Prepared by the North Dakota Legislative Council
staff for the Commerce Committee
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PROGRAMS FOR NEW OR EXPANDING BUSINESSES - BACKGROUND MEMORANDUM

INTRODUCTION

Section 16 of Senate Bill No. 2019 (2001), a copy of which is attached as Appendix A, provides for the study of the availability of venture capital, tax credits, and other financing and research and development programs for new or expanding businesses. The study is to include an inventory of the programs available, a review of the difference between public and private venture capital programs, an assessment of the needs of business and industry, a review of the research and development efforts of the North Dakota University System, and a review of the investments of the State Investment Board and of the feasibility and desirability of investing a portion of the State Investment Board's funds in North Dakota.

Senate Bill No. 2019 is the appropriation for the Department of Commerce. Section 16 of the bill was added as part of the conference committee amendments.

LEGISLATIVE BACKGROUND

Legislation

2001 Legislation - Programs for New or Expanding Businesses

House Bill No. 1042 decreases from $500,000 to $250,000 the minimum capital requirements for venture capital corporations and increases from 20 percent to 25 percent the maximum amount of capital a venture capital corporation may invest in any one qualified entity.

House Bill No. 1052 extends through June 30, 2002, the 1.5 percent sales and use tax rate for used farm machinery and irrigation equipment and farm machinery repair parts and provides that effective July 1, 2002, used farm machinery and irrigation equipment and farm machinery repair parts are exempt from sales and use taxes.

House Bill No. 1400 requires the Department of Commerce to manage and administer a rural growth incentive program through which a city with a population of less than 2,500 may be designated as a rural growth incentive city. The bill requires the department to designate an applicant city as a rural growth incentive city if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the loan, prepares an economic development strategic plan, and meets any additional program requirements provided by rule. The bill provides that if the department designates a city as a rural growth incentive city, subject to the availability of funds, the state must make a loan to the city in an amount not less than $25,000 and not more than $75,000. Additionally, the bill provides the $2,350,000 transferred to the North Dakota Development Fund, Inc., for grants must be dedicated for projects as follows: 40 percent businesses in rural areas, 40 percent businesses in urban areas, and 20 percent North Dakota American Indian businesses. Any unused funds in any category may be transferred to another category during the second year of the biennium under rules adopted by the director of the Department of Economic Development and Finance. The director of the Department of Economic Development and Finance may reallocate up to 20 percent of any region's available remaining balance of regional rural development revolving loan funds to another region or regions for the biennium beginning July 1, 2001, and ending June 30, 2003. Of the amount available in the North Dakota Development Fund, Inc., $4 million or the unobligated balance on July 1, 2001, relating to the transfer of regional rural development revolving loan fund moneys, must continue to be dedicated for the purpose of providing financial assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanded primary sector businesses in areas of the state that are not within five miles [8.05 kilometers] of any city with a population of more than 8,000. These funds must be allocated for the benefit of each of the areas delineated as regions by executive order of the Governor pursuant to North Dakota Century Code (NDCC) Section 54-40.1-02.

House Bill No. 1413 allows the seed capital investment tax credit to be claimed on the short-form return. The bill reduces from 25 to 10 the number of employees a business must employ and reduces the annual sales requirement from $250,000 to $150,000 for a business to qualify for investments under the credit. The bill allows an organization to be a qualified business if it attracts investments to build and own a value-added agricultural processing facility that it leases with an option to purchase to a primary sector business. The bill eliminates the limitation that the seed capital credit may not exceed 50 percent of the taxpayer's tax liability. The bill increases the aggregate amount of allowable seed capital investment tax credits from $250,000 to $1,000,000 through calendar year 2002 and to $2,500,000 after calendar year 2002.

House Bill No. 1417 authorizes the issuance of revenue bonds or other evidences of indebtedness by the Industrial Commission for the establishment of meatpacking plants.

