

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

by
Good Jobs First

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with

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Executive Summary

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

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

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

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

Accountability Measures in North Dakota Economic Development Programs

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

Introduction

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

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

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

whose business model seems well-suited to take advantage of this phenomenon, see Spotlight Story #2 in this report.)

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

North Dakota Department of Commerce Programs

- North Dakota Development Fund
- Regional Rural Development Fund
- APUC

Bank of North Dakota Programs

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

Tax Incentive Programs

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

Regional and Locally Funded Programs

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

It is not our intent to enumerate every pumpkin in North Dakota's patch of programs. It's clear that the field is huge. Rather, we took a look at what varieties are growing there. Do the programs clearly define their goals? Does

the public get to participate in defining those goals? Do the programs have job quality standards? Are there any public disclosure requirements? Are there clawbacks (money-back guarantees) if project goals aren't met? We examined the major categories of programs to inform a discussion among North Dakota's citizens about whether there are enough accountability measures to ensure a good bang for the taxpayer buck.

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

North Dakota Department of Commerce Programs

North Dakota Development Fund

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

Performance Requirements

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

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

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

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

The NDDF’s 2000-2001 annual report contains two charts labeled “PROGRESS,” one which charts the growth in number of projects funded and the other which charts the growth in “Development Fund cash flow,” which appears to be defined as total amount invested. This page also notes that “For every Development Fund dollar invested, \$4.77 was invested from other sources.”⁹ Another way to look at this figure is that the public is providing at

least 17.3% of the capital for projects assisted by the NDDF. Actually, the public could be providing a larger share if some of the “other sources” in the package are other varieties of public funding.

Job Standards

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

Amounts Spent

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

In 2001, the NDDF made 24 loans totaling \$3,971,633 and took three equity positions totaling \$300,000.¹²

Agricultural Products Utilization Commission (APUC)

APUC is a research and marketing grant program funded by an agricultural fuel tax. APUC grants are intended to create new wealth and jobs through the development of new and expanded uses of North Dakota agricultural products. They assist basic and applied research, marketing and utilization, farm diversification, and agricultural prototype development. As of this writing, the Agricultural Products Utilization Commission has not responded in writing¹³ to our Open Records request. However, some information about APUC is available on the web and in APUC’s enabling statute, NDCC \diamond 4-14.1.¹⁴

Performance Requirements

APUC considers grant requests that lead to and result in development and marketing of new and/or expanded uses or technologies for processing the

agricultural products of North Dakota; focus industry and jobs creation efforts in rural areas of the state; include funding from other sources, public or private; and include a framework for timely progress toward stated objectives.

APUC evaluates proposals by awarding points for each proposal's

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

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

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

Job Standards

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

Amounts Spent

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



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

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

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

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

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

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

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

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

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

Bank of North Dakota Programs

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

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

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

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

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

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

PACE (Partnership in Assisting Community Expansion)

Performance Requirements

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

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

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

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

Job Standards

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

MATCH

Performance Requirements

The MATCH program is intended to make investment in North Dakota attractive to companies that are very strong financially. It targets

manufacturing, processing and value-added industries. Borrowers must have an “A” rating or better from a national credit rating agency. As in other BND programs, BND acts only as a participation lender; a lead lender applies for the program and is responsible for servicing the loan. For its portion of the loan BND charges a low interest rate equal to an equivalent term U.S. Treasury Note rate plus .25% - .50%.

Job Standards

The MATCH program does not involve any specific job standards.

