

2011 HOUSE APPROPRIATIONS

HB 1059

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Sakakawea Room, State Capitol

HB 1059
1/18/11
13609

☐ Conference Committee

Committee Clerk Signature :

Shirley Branning

Explanation or reason for introduction of bill/resolution:

HB 1059 Development Fund for Tech Start-up

Minutes:

You may make reference to "attached testimony."

Chairman Skarphol: Do we have a motion to adopt the amendments to HB 1059?

Dosch: Move to accept.

Rep .Hawken: Second

Chairman Skarphol: Calling for discussion, and a Voice vote: **Motion carries.**

What are the wishes on HB 1059? Is there a motion to move section # 1 of HB 1059 to HB 1018 as amended?

Rep. Hawken: Move

Rep. Monson: Second

Chairman Skarphol: Calling for discussion and hearing none requests the Clerk to take the roll on a **Do Not Pass. Reverting back to a voice vote to move the language. Voice Vote Carried.**

Now, what are the wishes of the Committee on HB 1059?

Rep.Hawken: Do not pass on HB 1059 as amended.

Rep. Monson: Second.

Chairman Skarphol: Any discussion? Hearing none requests the Clerk to take the roll on **Do Not Pass on HB 1059.**

Vote Taken: Yes 6; No 0; Absent 0; Motion carried.

Carrier: Rep.Hawken

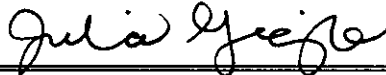
2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Sakakawea Room, State Capitol

HB 1059
1/26/11
Job number: 13461

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 10-30.5 of the North Dakota Century Code, relating to North Dakota development fund, incorporated, matching grants for technology startup businesses; and to provide an appropriation.

Minutes:

Chairman Skarphol: Opened the hearing on HB 1059 by introducing Senator Tony Sen. Grindberg (R-41).

Sen. Grindberg: I am here to talk through another interim bill (HB 1059) that attempts to put forward a technology award grant program with the goal of providing more capital to new venture creation, business creation in the state. The bill is fairly straight forward. The ND development fund would provide matching grants to technology start up businesses that were linked to angel fund investment in the state of ND. Section 1-2A, applicants must be a ND business at startup stage, be a primary sector business and technology, have a legal structure that was established following comprehensive vetting and developed proof of concept and receive intent to fund from appropriation (ND Development Fund). It does not exceed \$500,000. I will share there have been some amendments that have been proposed that came from the Dept of Commerce and a Development Fund that in essence replaces the word, grant with equity investments. I will pass out amendments. The purpose of the amendments strikes the heart of Representative Dosch's question in the prior bill about return, payback and investment versus a grant. I did request the University system provide a copy of the ND University system's intellectual property.
Distributes attachment # 1

Chairman Skarphol: Is the amendment proposing that wherever it says grant or grants, that it become an equity investment?

Sen. Grindberg: That's correct.

Vice Chairman Hawken: Is that just a word change? What is the difference?

Sen. Grindberg: A grant's a grant. With equity investment there would be an expectation of return back to the Development Fund for use of these dollars. Mr. Chairman, your question about distinguishing this bill from HB 1028 is a great question. Conceptually they're very close. I wouldn't have any problems if the committee chooses one or the other to work off of to accomplish the same goal. I do believe that there is a need on the technology commercialization side with University start ups, but if you feel blending the two

and tying a return on investment, whether it's back to the Development fund, I have no problem with that.

Chairman Skarphol: If it were any interest of the committee to save a little money, would you have an issue to allow half of each to go...I mean \$250,000 for each. This does include business; the other is for the individual.

Sen. Grindberg: That may be worthwhile. If 2 to 1 on 1058, it was based on how the State of Maryland approaches technology investment. If it was 3 to 1 or how you equate that is up to the committee.

Chairman Skarphol: Has Maryland had the program in place long enough to relate any history?

Sen. Grindberg: We'll get that information. My understanding is that it's been around for awhile and is called the TEDCO.

Deanna Wiese, Executive Director of the Information Technology Council of North Dakota (ITCND): spoke in favor of HB 1059, see attachment # 2

Rep. Monson: How would you define technology?

