

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMERCE AND LABOR COMMITTEE

Thursday, October 5, 2000
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Eliot Glassheim, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Eliot Glassheim, Rick Berg, Curtis E. Brekke, Byron Clark, Glen Froseth, Howard Grumbo, George J. Keiser, Lawrence R. Klemin, Amy N. Kliniske, Dale C. Severson, Dorvan Solberg, Elwood Thorpe; Senators Tony Grindberg, Harvey Sand, Harvey D. Tallackson, Vern Thompson

Members absent: Representatives William E. Gorder, Nancy Johnson; Senators Karen K. Krebsbach, Deb Mathern, Duane Mutch

Others present: Richard Gray, Dina Butcher; Division of Community Services, Bismarck

Connie Sprynczynatyk, North Dakota League of Cities, Bismarck

Merl Paaverud, State Historical Society, Bismarck

Karlene Fine, Industrial Commission, Bismarck

Art Rosenberg, Dakota Renaissance Venture, Fargo

Donnita Wald, Joe Becker; Tax Department, Bismarck

Fraine Zeitler, North Dakota Workforce Development Council, Bismarck

Joy Johnston, Greater North Dakota Association and EDND, Bismarck

Randy Schwartz, Department of Economic Development and Finance, Bismarck

Julie Kubisiak, Tim Atkinson; Bank of North Dakota, Bismarck

Jack McDonald, North Dakota Newspaper Association, Bismarck

Dean Reese, North Dakota Development Fund, Bismarck

Syver Vinje, Securities Commissioner, Bismarck

It was moved by Representative Klemin, seconded by Representative Keiser, and carried on a voice vote that the minutes of the September 11, 2000, meeting be approved as distributed.

HERITAGE TOURISM STUDY

Chairman Glassheim called on committee counsel to review the committee's study on heritage tourism. Committee counsel said the committee received testimony from the Tourism Department, State Historical Society, North Dakota Indian Affairs Commission,

Parks and Recreation Department, Department of Economic Development and Finance, and the private sector. She said at the July 2000 meeting, the committee requested that Legislative Council staff determine whether there has been an Attorney General's opinion issued regarding the authority of the director of the Parks and Recreation Department to contract with private organizations. She said the research indicated no such Attorney General's opinion has been issued, and she asked Mr. Tracy Potter, Fort Abraham Lincoln Foundation, whether he would like the committee to request such an opinion; however, Mr. Potter did not respond, and as a result no opinion has been requested under the committee's name. She said the committee has received testimony regarding the heritage tourism study and has not made any recommendation as a result of this study.

RENAISSANCE STUDY BILL DRAFT

Chairman Glassheim called on committee counsel to present the second version of the renaissance zone bill draft. She said the differences in this bill draft from the previous bill draft are that the second version allows for a statewide renaissance fund corporation; clarifies that if or when a renaissance fund corporation dissolves, the assets of the fund are distributed to investors in proportion to the investment in the fund; and allows zones of less than 20 blocks to expand up to 20 blocks and allows these expanded blocks to have renaissance zone status for up to 15 years.

Committee counsel said the provision of the bill draft that provides for dissolution of the renaissance fund corporation may not be necessary because existing law provides how corporations dissolve. Additionally, she said, it appears this version of the bill draft does not adequately reflect the change requested by the committee regarding page 2, line 6, in changing the word "prefer" to "encourage."

Committee counsel said in response to a committee request for information, the committee members have received a copy of a document provided by the Division of Community Services which provides information regarding the number of approved renaissance zones in the state and the

number of projects in these zones. A copy of this document is on file in the Legislative Council office.

Chairman Glassheim called on Mr. Rich Gray, Division of Community Services, for comments regarding the bill draft. He said the language in the bill draft regarding dissolution of a renaissance fund corporation does not directly address the concerns raised by the Division of Community Services. The real question, he said, is what happens to a renaissance fund corporation after 15 years when a renaissance zone no longer exists.

