MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2406

2003 SENATE FINANCE AND TAXATION

SB 2406

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2406

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 3, 2003

Tape Number	Side A	Side B	Meter #
2	X		1-4116
Committee Clerk Signature			

Minutes:

Senator Urlacher opened the hearing on SB2406. All committee members are present. This bill relates to the collection and review of information on economic development incentives provided by the state and political subdivisions.

Senator Fairfield (mtr #20) - Prime sponsor of the bill. Introduced the intent of the bill, and referenced handouts.

Senator Wardner (mtr #660) - Questioned the comment on siphoning money away from schools.

Senator Fairfield (mtr #685) - Explained her comment.

Representative Lonny Winrich (mtr #905) - Testified in support of 2406. Clarified the intent of the bill.

Senator Seymour (mtr #1195) - Commented that a task force has been appointed in Minot that addresses this issue.

Representative Winrich (mtr #1220) - Need to do statewide.

Senator Wardner (mtr #1279) - Question about if this bill addresses state funds or local funds being used for economic development.

Representative Winrich (mtr #1297) - Concerned about both.

Senator Urlacher (mtr #1340) - Question about the period of time needed to see the benefit of economic development.

Representative Winrich (mtr #1360) - Time periods set out in the bill.

Don Morrison, Executive Director of ND Progressive Coalition (mtr #1421) - Written testimony attached from Dr. Steve Huenneke and referenced Good Jobs First booklet.

Senator Wardner (mtr #2170) - Stated concerns about people picking the bill.

Mr. Morrison (mtr #2262) - Responded with focus to make sure there is enough funding for education.

Senator Wardner (mtr #2334) - The schools will get their funding.

Mr. Morrison (mtr #2400) - Theory vs. reality, school look at what is available.

Senator Wardner (mtr #2457) - Restated difference in opinion based on knowledge of tax law.

Bob Finken (mtr #2583) - Testified in support of 2406. Written testimony is attached.

Dean Remboldt (mtr #3108) - Testified in support of 2406. Written testimony is attached.

Dakota Resource Council - Written testimony attached. Urges a Do Pass.

Connie Sprynczynatyk (mtr #3641) - Testified in opposition to 2406. Believes that the general public can get that information now.

Senator Urlacher (mtr #4116) - Closed hearing on SB2406.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2406

Senate Finance and Taxation Committee

❑ Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
2	X		3775-end
2		X	1-277
Committee Clerk Signature			

Minutes:

Senator Urlacher opened discussion on SB2406. All committee members are present. This bill relates to the collection and review of information on economic development incentives provided by the state and political subdivisions.

Donnita Wald, State Tax Department (mtr #3780) - Presented amendment that was drafted at Senator Fairfield's request and clarified the amendment.

Senator Nichols - This amendment would take care of problems with the bill.

Ms. Wald - This amendment would fix the procedural things.

Senator Nichols (mtr #4171) - Feels the amendment is necessary. Moves to add amendment to the bill. 2nd by Senator Wardner. Voice vote 6 yea, 0 nay, 0 absent.

Senator Nichols - There is a controversy over the accountability.

Senator Wardner (mtr #4400) - Agreed that accountability is important. Concerned that this is a problem in just one community. Feels that the information is available from economic development organizations. Feels job quality standards are in place.

Senator Nichols (mtr #5282) - Regarding 'claw-backs' would be used on all tax breaks not just loans.

Senator Wardner (mtr #5345) - Possibility of getting funds from claw-backs doubtful if the company leaves the state.

Senator Seymour (mtr #5522) - Has knowledge of a firm that left the state but paid after being found.

Senator Tollefson (mtr #5554) - This problem has been taken care of in Minot.

Senator Seymour (mtr #5749) - People can find the information needed on web sites.

Senator Tollefson (mtr #5840) - Better jobs evolve. That can not be legislated.

Senator Wardner (mtr #6003) - Opposition keeps and eye on the state, two party system is good.

Senator Tollefson (mtr #6171) - Economic development, aren't all winners. Some fail. Accountability is in place.

Tape 2, Side B

Senator Syverson (mtr #37) - This bill seems heavy handed.

Senator Seymour (mtr #129) - Has knowledge of firms getting help.

Senator Wardner moves Do Not Pass as Amended. 2nd by Senator Tollefson. Roll call vote 4 yea, 2 nay, 0 absent. Carrier Senator Tollefson

FISCAL NOTE
Requested by Legislative Council
01/28/2003

Bill/Resolution No.: SB 2406

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$200,000			
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

If enacted, SB 2406 would require an increase in expenditures for the Office of Tax Commissioner of $200,000 for the 2003-05 biennium. The expenditure is related to one FTE and data gathering and processing costs.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	**Agency:**	Tax Dept.
Phone Number:	328-3402	**Date Prepared:**	01/31/2003

30603.0301
Title.0400

Adopted by Finance and Taxation Committee
February 4, 2003

2-5-3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2406

Page 1, line 23, after the period insert "The term does not include the tax commissioner."

Page 9, line 22, after "commerce" insert ", the tax commissioner,"

Page 9, line 23, remove "with"

Page 10, line 3, after "commerce" insert ", the tax commissioner,"

Page 10, after line 7, insert:

"8. If the development subsidy to be repaid was claimed on an income tax return filed by the recipient under chapter 57-38, the recipient shall file an amended return and pay any additional tax due attributable to the defaulted development subsidy within sixty calendar days of the delivery of the default notice. The time limits for audit and assessment under subsection 9 of section 57-38-38 apply to an amended return filed under this section.

9. Notwithstanding the time periods in section 57-38-38, if a recipient fails to file an amended return under subsection 8, the tax commissioner may assess any additional tax due attributable to the defaulted development subsidy within two years after the sixtieth calendar day following the tax commissioner's receipt of the default notice."

Page 10, line 8, replace "8." with "10."

Page 10, line 11, replace "9." with "11."

Renumber accordingly

Date: 2.4.03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2406

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken do not pass as amended

Motion Made By Sen Wardner Seconded By Sen. Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	✓		Senator Nichols		✓
Senator Wardner - Vice Chairman	✓		Senator Seymour		✓
Senator Syverson	✓				
Senator Tollefson	✓				

Total (Yes) 4 No 2

Absent

Floor Assignment Senator Tollefson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2406: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2406 was placed on the Sixth order on the calendar.

Page 1, line 23, after the period insert "The term does not include the tax commissioner."

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Page 10, line 8, replace "8." with "10."

Page 10, line 11, replace "9." with "11."

Renumber accordingly

2003 TESTIMONY

SB 2406

TESTIMONY BEFORE THE SENATE
FINANCE AND TAXATION COMMITTEE
REGARDING SB 2406
February 3, 2003

Chairman Urlacher, members of the committee, I am Senator April Fairfield from District 29. I am the prime sponsor of SB 2406.

SB 2406 is essentially about three things, ensuring our state and local economic development efforts are accountable to the citizens of North Dakota, securing a comprehensive statewide policy on the goals of economic development through the establishment of job quality standards, and finally, about instilling democracy into the process by providing for public input.

Certainly everyone remembers the economic development debate in Minot last year. Other cities and counties have also seen debate regarding economic development policies. And over the last few weeks, the Fargo Forum has continued their series of special reports about out-migration, economic development and other related issues.

This legislative session has and will see debate on numerous bills that relate to economic development at the state and local level. Unfortunately, we are at a disadvantage in that we have limited information on our economic development system. In fact, our economic development efforts could be hindered by a serious lack of information.

Unless we know how many jobs our efforts create and what wages and benefits those jobs provide, we cannot know whether we are succeeding or failing. That is the reason that SB 2406 was introduced.

SB 2406 will accomplish this task by focusing on the following:

- Disclosure of state tax expenditures (statewide tax incentives provided as incentives for companies to create jobs) -
- Disclosure of state economic development expenditures (on budget) -
- Disclosure of property tax expenditures (local property tax incentives for economic development) -
- Implementing standardized applications for economic development granting bodies - standardized applications will allow for comparisons between economic development programs and ensure that granting bodies acquire the information necessary to enforce job quality standards
- Job quality standards - these standards will ensure that every dollar we invest in economic development is used to create jobs that raise the average wage in our communities, not lower it. Ten years ago, only eight states had job quality standards, now at least 37 have them.
- Recapture (clawbacks) - another way to describe clawbacks would be to call them a "money-back guarantee." These provisions allow state and local granting bodies to recapture subsidies given to businesses that fail to live up to their promises regarding jobs created and with what wages and benefits. At a time when the state and virtually every political subdivision are

struggling with budgetary shortfalls, clawbacks provide the opportunity to stretch our economic development dollars even further and these provisions provide real accountability to the taxpayers. Ten years ago, only nine states and three cities had clawbacks. Now 17 states and at least 100 cities use the clawback device. It is now considered a "best practice safeguard."

As elected leaders, we understand how important economic development has become to North Dakota. We understand that for many, economic development viewed as an elixir for ailing economies and communities.

And as elected leaders in North Dakota, many of us have touted economic development as a way to address the almost palpable despair that exists in many areas of our state.

I'm reminded of a moment a few months ago when I was visiting with a group of rural residents about how our economic development efforts are working in North Dakota.

After expressing some frustration about the lack of good paying, quality jobs being created in her community, she said, "Oh well, I guess any job is better than no job."

That is hardly a ringing endorsement for a decades worth of work. That comment, coupled with hundreds of other comments, concerns, recommendations and suggestions are what prompted this legislation.

I don't believe that "any job is better than no job" has ever been the established goal or the intended message of our efforts.

However, perhaps it is time to ask fundamental questions about how our economic development efforts are paying off for North Dakota's communities, workers, and taxpayers. Most of us would like to believe that they do, however because we have no comprehensive state economic development policy, nor do we have accurate, easily accessible information regarding our efforts, we really cannot assess the success or failures of our economic development efforts.

It is time to ask serious questions about our economic development efforts...

Should subsidies continue to syphon money away from schools, while school boards have no say?

Should subsidies go to companies that move jobs from one city to another?

Do subsidies secretly erode state budgets through nearly invisible tax credits?

Should companies be allowed to keep subsidies if they fail to create the jobs or pay the wages they promised?

Those are some of the question we seek to answer with the introduction and passage of SB 2406.

We have an opportunity before us. We can, with this legislation, set a standard. We can create a comprehensive economic development policy for North Dakota while at the same time allowing local governments to establish standards based on the needs of their citizens and their communities. Indeed, the way all good government should work.

I urge the committee to recommend "do pass" for SB 2406. The future of North Dakota depends on doing the best job we can to develop our economy. North Dakotans want and deserve the best effort government has to offer. SB 2406 is an important step toward giving them exactly that.

Senator April Fairfield
District 29
Eldridge, North Dakota

SB 2406 - taxpayer protection act - section by section analysis

Section 1 - definitions - Some key definitions in this section:
- "development subsidy" means any form of development assistance including both on-budget (grants, equity investments, loans, etc.) and off-budget expenditures (such as tax incentives in the form of income tax credits, property tax abatements. Etc.).
- "granting body" means the governing authority of any state agency, institution or political subdivision that provides a development subsidy.
- "specific project site" means the actual operational unit for which a development subsidy is provided.

Section 2 - disclosure of state tax expenditures:

This section requires that the tax commissioner provide a detailed report to the legislative council that includes the dollar value of tax based development subsidies over $5,000 for the preceding biennium.

Section 3 - property tax development subsidy disclosure:

This section requires that the tax commissioner create a standardized disclosure registry for use by all property taxing entities. The section also requires that before May of each year every property taxing entity in the state will use the property tax subsidy disclosure registry to report property tax subsidies (abatements) used for economic development within their jurisdiction. By June of each year the tax commissioner will compile and publish the results of these reports.

Section 4 - standardize application for on-budget subsidies:

This section requires that the commerce department promulgate a standardized application form for any on-budget development subsidy that will be used by all granting bodies. The section defines what, at a minimum, must be included in the standard application. A standard application must be completed each time an entity applies for a development subsidy.

Section 5 - on-budget subsidy disclosure:

This section provides for each granting body to submit standard applications and progress reports on each approved application to the commerce department by February 1 of each year. By June of each year the commerce department shall compile and publish the data from these reports.

Section 6 - recapture:

This section requires recipients of development subsidies to achieve their job creation and wage goals within 2 years of the application and maintain those levels in future years. If after 2 years an applicant has not achieved their promised job creation, wage and benefit levels, a granting body can declare them in default. The section provides for granting bodies to recapture a portion of development subsidies granted to the applicant. Default for 3 consecutive years nullifies any remaining development subsidies granted to the applicant.

Section 7 - job quality standards:

This section establishes a minimum standard for wages and benefits below which granting bodies cannot provide development subsidies. Within an MSA, the average wage for that industry within that MSA. Outside of the MSAs, the average wage for that industry within the state.

Section 8 - political subdivisions and economic development authorities:

This section provides political subdivisions the authority to form economic development authorities that would be elected by the citizens of the political subdivision (or subdivisions) represented by the authority and be charged with oversight of economic development activities within the jurisdiction of the authority. The section also requires the commissioners of the authority to engage the citizens in public hearings to establish the operating standards of the authority. Those local standards can exceed state standards but cannot be less than state standards.

Section 9 - public hearings:

This section provides that a granting body must hold a public hearing in the applicable jurisdiction before any economic development subsidy or subsidy package that exceeds $25,000 in value can be granted.

Section 10 - collective bargaining agreement:

This section clarifies that the provisions of the Act cannot be construed to authorize a reduction in wages or benefits that have been negotiated through a collective bargaining agreement.

Section 11 and 12 - This section disallows abatement, for the purpose of economic development, of property taxes levied for a school district.

Job Service North Dakota's 2002 North Dakota's Economic Road Map

Page 13

"Since 1996, the state has trailed the nation in job creation, and the divergence progressively widened in the years following."

Pages 18, 19

"North Dakota's wage increases have failed to keep up with the national average since 1995...There are no industries in North Dakota with wages higher than national averages."

"The state's annual average wage is 30% lower than the nation's."

April Fairfield

Chapter 2. Development Subsidies 101

Chapter 6 provides detailed information about specific subsidy programs. But first, we outline the main kinds of subsidies and some important distinctions among them.

A. The Main Kinds of Development Subsidies

General Kind of Subsidy	Examples
Reducing the cost of owning property, real and personal	**Property tax abatements, exemptions and reductions.** For capital-intensive companies such as manufacturers, property tax abatements can be one of the most lucrative subsidies.
Reducing the cost of capital for borrowing	**Industrial revenue bonds** (a.k.a. industrial development bonds) are bonds whose interest is tax-free and therefore the interest rates are lower than taxable bonds. **Other kinds of low-interest loans** (e.g., industry-specific). **Loan guarantees** (e.g., Small Business Administration).
Reducing corporate income taxes	**Tax credits** allow a company to deduct a certain percent of a specific kind of expense *dollar for dollar* from its income taxes. These include investment tax credits (e.g., for new equipment), research and development tax credits (lucrative for high tech & pharmaceuticals), and job creation tax credits. **Tax-formula changes** (such as the single-sales factor formula which is so lucrative for manufacturers).
Reducing the cost of new construction	**Sales tax exemptions** on new equipment and on materials used in new construction.
Reducing the cost of land acquisition and site preparation	**Land-price write-downs**, sometimes using eminent domain. **Infrastructure subsidies** (e.g., roads, sewers, utility hook-ups).
Reducing the cost of labor	**Training grants.**
Reducing the cost of operating	**Utility rate reductions** (e.g., "economic development rates"). **Utility tax reductions or exemptions.** **Inventory tax reductions or exemptions.**

B. Distinctions Among Subsidies

Besides reducing different kinds of corporate costs, there are some other important distinctions among subsidies. One way to distinguish subsidies is from the viewpoint of the company. That distinction has to do with whether the company has to compete for the subsidy or whether it gets the subsidy automatically.

Another way to group subsidies is from the viewpoint of the government and public budgeting. The issue here is whether the subsidy involves an appropriation (i.e., the government writes a check), or the subsidy is foregone revenue, i.e., a tax not collected in the name of economic development.

Learning these differences will help you understand why some subsidies are more or less transparent. It will also help you appreciate the many different data sources, which will affect your research strategies.