Deanna Wiese: It's difficult to specifically define that. I'd have to do some research on that.

Rep. Monson: Technology is very broad; we need to know what it is before we open the flood gates.

Deanna Wiese: In terms of these type of programs, I believe there aimed at the high risk business opportunities that also have the potential for very high gains in the long run.

Chairman Skarphol: In your position, are you familiar with entities out there that have struggled to make that entrance into the entrepreneur and get a business started? How often is this happening and how imperative is it that we do it to this degree?

Deanna Wiese: In information technology there are numerous businesses that probably startup in someone's basement or a garage somewhere before they get to that commercial level and some never make it to commercialization. In the tech parks too we have the incubator situation and many of those have been successful.

Chairman Skarphol: Addressing Sen. Grindberg, are there a lot of young people who are trying to get started and don't?

Sen. Grindberg: Our experience with entrepreneurs that we represent has been primarily boot strapped their business, migrated to the environment of the knowledge that exists with the university. 1058 is part of the national strategy to commercialize technology to broaden and advance technology, certainly information technology. Rep. Monson's question about technology is pretty broad, but I think the parameters what we're speaking about really fit nicely with the Dept of Commerce and the State Plan. You can easily demonstrate technology deployment and advanced manufacturing, certainly information technology, energy, the various aspects and approaches to drilling and new technologies in the oil patch, fit around that team of primary sector versus technology deployment so it is pretty broad. It is difficult to describe an equity business as compared to a small business. Equity people put their money at risk. They invest and hope someday there will be return. Small

business, if they're going to open a franchise, typically you use your own network or lending. Service tends to be more boot strapped or personal wealth, but the risk capital tends to go into the equity side where technology and new ideas generally flourish and go on to become larger enterprises.

Chairman Skarphol: In going back, at North Dakota State University, there were young men that developed a three dimensional Indian village (you put on the 3 D glasses). They expressed interest in taking that to commercialization. Are you familiar with those young men? Have they been able to do anything?

Sen. Grindberg: Yes, I've met them. Researchers and faculty are not entrepreneurs and risk takers. However it is more common for licensing the technology. One needs to ponder whether they are going to be the CEO of the business (leave tenured) or see it branch out. Regarding your question, I am not aware of where they are at, but this clearly could provide some resources to take that to proof of concept and to test it further where now it doesn't exist.

Rep. Monson: A young man spoke to us about his startup business, starting in a dorm room with about \$5,000 and they opened up an elevator someplace between Bismarck and Garrison. Now they're major exporters of peas, lentils, etc. I don't see that either of these programs would fit his need to get going. I don't see that as a high tech thing. What would be high tech?

Chairman Skarphol: Asking Justin Dever, to take the podium, to answer the question (do not have to testify for or against the bill). What qualifies as technology for the purposes of these bills?

Dever: What is the product or service and is it something that is new and innovative. We look for high growth, high potential businesses that could be impacted by these type of programs. There are certain segments. Information technology is definitely technology if you are looking at new software development. Advanced manufacturing encompasses a lot of different technologies. We are looking at something that's innovative.

Chairman Skarphol: In using an unusual example, the laser laid on the shelf for 40 years, before there was a practical use. Is that a new technology?

Dever: Using it in a new and innovative way qualifies as technology.

Chairman Skarphol: Sen. Grindberg, what is the level of new ideas that are sitting on the shelf that hold the potential to qualify for something like this. Do we have a lot of things sitting on the shelves that have been invented, patented that have not been commercialized?

Sen. Grindberg: I would put you in touch with some who have a much more detailed understanding of that within the University. There are some very exciting technologies that are challenged by...from proof of concept, from that point in the lab to getting them out on the market. I mean, patent costs. The portfolio at NDSU has grown to a point where it's traditionally been involved with new wheat variety and agriculture. They have to be selective in which ones to file. It's typically \$20-40,000 to file a patent. It's \$200,000 to get it

protected on an international level. Patent filing has grown and is expensive, sophisticated, and complicated.

Chairman Skarphol: Are you envisioning the individuals or businesses that you are referring to here, taking that already completed patented idea and taking it commercial or are you thinking of in terms of them taking the idea and getting it patented then turning into a commercialized product.