Mr. Gray distributed a document clarifying how the committee might deal with the 32 potential items for possible legislative changes. A copy of this document is on file in the Legislative Council office. Mr. Gray reviewed each item, clarifying that some items have already been addressed in the committee's bill draft or are no longer issues.

In response to a question from Senator Sand, Mr. Gray said on page 7 of the bill draft, lines 1 and 2, an amount of a credit may be used in the taxable year in which the investment was made and may be carried forward for up to five taxable years, equaling a total of six years.

In response to a question from Senator Tallackson, Mr. Gray said the 20-block maximum for the renaissance zone is not a problem for smaller communities because a zone can be made up of a lesser number of blocks.

Chairman Glassheim called on Mr. Art Rosenberg, Manager, Dakota Renaissance Venture Corporation, for comments regarding the bill draft. Mr. Rosenberg reviewed Mr. Gray's list of 32 potential items for possible legislative change. He said item No. 9 on the list regarding creation of a statewide renaissance fund corporation is especially important. He said Dakota Renaissance Venture Corporation currently contracts with seven renaissance zones in the state. He said the benefit of contracting with an organization such as Dakota Renaissance Venture Corporation is that it is able to hire a full-time manager, and all of the shareholders benefit by successes in other zones.

Mr. Rosenberg said issues raised in item Nos. 5 and 7 regarding inclusion of rehabilitation and improvements are very important and need to be added and clarified in the renaissance zone law. He also commented regarding item No. 8.

Chairman Glassheim said as appealing as it may be to address all of the issues relating to the renaissance zone law, since this is the committee's last meeting, it is not realistic to address all these issues in committee.

Mr. Rosenberg said he would recommend the committee add language to the bill draft to allow a statewide renaissance fund corporation to be a limited liability company and would recommend removal of the dissolution language because corporate dissolution law already exists.

Senator Grindberg said he is concerned about creating too much bureaucracy in the renaissance zone law.

Representative Keiser said he agrees with Senator Grindberg's comments and said the testimony received by the committee today should have been brought to the committee 12 months ago. He said he is concerned about the dissolution language in the bill draft and expressed his concern that it is too risky to address all 32 items of possible legislative changes at this late date.

Representative Klemin said item No. 2 on the list regarding the definition or description of a renaissance zone should be deferred until a later date.

Representative Keiser said item No. 3 on the list regarding the definition of a parcel property is a complicated issue and should be addressed at a later date. He also said item No. 5 on the list regarding rehabilitation is a very complicated issue and should also be addressed at a later date.

It was moved by Representative Klemin, seconded by Senator Grindberg, and carried on a voice vote that the Legislative Council staff be requested to amend the renaissance zone bill draft to remove the renaissance fund corporation dissolution language.

It was moved by Senator Grindberg, seconded by Representative Keiser, and carried on a roll call vote that the bill draft, as amended, relating to renaissance zones, be approved and recommended to the Legislative Council. Representatives Glassheim, Brekke, Clark, Froseth, Grumbo, Keiser, Klemin, Kliniske, and Thorpe and Senators Grindberg, Sand, and Tallackson voted "aye." No negative votes were cast.

ECONOMIC DEVELOPMENT STUDY BILL DRAFTS

Chairman Glassheim made comments regarding the committee's study of economic development. He said the committee has received testimony that North Dakota's economic situation has not occurred overnight. He said in addition to demographic shifts, North Dakota is experiencing a lack of sufficient risk capital. He said the real question is whether the state is developing the necessary tools to address the changes the state is experiencing, for example, increasing the population, increasing household income, and increasing investment capital.

Senator Sand said the state's biggest employer is human services, and this is also one of the lowest paid industries. He said there needs to be an increase in wages for human service employees, but it is also important to recognize that human service employers are in large part federal or federally funded.

