

2009 SENATE FINANCE AND TAXATION

SB 2390

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2390

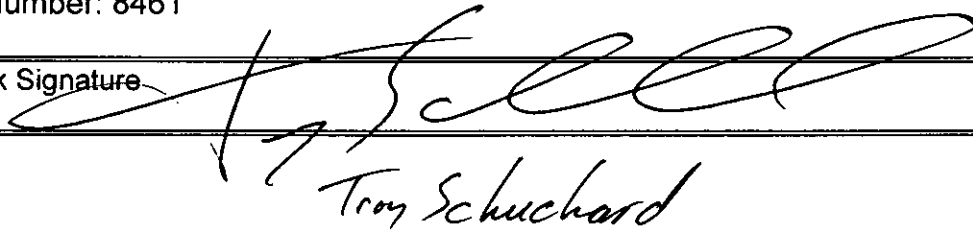
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/03/2009

Recorder Job Number: 8461

Committee Clerk Signature



Troy Schuchard

Minutes:

Chairman Cook: Opened hearing on SB 2390.

Senator Mac Schneider, District 42: See Attachment #1 for testimony as sponsor and in support of the bill.

4.26 **Senator Anderson:** So this is similar to tax increment financing (TIF)?

Senator Schneider: On steroids, yes.

Senator Tony Grendberg, District 41, Fargo: Explained reasons for supporting the bill and see Attachment #2 for testimony in support of the bill. This is modeled after Indiana. There are 7 or 8 park designations in Indiana and it has done well for them. I know there are concerns on the criteria listed in the bill, and we will need to think through them. I know there are some telecommunications issues in the bill. The state does not need to get involved.

12.09 **Chairman Cook:** Who do I ask about the mechanics of the bill?

Senator Grendberg: John Walsted crafted the bill so he would be the best.

Chairman Cook: fiscal note question?

Senator Grendberg:

13.05 **Vice Chairman Miller:** What is the advantage of clustering technological businesses?

Senator Grendberg: In Fargo's case there are not a lot of standalone buildings and the premise is about the old days of moving from state to state are over, we want to stimulate new ideas and ingenuity. These building are needed to hire people and grow.

15.35 **Senator Triplett:** Isn't it also the case that the things that would qualify as high-technology activity would require specialized buildings that might be expensive to retrofit.

Senator Grendberg: Yes, it is expensive.

Senator Hogue: You mentioned Indiana is ahead of ND and most other states; do you have anywhere we can look at where Indiana's project is at?

Senator Grendberg: Yes, we can get that to you.

Vice Chairman Miller: Why put it in one spot, why can't we move it around? Why create a particular "zone" or "park"?

Senator Grendberg: To have knowledge and technology in close proximity. It is an environment situation that has stimulated public-private sector growth.

18.05 **Senator Dotzenrod:** Would Microsoft Campus in Fargo be an example?

Senator Grendberg: That is a great question. The question is how many of these would be designated. The way the language is written that is yet to be determined.

19.30 **David K. Martin, President and CEO, Chamber of Commerce of Fargo Moorhead:**
See attachment #3 for testimony in support of the bill.

21.50 **Dennis Walaker, Mayor of Fargo:** See Attachment #4 for testimony in support of the bill. The goal is to keep our kids in North Dakota.

28.15 **Calvin Hullet, Bismarck/Mandan Chamber of Commerce:** Testified in a neutral capacity to this bill. The one thing we are aware of, we think there might be a fit into the Great Plains Center. Passed out a proposed amendment to the bill (attachment #6).

29.45 **Marsha Krotseng, Vice Chancellor for Strategic Planning, NDSU:** See Attachment

#5 for testimony in a neutral capacity on this bill.

34.45 **Chairman Cook:** Closed hearing on SB 2390.

2009 SENATE STANDING COMMITTEE MINUTES

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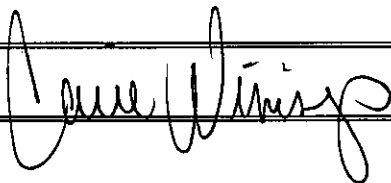
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/04/2009

Recorder Job Number: 8588

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SB 2390. Reviews fiscal impact and notes a few points on the fiscal note itself.

Senator Triplett: I just wanted to say that I do not like the bill with the form that it is in. During the testimony I recall many questions were posed on the bill, and I think that the sponsors on the bill need to address those concerns. I did mention those to Senator Grendberg.

Senator Hogue: I was OK with the bill. It does provide for incremental property tax revenues and the incremental increase is all that they can collect, but when you start talking about taking the income tax liability for anyone who works in that area, I just think that I am not comfortable with that.

Chairman Cook: TIF on steroids.

Vice Chairman Miller: I like the idea of spurring technology, but at some point it is important for any industry to contribute back to the tax base. I know that the workers do in there, but every worker does, so who do we give exemptions all the time.

Chairman Cook: Comment on a conversation with another person.

Senator Triplett: We need to do some work and answer the questions.

Chairman Cook: Closed discussion on SB 2390.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2390

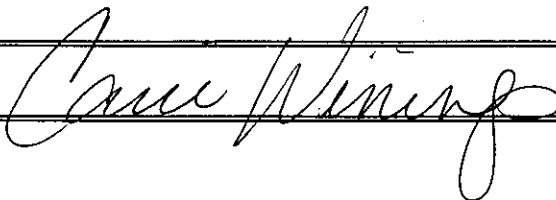
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/04/2009

Recorder Job Number: 8674

Committee Clerk Signature



Minutes:

Chairman Cook: Reopens discussion on SB 2390.

Senator Triplett: Until I hear answers to questions that were raised in previous testimony, I am not comfortable with this one.

Senator Triplett: Moved for a Do Not Pass.

Vice Chairman Miller: Seconded.

Chairman Cook: Discussion?

Senator Hogue: We are putting it on the prime sponsor to address our concerns and if they do, can it come back to us?

Chairman Cook: It might not be up to me until I sign it. When I sign it, it will go on the calendar and I believe I can ask for it back. I cannot guarantee that we will get it back. And I have to have a really good reason by somebody here.

Senator Dotzenrod: I assume this is a model bill, and on page 11 where it addresses income tax – it bothers me. Whose income are we talking about and where are they going to get that from?

Chairman Cook: If you look at the fiscal note, it is all the people that would work inside that area, and it would only be the income tax they paid on and above the income tax they paid before working in that area.

Senator Dotzenrod: I am not sure I can do that. I would like to see it made into something that can be used.

A Roll Call vote was taken: Yeas 6, Nays 0, Absent 1 (Senator Oehlke).

Senator Dotzenrod will carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2390

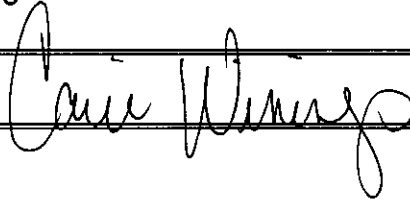
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/09/09

Recorder Job Number: 9015

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened hearing on SB 2390. The bill was referred back to committee for further consideration.

Senator Mac Schneider: See Attachments #1, #2, #3 for amendments proposed on the bill.

Discussion: A discussion followed between Chairman Cook and Senator Schneider

regarding whether the amendment really change the gist of the bill. There were still a lot of issues left unresolved from original concerns. An idea of studying it for a year was mentioned.