House Bill No. 1460 provides that if the aggregate limit of $2.5 million in renaissance zone tax credits is exhausted, an additional $1 million is available for investments if more than 65 percent of the organization's net investments has been invested as permitted under the renaissance zone law or the organization is established after the exhaustion of the initial limit.

Senate Bill No. 2033 revises the renaissance zone law. The bill authorizes a city to apply to the Division of Community Services at any time during the duration of a zone to expand a previously approved renaissance zone that is less than 20 square blocks to not more than 20 square blocks. The bill provides that the use of grant funds as the sole source of investment in the purchase of a building or space in a building does not qualify a taxpayer for a tax exemption or credit available to renaissance zone investments, and grant funds may not be counted in determining if the cost of rehabilitation meets or exceeds the current true and full value of a building. The bill also authorizes a city to request the Division of Community Services to permit deleting a portion of an approved renaissance zone that is not progressing after five years and make a one-time adjustment of the boundaries to add another equal, contiguous area to the original zone. The bill allows an income tax exemption and property tax exemption for a taxpayer who rehabilitates residential or commercial property as a zone project. The bill provides that if the cost of a new business purchase or expansion of an existing business, approved as a zone project, exceeds $75,000, and the business is located in a city with a population of not more than 2,500, an individual taxpayer may elect to take an income tax exemption of up to $2,000 of personal income tax liability in lieu of the exemption on income derived from the business. The bill removes the December 31, 2004, expiration date for the historic preservation and renovation tax credit for investments made in historic preservation or renovation of property within a renaissance zone. The bill also reduces the credit for historic preservation and renovation from 50 percent of the amount invested to 25 percent of the amount invested, up to a maximum of $250,000. The bill provides that a taxpayer may not be delinquent in payment of state and local tax liability to be eligible for a tax benefit with respect to investments in a renaissance zone. The bill provides that the provisions relating to the income tax exemptions and property tax exemptions apply to zone projects approved after December 31, 1999, and the provisions relating to the historic preservation and renovation tax credits apply to zone projects approved after July 31, 2001.

Senate Bill No. 2194 provides that in addition to making loans to North Dakota beginning farmers, the Bank of North Dakota may participate in loans to North Dakota beginning farmers and expands the types of loans covered under the beginning farmers loan program to include loans for the purchase of agricultural equipment and livestock.

Senate Bill No. 2349 increases from $75,000 to $100,000 the maximum amount of a loan for which a beginning entrepreneur loan guarantee may be allowed and increases from $500,000 to $4,000,000 the maximum amount of loans that may be outstanding under the program.

Senate Bill No. 2352 provides a sales tax exemption for the purchase of computer and telecommunications equipment that is an integral part of a new primary sector business or a physical or an economic expansion of a primary sector business.

Senate Bill No. 2379 establishes a value-added agricultural promotion board. The bill requires the board to administer the value-added agriculture program and review business plans for value-added agricultural products. The board is required to promote the formation, development, and growth of value-added agricultural products and takes steps to improve the projects' chances for success. The bill provides that if a project is selected for promotion by the board, the board shall appoint a finance and advisory group for the project to assist the project in completing a feasibility study and a business plan for the project and in seeking early stage moneys.

Senate Bill No. 2386 allows a long-form and short-form individual income tax credit for investment in a cooperative or limited liability company organized to process and market agricultural commodities, having an agricultural commodity processing facility in this state, and having a majority of its ownership interests owned by producers of unprocessed agricultural commodities. The maximum annual investment for which the credit is allowed is $20,000, no more than 50 percent of the taxpayer's income tax liability. Investments for which credits are claimed must remain in the business for at least three years and must be expended by the business for plant, equipment, research and development, marketing and sales activity, or working capital for the business.

House Bill No. 1039 would have established a venture capital fund program under which private moneys would have been loaned to and invested in seed and venture capital partnerships. The bill failed to pass in the House by a vote of 22-72.