Discretionary Versus Entitlement Subsidies

One distinction is whether a company has to compete for a subsidy or claim it automatically. Or, put another way, subsidies differ based on how much discretion government agencies have in awarding them:

Discretionary subsidies (a.k.a. company-specific or individually-negotiated subsidies) are those for which companies compete, and state or local officials have latitude in awarding. There may be no specific criteria that a company must meet, or very broad, loose criteria that give officials a lot of discretion on whether a company gets a subsidy, or how large a subsidy. Examples include property tax abatements (controlled by tax assessors or tax boards), tax increment financing projects (controlled by local authorities that designate TIF district boundaries), infrastructure (which may benefit a small number of landowners), and training grants (controlled by Workforce Investment Boards).

Discretionary subsidies can be very political, because they involve favoritism for one company over another, because politicians are often involved in awarding them, and because companies often exert political clout to get them.

Entitlement subsidies are automatically available to any company that meets the program's criteria. Generally, entitlement subsidies are tax breaks other than property tax abatements (such as corporate income tax credits, new construction tax breaks, or operating-cost tax cuts). For example, if a job training tax credit specifies that a manufacturing company qualifies for a $2,000 tax credit for each new employee it trains, then any manufacturer that meets that requirement is entitled to that subsidy when it files its income tax return.

Just because entitlements are automatic doesn't mean they aren't political. Indeed, entitlements are always the result of corporate lobbying, usually by large groups of corporations such as chambers of commerce or manufacturers' associations. They are the tax-code monuments to specific kinds of corporate clout.

And not all companies get all of their entitlements. Not every company has the tax expertise to claim every credit. And some entitlements programs come in different forms than tax breaks, such as technical assistance. Those can involve some negotiation and discretion by the relevant government agency. Agencies are usually charged with evaluating applications and choosing which companies to assist, and they often use their own criteria to make those decisions.

Bottom Line: whenever you are looking at a subsidy program, you should determine whether the subsidy is entitlement or discretionary. If it is discretionary, that means you need to research the agency that granted the subsidy, including how much discretion agency officials have and who has informal power to influence them in that discretion. That, in turn, may mean you need to do a power analysis of the agency.

Tax Spending Versus Direct Spending

Governments spend money for economic development in two different ways: through tax spending (also called "off-budget" spending) and appropriations or direct spending (also called "on-budget" spending).

It's an important distinction, because in most states, tax spending for economic development far exceeds direct spending, by ratios of 5 to 1 or even 10 to 1. But few people know that, because tax spending is so poorly understood.

A **tax expenditure** is tax revenue that the state (or city or county) does not collect as a result of a tax break in the name of economic development. Tax expenditures are not even reported in 15 state budgets, and they are reported incompletely in many others. Cities and counties track even less.

A **direct expenditure** is money that the government (whether a city, county, or state) allocates in its budget, for anything from printing stamps to buying land to enable a hospital to expand. The budget must be passed by the city council or state legislature every one or two years, and is available to the public. That spending must be re-authorized each year, and it is relatively easy to track (although obviously some budgets are not as detailed as taxpayers would like).

Here's an example of the difference. Let's say a state wants to train workers. The government has two options: it can appropriate money to improve its vocational education and community college systems. That would be a **direct expenditure.** Or, it can pass a tax credit that allows any company that gives an employee a certain level of training to deduct $2,000 from its income tax bill. That would be a **tax expenditure.** Either way, the government will spend money training workers, but *how* it spends that money has important implications for public and legislative oversight of the spending.

The big problem with tax expenditures is that they are far less accountable than direct spending. Unlike most spending programs, tax expenditures are open-ended; that is, they are not capped at any set dollar limit. Any company that meets the statutory criteria for eligibility can get the subsidy. This makes it nearly impossible to estimate how much the tax expenditure will cost each year. Generally, tax expenditures require no annual appropriations or oversight process.

And because tax returns are confidential, it's impossible for taxpayers or even legislators to find out which companies benefit from tax expenditures or what they do with the money.

Tax expenditures are generally administered by tax agencies, which have little expertise or interest in assuring the tax-expenditure programs are working as the legislature and taxpayers hoped. On-budget programs are more often discretionary, so at least there is agency staff seeking to determine if a deal is sound or a subsidy is needed.

Unlike on-budget spending, tax expenditures are not revisited by the legislature every year when it decides how to spend taxpayer money. On-budget spending is also more frequently audited, evaluated and sunsetted (adopted with a built-in expiration date). If a recession comes and a state needs to tighten its belt, direct spending programs are usually the only things on the cutting block. Politically, it is easier to cut appropriations than it is to reduce a tax break – that would be attacked as a "tax hike."

Bottom line: tax spending is already the biggest share of economic development spending, though few people realize that. Probably due to the accountability problems cited here, tax expenditures make up a growing share of the total amount that is spent on economic development, evidence suggests. Corporate tax cuts shrewdly hover "below the radar" of annual budget politics.

Subsidy Disclosure in the States (as of March 2002)

State	Program	Statute
Connecticut	Economic development assistance to a business with 25+ full-time employees in the state. For $250,000 or more, annual reporting includes company-specific data on actual jobs created, projected jobs created, number of jobs at initial application, and amount of assistance.	94 PA 231 - §32-450 through 32-457 (2000 statutes)
Louisiana	Industrial property tax exemptions: company-specific information including jobs created (both permanent and construction), 10-year value of exemption, company's investment amount, and taxes paid.	Records of the state's tax exemption board
Maine	Company-specific information for all deals over $10,000; includes number of jobs by occupational type, wage and benefit levels of jobs created or retained, any changes in employment levels, total amount of assistance and details about type and purpose of each form of assistance. Also includes disclosure on whether the deal was a relocation within the state.	5 §13070-L and K
Minnesota	Company-specific information for all deals over $25,000: includes number of jobs, amount of subsidy, hourly wage of each job created (listed in dollar ranges), sum of hourly wages and cost of health insurance broken down by wage level, statement of goals identified in subsidy agreement, date by which job and wage goals will be met, reason for relocating from within in Minnesota if applicable, and list of all financial assistance received. On the Web at www.dted.state.mn.us/01x00f.asp, go to "Publications," then "Business and Economic Development," then look in the "General" section for 2000 Business Assistance Report.	§116J.994

Nebraska	Detailed disclosure of incentives under the Employment and Investment Growth Act (various property, sales, and income tax breaks). The State Tax Commissioner must make an annual report to Legislature listing agreements signed that year, agreements still in effect, identity of each taxpayer, and location of each project; and report by industry group with incentives applied for under Employment and Investment Growth Act, refunds allowed, credits earned, credits used for individual and corporate income tax, credits used to obtain sales and use tax refunds, number of jobs created, total employees at reporting dates, capital investment, wage levels of new jobs, tax credits outstanding, and value of personal property exempted in each county.	Employment and Investment Growth Act: §§77-4101 – 77-4112). Reporting requirement: §77-4110.
Nebraska (cont.)	Aggregated disclosure: For incentives under the Employment Expansion and Investment Incentive Act, the State Tax Commissioner must prepare a report identifying the amount of investment, number of equivalent jobs created, including amount of credits claimed in aggregate. If companies claiming credits under this act are in an enterprise zone, the Commissioner must report the amount of such companies' investment, number of jobs created, and average hourly wage or average salary of new jobs created in each zone.	Employment Expansion and Investment Incentive Act: §§77-27,187 – 77-27,196. Reporting requirement: §77-27,195.
Ohio	Company-specific disclosure: Cities and counties must submit all enterprise zone agreements to the department of development, including number of employees at site before agreement, number of employees at end of reporting year, property value, relocation information, new payroll, property taxes paid, property taxes exempted, and total employment. State tax commissioner must submit an annual enterprise zone report with this information to the governor and legislature. Ohio's enterprise zone reports online: www.odod.state.oh.us/ez/ Aggregate disclosure: property tax abatement agreements must be submitted to state development and local school districts, reporting number of employees, number of agreements in effect,	§5709.68 §5709.88.2

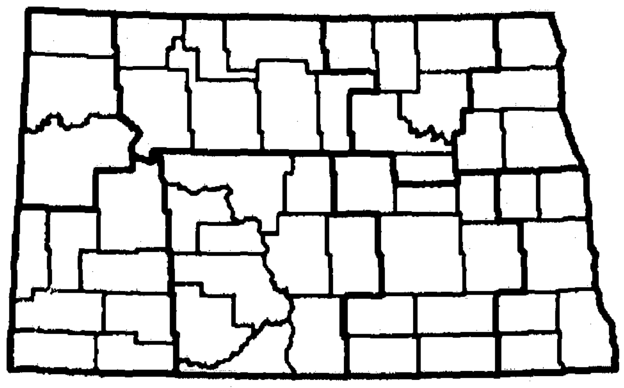
Ohio, cont.	compliance reviews, compliance status, and change in employment. Department of Revenue maintains data on property tax abatements and tax increment financing by county. Publications: www.state.oh.us/tax/publications_tds_property.html	
Texas	Comptroller must maintain centralized registry for reinvestment zones and tax abatement agreements, with description of zone and copy of tax abatement agreements. The forms used by the comptroller are available on the web. Data can be obtained by contacting the comptroller's office.	Tax Code §312.005
West Virginia	Tax credits must be reported in State Register. Reports include company, address, type of credit, and dollar value of credit, though only in quarter-million and half-million dollar ranges. This reporting started in 1991, and applies to several types of tax credits (mostly related to economic development). Codes for covered tax credits: 13-C through 13-H and 5E.	§11-10-5s(b)(1)
North Carolina	Beginning March 1, 2002, the Department of Revenue will publish for the previous calendar year a list, itemized by credit and by taxpayer, of certain economic development tax credits, including machinery and equipment, research and development, worker training, and real property investment. The report will also break the data down by enterprise tier (geographic zones marking different levels of economic health or distress); it will also show how many jobs created in development zones went to residents of the zones.	§ 105-129.6(b)(1-7)

Source: Good Jobs First

X

NORTH DAKOTA

Quick Facts



Population (2000 Census): 642,200
Percent change from 1990: +0.5%

Total Employment (2000): 309,223
Percent change from 1999: +1.0%

Largest Industry (employment): Services
Percent of statewide employment: 29.2%

Annual Average Wage (2000): $24,683
Percent change from 1999: +3.9%

Industry w/ Highest Annual Average Wage (2000): Mining
Annual average wage in that industry: $44,305

Industry w/ Highest Pct of Total Wages (2000): Services - 27.0%
Annual average wage in that industry: $22,817

Per Capita Personal Income (1999): $23,053
Percent change from 1998: +1.2%

Taxable Sales & Purchases (2000): $5,986 million
Percent change from 1999: +2.0%
County w/ highest share of statewide total: Cass (28.9%)

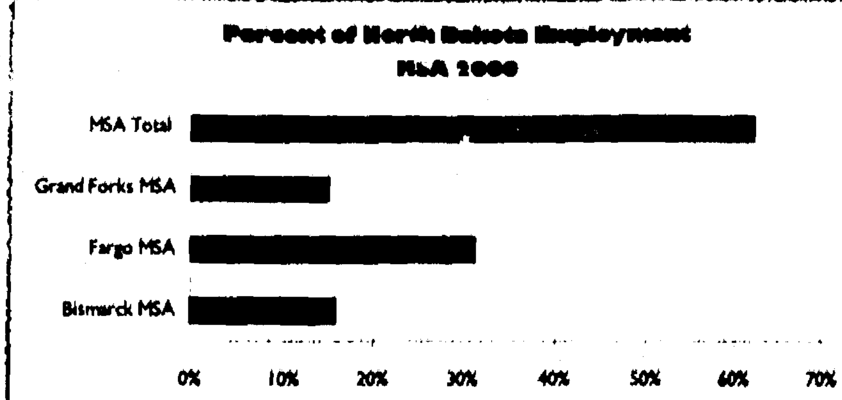
Unemployment Insurance Claims (7/00 - 6/01): 25,059
Percent change from 1999: +6.5%

Building Permits (single-family residential - 2000): 1,256
5-year high: 1,612 (1998)
5-year low: 1,256 (2000)

MSA

Employment

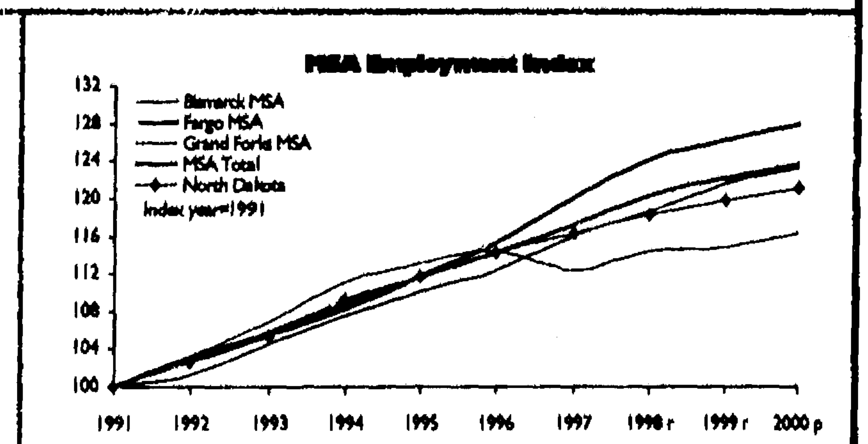
Over 60 percent of North Dakota's employment works in one of three Metropolitan Statistical Areas (MSA), further evidence that the state's economic backbone lies in its largest cities. The Fargo MSA accounts for half of the total, with the remaining two splitting the difference. Together, the three MSAs have outpaced the state in growth in recent years and for the past decade. The Grand Forks MSA grew a strong 55.8 percent between 1990 and 2000, most of the gain occuring in the first half of the decade. Since then, the area has struggled to add 1 percent per year, sometimes realizing less. The fortunes for this MSA have reversed dramatically, from a leader in the early '90s to an underperformer in the late '90s. Even with the setback, the trend for future MSA gains is still quite positive.



MSA EMPLOYMENT

	1990	1995	1998 r	1999 r	2000 p	% of ND Total	% change 1990-2000
Bismarck MSA	40,150	46,200	49,800	51,050	51,750	15.8%	*28.9%*
% change				*2.5%*	*1.4%*		
Fargo MSA	77,600	89,200	99,200	100,800	102,050	31.2%	*31.5%*
% change				*1.6%*	*1.2%*		
Grand Forks MSA	31,450	47,700	48,200	48,400	49,000	15.0%	*55.8%*
% change				*0.4%*	*1.2%*		
MSA Total	149,200	183,100	197,200	200,250	202,800	62.0%	*35.9%*
% change				*1.5%*	*1.3%*		
North Dakota	265,600	301,900	319,550	323,850	327,100		*23.2%*
% change				*1.3%*	*1.0%*		

r = revised
p = preliminary



STOP

MSA

Location Quotient

Industrial leadership among the state's MSAs has not changed dramatically. The Fargo MSA still dominates in industries like Wholesale Trade and FIRE. Bismarck has sizable influences in TCU and Services, specifically Health and Social Services. Grand Forks outweighs others in Government and Retail Trade. Manufacturing employment still favors the eastern portion of the state, with both Fargo and Grand Forks exerting more economic authority than Bismarck. Retail Trade is the only major industry where all three MSAs export production, meaning they have a larger portion of the state's retail employment, a further sign of retail consolidation in and around regional population centers.

	Bismarck MSA		Fargo MSA		Grand Forks MSA	
Industry	**2000**	**1999**	**2000**	**1999**	**2000**	**1999**
Mining & Construction	0.87	0.88	0.99	0.95	1.02	0.99
Manufacturing	0.79	0.79	1.09	1.07	1.10	1.1
Trans, Comm, Utilities	1.10	1.1	0.90	0.9	0.66	0.75
Wholesale Trade	0.72	0.72	1.29	1.28	0.76	0.82
Retail Trade	1.05	1.06	1.11	1.07	1.18	1.17
Eat/Drink Places	1.02	1.04	1.12	1.08	1.22	1.27
Finance, Ins, Real Estate	0.93	0.91	1.42	1.38	0.58	0.57
Services	1.16	1.16	1.13	1.09	0.93	0.92
Health Services	1.10	1.1	0.96	0.91	1.04	1.06
Social Services	1.09	1.17	1.08	1.03	n/a	n/a
Government	0.94	0.94	0.71	0.67	1.15	1.15

Wages

Wages for North Dakota's MSAs are based on occupational data, versus the industrial data used to analyze the state and regions.