The sponsor of the bill felt it had been. Concerns over the tax department's position on this and how it would affect them. Senator Schneider felt that Indiana has been a good example to what could happen and that it is a way for companies to back themselves. There was debate over whether the \$5 million could be received by a company a second time if they changed their name etc. That question was not completely resolved.

Chairman Cook: Asked the committee if the amendments would change their minds.

Committee: The general idea was that it would not answer enough of the questions. Most were uncomfortable with passing the bill.

Senator Triplett: Suggests that it be turned into a study resolution because the problems cannot be fixed in a day and a half.

Chairman Cook: Ask the intern to draw up the study resolution.

Committee: Agreed.

Chairman Cook: Suspended discussion on SB 2390.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2390

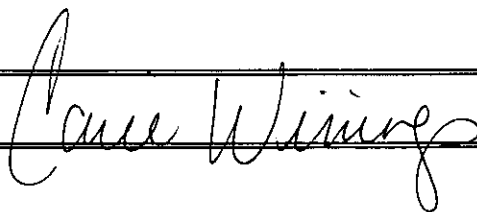
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/10/2009

Recorder Job Number: 9073

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SB 2390. The study resolution was passed out to review.

Senator Triplett: Said that spoke to sponsor of the bill and he said that he would prefer an up or down bill and that we kill the bill before we offer a study. With that **Moved to reconsider the bill** and put amendments .0102 on.

Senator Dotzenrod: Seconded the motion.

Chairman Cook: Discussion?

Senator Oehlke: This is a new venture and all of my questions have not been answered and I would not be adverse to a study and I think it would be a good thing.

Senator Triplett: Then you agree to reconsider.

Vice Chairman Miller: I have been doing research and I don't know how creative of an idea it really is, and I am not sure that Indiana is as successful it claims to be.

Chairman Cook: Right now the motion is to reconsider.

Senator Hogue: I agree with Senator Oehlke that a legislative council study might be the answer, but if the sponsor doesn't want it that who is going to study? I think we should vote against the motion to reconsider.

Senator Triplett: I think that it was implied commitment on behalf of the chair that if the sponsor brought back the amendments requested because of the deadline we voted Do Not Pass because of the deadline. I think we have an obligation to reconsider and put the amendments on. They put a lot of work into it over the weekend.

Chairman Cook: Further discussion?

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Motion Passed.

Senator Triplett: Moved amendments 90714.0102.

Senator Dotzenrod: Seconded.

Senator Dotzenrod: The sponsor would like for this bill to be heard on the floor and I would like to give him that opportunity.

Senator Triplett: I think that our job in committee is to make it as good as possible and I think the amendments answer many of the concerns we had.

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Senator Hogue: Moved a Do Not Pass as Amended.

Senator Oehlke: Seconded.

A Roll Call vote was taken: Yea 6, Nay 1, Absent 0.

Senator Cook will carry the bill.

FISCAL NOTE
Requested by Legislative Council
02/16/2009

Amendment to: Engrossed
 SB 2390

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.*

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Appropriations | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

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

| 2007-2009 Biennium | | | 2009-2011 Biennium | | | 2011-2013 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
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2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed Senate Bill No. 2390 provides for a Legislative Council study of the establishment and development of certified technology parks.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact relating to this bill.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

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|----------------------|------------------|-----------------------|---------------------|
| Name: | Allen H. Knudson | Agency: | Legislative Council |
| Phone Number: | 328-2916 | Date Prepared: | 02/16/2009 |

FISCAL NOTE
Requested by Legislative Council
02/11/2009

Amendment to: SB 2390

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.*

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

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

| 2007-2009 Biennium | | | 2009-2011 Biennium | | | 2011-2013 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
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2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2390 relates to the establishment and development of certified technology parks. All incremental taxes paid (over and above the base amount) within a certified technology park would be deposited into a certified technology park fund.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

We are uncertain how many political subdivisions will apply and qualify for a certified technology park as specified in the bill, as well as the potential growth in taxes paid that could be impacted by this bill. Therefore the fiscal impact is unknown. However, the fiscal impact is limited to only those taxes - including sales and use taxes, individual income and property taxes - above what is currently being paid by the companies and employees within a certified technology park. Also, the maximum fiscal impact of an individual certified technology park is limited to a total of \$5 million.

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.*

This bill, if a political subdivision were to apply and receive certification for a certified technology park, would impact state revenues in reduced sales and use taxes and income taxes. This bill would also impact political subdivision revenues in reduced property taxes. The fiscal impact is unknown as we are uncertain on how many political subdivisions will apply for a certified technology park and what the potential growth in taxes paid by tenants would be if a certified technology park were to be approved.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

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|----------------------|--------------|-----------------------|------------------------|
| Name: | Justin Dever | Agency: | Department of Commerce |
| Phone Number: | 328-7258 | Date Prepared: | 02/11/2009 |

FISCAL NOTE
Requested by Legislative Council
01/27/2009

Bill/Resolution No.: SB 2390

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.*

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

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

| 2007-2009 Biennium | | | 2009-2011 Biennium | | | 2011-2013 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2390 relates to the establishment and development of certified technology parks. All incremental taxes paid (over and above the base amount) within a certified technology park would be deposited into a certified technology park fund.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

We are uncertain how many political subdivisions will apply and qualify for a certified technology park as specified in the bill, as well as the potential growth in taxes paid that could be impacted by this bill. Therefore the fiscal impact is unknown. However, the fiscal impact is limited to only those taxes - including sales and use taxes, individual income and property taxes - above what is currently being paid by the companies and employees within a certified technology park. Also, the maximum fiscal impact of an individual certified technology park is limited to a total of \$5 million.

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.*

This bill, if a political subdivision were to apply and receive certification for a certified technology park, would impact state revenues in reduced sales and use taxes and income taxes. This bill would also impact political subdivision revenues in reduced property taxes. The fiscal impact is unknown as we are uncertain on how many political subdivisions will apply for a certified technology park and what the potential growth in taxes paid by tenants would be if a certified technology park were to be approved.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

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|----------------------|--------------|-----------------------|------------------------|
| Name: | Justin Dever | Agency: | Department of Commerce |
| Phone Number: | 701-328-7258 | Date Prepared: | 02/02/2009 |

Date: 02/04/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: 2390

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Senator Triplett

Seconded By

Senator Miller

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | ✓ | | Sen. Arden Anderson | ✓ | |
| Sen. Joe Miller - Vice Chairman | ✓ | | Sen. Jim Dotzenrod | ✓ | |
| Sen. David Hogue | ✓ | | Sen. Constance Triplett | ✓ | |
| Sen. Dave Oehlke | | | | | |
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Total (Yes)

6

No

0

Absent

1

Oehlke

Floor Assignment

Senator Dotzenrod

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

REPORT OF STANDING COMMITTEE

SB 2390: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2390 was placed on the Eleventh order on the calendar.