House Bill No. 1040 would have created a North Dakota entrepreneur seed fund. The program would have provided financial and technical assistance to local entrepreneur seed funds for the purpose of assisting and funding early stage companies in the state and small companies in the state. This bill failed to pass the House by a vote of 14-82.

House Bill No. 1051 would have established a farmers equity trust fund for the purpose of taking ownership interests in value-added agricultural projects and making loans to value-added agricultural projects. The bill failed to pass in the House by a vote of 37-59.

House Bill No. 1291 would have made changes to the seed capital investment tax credit law. The bill failed to pass in the House by a vote of 3-95.

House Bill No. 1383 would have required that every recipient of state financial assistance pay employees a minimum wage of at least 100 percent of the federal poverty level for a family of four. The bill failed to pass in the House by a vote of 29-69.

House Bill No. 1403 would have provided for collection and review information of economic development incentives of the state and political subdivisions. The bill failed to pass in the House by a vote of 29-68.

House Bill No. 1414 would have provided for a business products utilization commission to administer grant programs to assist entrepreneurs in research, development, testing, and marketing and to establish a mutual fund capital pool to attract investments in entrepreneurial startup projects. The bill failed to pass in the Senate by a vote of 3-43.

House Bill No. 1439 would have required political subdivisions and the state to collect wage information from economic development recipients. The bill failed to pass in the House by a vote of 15-81.

House Bill No. 1454 would have created a state investment fund program that would have allowed private investors and would have required certain state entities to invest in primary sector businesses and wealth creation enterprises. The bill failed to pass in the House by a vote of 37-57.

Senate Bill No. 2271 would have provided for a regional workforce training investment program. Under the program, Job Service North Dakota would have assessed certain employers a fee to fund the program. The program would have created four regions. Each region would have had a regional workforce training investment board, and each board would have provided workforce training programs. The bill failed to pass the Senate by a vote of 0-49.

Senate Bill No. 2272 would have provided that a taxpayer who purchases a new or expands an existing business may be exempt under the renaissance zone law up to $10,000 for personal income tax liability. The bill failed to pass in the House by a vote of 38-59.

Senate Bill No. 2278 would have provided a tax credit against corporate, estate, individual, and trust income for employment of recent graduates in certain target job areas. The bill failed to pass in the House by a vote of 37-59.

Senate Bill No. 2294 would have provided a corporate and individual income tax credit for fees paid to the Small Business Administration for guaranteed financing. The bill failed to pass in the House by a vote of 9-83.

Senate Bill No. 2336 would have provided for a corporate income tax deduction for research and development expenditures. The bill failed to pass in the House by a vote of 24-66.

Senate Bill No. 2385 would have provided for agriculture partnership in assisting community expansion fund and partnership in assisting community expansion fund loan wage buydowns on loans under which the business agreed to pay wages that met or exceeded the region's average regional wage. The bill failed to pass in the Senate by a vote of 17-30.

Senate Bill No. 2447 would have authorized the Bank of North Dakota to make, purchase, or hold loans with respect to meatpacking businesses. The bill failed to pass in the Senate by a vote of 0-47.

1999 Legislation - Programs for New or Expanding Businesses

House Bill No. 1019 appropriated $750,000 to the Department of Economic Development and Finance for the North Dakota Development Fund, Inc.; provided for ethanol incentives; and provided that the moneys transferred to the North Dakota Development Fund, Inc., must be dedicated for projects as follows: 40 percent businesses and rural areas, 40 percent businesses and urban areas, and 20 percent North American Indian businesses. However, any unused funds in any category could be transferred to another category during the second year of the biennium, and the director of the department was permitted to reallocate up to 20 percent of any region's available remaining balance of regional rural development revolving loan funds to another region or regions. The bill further provided of the amount available in the North Dakota Development Fund, Inc., $4 million or the unobligated balance on July 1, 1999, relating to the transfer of regional rural development loan fund moneys, must continue to be dedicated for the purposes of providing financial assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanded primary sector businesses in areas of the state which are not within five miles of any city with a population of more than 8,000. House Bill No. 1019 also included a provision stating that a political subdivision or economic development authority could adopt a minimum wage requirement for any new business or business expansion in which a majority of the capital was provided by the North Dakota Development Fund, Inc., and its own local development funds.