Beginning Entrepreneur Loan Guarantee

Performance Requirements

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

Job Standards

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

Business Development Loans

Performance Requirements

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

Job Standards

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

Ag PACE (Agriculture Partnership in Assisting Community Expansion)

Performance Requirements

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

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

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

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

Job Standards

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

Amounts Spent

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

commercial and business; reporting for them is aggregated with other types of commercial and business lending.²² The report states that the commercial and business loan category grew by \$28 million in 2001 to a total of \$370 million and that “BND loan programs financed 190 business and industrial projects.”²³ The only program for which separate information is provided is the Beginning Entrepreneur Loan Program, because it was new in 2001. The note describing this program states that as of December 31, 2001, BND “has provided guarantees totaling \$766,000 and has guarantee commitments outstanding of \$37,000 included in commitments to extend credit.”²⁴ BND’s agricultural lending, which includes Ag PACE, increased \$14 million to a total of \$214 million in 2001.²⁵ BND’s total loan portfolio across all categories was \$1.27 billion at the end of 2001.²⁶



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

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

In September 1995, Sykes received approval for incentives that included up to \$2 million from the Bismarck Vision Fund, 18 acres of city-owned property near the airport, utility concessions, and a five-year property tax exemption. The following year the state granted Sykes a five-year

exemption from corporate income taxes as well. Sykes' Bismarck call center was to provide 650 jobs when it reached capacity, at starting wages of \$7.00-\$7.50 per hour. At the time, the company was planning another call center in Minot and a second facility in Bismarck, a mirror image of the first. Bismarck offered another \$2 million from the Vision Fund. Minot agreed to a \$2.77 million subsidy package. Sykes was at the same time expanding its overseas call center operations.

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

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

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

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

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

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

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

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

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

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

Tax Incentive Programs

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

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

Investment Tax Credits

Performance Requirements

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

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

Job Standards

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

Amounts Spent

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

Renaissance Zones

Performance Requirements

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

Job Standards

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

Amounts Spent

The single-family residence credit had “no activity to date” as of January 24, 2002. The historic property preservation or renovation credit activity was “too small to report (due to confidentiality concerns).” The renaissance fund

organization investment credit had a total of eight investors with a total allowable credit of \$290,000 in 2001, but the amount of actual credit claimed was not reported. No 2001 information was reported for the business or investment income exemption, but in 2000 six returns claimed a total of \$3,901 in exemptions.³²

New & Expanding Business Income Tax Exemption

Performance Requirements

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

Job Standards

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

Amounts Spent

The Office of Tax Commissioner did not provide the dollar amount of 2001 exemptions. However, it did report that as of December 31, 2001, a total of 294 exemptions had been approved, and that in 1998, 30 corporations exempted a total of \$6,425,545 in income, in 1999, 20 corporations exempted a total of \$10,901,025, and in 2000, 16 corporations exempted a total of \$1,674,544.³⁵ Because these are exemptions from income rather than credits

against tax, the actual lost tax revenue is much smaller than the amount of the exemptions. The Office of Tax Commissioner reports that the tax lost “is less than 10% of the amount of the exemption.”³⁶

Other income tax deductions, exemptions, and credits

Performance Requirements

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

Job Standards

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

Amounts Spent

The beginning farmer and beginning businessperson deductions have had “minimal use” and amounts are not reported for them. The relocated corporation exemption has had “no activity to date” as of January 24, 2002. The Office of Tax Commissioner did not report any 2001 information about the research expense credit, but in 1998, six corporations claimed \$557,703 of this credit, in 1999, six corporations claimed \$402,440 of this credit, and in 2000, fewer than five corporations claimed the credit and the amount was not reported. The Office of Tax Commissioner does not report statistics about the wage and salary credit “due to confidentiality.” The job training assistance program was used by 66 companies from its inception in 1993 through December 31, 2001; they received a total of \$4,784,695.³⁷

Sales and Use Tax Exemptions

Performance Requirements

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

Job Standards

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

Amounts Spent

The Office of Tax Commissioner reports that most of the requests for these exemptions involve the manufacturing machinery and equipment exemption, and that "1,588 requests for a total of \$66,154,193 have been granted for manufacturing and agricultural commodity processing facilities between July 1, 1989 and June 30, 2001."³⁸ The fiscal year 2001 portion of that total was \$7,365,479.³⁹ The recycling exemption is less frequently requested and amounted to a total of \$210,548 from July 1, 1993 to June 30, 2001. Figures for the other exemptions were not reported.⁴⁰