The undeniable evidence points to higher annual average wages in all MSAs compared to the rest of the state, anywhere from $1,800 to $3,600 greater. Even when looking at individual occupations, those stationed in the state's MSAs are more likely to be higher-paying.

ANNUAL AVERAGE WAGE - 2000	
Bismarck MSA	$27,519
Fargo MSA	$28,557
Grand Forks MSA	$26,715
Balance of State	$24,899

STOP

SB 2406
February 3, 2003
Dr. Steve Huenneke, Associate Professor of Economics
Minot State University

To the members of the Senate Finance and Taxation Committee:

I am sorry I cannot be here in person to read this testimony and to answer your questions. I must teach today at Minot State University.

Did you read the editorial in the Bismarck Tribune on Sunday morning? I did, with a lot of interest. This editorial, composed by the newspaper's community editorial board, made some, but not complete, sense. I know the editorial referred to House Bill 1417, but the thoughts are relevant to the deliberations on Senate Bill 2406.

As the headline to the editorial suggested, the Bismarck Tribune applauded the idea of setting up a *"one-stop shop"* for information regarding *"who got what in state and local assistance for new and expanded business enterprises."* Similar to HB 1417, this bill sets up one place where the members of the public can secure records on firms, which have received subsidies, or tax breaks of more than $5,000. Number of jobs and median hourly wages paid by the firm would be included.

This bill also specifies job creation, wage and benefit goals, which the firms must meet, or they must reimburse the state because they have defaulted on their subsidy agreement. Firms must pay at least average wages per type of job in that area. There is different treatment in metropolitan areas than in non-metro areas. Now, in discussing House Bill 1417, the Bismarck Tribune weighed in against quality job standards. The newspaper also opposed demanding that firms pay back subsidies when they do not meet their targets.

"It's been pretty well established that employers won't play this game," the Tribune states. Why not? Because firms know what they can pay "over the long haul." The fear is that quality job standards and clawbacks will be deal breakers. We have heard this before from the same people.

We continue to operate our policies in a fog – paying no attention to what is happening in other states. We pay no attention to what is happening next door, in Minnesota. We would do well to emulate the laws they have passed in the last five or six years. Other people testifying today can give you the specifics on what has been done in other states, including Minnesota. I would like to focus the balance of my testimony on labor economics – theory and facts – and what we could hope to gain by enacting laws establishing quality job standards and "paybacks" regarding publicly funded development deals. When I refer to theory, I refer to the kind of discussions you can find in any labor economics textbook. The theoretical ideas discussed are mainstream theory, and nothing new at all.

When I refer to facts, I am providing the URL whenever possible. The information I am providing from the Web comes from Job Service North Dakota Web pages, where Bureau of Labor Statistics data is provided with the assistance of America's Career InfoNet, an amazing clearinghouse of labor market information -- a kind of information that more and more North Dakota workers have access to all the time. Some other data you are given references is from other sources you and the state of North Dakota trust, such as economy.com, and Minot Area Development Corporation. Here is what the facts say.

The **fastest growing occupation in our state** is that of computer support specialist.

http://www.acinet.org/acinet/oview1.asp?Level=Overall&from=State&stfips=38&soccode=undefined

In 2000, the latest available data -- the median pay in that kind of job was $9.95, compared to a U.S. median wage of $17.53. We still **rank 51st** in that category, still below Puerto Rico and also Guam.

http://www.acinet.org/acinet/wages3.asp?soccode=151041&stfips=38

Job Service North Dakota projects a growth of 113 percent in this low wage occupation between 1998 and 2008. This is projected to be our fastest growing occupation. These jobs are our state economic development agency's highest profile attempt, in the technology area, to create jobs. There's nothing wrong with computer support specialist jobs. What's wrong is their pay. It is difficult to conclude anything except that North Dakota has entered into a destructive bottom-of-the-market kind of competition for jobs in this pivotal occupation. Why do we just say we are helpless to pass laws to try to stop this?

There's also nothing wrong with business service jobs. What's wrong is the pay for business service jobs in North Dakota. In the industry of business services -- the fastest growing employment sector here and elsewhere, the state's wage gap vs. the other states in this West North Central region has gone from 90 percent in 1988 to 67 percent in 2000. (State vs. regional wage gap data processed from Average Annual Wages and Salaries, Bureau of Labor Statistics. I obtained these regional and state comparisons from economy.com This is an eye-popping, and valid, statistic.)

Yes, in a nominal sense, we can brag about rising wages -- but not in a real, or a relative sense. Real sense is against inflation. Our wages are barely keeping up, and sometimes falling behind. Relative sense is against other states and communities. Our wages are falling and have been falling for years, in both a relative and a real sense. By a relative sense, I mean compared to other states. By a real sense, I mean adjusted for inflation.

How will North Dakota cope with the coming slow growth in the labor force that is projected to unfold over decades? Not by offering wages that pay dead last or nearly dead last, and then **advertising** our low wages and labor availability like it is our number one plus.

http://www.growingnd.com/ndprofile/laborforce/default.asp?sectionID=1&subSectionID=2&pageID=204

Why are we marketing firms to our state that are attracted by this pitch? It is not in our economic interest, in the long run. Many firms realize paying the lowest wage is not in their interest, either. I call these smart firms – the ones we need to be attracting to this state.

Smart firms remain profitable by paying higher wages. These firms want to buy something else besides cheap workers. These firms want to buy low turnover. These firms want to buy high morale. These firms want to buy the best-educated, most career-oriented people they can find in the local market. They want to retain them, because they think of their employees as an asset, an investment. These firms are of a type, which finds it profit maximizing to pay what about economists call an *"efficiency wage."*

Surprisingly, an efficiency wage is defined as the wage that *"minimizes the employer's cost per effective unit of labor."* Where do the efficiency gains come from? From greater employee work effort, improvements in capabilities due to longer job tenure and the fact that higher quality workers are recruited. I would be more inclined to support a subsidy to a **high wage employer, than to a low wage employer**.

http://warp6.cs.misu.nodak.edu/econclub/baumol2.html

High wage employers, all else the same, are more viable and more profitable! Why? Because they have figured out how to hire labor at lower cost and a higher wage. That is not a paradox. Go to the link and find out why it is not.

Our state's underemployment – low wages paid to proficient people -- needs to be dealt with effectively. Currently, the system creating subsidized jobs are just perpetuating the process. The problem is not with the number of jobs, but with their type. Even with all the effort applied to economic development, our state's people have more bad jobs than they want, and fewer good jobs than they want.

Under the no-rules process, and the economic conditions of the 1990s, many of the investments have been unwise -- and I am not talking about the businesses that closed. I am talking about businesses that are in operation.

If we continue to try to offer subsidies -- we are going to need some help to get where we want to go. We are going to need rules or we will fail ourselves. We need the specifications that are called for in this bill. We need:

1) Disclosure so the public can have input. Don't tell the people this will never work. Make it work, if you want their support. In Minot, we saw some real slack in the process.

We had what our economic development leaders called "flexibility" that made us the "leader" in economic development. What was that? It was this: "... *MAGIC Fund screening committee meets at 10, the council meets at 11 and the deal is announced at noon.*" Deals done that way brought a lot of jobs, broke our MAGIC Fund -- and as you can see from these tables -- the **secondary impact** was too small to justify all the money spent.

http://warp6.cs.misu.nodak.edu/econclub/jobtally.html

Disclosure is the friend of the people -- it means prudence and shared power and responsibility for what happens. Who will argue against that, now?

2) Quality jobs standards, on top of disclosure. Good firms want to go where citizens are happy with what is happening, and they are behind the whole effort of economic development. Bad firms want to follow the trail that leads to low wages, high subsidies and no standards. We don't need those firms, even though our state still advertises for them.

3) Clawbacks, paybacks, terms of the agreement – whatever you want to call them. Economic decision-making involves risk and uncertainty. Why should the community carry the full burden of that risk and uncertainty? If the firms say that they don't "do clawbacks," then they are in the wrong market place. Such firms will actually, over time, being foreclosed out of many states. Clawbacks just make sense. A development agreement is a contract, not a sentimental promise.

Without this bill, or one similar such as House Bill 1417, we will continue to be the state wants to create jobs for the bottom dollar, and most prone to behaviors that can only be described charitably as *"business as usual."* Since we seem to be the most unwilling to bargain hard to share the risk when it comes to development deals -- out of fear we might lose the deal, then we need these rules even more than the other states putting them in place.

To the members of this committee, I say – please recommend that Senate Bill 2406 pass in this legislative session. Thank you.

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February 3, 2003

Lawmakers Hold Hearing on Economic Development Accountability

Fargo—Today (Monday) the North Dakota Senate holds a hearing on the Economic Development Accountability and Job Quality Standards Bill. The bill, among other things, would require the state to account for how economic development dollars are spent. Comments from Greg Leroy with Good Jobs First.

Suggested script: TODAY (MONDAY) THE NORTH DAKOTA SENATE HOLDS A HEARING ON A BILL THAT WOULD REQUIRE THE STATE TO ACCOUNT FOR HOW ECONOMIC DEVELOPMENT DOLLARS ARE SPENT. GREG LEROY, WITH GOOD JOBS FIRST, SAYS ANY ACCOUNTABILITY LEGISLATION SHOULD NOT ONLY INCLUDE DISCLOSURE, BUT OTHER ASSURANCES.

Actuality Cut #20%%ID%% (TRT: 20) *"Money back guarantee language saying that if a company fails to deliver on it's job creation or dollar investment pledges then it would be required to pay some of the money back. Job quality standards, that is, wage and health care standards required of the companies that get the subsides, so that people know that the jobs are good jobs."*

LEROY SAYS THIS IS A VERY IMPORTANT BILL FOR NORTH DAKOTA.

Actuality Cut #21%%ID%% (TRT: 18) *"Putting sunshine on your economic development process. Allowing people to see what is going on with the money you are spending in the name of economic development. Making sure every single one of those dollars is really paying off for the state so you can change course and fix programs if they are not working right. Disclosure is the foundation that makes that all possible."*

Suggested tag: LEROY SAYS HIS ORGANIZATION WILL BE TESTIFYING AT TODAY'S HEARING ON HOW WELL SIMILAR LAWS ARE WORKING IN NINE OTHER STATES, INCLUDING NEIGHBORING MINNESOTA.

Editor's note: Greg Leroy is available for interviews at 301-229-2793

Still Available: www.newsservice.org
Cuts 28%%ID%% & 29%%ID%% Bob Carlson - North Dakota Farmers Union – on disaster aid.

Testimony of Anne Nolan
Midwest Research Analyst, Good Jobs First
to the North Dakota Senate
Finance and Taxation Committee
February 3, 2003 ~ Bismarck

Good morning, and thank you Senator Urlacher, for the opportunity to testify before your committee today.

My name is Anne Nolan, and I am the Midwest Research Analyst for Good Jobs First, a national resource center for policymakers and grassroots groups seeking to ensure that economic development expenditures are effective. Our Executive Director, Greg LeRoy, is the author of a 1994 book, *No More Candy Store: States and Cities Making Job Subsidies Accountable*, which was the first compilation of state and local safeguards used in economic development deals. Last fall Greg and I wrote the report, *In Search of the Great Pumpkin: Economic Development Accountability in North Dakota*, which I understand you have received copies of today.

Because we have researched state and local economic development across the country, and because we have recently studied North Dakota, I can offer you some national context in which to place Senate Bill No. 2406. I would like to offer some general points about current trends in economic development incentives, along with some specific observations about the legislation now before you.

First, tax incentives and other development subsidies are not major factors in determining where companies locate or expand. State and local taxes typically amount to only two or three percent of a company's costs, so they always rank behind business basics, such as proximity to suppliers, proximity to customers, an adequate supply of skilled labor, and access to other critical inputs such as research centers or water or air transportation or whatever the company needs a lot of. Quality of life – including good schools – is also an increasingly important "business climate" advantage.

Second, more than ever before, the available supply of skilled labor rates as the top site location advantage. We believe this will continue to be true for the foreseeable future because of structural changes in the labor market, especially the aging of the baby boom generation and the increasing technological content of the average job.

This fact – that business linkages matter most in corporate location decisions – suggests that when cities or states cut special deals for a favored few companies, they are spending money ineffectively and undermining the tax base they need to support the things that really matter. The better strategy is to spend money on public systems that give companies what they need to thrive, such as infrastructure and education.

Third, I would like to discuss three "best practices" in economic development. They are disclosure, job quality standards and clawbacks (otherwise known as recapture provisions or money-back guarantee contracts). These are the three ingredients essential to making deals and programs accountable and therefore effective.

Reasonable people may disagree about whether a particular program is effective; only with disclosure can all parties see costs and weigh them against benefits. By disclosure, we mean annual, company-specific reports on both costs and benefits. That is, what was the subsidy, how much was it worth, and what has been the outcome in terms of jobs, wages and benefits? Nine states now have some form of disclosure, up from only one seven years ago: Minnesota, Maine, Nebraska, North Carolina, Ohio, West Virginia, Connecticut, Texas, and Louisiana. I have provided a matrix summarizing the nine states' disclosure practices.

Besides these enhanced disclosure systems, of course, are state Freedom of Information laws or Open Records Acts. When we at Good Jobs First researched our report on North Dakota, we encountered some confusion among North Dakota economic development officials about whether North Dakota's Open Records law requires the disclosure of economic development records. For example, when we made Open Records requests to 47 local EDCs and JDAs, 36 of them (76% of the total) failed to respond at all, and only four of them (9% of the total) supplied even part of the information that we requested.

Senate Bill No. 2406 addresses that issue. It establishes consistent, uniform disclosure requirements, similar to those that Minnesota established in 1995, and it makes those disclosures open records under North Dakota's Open Records Act.

Our second "best practice," job quality standards, means attaching wage and benefit requirements to subsidies. There has been an enormous growth in the use of such standards; we are now updating our database, but as of three years ago, Good Jobs First found that there were already 37 states, 25 cities and 4 counties attaching such standards. That is a very sharp increase in recent years:

there were only 6 jurisdictions with such standards in 1994.

Nationally, wage standards fall into three categories. In ascending dollar value, they are: those pegged to poverty benchmarks; those set at an arbitrary dollar level; and those pegged to market rates (e.g., average wage for the county, region, industry or occupation). Market-based wage standards are becoming more common; half of the standards (34 of the 66) we have identified are tied to market levels. Senate Bill No. 2406 conforms to this national trend by using market-based wage standards.

We believe that market-based standards are the most consistent with the intentions of economic development programs. That is, if development expenditures are intended to raise the living standards of average citizens of North Dakota, then requiring subsidized employers to pay wages that are at least as high as the market would serve that goal.

Our third "best practice," clawbacks, are performance contracts providing that in exchange for a subsidy, a company agrees to provide a certain benefit (usually job creation and/or dollar investment) within a certain period of time. If it does not, the government claws back or recaptures some or all of the subsidy, according to the terms of the contract.

Clawbacks are used successfully in cities and states throughout the nation. At least 19 states – including your Midwestern neighbors Minnesota, Nebraska, Iowa, Missouri, and Illinois -- have laws requiring the recapture of money awarded to companies that fail to create or retain jobs in exchange for incentives. Many cities and counties – we believe more than 100 – have passed clawback ordinances or adopted clawback policies. Again, the use of this safeguard is up sharply in the last several years.

Clawbacks work. For example, United Airlines last year agreed to pay back $32 million to Indianapolis and the State of Indiana because it fell short on its obligation to invest $800 million in a maintenance facility there within 10 years. In 1991, the airline received a $294.5 million incentive package after a multi-state competition; to their credit, the State and City insisted on a clawback contract. United may be subject to an additional clawback if it falls short of job-creation obligations as well.

Clawbacks are a fiscally prudent safeguard of the public's investment. When, for whatever reason, a publicly-subsidized company fails to meet its obligations, a clawback returns the subsidy to the community to be reinvested in other ventures, rather than allowing it to disappear into the pockets of the company's other creditors.

