DEPARTMENT OF COMMERCE ANNUAL REPORT ON BUSINESS INCENTIVES AUGUST 1, 2012, 11:45 A.M. TAXATION COMMITTEE HARVEST ROOM, STATE CAPITOL SENATOR DAVID HOGUE, CHAIRMAN

GORDON LA FRANCE - COMPLIANCE MANAGER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the Taxation Committee, my name is Gordon La France and I serve as the Compliance Manager for the North Dakota Department of Commerce. I'm here today to provide you with the annual report for business incentive accountability as directed to by NDCC Section 54-60.1-07.

The Business Incentive Accountability law (NDCC Chapter 54-60.1) was approved during the 2005 legislative session and the law took effect on January 1, 2006. This law applies to businesses that receive incentives totaling \$25,000 or more in a given year from state or local grantors.

The law requires grantors and recipients to enter into business incentive agreements (BIA) before the recipient business receives an incentive. This BIA contains a description of the incentive to be granted as well as job goals for the business to achieve within 2 years. Recipient businesses must report on progress towards their goals for at least two years and until they meet their goals. Another requirement of the BIA is that the incentive must meet one of the following public purposes: assisting community development, increasing the tax base, directly creating employment opportunities or indirectly creating employment opportunities through increased economic activity.

Business Incentive Programs

The following business incentive programs are subject to the Business Incentive Accountability law.

Income Tax Exemption for New or Expanding Businesses – upon application from a project operator that qualifies as a new or expanding primary sector business or tourism destination attraction, the State Board of Equalization may grant an exemption from state income tax for a period not exceeding five years from commencement of project operations. For an expanding business, the income tax exemption applies only to income generated by the expansion of the business. The State Board of Equalization has determined the public purpose of this incentive is assisting community development.

Agricultural Products Utilization Commission (APUC) – is a grant program whose purpose is to create new wealth through the development of new and expanded uses of North Dakota agricultural products. It does this through the administration of seven grant categories, basic and applied grants, marketing and utilization grants, farm diversification grants, nature based agri-tourism grants, prototype grants, technology grants, and technical assistance grants. All grant requests are evaluated on the probability for job and wealth creation, the scientific and technical merit of any research, probability of rapid commercialization, a shared commitment for funds from other sources, overall merit and geographical considerations. The public purposes for APUC grants include indirectly creating employment opportunities through increased economic activity or assisting community development.

Partnership in Assisting Community Expansion (PACE) – The PACE family of programs at BND is designed to encourage specific types of economic activity within the State of North Dakota. In general terms, PACE provides an interest buy down that can reduce the borrower's rate of interest by as much as 5%.

The traditional PACE Program assists North Dakota communities to expand their economic base by providing for an interest buydown to encourage ND borrowers is pursue new job development. The borrower is required to demonstrate that within one year there will be a minimum of one job created and retained for every \$100,000 of total loan proceeds. Otherwise, the interest buydown will be prorated to reflect any partial fulfillment or discontinued if no creation has occurred.

The public purposes for PACE include directly creating employment opportunities, indirectly creating employment opportunities through increase economic activity, or assisting community development.

The North Dakota Development Fund, Inc. – provides financing for "primary sector" businesses, which includes agricultural processing, manufacturing, tourism and export service companies. The Fund provides "gap" financing not available from other, more conventional sources. Innovative financing options are available to provide both short and long term capital to new, expanding or relocating businesses in the state of North Dakota. The public purposes for ND Development Fund financing includes directly creating employment opportunities, job retention, assisting community development, or indirectly creating employment opportunities through increased economic activity.

The Renaissance Zone program is a tool to help cities revitalize their communities. By offering both state and local tax incentives for 5 years, the program is unique in that cities develop handcrafted development plans that address each city's specific goals. The public purpose of Renaissance Zones is assisting community development.