Sen. Grindberg: My preference would be once it's patented that they take it to the next step, identify market and proof of concept. There are lots of patents on the books. How do you find a market and turn it into something is where the next comes in and that's a challenge.

Chairman Skarphol: inquired about further testimony as for the bill or neutral (assuming there is no opposition).

Paul Lucy with the Department of Commerce: Distributed Attachment # 3, proposed amendments to HB 1059.

Chairman Skarphol: The change that you are recommending on line 19, can you clear that up for me?

Lucy: The purpose was to provide clarity that if we add the language must come from a ND angel fund certified under the certain section of the century code. Having nonstate in there is basically a mute point.

Rep. Williams: I want clarification. An idea can set on a shelf for a long time and until it has a useful application for it, it is not technology. When it becomes useful, in some ways then it is a technique or technology. One is the root, the other is a flower. Is that correct?

Lucy: Yes, sometimes it is an idea until that entity is able to go raise capital to move it forward. Describes an example of how this may come about and an idea goes to market. There are many examples of when a useful idea exists but does not get to market.

Chairman Skarphol: If researchers at institutions have ideas with marketable ability, how does an individual that wishes to take them commercial have knowledge of resources to allow this to occur? I assume they are protected against piracy. How does that come together?

Lucy: Somebody from the technology transfer office would better be able to answer that question. With connections people have with Universities, it probably can come through conversations. There is expanded effort to get more of the new technology and ideas out of the institutions and onto the market.

Rep. Williams: When we talk about an idea and technology, can you patent an idea?

Lucy: I am not an expert on that (I am not a patent attorney), but I believe there is an opportunity to patent ideas to a certain extent. There are a number of different patent

qualifications. I'm not sure of the exact verbage, but I do know there are some things that can be done in that area.

Chairman Skarphol: Addressing Jennifer Clark, Legislative Council, did you happen to peruse this document that was provided to the committee by the University systems.

Legislative Council: I did just receive that and haven't looked through it yet.

Due to no further testimony on HB 1050, **Chairman Skarphol** adjourned hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1059

2/8/11

14230, begins at minute 2:38

☐ Conference Committee

Committee Clerk Signature

Meredith Trankolt

Explanation or reason for introduction of bill/resolution:

A BILL relating to North Dakota development fund, incorporated, matching grants for technology startup businesses; and to provide an appropriation.

Minutes:

You may make reference to "attached testimony."

Continuation of discussion from HB 1058.

Representative Hawken: 1059 dealt with a workforce committee grant, as did 1058, and it was a matching grant for technology start up business. We amended this, and then put it into the commerce bill (HB 1018) and gave 1059 a Do Not Pass. I move same for full committee.

Representative Skarphol: Second.

Chairman Delzer: We have a motion and a second for a Do Not Pass on HB 1059. Discussion by the committee?

Representative Skarphol: The amendment Representative Hawken referred to makes it a grant program, but rather that they would assume an equity position, so it changes that in numerous places, and maybe one other small change to the language.

Chairman Delzer: That again is something you expect to add as an amendment on 1018.

Representative Skarphol: We had that one in committee and it was a Do Pass as Amended. This one does provide that in the event it is successful there would be a \$2 matching funds required for each \$1 of state funds. The first one was for individuals, this one is for businesses.

Chairman Delzer: And it says the matching funds must be cash, not in kind, and the limits are \$50,000, it looks like.

Representative Hawken: Correct.

Representative Kaldor: Did anyone come in to talk about the difference between the grant and the equity position? During the interim, on the workforce committee, we discussed the reasons for going to a grant rather than equity, and it had something to do with the amount.

Representative Skarphol: That differentiation wasn't an issue. Senator Grindberg was the one that presented these, they were tailored after a Maryland program, and his premise was there was at least an opportunity to recover some of these dollars if you make them into an equity position; however you are probably correct that it's a remote likelihood. These are very risky projects.

Vice Chairman Kempenich: Did they have any type of success rate ratio on these?

Representative Skarphol: We never got into the specifics on that. Since Senator Grindberg indicated he used Maryland as an example, I asked Legislative Council to check briefly on how much their general fund appropriation is, and it's about eight times what ours is. If we went proportionate to them, it'd be down in the \$200,000 or less range for these types of ventures.