Student Loan Forgiveness Bill Draft

Chairman Glassheim called on committee counsel to present the second version of the student loan forgiveness bill draft. Committee counsel said under this version of the bill draft, payment is provided directly to a financial institution owning a student loan versus forgiving Bank of North Dakota student loans; student loan payments may be made to any financial institution versus limiting the program to Bank of North Dakota student loans; payment occurs the year following application and satisfaction of the target industry and residence requirements; the maximum payment is \$2,000 per year, equal to \$166.66 per month, within the limits of appropriation; \$2 million is appropriated to the Bank of North Dakota for the first biennium for implementation of the program; the list of target industries is removed, and instead the Department of Economic Development and Finance is required to report target industries to the Bank of North Dakota every two years, and as a result the target industries change every two years; students apply annually with a maximum of 24 months of eligibility versus five years of eligibility; and the Department of Economic Development and Finance is required to report to standing committees each regular session regarding proposed target industries.

Chairman Glassheim called on Mr. Fraine Zeitler, North Dakota Workforce Development Council, for comments regarding the bill draft. He said the second version of the bill draft is a large improvement over the first version, and the North Dakota Workforce Development Council supports the second version.

Representative Kliniske said she prefers the second version of the bill draft but questions how an "eligible postsecondary educational institution" is determined.

Committee counsel said the term "eligible postsecondary educational institution" is open to interpretation; however, it is likely going to be interpreted as institutions of which the students are eligible for student loans.

Senator Grindberg said an "eligible postsecondary educational institution" would likely be a Title IV accredited institution.

Representative Keiser said he supports allowing flexibility to change target industries.

It was moved by Representative Klemin, seconded by Representative Kliniske, and carried on a voice vote that the Legislative Council staff be requested to amend the student loan forgiveness bill draft to require the Department of Economic Development and Finance to report target industries annually to the Bank of North Dakota.

It was moved by Representative Keiser and seconded by Representative Thorpe that the Department of Economic Development and Finance be required to report annually regarding proposed target industries.

Senator Sand said the committee needs to focus on job retention versus new jobs; target industries versus target professions; and supporting students entering all types of jobs.

Representative Keiser withdrew his motion, and Representative Thorpe withdrew his second.

Representative Kliniske proposed expanding the program from two years to five years.

Chairman Glassheim called on Ms. Julie Kubisiak, Bank of North Dakota, for comments regarding the bill draft. She said the committee should consider expanding the bill draft to include out-of-state schools.

It was moved by Representative Keiser, seconded by Senator Tallackson, and carried on a roll call vote that the bill draft, as amended, relating to student loan forgiveness, be approved and recommended to the Legislative Council. Representatives Glassheim, Brekke, Clark, Froseth, Grumbo, Keiser, Klemin, Kliniske, Solberg, and Thorpe and Senators Grindberg, Sand, Tallackson, and Thompson voted "aye." No negative votes were cast.

Department of Commerce Bill Drafts

Chairman Glassheim called on committee counsel to present the third version and fourth version of the Department of Commerce bill drafts. Committee counsel said the third version and fourth version are identical except the third version clarifies that the foundation is funded by state general funds, and the fourth version clarifies that the foundation is funded by private sector funds. Both versions are identical in that they provide rulemaking authority regarding the state building code and the model energy code remains with the Division of Community Services, and this is accomplished by moving the rulemaking authority from the Office of Management and Budget to the Department of Commerce; the Department of Commerce include a division of international trade; the commissioner of commerce report to Legislative Assembly standing committees every regular session and to the foundation annually; clarification that the commerce cabinet members include the executive directors of the State Board for Vocational and Technical Education, State Board of Higher Education, Bank of North Dakota, Department of Agriculture, Workers Compensation Bureau, and any other state agency as determined by the commissioner; and clarification of the duty of the commissioner and the cabinet regarding the cabinet's coordinated plan identifying economic development moneys and budget requests of cabinet agencies.

Representative Keiser inquired whether the Bank of North Dakota, which is under the authority of the Industrial Commission, should be included in the cabinet.

Senator Sand inquired whether the Workers Compensation Bureau should be included in the cabinet.