Clawbacks work because they eliminate misunderstandings that can lead to litigation and animosity. Each party's obligation is laid out in black and white. In the United Airlines case, the company knew where it stood, and it honored its contract. When everyone gets treated fairly and equally, when everyone knows where they stand and there are no rude surprises – that's what companies like, and that's what's good for the "business climate."

Senate Bill No. 2406 includes a clawback provision with a generous enforcement timeline: two years for a company to achieve compliance – the same as in Minnesota – and a pro-rated partial repayment requirement that only turns into a full repayment obligation if a recipient defaults on its promises three years in a row.

Finally, we have seen no evidence that any state implementing any of these three best practices has suffered any harm to its business climate. If such evidence existed, the numbers of states adopting these practices wouldn't keep going up every time we look. With nine states now using some form of disclosure, almost half the states now using clawbacks, and three-quarters of the states now using job quality standards, companies are not surprised by these measures because so many jurisdictions are now using them.

The overall thrust of this proposal – to ensure a "bang for the buck" in taxpayer investments – is entirely consistent with the new "business climate" reality in America today. That is, given that skilled labor is the number one site location advantage, making sure that economic development expenditures are efficiently spent – and do not waste money that could otherwise go for education and training – is simply responsible government and responsible business practice.

As we said in the introduction to *In Search of the Great Pumpkin*:

> Indeed, if policymakers are not careful, it is possible for development subsidies to make economic conditions worse. Too many tax breaks can deprive the state and communities of the resources they need to maintain the infrastructure and educational systems that support the high-quality workforce of which North Dakota is so proud. Bringing a high number of new low-wage jobs to a community can lower the community's average wage levels and increase dependency on social services. Low-wage jobs mean meager spending power and therefore low multiplier effects on other jobs and tax revenues. . . .
>
> If it is true that you get what you measure, the prevailing practice of measuring success only by the size and number of *investments made*

suggests the state will simply get more deals with unknown outcomes. If North Dakota citizens want to ensure that public investments increase the number of the state's quality jobs, they will need to add measurements of job creation and job quality to their economic development programs, make these measurements available to the public, and require that recipients refund the public's money if their goals are not met.

Senate Bill No. 2406 conforms to the trends in economic development best practices that we have observed in other states.

Again, I thank you for the opportunity to be here today, and I look forward to your questions.

States with Economic Development Subsidy Clawbacks

State	Program	Statute
Arizona	Eligibility for economic development assistance	A.R.S. 41:1505.07 http://www.azleg.state.az.us/ars/41/1505-07.htm
Colorado	FIRST Training Program	§23-60-306 For clawback language, see program description: http://www.state.co.us/gov_dir/oed/finance/cofirst.html
Connecticut	All business incentives	Public Act 93:218 (General statutes 32-5a)
Illinois	High Impact Business (recapture if found that investment would have occurred w/o incentive) Community Investment Recovery Act (if business leaves w/in 24 months of receiving property assistance)	20 ILCS 655/5.5 http://www.legis.state.il.us/ilcs/ch20/ch20act655.htm 740 ILCS 30/5 http://www.legis.state.il.us/ilcs/ch740/ch740act30.htm
Iowa	Good Neighbor Agreement New Jobs and Income Act (calibrated recapture)	Iowa Code 15A.4 http://web.legis.state.ia.us/IACODE/1999SUPPLEMENT/15A/ Iowa Code 15.326-337 http://www.legis.state.ia.us/IACODE/1999SUPPLEMENT/15/
Louisiana	Quality Jobs Program	Statute not online
Maine	Jobs and Investment Tax Credit	36 § 5215 http://janus.state.me.us/legis/statutes/36/title36sec5215.html
Maryland	Job Creation Tax Credit	Article 83A § 5:1102

Minnesota	All subsidies	116J.994 http://www.revisor.leg.state.mn.us/stats/116J/994.html
Mississippi		Senate Bill 2320, 1995 Statutes not online
Missouri	Build Missouri Program	
Nebraska	Employment and Investment Growth Act	Nebraska Statues 77:4107
Nevada	Business Tax Abatement Sales and Use Tax Abatement and Deferral	NRS 360.750 http://www.leg.state.nv.us/web/99NRS/NRS-360.html#NRS360Sec750
New Hampshire	Reports on Economic Development Loans and Grants	
New York	Jobs Now Empire State ED Fund - calibrated recapture Employment Security and Corporate Responsibility Act requires all state and local incentive agreements to contain clawback with interest provisions to enforce the goals of the incentives.	See here for the text of an existing bill: http://assembly.state.ny.us/cgi-bin/showtext?billnum=A03325
Ohio	Corporate Franchise and State Income Tax Credits	§122.17 (see ¶K) http://orc.avv.com/title-1/sec-122/sec-122.17.htm
South Carolina	Enterprise Program: The Jobs Development Tax Credit	Statutes not online
Virginia	Major Business Facility Job Tax Credit	VA Code 58.1: 439 (see ¶J) http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+58.1-439
Washington	SBA 6479, 1996 (applies to all business assistance).	

Source: Good Jobs First

Economic Development Subsidy Disclosure in the States

State	Program	Statute
Connecticut	Economic development assistance to a business with 25+ full-time employees in the state. For $250,000 or more, annual reporting includes company-specific data on actual jobs created, projected jobs created, number of jobs at initial application, and amount of assistance.	94 PA 231 - §32-450 through 32-457 (2000 statutes)
Louisiana	Industrial property tax exemptions: company-specific information including jobs created (both permanent and construction), 10-year value of exemption, company's investment amount, and taxes paid.	Records of the state's tax exemption board
Maine	Company-specific information for all deals over $10,000; includes number of jobs by occupational type, wage and benefit levels of jobs created or retained, any changes in employment levels, total amount of assistance and details about type and purpose of each form of assistance. Also includes disclosure on whether the deal was a relocation within the state.	5 §13070-L and K
Minnesota	Company-specific information for all deals over $25,000: includes number of jobs, amount of subsidy, hourly wage of each job created (listed in dollar ranges), sum of hourly wages and cost of health insurance broken down by wage level, statement of goals identified in subsidy agreement, date by which job and wage goals will be met, reason for relocating from within in Minnesota if applicable, and list of all financial assistance received. On the Web at www.dted.state.mn.us, go to "Publications," then "Business and Economic Development," then look in the "General" section for 2000 Business Assistance Report.	§116J.994

Nebraska	Detailed disclosure of incentives under the Employment and Investment Growth Act (various property, sales, and income tax breaks). The State Tax Commissioner must make an annual report to Legislature listing agreements signed that year, agreements still in effect, identity of each taxpayer, and location of each project; and report by industry group with incentives applied for under Employment and Investment Growth Act, refunds allowed, credits earned, credits used for individual and corporate income tax, credits used to obtain sales and use tax refunds, number of jobs created, total employees at reporting dates, capital investment, wage levels of new jobs, tax credits outstanding, and value of personal property exempted in each county.	Employment and Investment Growth Act: §§77-4101 – 77-4112). Reporting requirement: §77-4110.
Nebraska (cont.)	Aggregated disclosure: For incentives under the Employment Expansion and Investment Incentive Act, the State Tax Commissioner must prepare a report identifying the amount of investment, number of equivalent jobs created, including amount of credits claimed in aggregate. If companies claiming credits under this act are in an enterprise zone, the Commissioner must report the amount of such companies' investment, number of jobs created, and average hourly wage or average salary of new jobs created in each zone.	Employment Expansion and Investment Incentive Act: §§77-27,187 – 77-27,196. Reporting requirement: §77-27,195.
North Carolina	Starting March 31, 2002, the Department of Revenue must publish annual, company-specific disclosure of tax credits for training, research and development, and machinery and equipment. The data is also to be broken down geographically for those three activities by "enterprise tier area," a system the state uses for ranking regions by level of economic need. The Department's data must also show the number of new jobs created in development zones (enterprise zones), and how many of those new jobs went to zone residents.	§105-129.6.(b)

Ohio	Company-specific disclosure: Cities and counties must submit all enterprise zone agreements to the department of development, including number of employees at site before agreement, number of employees at end of reporting year, property value, relocation information, new payroll, property taxes paid, property taxes exempted, and total employment. State tax commissioner must submit an annual enterprise zone report with this information to the governor and legislature. Ohio's enterprise zone reports online: www.odod.state.oh.us/ez/ Aggregate disclosure: property tax abatement agreements must be submitted to state development and local school districts, reporting number of employees, number of agreements in effect, compliance reviews, compliance status, and change in employment. Department of Revenue maintains data on property tax abatements and tax increment financing by county. Publications: www.state.oh.us/tax/publications_tds_property.html	§5709.68 §5709.88.2
Texas	Comptroller must maintain centralized registry for reinvestment zones and tax abatement agreements, with description of zone and copy of tax abatement agreements. The forms used by the comptroller are available on the web. Data can be obtained by contacting the comptroller's office.	Tax Code §312.005
West Virginia	Tax credits must be reported in State Register. Reports include company, address, type of credit, and dollar value of credit, though only in quarter-million and half-million dollar ranges. This reporting started in 1991, and applies to several types of tax credits (mostly related to economic development). Codes for covered tax credits: 13-C through 13-H and 5E.	§11-10-5s(b)(1)

Source: Good Jobs First

Chairman and members of the committee. My name is Bob Finken. I am a farmer from Douglas and I am a lifelong resident of ND who cares deeply about our future. I am here today to speak on my own behalf in support of SB 2406. I became involved in the discussion about the direction of economic development in ND due to the March 5th vote in Minot over the Magic Fund. My involvement was due to the fact that I am the president of a general farm organization in Ward County and our organization was involved with the discussions surrounding the March 5th vote as well as the subsequent efforts to reform and improve the way that economic development is done. It was due to this involvement that I have come to the realization of what the citizens from all across ND expect from our government concerning how economic development should be done. A lot of their concern is due to the inability of the citizens of ND to determine for themselves if the economic development efforts in an area and across the state are really paying off. Citizens are dismayed that when they do ask questions they can't find anyone to give them a straight answer. If a citizen does ask questions, they are often put down and labeled as being against economic development and are just told to trust their officials. All of this has contributed to a loss of trust in how economic development is done in this state. I've seen it happen in Ward County and that is why the March 5th vote there was so lopsided.

There are several efforts underway in the Minot area to reassess and reform the way that economic development is done. One such effort is the steering committee that was set up by Dr. Rod Hewlett of MSU. I am serving as the rural/agriculture representative on the committee. We have only just begun our work. Another effort is the mayor's ad hoc review committee that recently came up with 16 recommendations. I've attached copies of the preliminary report that was just printed in the Minot Daily. I won't read the entire article but a few of the statements in it are "People agree that there is a need for job development, but there's a need to be smart about it". The committee also said that "the vast majority of people.....favored an overhaul of the jobs development requirements and methods" and that they "want access to accurate data". The committee also recommended definitions for full time verses part time jobs and that they be reported separately.

My fear is that unless the state of ND also reforms and improves the way it does economic development, that this distrust will grow and become an even greater hurdle and burden in our state's efforts to grow the economy of ND. SB 2406 is a good step in regaining the trust of the people of ND. The public needs to know that the state's economic development process truly is a wise investment of their tax moneys. SB 2406 can help to regain this trust by making the process more open and accountable. The citizens of ND deserve to know how much the economic development subsidies are really costing them in tax moneys being spent as well as those tax moneys not being collected.

All too often the proponents of the current way of doing economic development just talk about the number of jobs created. They count all jobs as jobs and consider all jobs to be good jobs. There has to be standards of measuring the true number of net jobs created and standards to define what a job is and what is a "good" job. When I read that the number of jobs in ND grew by over 65,000 from 1990 to 2000 and yet our population grew by only 3400 people, it leads me to believe that the jobs being created in ND are not good enough to support a family so all too many people have to take on multiple jobs. This can create an extra burden on the resources of the state of ND if these low wage job recipients require the help of public assistance to care for their family. This certainly does not create a good quality of life.

Another very important part of SB 2406 is section 6. This section requires a company that doesn't live up to their promises of job creation, job quality and job retention to refund some or all of the subsidies that they have received. To me this is a no brainer and an excellent way to reassure the citizens of ND that their tax moneys are being invested wisely and prudently. This should be a standard way of any company of conducting business through contractual agreements. If the state of ND were to hire a contractor to rebuild 10 miles of road and they only complete 9 of those miles – do you think that the state should pay them in full.

I was glad to hear that there has been other legislation introduced in HB 1497 that strives to make our government more accountable. I feel that SB 2406 has the same underlying motivation in that the different departments of ND's government need to be accountable to both the legislators as well as the citizens of ND. We all need and deserve to know that our entire government is utilizing our investment in tax moneys wisely and that we are getting a good return on our investment.

POLICIES

Committee gives ways to improve MAGIC Fund

By KEN CRITES
Staff Writer
kcrites@ndweb.com

A three-member committee appointed to come up with recommendations to overhaul Minot's MAGIC Fund policies reported their findings to City Council on Thursday.


Frey

Bob Lower, chairman of the ad hoc review committee, told Mayor Curt Zimbelman, who directed the study, and the council, meeting in special session, that his group had met six times since it was established in July.

The other two members of the committee are aldermen Chuck Barney and Daryl Somerville.

The committee came up with 16 recommendations to improve the job-creation group's activities and perceptions held by the public.

He said input came from about 180 private conversations, 26 written inputs and from 42 people who spoke at the group's meetings. He said the input indicated that people in the community want ...es to accurate data, com-

...ee MAGIC — Page A6

MAGIC

Continued from Page A1

piled and explained by a qualified person. The people want reports on the status of the fund to be consistent and easier to understand.

Lower said, "People agree that there is a need for job development, but they said there's a need to be smart about it."

He said the report is about 80 percent finished at this time. A public meeting will be held in a couple of weeks on the new and improved policies and procedures.

The council voted on two of the recommendations Thursday. One defines a full-time job as 32 hours or more. Lower said there will be more emphasis on higher-paying jobs. Part-time jobs will be in a separate category, he said.

The other provides that no sitting member of the MAGIC Fund Committee, Minot Area Development Corp. board of directors or employee, Minot City Council member, MADC or MAGIC Fund screening agent, may have an ownership position in a business funded by the fund.

Funding will not be considered until 12 months after the person resigns.

Lower said there is a perception in the community that members of the MAGIC Fund Screening Committee and the MADC board of directors somehow benefit through their relationship with the companies that apply for funding.

In the report, Lower said the committee reviewed five years of the fund's reports, the financial history of the fund and audits and reviewed the financial history of the 1-cent sales tax that allows the fund to operate.

Alderman Larry Frey said the people also want to hear from the companies involved in the loan process. He said he thinks the chief executive officer of a company should appear to talk about what they are doing.

The committee, in its report said the vast majority of people who provided comments favored an overhaul of the jobs development reporting requirements and methods.

Lower said the general feeling was that the reported data needs to be more comprehensive, user friendly and reflective of the funded companies' total impact upon the community and trade area.

The committee stated, "The following criteria should be used in the policy development:"

▶ Report total annual salary paid in the Minot area.

▶ Report the number of employees by annual salaries and wages in established wage category brackets for full-time position.

▶ Report part-time jobs by category brackets separate from full-time.

▶ Report benefits for the number of employees receiving benefits by category of employment, type of benefits being provided and the value of benefits by benefit category.

▶ Report on the type of goods and services purchased in the trade area and their value.

▶ Report on the community and benevolent activities of the company in the trade area.

▶ The report should be presented to the public not later than March of each year.

▶ Report data should be compiled and validated by a qualified independent consultant hired by the city.

▶ And, the public presentation of the report should be made at the same times as the report is released.

Copies of the committee's report are available at City Hall.

Senate finance and taxation committee
SB 2406 February 3, 2003

Dean P. Remboldt
702 10^{th} ave. se
Jamestown N.D. 58401
701-252-8294

Chairman Urlacher and Members of the Committee,

My name is Dean Remboldt and I live in Jamestown, North Dakota.