Community Development Block Grant (CDBG) Program – The CDBG Program provides financial assistance to eligible units of local Governments in the form of grants and loans for Public Facilities, Housing Rehabilitation, and Economic Development projects. The primary beneficiaries of these projects must be very low and low income individuals. Examples of projects funded by CDBG in the respective emphasis areas are:

- Housing housing rehabilitation of very low and low income homeowner units and rental units within a particular area.
- Public Facilities water and sewer projects, removal of architectural barriers, fire halls, ambulances, etc.
- Economic Development cities and counties receive funds to loan/grant to businesses which create jobs for low income persons.

The economic development portion of CDBG is the only portion subject to the Business Incentive Accountability Law and the public purpose is assisting community development.

Summary and Compilation of Results

The Department of Commerce has the responsibility under NDCC §54-60.1-07 to report annually on the business incentive accountability law including a summary of the results and a compilation of the data reported by the state grantors. In fulfillment of this responsibility, this report includes a summary of the results and a full compilation is being provided to Legislative Council staff. A full copy of this report, including the 139 page compilation of the results by business, can also be downloaded at www.ndcommerce.com/accountability. The information in the compilation spreadsheet includes:

- Number of jobs targeted to be created or retained by each recipient business
- Number of job achieved in comparison to the jobs targeted by each recipient business
- Average compensation of jobs targeted, including identification of the average benefits and average earnings by each recipient business
- Average compensation of jobs created or retained by each recipient business

We are also to provide a distribution of business incentives by type of business and by public purpose. We utilized the North American Industrial Classification System (NAICS) in order to breakdown the type of business. The breakdown of incentives by type of incentive is included as Table 1, by public purpose as Table 2 and by business type as Table 3.

Since Commerce started collecting data for business incentive agreements (BIA's) in 2006, there have been 528 BIA's, which are for 473 unique projects. 148 of these projects included job creation or retention goals and were provided the incentives at least two years ago. Chart 1 shows the results of these projects. As you can see, fifty-six percent of the projects have either achieved their job creation or retention goals (47%) or have repaid their incentives (9%). Thirty-seven percent have not yet achieved their goals and seven percent have closed or their incentive written off. Chart 2 shows the time it took for businesses to achieve their job creation or retention goals. Forty-seven percent achieved their goals in 2 years or less, forty-six percent took 2 to 3 years, and the remaining seven percent took 3 to 4 years.

I will briefly touch on is the renaissance zone program which uses assisting community development for the public purpose. Since you have a copy of the 2011 report I will briefly summarize the Business Incentive Agreements for 2011.

- Twenty-six projects qualified as BIA.
- Potential tax impact \$1,246,177.
- Twenty-two Jobs created.
- From 2006-2011 the renaissance program has created 766 jobs in renaissance zone cities. This includes both jobs created with BIA and other jobs because of projects within the zones.

The other Business Incentive Programs had 128 projects for 2011 with an incentive value of \$17.2 million. Other information that I would like to point out for 2011 is as follows:

- Job creation by year (Table 5)
 - o Actual job created were 56 compared to the job creation goal of 307.
 - o An additional 179 job were created above the jobs retention goal of 360.
 - o Bonus jobs. The definition for bonus jobs is when the public purpose doesn't require job creation as in assisting community development. The recipient still reports on the number of jobs created, and in 2011 165 bonus jobs were created.
- Wages and benefits (Tables 6 &7)
 - o The actual average wages and benefits have not yet met the goals.

Finally, I would like to summarize the BIA information form 2006-2011. Since 2006, there have been 528 BIA's with an incentive value of \$115.4 million. Other information I would like to point out for 2006-2011 is as follows:

- Job creation for 2006- 2011 (Table 5)
 - o Actual job created were 2,167 compared to job creation goals of 2,118.
 - o An additional 239 jobs were created over and above the jobs retention goal of 751.
 - o Bonus jobs. The definition for bonus jobs is when the public purpose doesn't require job creation (such as assisting community development). The recipient still reports on the number of jobs created, from 2006-2011 1,474 bonus jobs were created.
- Wages and benefits for 2006 2011 (Tables 6 & 7)
 - By looking at the tables, you can see that the average wages and benefits have exceeded the goals.