In response to a question from Representative Froseth, committee counsel said under the bill draft, the commissioner would have broad discretion in determining whether to create additional divisions to the department; however, this discretion is similar to the discretion the director of the Department of Economic Development and Finance is granted in determining the divisions included in the department under North Dakota Century Code Section 54-34.3-03.

Representative Klemin said on page 5 of the bill draft, lines 4 through 6, he thought the committee had directed that these new versions of the bill draft remove the creation of a coordinated plan.

Committee counsel said the committee directive at the previous meeting was unclear, and the changes made to these versions attempt to fulfill the committee directive.

Chairman Glassheim called on Mr. Randy Schwartz, Department of Economic Development and Finance, for comments regarding the bill drafts. Mr. Schwartz said one area he sees lacking in the bill drafts is that the Department of Commerce divisions lack clarification of particular functions. He said, for example, the bill drafts do not clarify the functions of the Workforce Development Division.

Senator Grindberg said work force development is broader than work force training.

Mr. Schwartz said the North Dakota Workforce Development Council is run by Mr. Fraine Zeitler, and the Workforce Development Council would be considered the Workforce Development Division. He said the division would be a small division with only one person.

Representative Glassheim said the Workforce Development Division may develop and grow into something larger than just a one-person division. He said creation of a workforce development division is not intended to transfer all the work force development duties of other agencies into the Workforce Development Division at this time.

Representative Keiser said work force development is an integral part of commerce and needs to grow. He said work force development is a very broad category.

Mr. Schwartz said another concern he has about the bill drafts is the issue of transition. He said issues such as colocation and staffing will have to be addressed.

Representative Keiser said transition may take several years but will begin with the appointment of a commissioner. He said transition will require appropriations.

Representative Glassheim said the effective date of the bill draft is August 1, 2001.

Senator Grindberg said the National Association of State Development Agencies will continue to work with the Department of Economic Development and

Finance, and he anticipates continuing discussions on the issue of transition.

Representative Klemin said regarding the issue of foundation funding, if the state does not provide funding to the foundation, the state is not going to be in a position to dictate how the foundation money is spent.

Representative Glassheim said the threshold question regarding funding is whether the foundation should be funded by private or state money. He said under the National Association of State Development Agencies proposal, the foundation would have an executive director and support staff.

Representative Kliniske said the reason for a private foundation is to encourage private influence and if state funding is attached, this will negatively affect the foundation. She said she would support providing limited state funding to allow the foundation to get up and running.

Representative Keiser said examples of successful private organizations include the Fort Abraham Lincoln Foundation and the Lewis and Clark Foundation, both of which do not receive state funding.

Representative Glassheim said the foundation is being created under state law and is composed of gubernatorial appointees and is therefore a state and private hybrid.

Senator Sand said if the foundation is not private, it will not work. He said by creating a foundation in the bill draft, the state is creating the possibility of a foundation.

Representative Glassheim suggested deleting the language that provides how foundation members are compensated.

It was moved by Representative Keiser, seconded by Representative Severson, and carried on a voice vote that the Legislative Council staff be requested to amend the fourth version of the commerce department bill draft to allow the foundation to establish compensation.

Representative Keiser questioned whether it would be necessary to appropriate foundation startup moneys at this time.

It was moved by Representative Thorpe, seconded by Representative Keiser, and carried on a voice vote that the committee not deal with the issue of appropriation of funds to the foundation at this time.

It was moved by Representative Klemin, seconded by Representative Keiser, and carried on a voice vote that the Legislative Council staff be requested to amend the fourth version of the commerce department bill draft to replace the requirement for a coordinated plan with a list that identifies economic development moneys included in budget requests of cabinet agencies.

It was moved by Representative Keiser, seconded by Representative Berg, and carried on

a roll call vote that the fourth version of the bill draft, as amended, relating to creation of a commerce department, be approved and recommended to the Legislative Council. Representatives Berg, Brekke, Froseth, Keiser, Klemin, Kliniske, and Severson and Senators Grindberg and Sand voted "aye." Representatives Glassheim, Grumbo, Solberg, and Thorpe voted "nay."