Date: 02/10/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. :

2390

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Move to Reconsider

Legislative Council Amendment Number _____

Action Taken

☐ Do Pass

☐ Do Not Pass

☐ Amended

Motion Made By Senator Triplett Seconded By Senator Dotzenrod

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-------------------------------------|--------------------------|-------------------------|-------------------------------------|--------------------------|
| Sen. Dwight Cook - Chairman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Sen. Arden Anderson | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Joe Miller - Vice Chairman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Sen. Jim Dotzenrod | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. David Hogue | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Sen. Constance Triplett | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Dave Oehlke | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | |
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Total: Yes 7 No 0

Absent 0

Floor Assignment _____

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2390

Page 2, line 2, replace "means one or more of" with "includes"

Page 2, line 26, remove "other than a pharmaceutical product that has"

Page 2, line 27, remove "therapeutic or diagnostic value and is regulated"

Page 3, line 19, remove "telephone or other communications,"

Page 3, line 20, after "pipeline" insert ", excluding telephone or other communications lines"

Page 4, line 6, remove "teleconference facilities,"

Page 4, after line 11, insert:

"d. Land and other assets, including laboratory, research and development, conference, testing, training, or quality control facilities:

(1) That are or that support property the primary purpose and use of which is or will be for a high technology activity; and

(2) That are located within a certified technology park."

Page 4, remove lines 26 and 27

Page 4, line 28, replace "(2)" with "(1)"

Page 4, line 30, replace "(3)" with "(2)"

Page 4, remove line 31

Page 5, line 1, replace "(5)" with "(3)"

Page 5, line 2, replace "(6)" with "(4)"

Page 5, line 3, replace "(7)" with "(5)"

Page 5, line 4, replace "(8)" with "(6)"

Page 5, line 5, after "commerce" insert "in consultation with the North Dakota university system and the respective institution of higher education"

Page 5, line 8, remove ", as evidenced by the intellectual property and, if applicable,"

Page 5, remove line 9

Page 5, line 10, remove "collaboration with private businesses"

Page 5, line 15, replace "and" with "an"

Page 7, line 17, replace "The terms of any commitment required from an" with "A letter of support from the" and replace "for" with "indicating"

Page 7, line 18, after "park" insert ", but only to the extent that such operations and activities do not conflict with commitments and obligations of the institution of higher education"

Renumber accordingly

Date: 02/10/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2390

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Amendments

Legislative Council Amendment Number

90714.0102

Action Taken

☐ Do Pass

☐ Do Not Pass

☐ Amended

Motion Made By

Senator Triplett

Seconded By

Senator Dotzenrod

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | ✓ | | Sen. Arden Anderson | ✓ | |
| Sen. Joe Miller - Vice Chairman | ✓ | | Sen. Jim Dotzenrod | ✓ | |
| Sen. David Hogue | ✓ | | Sen. Constance Triplett | ✓ | |
| Sen. Dave Oehlke | ✓ | | | | |
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Total: Yes

7

No

0

Absent

0

Floor Assignment

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

Date: 02/10/09

Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. :

2390

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

☐ Do Pass

☒ Do Not Pass

☒ Amended

AS

90714.0102

Motion Made By

Senator Hogue

Seconded By

Senator Oehlke

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | ✓ | | Sen. Arden Anderson | ✓ | |
| Sen. Joe Miller - Vice Chairman | ✓ | | Sen. Jim Dotzenrod | | ✓ |
| Sen. David Hogue | ✓ | | Sen. Constance Triplett | ✓ | |
| Sen. Dave Oehlke | ✓ | | | | |
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Total: Yes

6

No

1

Absent

0

Floor Assignment

Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2390: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2390 was placed on the Sixth order on the calendar.

Page 2, line 2, replace "means one or more of" with "includes"

Page 2, line 26, remove "other than a pharmaceutical product that has"

Page 2, line 27, remove "therapeutic or diagnostic value and is regulated"

Page 3, line 19, remove "telephone or other communications."

Page 3, line 20, after "pipeline" insert ", excluding telephone or other communications lines"

Page 4, line 6, remove "teleconference facilities."

Page 4, after line 11, insert:

"d. Land and other assets, including laboratory, research and development, conference, testing, training, or quality control facilities:

(1) That are or that support property the primary purpose and use of which is or will be for a high technology activity; and

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Page 5, line 2, replace "(6)" with "(4)"

Page 5, line 3, replace "(7)" with "(5)"

Page 5, line 4, replace "(8)" with "(6)"

Page 5, line 5, after "commerce" insert "in consultation with the North Dakota university system and the respective institution of higher education"

Page 5, line 8, remove ", as evidenced by the intellectual property and, if applicable,"

Page 5, remove line 9

Page 5, line 10, remove "collaboration with private businesses"

Page 5, line 15, replace "and" with "an"

Page 7, line 17, replace "The terms of any commitment required from an" with "A letter of support from the" and replace "for" with "indicating"

Page 7, line 18, after "park" insert ", but only to the extent that such operations and activities do not conflict with commitments and obligations of the institution of higher education"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2390

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2390

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10494

Committee Clerk Signature

Ellen Letang

Chairman Keiser: Opened the hearing on SB 2390 provide Legislative Council to study the establishment & development of certified technology parks.

Senator Mac Schneider~District 42 in Grand Forks. See testimony attachment.

Chairman Keiser: I'm disappointed this was converted to a study because these things do work.

Senator Tony Grindberg~District 41 in Fargo. I want to commend Senator Mac Schneider for his hard work. This bill moved too fast for people to get their hand around it so that's why it was converted to a study. I think it would make a great study in the next interim and I support it.

Chairman Keiser: Anyone to testify in opposition SB 2390, neutral? Closes the hearing, what are the wishes of the committee?

Representative N Johnson: Moves a Do Pass.

Representative Schneider: Second.

Chairman Keiser: Further discussion?

Chairman Keiser: I think this is a good strategy to go. North Dakota is late into this game.

You don't really need tax incentives to do it, but tax incentives help, we will do it. It creates so many jobs & high paying jobs that it is unbelievable.

Representative Amerman: I think we are alright, it says that they shall consider, it doesn't say shall study.

Voting roll call was taken on SB 2390 for a Do Pass with 12 ayes, 0 nays, 1 absent and

Representative Thorpe is the carrier.

Date: Mar 9- 2009Roll Call Vote # 1**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**BILL/RESOLUTION NO. 2390House House, Business & Labor Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ As AmendedMotion Made By N Johnson Seconded By Schneider

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|--------------------------|-----|----|
| Chairman Keiser | ✓ | | Representative Amerman | ✓ | |
| Vice Chairman Kasper | | | Representative Boe | ✓ | |
| Representative Clark | ✓ | | Representative Gruchalla | ✓ | |
| Representative N Johnson | ✓ | | Representative Schneider | ✓ | |
| Representative Nottestad | ✓ | | Representative Thorpe | ✓ | |
| Representative Ruby | ✓ | | | | |
| Representative Sukut | ✓ | | | | |
| Representative Vigasaa | ✓ | | | | |
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Total (Yes) 12 No 0Absent 1Floor Assignment Thorpe

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

REPORT OF STANDING COMMITTEE (410)
March 10, 2009 10:58 a.m.

Module No: HR-43-4425
Carrier: Thorpe
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2390, as reengrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2390 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2390

#1

Testimony of Sen. Mac Schneider
Committee on Finance and Taxation
February 3, 2009

Mr. Chairman, members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the Senate. I'm happy to be here to discuss Senate Bill 2390 – legislation which would create a “certified technology park” designation in North Dakota and encourage the creation, expansion, and clustering of high-technology businesses in our state.

