportunity for interested persons to modify appropriation requests.

Representative Svedjan said he supports the motion to provide an appropriation clause for the Department of Commerce.

Representative Berg raised the point that in addition to the Office of Management and Budget and Department of Commerce, the committee's business initiative bill draft may impact a variety of agencies.

Representative Svedjan said the standing committees will review the fiscal notes for the committee bill drafts.

After this discussion, **the motion carried on a voice vote.**

**It was moved by Representative Keiser, seconded by Senator Grindberg, and carried on a roll call vote that the bill draft, as amended, relating to the consolidated business initiative be approved and recommended to the Legislative Council.** Representatives Berg, Clark, Dosch, Froseth, Johnson, Kasper, Keiser, Nicholas, Svedjan, and Vigesaa and Senators Dever, Espegard,

Grindberg, Syverson, and Taylor voted "aye." No negative votes were cast.

Mr. Friedman said he commends the committee's willingness to forward a comprehensive approach, as it sends a strong message both internally and externally. He also noted the state agencies were very responsive to the committee requests for information during the course of the committee activities.

**It was moved by Representative Keiser, seconded by Representative Johnson, and carried on a voice vote that the chairman and staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council.**

**It was moved by Representative Johnson, seconded by Senator Grindberg, and carried on a voice vote that the meeting be adjourned sine die.** Chairman Berg adjourned the meeting sine die at 3:35 p.m.

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Jennifer S. N. Clark  
Committee Counsel

ATTACH:4