Department of Economic Development and Finance Structure Bill Draft

Chairman Glassheim called on Representative Thorpe for presentation of a bill draft regarding Department of Economic Development and Finance structure and funding.

Representative Thorpe said the bill draft would provide that the Department of Economic Development and Finance include a division of finance, a marketing division, and a finance service provider division. Additionally, he said, the bill draft would provide spending authority language that provides that the administrative costs of the Bank of North Dakota must be funded by profits of the Bank of North Dakota in an amount equal to at least 21 percent of the Bank's profits and would provide that the Department of Economic Development and Finance could not spend funds appropriated from any funding source other than the profits of the Bank of North Dakota.

In response to a question from Representative Keiser, Representative Thorpe said under the bill draft the Bank of North Dakota would be protected so that at least 21 percent of the Bank's profits would go to administering the Bank, and this would prevent the taking of the funds from the Bank of North Dakota.

In response to a question from Representative Glassheim, Representative Thorpe said he is not certain what the Bank of North Dakota's operating expenses are; therefore, the amount of 21 percent may be changed as information is gathered.

Senator Grindberg said he appreciates what Representative Thorpe is trying to do in his bill draft but questions the practicality. He said much of the economic marketing that takes place in the state is done at the local level.

Representative Keiser said he agrees with Representative Thorpe's key issues. He said the director of the Department of Economic Development and Finance already has discretion under current law to create a division of marketing and a finance services division. He said the spending authority provisions are too restrictive under Representative Thorpe's bill draft.

Representative Thorpe said he agrees that the Department of Economic Development and Finance can already create marketing and finance service divisions, but the bottom line is that he wants the Bank of North Dakota's profits to be spent on economic development.

Representative Thorpe said he would request that the committee adopt his bill draft as a committee bill draft and then approve and recommend the bill draft to the Legislative Council.

It was moved by Representative Solberg, seconded by Representative Grumbo, and carried on a voice vote that the committee adopt Representative Thorpe's bill draft.

It was moved by Representative Solberg, seconded by Representative Grumbo, and failed on a roll call vote that the committee's bill draft based on Representative Thorpe's bill draft relating to the structure of the Department of Economic Development and Finance and financing of the Department of Economic Development and Finance from the Bank of North Dakota be approved and recommended to the Legislative Council. Representatives Glassheim, Grumbo, Solberg, and Thorpe voted "aye." Representatives Brekke, Clark, Froseth, Keiser, Klemin, Kliniske, and Severson and Senators Grindberg and Sand voted "nay."

Venture Capital Corporation Incorporation Bill Draft

Chairman Glassheim called on committee counsel to review the venture capital corporation incorporation bill draft. Committee counsel said changes have not been made in the bill draft since the bill draft was presented to the committee in July 2000. She said under the bill draft the amount of capital that a venture capital corporation may invest in one qualified entity is increased from 20 to 25 percent; the amount of consideration for shares of membership interests required before business may be transacted is decreased from \$500,000 to \$250,000; the amount of capital required of a venture capital corporation before funds and escrow are released is decreased from \$500,000 to \$250,000; and the amount of capital required of a venture capital corporation to stay afloat is decreased from \$500,000 to \$250,000.

Chairman Glassheim called on Mr. Syver Vinje, Securities Commissioner, for comments regarding the bill draft. Mr. Vinje said he does not have any objections to the bill drafts.

It was moved by Representative Keiser and seconded by Representative Berg that the bill draft relating to venture capital corporation incorporation be approved and recommended to the Legislative Council.

Senator Sand said the reference in the bill draft to North Dakota residents is isolationist, and he opposes this.

Representative Berg said the North Dakota residency requirement exists under current law, and the committee should focus on the changes being made in the bill draft decreasing the financial limits imposed on venture capital corporations.

Representative Klemin said the committee has heard testimony of situations in which a venture capital corporation is able to get funding of \$300,000 but unable to reach the \$500,000 limit required under current law.