Chairman Delzer: Further discussion? Seeing none, we'll do a roll call vote for Do Not Pass on HB 1059. Motion carries 21-0-0. Representative Hawken will carry it to the floor.

Recording continues with a discussion relating to HB 1217.

Date: 1/18/11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1059

House Appropriations – Education and Environment Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Hawken Seconded By Rep. Monson

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman Bob Skarphol | X | | Clark Williams | X | |
| Vice Chair Hawken | X | | | | |
| Mark Dosch | X | | | | |
| Rep. Martinson: | X | | | | |
| David Monson | X | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Rep. Hawken

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

Date: 2/8/11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1059

House Appropriations Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Hawken Seconded By Rep. Skarphol

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|--------------------------|-----|----|
| Chairman Delzer | X | | Representative Nelson | X | |
| Vice Chairman Kempenich | X | | Representative Wieland | X | |
| Representative Pollert | X | | | | |
| Representative Skarphol | X | | | | |
| Representative Thoreson | X | | Representative Glassheim | X | |
| Representative Bellew | X | | Representative Kaldor | X | |
| Representative Brandenburg | X | | Representative Kroeber | X | |
| Representative Dahl | X | | Representative Metcalf | X | |
| Representative Dosch | X | | Representative Williams | X | |
| Representative Hawken | X | | | | |
| Representative Klein | X | | | | |
| Representative Kreidt | X | | | | |
| Representative Martinson | X | | | | |
| Representative Monson | X | | | | |

Total (Yes) 21 No 0

Absent 0

Floor Assignment Rep Hawken


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

REPORT OF STANDING COMMITTEE

HB 1059: Appropriations Committee (Rep. Delzer, Chairman) recommends **DO NOT PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1059 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1059



NORTH DAKOTA UNIVERSITY SYSTEM

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SBHE Policies

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SUBJECT: 600s: Personnel EFFECTIVE: June 20, 2002

Section: 611.2 Employee Responsibility and Activities: Intellectual Property

Campus Employment Opportunities

NDUS Office Openings and
Requests for Proposals

2011-13 NDUS Budget

Policies and Procedures

Broadband Job Classifications

SBHE Policies

Proposed SBHE Policies

NDUS Procedures

IT Policies

NDUS Human Resource Policy
Manual

Schedule of Institutional Charges

Articulation and Transfer

Accounting Manual and Forms

Reporting Fraud

Academic Calendar

1. General Principles.

The primary purposes of this policy are to encourage and promote research and scholarship based on the traditional principles of the academic profession. These products may constitute Intellectual Property that could be of financial benefit to the individuals involved and the Institution. This policy establishes guidelines to support faculty, staff, and students, in identifying, protecting and administering Intellectual Property and defining the rights and responsibilities of all involved. This policy governs unless a policy on specific Intellectual Property provides a different rule.

2. Definitions.

- a. "Author": Person who creates a Copyrightable Work.
- b. "Copyrightable Work or Work": An original Work of authorship which has been fixed in any tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, such as books, journals, software, computer programs, musical work, dramatic works, videos, multimedia products, sound recordings, pictorial and graphical works, etc. A Work may be the product of a single Author or a group of Authors who have collaborated on a project. A Work is created by an Author.
- c. "Creator": Either an inventor in the context of an Invention, or an Author in the context of a Copyrightable Work.
- d. "Institution": The individual colleges and universities and the North Dakota University System.
- e. "Intellectual Property": Collectively, all forms of property created by the mind including, but not limited to, Inventions, Copyrightable Work, Trademarks, and Tangible Research Property.
- f. "Invention": A process, method, discovery, device, plant, composition of matter, or other Invention that reasonably appears to qualify for protection under the United States patent law (including, but not limited to, utility patent, plant patent, design patent, certificate of Plant Variety Protection, etc.), whether or not actually patentable. An Invention may be the product of a single inventor or a group of inventors who have collaborated on a project.
- g. "Mediated Courseware": Teaching aids created and/or deployed electronically. Mediated Courseware may incorporate text, graphics, video, and audio elements. Examples of such materials include, but are not limited to, hypertext modules, simulation software, web sites, and databases containing numbers, images, or text.
- h. "Significant Use of University System or Institution Resources": Significant Use of Institution Resources means an Author's use of other employees' time or Institution facilities or equipment that appreciably increases the Institution's costs beyond those normally incurred in support of an employee in the Institution. Significant Use does not include the normal use of Institution employees, facilities, or equipment commonly available to faculty, staff, or the public, such as libraries, Internet access, office space, office equipment, computers, and/or office supplies. Unless otherwise agreed, Significant Use also does not include the use of Institutional developmental leave time, so long as it does not appreciably increase the Institution's costs beyond those normally incurred in support of an employee of the Institution.
- i. "Tangible Research Property": Tangible items produced in the course of research including, but not limited to, such items as biological materials, engineering drawings, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment. Individual items of Tangible Research Property may be associated with one or more intangible properties, such as