Background: The big picture

The legislation seeks to build on the successes we've experienced in the creation of high-technology jobs, and would act as the icing on the Research Corridor and Centers of Excellence cake.

Broadly speaking, if a technology park were “certified” under this legislation the designation would allow for the capture and reinvestment of certain state and local tax revenue generated within the park. In other words, it allows parks to invest in themselves, which encourages development and, in turn, more investment.

This bill stems from an initiative promoted last fall by the Association of University Research Parks, which recommends the establishment of innovation zones to serve as a centerpiece for efforts to modernize our country's approach to competitive research and development.

In a reflection of this effort, Indiana recently passed legislation to create a certified technology park designation in that state. The first park to receive such a designation was at Purdue University. Currently, the Purdue Research Park is home to over 2,500 employees and 110 businesses.

Senate Bill 2390 is based off of Indiana's legislation and seeks to capitalize on our state's research strengths. Whether it is the innovation occurring in nanoscale science, microsensor development and polymer research at NDSU or the world-class work in the fields of aerospace engineering, biosciences, and energy at UND, a certified technology park designation will benefit all of these efforts. And more.

How it works: Application by political subdivision for certified tech park designation

If SB 2390 becomes law, the governing body of a political subdivision would be able to apply to the Department of Commerce (DOC) for designation of part of its territory as a certified technology park. The DOC would evaluate the application based on the requirements listed in 40-64-03. Under this section, the application must show a firm commitment from “at least one business engaged in a high technology activity creating a significant number of jobs” **and** satisfy one or more of the additional criteria listed in paragraphs “a” through “f” of 40-64-03.

Application accepted: Benefits of certification

Once an application is accepted by DOC, incremental increases in tax revenues generated within the certified technology park would be reinvested.

Specifically, 40-64-07 allows the political subdivision that established the CTP to designate the park as an allocation area for the purpose of allocating and distributing **property taxes**. Under 40-64-08, incremental increases in property tax revenue would be paid into an incremental tax financing fund

administered by the state treasurer. Incremental increases in *state sales taxes* generated by businesses in the park and *income taxes* paid by park employees would also be deposited into this fund.

These proceeds would then be transferred to a certified technology park fund created by the political subdivision that established the park (40-64-13). The money deposited in this fund would then be returned to the park, but could be used only for purposes listed in 40-64-13, paragraphs "a" through "i" (generally the construction, maintenance, and equipping of research facilities). It can be used for direct improvements and also for retiring debt associated with any improvement projects.

After designation: Accountability

Once a park is certified, the political subdivision that made the application would enter into an agreement with the DOC establishing the terms and conditions governing the park. The agreement must include a description of the area, restrictions on properties contained within the park, and other terms required by 40-64-04.

The certified technology park would have to be recertified every four years, and would be evaluated by the DOC according to the total employment, nature and extent of any technology transfer activity, inclusion of any non-technology businesses operating within the certified technology park, use and outcomes of any state money, and the tech park's overall contributions to the technology-based economy in North Dakota. No more than \$5 million may be deposited in a particular incremental tax financing fund over the life of a certified technology park (40-64-12.3).

Closing

There are others who would like to testify today, but before I close I would like to emphasize that a certified technology park designation would not just benefit the institutions located in Fargo and Grand Forks. If this legislation were to become law, there would be opportunities for the creation of certified technology parks across our state around anchors like the Strom Center for Entrepreneurship at Dickinson State, to name one example.

I appreciate the committee's time and consideration of this legislation. I would be happy to answer any questions.

#2

THE POWER OF PLACE



A NATIONAL STRATEGY
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COMMUNITIES OF INNOVATION



ASSOCIATION OF
UNIVERSITY
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PARKS

Catalytic Communities of Innovation



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GOVERNMENT-UNIVERSITY-INDUSTRY RESEARCH ROUNDTABLE

Susan Sauer Sloan, Director

THE NATIONAL ACADEMIES

Charles W. Wessner, Director, Technology, Innovation, & Entrepreneurship

NATIONAL ASSOCIATION OF SEED AND VENTURE FUNDS

Richard A. Bendis, Acting Chair
President, Chief Executive Officer, Bendis Investment Group LLC

NATIONAL BUSINESS INCUBATION ASSOCIATION

Dinah Adkins, President, Chief Executive Officer

NATIONAL CENTER FOR SMART GROWTH RESEARCH & EDUCATION

Gerit Kraap, Professor, Executive Director

NATIONAL COUNCIL OF ENTREPRENEURIAL TECH TRANSFER

Tony Stanco, Executive Director

NATIONAL GOVERNORS ASSOCIATION

Raymond C. Scheppach, Executive Director
Erin Lamos, State Technology Policy Analyst

STATE SCIENCE AND TECHNOLOGY INSTITUTE

Dan Berglund, President, Chief Executive Officer

THE UNIVERSITY FINANCING FOUNDATION

Kevin Byrne, Chief Investment Officer

The individuals named above served in their individual capacities. The endorsement of the views expressed in this document of each advisory committee member or their associated organizations, is not implied.

POLICY RECOMMENDATIONS

- **Establish American Innovation Zones:** The Innovation Zones would serve as the centerpiece of efforts to modernize the U.S. approach to fostering competitive research and development. Innovation Zones are a critical next step towards American competitiveness, encouraging research in such a way as to accelerate investment and economic development around research clusters. The Innovation Zone approach envisions establishing objective criteria for national innovation assets, including research parks, technology incubators, universities, federal laboratories, and adjacent properties, and then providing regulatory reforms and economic incentives for their accelerated development.
- **Enact Federal Innovation Zone Partnership Program:** The federal government should establish a plan to competitively create research centers within the Innovation Zones that would require matching grants from state governments, local governments and private industry. These centers would focus on areas of high national needs, including energy research, homeland security, food safety, and global climate change.
- **Build Sustainable Communities of Innovation:** Incentives for sustainable 'smart growth' development should be central to establishing American Innovation Zones. The U.S. Department of Housing should explore best practices nationally to encourage density and mixed-use development in American Innovation Zones in urban areas, which will encourage researchers and entrepreneurs to live where they work, and reduce sprawl.
- **Encourage Federal Leasing and Federal Lab Construction in Innovation Zones:** The federal government should target federal leases for research and federal lab construction and related activities within American Innovation Zones.
- **Reform Federal Tax Provisions for Facilities Funded by Tax-Exempt Financing:** Current federal policy on corporate sponsored and/or funded research performed in facilities funded through tax-exempt bonds unduly restricts flexibility in negotiating corporate intellectual property (IP) rights. Eliminating the current IRS restrictions or increasing the safe harbors under IRS regulations in American Zones of Innovation to allow greater flexibility in intellectual property negotiations will improve U.S. competitiveness, and increase the likelihood that corporate R&D will stay in the U.S.
- **Create Enhanced Preferences for Small Business Innovative Research (SBIR)/Small Business Technology Transfer (STTR) and National Institute of Standards and Technology (NIST) Technology Innovation Program (TIP):** The federal government should provide incentives to small technology start-up companies located in American Zones of Innovation to be awarded SBIR, STTR, and NIST's new TIP contracts and grants. Cluster development, collaboration, and targeting the benefits of federal research dollars will provide incentive for new investment in the Innovation Zones, and improve the quality of research through greater cooperation among public and private researchers.
- **Solidify the Tax Benefits for Research and Development:** By reauthorizing the research and development tax credit, Congress will return the U.S. to an even playing field with many of its global competitors for research investment. Beyond this first step, Congress should offer an enhanced benefit for companies that perform their research within an Innovation Zone, or who contract with Innovation Zones entities for research or development.
- **Expand Enhanced Use Leasing (EUL) Authority:** Expand current enhanced use lease authority to all federal agencies to create more American Innovation Zones adjacent to federal labs.
- **Establish a Federal Technology Foundation**
A federal technology foundation should be established to work with government managed federal labs. A foundation modeled on existing university research foundations could enable these laboratories to more effectively commercialize technology and use existing federal research assets for local technology-led economic development.
- **Develop Comprehensive Government-wide Database**
Access to a government-wide database on all federal R&D funding is necessary to ensure that important national innovation assets are properly understood and leveraged for technology innovation.
- **Fully Fund the America COMPETES Act**
The U.S. Congress took a great step forward in passing the America COMPETES Act in 2007. The Act authorizes a substantial federal investment in high risk, high reward research and improves funding to many of the U.S. science agencies. Research institutions and companies in Innovation Zones stand to benefit from the America COMPETES Act, but the Act has not been fully funded by Congress. The new Administration and the next Congress must make funding the America COMPETES Act a priority.
- **Import Innovation:** Research parks and incubators in American Innovation Zones should be targeted to recruit foreign technology companies using 'soft landing' techniques similar to those pioneered by the National Business Incubation Association (NBIA).
- **Welcome Human Innovation Capital to the U.S.:** In order to ensure continued retention of highly-skilled researchers and technicians, the U.S. must offer competitive immigration incentives that welcome foreigners into our Communities of Innovation, and retain their talents through the H-1B visa process.