Mr. Chairman and members of the Taxation committee, that concludes my report and I'd be happy to answer any questions you might have.

Table 1. Incentive Value by Incentive Type

Incentive Type	Total of BIA Value	2006	2007	2008	2009	2010	2011
Direct Cash Transfer, Loan, or Equity Investment	\$36,860,515	\$3,704,800	\$7,098,502	\$4,950,738	\$6,529,431	\$4,426,284	\$10,150,761
Guarantee of payment under loan, lease, or other obligation	\$1,936,911	\$979,476	\$957,435	\$0	\$0	\$0	\$0
Interest buydown	\$28,072,939	\$2,210,512	\$3,292,138	\$5,141,572	\$6,484,651	\$5,174,375	\$5,769,691
Reduction or Deferral of Tax or Fee	\$48,505,929	\$1,942,811	\$3,246,999	\$29,144,847	\$12,509,179	\$382,344	\$1,279,749
Total	\$115,376,294	\$8,839,605	\$14,597,081	\$39,239,165	\$25,525,270	\$9,985,013	\$17,202,212

Table 2. Incentive Value by Public Purpose

BIA Purpose	Total of BIA Value	2006	2007	2008	2009	2010	2011
Assisting community development	\$72,588,518	\$4,595,712	\$6,602,844	\$31,980,316	\$15,553,449	\$5,850,308	\$8,005,890
Directly creating employment opportunities	\$38,329,593	\$3,216,887	\$6,033,779	\$6,282,541	\$9,849,379	\$4,132,695	\$8,814,311
Increasing tax base	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Indirectly creating employment opportunities through increased economic activity	\$1,119,051	\$350,000	\$664,354	\$44,299	\$60,398	\$0	\$0
Job retention (only in cases in which job loss is specific and demonstrable)	\$3,339,133	\$675,000	\$1,294,098	\$930,000	\$60,035	\$0	\$380,000

Table 3. Incentive Value by Type of Business

Business Type	Description	Total Of BIA Value	2006	2007	2008	2009	2010	2011
111	Crop Production	\$732,902	\$26,881	\$101,000	\$289,503	\$139,119	\$55,000	\$121,400
112	Animal Production	\$4,038,841	\$120,000	\$371,000	\$1,054,719	\$1,474,518	\$648,263	\$370,340
115	Support Activities for Agriculture and Forestry	\$1,721,256	\$29,750	\$822,356	\$0	\$186,309	\$682,841	\$0

Business Type	Description	Total Of BIA Value	2006	2007	2008	2009	2010	2011
212	Mining (except Oil and Gas)	\$212,078	\$0	\$0	\$0	\$0	\$161,583	\$50,495
213	Support Activities for Mining	\$91,630	\$0	\$0	\$0	\$0	\$46,308	\$45,322
236	Construction of Buildings	\$773,769	\$250,000	\$143,000	\$0	\$380,769	\$0	\$0
237	Heavy and Civil Engineering Construction	\$154,180	\$0	\$67,575	\$50,561	\$0	\$28,047	\$7,996
238	Specialty Trade Contractors	\$853,952	\$328,375	\$76,500	\$0	\$0	\$100,000	\$349,077
311	Food Manufacturing	\$9,207,861	\$1,705,002	\$913,201	\$934,778	\$3,881,840	\$93,994	\$1,679,045
312	Beverage and Tobacco Product Manufacturing	\$26,000	\$0	\$0	\$0	\$26,000	\$0	\$0
313	Textile Mills	\$92,500	\$0	\$42,500	\$0	\$50,000	\$0	\$0
314	Textile Product Mills	\$503,084	\$374,048	\$53,500	\$0	\$75,536	\$0	\$0
321	Wood Product Manufacturing	\$1,227,653	\$250,000	\$40,686	\$577,971	\$358,995	\$0	\$0
322	Paper Manufacturing	\$54,978	\$0	\$0	\$54,978	\$0	\$0	\$0
323	Printing and Related Support Activities	\$59,510	\$0	\$0	\$0	\$0	\$59,510	\$0
324	Petroleum and Coal Products Manufacturing	\$1,220,451	\$0	\$338,306	\$57,192	\$474,953	\$100,000	\$250,000
325	Chemical Manufacturing	\$42,782,44 6	\$126,000	\$3,107,225	\$28,344,920	\$11,178,301		\$26,000
326	Plastics and Rubber Products Manufacturing	\$1,814,332	\$250,000	\$0	\$250,000	\$374,127	\$29,994	\$910,211
327	Nonmetallic Mineral Product Manufacturing	\$174,732	\$0	\$174,732	\$0	\$0	\$0	\$0
331	Primary Metal Manufacturing	\$166,468	\$0	\$0	\$166,468	\$0	\$0	\$0
332	Fabricated Metal Product Manufacturing	\$2,933,756	\$277,782	\$980,048	\$438,119	\$205,880	\$302,190	\$729,738

