

2017 SENATE FINANCE AND TAXATION

SB 2166

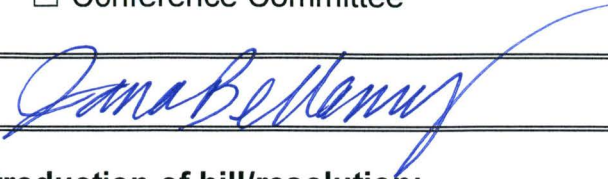
2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
1/18/2017
Job #: 27041

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district.

Minutes:

Attachments #1, #2, #3, #4, #5

Vice Chairman Bekkedahl: Opened the hearing on SB 2166. All Senators present.

(0:00:55-0:03:45) Senator Cook, District 34: SB 2166 would disallow a piece of property from receiving benefits from both a renaissance zone and a TIF district. Original intent was to codify existing law stating what proof of community support was, which was a letter from both the school board and county commission. A situation arose, Bismarck was trying to get an extension on a renaissance zone project. The county did not give them a letter of community support, so it was approved for 1 year and put in our laps to fix. (Handed out testimony #1 from a supporter who was unable to attend the hearing.)

(0:04:00-0:08:15) Dustin Gawrylow, North Dakota Watchdog Network: Bismarck has the longest running TIF district, 37 years since 1979. It wasn't run on a project by project basis, but was created as a zone to live in perpetual status. Legislature changed the law and a sunset was required, which expires in 2026. Problem with overlap is renaissance zone goes into the TIF, TIF collects money and becomes a very large slush. Bismarck sat on the money until sued. During the lawsuit, gave half of the TIF money to the political subs who should have had it to begin with. Now we still have TIF for 9 years in Bismarck. Recently a second TIF zone was created adjacent to the existing one. Original plans were for a 400-million-dollar development, it has since been downsized to 100-million-dollar plan with a 35-million-dollar subsidy from the city of Bismarck through the TIF district with part of it from new TIF, some from old TIF.

If a city has a TIF, as a project or a mega TIF, the citizens never see a benefit of the renaissance zone. If the intent is to generate a larger tax basis and larger tax value, it has to go into the general fund of the city. If it doesn't go into the general fund of the city and other political subdivisions, there was no point. When they're allowed to sit in a TIF after the renaissance zone is done the citizens never see a benefit. If they do, it's when the property is depreciated and it's no longer as valuable as it was coming out of the renaissance zone.

This addresses that issue. It needs to be fixed so there is less complaint from the citizens. It puts more money into the political subs than the state would need too.

Chairman Cook: Do you know of any other TIF zones in the state other than Bismarck?

Dustin Gawrylow: I believe that Fargo has 18 TIF zones with TIF projects associated. Fargo follows the lines of which it was intended. They have the TIF be part of the project, and at some point it goes away. I don't know if Fargo has done anything like Bismarck. Once a renaissance zone project is done, it's carved out of the TIF if that is an easier approach.

Chairman Cook: If the state eliminated the ability to create a TIF zone and required TIFs to be project by project.

(0:10:10-0:16:05) Bernie Dardis, Board of Directors for the F/M/WF Chamber of Commerce: submitted testimony #2 in support of SB 2166 and gave a brief summary of what was written. He suggests to tweak it, fix it, but don't get rid of it. He answered a question from Senator Laffen about how West Fargo has a need for a renaissance zone, when the purpose of a renaissance zone is for redeveloping areas that were run down or not enough tax base to elevate that.

(0:16:07-0:17:20) Senator Unruh asked about the points system used for evaluating TIF districts. Mr Dardis gave a brief overview of the system.

(0:18:45-0:28:30) Jim Gilmour, Director of Planning and Development, City of Fargo: presented testimony #3 in opposition of SB 2166. During testimony answered many questions about the value of different projects Fargo has in regards to property values and taxes collected and where they're being allocated too.

(0:28:31- 0:29:37) Chairman Cook mentioned the reporting requirements for renaissance zones and TIF zones. According to the last report he received, only 3 cities had them, and Fargo wasn't one of them. Mr. Gilmour stated that he will visit with the city finance director and also several of the projects are recent developments, so maybe they were after the reporting deadline.