#3

Testimony of David K. Martin, President & CEO, Chamber of Commerce of Fargo Moorhead to North Dakota Senate Finance and Taxation Committee regarding Senate Bill 2390: A Bill for an Act to create and enact chapter 40-64 of the North Dakota Century Code, relating to the establishment and development of certified technology parks.

Mr. Chairman and Committee members, for the record I am David K. Martin, President & CEO of the Chamber of Commerce of Fargo Moorhead. Our Chamber is a regional federation of 1,900 private, public and non-profit sector member firms that collectively employ more than 80,000 people. Our mission is unifying & advancing business & community interests in our region

One of these interests is legislation that encourages entrepreneurship in the state and that improves the state's global economic competitiveness. Another is to support expansion of an advanced, high-tech regional economy.

The Certified Technology Parks program was created as a tool to support the attraction of high-technology business in North Dakota and related technology transfer opportunities. North Dakota has gained a reputation for supporting emerging businesses, entrepreneurs and expansions. The state's growing agricultural, energy, manufacturing and technology industries, enhanced with incentives, are drawing new, relocated and expanded companies into the state. Combined with a highly educated workforce, North Dakota has become a dynamic place to live, work and be in business.

Passage of Senate Bill 2390 would enable the Department of Commerce to establish important eligibility requirements and benefits for certified technology parks in the state, encourage their development and contribute to their success. Their success will in turn benefit the state and its economy while also enhancing the state's business and research climates and reputation

We encourage your committee to give SB 2390 a DO PASS recommendation.

Thank you.

#4

Testimony to Senate Finance and Taxation Committee

SB: 2390

Dennis Walaker

Mayor of Fargo

Chair and Committee Members,

On behalf of the City of Fargo, I come before you to support Senate Bill 2390 which establishes into law the development of certified technology parks in our state. Fargo's experience with technology development has been rewarding. Great Plains Software was purchased by Microsoft and has prospered in our community. Despite the recent downturn in the economy this company is still proceeding on completing a third building in our City, making it the second or third largest campus for Microsoft.

Through the efforts of many individuals from NDSU and the private sector, the NDSU Technology Park has brought world leading technology research to North Dakota. This partnership of university, state, local and private efforts serves as a model for other economic development efforts in the state.

The development of the NDSU Technology Park has not come without some real innovative approaches to financing of infrastructure, building construction and research. In reading the proposed legislation of SB 2390 it appears the intent of the authors is to make development of technology parks easier to undertake. We support this concept. As I indicated to you earlier we had to be real innovative in financing the infrastructure for the NDSU Technology Park. We used the State's existing Payment in Lieu of Taxes (PILOT) program in conjunction with negotiated lease payments of the Technology Park landlords to provide financing for the water, sewer, curb and gutters and streets in the park. The proposed legislation would direct the property taxes collected on technology park property into an account that would allow for the development of the infrastructure. This streamlines the infrastructure financing and limits the risk to the technology park sponsors.

We are excited about the future of North Dakota. Oil development in the west, bio-gas development and wind energy expansion combined with more traditional energy expansion, and technology park research and development opportunities will keep our state from falling into an economic downturn that other states are experiencing. Please pass SB 2390. Thank you.

45

North Dakota University System
SB 2390 – Senate Finance and Taxation Committee
February 3, 2009

Dr. Marsha Krotseng, Vice Chancellor for Strategic Planning, NDUS

Good morning, Mr. Chairman and members of the Committee.

On behalf of the North Dakota University System, I appreciate this opportunity to offer testimony regarding SB 2390. At this time, the University System has taken a neutral position on this bill. We strongly support the concept of our universities working in tandem with private sector business in high tech-based research parks. Collaboration between our universities and business is essential for our state's continued economic growth and vitality – the kind of cooperative ventures and innovative research that characterize the Red River Valley Research Corridor.

The NDSU Research and Technology Park is an excellent example of existing partnerships. It is currently home to technology-related companies such as Phoenix International (which designs and manufactures custom, integrated electronic components), Pedigree (a software and services company), Alien Technologies (known for its work with RFID), and Bobcat, among others.

A number of cutting-edge research centers also exist at the University of North Dakota, including the Center of Excellence in Life Sciences and Advanced Technologies. Firms like Avianax and NovaDigm Therapeutics are connected with this center.

With strong existing partnerships like these, why remain neutral on this bill? Technology collaborations are complex endeavors. As the bill indicates, they require negotiation to clearly specify roles and responsibilities and address a number of critical issues such as liability and access to space and equipment. This is a substantial bill and we are still analyzing it. Based on an initial reading, some of the questions we are looking at include:

- Are the provisions of this bill consistent with federal laws and IRS regulations as well as with regulations of the state of North Dakota and our local communities?
- Specifically, do the provisions of the bill enable the University to remain in compliance with federal research regulations?
- What happens if a university is working with one park and another park in an adjacent subdivision wishes to be certified? Could possible conflicts of interest arise?
- What does the phrase (page 4, line 26) "Grants of preferences for access to and commercialization of intellectual property" mean? How would this work in practice?

- What are the impacts on a research project sponsor having first option to negotiate a license to intellectual property? Would preference be given to a tenant of the certified technology park rather than to the sponsor funding the R&D?
- What are the implications of a higher education institution providing the certified technology park tenants with preferential access to equipment and other resources? Does this conflict with the federal requirement that federally-funded equipment and resources must be used first on federal R&D projects?
- Are there potential liabilities to the institution if a private firm has access to university laboratory space or equipment?
- Regarding the hearing for designation of an allocation area (page 9, line 12), how will the governing body reach a conclusion? What guidelines will be used?
- What is the impact on municipalities?
- You also may wish to clarify the definitions to ensure that that they are consistent with legislative intent. For example, could the definition of biotechnology as currently stated (line 2, p. 10; "any technology that uses living organisms. . .to make or modify a product") include breweries?