Business Type	Description	Total Of BIA Value	2006	2007	2008	2009	2010	2011
333	Machinery Manufacturing	\$3,797,015	\$0	\$999,396	\$442,000	\$434,747	\$626,710	\$1,294,161
334	Computer and Electronic Product Manufacturing	\$3,885,756	\$1,463,797	\$343,752	\$832,698	\$401,000	\$88,454	\$756,055
335	Electrical Equipment, Appliance, and Component Manufacturing	\$3,218,645	\$0	\$500,000	\$593,639	\$500,006	\$500,000	\$1,125,000
336	Transportation Equipment Manufacturing	\$1,552,725	\$150,000	\$500,000	\$668,332	\$75,000	\$159,393	\$0
337	Furniture and Related Product Manufacturing	\$231,024	\$0	\$88,154	\$0	\$142,871	\$0	\$0
339	Miscellaneous Manufacturing	\$3,741,125	\$102,500	\$1,228,977	\$401,000	\$299,999	\$300,000	\$1,408,649
423	Merchant Wholesalers, Durable Goods	\$1,102,261	\$0	\$0	\$604,209	\$0	\$113,359	\$384,693
424	Merchant Wholesalers, Nondurable Goods	\$1,530,710	\$0	\$79,018	\$92,702	\$942,449	\$282,894	\$133,647
441	Motor Vehicle and Parts Dealers	\$41,225	\$41,225	\$0	\$0	\$0	\$0	\$0
442	Furniture and Home Furnishings Stores	\$44,299	\$0	\$0	\$44,299	\$0	\$0	\$0
443	Electronics and Appliance Stores	\$161,447	\$85,000	\$0	\$0	\$0	\$47,425	\$29,023
444	Building Material and Garden Equipment and Supplies Dealers	\$405,663	\$85,000	\$0	\$0	\$0	\$85,818	\$234,845
445	Food and Beverage Stores	\$444,708	\$63,750	\$38,250	\$0	\$57,806	\$227,941	\$56,960
446	Health and Personal Care Stores	\$87,374	\$0	\$0	\$0	\$0	\$87,374	\$0