The motion carried on a roll call vote. Representatives Glassheim, Berg, Brekke, Froseth, Grumbo, Keiser, Klemin, Kliniske, Severson, and Thorpe and Senators Grindberg and Thompson voted "aye." Senator Sand voted "nay."

Venture Capital Fund Bill Draft

Chairman Glassheim called on committee counsel to present the venture capital fund bill draft. Committee counsel said this bill draft was originally drafted at the request of the Commerce and Labor Committee Subcommittee on Venture Capital. As requested by the subcommittee, she said, the bill draft is based on Ohio Senate Bill No. 301. She said at this time Ohio Senate Bill No. 301 is sitting in committee, and Ohio will not be back into session until November 8, 2000.

Committee counsel said under the bill draft the state would transfer to a newly created authority a one-time issuance of tax credits. She said the authority, which would be housed in the Department of Economic Development and Finance, would be responsible for selling and transferring these tax credits. She said Section 1 of the bill draft provides that the purpose of the bill draft is to provide loans and investments to help the economy and to advance technology, and the approach in meeting these goals is to lend and invest in seed and venture capital partnerships. She said the lending and investing would be implemented through a private, for-profit investment fund.

Committee counsel said Section 2 of the bill draft provides for the creation of the North Dakota Venture Capital Authority, which is comprised of seven members appointed by the Governor and by representatives of the Legislative Assembly, that includes the director of the Department of Economic Development and Finance. She said the authority would be housed in the Department of Economic Development and Finance.

Committee counsel said Section 3 of the bill draft provides that the first duty of the authority is to establish a lending and investment policy. She said the bill draft provides the specific requirements that need to be included in this policy.

Committee counsel said Section 4 of the bill draft provides the guarantee limits under the program. She said it appears the authority is authorized to guarantee losses resulting from lending and investing activities under the program.

Committee counsel said Section 5 of the bill draft provides the specifics relating to the lending and investing under the program. She said the authority is authorized to contract with a private, for-profit

investment fund to carry out the authority's lending and investing duty. She said the agreement with the private organization must meet certain criteria listed in the bill draft.

Committee counsel said Section 6 of the bill draft provides provisions relating to confidentiality of information provided under the program and authorizes the authority to hold executive sessions.

Committee counsel said Section 7 of the bill draft addresses tax credits provided under the program. She said the bill draft provides for a one-time issuance of tax credits in the amount of \$5 million; provides that the authority may not transfer any credits that may be claimed after July 1, 2026; provides that the authority may not transfer more than a total of \$1 million in credits for any one fiscal year; and provides that the authority may contract for the transfer and purchase of tax credits. Committee counsel said she contacted her counterpart in Ohio and learned the transfer or sale of tax credits is not currently done in Ohio, and her counterpart is uncertain how this would actually be implemented. Additionally, she said, federal law is pending at this time regarding tax credits for economic development, and this federal legislation may impact the tax provisions of this bill draft.

Committee counsel said Section 8 of the bill draft addresses the use of the tax credit; Section 9 addresses creation of the North Dakota venture capital fund and a North Dakota venture capital guarantee fund; Section 10 addresses liability providing that neither the state nor any appointing authority is liable in damages to any person under this Act; and Section 11 provides that the North Dakota Venture Capital Authority shall make annual reports.

In response to a question from Representative Klemin, committee counsel said she is not certain whether a tax credit provided under the bill draft would be similar to legal tender and able to be sold on a secondary market.

Chairman Glassheim called on Mr. Joe Becker, Tax Department, for comments regarding the bill draft. Mr. Becker said it appears that under the bill draft the authority would sell a tax credit at full-face value, with some exceptions, and he is not aware of any limitations on selling these tax credits on the secondary market.

Representative Keiser said it is the intent that the tax credits be able to be sold on the secondary market.

Senator Sand said it would be a benefit to all North Dakotans to get tax credits, and the approach used in the bill draft may be effective.

Representative Froseth questioned whether the tax credits sold on the secondary market would be taxable income.