Mr. Chairman, we want you to know that the University System stands ready to work with you and the bill's sponsor to clarify these and other questions if that is the desire of the committee.

Thank you very much for your consideration. I will be pleased to answer any questions.

#16
February 2, 2009
Bismarck Mandan Chamber
Kelvin L. Hullet, President
Appearing before the Senate Finance and Taxation Committee

Proposed Amendment to Senate Bill 2390

Section One

J. Power integration and mass storage systems.

TESTIMONY ON SENATE BILL 2390

Senate Finance and Taxation Committee

7

**Mayor Michael R. Brown
City of Grand Forks**

February 3, 2009

Mr. Chairman and members of the Finance and Taxation Committee, thank you for the opportunity to testify on behalf of the city of Grand Forks in support of Senate Bill 2390 and request a Do Pass recommendation from this committee.

Senate Bill 2390 provides for the establishment and the development of a Certified Technology Park (CTP) and a mechanism to foster investment in the CTP through the certain state and local taxes collected on its activity. This is just the type of industry and just the type of idea that North Dakota needs right now.

Technology is just the type of industry we must be supporting throughout the state. The technology sector already has a strong hold in communities in every size town from the west to the east. This industry provides real economic development through primary sector economic activity. It brings dollars into the state and into our community.

The technology industry is also where a great number of our younger people and younger workers want to be. As we strive to retain and attract young people and young families, it just makes sense that we build the types of jobs they want to have.

The Certified Technology Park Program is just the type of idea we need right now. By its very nature it is innovative and it is entrepreneurial.

The CTP program allows for reinvestment of state and local tax revenue right back into the park that produced it. This results in a upward spiral of investment and growth. With more investment there's more growth and with more growth, even more investment.

This is just the type of idea we need right now also because it underscores the fundamental partnerships that are creating so many growth opportunities. Partnerships between the state and localities and between universities and the private sector.

This program builds on the successful foundation that we've already built through efforts like the Centers of Excellence and the Red River Valley Research Corridor. By proceeding with this program, we invest in our future through the success of our past.

This is just the type of idea we need right now because it encourages not only investment but innovation and entrepreneurship. The Certified Technology Park encourages investment by individuals and new companies by simply giving their businesses a reliable home to grow and to prosper.

Finally, this is just the type of idea we need right now because it is permissive. It is put into place when the time is right for each community and for each circumstance.

They say there is nothing so powerful as an idea whose time has come. This is the time for this idea.

I thank you, again, for the opportunity to testify on behalf of Senate Bill 2390 and the creation and development of a Certified Technology Park. I request your favorable consideration of this bill and a DO PASS recommendation from the committee.

Thank you.

FOR 2390 to establish Certified Tech Parks in North Dakota

1. Certified Technology Park has great promise as a tool to support the creation, attraction and growth of high tech, high-wage ventures in North Dakota and to facilitate tech commercialization through private/university partnerships near our many campuses.
2. University Tech Parks do not currently have a funding mechanism for growth, infrastructure, maintenance, operation, payment of bonds, and other business-generating activities. Budgets are hobbled together now. This is the solution.
3. The CTP program allows for the increased tax revenues generated by park tenants--property, sales and income taxes--to be reinvested into the park up to \$5 M per park over its life. Funds may be used for economic development purposes within the park, including vital infrastructure such as research or laboratory facilities business incubators, high speed telecommunications -- expensive infrastructure companies cannot afford to invest in early their development.
4. CTP are similar to but more powerful than Tax Incremental Financing (TIF) districts. In addition to capturing incremental *property* tax revenue like a TIF district does, Certified Tech Parks also have the ability to capture incremental *sales and income* taxes for specified uses within the park.
5. The maximum of \$5 M over the life of the park is an incentive to leverage and match this tax funding. Funding is used for 'capacity building' for high tech firms so payback is significant to state over time, safely projected as a multiple of \$5 M
6. Universities are getting a track record as an economic engine for North Dakota including, technology startups and companies that want to be close to university talent and convenient access to the many assets of a college campus. Revenues generated as part of the CTP program help fund these important industry/business relationships.
7. As North Dakota has benefited from Renaissance Zones, North Dakota will benefit from a tech park district made up mostly of high tech businesses. Parks provide and create a synergistic environment to grow strong companies and helps attract a critical mass of high tech workers to our state.
8. The establishment of high tech activities and public facilities within a CTP serves a public purpose and benefits general welfare by encouraging investment, job creation and retention, and economic growth and diversity.
9. Works well in tandem with the Centers of Excellence program and the Red River Research Corridor, which do not fund tech park infrastructure and operations.
10. The 55 acre UND Tech Park was formed in 1991 by President Tom Clifford. Grown to 8 facilities worth \$49 M and employing over 500 people. The Tech Park has two tech incubators which currently host 19 early stage companies employing 130 people with an average wage of \$47,000, well above the state average. This activity could have been doubled if not tripled with this funding mechanism.
11. Certified Tech Park Legislation was passed in Indiana in 2002, to foster high tech activity to diversify and grow that state's economy. Purdue Research Park was the first park certified in 2003. By 2007 the park had more than 140 companies, and about 90 of those firms are technology-related. Twenty-four of the companies in the Park are based on or utilizing Purdue University discoveries. The Purdue Park added more than 700 new jobs and increased payroll by more than \$36 million from 2003 to 2007 when it was recertified. Indiana has 18 tech parks as of 2007.
12. Good accountability as each year CTP is required to make an Annual Report to the state that highlights the total employment and payroll for all businesses in the Park, the number of jobs created during the year, the nature and extent of any technology transfer (from research into commercial products), the nature and extent of any non-technology businesses in the Park, the use and outcome of any State monies, as well as an analysis of the Park's overall contribution to the technology-based economy through capital investment, product development or commercialization.

#1
To: Chariman Cook and members of the Senate Finance and Tax Committee
From: Sen. Mac Schneider
Re: Proposed amendments and questions concerning SB 2390 (certified technology parks)
Date: February 9, 2009

Dear Chariman Cook and members of the committee:

Over the course of the last week, the sponsors of this legislation have had several in-depth discussions with members of the North Dakota University System office as well as deans and other faculty charged with the administration and oversight of the cutting-edge research conducted at our higher education institutions. Through these conversations, we were able to more fully explain the details of SB 2390 to stakeholders and address some of their very legitimate questions about the legislation.

In recognition of these discussions, we recommend several minor changes to the legislation. I've attached the proposed amendments to this handout and have explained the rationale behind these changes below. I have also attempted to answer some of the questions raised by Vice Chancellor Krotseng in her testimony before the committee last week.

As Dr. Krotseng noted, this is a "substantial bill" and no doubt a lot to process, especially given the other substantial demands on the committee's time. However, I also believe SB 2390 is well-considered and note that it is based on a program that is up and running in another Midwestern state.

I would like to thank Chairman Cook and the members of the committee for their thoughtful evaluation of this legislation and the patience shown on this admittedly complex matter. Both are greatly appreciated.