I feel honored, humbled and proud to be able to submit testimony to your committee. What we have here is one of the most important bills this session. What makes it so important is that it directly deals with the withering problem of outmigration. Passage of this bill will not only help stem the tide of outmigration, it will help improve the economic futures of everyone. Its impact will reverberate from our industrial parks to main street and across our farms.

My wife Terry and I, own a barbershop in Jamestown. Having a business that deals directly with the public I get to receive everyone's stories, from the farmers to the CEOs of major companies, from college students to welders to retirees. I feel that I have a pretty good overview of what's going on down at ground zero. A finger on the pulse, so to say.

Believe me when I say that our citizens of this state are hurting. But you know that. It's not only that we're losing our kids; their parents are starting to follow them out. There isn't a week that goes by that a customer comes in and says, " I'm sorry Dean but we're moving to Minnesota or Washington " or someplace else. Ten years ago 2/3 of my clients were younger than I was. I'm 10 years older and now all of a sudden 2/3 are older. How am I supposed to keep rebuilding my business with so few young people staying? I don't have an inventory to service, so if I'm deeply affected, what about the family that owns the Hardware store?

Let's take a realistic look at this problem and see if there is a solution. The main reason that we are losing our people is purely economic. People have to have a job, that at the end of the day, they need to make enough money to be able to take care of their family. Our type of government allows us a number of basic freedoms, for instance, what I'm doing now (free speech). However this issue cuts even further below those basic rights to the right of survival. If a person can't take care of their family here, they will go some place where they can.

At issue here is finding a solution to this sticky problem. This legation goes along way to address those issues. First of all, it's our tax money that our economic development efforts are using to create jobs. With that in mind, why wouldn't we want to know what we're getting for our money? What's the secret? A few weeks ago in Jamestown we were asked to give $75,000 of our JSDC money to Napoleon. A city 80 miles away, not even in what we consider our local trade area! While I don't have a problem with that (I'm sure I'll get some of it back in my business), why don't I have a right to be sure I'm getting my money's worth? I have a right to know if this is or isn't another Noble Games. So far it looks like we've gotten burned on that one. Funny thing is that no one seems to know what happened to our million plus dollars! I want to know and be sure that those future employees are making a living. I want to know that their employees have good benefits. I want to know that the company is doing a robust business. What could be more open or simple?

The argument that we will put an undo burden on businesses that accept our grants or loans is so bogus. Other states have these same provisions and you don't see that they are having a hard time attracting businesses. Or their existing businesses cut and run. Besides, don't we already have a tracking system built onto our other economic efforts associated with our corporate income tax exemption policies? Seems we have plenty of businesses taking advantage of that program, while being overseen. Don't they need this same information when they go to the bank? Then why can't we the taxpaying bankers, expect anything less. It puts all of our efforts on the same page and upfront, doesn't it?

After all of the testimony, both for and against, all I can do is ask and pray, that you weigh your thoughts carefully. Weigh them for those 12,000 young people we just lost in the last two years, or better yet for the 12,000 that we are projected to lose in the next two years. Our future depends on it.

Sincerely,
Dean P. Remboldt

Dakota Resource Council

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TESTIMONY: SB 2406
Senate Finance and Taxation Committee
February 3, 2003

Chair Urlacher and Members of the Committee,

Dakota Resource Council submits this testimony in support of SB 2406, which would enact a comprehensive and much-needed system to evaluate the success of North Dakota's program of offering business incentives as a method of developing the state's economy.

Over the past decade, North Dakota has joined many other states in an attempt to lure business activity through the use of taxpayer funds for state and local business incentive packages that include low-interest loans, tax abatements, and direct grants. Has this initiative been successful? Should it be continued? The state currently lacks a comprehensive method of collecting data that would help answer these questions.

Statistics reported in *Road Map 2001* and *2002*, North Dakota's award-winning annual economic report prepared by the Labor Market Information Center, suggest reasons to be skeptical. For example, North Dakota average wages as a percentage of U. S. wages (excluding federal workers) has declined steadily from about 83% in 1984 to less than 70% today (*Road Map 2001*, p. 125; *Road Map 2002*, p. 19). According to *Road Map 2001*, these lower wages are not compensated by a lower cost of living (pp. 24-25). These statistics suggest that the state is worse off economically than before we made business incentives the centerpiece of our economic development program.

It should be clear to everyone by now that job creation alone is not the answer to North Dakota's economic problems. We already have low unemployment and the nation's highest rate of persons holding two jobs. Holding multiple jobs is a sign of poverty, not wealth. It means that there are too many jobs in the state whose pay is insufficient to pay the cost of living. Many of those who hold multiple jobs are our state's farmers and ranchers, who are buried in low commodity prices as a result of our nation's disastrous trade policies. The last thing farmers need is another job. The obvious truth is that we don't need more jobs in the state. We need more income. And there is really no evidence that our current economic development program is leading the state in that direction.

It is time to re-evaluate our economic development strategies in North Dakota. To do that we need the comprehensive date that would be compiled under SB 2406. We also need to take immediate action to make sure that our economic development incentive programs do not drive our state even more deeply into poverty.

DRC urges that the committee vote a "do pass" on SB 2406.

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TESTIMONY IN SUPPORT OF SB 2406

Before the House Finance and Taxation Committee
North Dakota Public Employees Association,
American Federation of Teachers, #4660 AFL-CIO
January 29, 2003

Chairman Urlacher, members of the Senate Finance and Taxation Committee, my name is Chris Runge and I am the Executive Director of the North Dakota Public Employees Association, AFT Local #4660. I am here to testify in support of SB 2406, a bill, that if passed, will bring the support of the citizens of this state to your efforts to bring high wage jobs to North Dakota.

Now we know that state and local officials are more than leery about this legislation. We heard it when this bill was introduced and we read it again in the recent series in the Fargo Forum. We heard that if there were accountability and wage standards in our economic development efforts we would stifle growth in North Dakota. That simply is not so and there is no evidence to support that fear. Nor is the development of accountability and wage standards "micro-managing". It is as Majority Leader Berg stated in reference to an introduced bill on government accountability, "If we can't measure the basic results of a program, then we shouldn't be doing it." We are not asking for every business's trade secrets or business practices, but I certainly think the taxpayers need to know the return on their investment, how many jobs were created at what wage levels, not just aggregate averages. We also need to know if those jobs are paying benefits. What benefit are taxpayers getting if on one hand we give millions of dollars in tax breaks, loan buy-downs, property and corporate tax exemptions if the employees are also eligible for government benefits like food stamps, fuel assistance or medical assistance?

This bill will not harm the state's business climate. In these tight economic times, it is all the more important to re-examine our job creation efforts and assure to the taxpayers that what we are doing is indeed working. In the case of our economic development efforts, we simply don't know how we are doing. According to the Washington based, Corporation for Enterprise Development, "State officials often try to jump-start stalled economies by using tax incentives to encourage new investment and job creation." However, the CED recommends using "incentives within an agreed-upon plan and within a legislative framework to discourage ad hoc action s where policymakers are more likely to be taken to the cleaners by companies playing competing jurisdiction off against each other. Likewise, it is not anti-business to require sunset reviews of incentives or to require performance contracts to increase the return to the public sector."

By setting specific standards, we will concentrate on recruiting only those companies that are willing to pay competitive wages and benefits. As Greg LeRoy of Good Jobs First says, "State and cities that run the tightest ships will grow the strongest economies. Having sound budgets, making sure every company pays its fair share, protecting taxpayers against bad deals, making sure subsidized companies pay good wages and benefits, making the system transparent so that everyone can see costs and benefits—now that's a good business climate!"

This bill is about good government. It is critical to bring fiscal integrity to our jobs development programs. The report on North Dakota's economic development efforts that was released on October 30, 2003, by Good Jobs First was confirmed by this past Sunday's Fargo Forum series. How do we know how we are doing? Don't the taxpayers have a right to know how their investments are doing? After all, it is their tax dollars.

We realize that there is tight competition for jobs and we compete with many other jurisdictions for businesses looking to relocate or to grow our own from within our borders. However, because of this competition, the state and local economic developers need to have a tight rein on the economic development programs. One Indiana economic developer stated, "Incentives are a tool for proactively shaping growth. Deserved criticisms of their use frequently refer to cases where the jurisdiction is attempting to shoot anything that flies, claim anything that falls." All we are asking for is accountability, job creation standards and wage standards. It is being done in other jurisdictions successfully.

NDPEA supports SB 2406. I am available to answer any questions that you may have.

SB 2406

In Search of the Great Pumpkin: Economic Development Accountability in North Dakota

by

Good Jobs First

Anne Nolan and Greg LeRoy

with

Philip Mattera, Mafruza Khan, Kristen Arant, and Este Griffith

October 30, 2002

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Good Jobs First is a national non-profit resource center promoting best practices in state and local economic development. It was founded in 1998 by Greg LeRoy, author of *No More Candy Store: States and Cities Making Job Subsidies Accountable.*

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Acknowledgments

Good Jobs First's partnership with the Midwest States Center is made possible in part by research support from the Ottinger Foundation to Good Jobs First. Additional support for our partnership comes from the Stern Family Fund and the Needmor Fund to the Midwest States Center.

We also wish to thank the North Dakota Progressive Coalition, especially Don Morrison and Gail Erickson, for their assistance and keen interest in the issue of economic development. We also would like to acknowledge labor economist Dr. Steve Huenneke of Minot State University for his helpful analysis of labor market dynamics in North Dakota.

We also wish to thank our many sources, especially the staff members of the Economic Development and Finance Division of the North Dakota Department of Commerce and the North Dakota Office of Tax Commissioner, and the staffs of the local economic development corporations and job development authorities who responded to our Open Records requests.

Executive Summary

A broad review reveals that North Dakotans are being asked to take it on faith that economic development subsidies are producing results. That's because state agencies typically measure success by the size and number of their investments, instead of the *results* of those investments. The programs are clear about their goals and intended corporate recipients, but they typically lack monitoring mechanisms to ensure that the programs are getting results.

Total dollars spent by each program are usually publicly available, and some programs disclose the amount allocated to each recipient, but others consider this information confidential. *Projected* jobs may be recorded, but no program discloses *actual* jobs created or wages paid. Some programs record job creation results but consider the information confidential, while others don't track job creation results at all. Either way, the public has no way of telling if taxpayer investments are paying off.

If North Dakotans want to achieve measurable outcomes, we suggest the following policy options:

- Job creation requirements attached to both programs and individual deals.
- Job quality standards — including wage requirements and healthcare benefits — as most states and many cities already encourage or mandate.
- Public participation in the process of setting standards and approving deals, as is done in Minnesota, where communities must hold public hearings about deals and job goals before granting subsidies.
- Disclosure, or annual company-specific reporting on the costs and benefits of each deal, including job creation, wages and benefits (Minnesota compiles such information and publishes it on the Web).
- Clawbacks, or money-back guarantee contracts, so that if, for example, a company pledged to create 100 jobs, but only created 50, it would be required to pay back 50% of the subsidy.

Accountability Measures in North Dakota Economic Development Programs

Program name	Job creation standards	Job quality standards	Public participation	Public disclosure	Clawbacks
North Dakota Department of Commerce Programs					
North Dakota Development Fund (includes NDDF and RDDF)	Yes	No	No	Yes	Accelerated obligation if moved out-of state
APUC	No	No	No	Yes	Yes
Bank of North Dakota Programs					
PACE	Yes	No	No	No	No
MATCH	No	No	No	No	No
Beginning Entrepreneur Loan Guarantees	No	No	No	No	No
Business Development Loans	No	No	No	No	No
Ag PACE	No	No	No	No	No
Tax Incentive Programs					
Investment Tax Credits	No	No	No	Aggregate only	No
Renaissance Zones	No	No	No	Aggregate only	No
New & Expanding Business Income Tax Exemptions	No	No	No	Applications, Aggregate Income	No
Other income tax deductions, exemptions, & credits	No	No	No	Aggregate only	No
Sales & Use Tax Exemptions	Limited, vague	No	No	Aggregate only	No
Property Tax Exemptions	No	No	No	Count only, not $ amt	No
Regional & Locally Funded Programs					
Regional Planning and Development Councils	Some	Some	Unknown	No	No
Local EDCs & JDAs	No	No	Unknown	No	No

Introduction

Economic development subsidies can be as prolific as pumpkins. As anyone who's ever planted a pumpkin vine knows, once you get one growing, it's hard to stop. But when taxpayers look at the wide variety of economic development programs in North Dakota, how do they know which ones are really working? Citizens don't have to just *believe*, like Linus in the pumpkin patch, that results will be forthcoming if only they are patient enough. There are proven ways to ensure that economic development programs are effective and accountable.

This topic is personally important to North Dakotans. They are concerned about low wages and underemployment that force some wage earners to take multiple jobs to support their families. They worry about how to stop the outmigration of the state's young people. Communities such as Minot have engaged in lively debate about whether the current approach to economic development is working. Advocates of the current programs argue that at least they are doing something (versus doing nothing), and that failures are a natural consequence of taking risks. But others look for best practices in other states, saying that it's not enough to do something, but urgent to do the right things. They are looking for ways to ensure measurable success, not just add up dollars invested.

Indeed, if policymakers are not careful, it is possible for development subsidies to make economic conditions worse. Too many tax breaks can deprive the state and communities of the resources they need to maintain the infrastructure and educational systems that support the high-quality workforce of which North Dakota is so proud. Bringing a high number of new low-wage jobs to a community can lower the community's average wage levels and increase dependency on social services. Low-wage jobs mean meager spending power and therefore low multiplier effects on other jobs and tax revenues. Finally, as Dr. Steve Huenneke, a labor economist at Minot State University, has argued: "the not very thoughtful strategy of public subsidy of most capital and land costs"[1] makes firms even more sensitive to competition from markets with lower wages. If a firm has no sunk costs that tie it to the community, that means it may be more sensitive to labor costs and therefore more prone to relocate for cheaper labor. (For an illustration of a company whose business model seems well-suited to take advantage of this phenomenon, see Spotlight Story #2 in this report.)

This report surveys how success is currently being measured in North Dakota's economic development programs. We have limited our investigation to programs that receive state or local funding (as opposed to federal or privately financed programs) and whose primary purpose is non-farm economic development. Programs that fit this description fall into four major categories:

North Dakota Department of Commerce Programs
- North Dakota Development Fund
- Regional Rural Development Fund
- APUC

Bank of North Dakota Programs
- PACE (Partnership in Assisting Community Expansion)
- MATCH
- Ag PACE
- Beginning Entrepreneur Loan Guarantees
- Business Development Loans

Tax Incentive Programs
- Investment Tax Credits
- Renaissance Zones
- New & Expanding Business Income Tax Exemption
- Other income tax deductions, exemptions, and credits
- Sales and Use Tax Exemptions
- Property Tax Exemptions

Regional and Locally Funded Programs
- Regional Planning and Development Councils
- Local Economic Development Corporations (EDCs) and Job Development Authorities (JDAs)

It is not our intent to enumerate every pumpkin in North Dakota's patch of programs. It's clear that the field is huge. Rather, we took a look at what varieties are growing there. Do the programs clearly define their goals? Does the public get to participate in defining those goals? Do the programs have job quality standards? Are there any public disclosure requirements? Are there clawbacks (money-back guarantees) if project goals aren't met? We examined the major categories of programs to inform a discussion among North Dakota's citizens about whether there are enough accountability measures to ensure a good bang for the taxpayer buck.

If it is true that you get what you measure, the prevailing practice of measuring success only by the size and number of *investments made* suggests the state will simply get more deals with unknown outcomes. If North Dakota citizens want to ensure that public investments increase the number of the state's quality jobs, they will need to add measurements of job creation and job quality to their economic development programs, make these measurements available to the public, and require that recipients refund the public's money if their goals are not met.

