

BUSINESS CLIMATE STUDY - BACKGROUND MEMORANDUM

INTRODUCTION

Section 17 of Senate Bill No. 2032 (2005) provides that during the 2005-06 and 2007-08 interims the Legislative Council shall study the state's business climate through a business climate initiative. The interim Economic Development Committee is charged with performing this business climate study during the 2005-06 interim. Additionally, under Section 18 of Senate Bill No. 2032, the committee is charged with studying issues relating to venture and risk capital and whether and how some of these issues may be negatively impacting business development in the state. Although both of these studies are directly related to the work of the Economic Development Committee's business climate initiative study during the 2003-04 interim, the details of the venture and risk capital study are addressed in a separate background memorandum.

The provisions of the 2003-04 Economic Development Committee's business climate initiative were contained in Senate Bill No. 2032 (2005). During the course of the legislative session, the business climate initiative provisions were split between Senate Bill Nos. 2032 and 2018--the appropriation for the Department of Commerce. The enrolled version of Senate Bill No. 2032

(www.state.nd.us/lr/assembly/59-2005/bill-text/FAIE0800.pdf), which includes Section 17 directing the business climate study, is attached as Appendix A and the enrolled version of Senate Bill No. 2018

(www.state.nd.us/lr/assembly/59-2005/bill-text/FQMK0500.pdf) is attached as Appendix B.

Under the business climate study provided for under Section 17 of Senate Bill No. 2032, the three main directives for the committee during the 2005-06 interim are:

1. Receipt of agency reports regarding economic development legislation introduced by the Legislative Council during the previous legislative session;
2. Active participation in business climate focus groups across the state; and
3. Active participation in a biennial Business Congress.

RECEIPT OF REPORTS

The Economic Development Committee is charged with receiving the following reports regarding economic development legislation introduced by the Legislative Council and passed during the 2005 legislative session:

- Biennial report from the Commissioner of Commerce on the process used and factors considered by the commissioner in identifying target industries on which economic development efforts are focused and the special focus target industry under North Dakota Century Code (NDCC) Section 54-60-11. Section 54-60-11, which contains the reporting requirement, was created by Section 40 of Senate Bill No. 2018.
- Report from the Commissioner of Commerce on the status of the American Indian Business Development Office and the status of the International Trade and Business Office under NDCC Sections 54-34.3-06(1) and 54-34.3-14. The amendments to Sections 54-34.3-03 and 54-34.3-06(1) and the creation of Section 54-34.3-14 were made by Sections 35, 36, and 37 of Senate Bill No. 2018. The reporting requirement was created by Section 46 of Senate Bill No. 2018.
- Report from the Commissioner of Commerce on the status of the certification program through which the Division of Economic Development and Finance provides training services to local economic developers under NDCC Section 54-34.3-15. Section 54-34.3-15 was created by Section 38 and the reporting requirement was created by Section 47 of Senate Bill No. 2018.
- Report from the Commissioner of Commerce on the status of the image information program under NDCC Section 54-60-12. Section 54-60-12 was created by Section 41 and the reporting requirement was created by Section 48 of Senate Bill No. 2018.
- Report from the Commissioner of Commerce on the status of the business hotline program under NDCC Section 54-60-13. Section 54-60-13 was created by Section 42 and the reporting requirement was created by Section 49 of Senate Bill No. 2018.
- Report from the Commissioner of Commerce on the status of the Dakota Manufacturing Initiative created under Section 45 of Senate Bill No. 2018. The reporting requirement was created by Section 50 of Senate Bill No. 2018.
- Report from the Commissioner of Commerce before July 1, 2006, on the outcome of the Department of Commerce's study of the state's intellectual property laws as they relate to the protection of intellectual property rights. The study and reporting requirement were created by Section 51 of Senate Bill No. 2018.