Representative Berg said under the bill draft the tax credit would be received in the case of a loss and

will be necessary to define under what circumstance a loss occurs.

Mr. Becker questioned whom the tax credits are being sold to under the bill draft.

Representative Glassheim questioned how an investor enters the investment program and how an investor exits the program.

Mr. Vinje said there are different incentives to encourage individuals to invest. He said an incentive might come at the front of an investment, at the end of an investment, or both.

Representative Keiser said under the bill draft the authority has 90 days to create a policy, and as written, the Legislative Assembly has very little control over the income side of the program but does have control over the loss side of the program. He said the committee might want to consider putting a ceiling on the amount of money that can be invested in the program, and he said an investment in the program would be a gamble.

Representative Glassheim said he is reluctant to guarantee 100 percent of the loss if a loss incurs under the program.

Representative Keiser said under the bill draft the guarantee addresses guaranteeing losses at the back side of an investment.

Representative Klemin said the bill draft is rather simple in that the investment program would not take state money up front but would only take money in the case of a loss under the program. He said he questions why tax credits are only good until July 1, 2026, under the bill draft.

Representative Berg said the July 1, 2026, date provides for an adequate amount of time for the fund to do its business, and the committee needs to remember it is possible the tax credits might never be used.

Senator Grindberg said there is a void in this state in startup financing, and that is what this bill draft intends to address. He said the federal tax credit legislation did not pass in September and may not pass this year.

Representative Klemin said there are some gray areas in the bill draft; however, it is time for the committee to be innovative and support the bill draft.

Representative Glassheim said even though there are a variety of unknowns in the bill draft, he may vote in favor of the bill draft.

It was moved by Representative Keiser, seconded by Senator Sand, and carried on a roll call vote that the bill draft relating to creation of a venture capital fund be approved and recommended to the Legislative Council. Representatives Glassheim, Berg, Brekke, Clark, Froseth, Grumbo, Keiser, Klemin, Kliniske, and Severson and Senators Grindberg, Sand, and Thompson voted "aye." Representative Thorpe voted "nay."

Entrepreneur Seed Fund Bill Draft

Representative Glassheim distributed and presented to the committee a bill draft he had drafted creating an entrepreneur seed fund. Representative Glassheim said the bill draft is modeled on a Minnesota program, and the bill draft provides for a program that matches local venture capital funds at the rate of \$1 for every \$5. Under the bill draft, he said, there would be a \$3 million appropriation.

Representative Sand questioned whether the venture capital fund bill draft might accomplish the same thing as Representative Glassheim's bill draft. Additionally, he said, the amount of money set aside for administration of the fund at the rate of one-third the appropriation is far too high.

Representative Glassheim said one reason for the high administration cost is to provide significant legal advice and security consultation; however, he is open to amendments.

Representative Keiser asked whether a local development fund might qualify to receive matching funding under this bill draft.

Representative Glassheim said as long as the local development fund meets the qualifications and requirements in the bill draft, he did not see why a local development fund could not qualify for grant moneys under the bill draft.

It was moved by Senator Thompson, seconded by Representative Grumbo, and carried on a voice vote that the committee adopt Representative Glassheim's bill draft relating to creation of an entrepreneur seed fund as a committee bill draft.

Representative Kliniske asked whether there is anything in the bill draft that the Department of Economic Development and Finance might already be authorized to do.

Representative Glassheim said the bill draft provides for starting the authority, providing funding, and at this point, the Department of Economic Development and Finance has not provided these services.

It was moved by Senator Thompson, seconded by Representative Grumbo, and carried on a roll call vote that the bill draft relating to creation of an entrepreneur seed fund be approved and recommended to the Legislative Council. Representatives Glassheim, Berg, Clark, Froseth, Grumbo, Klemin, Kliniske, Severson, and Thorpe and Senator Thompson voted "aye." Representatives Brekke and Keiser and Senators Grindberg and Sand voted "nay."