Business Type	Description	Total Of BIA Value	2006	2007	2008	2009	2010	2011
447	Gasoline Stations	\$528,961		\$85,000	\$61,966		\$381,995	
448	Clothing and Clothing Accessories Stores	\$182,197	\$34,765	\$0	\$0	\$0	\$0	\$147,432
451	Sporting Goods, Hobby, Book, and Music Stores	\$28,090	\$0	\$0	\$28,090	\$0	\$0	\$0
452	General Merchandise Stores	\$72,310	\$0	\$72,310	\$0	\$0	\$0	\$0
453	Miscellaneous Store Retailers	\$114,750	\$51,000	\$63,750	\$0	\$0	\$0	\$0
481	Air Transportation	\$100,000	\$0	\$100,000	\$0	\$0	\$0	\$0
484	Truck Transportation	\$52,681	\$0	\$0	\$0	\$0	\$52,681	\$0
488	Support Activities for Transportation	\$135,433	\$0	\$0	\$0	\$0	\$0	\$135,433
492	Couriers and Messengers	\$57,120	\$57,120	\$0	\$0	\$0	\$0	\$0
493	Warehousing and Storage	\$25,000	\$25,000	\$0	\$0	\$0	\$0	\$0
512	Motion Picture and Sound Recording Industries	\$23,171	\$0	\$0	\$0	\$0	\$0	\$23,171
517	Telecommunic ations	\$150,000	\$0	\$0	\$0	\$0	\$0	\$150,000
518	Internet Service Providers, Web Search Portals, and Data Processing Services	\$1,917,490	\$1,000,000	\$0	\$0	\$267,490	\$50,000	\$600,000
519	Other Information Services	\$536,062	\$0	\$0	\$0	\$36,062	\$100,000	\$400,000
531	Real Estate	\$3,662,681	\$499,615	\$433,976	\$438,262	\$908,837	\$404,388	\$977,603
532	Rental and Leasing Services	\$370,059	\$155,773	\$0	\$214,286	\$0	\$0	\$0
541	Professional, Scientific, and	\$7,398,164	\$450,000	\$775,256	\$1,854,293	\$1,461,540	\$1,300,668	\$1,556,407

Business Type	Description	Total Of BIA Value	2006	2007	2008	2009	2010	2011
	Technical Services							
551	Management of Companies and Enterprises	\$234,885	\$0	\$0	\$0	\$0	\$0	\$234,885
561	Administrative and Support Services	\$1,214,014	\$74,800	\$0	\$439,739	\$0	\$652,635	\$46,840
611	Educational Services	\$121,603	\$0	\$0	\$121,603	\$0	\$0	\$0
621	Ambulatory Health Care Services	\$1,073,072	\$0	\$252,093	\$30,829	\$333,507	\$456,642	\$0
622	Hospitals	\$694,275	\$0	\$279,962	\$0	\$39,992	\$81,674	\$292,647
623	Nursing and Residential Care Facilities	\$367,291	\$0	\$0	\$0	\$187,361	\$0	\$179,929
624	Social Assistance	\$977,312	\$0	\$0	\$0	\$85,341	\$625,893	\$266,078
712	Museums, Historical Sites, and Similar Institutions	\$160,500	\$0	\$0	\$150,000	\$0	\$0	\$10,500
713	Amusement, Gambling, and Recreation Industries	\$244,489	\$76,500	\$0	\$0	\$137,150	\$30,840	\$0
721	Accommodatio n	\$892,961	\$100,000	\$0	\$0	\$0	\$574,552	\$218,409
722	Food Services and Drinking Places	\$1,421,604	\$199,491	\$200,600	\$0	\$0	\$199,357	\$822,157
811	Repair and Maintenance	\$658,799	\$190,700	\$242,950	\$0	\$102,000	\$48,087	\$75,062
812	Personal and Laundry Services	\$220,427	\$193,725	\$0	\$0	\$0	\$26,702	\$0
813	Religious, Grantmaking, Civic, Professional, and Similar Organizations	\$76,685	\$0	\$0	\$0	\$0	\$0	\$76,685
921	Executive, Legislative, and Other General Government	\$200,000	\$0	\$0	\$0	\$0	\$0	\$200,000

Business Type	Description	Total Of BIA Value	2006	2007	2008	2009	2010	2011
	Support							
925	Administration of Housing Programs, Urban Planning, and Community Development	\$313,543	\$0	\$0	\$0	\$143,753	\$169,790	\$0
926	Administration of Economic Programs	\$1,782,500	\$0	\$1,080,000	\$0	\$160,000	\$0	\$542,500
928	National Security and International Affairs	\$107,306	\$0	\$0	\$0	\$0	\$0	\$107,306
999	Unknown	\$174,500	\$0	\$0	\$0	\$0	\$0	\$174,500

Table 4. Total Business Incentive Agreements by Job Creation, Job Retention, or Neither