House Bill No. 1141 eliminated the requirement that the Department of Economic Development and Finance have a division of science and technology. The bill replaced the requirement that the department report annually regarding loan performance of the department, including a comparison of dollars spent to the jobs created of all programs administered or supervised by the department and review of the timeliness of loan processing practices, with a requirement that the department report annually on the performance of all divisions of the department, including the amount of success and satisfaction the department has meeting business-client, economic-developer, and community-client needs and expectations, including a comparison of dollars spent to the economic benefits created of all programs administered or supervised by the department. The bill repealed the requirement that the department send an annual product listing of manufacturers located in the state to registered architects and engineers.

House Bill No. 1492 allowed the establishment of "renaissance zones" in cities. The bill provided an individual taxpayer, who purchases single-family residential property as a primary residence as part of a zone project, with an exemption from up to $10,000 of personal income tax liability on the long-form or short-form return for five years beginning with the date of occupancy. A business that purchases or leases property for a business purpose as part of a zone project is exempt from income tax for five taxable years for income derived from the business locations within the renaissance zone. An individual, partnership, limited partnership, limited liability company, trust, or corporation that purchases residential or commercial property as an investment as part of a zone project is exempt from income tax for five taxable years for income earned from the investment. A historic preservation and renovation tax credit is provided against financial institutions' taxes, corporate income taxes, and individual income taxes on the long-form or short-form return for investments in historic preservation and renovation of property in the renaissance zone during the years 2000 through 2004. The credit for historic preservation and renovation is 50 percent of the amount invested and any excess credit may be carried forward for up to five taxable years. The bill provided a credit against state tax liability for financial institutions, corporate income taxes, and individual long-form or short-form returns for investments in a renaissance fund corporation. The credit is equal to 50 percent of the amount invested and excess credit may be carried forward for up to five taxable years. The total amount of credits for investments in renaissance fund corporations in the state may not exceed an aggregate of $2.5 million for all taxpayers for all taxable years. The bill allowed a city to grant a property tax exemption for single-family residential property in a renaissance zone purchased by an individual as a primary place of residence. The exemption may not exceed five taxable years after the date of acquisition. A city may grant a partial or complete exemption for a building purchased by a business for a business purpose as part of a renaissance zone project. The exemption may not exceed five taxable years. A city may grant a partial or complete exemption for up to five taxable years from property taxes for buildings and improvements to residential or commercial property in a zone project purchased solely for investment purposes.

House Bill No. 1456 allowed an addition to a residential or commercial building to qualify for the property tax exemption for building improvements and extends from three to five years the time for which the city or county governing body may grant an exemption for building improvements.

Senate Bill No. 2096 provided new jobs training and education program services developed and coordinated by Job Service North Dakota must be provided to primary sector businesses that provide self-financing as funding for new jobs training programs, and these employers may be reimbursed in an amount up to 60 percent of the allowable state income tax withholding generated from the new jobs positions.

Senate Bill No. 2137 repealed the law relating to the participation by the Bank of North Dakota in loans to nonfarming small business concerns.

Senate Bill No. 2242 provided for a beginning entrepreneur loan guarantee program.

1997 Legislation - Programs for New or Expanding Businesses

Senate Bill No. 2019, the appropriation for the Department of Economic Development and Finance, repealed Technology Transfer, Inc., as of July 1, 1999. The bill also appropriated to the department $1,909,875 for the North Dakota Development Fund, Inc., $500,000 for Technology Transfer, Inc., and $4,097,462 for the Agricultural Products Utilization Commission.