- Report from the Commissioner of Commerce before July 1, 2006, on the outcome of the Department of Commerce's study of the state's economic development incentives. The study and reporting requirement were created by Section 52 of Senate Bill No. 2018.
- Report from the president of the Bank of North Dakota on the status of the Bank's investment in alternative and venture capital investments and early-stage capital funds under NDCC Section 6-09-15(4)(c). Sections 6-09-15 and 10-30.5-04 were amended by Sections 1 and 3 of Senate Bill No. 2032. The reporting requirement was created by Section 19 of Senate Bill No. 2032.
- Report from the State Board of Higher Education and the Centers of Excellence Commission on the status of the centers of excellence program under NDCC Chapter 15-69. Chapter 15-69 was created by Section 4 and the reporting requirement was created by Section 20 of Senate Bill No. 2032.
- Report from the chancellor of the University System before July 1, 2006, on the outcome of the State Board of Higher Education's study of incentives the state could adopt to serve as catalysts for stimulating more efficient commercialization of new technologies. The study and reporting requirement were created by Section 22 of Senate Bill No. 2032.
- Report from the director of the Office of Management and Budget on the status of providing procurement information through the Internet under NDCC Section 54-44.4-14 and on the outcome of the director's procurement assistance center study. Section 54-44.4-14 was created by Section 6 of Senate Bill No. 2032. The study and reporting requirement were created by Section 24 of Senate Bill No. 2032.

Additionally, under NDCC Section 40-63-03, the committee will receive annual reports from the Department of Commerce Division of Community Services on renaissance zone progress. The annual reporting regarding the status of the renaissance zone program is an ongoing statutory reporting requirement that is not directly related to the work of the 2003-04 Economic Development Committee's business climate initiative.

PARTICIPATE IN BUSINESS CLIMATE FOCUS GROUPS

The Economic Development Committee is charged with actively participating in the business climate focus groups across the state. According to the study charge, the focus groups are responsible for discussing ways to enhance the state's business climate. The stated purpose for looking to enhance the business climate is to stimulate job growth and

enhance economic prosperity for employers and employees. The study charge provides the approach the committee should use to stimulate job growth and enhance prosperity through encouraging the growth of existing businesses in the state, creating new businesses in the state, and encouraging expansion or relocation of businesses in the state.

During the 2005-06 interim, the Department of Commerce has several duties relating to the activities of the business climate initiative. The provision of service by the Department of Commerce during the 2005-06 interim activities is a change from the way the business climate initiative was carried out during the 2003-04 interim. The study charge in effect provides the Department of Commerce, along with a consultant, are responsible for a large portion of the preparatory work and implementation of the focus groups. As part of the activities of the focus groups, the Department of Commerce is charged with:

1. Organizing and holding the business climate focus groups;
2. Consulting with the Legislative Council in compiling focus group participation invitation lists and drafting and distributing invitations;
3. Establishing focus group dates and locations; and
4. Preparing focus group agendas.

The Department of Commerce is charged with holding a minimum of six focus group discussions, two of which must specifically focus on local economic developers and four of which must specifically focus on private business needs. Additionally, the Legislative Council is charged with contracting with a third party to provide professional services to plan, facilitate, report on, and coordinate followup for the focus groups. Section 19 of Senate Bill No. 2018 includes an appropriation of \$50,000 to the Department of Commerce to help fund the business climate initiative study.

PARTICIPATE IN BUSINESS CONGRESS

Much like the focus groups, during the 2005-06 interim, the Economic Development Committee is charged with actively participating in the biennial Business Congress. The activities of the Business Congress must include:

1. Receipt of a report on the activities of the focus group discussions;
2. Identification of methods to enhance the state's business climate to stimulate job growth and enhance economic prosperity;
3. Identification of methods to prepare the state for high-growth and high-demand jobs of the future; and
4. Evaluation of the impact of existing state economic development programs.

Again, the study charge in effect provides the Department of Commerce, along with a consultant,

are responsible for a large portion of the preparatory work and implementation of the Business Congress. The Legislative Council is charged with contracting with a third party to provide professional services to plan, facilitate, report on, and coordinate followup for the Business Congress. The Department of Commerce is charged with:

1. Organizing and holding the 2005-06 interim Business Congress before June 1, 2006;
2. Consulting with the Legislative Council in compiling the Business Congress participation invitation list;
3. Consulting with the Legislative Council in drafting and distributing Business Congress invitations;
4. Consulting with the Legislative Council in establishing the Business Congress date and location; and
5. Consulting with the Legislative Council in preparing the Business Congress agenda.