North Dakota Department of Commerce Programs

North Dakota Development Fund

The North Dakota Development Fund (the NDDF) is a statewide nonprofit development corporation, established by state statute (NDCC ◊ 10-30.3 et seq.), that administers two funds: the Development Fund and the Regional Rural Development Revolving Loan Fund ("Rural Fund"). Both funds make loans, loan guarantees, and equity investments.[2]

Performance Requirements

Both the Development Fund and the Rural Fund are limited to primary sector businesses in North Dakota. "Primary sector business" is defined by statute as one that "through the employment of knowledge or labor, adds value to a product, process, or service that results in the creation of new wealth. The term includes tourism, but does not include production agriculture."[3]

The Development Fund is limited to new or expanding primary sector businesses in North Dakota or relocating to North Dakota. The Rural Fund is limited to new or expanding businesses in rural areas.[4] The Development Fund may invest up to $10,000 per full time employee. The Rural Fund may invest up to $20,000 per full time employee.[5]

The total investment in one business is generally limited to $300,000, but the NDDF Board of Directors "may adjust the limit when deemed appropriate."[6] The largest investment listed in the 2000-2001 annual report was $800,000.

The NDDF includes a written condition in its agreements with recipients that if the company changes ownership, or the company's manufacturing process moves out of the state, then its obligation is immediately due and payable.[7] Other typical lending criteria apply regarding collateral, personal guarantees, and the entrepreneur's equity stake in the project.[8]

The NDDF's 2000-2001 annual report contains two charts labeled "PROGRESS," one which charts the growth in number of projects funded and the other which charts the growth in "Development Fund cash flow," which appears to be defined as total amount invested. This page also notes that "For every Development Fund dollar invested, $4.77 was invested from other sources."[9] Another way to look at this figure is that the public is providing at least 17.3% of the capital for projects assisted by the NDDF. Actually, the public could be providing a larger share if some of the "other sources" in the package are other varieties of public funding.

Job Standards

The NDDF's agreements do not contain any conditions regarding actual job creation. The NDDF does monitor the jobs of each business that receives funding, but treats the information as confidential "commercial or financial information" under its enabling statute.[10] Limited information about the program's total job creation is available to the public in the NDDF's annual report. The annual report is required by statute to include "an estimate of jobs created and jobs preserved," but the report provides aggregate estimates only and does not break them out by recipient, except for selected success stories featured in the report.[11]

Amounts Spent

The NDDF publicly discloses the names of all recipients and the amount invested in each recipient. It publishes this information both in its Annual Report and on a web page under www.growingnd.com, the web site of the North Dakota Department of Commerce's Division of Economic Development and Finance.

In 2001, the NDDF made 24 loans totaling $3,971,633 and took three equity positions totaling $300,000.[12]

Agricultural Products Utilization Commission (APUC)

APUC is a research and marketing grant program funded by an agricultural fuel tax. APUC grants are intended to create new wealth and jobs through the development of new and expanded uses of North Dakota agricultural products. They assist basic and applied research, marketing and utilization, farm diversification, and agricultural prototype development. As of this writing, the Agricultural Products Utilization Commission has not responded in writing[13] to our Open Records request. However, some information about APUC is available on the web and in APUC's enabling statute, NDCC ◊ 4-14.1.[14]

Performance Requirements

APUC considers grant requests that lead to and result in development and marketing of new and/or expanded uses or technologies for processing the agricultural products of North Dakota; focus industry and jobs creation efforts in rural areas of the state; include funding from other sources, public or private; and include a framework for timely progress toward stated objectives.

APUC evaluates proposals by awarding points for each proposal's

- probability and extent of new wealth creation;
- credibility and merit;
- market potential and commercialization feasibility, including technical and financial feasibility;
- scientific merit;
- innovation;
- technical qualification and competence of project principals;
- probability of rapid commercialization and application of research;
- presence, source and level of matching funds; and
- geographic location of an applicant and of economic impact of the application of research results.

APUC enters into a formal grant contract with each grantee that specifies the objectives, tasks to be performed, timeline and budget, a fund release schedule, and any other conditions specific to the individual application. It requires the grantee to submit periodic interim reports outlining progress and timeline and budget compliance. Usually grant funds are released in installments, and non-compliance with the contract may result in withholding of further funds.

If the project appears to be in jeopardy, APUC may cancel the contract and seek to recover previously released funds. Before the last installment is released, a grantee must submit a final written report describing the work performed and the results obtained. This report is supplemented by a financial report of all expenses actually incurred and income generated by the project. APUC reserves the right to require repayment of a grant in whole or in part if the grant recipient does not fulfill the grant conditions. (This is a rare instance of a "clawback" in a North Dakota program.)

Job Standards

The APUC program does not involve any specific standards for job creation or retention or job quality.

Amounts Spent

APUC grants are awarded quarterly and announced in press releases from the governor's office. These are posted on the Economic Development and Finance website at http://www.growingnd.com/media/. These announcements include the name of each recipient, the amount awarded to each recipient, and a short description of the purpose of each grant. Three such releases show that a total of $645,877 was awarded to 19 projects in the first three quarters of 2001. (No press release was posted for the fourth quarter of 2001.)

MLT, originally known as Mainline Travel, Inc., is a wholly-owned subsidiary of Northwest Airlines that operates charter tours through its MLT Vacations unit and also operates Northwest WorldVacations. MLT has more than 500 employees, sells products through more than 32,000 travel agencies as well as directly to consumers, and serves more than 1.25 million vacationers annually.

In August 1999, MLT announced it was opening a new 600-person call and operations center in Minot. Some of the 600 jobs would replace positions at an existing facility in the Twin Cities suburb of Minnetonka. Employees at the Minnetonka facility were offered relocation assistance or severance pay. A February 20, 2000 story in the Minneapolis Star-Tribune reported that the company was receiving an incentive package from Minot worth $10.7 million, including:

- $3 million from the Minot MAGIC Fund
- $1 million from the State of North Dakota
- A $2 million PACE loan from the Bank of North Dakota
- A $180,000 job training grant from Job Service of North Dakota
- An estimated $640,000 job training grant from a North Dakota new jobs training program
- An estimated $225,000 value of property tax forgiveness over five years
- A $100,000 grant from the Minot Area Development Corporation (MADC) Jobs Development Fund

In addition to the public funding, the package also included $3.55 million in low-interest loans from a consortium of local banks.

An Associated Press (AP) story the same day quoted an MLT executive as saying that trainees at the facility would start at $8 an hour and quickly rise to $8.50.

In September 2001, in the wake of the 9/11 terrorist attacks and the consequent slump in the tourism industry, MLT announced that it would cut about 20 percent of the workforce at Minot, which had by then reached a level of 400. But a December 30, 2001 AP story quoted a company executive as saying that business was rebounding and workers were being hired back.

The Minot Daily News reported in September 2002 that a state audit of Minot's MAGIC Fund had found that the city had no documentation on whether MLT had lived up to its job creation and investment commitments.

The audit followed a failed effort by the Minot city council to augment its funding stream for the MAGIC Fund. The MLT project and other projects had consumed all the money anticipated to come from the local sales tax through its expiration in 2006. Voters were offered a proposal to extend the city's one cent sales tax an additional 10 years to 2016 and to use some of the sales tax for the Northwest Area Water System for economic development instead. 68% of Minot voters rejected this proposal.

Jobs created with assistance from the MAGIC Fund are paying 75% of the average wage in Ward County, or 56% of the national average wage. Minot's cost of living is 94% of the national average.[15]

Bank of North Dakota Programs

As of this writing, the Bank of North Dakota has not responded to our Open Records request. However, some information about the BND is available on the web and in the Bank of North Dakota 2001 Annual Report.[16]

The Bank of North Dakota is the nation's only state-owned bank. The BND's 2001 Annual Report describes it as "a unique institution combining elements of banking and state government with a primary role in financing economic development."[17] Its deposits come primarily from interest-bearing accounts for the state and its political subdivisions. In its lending activities it does serve individuals and businesses, but usually as a "participation lender," acting in partnership with one or more local financial institutions or other sources of capital. Its loan portfolio is 31% business loans, 31% student loans, 20% residential loans, and 18% agricultural loans.[18]

BND offers the following business start-up and economic development incentive programs:

- PACE (Partnership in Assisting Community Expansion)
- MATCH
- Beginning Entrepreneur Loan Guarantees
- Business Development Loans
- Ag PACE

The first four are commercial loan programs, while the Ag PACE program is an agricultural loan program.[19] The BND also operates many other commercial and agricultural loan programs for purposes other than economic development; those are beyond the scope of this report.[20]

Below we discuss each of these five programs' performance requirements and job standards separately. The amounts spent can only be discussed as an aggregate because information provided in the annual report is not broken down by program.

PACE (Partnership in Assisting Community Expansion)

Performance Requirements

PACE is an interest rate buy-down program intended to help North Dakota communities expand their economic base by providing for new job development. The BND's buy-down must be matched by the community. A community's match may come from a local development corporation, contributions, community funds, or other community sources, either as a grant or a loan. PACE loans are used for the purchase of equipment or real estate or to provide working capital. The BND and community buy-downs together can reduce the borrower's rate of interest by as much as 5%.

PACE applications are made by the lead lender, which is responsible for servicing the loan. The borrower can be any business in manufacturing, processing, value-added processing, major destination tourist attractions, or targeted service industries. Targeted service industries are data processing, telemarketing, telecommunications and major destination tourist attractions.

If a borrower defaults, the interest rate on the loan changes from the buy-down rate to the original higher interest rate until the loan is brought current.

If a community fails to fund its portion, the PACE Fund's participation continues. However, that community cannot apply for another PACE loan until its original PACE contribution has been brought current, and on any new loan it must pre-fund its entire portion of the buy-down.

Job Standards

The borrower must create one new job in North Dakota for each $75,000 of total loan proceeds. However, there is no information about monitoring for compliance with this requirement either on the BND web site or in the 2001 Annual Report. Nor does there appear to be any job quality standard associated with this requirement.

MATCH

Performance Requirements

The MATCH program is intended to make investment in North Dakota attractive to companies that are very strong financially. It targets manufacturing, processing and value-added industries. Borrowers must have an "A" rating or better from a national credit rating agency. As in other BND programs, BND acts only as a participation lender; a lead lender applies for the program and is responsible for servicing the loan. For its portion of the loan BND charges a low interest rate equal to an equivalent term U.S. Treasury Note rate plus .25% - .50%.

Job Standards

The MATCH program does not involve any specific job standards.

Beginning Entrepreneur Loan Guarantee

Performance Requirements

Through this program, BND offers an 85% loan guarantee to lenders that loan up to $100,000 to finance the startup or expansion of a beginning entrepreneur's business. The borrower must be a North Dakota resident who has graduated at least from high school or received a general equivalency certificate, has had some training by education or experience in that type of revenue-producing enterprise, and has a net worth of less than $100,000 excluding personal assets (principal residence, one personal or family motor vehicle, and household items and personal belongings).

Job Standards

The Beginning Entrepreneur Loan Guarantee program does not involve any specific job creation, retention or quality standards.

Business Development Loans

Performance Requirements

Business Development Loans assist new or expanding businesses located in North Dakota that have a higher degree of risk than would normally be acceptable to a lender. A lead lender applies for and services the loan, which may not exceed $25 million; BND's portion is limited to $500,000. Business Development Loan proceeds can be used for real estate, equipment, working capital, the purchase or remodeling of an existing business, or to refinance an existing loan.

Job Standards
Business Development Loans do not involve any specific job standards of any kind.

Ag PACE (Agriculture Partnership in Assisting Community Expansion)

Performance Requirements
Ag PACE is an interest-rate buy-down program to encourage North Dakota farmers to develop businesses that can be integrated into their farming operations. The borrower's principal occupation before applying must be the production of agricultural commodities or livestock. The business financed can be any business, except traditional production agriculture, that is integrated into the farm operation and is used to supplement farm income. Such businesses include nontraditional agriculture, manufacturing, processing, value-added processing, and targeted service industries.

Ag PACE funds are used to buy down the interest on loans that finance the purchase of equipment, real estate, inventory, or equity shares or provide working capital. The buy-down can reduce the borrower's rate of interest by as much as 5%. Ag PACE applications are made by the lead lender, which is responsible for servicing the loan.

If a borrower defaults, the interest rate on the loan changes from the buy-down rate to the original higher interest rate until the loan is brought current.

Relocating the business away from its on-farm location can constitute a default unless the borrower first gets approval from BND.

Job Standards
The Ag PACE program does not involve any specific job creation, retention or quality standards.

Amounts Spent
The Bank of North Dakota 2001 Annual Report breaks its lending reporting into four major categories: residential, commercial and business, agriculture, and student loans.[21] The first four programs discussed above fall under

commercial and business; reporting for them is aggregated with other types of commercial and business lending.[22] The report states that the commercial and business loan category grew by $28 million in 2001 to a total of $370 million and that "BND loan programs financed 190 business and industrial projects."[23] The only program for which separate information is provided is the Beginning Entrepreneur Loan Program, because it was new in 2001. The note describing this program states that as of December 31, 2001, BND "has provided guarantees totaling $766,000 and has guarantee commitments outstanding of $37,000 included in commitments to extend credit."[24] BND's agricultural lending, which includes Ag PACE, increased $14 million to a total of $214 million in 2001.[25] BND's total loan portfolio across all categories was $1.27 billion at the end of 2001.[26]

Sykes Enterprises Inc. is a company that routinely expects the communities in which it locates to subsidize its capital and land costs. A Bismarck Tribune story on July 12, 1998, quoted Robin Smith, Sykes' vice president of corporate communications, as saying, "Every one of our locations is a result of some incentive plan . . . If a community is inviting Sykes to build a call center, they are expected to deed the land for two call centers to us, and give incentives of at least $2.5 million."

Sykes operates call centers in the U.S. and abroad that handle customer service and technical support. Sykes also offers consulting services on customer service management and order fulfillment services in Europe. As of December 31, 2001, Sykes operated about 40 customer support centers around the world with services in more than 30 languages; about half of the support centers were in the U.S., with the rest in Canada, Europe, China, Costa Rica, the Phillipines, South Africa, and Turkey.

In September 1995, Sykes received approval for incentives that included up to $2 million from the Bismarck Vision Fund, 18 acres of city-owned property near the airport, utility concessions, and a five-year property tax exemption. The following year the state granted Sykes a five-year exemption from corporate income taxes as well. Sykes' Bismarck call center was to provide 650 jobs when it reached capacity, at starting wages of $7.00-$7.50 per hour. At the time, the company was planning another call center in Minot and a second facility in Bismarck, a mirror image of the first. Bismarck offered another $2 million from the Vision Fund. Minot agreed to a $2.77 million subsidy package. Sykes was at the same time expanding its overseas call center operations.

Also in 1996, Sykes carried out its initial public offering of stock, after which John Sykes was added to the Forbes 400 list of the country's richest people, with a net worth of $520 million.

Sykes continued to build new call centers, each of which seemed to follow a standard design that included a full-capacity workforce of about 650. A July 12, 1998 Bismarck Tribune story reported that seeking subsidies in these projects was Sykes' standard operating procedure and that Sykes had received government assistance in every one of its domestic call center locations. The article said that in Sykes' most recent deal, Manhattan, Kansas had given Sykes an incentive package, land, and tax breaks worth a total of about $4.5 million.

That summer Bismarck offered Sykes $2.5 million in subsidies, plus land and improvements, to build a third call center. The vote to approve the package was a narrow 3-2, however, after a number of taxpayers spoke in opposition during an hour of testimony before the city commission on July 15, 1998. Bismarck mayor Bill Sorenson announced the following week that Sykes had pulled out, citing the criticism. Sorenson said he had received a call at home from Dave Reule, vice president of Sykes Realty. "He said John Sykes felt there was some criticism of him personally, that it wasn't worth it for them to take the corporate hits for this," Sorenson told the Bismarck Tribune.[27]

The company instead built new centers in Kentucky, Oregon, and Nebraska while also spending $46 million in stock to buy call center companies in Canada and Germany. The city of Scottsbluff, Nebraska agreed to spend $800,000 in public funds on construction and infrastructure costs for the center there.

In January of 2000 Sykes suffered a drop in its stock price after a low earnings warning, which prompted shareholder lawsuits and a change in management as Sykes brought in an outside CFO to restore investor confidence and made President and COO David Grimes the new CEO. In October 2000, Sykes had to restate revenues and earnings for two years because of what it called accounting errors. The following month John Sykes resumed his role as CEO after Grimes resigned from the company.