Year	Total BIAs	Create	Neither	Retain
2006	60	25	29	6
2007	87	42	38	7
2008	72	39	33	0
2009	93	45	46	2
2010	88	24	64	0
2011	128	40	84	4
TOTAL OF 473 PROJECTS (528 BIAs)	528	215	294	19
	100%	40.7%	55.7%	3.6%

Table 5. Job Creation & Retention Goals by Year and Achievement Status

	2006	2007	2008	2009	2010	2011	Total Jobs
Goal Create	431	474	414	302	190	307	2118
Goal Retain	54	218	0	119	0	360	751
Goal Totals	485	692	414	421	190	667	2869
Jobs Created	266	961	297	478	109	56	2167
Retained	-2	53	0	9	0	179	239
Bonus Jobs	208	301	203	104	493	165	1474
Total	472	1315	500	591	602	400	3,880

Table 6. Wages for Job Creation

	2006		2007		2008		
	Wages	Benefits	Wages	Benefits	Wages	Benefits	
Goal	\$ 13.00	\$ 2.36	\$ 16.10	\$ 2.70	\$ 14.40	\$ 1.65	
Year1	\$ 14.78	\$ 2.11	\$ 18.16	\$ 2.84	\$ 18.58	\$ 3.19	
Year2	\$ 14.12	\$ 2.53	\$ 17.76	\$ 3.03	\$ 16.41	\$ 2.93	
Year3	\$ 15.62	\$ 1.77	\$ 20.33	\$ 2.48	\$ 16.68	\$ 3.11	
Year 4	\$ -	\$ -	\$ 12.00	\$ 1.00	\$ 22.25	\$ 3.50	

	2009		2010		2011	
	Wages	Benefits	Wages	Benefits	Wages	Benefits
Goal	\$ 15.75	\$ 2.89	\$ 20.00	\$ 3.80	\$ 20.59	\$ 3.32
Year1	\$ 17.74	\$ 2.71	\$ 18.20	\$ 2.75	\$ 16.52	\$ 3.00
Year2	\$ 17.32	\$ 3.10	\$ 28.17	\$ 4.67	\$ -	\$ -
Year3	\$ 19.00	\$ 2.92	\$ -	\$ -	\$ -	\$ -
Year4	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Table 7. Wages for Job Retention

	2006		2007		2008	
	Wages	Benefits	Wages	Benefits	Wages	Benefits
Goal	\$ 12.00	\$ 1.67	\$ 15.33	\$ 3.00	\$ -	\$ -
Year1	\$ 10.00	\$ 7.00	\$ 14.50	\$ 2.50	\$ -	\$ -
Year2	\$ 15.33	\$ 5.00	\$ 15.00	\$ 2.50	\$ -	\$ -
Year3	\$ 17.00	\$ 7.67	\$ -	\$ -	\$ -	\$ -
Year 4	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

	2009		2010		2011	
	Wages	Benefits	Wages	Benefits	Wages	Benefits
Goal	\$ 5.50	\$ -	\$ -	\$ -	\$ 18.00	\$ 2.75
Year1	\$ 5.50	\$ -	\$ -	\$ -	\$ 17.00	\$ 3.00
Year2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Year3	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Year 4	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Chart 1. Status of Job Creation & Job Retention Goals for Business Incentives Granted at least 2 years ago

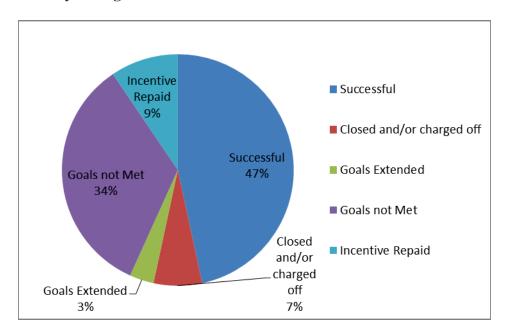


Chart 2. Timeframe That Job Creation & Job Retention Goals Were Achieved.

