



TAXATION COMMITTEE

Thursday, February 17, 2022
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dale Patten, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Dale Patten, Scott Meyer, Mark F. Weber; Representatives Dick Anderson, Jason Dockter, Robb Eckert, Patrick Hatlestad, Craig Headland, Jim Kasper*, Vicky Steiner*

Members absent: Senator Merrill Piepkorn; Representatives Tom Kading, Ben Koppelman, Wayne A. Trottier

Others present: Senators Donald Schaible, Mott, and Joan Heckaman, New Rockford, members of the Legislative Management

See [Appendix A](#) for additional persons present.

**Attended remotely*

It was moved by Representative Headland, seconded by Representative Steiner, and carried on a voice vote that the minutes of the December 15, 2021, meeting be approved as distributed.

BIOLOGIC MANUFACTURING SALES TAX EXEMPTION STUDY

Ms. Emily O'Brien, Chief Operating Officer, Bioscience Association of North Dakota, provided information ([Appendix B](#)) related to the biologic manufacturing sales tax exemption study. She noted:

- As of 2020, 3,959 people were employed in the bioscience and biotechnology industry at over 570 establishments in the state, with an average annual wage of \$73,937;
- Since 2018, the number of bioscience and biotechnology entities in the state increased by 8.7 percent and the number of bioscience and biotechnology industry employees in the state increased by 83.3 percent;
- 38 states provide a sales tax exemption applicable to equipment used in research and development, 36 states provide a sales tax exemption applicable to equipment purchased for biomanufacturing, and 11 states provide sales tax exemptions specifically targeted to bioscience firms; and
- Various states offer a more competitive business environment for the bioscience industry than is offered in North Dakota, including California, Massachusetts, New Jersey, New York, Connecticut, Pennsylvania, Maryland, North Carolina, and Texas.

ECONOMIC DEVELOPMENT TAX INCENTIVES STUDY

Ms. Megan J. Gordon, Counsel, Legislative Council, presented memorandums entitled:

- [Economic Development Tax Incentive Study - Evaluation Chart](#); and
- [Economic Development Tax Incentive Study - Reporting Requirements](#).

Mr. Matt Marshall, Economic Development Administrator, Minnkota Power Cooperative, and board member, Economic Development Association of North Dakota, provided information ([Appendix C](#)) related to the economic development tax incentives selected for study and the incentive review process. He noted:

- States throughout the region use tax incentives to compete with North Dakota for new businesses and investments and additional workforce, and to prevent existing companies from leaving the state;
- Consistent review of the economic development tax incentives is important to ensure the incentives are meeting the intended objectives; and

- The Economic Development Association of North Dakota is willing to work with the Legislative Assembly, the Department of Commerce, and the Tax Department to improve the economic development tax incentive review process.

In response to a question from a committee member, Mr. Marshall noted quality of life and recruiting entire families to the state are important considerations when recruiting workforce to the state.

Mr. Josh Teigen, Director, Economic Development and Finance Division, Department of Commerce, provided information (Appendices [D](#) and [E](#)) regarding the committee's review of the economic development tax incentives selected for study and the business incentive accountability data available to the department. He noted:

- The agricultural commodity processing facility investment credit and the soybean or canola crushing facility construction or retrofit credit are immensely valuable to the department when recruiting new, value-added agriculture investments to the state;
- The manufacturing automation tax credit and manufacturing recycling sales tax exemption provide manufacturers the tools to continue to improve efficiencies and remain competitive in the global marketplace;
- The new jobs credit from income tax withholding is actively utilized and provides employers a tool to help recruit, train, and retain employees;
- The new or expanding business exemptions help the state and localities recruit and maintain projects in the state, including major projects in the energy, agriculture, and manufacturing industries; and
- The research expense tax credit and the seed capital investment tax credit help the department attract technology and research and development companies to the state and encourage capital investment in North Dakota businesses.

In response to questions from committee members regarding the business incentive accountability law, Mr. Teigen noted in response to the current market, the department has reservations regarding measuring the success of an incentive based on the number of jobs created which can be attributed to the incentive.

Mr. Phillip Davis, Workforce Services Director, Job Service North Dakota, provided information (Appendices [E](#) and [G](#)) regarding the new jobs credit from income tax withholding and the New Jobs Training Program Annual Report. He noted:

- The new jobs training program is being actively used across the state and is an important program for primary sector employers and area economic developers that actively recruit new companies to the state;
- Over the last 2 bienniums, Job Service North Dakota entered 29 new job training program contracts, which created 852 full-time equivalent (FTE) positions and generated \$2,920,675 in available training dollars that will be returned to the employers during the 10-year duration of the contract; and
- During the current biennium, Job Service North Dakota has entered five contracts, which created 222 FTE positions and generated an additional \$941,924 in available training dollars.

Comments from Interested Persons

Ms. Samantha Vangsness, Executive Director, North Dakota Ethanol Producers Association, provided testimony ([Appendix H](#)) in support of the agricultural commodity processing facility investment credit. She noted:

- The agricultural commodity processing facility investment tax credit has been instrumental in establishing and growing the state's ethanol industry by encouraging investment in value-added processing for commodities in the state;
- Five of North Dakota's six ethanol plants are located in communities with populations of fewer than 2,500, and each plant contributes an average of 41 jobs and an annual payroll of \$4.95 million to the community; and
- Without the agricultural commodity processing facility investment credit, it is unlikely the North Dakota ethanol industry would have been able to attract investors for the state's six ethanol plants.

Chairman Patten invited comments from interested persons regarding the committee's study of the the new jobs credit from income tax withholding, manufacturing and recycling equipment sales tax exemption, manufacturing automation equipment credit, soybean and canola crushing facility construction or retrofit credit, research expense credit, seed capital investment credit, and new or expanding business exemptions. No comments were received.

Committee Discussion and Directives

Committee members noted the manufacturing automation equipment credit will expire at the end of calendar year 2022 and indicated a desire to engage in further discussion related to expansion and extension of the credit.

Chairman Patten indicated a desire to engage in further discussion regarding the soybean and canola crushing facility construction or retrofit credit, including whether the incentive is meeting the needs of the industry.

ADMINISTRATIVE MATTERS

It was moved by Representative Dockter, seconded by Senator Meyer, and carried on a roll call vote that the Legislative Council staff forward a letter to the Chairman of the Legislative Management requesting the addition to the committee's assignments of a study of comprehensive property and income tax reform. Senators Patten, Meyer, and Weber and Representatives Anderson, Dockter, Eckert, Hatelstad, Headland, and Steiner voted "aye." No negative votes were cast.

Chairman Patten noted:

- During the 2021 special legislative session, the Legislative Assembly passed permanent and temporary legislation targeted at specific forms of income tax relief;
- The Legislative Assembly would benefit from a more comprehensive study of property and income tax relief and reform; and
- The proposed study should include analysis of the appropriate level of income and property tax relief, the appropriate revenue source to fund property tax relief and replace any lost income tax revenue, the stability of the revenue source selected to fund the tax relief, the appropriate recipients of income and property tax relief, and potential restrictions on income and property tax relief.

Committee members noted the importance of studying projected legacy fund earnings to determine whether the legacy fund is a viable source of revenue to fund tax relief.

OTHER

Chairman Patten invited Mr. Brian Kroshus, Tax Commissioner, to provide the committee with a brief introduction following his recent appointment as Tax Commissioner. Mr. Kroshus noted the Tax Department is available to provide information and assistance to the committee.

No further business appearing, Chairman Patten adjourned the meeting at 2:03 p.m.

Megan J. Gordon
Counsel

Emily Thompson
Legal Division Director

ATTACH:8