Seed Capital Investment Tax Credit

Chairman Glassheim called on committee counsel to present a bill draft relating to the seed capital investment tax credit. Committee counsel said at the previous meeting the committee requested that committee counsel work with Representative Berg in drafting a tax credit bill draft. She said under the bill draft the existing seed capital investment tax credit is extended so it applies to the state income tax short

form; the requirements that must be met in order to become a qualified business are simplified; the minimum amount of money that must be invested by an investor is removed; the requirement that the amount of the credit may not exceed 50 percent of the taxpayers' tax liability is removed; the length of time a tax credit may be carried forward is decreased from 15 years to 10 years; the law is simplified to provide that tax credits for investments in one qualified business may not exceed \$250,000; the provision regarding how a qualified business spends an investment is removed; and the aggregate amount of the tax credit allowed for investments in any one year is increased from \$250,000 to \$500,000.

Representative Berg said the seed capital investment tax credit legislation was enacted in 1993 and since that time has never been used. He said the intent of the bill draft is to simplify the tax credit and to allow the tax credit to be used on the short form.

Representative Froseth questioned why the Act is not effective until after December 31, 2002.

Mr. Becker said the result of the effective date is that a tax credit could not actually be taken until 2003. He said the bill draft could take effect earlier.

It was moved by Senator Thompson, seconded by Representative Froseth, and carried on a voice vote that the Legislative Council staff be requested to amend the bill draft to change the effective date to December 31, 2000.

Representative Keiser said he is puzzled by the lack of use of this tax credit. Additionally, he said, the law needs to be changed to allow privately held companies to benefit from the tax credit program, and this is something that needs to be looked at during the legislative session.

Mr. Vinje said the bill draft does not create any new filing requirements for corporations but merely requires that businesses that already file with the securities officer would need to comply with those requirements.

It was moved by Representative Berg, seconded by Representative Keiser, and carried on a voice vote that the Legislative Council staff be requested to amend the bill draft to provide that a qualified business may be a sole proprietor.

It was moved by Representative Klemin, seconded by Representative Keiser, and carried on a voice vote that the Legislative Council staff be requested to amend the bill draft to provide a qualified business may be a limited liability limited partnership.

Representative Klemin said he does not want to provide tax credits to help North Dakota businesses expand outside the state.

Representative Berg said page 3 of the bill draft, lines 19 through 22, implies the Tax Commissioner has discretion in disallowing tax credits.

It was moved by Representative Keiser, seconded by Representative Kliniske, and carried on a voice vote that the Legislative Council staff be requested to amend the bill draft to reinstate the overstruck language on page 1, lines 21 through 23, regarding requiring a qualified business to have a majority of its business activity performed in this state.

Mr. Vinje said the committee might want to consider allowing a person who has controlling authority in a qualified business to be eligible to receive a tax credit under the bill draft.

Representative Klemin questioned why the law should prevent a business owner from receiving a tax credit for investing in a business owner's own business.

Representative Berg said the purpose of the tax credit is to bring in additional investors, and this does not apply to business owners investing in a business owner's own business.

Representative Glassheim suggested keeping the \$5,000 investment minimum.

It was moved by Representative Keiser, seconded by Representative Severson, and carried on a roll call vote that the bill draft, as amended, relating to the seed capital investment tax credit, be approved and recommended to the Legislative Council. Representatives Glassheim, Berg, Brekke, Clark, Froseth, Grumbo, Keiser, Klemin, Kliniske, and Severson and Senators Grindberg and Sand voted "aye." Representative Thorpe voted "nay."

Chairman Glassheim called on Senator Grindberg to tell the committee about his recent experience in China. Senator Grindberg said he just returned from a trip to China in which North Dakotans investigated possible trade opportunities.

It was moved by Representative Berg, seconded by Representative Keiser, and carried that the chairman and the 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 Keiser, seconded by Representative Severson, and carried that the meeting be adjourned sine die. No further business remaining, Chairman Glassheim adjourned the meeting sine die at 3:25 p.m.