DEPARTMENT OF COMMERCE TESTIMONY REGARDING DATA AND INFORMATION COLLECTED ON INCENTIVES AND MANNER IN WHICH DATA AND INFORMATION MAY BE DISCLOSED
DECEMBER 1, 2015, 3:30 P.M.
POLITICAL SUBDIVISION TAXATION COMMITTEE
REPRESENTATIVE JASON DOCKTER, CHAIRMAN

JUSTIN DEVER – CO-DEPUTY COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good afternoon, Mr. Chairman and members of the committee, my name is Justin Dever and I serve as a Co-Deputy Commissioner for the North Dakota Department of Commerce.

The Department of Commerce's primary role in the review and evaluation of tax incentives will be to gather data from the Tax Department and Job Service North Dakota; analyze it and provide useful information to aid this committee in evaluating the effectiveness of the incentives. In keeping with the provisions of HB 1060 (2015), any information we provide to this committee will be aggregated and will maintain the confidentiality of any specific taxpayers.

Tax Incentives Cost

The Office of the State Tax Commissioner has provided a description of the type of information that they have regarding the tax incentives. Much of this information relates to the cost of the incentives in the form of lost tax revenues. Commerce's work will involve matching up the costs of the incentives with associated benefits in order to compute a return on investment (ROI). This is not always as straight forward as it may seem.

When looking at the cost of an incentive, you normally look at the amount claimed, such as the information provided earlier by the Office of the State Tax Commissioner and included in the Legislative Council's memos. However, many times the taxpayer is limited in what they can claim based upon their tax liability that year. To deal with that issue, most of the tax incentives have a carryforward provision which can stretch the cost of the incentive over several years. To the extent possible, we will work to come up with an estimate of the actual cost over time.

Another complicating factor is that in some cases the tax incentive goes to a taxpayer other than the entity creating the jobs and economic impact. This is the case in the Seed Capital, Agricultural Commodity Processing Facility and Angel Fund investment tax credits. With the investment tax credits, the investors receive a tax credit based upon a percentage of their investment into the business or the angel fund. With the Angel Fund Investment Tax Credit, it is further complicated in that the fund in turn invests in multiple businesses. We believe we will have access to the information necessary to make the connections.

Tax Incentive Benefits

Direct benefits to the state will be measured using information from the Office of the State Tax Commissioner, such as the taxpayer's North Dakota tax liability, as well as through employment records available from Job Service North Dakota.

As you are aware, the jobs and economic activities extend beyond just the business benefitting from the incentive. We will be using an input-output model, such as REMI, to estimate indirect and induced economic impact and jobs. We are currently exploring options to convert estimated economic impact into a fiscal impact to demonstrate the return to the state in tax revenue. REMI does offer a tool, Tax PI, that could provide this information, but we do not have sufficient appropriated funds to purchase it.

Return on Investment

Ultimately, we will be providing the committee with information as to demonstrate whether an incentive has a net positive return on investment to the state over a period of time. For example, a new or expanding business may receive a five year income tax exemption. The information we provide will show whether or not that project had a positive ROI considering: the other taxes they pay, such as sales taxes; the income taxes they pay in years six through ten; and the taxes generated through the indirect and induced economic impacts.

I should also recognize that not every desired benefit to the state is financial and will be able to be measured by an ROI calculation. For example, the Internship Program Credit is intended to promote internships in North Dakota and not necessarily create new jobs. In the case of the Renaissance Zone Program, much of the fiscal benefit will be seen at the local level with increased property tax revenue.

Conclusion

The Department of Commerce is committed to working diligently to provide this committee with the information and analysis that it seeks. Commerce Commissioner Al Anderson expressed concerns earlier to this committee regarding the amount of data and analysis that could be required given the fact that Commerce was not provided additional resources for this work. This remains a concern, especially given the number and breadth of incentives that were selected for review this interim.

We will explore options for lessening the workload, such as conducting an analysis on a sample of projects instead of all of the projects that received a specific tax incentive. For example, it will probably not be feasible to conduct an analysis on all 1,500 Renaissance Zone projects that have been approved since the inception of the program in 1999.

Mr. Chairman and members of the Political Subdivision Taxation Committee, thank you for allowing me to visit with you today. That concludes my testimony and I am happy to entertain any questions.