I. Rationale behind the proposed amendments

Page 2, line 2: This change was made to clarify that the definitions of "high technology activity" listed under 40-64-01 are not meant to be proscriptive.

Page 2, lines 26: This change was made at the request of individuals in the research community who viewed the language as unnecessarily limiting.

Page 3, line 19: This change was made to clarify that universities are not to provide telecommunications services that compete with those provided through the private sector.

Page 4, line 6: This change was made to clarify that universities are not to provide telecommunications services that compete with those provided through the private sector.

Page 4, after line 11: The intent of this additional language is to allow proceeds to be used for or on an institution of higher education's facilities (located in the technology park) in which high technology research and development activities are done by the higher education institution.

Page 4, lines 26 and 27: This subdivision was struck at the request of those in the research community who raised concerns that such a provision could lead to potential conflicts with federal legislation.

Page 4, line 31: This change was made to clarify that universities are not to provide telecommunications services that compete with those provided through the private sector.

Page 5, line 5: The intent of this additional language is to enable the North Dakota University System and the higher education institution to have a say in establishment of any new criteria that the Department of Commerce might elect to make in the future.

Page 5, line 8: This language was originally inspired by the Indiana statute used as a model for this legislation, but the tenure policies referred to in this paragraph are not relevant in North Dakota.

Page 5, line 15: Typographical correction.

*Page 6, line 12: "May" was changed to "shall" in order to emphasize the mandatory nature of this paragraph.

Page 7, lines 17 and 18: The intent of this language is to specify that the institution of higher education would need to provide a letter of support for operations and activities concerning the certified technology park. A letter of support would avoid potential problems when and if a higher education institution has existing (or future) obligations to another party, such as the federal government.

II. Addressing the questions raised by the North Dakota University System

Q: Are the provisions of this bill consistent with federal laws and IRS regulations as well as with regulations of the state of North Dakota and our local communities?

A: Yes. As previously discussed with members of the committee, this legislation is based on statutes enacted by the Indiana legislature. Certified technology parks now exist in 10 communities across that state. To the best of my knowledge, no conflicts with federal laws or IRS regulations have arisen at any time during the successful expansion of this program in Indiana.

Additionally, North Dakota communities have relatively extensive experience using tax increment financing as a tool for development, and there is no indication that the provisions of this bill conflict with state or local regulations and requirements. In fact, the legislation puts the choice of pursuing a certified technology park designation into the

hands of local political subdivisions. In other words, this bill is permissive – it does not require the subdivision to pursue any course of action which would conflict with local agreements or obligations.

Q: Specifically, do the provisions of the bill enable the university to remain in compliance with federal research regulations?

A: Yes. The bill, even before the amendments, requires the adoption of an agreement between the Department of Commerce and the political subdivision making the application. Within this agreement, a university would have the opportunity to make clear that federal regulations must be respected and take precedence.

The amendments to page 7, line 17 – made at the request of individuals with extensive experience dealing with federal grants and research funding -- go even further to ensure that current or future obligations to parties such as the federal government will be addressed in the agreement governing a certified technology park.

It is also worthwhile to note that one of the top institutions in the country when it comes to conducting federal research, Purdue University, is currently benefiting from a certified technology park designation. A recent expansion at park tenant Cook Biotech is one of the projects that will funnel incremental tax revenues back into Purdue's park, and is a good example of how this legislation would benefit North Dakota.

Q: What happens if a university is working with one park and another park in an adjacent subdivision wishes to be certified? Could possible conflicts of interest arise?

A: Under 40-64-03, the Department of Commerce may designate a certified technology park if the department determines that the application demonstrates 1) "a firm commitment from at least one business engaged in a high technology activity . . ." and 2) one or more of the following additional criteria listed in paragraphs "a" through "f" of subsection 1.

As a practical matter, it is unlikely that "an adjacent subdivision" could put together a competitive application for submission to the Department of Commerce if a neighboring subdivision had already received a certified technology park designation.

For example, assume the Fargo city council submitted a successful application to the Department of Commerce to create a certified technology park in that city. If West Fargo applied for a certified technology park designation a year or two later, under the terms provided in 40-64-03, that city would be unlikely to achieve "significant support from an institution of higher education" given NDSU's commitment within Fargo's existing technology park. This would weigh heavily against granting West Fargo's application – even if one or more of the other criteria in 40-64-03.1 were met.

The bottom line is that the Department of Commerce would be the final arbiter of the merit of any application for designation as a certified technology park. Since this agency

is accountable to the state, it provides a check on parochial rivalries and would result in rational decision-making regarding which parks receive certification.

Q: What does the phrase "Grants of preferences for access to and commercialization of intellectual property" mean? How would this work in practice?

A: This language has been struck in the proposed amendments.

Q: What are the impacts on a research project sponsor having first option to negotiate a license to intellectual property? Would preference be given to a tenant of the certified technology park rather than to the sponsor funding the R&D?

A: Nothing in this legislation requires a research project sponsor to have a first option to negotiate a license to intellectual property. This very legitimate question -- and others -- would be addressed in great detail by any agreement governing the certified technology park, as required by 40-64-04.

Q: What are the implications of a higher education institution providing the certified technology park tenants with preferential access to equipment and other resources? Does this conflict with the federal requirements that federally-funded equipment and resources must be used first on federal R&D projects?

A: Again, nothing would *require* a higher education institution to provide park tenants with preferential access to equipment or other resources. The requirements that federally-funded equipment and resources be used on federal projects would not be affected by this legislation. Higher education institutions could keep doing what they are doing in this regard.

Q: Are there potential liabilities to the institution if a private firm has access to university laboratory space or equipment?

I don't know the answer to this question, but there is nothing in this legislation that would require a university to provide access to laboratory space or equipment to private tenants. If this was permitted by an institution, legal rights and remedies could and should be clearly explained in a legally binding contract between the university and the private tenant. Such a contract would likely be incorporated into the agreement required by 40-64-04.

Q: Regarding the hearing for designation of an allocation area (page 9, line 12), how will the governing body reach a conclusion? What guidelines will be used?

A: After the adoption of a "resolution designating the certified technology park as an allocation area" (40-64-07.1), a statement disclosing the impact of the certified technology park will be filed with each taxing district with authority to levy property taxes in the geographic area where the certified technology park is located (40-64-07.2(b)(2)). This statement must include the estimated economic benefits and costs

incurred by the certified technology park and the anticipated impact on tax revenues of each taxing unit (40-64-07.2(b)(2)). Presumably, at the hearing required under 40-64-07.4, the political subdivision would balance these benefits against the potential costs and impacts on tax revenues and then ultimately confirm, modify, or rescind the resolution by majority vote.

Q: What is the impact on municipalities?

A: This bill has received the endorsement of the mayors of Fargo and Grand Forks because of the positive impact it would have on the ability to create high technology jobs in these communities. And again, one of the strengths of this legislation is that it puts the power to seek a certified technology park designation into the hands of locally elected leaders. If municipalities do not want to pursue the benefits of obtaining a certified technology park designation, they are certainly not forced to do so under the provisions of this legislation.