Senate Bill No. 2019 allowed the director of the Department of Economic Development and Finance to reallocate among the Technology Transfer, Inc., fund and the North Dakota Development Fund, Inc., for rural and nonrural development projects up to 10 percent of the amounts appropriated for the biennium. The bill provided that the moneys transferred to the North Dakota Development Fund, Inc., must be dedicated for projects as follows: 40 percent businesses and rural areas, 40 percent businesses and urban areas, and 20 percent North American Indian businesses. However, any unused funds in any category could be transferred to another category during the second year of the biennium, and the director of the department was permitted to reallocate up to 20 percent of any region's available remaining balance of regional rural development revolving loan funds to another region or regions. The bill further provides of the amount available in the North Dakota Development Fund, Inc., $4 million or the unobligated balance on July 1, 1997, relating to the transfer of regional rural development loan fund moneys, must continue to be dedicated for the purposes of providing financial assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanded primary sector businesses in areas of the state which are not within five miles of any city with a population of more than 8,000.

Senate Bill No. 2019 included a provision stating that a political subdivision or economic development authority may adopt a minimum wage requirement for any new business or business expansion in which a majority of the capital is provided by the North Dakota Development Fund, Inc., and its own local development funds. The bill also provided that the Agricultural Products Utilization Commission is now a division of the Department of Economic Development and Finance. The bill included an agricultural prototype development program within the programs which the Agricultural Products Utilization Commission may administer.

Senate Bill No. 2373 provided a framework for investment in community development corporations by banks.

Senate Bill No. 2398 provided that the Industrial Commission, acting as the Farm Finance Agency, may establish the first-time farmer finance program to encourage first-time farmers to enter and remain in the livelihood of agriculture and to provide first-time farmers a source of financing at favorable rates and terms generally not available to them.

Senate Bill No. 2396 allowed a corporation or a limited liability company to own and operate the low-risk incentive fund, which makes loans to primary sector businesses.

House Bill No. 1401 amended the seed capital investment credit provisions to eliminate the requirement of gross sales receipts of less than $2,000,000 in the most recent year and to allow the credit to apply for a business that does not have a principal office in the state but has a significant operation in North Dakota or more than 25 employees or $250,000 of annual sales in a North Dakota operation.

1995 Legislation - Programs for New or Expanding Businesses

House Bill No. 1021 replaced the regional rural development revolving loan fund and the North Dakota Future Fund with the North Dakota Development Fund, Inc. However, the Legislative Assembly provided that $6 million of the funds in the North Dakota Development Fund, Inc., must be dedicated for the purpose of providing financial assistance, research and development assistance, and the loans or equity or debt financing on a matching basis to new or expanding primary sector businesses in areas in the state which are not within five miles of any city with a population of more than 8,000. Those funds were to be allocated for the benefit of each of the eight planning regions. The approximately $2 million balance in the fund was to be dedicated for projects as follows: 40 percent businesses in rural areas, 40 percent businesses in urban areas, and 20 percent North American Indian businesses. However, the director of the Department of Economic Development and Finance was allowed to reallocate up to 20 percent of any region's allocation to another region or regions during the biennium. The director was also permitted to reallocate among the Technology Transfer, Inc., fund and the North Dakota Development Fund, Inc., for rural and nonrural development projects up to 10 percent of the amounts appropriated.

Previous Studies

1999-2000 Interim

Section 16 of House Bill No. 1019 (1999) directed the Legislative Council to study the economic development efforts in the state, including the provision of economic development services statewide and related effectiveness, the potential for privatization of the Department of Economic Development and Finance, and the appropriate location of the North Dakota Development Fund, Inc., including potential transfer of the fund to the Bank of North Dakota.