(0:29:38-0:31:20) Chairman Cook posed the question, if the city were to declare a renaissance zone, tie a 5-year property tax exemption to all property in the zone? The fact that a piece of property is in a renaissance zone as soon as the property puts in a project, they get the tax exemption. Mr. Gilmour responded that if the project meets the scoring criteria (**Testimony #3, page 6**).

(0:32:00-0:42:25) Ellen Huber, Business Development and Communications Director , City of Mandan and Vice President of Economic Development Association of North Dakota (EDND): presented testimony #4 in opposition of SB 2166.

Chairman Cook: American Bank, that is a renaissance project and a TIF project? That is the only property that is in that TIF project, or is there more in that particular TIF project.

Ellen Huber: That is correct, that is the only property in that project. Our use has been isolated to project specific parcels of property. We have an urban renewal property that encompasses downtown and Main street that allows for consideration for of TIF within that area.

(0:43:10-0:53:40) Discussion continued with questions to Ellen Huber in regards to the way Mandan runs their TIF projects, renaissance zone, and the alternative form of extended property tax exemptions the city employs.

(0:53:45-0:58:15) Bill Wocken, North Dakota League of Cities: presented testimony #5 in opposition to SB 2166.

(0:58:16-1:01:30) Chairman Cook posed questions to Mr. Wocken in regards to the Bismarck Radisson hotel project and the property taxes it pays.

(1:01:40-1:03:35) Chairman Cook questioned Mr. Gilmour on the Fargo rating system that is used for the renaissance and TIF projects. He referred the explanation of the rating system to Derrick LaPoint, Fargo City Planner in regards to **Testimony #3, page 6**.

(1:03:35-1:12:35) Chairman Cook asked about the length of years a TIF project is in place in Fargo. Mr. Gilmour spoke of the various time frames. He was then questioned about the parking ramp project from several of the senators.

Closed hearing on SB 2166.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
1/18/2017
Job # 27072

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district

Minutes:

No Attachments

Chairman Cook: One-page bill that heard a lot of testimony on renaissance zones and TIF zones. After this morning's testimony, learned a lot. All cities use the programs differently, and not sure we should allow them to be that creative. It causes problems.

Senator Laffen: A problem in trying to define that can't use one or the other if they're in the same boundary. If we do want to make a change, might make sense to say a particular project can't use one or the other. The boundaries do overlap and they may want to use a renaissance project that's in a TIF district or a TIF that's in a renaissance zone. But you might argue they can't use both.

Every city seems to use TIF differently, renaissance seems to be used the same. All coupling TIF behind renaissance to give a 20-year tax break. Some of the creative cities are using the tax generated by the projects for their own projects.

(0:02:40-0:05:09) Discussion about the Fargo parking ramp project that has been discussed in previous testimony.

(0:05:10-0:07:47) Exchange about the Bismarck TIF and renaissance zone projects and a push from the house to eliminate the two programs.

(0:07:48-0:08:59) Conversation about downtown parking requirements. How it could have benefitted a project in Williston and how Fargo resolved similar requirements.

(0:09:00-0:11:59) Talk of the issues that prompted the bill to be written. Comparisons in the way that each of the different cities use the programs. Grand Forks hasn't used the programs because of an influx of Federal funds after the flood.

(0:12:00-0:28:50) Ideas about how counties and schools should be allowed to weigh in on city decisions that affect their property tax revenues were exchanged.

- put an end point for the tax exemptions
- give veto power whether or not they are willing to give up tax revenues
- have it as only a project based program, not entire area or zones
- tool to allow a negotiated tax payment option
- Commerce approval process removed

(0:29:10) Committee adjourned.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
1/24/2017
Job #: 27330

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to sections 40-58-20 and 40-63-03 of the North Dakota Century Code, relating to a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district.

Minutes:

Attachment #1

Committee Discussion: Senate Bill 2166. All Senators present.

(0:00:02-0:02:55) Chairman Cook: Something that's missing is communication between a city that wants to give property tax relief and the school board and county commission. If a city wants to give a five-year property tax exemption, they should be able to do so on their own. If a property is going to be taken off the tax rolls for more than 5 years, for whatever degree, then the school district and county should have a say in it. It would be nice to see a process where they work together.