PROPOSED AMENDMENT TO SENATE BILL NO. 2390

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a legislative council study to consider the feasibility and desirability of the establishment and development of certified technology parks."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

"SECTION 1. LEGISLATIVE COUNCIL STUDY – CERTIFIED TECHNOLOGY PARKS. The legislative council shall consider studying, during the 2009-10 interim, the feasibility and desirability of the establishment and development of certified technology parks. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Testimony of Sen. Mac Schneider – SB 2390

House IBL

March 9, 2009

Mr. Chairman, members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the Senate. I'm happy to be here to discuss Senate Bill 2390 – legislation which would authorize a study on creating a “certified technology park” designation in North Dakota and potentially assist in the creation, expansion, and clustering of high-technology businesses in our state.

Background

This bill stems from an initiative promoted last fall by the Association of University Research Parks, which recommends the establishment of innovation zones to serve as a centerpiece for efforts to modernize our country's approach to competitive research and development.

In a reflection of this effort, Indiana recently passed legislation to create a certified technology park designation in that state. The first park to receive such a designation was at Purdue University. Currently, the Purdue Research Park is home to over 2,500 employees and 110 businesses. Nine other Indiana communities followed suit and are now using certified technology parks to help create and expand high-technology jobs.

What is a certified technology park?

Under Indiana's legislation, a political subdivision may apply to the state (through an agency similar to our Department of Commerce) for designation of part of its territory as a certified technology park. Applications are evaluated at the state level based on a variety of factors, including a commitment from at least one business engaged in a high-technology activity and support from an institution of higher education.

If the political subdivision's application is approved by the state, the area designated as a certified technology park receives special tax treatment. Specifically, incremental increases in property taxes, sales taxes, and income taxes assessed upon entities within the park would be re-invested in the park itself. Generally speaking, this revenue could be used for construction, maintenance, and equipping research facilities.

In other words, it allows parks to invest in themselves, which encourages development and, in turn, more investment.

Benefits of a certified technology park designation in North Dakota

As the members of this committee are well aware, North Dakota's Red River Valley Research Corridor and Centers of Excellence have become critical drivers of economic development in our state.

In a recent example, UND's "REAC 1" building was opened to the public just a few weeks ago. This \$16 million, 50,000 square foot building is home to several high-technology companies – including Avianax of Grand Forks, NovaDigm Therapeutics of Los Angeles, CA, and Alion Science and Technology of McLean, VA. It is anticipated that 70 new jobs will be created at REAC 1 within the next year alone. Similarly impressive successes have been achieved at NDSU, Bismarck State College and in other communities across North Dakota. A certified technology park designation could be the icing on the Centers of Excellence cake. By allowing high-technology companies to benefit from their own successes, we can build on the gains we have made in cutting-edge research and quality job creation.

Closing

While SB 2390, in its original form, had the support of the mayors of Fargo and Grand Forks, the F-M chamber, and economic development leaders in North Dakota, there were questions about how the admittedly complex legislation would work in practice. A Legislative Council study on this issue would help further define the benefits of a certified technology park designation and clarify the possible challenges of implementing such a program in North Dakota.

Thank you for your time, Mr. Chairman and members of the committee. I'd be happy to try and answer any questions you may have.

Good neighbors: Indiana's certified-technology-park program.

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GOOD NEIGHBORS ARE always important, whether on a residential street or in a business setting. Building strong high-tech neighborhoods is the goal of Indiana's certified-technology-park program.

In late June, state officials named the 10th certified technology park, awarding the status to downtown Evansville. The city joins locations across the state that have been designated certified technology parks, designed to welcome high-tech businesses with solid technological infrastructure, university connections and tech-focused neighbors. The program includes grants to get the parks off the ground and special tax treatment allowing incremental increases in tax revenues to be funneled back into the parks for further improvements and development.

"The certified-technology-park program has been really exciting for me, as I watch communities think in whole new ways about what their opportunities are to grow new businesses," says Lt. Gov. Kathy Davis, whose duties include overseeing the economic-development efforts of the Indiana Department of Commerce.

The technology-park program emerged from the tax-restructuring legislation of 2002. The hope is to boost high-tech economic development within specific areas identified by local development organizations. The program allows for the increased tax revenues generated by park tenants—including property, sales and income taxes—to be reinvested into the park. The money can be used for improvements, facility operation and maintenance, payment on bonds and other promotional activities. The program also offers grants of up to \$500,000 to help get park development rolling.

A host of requirements must be met before the state will declare an area a certified technology park. There must be significant support promised by a university and a commitment to the commercialization of products. A business incubator must be part of the plan, and local officials must line up at least one commitment by a high-tech company to operate within the park.

Davis says the 10 parks designated thus far take a variety of forms. The first to be named was the existing Purdue Research Park, which already had a critical mass of technology pursuits and strong university ties. Not only was it the first Indiana certified technology

park, it was one of the first university research parks in the country when it opened in 1961, according Greg Deason, director of research park development for the Purdue Research Foundation. "We're over 2,500 employees in the park, have more than 1.2 million square feet under roof and 110 businesses total."

But even with that strong start, the park will benefit from the state's designation, he says. "We have a great opportunity to tap a different kind of funding source to allow us to grow the park," he says, noting that an expansion at park tenant Cook Biotech is one of the projects that will funnel incremental tax revenues back into the park.

Plenty of activity also was already under way at Indiana University's Emerging Technologies Center in downtown Indianapolis when it earned the state's designation. Becoming a certified technology park should speed further development, according to Mark Long, president of IU's Advanced Research and Technology Institute, based at the site. "It encourages more development in the area related to life sciences and research."

About 20 companies have set up shop in the high-tech incubator, Long says. "That's about 90 new high-tech jobs in downtown Indianapolis in less than a year," he notes. "It reflects a lot of pent-up demand."

Besides those two existing operations, "we have a number of parks where the concept really came from the legislation and the availability of a grant to help build the park," Davis says. "For the Evansville park they drew a line around most of the downtown, and within that line the city will identify individual buildings in which they can provide high-speed access."

Certified technology parks are likely to play a future role in the area around the Naval Surface Warfare Center at Crane. Ron Arnold, executive director of the Daviess County Growth Council, says some 200 acres have been so designated, and officials of adjacent Martin and Greene counties hope to add more acreage to the development on their own sides of the county lines. The project is known as West Gate at Crane, and in addition to its proximity to Crane, Arnold says the site is within half a mile of the proposed Interstate 69 extension.

Though the site is far from a major population center, it's a potential high-tech hotbed, according to Arnold. "Because of Crane, basically there is pent up demand already," he says. Crane outsources plenty of work, so there are lots of high-tech opportunities in the area.

And those opportunities are likely to stay no matter happens to Crane down the road. If military officials choose to shutter the facility through the ongoing base realignment process, there will be lots of laid-off engineers looking for a place to set up their own businesses. If Crane remains open, it likely will expand to take in work from elsewhere, again providing local tech-park opportunities, Arnold says. "The whole area will look a whole lot different."

Indiana's Certified
Technology Parks

Flagship Enterprise Center

Anderson

| | |
|--|-----------------|
| InfoTech Park | Columbus |
| West Gate at Crane | Daviess Country |
| Digital Downtown Certified Technology Park | Evansville |
| Northeast Indiana Innovation Center | Fort Wayne |
| Downtown Hammond | Hammond |
| Indiana University Emerging Technologies Center | Indianapolis |
| Community Campus | Scottsburg |
| Intelliplex Park | Shelbyville |
| Purdue Research Park | West Lafayette |

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