In December 2000, Sykes closed a small call center in Tampa, and the following month it shut down a computer order fulfillment business and a software translation operation. In January 2002 the company announced it would close a call center in Greeley, Colorado and one of its call centers in Bismarck. One of Sykes' European fulfillment/ distribution sites was also slated to be shut down.

Initial reports said no jobs would be eliminated in Bismarck, but in April 2002, Sykes responded to the loss of a key contract with Gateway Computer by announcing that there would be substantial layoffs in Bismarck and at other Sykes call centers. Sykes lost the Gateway contract to Service Zone, a company founded by a former Sykes employee, which had been frequently underbidding Sykes. Service Zone also sought subsidies from local governments but fewer than what Sykes demanded.

In late May, Sykes notified Bismarck officials that 316 jobs would be eliminated in the city. In July, a shareholder lawsuit was filed against Sykes directors, officers, and accountants, charging that some of the individuals benefited from insider selling and that all of them breached fiduciary duties and mismanaged the company.[28]

Sykes recently announced that it may be closing another facility that had been built with subsidies. On October 10, 2002, the Minneapolis Star Tribune reported that Sykes had informed the mayor of Virginia, Minnesota, that the company might close its call center in the Virginia-Eveleth Progress Park in December if it can't find a major new customer. The story quoted Mayor Carolyn Gentilini as stating that the cities of Virginia and Eveleth, along with the Iron Range Resources Rehabilitation

Agency, had granted the Sykes facility $2 million and 22 acres, with no provisions requiring Sykes to return the assistance if the plant closed. Gentilini said, "That I'm sure was a mistake, but we've been frantically trying to diversify our economy here." The 42,000 square-foot call center, which was built to employ more than 400 people at full capacity, would be vacated indefinitely. Hourly wages there typically range from $7.85 to $10.00. The story noted that Sykes had recently added new call centers in the Philippines and India, but said that Sykes' director of investor relations Kristin Wiemer had told the Associated Press that the Eveleth Center's possible closing was due to the loss of a major Minnesota-based client and "is not related to those expansions."

Tax Incentive Programs

The Office of State Tax Commissioner administers a variety of tax incentive programs, including a property tax exemption for new and expanding businesses and various sales and use tax and income tax exemptions. According to Tax Commissioner Rick Clayburgh, the sales and use tax and income tax "have specific confidentiality provisions that prohibit the disclosure of specific taxpayer information, and [even] prohibit disclosure of whether a return has been filed."[29] There is one exception—the New & Expanding Business exemption is not considered confidential, and information that applicants file with the State Board of Equalization in order to claim the exemption is considered an open record. Mr. Clayburgh provided names of recipients of this exemption in 2001 and their projected job and wage levels. We summarize this information below under "New & Expanding Business Income Tax Exemption."

For all other programs, in response to our requests for information about how many jobs each recipient business created, wage levels of the jobs and whether they have health care and other benefits, and monitoring of how well businesses met their goals, Mr. Clayburgh explained, "The statutes that created these programs did not grant the Office of State Tax Commissioner the authority to request this specific information from the taxpayer. Most of these statutes only allow us to provide the mechanisms for the taxpayers to claim the credits. *You may be interested to know that during various Legislative Sessions, bills have been introduced to allow the gathering of the specific data from [the] recipient taxpayer. To date all such bills have been defeated.* [Emphasis added.] A few of the programs require investment information to be furnished to this office. This is confidential information and cannot be disclosed."[30]

Investment Tax Credits

Performance Requirements

Investment tax credits are available for investing in qualified North Dakota venture capital corporations; investing in the North Dakota Small Business Investment Company; investing in a certified nonprofit development corporation by buying a membership, paying dues, or making a contribution; investing seed capital in a business certified by the Department of Commerce

Division of Economic Development and Finance; or investing in an agricultural processing facility certified by the Department of Commerce Division of Economic Development and Finance. Each of these programs has limits on the amount of the credit and some have limits on whether nonresidents can claim them.

Job Standards

None of these investment tax credits involves specific job standards of any kind.

Amounts Spent

The Office of State Tax Commissioner provided amounts allowable since each of the credits was created.[31] The venture capital corporation investment credit had a total allowable credit from 1987-1991 of $593,280. The small business investment company investment tax credit had a total allowable credit from 1994-1997 of $1,231,500. The other three credits report "no activity to date" as of January 24, 2002.

Renaissance Zones

Performance Requirements

Credits against income tax are available for the following activities in a North Dakota renaissance zone: purchasing or rehabilitating a single-family residence, investing in the preservation or renovation of historic property, or investing in a renaissance fund organization. Exemptions from taxable income are available for businesses or investors that purchase, lease, or rehabilitate property in a renaissance zone; under certain conditions an individual business owner in a city under 2500 in population can take a credit rather than an exemption.

Job Standards

The renaissance zone programs do not involve any sort of job standards.

Amounts Spent

The single-family residence credit had "no activity to date" as of January 24, 2002. The historic property preservation or renovation credit activity was "too small to report (due to confidentiality concerns)." The renaissance fund organization investment credit had a total of eight investors with a total allowable credit of $290,000 in 2001, but the amount of actual credit claimed was not reported. No 2001 information was reported for the business or investment income exemption, but in 2000 six returns claimed a total of $3,901 in exemptions.[32]

New & Expanding Business Income Tax Exemption

Performance Requirements

A new or expanding North Dakota primary sector or tourism business can receive a corporate income tax exemption for up to five years, covering all the income from the qualifying project. "Primary sector business" means "an enterprise that creates wealth by using knowledge or labor to add value to a product, process, or service; "tourism" means "all tourism related business and activities."[33] Project operators apply to the State Board of Equalization for the exemption, and the information on that application is an open record. Businesses are ineligible for this exemption if they have received tax increment financing exemptions, have delinquent tax liens, or the exemption would foster unfair competition or endanger existing business.

Job Standards

While there are no specific job standards involved in this program, the applicants estimate to the State Board of Equalization their projected number of jobs created and the average wage per hour of those jobs. Ten businesses received this exemption in 2001. Their number of projected new jobs ranged from five to 30; the total for all ten businesses was 140 new full-time jobs and seven new part-time jobs. Estimated average wages ranged from $6.00 per hour (the seven part-time jobs) to $21.37 per hour (27 jobs).[34] The actual number of new jobs and their wage levels are "unknown."

Amounts Spent

The Office of Tax Commissioner did not provide the dollar amount of 2001 exemptions. However, it did report that as of December 31, 2001, a total of 294 exemptions had been approved, and that in 1998, 30 corporations exempted a total of $6,425,545 in income, in 1999, 20 corporations exempted a total of $10,901,025, and in 2000, 16 corporations exempted a total of $1,674,544.[35] Because these are exemptions from income rather than credits against tax, the actual lost tax revenue is much smaller than the amount of the exemptions. The Office of Tax Commissioner reports that the tax lost "is less than 10% of the amount of the exemption."[36]

Other income tax deductions, exemptions, and credits

Performance Requirements

Other "miscellaneous tax incentives" include tax deductions for selling or leasing to a beginning farmer or beginning businessperson, an exemption for gains from selling stock in certain corporations that relocate to North Dakota, a credit for corporate expenses on research conducted in North Dakota, a credit for certain manufacturing-related corporations doing business in North Dakota for the first time (1% of wages and salaries paid during each of the first three years and 0.5% of wages and salaries paid for the fourth and fifth years), and a job training assistance program in which the training is partially or entirely paid for by income tax withheld from the new employees.

Job Standards

None of these miscellaneous tax incentives involves specific job creation, retention, or quality standards.

Amounts Spent

The beginning farmer and beginning businessperson deductions have had "minimal use" and amounts are not reported for them. The relocated corporation exemption has had "no activity to date" as of January 24, 2002. The Office of Tax Commissioner did not report any 2001 information about the research expense credit, but in 1998, six corporations claimed $557,703 of this credit, in 1999, six corporations claimed $402,440 of this credit, and in 2000, fewer than five corporations claimed the credit and the amount was not reported. The Office of Tax Commissioner does not report statistics about the wage and salary credit "due to confidentiality." The job training assistance program was used by 66 companies from its inception in 1993 through December 31, 2001; they received a total of $4,784,695.[37]

Sales and Use Tax Exemptions

Performance Requirements

Businesses can receive exemptions from sales and use tax for materials used to construct an agricultural processing facility, for equipment and materials used in constructing a power plant, for equipment and materials used in constructing wind-powered electrical generating facilities, for computer and telecommunications equipment required by a primary sector business, or for new or expanding businesses' machinery and equipment used primarily for manufacturing or agricultural processing or solely for recycling.

Job Standards

The manufacturing/ag processing/recycling exemption requires that the expansion must increase production volume, employment, or the types of products that can be manufactured or processed. Except for this vague requirement, none of these programs involve specific job standards.

Amounts Spent

The Office of Tax Commissioner reports that most of the requests for these exemptions involve the manufacturing machinery and equipment exemption, and that "1,588 requests for a total of $66,154,193 have been granted for manufacturing and agricultural commodity processing facilities between July 1, 1989 and June 30, 2001."[38] The fiscal year 2001 portion of that total was $7,365,479.[39] The recycling exemption is less frequently requested and amounted to a total of $210,548 from July 1, 1993 to June 30, 2001. Figures for the other exemptions were not reported.[40]

Property Tax Exemptions

Performance Requirements

New or expanding businesses in North Dakota can be exempted from property tax for up to five years. Buildings and structures qualify for the exemption, but not land. Projects are not eligible if they have received a tax exemption under tax increment financing, or if the exemption would foster unfair competition or endanger existing business. Agricultural processors and projects located on property leased from a government entity can obtain extensions for an additional five years.

Job Standards
The property tax exemption program does not involve any specific job standards.

Amounts Spent
The Office of State Tax Commissioner reports the number of exemptions but not the amounts. From the program's enactment in 1969 to January 24, 2002, the number of projects that had received property tax exemptions was 1,104.[41]

NDC Holdings, Inc., doing business as Noble Games, was founded in 1993 in Oklahoma and moved to North Dakota in 1995, when the company sought subsidies from the Bismarck Vision Fund. The company proposed to open a manufacturing facility in a former bowling alley in Hazen, North Dakota, for which the community of Hazen assembled a package of subsidies including:

- A $25,000 loan from the Mandan Growth Fund
- A seven-year property tax exemption plus three years of property tax abatements (the exemption is reduced by 25% each successive year)
- Funding from the Lewis and Clark Regional Development Council
- A loan, building, and land from Hazen Community Development
- A loan from the Minot MAGIC Fund

The company also obtained a five-year, 100% corporate tax exemption from the state Board of Equalization.[42]

In 1998 the company made a $3 million stock offering, with shares sold in North Dakota and six other states. At that time the company expanded from board games to home furnishings and launched a web sales operation.[43]

In 2000 the company then received $880,000 in assistance from the city of Jamestown and Stutsman County to move its headquarters from

Bismarck to Jamestown. $680,000 of this assistance was a purchase of preferred stock by the Jamestown-Stutsman Development Corporation, to be repaid over 7 years at 5% interest, with the first two years deferred. The other $200,000 was a grant for relocation costs and expenses. 80% ($704,000) of the assistance came from the city of Jamestown with the other 20% ($176,000) coming from Stutsman County.[44]

The Associated Press reported in October of 2001 that a venture strategy company called NRG was overseeing the restructuring of Noble Games.

Noble Games is not currently in production in Jamestown. The company plans to be operating by November, 2002.[45]

Regional and Locally Funded Programs

The North Dakota Legislature has provided several ways that regions and localities can raise funds for economic development, and has provided for the chartering of non-profit development corporations to administer them. Among these are 8 regional planning councils and at least 50 local economic development corporations (EDCs) and job development authorities (JDAs).[46] As was mentioned above, a community can fund its EDC by selling memberships, for which the state will give a tax deduction to the buyers. Communities can also vote for a local sales tax of up to 1%, and dedicate some or all of the proceeds to economic development. Cities and counties may also impose a mill levy (property tax) for job development.[47]

The Legislature did not provide a great deal of guidance about performance requirements for recipients of these funds. The one requirement the statute does make is that for a membership or contribution to be deductible, the EDC receiving it must intend to assist primary sector businesses.[48] But EDCs may package funding from multiple sources, not just memberships, and each EDC sets its own criteria for whom it will fund and how. One good source of information about these criteria is the "planning and development" section of the Marketplace of Ideas web site, www.marketplaceofideas.com/directory/planning. This section has a page for each of the eight regional planning and development councils describing the services available, the eligible applicants, the geographic area served, the sources of funding, and the persons to contact. Some of them also contain links to local EDCs within the region. The regional councils typically offer free technical assistance and a revolving loan fund or a grant program that requires the borrower to have other sources of capital. Regional councils can combine state and local funding with federal sources of funding such as HUD Community Development Block Grant monies.

Seeking information about the performance requirements of and amounts spent by local EDCs and JDAs, we mailed an Open Records[49] request to 47 of them, whose addresses we obtained from the web site of the Greater North Dakota Association (GNDA), the state's chamber of commerce.[50] As of this writing six weeks later, while responses are still trickling in, the results do not reveal great enthusiasm for openness to public scrutiny. Eight communities responded by letter, one by phone, and one by phone followed up with a letter. One letter was returned because the addressee had left no forwarding address. The remaining 36 communities (76% of the total) have not responded. Of the ten communities that did respond, four (9% of the total) gave us at least some of the information we requested, while the other six gave either various explanations of why the information was unavailable or promises to supply the information at a later date.

Regional Planning and Development Councils

Performance Requirements

Each of the eight regional councils sets it own requirements for its grants or loans; a quick summary of them can be found on the web at www.marketplaceofideas.com/directory/planning. These typically include creditworthiness standards, restrictions on what the proceeds may be used for, and documentation requirements such as a business plan. At least one region requires that the applicant be unable to meet its capital needs entirely through other sources. Another requires a community match, either in cash or in "other incentives."

Job Standards

The Souris Basin Planning Council requires that borrowers from its revolving loan fund be "new or expanding primary sector businesses resulting in job creation and/or retention," and that "51% of jobs created/retained should benefit low to moderate income persons." The Lewis and Clark Regional Development Corporation requires that borrowers from its CAPITAL and CAPITAL II funds "must create or retain jobs" and that borrowers from its CDLF Fund use the funds for "infrastructure that support business for low income job creation."

Amounts Spent

Amounts spent by the regional councils are not reported on the Marketplace of Ideas site. The site's intended audience is entrepreneurs seeking resources, so its focus is on what is available and how to apply.

Local Economic Development Corporations (EDCs) and Job Development Authorities (JDAs)

Performance Requirements

Two of the communities disclosed their performance requirements to us. One has a set of specific "Loan Program Guidelines."[51] These state that eligible businesses include but are not limited to manufacturing, processing, service industries, and retail sales; that loan proceeds may be used to establish a new business, purchase an existing one, provide working capital, or finance real estate, equipment, or construction costs; and that the EDC "will require a 15% tangible balance sheet equity position on most projects."

The other local EDC has a revolving loan fund of $4,152.50, raised entirely by sales of memberships and by loan interest. The funds are repeatedly loaned to local businesses "to keep them in operation." From 1986 through 1997, these funds were successively loaned to a service station, a hardware store, a funeral home, three caf s, and a pr oject to purchase caf equipment for a bar. All but one recipient repaid their loans, but all of them "have since closed" and the EDC "has not done much in the past two years because we have had no projects on which to work." The funds remain in the EDC's bank account, awaiting an opportunity.

Job Standards

None of the responding local EDCs have any specific job quality standards.

Amounts Spent

The EDC with the specific loan guidelines did not do any lending in 2001, the year for which we requested information, and did not volunteer any information about other years. The EDC with the revolving loan fund typically loaned $4,000 each time, although three of its recipients borrowed less; it did not do any lending in 2001. Another EDC that has a revolving loan fund gave us a list of its nine borrowers in 2001, and estimated the interest savings that each had received from borrowing from the EDC at 0% interest instead of from conventional sources at a market rate of 7%; the total "incentive amount" this community estimated for 2001 in this fashion was $9,185, which suggests that the total amount loaned may have been about $131,220. One community's JDA provided us the minutes of its monthly board meetings, which reflected that the JDA made $55,000 in grants and loans in 2001.