While conducting this study, the Legislative Council's Commerce and Labor Committee received extensive testimony from a broad range of state, local, regional, and private sector parties interested in economic development, including the Bank of North Dakota, the Department of Economic Development and Finance, the Division of Community Services, the Indian Affairs Commission, Job Service North Dakota, the North Dakota University System, the North Dakota Workforce Development Council, local development associations, the Economic Development Association of North Dakota, the Greater North Dakota Association, job development authorities, regional planning councils, and the Small Business Center. The committee considered the issues of venture capital, privatization and consolidation of state economic development efforts, population retention and demographics, and workforce development. In performing this study, the committee surveyed state agencies to determine the amounts of money being spent for economic development efforts. The committee recommendations included House Bill No. 1039, House Bill No. 1040, House Bill No. 1042, and Senate Bill No. 2032.

1997-98 Interim

Section 12 of Senate Bill No. 2019 (1997) directed the Legislative Council to study economic development functions in North Dakota, including the Bank of North Dakota programs, Technology Transfer, Inc., the North Dakota Development Fund, Inc., the Department of Economic Development and Finance, and other related state agencies. The bill further provided that the study should include a review of the most appropriate, effective, and efficient method for the state to deliver economic development assistance in light of changing economic conditions and considerations.

While conducting this study, the Legislative Council's Commerce and Agriculture Committee received reports from representatives of the Department of Economic Development and Finance regarding the restructuring of the department, loan performance, and the programs administered by the department. The committee received testimony from representatives of the Bank of North Dakota regarding economic development programs administered by the Bank. The committee received testimony from individuals involved in economic development activities at the local level. The committee made no recommendation with respect to its study of economic development functions in the state.

1993-94 Interim

Senate Bill No. 2021 (1993) directed the Legislative Council to study methods and coordination of efforts to initiate and sustain new economic development in this state. While conducting this study, the Legislative Council's Jobs Development Commission reviewed the various divisions and programs within the Department of Economic Development and Finance, the Bank of North Dakota, and the North Dakota Agricultural Products Utilization Commission. The commission made no recommendation with respect to its study of methods and coordination of efforts to initiate and sustain economic development within the state.

1989-90 Interim

House Concurrent Resolution No. 3004 (1989) directed the Legislative Council to establish a jobs development commission to study methods and coordinate efforts to initiate and sustain state economic development and to stimulate the creation of new economic opportunities for the citizens of the state. The Jobs Development Commission worked closely with the North Dakota 2000 Committee, which was formed by the Greater North Dakota Association, and the Governor's Committee of 34, which was a committee of 34 members selected by the Governor for the purpose of developing and implementing a comprehensive economic development legislative program for 1991. The commission recommended several bills relating to economic development, including Senate Bill No. 2058, which provided for a comprehensive economic development program known as the "Growing North Dakota" program.

STATE PROGRAMS FOR NEW AND EXPANDING BUSINESSES

Program Inventory

During the 1999-2000 interim, the Legislative Council's Commerce and Labor Committee compiled a list of economic development functions provided by the state. A copy of this list is attached as Appendix B. As a result of this exercise, the committee learned there was no existing list of economic development functions provided by the state and that different agencies have different definitions of what is considered economic development.

Senate Bill No. 2032 (2001) consolidated the Department of Economic Development and Finance, Department of Tourism, and the Division of Community Services to create a Department of Commerce headed by the Commissioner of Commerce; created the North Dakota Economic Development Foundation; and created the North Dakota Commerce Cabinet. The North Dakota Commerce Cabinet is composed of the directors of each of the Department of Commerce divisions, and the executive heads or other authorized representatives of the State Board for Vocational and Technical Education, the State Board of Higher Education, the Bank of North Dakota, the Department of Agriculture, the Workers Compensation Bureau, the Department of Transportation, Job Service North Dakota, the Game and Fish Department, and any other state agency appointed by the Commissioner of Commerce. The duties of the North Dakota Commerce Cabinet include coordinating and communicating economic development efforts of the agencies represented and before the legislative session, developing a list that identified economic development moneys included in budget requests of cabinet agencies. This list will likely include most state programs for new and expanding businesses.