Inventions, Copyrightable Work, and Trademarks. An item of Tangible Research Property may be the product of a single Creator or a group of individuals who have collaborated on the project.

- j. "Trademark" (including Service Mark): A distinctive word, design, or graphic symbol, or combination word and design, that distinguishes and identifies the goods and services of one party from those of another, such as names or symbols used in conjunction with plant varieties or computer programs, or the Institutional names, logos, or derivatives thereof.
- k. "Work For Hire": Defined pursuant to Federal Copyright Law which includes a Work prepared by an employee within the scope of employment or a Work created pursuant to a written agreement identifying the Work as a Work for Hire.

3. General Patent Policy.

- a. The North Dakota State Board of Higher Education encourages the faculty, staff, and others associated with the Institutions under its jurisdiction to seek patents on Inventions as a method of bringing recognition and remuneration to all parties involved. Each Institution shall establish a "patent review procedure" to define the Institution's processing of such Inventions or discoveries, consistent with Board policy. The inventor(s) shall submit to the Institution the conception and/or reduction to practice of all potentially patentable discoveries prior to public "enabling" disclosure.
- b. A patentable discovery may arise from the development of a new and useful process, device or apparatus, article of manufacture, composition of matter (including chemical compounds, microorganisms, and the like), plant, or related improvement, or a new use for a known material or device. A public "enabling" disclosure is one which will enable others in the same or a related field to fully understand and practice the Invention. The Institutional "patent review procedure" shall assure provision of guidelines to the inventor(s) in defining what constitutes a public "enabling" disclosure.
- c. The Institution shall have the right of first refusal to the title of all patentable discoveries derived with the use of facilities, gifts, grants, or contract funds through the university, subject to restrictions arising from the overriding obligations of the Institution pursuant to gifts, grants, contracts, or other agreements with outside organizations. The inventor(s) shall provide all necessary declarations, assignments, or other documents as may be necessary in the course of Invention evaluation, patent prosecution, or protection of patent rights to assure that title in such Inventions shall be held by the Institution or other parties as may be appropriate under the circumstances.
- d. The Institution shall have six months in which to assess the technical and commercial viability and patentability of the discovery in accordance with Institutional procedures. If the Institution judges the discovery not to be patentable, or decides not to pursue a patent, and in the absence of overriding obligations to outside sponsors of the discovery, all rights will revert to the inventor. In no instance, and regardless of ownership of the patent, may the Institution's name be used in connection with the marketing of the Invention.
 - 1. Subject to restrictions arising from overriding obligations of the Institution pursuant to gifts, grants, contracts, or other agreements with outside organizations, the Institution agrees, for and in consideration of the assignment of patent rights, to pay annually to the named inventor(s), or to the inventor(s)' heirs, successors, or assigns, a minimum of 30 percent of the net royalties and fees received by the Institution. Net royalties are defined as gross royalties and fees less the expenses incurred by the Institution in conducting the research and in procuring, protecting, preserving, maintaining, and licensing the patent and related property rights, and such other costs, taxes, or reimbursements as may be necessary or required by law.
 - 2. When there are two or more inventors, each inventor shall share equally in the inventor's share of royalties, unless all inventors have agreed in writing to a different distribution of such share. The Institution will have final authority over any agreement purporting to share rights and/or royalties between participating parties.
 - 3. In addition to the inventor(s) share, the net royalties shall be disbursed by negotiated agreement with allocations to the originating department, the originating college/school, and the Institution. In the disposition of any net royalty income accruing to Institutional parties, other than the inventor(s), support of research shall receive first consideration. The "patent review procedure" shall outline the negotiation and distribution mechanism at each Institution.
 - 4. The provisions of this section apply to plant variety protection unless inconsistent with Institution policy.