BACKGROUND

The 2005-06 North Dakota business climate initiative is part of a three-interim initiative of the Legislative Council. During the 2003-04 interim, in accordance with House Bill No. 1504 (2003), the Legislative Council's Economic Development Committee conducted a primary sector business climate study. That committee recommended Senate Bill No. 2032 (2005), which under Section 17 provides for a two-interim continuation of the activities begun under House Bill No. 1504 (2003). Through the course of the 2005 legislative session, several of the provisions of Senate Bill No. 2032, as introduced, were relocated to Senate Bill No. 2018, the appropriations bill for the Department of Commerce. Therefore, the initiatives of the 2003-04 Economic Development Committee will be identified as being from Senate Bill No. 2032 or Senate Bill No. 2018.

RELATED ACTIVITIES DURING 2005-06 INTERIM

In addition to the activities of the Economic Development Committee, during the 2005-06 interim, there are several committees charged with economic development-related activities, economic-related studies, and receipt of economic development-related reports. Although several of the 2005-06 economic development-related activities stem from Senate Bill No. 2018--the Department of Commerce appropriation--these studies are not directly related to the activities of the 2003-04 Economic Development Committee's business climate initiative. The two studies assigned to other committees which directly relate to the activities of the 2003-04 Economic Development Committee's business climate initiative are the interim Industry, Business, and Labor Committee's receipt of a report from the Insurance Commissioner

and the interim Transportation Committee's receipt of the Upper Great Plains Transportation Institute report.

Agriculture and Natural Resources Committee

The economic development-related charges of the interim Agriculture and Natural Resources Committee include a study of the utilization of the state's abundant energy resources to attract energy-intensive economic development projects to the state (House Concurrent Resolution No. 3028).

Budget Section

The economic development-related charges of the Budget Section include:

- Approve, with the Emergency Commission, borrowing of up to \$5 million by the Office of Management and Budget as requested by the Centers of Excellence Commission for the purpose of providing funding to centers of excellence (Section 13 of Senate Bill No. 2018);
- Receive report from the Department of Commerce after July 1, 2006, on the use of grant funds provided to the Rural Development Council to match federal funds (Section 21 of Senate Bill No. 2018);
- Receive report from the Department of Commerce after July 1, 2006, on the use of grant funds provided to the Red River Valley Research Corridor to match federal funds (Section 25 of Senate Bill No. 2018);
- Receive report from the Department of Commerce after July 1, 2006, on the use of grant funds provided to the North Dakota center for technology program (Section 26 of Senate Bill No. 2018);
- Receive report from the Department of Commerce after July 1, 2006, on the use of funding for grants in the partners in marketing grant program (Section 27 of Senate Bill No. 2018); and
- Receive report from the Commissioner of Commerce annually during the 2005-06 interim regarding North Dakota economic goals and associated benchmarks (Section 53 of Senate Bill No. 2018).

Industry, Business, and Labor Committee

The economic development-related charges of the interim Industry, Business, and Labor Committee include:

- Study the unemployment insurance tax rate structure; the structure's impact on the unemployment insurance trust fund, with special focus on the impact of the current unemployment insurance tax structure on new businesses; the historical cyclical risks faced by

the industries in which new businesses are beginning to operate; and whether the unemployment insurance tax impact is reasonably favorable to the desired economic development of the state (House Concurrent Resolution No. 3040);

- Receipt of report from the Agricultural Research Board on its annual evaluation of research activities and expenditures (NDCC Section 4-05.1-19(8));
- Receipt of report from Workforce Safety and Insurance on recommendations based on the safety audit of Roughrider Industries work programs and performance audit of modified workers' compensation coverage program (NDCC Section 65-06.2-09); and
- Receipt of report from the Insurance Commissioner before July 1, 2006, on the outcome of the commissioner's compilation of existing data regarding the state's liability insurance marketplace (Section 21 of Senate Bill No. 2032).

Transportation Committee

The economic development-related charges of the interim Transportation Committee include receipt of a report from the Upper Great Plains Transportation Institute before July 1, 2006, on the outcome of the institute's study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development (Section 23 of Senate Bill No. 2032).

BUSINESS CLIMATE STUDY ACTIVITIES OF 2003-04 INTERIM ECONOMIC DEVELOPMENT COMMITTEE

Under House Bill No. 1504 (2003), the Economic Development Committee studied the state's business climate, including the creation of an index of key objective measurements that address the state's competitiveness with other states, the consideration of methods of creating business partnerships with North Dakota Indian tribes in order to increase primary sector business growth in the state, and active participation in the activities of the Primary Sector Business Congress. In conducting the study the Legislative Council was directed to create a Primary Sector Business Congress. The purpose of the congress was to assist in the business climate study, evaluate the impact of existing state economic development programs on primary sector businesses, identify methods to increase primary sector business job growth in the state, and prioritize for the Legislative Council the state's primary sector business economic development programs and initiatives.