Bank of North Dakota

The Bank of North Dakota offers numerous lending programs that may assist businesses. The Bank is authorized by NDCC Section 6-09-15 to make direct loans to instrumentalities of the state; institutions of the federal Farm Credit System and the North Dakota Central Credit Union; holders of Bank of North Dakota certificates of deposit and savings accounts; resident farmers; the state's general fund; individuals or bank holding companies for the purchase or refinancing of bank stock of a North Dakota bank; and nonprofit organizations for the purpose of relending loan funds to rural businesses. Additionally, this section authorizes the Bank to participate in loans made by financial institutions, including the MATCH program, Business Development Loan program, Small Business Loan program, Family Farm Loan program, and Family Operating Loan program. On behalf of the state, the Bank administers the partnership in assisting community expansion (PACE) program, agricultural partnership in assisting community expansion (Ag PACE) program, beginning farmer and beginning entrepreneur loan guarantee program, and the start-up entrepreneurial program (STEP). The Bank is also authorized to make investments in public venture capital corporations organized and doing business in this state through the purchase of shares of stock. In addition to loan and investment programs, the One-Stop Center, which is located in the Bank, is a partnership between federal, state, and private-sector resources which offers one-stop access to many financing programs.

Department of Commerce Division of Economic Development and Finance

The Department of Commerce Division of Economic Development and Finance provides several business programs, including the North Dakota Development Fund, Inc., and the Agricultural Products Utilization Commission.

The Division of Economic Development and Finance, with a board of directors, administers the North Dakota Development Fund, Inc. North Dakota Century Code Section 10-30.5-02 provides the purpose of the North Dakota Development Fund, Inc.:

1. It is the purpose of this chapter to create a statewide nonprofit development corporation that will have the authority to take equity positions in, to provide loans to, or to use other innovative financing mechanisms to provide capital for new or expanding businesses in this state, or relocating businesses to this state. The corporation's principal mission is the development and expansion of primary sector business in this state. The corporation may form additional corporations, limited liability companies, partnerships, or other forms of business associations in order to further its mission of primary sector economic development.
2. The exclusive focus of this corporation is business development in this state; however, it is not excluded from participation with other states or organizations in projects that have a clear economic benefit to state residents in the creation of jobs or secondary business. Emphasis should be to develop jobs that provide an income adequate to support a family above the poverty level.
3. Moneys in the development fund may be used to provide working capital or for financing the purchase of fixed assets, but not to refinance existing debt. Moneys may also be used to make matching grants to county-authorized or city-authorized development corporations for the acquisition, leasing, or remodeling of real estate facilities for locating a prospective new primary sector business. A grant must be made as part of a package of financing in which the state is a participant.
4. The director of the department of economic development and finance shall adopt rules, subject to the approval of the board of directors, necessary to implement the administration of the fund. The rules to implement the grant program must be developed to encourage local fundraising initiatives for developing locations for businesses financed by the corporation.

This fund provides "gap financing" not available from most conventional lenders. The fund is a secondary source of financing, subordinate to private sources. If a business cannot handle added debt, the Development Fund can take an equity financing position.

The division, along with the Agricultural Products Utilization Commission, administers the Agricultural Tax Fuel Fund. North Dakota Century Code Section 4-14.1-02 provides the purpose of the fund is "to fund programs for the enhancement of agricultural research, development, processing, and marketing." Additionally, Section 54-34.3-11 provides the division "in conjunction with the agricultural products utilization commission, may establish a mutual fund capital pool to attract farm and nonfarm investments in value-added processing projects."

Tax Department

There are a variety of tax incentives for businesses in this state. The State Tax Commissioner has created a 14-page document that summarizes these tax incentives for businesses, a copy of which is attached as Appendix C. State tax incentives in North Dakota include property tax exemptions, personal property tax exemptions, sales tax exemptions, income tax exemptions, and income tax incentives.

