

ENCOURAGING INVESTMENT IN AGRICULTURAL BUSINESS - BACKGROUND MEMORANDUM

Senate Concurrent Resolution No. 4041 (attached as an appendix) directs the Legislative Council to study potential tax incentives and regulatory relief that would encourage greater investment participation by North Dakota residents in agricultural business ownership. The sponsor of the resolution observed in standing committee testimony that North Dakotans invest huge sums of money outside the state and said it is his hope that the study will conceive incentives for those investments to be made within the state in businesses to produce quality agricultural products to mutually benefit investors and the agricultural economy.

There are several existing programs under state law to encourage investment in and development of agricultural businesses.

TAX EXEMPTIONS FOR NEW AND EXPANDED BUSINESS

Under North Dakota Century Code (NDCC) Chapter 40-57.1, a city or county may grant an exemption for up to 10 years for buildings and structures used in a project that produces or manufactures a product from agricultural commodities. In addition, payments in lieu of taxes in any amount may be allowed for any new or expanded business through the 20th year of project operations. This chapter also allows a qualifying project to obtain an exemption from state income tax for up to five years upon approval of the State Board of Equalization.

Although Chapter 40-57.1 provides property and income tax incentives to a business and not directly to investors, availability of these incentives can certainly be an indirect benefit to investors.

SEED CAPITAL INVESTMENT CREDIT

Under NDCC Chapter 57-38.5, an investor in a qualified business may be entitled to a seed capital investment tax credit against income tax liability but only against liability on the individual long-form return. The taxpayer may qualify for a credit of 30 percent of the amount invested in qualified businesses for investments by the taxpayer during the year of at least \$5,000 and not more than \$50,000. The taxpayer may not take more than 50 percent of the credit in a single taxable year and the credit is limited to not more than 50 percent of the taxpayer's tax liability. Unused credit may be carried forward for up to 15 taxable years. The aggregate amount of seed capital investment tax credits for all taxpayers in any taxable year is limited to \$250,000. A qualified business for purposes of the seed capital investment tax credit must have North Dakota residents as a majority of its

employees in the North Dakota principal office or satellite operation, have its principal office in this state, have a majority of its business activity performed in this state or have a significant operation in North Dakota, and have a majority of its ownership interests owned by one or more individuals for whom operation of the business is their full-time professional activity.

LOW-RISK INCENTIVE FUND

Under NDCC Chapter 26.1-50, an insurer or group of insurers may establish a corporation or limited liability company to operate the North Dakota low-risk incentive fund. The fund may make loans to low-risk businesses for primary sector business projects in this state. An insurer participating in a loan under this chapter is entitled to a credit against insurance premium tax liability equal to the difference between interest earned on the loan and the amount the insurer could have earned at 300 basis points more than a comparable treasury security rate. For the purposes of loans, a primary sector business is defined as a business that adds value to a product, process, or service which results in the creation of new wealth.

BANK OF NORTH DAKOTA

The Bank of North Dakota operates several programs that may be of assistance to farmers and agricultural businesses. The Ag PACE fund, PACE fund, and other Bank programs may be useful to development of agricultural business. A representative of the Bank of North Dakota has been invited to brief the committee on Bank programs.

DEPARTMENT OF ECONOMIC DEVELOPMENT AND FINANCE

The Department of Economic Development and Finance administers the North Dakota Development Fund, which is a means of providing capital for new or expanding business and administers the regional rural development revolving loan fund, which provides funding for primary sector business in rural areas of the state. The Agricultural Products Utilization Commission, a division of the Department of Economic Development and Finance, administers an agricultural prototype development program. A representative of the Department of Economic Development and Finance has been requested to brief the committee on programs of the department.

1999 LEGISLATION

Senate Bill No. 2425 established a livestock production loan program and provides for issuance of bonds by the Industrial Commission to fund the loan program. The Industrial Commission may delegate its authority to the Bank of North Dakota to administer the program. Loans may be made under the program to any individual or cooperative engaged in livestock production, including processing of livestock.

House Bill No. 1402 would have established an agricultural processing business investment income tax credit. The bill was defeated. The bill would have allowed an income tax credit for investments in a cooperative or limited liability company engaged in value-added processing and marketing of agricultural commodities, having an agricultural commodity processing facility in North Dakota, and having the

majority of its ownership interests owned by producers of unprocessed agricultural commodities.

House Bill No. 1413 would have allowed the seed capital investment credit on the short-form return. The bill was defeated.

SUGGESTED STUDY APPROACH

It will be necessary to identify viable methods of encouraging investments in North Dakota agricultural businesses. Existing programs then may be reviewed to determine whether they address identified needs and whether to augment or improve existing programs or create new programs to address the identified needs.

ATTACH:1

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

**SENATE CONCURRENT RESOLUTION NO. 4041
(Senators Wanzek, Tomac)
(Representatives Belter, Meyer, Nicholas)**

A concurrent resolution directing the Legislative Council to study potential tax incentives and regulatory relief that would encourage greater investment participation by North Dakota residents in agricultural business ownership.

WHEREAS, it is the intent of the Legislative Assembly that North Dakota becomes the trusted provider of the highest-quality food in the world with prosperous family farms, thriving rural communities, and world-class stewardship of resources and to significantly increase net farm income, improve the quality of rural life, and increase North Dakota's rural population; and

WHEREAS, the Legislative Assembly seeks to achieve these goals by making North Dakota agricultural products synonymous with high quality to dominate the premium markets, increasing value-added agricultural processing, diversifying and increasing the value of agricultural production, increasing farm and nonfarm cooperation that supports thriving rural communities and enhances our natural resources, and creating a political, regulatory, economic, trade, financial, and natural resource environment in which North Dakota producers can compete in the global marketplace;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council study potential tax incentives and regulatory relief that would encourage greater investment participation by North Dakota residents in agricultural business ownership; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly.

Filed March 16, 1999