During the 2003-04 interim, the Economic Development Committee held nine meetings, which included a joint meeting with representatives of the North Dakota native American Indian tribes; six business community focus group discussions, with participation by the business communities of Grand Forks, Fargo, Bismarck, Minot, eastern rural North Dakota, and western rural North Dakota; one focus group discussion specifically for economic developers in the state; and a Primary Sector Business Congress held at the State Capitol in the House chamber.

Using the information gathered during the course of the committee meetings, focus group discussions, and Primary Sector Business Congress, the committee crafted a business initiative and related legislative recommendations. In crafting the committee's business climate initiative, the committee considered the following 21 action items:

1. External image.
2. Internal image.
3. Marketing available resources.
4. International business development.
5. Support for local economic developers.
6. Manufacturing.
7. Procurement.
8. Ongoing consultation on strategies.
9. Targeting industry.
10. Taxes.
11. Tribal businesses.
12. Technology commercialization.
13. North Dakota University System.
14. Venture capital.
15. Workforce development.
16. Education.
17. Intellectual property protection.
18. Liability and insurance.
19. Energy.
20. Transportation.
21. Gauging return on investment for economic development.

The 21 action items fell into one or more of the following five major categories:

1. General business climate.
2. Business services.
3. Image and marketing.
4. Support for local economic development.
5. Education partnerships.

For each of these 21 action items, the committee took one or more of the following actions:

1. Drafted proposed legislation.
2. Referred the issue to relevant lead agencies or private entities to report additional information to the committee.
3. Directed long-term, further study.

The committee requested and received action item-related information in writing from the:

1. Bank of North Dakota.
2. State Board for Career and Technical Education.

3. Department of Commerce.
4. State Board of Higher Education.
5. Insurance Commissioner.
6. Job Service North Dakota.
7. Superintendent of Public Instruction.
8. Tax Commissioner.
9. Department of Transportation.
10. Representatives of the energy industry.
11. Greater North Dakota Chamber of Commerce.

The committee drafted and reviewed bill drafts addressing the action items. Written action item-related information provided by the 11 agencies and private sector entities was considered in drafting and revising the bill drafts. To address accountability for the committee's business climate initiative following the Primary Sector Business Congress, each bill draft considered by the committee provided for a report to the Legislative Council during the 2005-06 interim on the status of the implementation of the legislation.

After receiving and reviewing all the bill drafts, the committee determined whether to include each separate bill draft in a consolidated bill draft that would reflect the business climate initiative resulting from the Primary Sector Business Congress. Ultimately, the committee recommended two bills. Senate Bill No. 2032 addressed a broad range of economic development and business climate issues and was enrolled. House Bill No. 1031, which did not pass the Senate, would have modified the law relating to tax exemptions within urban renewal development or renewal areas.

ENACTED LEGISLATION RECOMMENDED BY 2003-04 INTERIM ECONOMIC DEVELOPMENT COMMITTEE

The Legislative Assembly enacted a majority of the programs recommended by the 2003-04 interim Economic Development Committee as part of the business climate initiative bill. As enacted, Senate Bill No. 2032, the business climate initiative bill recommended by the committee:

- Extends and expands the Bank of North Dakota's authority to invest its funds in North Dakota alternative and venture capital investments and early-stage capital funds (Sections 1 and 3).
- Rewrites the centers of excellence law, repealing the existing North Dakota Century Code section and creating a new chapter (Sections 4 and 16).
- Modifies the membership of the Emergency Commission (Section 5).
- Provides the Office of Management and Budget shall establish a procurement information Internet web site (Section 6).

- Modifies the seed capital investment tax credit laws (Sections 9 through 14) .
- Repeals the laws relating to venture capital corporations and the Myron G. Nelson Fund, Inc., effective August 1, 2007 (Sections 2, 7, 8, and 15).
- Requires the two studies assigned to this Economic Development Committee--the North Dakota business climate initiative and venture and risk capital (Sections 17 and 18).
- Requires multiple agency studies and reports to the Legislative Council (Sections 19 through 24).