4. General Copyright Policy.

- a. Except as otherwise explicitly provided under this policy or applicable law, an employee who creates a Work retains copyright ownership of the Work. If there has been Significant Use of University System or Institutional Resources, the provisions of section 4b of this policy shall apply.
- b. If there has been Significant Use of Institutional Resources, as defined in section 2 of this policy, to create a Copyrightable Work, the ownership of which is vested in the individual employee, the Institution shall be reimbursed out of the royalties, in accord with an agreement between the employee and the Institution, up to that amount that constitutes the Institution's Significant Use. The Institution shall be reimbursed for the Significant Use of any facilities, personnel or resources, except those considered part of the normal academic environment including library facilities.
- c. If employees are employed or commissioned by the Institution or agencies of the Institution for the creation of Work, or if by prior agreement they are assigned to produce or develop Work in the course of their regular duties, and if such Work is deemed appropriate for copyright, it must be reported to the Institution pursuant to its copyright review procedure. In such instances the Institution shall have the first option to secure copyright in the name of the Institution. Should the Institution decide, in writing, it would not be appropriate to secure copyright, the employee then may proceed to personally secure the copyright.
- d. Royalties received as a result of copyright ownership by the Institution will be disbursed at least 30 percent to the employee(s) and the remainder pursuant to the copyright review procedure.

5. Mediated Courseware.

- a. Self-initiated Mediated Courseware. When employees develop Mediated Courseware without specific direction by the Institution, unless otherwise agreed, the ownership of the courseware shall remain with the employee. Normally, no royalty, rent or other consideration shall be paid to the employee when that Mediated Courseware is used for instruction at the Institution and such Mediated Courseware shall not be used or modified without the consent of the employee. While the Creator is under Institutional employment, the Mediated Courseware shall not be sold, leased, rented or otherwise used in a manner that competes in a substantial way with the for-credit offering of the employee's own Institution unless that transaction has received the approval of the chief academic officer of the Institution. The Institution shall have a perpetual, non-exclusive royalty-free right to use such courseware for archival research purposes. Should approval be granted to offer the course outside of the Institution, the provisions of section 4b of this policy shall apply.
- b. Institution-directed Mediated Courseware. When the Institution directs in an employment contract the creation of a specific Mediated Courseware, the resulting Mediated Courseware belongs to the Institution and the Institution shall have the right to revise it and decide who will utilize the Mediated Courseware in instruction. The Institution may specifically agree to share revenues and control rights with the employee.
- c. Institutions shall develop procedures for reporting the development of Institution-directed Mediated Courseware to the appropriate administrator at the Institution.

6. Copyrightable Software.

Unless a separate written agreement provides otherwise, software created by employees within the scope of their employment and not covered under Mediated Courseware in section 5 of this policy shall be treated as a Work for Hire, owned by the Institution and commercialized pursuant to the General Patent Policy, with the employee(s) getting a minimum of 30 percent of the net royalties and fees.

7. Student Work.

- a. The ownership of copyrights in student Work is governed by the following:
 1. Copyright ownership of student Work that is performed in whole or in part by the student with financial support in the form of wages, salaries, stipend, or grants from funds administered by the Institution shall be determined in accordance with the terms of the support agreement, or in the absence of such terms, shall become the property of the Institution.
 2. Copyright ownership of student Work generated by research performed in whole or in part utilizing equipment or facilities provided by the Institution under conditions that impose copyright restrictions shall be determined in accordance with such restrictions.
 3. Students will own the copyrights to their Work not within the provisions of (1) and (2) above; however, a student must, as a condition to a degree award, grant royalty-free permission to the Institution to reproduce and publicly distribute, including by electronic means, copies of the student's Work.
 4. Where there is Significant Use of Institution Resources, copyright ownership shall be determined under section 4b of this policy.
- b. Ownership of student Inventions shall be governed by the Patent Policy in section 3 of this policy.

