



**DEPARTMENT OF COMMERCE TESTIMONY ON  
AGRICULTURE COMMODITY PROCESSING FACILITY INVESTMENT TAX CREDIT  
WEDNESDAY, DECEMBER 2, 2015  
POLITICAL SUBDIVISION TAXATION COMMITTEE  
REPRESENTATIVE JASON DOCKTER, CHAIRMAN**

**PAUL LUCY – DIRECTOR, ECONOMIC DEVELOPMENT & FINANCE DIVISION - ND DEPARTMENT OF COMMERCE**

Good morning, Mr. Chairman and members of the committee, my name is Paul Lucy and I serve as the Director of the Economic Development & Finance Division of the North Dakota Department of Commerce.

At your committee hearing on July 29<sup>th</sup>, Mr. Alan Anderson, Commissioner of the Department of Commerce gave an overview of economic development tax incentives available to support business development in North Dakota. I'm here today to provide more detail on the Agricultural Commodity Processing Facility Investment Credit. More specifically to cover the eligibility requirements, certification processes to validate eligibility and data regarding number of businesses certified by the Department of Commerce as being eligible to offer this credit to their investors.

Agricultural Commodity Processing Facility Investment Credit (NDCC Chapter 57-38.6)

The agricultural commodity processing facility investment credit provides a 30% tax credit against state income taxes to an investor who invests in a State of North Dakota certified agricultural commodity processing business.

The agricultural commodity processing facility investment credit was put in place to enhance the availability of capital and to motivate investment in value-added agriculture processing facilities in North Dakota. The maximum annual credit an investor (taxpayer) in a certified company may claim is \$50,000 and no taxpayer may obtain more than \$250,000 of credits over any combination of years.

Qualifications for eligibility upon which Commerce conducts its review of certification eligibility are as follows:

- The company's primary purpose is to add value to an agricultural commodity capable of being raised in North Dakota, or it is a livestock feeding, handling, milking or holding operation that uses as part of its operation a byproduct produced at a biofuels production facility.
- A qualified business must be incorporated or organized after December 31, 2000. If they legally existed prior to that date, they are not eligible to receive certification.

- The company must be certified by the securities commissioner to be in compliance under the securities laws of North Dakota.
- Commerce can certify no more than 10 companies in any year.

The Department of Commerce has worked very closely with the Tax Department in the development of the process for evaluating the agricultural commodity processing facility investment credit applications as well as developing the rules associated with determining the qualifying standards. The process for evaluating certification applications are as follows:

- The Department of Commerce receives and reviews the applications.
- Commerce staff verifies through the ND Secretary of State office the date of the company's legal formation.
- Commerce staff verifies through the ND Securities Commission that the company is in compliance with the securities laws of the State of North Dakota.
- Commerce staff reviews the information and typically has a conversation with a representative(s) of the company to make sure we have a thorough understanding of what they will be processing and to verify they will be processing an agricultural commodity.
- Commerce sends a letter to the applicant notifying them of the approval or denial of their application, along with required reporting forms. A copy of the approval letter is also sent to the ND Securities Commission and the ND Tax Department.

There have been 23 companies certified under this program to-date:

2002 – 5  
2003 – 1  
2004 – 3  
2005 – 1  
2006 – 1  
2007 – 5  
2008 – 1  
2009 – 1  
2010 – 1  
2011 – 1  
2012 – 0  
2013 – 2  
2014 – 0  
2015 – 1

An agricultural commodity processing facility can be certified for up to four years and may recertify one time.

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 answer any questions.