News accounts of major deals suggest that larger communities are granting subsidies in much larger amounts; however, only one such EDC responded to our survey. That was the Bismarck-Mandan Development Association, which described its role as "serv[ing] as a facilitator in identifying growth opportunities . . . not a funding agency," and stated that therefore the information we requested "is not available . . ." from the BMDA.[52]

Coventry Health Care Inc. is a publicly traded managed health care company with approximately 1.84 million members under health plans Coventry Health Care, Coventry Health and Life, Carelink Health Plans, Group Health Plan, HealthAmerica, HealthAssurance, HealthCare USA, Southern Health, and WellPath. The company operates in 14 states, primarily in the Mid-Atlantic, Midwest and Southeast regions, generally in small to mid-sized metropolitan areas. It has grown rapidly through a series of acquisitions and ranks # 487 among the Fortune 500 companies.

In May 2002 Harvey DeMovick, Coventry's senior vice president for customer service operations, announced that the company expected to hire about 400 workers over the next three years, at jobs with a minimum starting pay of $9.50 per hour at its service center in the Bismarck-Mandan area. The center was scheduled to open in July 2002 and was expected to hire about 150 workers the first year.

A May 2002 Associated Press article reported that the committee that oversees Bismarck's city sales-tax-supported Vision Fund had recommended that the City Commission approve $1.2 million for Coventry. The Vision Fund also would invest $250,000 in Coventry stock. According to the Bismarck-Mandan Development Association, with workforce training assistance from Job Service of North Dakota, the University of Mary and Bismarck State College, and possible property and state income tax breaks, the financial package could total $2.5 million. Another May 2002 article in the Bismarck Tribune reported that the chairman of the Vision Fund and the president of the Bismarck-Mandan Development Association confirmed that the financial package included $1.2 million in employment incentives, $250,000 in stocks, $750,000 for workforce training and a five-year exemption from corporate income and property taxes.[53]

Since the announcement, local residents have had many questions about the company's social responsibility record. Criticisms about the company include the fact that the starting pay of $9.50 an hour was not a living wage. In an August 8 letter to the editor of the Bismarck Tribune, a medical student at the University of North Dakota wrote that to cover basic living expenses in the area required a wage of at least $17 an hour, almost double what some employers such as Coventry were paying. The writer asked why politicians were spending taxpayer money on companies whose jobs do not pay a living wage to most people in the area.

The Vision Fund has defended its award of incentives to Coventry. In a May 20 letter to the editor of the Bismarck Tribune, Merv Heinert, chairman of the Vision Fund, wrote that the proposed incentives to Coventry were contingent on the 400 jobs being located in Bismarck. He said those jobs would probably not all be filled by existing Bismarck residents, but neither would they be filled by people that Coventry would transfer from other places to Bismarck. He said he expected the jobs to be filled by local graduates and other western North Dakota schools, and perhaps some people returning to North Dakota who had previously left the state to find work. Heinert's letter said the jobs would pay a minimum of $9.50 per hour plus benefits, which would include health, dental, vision, short-term disability, long-term disability and a 401(k) plan with an employer match. He said the company expected to pay $40,000 or more per year to about 60 employees, and that the center's annual payroll could reach $10 million when it was fully staffed. He said the company was required to certify its payroll quarterly to North Dakota Job Service to collect its incentive payments, and that at the end of five years, if Coventry had reduced its employment below the incentive levels, it would have to pay the incentives back to the Vision Fund. He said Coventry's lease for the service center building was structured so that the company would pay for all the costs of improving and owning the building over the life of the lease, but would not gain title to the real estate.[54]

Coventry has been subject to a number of fines, penalties and lawsuits. In July 2002, the Pennsylvania Dept. of Insurance fined Coventry subsidiary HealthAmerica $70,000 for late claims payments and for improperly denying mental health claims on the basis that they were incorrectly submitted directly to the company instead of being submitted to a third party administrator.[55] In July 2002, the Louisiana State Medical Society announced that it would join a federal class-action suit by several states' medical societies against a number of managed care companies, including Coventry, alleging that the health plans routinely save money by manipulating medical bills, that insurers violate state laws by frequently not paying providers on time, and that they don't provide fee schedules as required by contracts. The medical societies allege insurance companies are conspiring in mail and wire fraud by systematically avoiding their obligations to pay providers.[56]

In May 2002, Georgia Insurance Commissioner John Oxendine fined Coventry Healthcare of Georgia $10,000 for violating the state's prompt-payment law. The law requires companies to pay claims within 15 working days of receiving them or notify the provider or policyholder why a claim can't be paid within that time.[57]

In March 2002, the company said that it could face fraud claims after a U.S. government audit questioned $31.1 million in company fees. According to an SEC filing by the company, Coventry said that it may have overcharged the Federal Employees Health Benefits Program from 1993 through 1999 because it allegedly didn't offer discounts to the federal health program that were provided to other customers.

In February 2001, state lawmakers in North Carolina, angered by Coventry subsidiary WellPath Select's plan to drop HMO coverage for nearly 11,000 state employees, retirees and their families, introduced legislation to block the move. State officials charged that WellPath was violating prevailing laws by "cherry-picking" members and failing to give 180 days' notice before dropping coverage. The bill in the General Assembly would give the Department of Insurance more authority to stop WellPath from dropping members if the company couldn't settle its dispute with the state employees' health plan. Specifically, the proposed law would give the Department of Insurance the power to issue a cease and desist order if an HMO doesn't comply with existing laws.[58]

In April 2000 the company was fined $50,000 by the Maryland Insurance Administration for not supplying updated provider directories.[59]

The company has been involved in a number of other lawsuits with other HMOs and providers over pricing and antitrust issues. In September 2000 Bayhealth Medical Center, a Delaware hospital, threatened to terminate its contract with Coventry after a dispute over late payments. Bayhealth claimed that its records indicated that for months Coventry owed the health-care provider between $1 million and $5 million in a rolling balance of late, unpaid claims.[60]

Public Policy Recommendations

The most striking feature of the performance requirements of North Dakota's economic development programs is how similar they are to those of conventional lending institutions. They seem designed to insure that any loan funds will be repaid or that there will be adequate collateral or guarantees if there is a default.

While that is certainly a responsible requirement, the public is no ordinary investor. Taxpayers have larger goals than just repayment. If taxpayers want to purchase a stake in a new venture, they can do so as individuals rather than with their tax dollars. Yet the requirements of the programs rarely state what the public's larger goals are or measure how they will be achieved. Consider the MATCH program at the BND, targeted at businesses that surely don't need the help, those that are "very strong financially" and carry an "A" rating or better. One might expect such businesses could create better or more stable employment in North Dakota communities. However, the MATCH program doesn't require or attempt to measure such a result; its requirements are all designed to verify creditworthiness.

North Dakota measures mostly inputs—dollars invested and projects assisted. If North Dakotans want to measure outcomes, we suggest the following would be useful:

- Job creation—programs should define the number of jobs to be created.
- Job quality standards—programs should define the wage and benefit status of the jobs created.
- Public participation—the public should be able to participate in setting standards, as they do in Minnesota, where communities must hold public hearings about wage goals before granting subsidies.
- Disclosure—the public should be able to obtain basic information about subsidy recipients, as they can in Minnesota, where each year subsidy recipients file reports that the Minnesota Department of Trade and Economic Development posts on the web.
- Clawbacks—programs should verify that standards are being met and have a money-back guarantee built into the agreement that allows the community to get its money back if a recipient falls short of its promises or moves away within a few years.

Without safeguards such as these, North Dakotans will be leaving themselves vulnerable to more "spotlight stories" in the future.

Endnotes

[1] From a web page of highlights from Dr. Huenneke's participation in a Minot State University economic development panel discussion on September 26, 2002, found at http://warp6.cs.misu.nodak.edu/econclub/panel2.html.
[2] Letter from Mr. Dean Reese, CEO, North Dakota Development Fund, dated September 25, 2002, in response to our Open Records request; North Dakota Development Fund 2000-2001 Report, available at www.growingnd.com.
[3] North Dakota Century Code ◊ 10-30.5-01(4).
[4] North Dakota Development Fund 2000-2001 Report, p. 23.
[5] Reese letter, op cit.
[6] North Dakota Development Fund 2000-2001 Report, p. 5.
[7] Reese letter, op cit.
[8] North Dakota Development Fund 2000-2001 Report, p. 5.
[9] Ibid., p. 6.
[10] Reese letter, op cit., citing NDCC ◊ 10-30.5-07(1).
[11] Reese letter, op cit.; North Dakota Development Fund 2000-2001 Report, pp. 8-17.; NDCC ◊ 10-30.5-09.
[12] Reese letter, op cit.
[13] John Schneider from APUC did respond to our request with a voicemail he left for researcher Anne Nolan. However, as of this writing we had not yet concluded our "telephone tag."
[14] All of the information in this section is from the APUC pages in the ED&F Services section of www.growingnd.com, or from NDCC 04-14.1, unless otherwise noted.
[15] Minot wage information is from "Facts on Wages in Ward County," from materials prepared by Dr. Steve Huenneke, Minot State University, for the Economic Development Panel Discussion at Minot State University on September 26, 2002.
[16] All of the information in this section is from Lending Services section of www.banknd.com, or from the Bank of North Dakota 2001 Annual Report, unless otherwise noted.
[17] Bank of North Dakota 2001 Annual Report, p. 14.
[18] Ibid., p. 5.
[19] The first four are listed on the commercial loans page of the Lending Services section of the BND website, www.banknd.com/ls/ls_commercial1.jsp; the Ag PACE program is listed on the farm loans page of the same section, www.banknd.com/ls/ls_farmloan1.jsp.
[20] The programs included in this report are those that appear in the Lending Services section of the BND website under either the "Business Start-Up" link, www.banknd.com/ls/ls_startup1.jsp, or the "Economic Development Incentive Programs" link, www.banknd.com/ls/ls_edprograms1.jsp.
[21] Bank of North Dakota 2001 Annual Report, p. 5.
[22] The Annual Report does not detail which individual programs are commercial and which are farm lending. This categorization comes from www.banknd.com/ls/ls_commercial1.jsp and www.banknd.com/ls/ls_farmloan1.jsp.
[23] Bank of North Dakota 2001 Annual Report, p. 5.
[24] Ibid., p. 22.
[25] Ibid., p. 5.
[26] Ibid., pp.4-5.
[27] "City says yes again to Sykes," Bismarck Tribune, July 15, 1998; "Sykes calls off Bismarck deal," Bismarck Tribune, July 24, 1998.
[28] "Sykes officials, accountants named in shareholder suit," Jerome Stockfisch, Tampa Tribune, July 4, 2002.
[29] Letter from Mr. Rick Clayburgh, Tax Commissioner, State of North Dakota dated September 20, 2002, in response to our Open Records request.
[30] Clayburgh letter, op cit.
[31] Included as an attachment to Mr. Clayburgh's letter was a report previously submitted to the North Dakota legislature, "Office of State Tax Commissioner, Report to the Interim Commerce Committee, January 24, 2002, Tax Incentive Programs" ("Tax Incentive Programs Report").
[32] Ibid., pp. 3-4.
[33] Ibid., p. 6.
[34] Spreadsheet provided as an attachment to Clayburgh letter, September 20, 2002.
[35] Tax Incentive Programs Report, p. 6.
[36] Ibid., p. 6.
[37] Ibid., pp. 6-7.
[38] Ibid., pp. 8-9.
[39] Table provided as an attachment to Clayburgh letter, September 20, 2002.

[40] Tax Incentive Programs Report, pp. 8-9.
[41] Ibid., p. 10.
[42] "Hazen lets the games begin," Bismarck Tribune, October 26, 1995; "Region roundup: Hazen," Bismarck Tribune, November 6, 1995; "Game company gets tax reprieve," Bismarck Tribune, February 2, 1996; "Mandan says no to measure," Bismarck Tribune, April 3, 1996.
[43] "Investors go for Noble Games stock," Bismarck Tribune, March 13, 1998.
[44] Telephone interview by North Dakota Progressive Coalition researcher Gail Erickson with Mr. Jeff Fuchs, City Administrator, City of Jamestown, October 24, 2002; telephone interview by Ms. Erickson with Mr. Larry Olson, Stutsman County Auditor, October 24, 2002.
[45] Ibid., Olson interview.
[46] All eight regional councils and some of the local EDAs and JDAs are listed at www.marketplaceofideas.com/directory/planning; a list of many regional and local development corporations is available at www.gnda.com/resource_guide/resources.asp?ID=3.
[47] Telephone interview with Mr. Cory Finneman, Vice President of Research, Economic Development and Finance Division, North Dakota Department of Commerce, August 8, 2002. Mr. Finneman noted that more than 80 communities in North Dakota use the sales tax for their economic development efforts, including Bismarck, Grand Forks, and Minot.
[48] NDCC § 10-33-124.
[49] Open Records and Meetings Laws, NDCC §§ 44-04-17.1 through 44-04-21.3.
[50] http://www.gnda.com/resource_guide/resources.asp?ID=3.
[51] We appreciate the cooperation of the staffs of the local EDCs and JDAs who responded to our request and would like to acknowledge their responses. They were: a letter and enclosures from Mr. Richard M. Peterson, Minnewaukan Area Development Corporation, September 5, 2002; a letter from Ms. Cori Otto, WAEDA Director, Washburn Area Economic Development Association, September 5, 2002; a letter from Ms. June Enget, Powers Lake Economic Development Committee, September 6,2002; a letter from Mr. Russ Staiger, Bismarck-Mandan Development Association, September 9, 2002; a phone call from Mr. Duke Rosendahl, Hazen Community Development, September 10, 2002; a letter and enclosure from Mr. Bruce A. Melby, Larimore Economic Development Corporation, September 12, 2002; a phone call and letter from Mr. David S. Olson, Divide County JDA, Crosby, September 16, 2002; a letter from Ms. Becky J. Meidinger, Coordinator, Carrington Development Organization, September 24, 2002; a letter with enclosures from Ms. Carol Goodman, Executive Director, Cavalier County Job Development Authority, Langdon, North Dakota, October 9, 2002; and a letter and enclosures from Mr. Gaylon Baker, Stark Development Corporation, Dickinson, North Dakota, October 15, 2002.
[52] Letter from Mr. Russ Staiger, Bismarck-Mandan Development Association, September 9, 2002, sent in response to our Open Records request. Mr. Staiger stated, "In direct response to your request, I must tell you the information you requested is not available from the Bismarck-Mandan Development Association (BMDA). For your information, the BMDA's function is to serve as a facilitator in identifying growth opportunities, and then presenting them to the various entities (both public and private) who may provide financial and/or business incentives such as various tax exemptions. We are not a funding agency. The BMDA does not set the standards by which the various incentives are provided, nor do we monitor the respective projects once they have been granted. This responsibility is left to the particular public or private participating entities granting the incentives." Mr. Steiger's letter did not mention any specific entities, nor did it provide any information about the Bismarck Vision Fund or the Mandan Growth Fund.
[53] "Coventry confirms Bismarck plans," Bismarck Tribune, May 10, 2002; "Fortune 500 company to open center in Bismarck," Associated Press State & Local Wire, May 9, 2002.
[54] Letters to the editor, Marv Heinert, "Coventry committed to Bismarck," Bismarck Tribune, May 20, 2002.
[55] "The Pennsylvania Department of Insurance last month fined two HMOs a total of $100,000 for violations of the state's prompt-pay law," Managed Care Week, No. 25, Vol.12, Pg. 6, July 22,2002.
[56] "Medical society joining lawsuits," The Advocate (Baton Rouge, Louisiana), July 17, 2002; "Insurance regulators seek help from courts," The Advocate, July 4, 2002.
[57] "Georgia fines more health plans for claims delays," BestWire, A.M. Best Company, Inc., May 30, 2002.
[58] "N.C. senator wants to block WellPath from dropping 11,000 members," BestWire, A.M. Best Company, Inc., February 26, 2001.
[59] "Md. Fines 11 HMOs, agent for violations; Companies agree to pay $1.7 million, correct problems; Insurance industry," The Baltimore Sun, April 27, 2000.
[60] "Slow pay cited in HMO, hospital dispute," The News Journal (Wilmington, Delaware), September 30, 2000.