8. General Trademark Policy

Each Institution may develop a Trademark policy that provides for the protection of the Trademarks and Service Marks of the Institution.

9. Institutional Procedures. Each Institution shall adopt procedures implementing this policy that include:

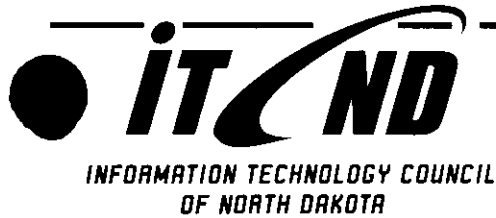
- a. Procedures for required disclosure of Intellectual Property;
- b. Procedures for review, evaluation, and protection of Intellectual Property;
- c. Rules governing distribution of net royalties or fees;
- d. A process for resolving disputes; and
- e. A process for informing faculty, staff, and students of the rights and responsibilities of Intellectual Property.

10. Transfer of Rights

- a. Institutions may assign or transfer ownership rights in Intellectual Property to independent foundations created for the purpose of obtaining or administering and marketing Institution Intellectual Property, receiving gifts, or supporting or promoting the Institution or Institution research.
- b. It is the responsibility of employees to ensure that the terms of their consulting agreements with third parties do not conflict with their commitments to the Institution. Each employee shall make the nature of the employee's obligations to the Institution clear to any third party for whom the employee expects to consult. Specifically, the scope of the consulting services must be distinguished from the scope of research commitments to the Institution.

History:

Replaces the current 611.2. New policy. SBHE Minutes, April 24-25, 1989, page 5812.
Amendment SBHE Minutes, June 20-21, 2002.



HB 1059
1/26/11
Attachment #2

PO Box 2599 • Bismarck, ND 58502
U.S. Toll Free 1-877-311-1648 • (701) 355-4458 • (701) 223-4645 (Fax)
office@itcnd.org • www.itcnd.org

Testimony of Deana Wiese

Executive Director, Information Technology Council of North Dakota

In Support of HB 1059

January 26, 2011

Chairman Skarphol and Members of the Committee:

My name is Deana Wiese, and I am the executive director of the Information Technology Council of North Dakota (ITCND). I am here to testify in support of HB 1059.

ITCND was formed in 2000 by North Dakota business, government and education leaders who recognized the need to strengthen the state's information technology infrastructure and position the state as a national leader in information technology. ITCND has grown to nearly 100 members that believe in growing a stronger North Dakota through information technology excellence and development.

We stand in support of HB 1059 as it assists in creating an IT business friendly climate through grants to tech-based startup businesses. It also assists in keeping North Dakota entrepreneurs within the state instead of taking their knowledge elsewhere to pursue business ventures. The addition of tech-based businesses creates high-wage jobs for the state's citizens. The average IT employee earns 59 percent more than the state average.

We appreciate your support of IT business growth and development in the past and would encourage your support of HB 1059.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1059

Page 1, line 2, replace "grants" with "equity investments"

Page 1, line 7, replace "**grant**" with "**equity investment**"

Page 1, line 8, replace "grant" with "equity investment"

Page 1, line 9, replace "grants" with "equity investments"

Page 1, line 10, replace "grants" with "equity investments"

Page 1, line 15, replace "receipt of intent to fund" with "a completed business plan"

Page 1, line 16, remove "commitment from the corporation"

Page 1, line 19, remove "nonstate"

Page 1, line 20, after "funds" insert "must come from a North Dakota angel fund certified under section 57-38-01.26," and after "cash" insert a comma

Page 1, line 22, replace "grant" with "equity investment"

Page 2, line 1, replace "grant" with "equity investment"

Page 2, line 6, replace "grants" with "equity investments"