Property Tax Exemptions

Performance Requirements

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

Job Standards

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

Amounts Spent

The Office of State Tax Commissioner reports the number of exemptions but not the amounts. From the program's enactment in 1969 to January 24, 2002, the number of projects that had received property tax exemptions was 1,104.⁴¹



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

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

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

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

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

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

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

Noble Games is not currently in production in Jamestown. The company plans to be operating by November, 2002.⁴⁵

Regional and Locally Funded Programs

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

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

Seeking information about the performance requirements of and amounts spent by local EDCs and JDAs, we mailed an Open Records⁴⁹ request to 47 of them, whose addresses we obtained from the web site of the Greater North Dakota Association (GNDA), the state’s chamber of commerce.⁵⁰ As of this writing six weeks later, while responses are still trickling in, the results do not reveal great enthusiasm for openness to public scrutiny. Eight communities responded by letter, one by phone, and one by phone followed up with a

letter. One letter was returned because the addressee had left no forwarding address. The remaining 36 communities (76% of the total) have not responded. Of the ten communities that did respond, four (9% of the total) gave us at least some of the information we requested, while the other six gave either various explanations of why the information was unavailable or promises to supply the information at a later date.

Regional Planning and Development Councils

Performance Requirements

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

Job Standards

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

Amounts Spent

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

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

Performance Requirements

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

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

Job Standards

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

Amounts Spent

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

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



**Spotlight
Story #4:
Coventry Health Care**

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

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

A May 2002 Associated Press article reported that the committee that oversees Bismarck’s city sales-tax-supported Vision Fund had recommended that the City Commission approve \$1.2 million for Coventry. The Vision Fund also would invest \$250,000 in Coventry stock. According to the Bismarck-Mandan Development Association, with workforce training assistance from Job Service of North Dakota, the University of Mary and Bismarck State College, and possible property and state income tax breaks, the financial package could total \$2.5 million. Another May 2002 article in the Bismarck Tribune

reported that the chairman of the Vision Fund and the president of the Bismarck-Mandan Development Association confirmed that the financial package included \$1.2 million in employment incentives, \$250,000 in stocks, \$750,000 for workforce training and a five-year exemption from corporate income and property taxes.⁵³

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

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

for all the costs of improving and owning the building over the life of the lease, but would not gain title to the real estate.⁵⁴

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

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

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

In February 2001, state lawmakers in North Carolina, angered by Coventry subsidiary WellPath Select's plan to drop HMO coverage for nearly 11,000 state employees, retirees and their families, introduced legislation to block the move. State officials charged that WellPath was violating prevailing laws by "cherry-picking" members and failing to give 180 days' notice before dropping coverage. The bill in the General Assembly would give the Department of Insurance more authority to

stop WellPath from dropping members if the company couldn't settle its dispute with the state employees' health plan. Specifically, the proposed law would give the Department of Insurance the power to issue a cease and desist order if an HMO doesn't comply with existing laws.⁵⁸

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

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

Public Policy Recommendations

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

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

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

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

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

Endnotes

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

⁴⁰ Tax Incentive Programs Report, pp. 8-9.

⁴¹ *Ibid.*, p. 10.

⁴² "Hazen lets the games begin," Bismarck Tribune, October 26, 1995; "Region roundup: Hazen," Bismarck Tribune, November 6, 1995; "Game company gets tax reprieve," Bismarck Tribune, February 2, 1996; "Mandan says no to measure," Bismarck Tribune, April 3, 1996.

⁴³ "Investors go for Noble Games stock," Bismarck Tribune, March 13, 1998.

⁴⁴ Telephone interview by North Dakota Progressive Coalition researcher Gail Erickson with Mr. Jeff Fuchs, City Administrator, City of Jamestown, October 24, 2002; telephone interview by Ms. Erickson with Mr. Larry Olson, Stutsman County Auditor, October 24, 2002.

⁴⁵ *Ibid.*, Olson interview.

⁴⁶ All eight regional councils and some of the local EDAs and JDAs are listed at www.marketplaceofideas.com/directory/planning; a list of many regional and local development corporations is available at www.gnda.com/resource_guide/resources.asp?ID=3.