As enacted, Senate Bill No. 2018, the Department of Commerce appropriation, includes several provisions that came from the recommendations of the 2003-04 interim Economic Development Committee, including:

- Modifying the organization of the Department of Commerce Division of Economic Development and Finance to:
 - Rename and modify the International Business and Trade Office (Sections 35 and 37); and
 - Clarify the duties of the North Dakota American Indian Business Development Office (Section 36).
- Providing a Division of Economic Development and Finance program for local economic developer certification (Section 38).
- Requiring the Commissioner of Commerce to identify target industries (Section 40).
- Providing for a Department of Commerce program for North Dakota image information (Section 41).
- Providing for a Department of Commerce business hotline program (Section 42).
- Providing for a Dakota Manufacturing Initiative, through which the Department of Commerce shall seek to contract with The Dakota Manufacturing Extension Partnership, Inc. (Section 45).
- Requiring multiple agency studies and reports to the Legislative Council (Sections 46 through 52).

STUDY APPROACH

Even though Section 17 of Senate Bill No. 2032 is very detailed and specific regarding the committee's charge of studying the state's business climate through a business climate initiative, there are several aspects of the study which will require committee consideration and direction.

Receipt of Reports

Several agencies will be reporting to the committee the status of implementation of programs resulting from the activities of the 2003-04 business

climate initiative. As part of these status reports, the agencies are directed to identify proposed legislative changes necessary to implement any agency recommendations. In receiving these status reports, the committee may wish to consider how best to evaluate whether the business initiative programs have been successful in addressing the issues raised during the 2003-04 business climate initiative activities. As part of this analysis, it may be valuable to review the impetus of the 2003-04 Economic Development Committee in creating or modifying each of the programs for which the committee receives a status report. Additionally, the committee may consider whether to continue this accountability tool in drafting business initiative programs for submission to the Legislative Assembly in 2007.

Several agencies will be reporting to the committee the results of agency studies. Again, as part of these study reports, the agencies are directed to identify proposed legislative changes necessary to implement any agency recommendations. In receiving agency reports the committee may find it valuable to review the impetus for directing the agency study and whether recommendations further those driving issues.

Focus Groups and Business Congress

The committee participation in focus groups and the Business Congress will likely include establishing a conceptual framework within which the Department of Commerce and consultant work. Matters to consider in establishing this framework may include:

1. Clarification of the expectations and purposes for holding the focus groups and for holding the Business Congress.
2. Tentative dates and locations for focus groups and the Business Congress.
3. Considerations in establishing invitation lists for focus groups and the Business Congress.
4. Agenda recommendations for focus groups and the Business Congress, including:
 - a. Whether the committee intends to limit or clarify the subject matter intended to be discussed at focus groups.
 - b. Whether the agendas should specifically address the issues of venture and risk capital in order to address the Economic Development Committee's study charge under Section 18 of Senate Bill No. 2032.
 - c. Whether the proposed agendas work toward furthering the study charge and

the committee's expectations for the process.

5. The committee process expected to follow completion of the focus groups and Business Congress.
6. The process through which the Department of Commerce and consultant work with the committee and consult with the committee in implementing the focus groups and Business Congress.

On a more pragmatic note, the committee is charged with contracting with a third party to provide professional services to plan, facilitate, report on, and coordinate followup for the focus groups and Business Congress. Not only does the committee need to determine with whom to contract, but as part of this contract will need to determine the specifics of the services for which the committee seeks to contract. It appears that during the course of the interim there will be a significant amount of communication between the committee, Department of Commerce, and the consultant.

Committee Recommendations

Following receipt of agency reports, participation in focus groups, and participation in the Business Congress, the committee will be left with the task of translating into committee recommendations the significant amount of information gathered and issues raised. Traditionally, committee recommendations are in the form of recommended legislation.

As part of the business climate study charge, the committee's consultant is directed to coordinate followup for the focus groups and Business Congress. The committee may wish to consider whether the followup services provided by the consultant should include legislative recommendations. Additionally, the committee may wish to receive testimony and information from state agencies and the private sector in formulating committee recommendations.

The committee may consider whether committee recommendations for the business climate study should incorporate recommendations relating to the committee's venture and risk capital study. In considering recommendations, the committee may also consider the 2007-08 continuation of the business climate study and whether the study provision should be modified in any way.

ATTACH:2