Renumber accordingly

| | | | | | | 2009-11 Appropriation | | | | 2011-13 Executive Budget Recommendation | | | |
|---|--|---|--------|----------------|-------|-----------------------|---------------|----------------------|------------|---|---------------|----------------------|------------|
| Division | Program Area | | Grants | Required Match | Loans | General Fund | Federal Funds | Special Funds | Total | General Fund | Federal Funds | Special Funds | Total |
| Administration | | | | | | | | | | | | | |
| Partner Programs | | | | | | | | | | | | | |
| | Small Business Development Centers | x | no | | | 767,044 | | | 767,044 | 767,044 | | | 767,044 |
| | Center for Technology and Business/Rural Technology | x | no | | | 205,000 | | | 205,000 | 205,000 | | | 205,000 |
| Office of Innovation and Entrepreneurship | | | | | | | | | | | | | |
| | Centers of Excellence | x | yes | | | 19,500,000 | | | 19,500,000 | 13,000,000 | | 2 | 13,000,000 |
| | Technology-based entrepreneurship grant program | x | no | | | 1,000,000 | | | 1,000,000 | 1,000,000 | | | 1,000,000 |
| | North Dakota Trade Office | x | yes | | | 2,064,000 | | | 2,064,000 | 2,553,000 | | | 2,553,000 |
| Discretionary Funds | | | | | | | | | | | | | |
| | Partners in Marketing | x | yes | | | 250,000 | | | 250,000 | 250,000 | | | 250,000 |
| | Tourism Infrastructure Grants | x | yes | | | 50,000 | | | 50,000 | 50,000 | | | 50,000 |
| | Project/Grant funds | x | varies | | | 628,083 | | | 628,083 | 628,082 | | | 628,082 |
| Tourism | | | | | | | | | | | | | |
| | USS Bismarck | x | no | | | 100,000 | | | 100,000 | | | | |
| | Lewis and Clark Foundation | x | yes | | | 1,500,000 | | | 1,500,000 | | | | |
| | Theodore Roosevelt Medora Foundation | x | yes | | | 500,000 | | | 500,000 | | | | |
| | Marketing Grants | x | yes | | | 165,800 | | | 165,800 | 165,800 | | | 165,800 |
| | Tourism Infrastructure Grants | x | yes | | | 50,000 | | | 50,000 | 50,000 | | | 50,000 |
| Workforce Development | | | | | | | | | | | | | |
| | AmeriCorps | x | yes | | | | 1,000,000 | | 1,000,000 | | 1,200,000 | | 1,200,000 |
| | Early Childhood Education | | | | | | | | | | | | |
| | Child Development Certification Grants | x | no | | | | | | | 150,000 | | | 150,000 |
| | Workforce Enhancement Grants (Workforce Centers of Excellence) | | | | | | | | | | | | |
| | Workforce Enhancement Fund | x | yes | | | 1,000,000 | | | 1,000,000 | 2,000,000 | | | 2,000,000 |
| Economic Development | | | | | | | | | | | | | |
| | Economic Development Initiatives | | | | | | | | | | | | |
| | Tourism Infrastructure Grants | x | yes | | | 50,000 | | | 50,000 | 50,000 | | | 50,000 |
| | North Dakota Development Fund | | | | | | | | | | | | |
| | Childcare Services Development | | | | | | | | | | | | |
| | Childcare Loan Program | | | x | | 1,250,000 | | | 1,250,000 | 400,000 | | | 400,000 |
| | Agriculture Products Utilization Commission | x | yes | | | 1,303,781 | 300,000 | 550,000 ¹ | 2,153,781 | 1,313,704 | 300,000 | 738,284 ¹ | 2,351,988 |
| Community Services | | | | | | | | | | | | | |
| | Community Development | x | yes | | | 840,000 | 34,080,000 | 5,000,000 | 39,920,000 | 840,000 | 29,910,000 | 5,000,000 | 35,750,000 |
| | Office of Renewable Energy and Energy Efficiency | x | yes | | | 6,031,579 | 15,643,421 | 1,175,000 | 22,850,000 | | 14,179,500 | 1,200,000 | 15,379,500 |
| | Self-Sufficiency | | | | | | | | | | | | |
| | Community Service Block Grant (CSBG) | x | no | | | 125,000 | 6,776,258 | 24,000 | 6,925,258 | 125,000 | 6,783,694 | 24,000 | 6,932,694 |

¹Alcohol Motor Vehicle Fuel Fund

²Governors recommendation does not appropriate special funds for Centers of Excellence but instead authorizes carryover authority of 5,000,000