⁴⁷ Telephone interview with Mr. Cory Finneman, Vice President of Research, Economic Development and Finance Division, North Dakota Department of Commerce, August 8, 2002. Mr. Finneman noted that more than 80 communities in North Dakota use the sales tax for their economic development efforts, including Bismarck, Grand Forks, and Minot.

⁴⁸ NDCC ◇ 10-33-124.

⁴⁹ Open Records and Meetings Laws, NDCC ◇◇ 44-04-17.1 through 44-04-21.3.

⁵⁰ http://www.gnda.com/resource_guide/resources.asp?ID=3.

⁵¹ We appreciate the cooperation of the staffs of the local EDCs and JDAs who responded to our request and would like to acknowledge their responses. They were: a letter and enclosures from Mr. Richard M. Peterson, Minnewaukan Area Development Corporation, September 5, 2002; a letter from Ms. Cori Otto, WAEDA Director, Washburn Area Economic Development Association, September 5, 2002; a letter from Ms. June Enget, Powers Lake Economic Development Committee, September 6, 2002; a letter from Mr. Russ Staiger, Bismarck-Mandan Development Association, September 9, 2002; a phone call from Mr. Duke Rosendahl, Hazen Community Development, September 10, 2002; a letter and enclosure from Mr. Bruce A. Melby, Larimore Economic Development Corporation, September 12, 2002; a phone call and letter from Mr. David S. Olson, Divide County JDA, Crosby, September 16, 2002; a letter from Ms. Becky J. Meidinger, Coordinator, Carrington Development Organization, September 24, 2002; a letter with enclosures from Ms. Carol Goodman, Executive Director, Cavalier County Job Development Authority, Langdon, North Dakota, October 9, 2002; and a letter and enclosures from Mr. Gaylon Baker, Stark Development Corporation, Dickinson, North Dakota, October 15, 2002.

⁵² Letter from Mr. Russ Staiger, Bismarck-Mandan Development Association, September 9, 2002, sent in response to our Open Records request. Mr. Staiger stated, "In direct response to your request, I must tell you the information you requested is not available from the Bismarck-Mandan Development Association (BMDA). For your information, the BMDA's function is to serve as a facilitator in identifying growth opportunities, and then presenting them to the various entities (both public and private) who may provide financial and/or business incentives such as various tax exemptions. We are not a funding agency. The BMDA does not set the standards by which the various incentives are provided, nor do we monitor the respective projects once they have been granted. This responsibility is left to the particular public or private participating entities granting the incentives." Mr. Staiger's letter did not mention any specific entities, nor did it provide any information about the Bismarck Vision Fund or the Mandan Growth Fund.

⁵³ "Coventry confirms Bismarck plans," Bismarck Tribune, May 10, 2002; "Fortune 500 company to open center in Bismarck," Associated Press State & Local Wire, May 9, 2002.

⁵⁴ Letters to the editor, Marv Heinert, "Coventry committed to Bismarck," Bismarck Tribune, May 20, 2002.

⁵⁵ "The Pennsylvania Department of Insurance last month fined two HMOs a total of \$100,000 for violations of the state's prompt-pay law," Managed Care Week, No. 25, Vol.12, Pg. 6, July 22, 2002.

⁵⁶ "Medical society joining lawsuits," The Advocate (Baton Rouge, Louisiana), July 17, 2002; "Insurance regulators seek help from courts," The Advocate, July 4, 2002.

⁵⁷ "Georgia fines more health plans for claims delays," BestWire, A.M. Best Company, Inc., May 30, 2002.

⁵⁸ "N.C. senator wants to block WellPath from dropping 11,000 members," BestWire, A.M. Best Company, Inc., February 26, 2001.

⁵⁹ "Md. Fines 11 HMOs, agent for violations; Companies agree to pay \$1.7 million, correct problems; Insurance industry," The Baltimore Sun, April 27, 2000.

⁶⁰ "Slow pay cited in HMO, hospital dispute," The News Journal (Wilmington, Delaware), September 30, 2000.