North Dakota State Investment Board

The North Dakota State Investment Board is provided for under NDCC Chapter 21-10. Section 21-10-01 provides the "board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of the workers compensation bureau, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, and three of the elected members of the public employees retirement system board as selected by that board."

North Dakota Century Code Sections 21-10-02 and 21-10-06 provide the board's duties. Section 21-10-02 provides:

> The board is charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities

> transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents must be custodian of securities purchased on behalf of funds under the management of the board. The board may appoint an investment director or advisory service, or both, who must be experienced in, and hold considerable knowledge of, the field of investments. The investment director or advisory service shall serve at the pleasure of the board. The investment director or advisory service may be an individual, corporation, limited liability company, partnership, or any legal entity which meets the qualifications established herein. The board may authorize the investment director to lend securities held by the funds. These securities must be collateralized as directed by the board. The board may create investment fund pools in which the funds identified in section 21-10-06 may invest.

North Dakota Century Code Section 21-10-06 provides:

> The board is charged with the investment of the following funds:
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> 1. State bonding fund.
> 2. Teachers' fund for retirement.
> 3. State fire and tornado fund.
> 4. Workers' compensation fund.
> 5. National guard tuition trust fund.
> 6. Public employees retirement system.
> 7. Insurance regulatory trust fund.
> 8. State risk management fund.
> 9. Veterans' cemetery trust fund.
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> Separate accounting must be maintained for each of the above funds. When it is deemed advantageous, the moneys of the individual funds may be commingled for investment purposes.
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> The state investment board may provide investment services to, and manage the money of, any agency, institution, or political subdivision of the state, subject to agreement with the industrial commission. The scope of services to be provided by the state investment board to the agency, institution, or political subdivision must be specified in a written contract. The state investment board may charge a fee for providing investment services and any revenue collected must be deposited in the state retirement and investment fund.

North Dakota Century Code Section 21-10-02.1 provides the governing body of each fund invested by the board shall establish policies on investment goals, objectives, and asset allocation. Subsection 1 of Section 21-10-02.1 provides the policies must provide for:

> a. The definition and assignment of duties and responsibilities to advisory services and persons employed by the board.
> b. Acceptable rates of return, liquidity, and levels of risk.
> c. Long-range asset allocation goals.
> d. Guidelines for the selection and redemption of investments.
> e. Investment diversification, investment quality, qualification of advisory services, and amounts to be invested by advisory services.
> f. The type of reports and procedures to be used in evaluating performance.

In addition, NDCC Section 21-10-07 addresses the issue of what types of investments are legal, providing:

> The state investment board shall apply the prudent investor rule in investing for funds under its supervision. The "prudent investor rule" means that in making investments the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. The retirement funds belonging to the teachers' fund for retirement and the public employees retirement system must be invested exclusively for the benefit of their members and in accordance with the respective funds' investment goals and objectives.

STUDY APPROACH

A possible approach to the study of programs for new and expanding businesses would be to:

- Take an inventory of state programs for new and expanding businesses which includes programs of the Tax Commissioner, Department of Commerce, Bank of North Dakota, and University System.
- Receive testimony from the Securities Commissioner and venture capital corporations regarding the differences between public and private venture capital programs.
- Receive testimony from businesses and entities such as the Greater North Dakota Association, North Dakota Economic Development Association, National Governors Association Center for Best Practices, State Science and Technology Institute, and National Association of State

Development Agencies regarding the needs of businesses.
- Receive testimony regarding the research and development efforts of the University System.
- Receive testimony from the State Investment Board regarding the investments of the State Bonding Fund, Teachers' Fund for Retirement, state fire and tornado fund, workers' compensation fund, National Guard tuition trust fund, Public Employees Retirement System, insurance regulatory trust fund, state risk management fund, and Veterans Cemetery trust fund.

ATTACH:3