House has a bill where a city or county should be able to opt out of their portion of the tax. Could be part of the negotiations if they sat down and negotiate the time, the degree of the incentive. I'd like to see that happen before the city finalizes the package.

Vice Chairman Bekkedahl: Some of the economic development people wish there was a way to negotiate payments without a 100% of the tax abatement happening. As long as the opportunity is there, if the requirement is there, they have to sit down and work through the process. Reduce the term or the length of the abatement process. The school goes 6 or 7, but at least all the parties in the room discussing.

Senator Laffen: like the idea of taking the bill that direction, makes the most sense. The school gets half of the tax and the city only gets a fourth of it. Seems silly that the city is making a decision that affects the school to that degree. I like that idea.

Senator Unruh: Thinking about property tax incentives and its impact on local budgets. Something happened in Stutsman county, not sure what programs were used, or what the effect was. They basically gave away the farm and went to the state looking for assistance.

Chairman Cook: The fertilizer plant, gave away everything they could to get the fertilizer plant, Senator Wanzek, introduced a bill that declared Stutsman county an impact county. They needed impact funds like the hub cities.

Senator Unruh: Do we know what programs Stutsman county tried to use?

Chairman Cook: Every one that was available to them.

Vice Chairman Bekkedahl: Impact was really to the Barnes County North School District. They were using the agricultural plant exemptions, 100% property tax exemption.

Senator Dotzenrod: Exempt the plant for quite a while. Question for the commissioners, how much effort are you making to get this done. No local mills were added on, made it look like they were out shopping around for help before helping themselves.

Chairman Cook: The school district, property wealth goes on the rolls and effects their school foundation aid payment. They all of a sudden become a very rich district.

Senator Unruh: My point is, abuse of the programs. We saw a little of that with some of the testimony we've received. Step back and look at the programs overall, and what the state's role should be?

Chairman Cook: We have this study were we're studying all of the economic development incentives, state. Two topics that should be studied by the committee next interim is TIF and renaissance. Hate to put a study, then they'll say why change it until the study is done. Found out after the hearing that they're both used differently. Not a city out there that does it the same.

Senator Laffen: Programs are doing more than I thought they were, especially Fargo, Mandan, and Bismarck.

(0:08:40 – 0:11:22) Committee Discussion about blighted areas in different cities around the state. Mandan and West Fargo were the main focus of the discussion.

Chairman Cook is going to work with Legislative Council on amendments.

(0:11:37- end) Senator Unruh mentioned receiving attachment #1 and there was committee discussion regarding the information it contained.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
2/8/2017
Job #: 28061

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to sections 40 58 20 and 40 63 03 of the North Dakota Century Code, relating to a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district.

Minutes:

Attachment #1

Chairman Cook handed out amendments to be looked at for SB 2166 and a short discussion was held with further conversation to be held at a future committee meeting. *(Attachment #1)*

Adjourned

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
2/13/2017
Job #: 28265

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachment #1

All Senators present.

(0:00:20-0:00:55) Chairman Cook handed out attachment #1, amendments for SB 2166 for the committee to look at.

Rest of the recording concerns SB 2326.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
2/15/2017
Job #: 28381

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district.

Minutes:

Attachment #: 1

All Senators present.

(0:00:30-0:01:20) Commentary on SB 2209

(0:01:21-0:06:00) Chairman Cook handed out attachment #1, proposed study language from the Governor's office for SB 2166. He is thinking about putting the study on the bill.

(0:06:05-end) Senator Dotzenrod handed out some data relating to SB 2326.

No action was taken on any bills.

Adjourned.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
2/15/2017
Job #: 28418

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to sections 40-58-20 and 40-63-03 of the North Dakota Century Code, relating to a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district.

Minutes:

Attachment #: 1, 1A

All Senators present. Began work on SB 2166.

Chairman Cook handed out proposed amendments (Attachment #1) and the Christmas tree version (**Attachment #1A**).

(0:01:00-0:04:34) Chairman Cook read through Section 1 of the Christmas tree version. Discussed notification of officials, which is going to be sent to elected officials.

(0:04:35-0:07:03) Renaissance zone tax incentive time lengths. Section 1 is looking forward. Pilot program language is mentioned.

(0:07:18-0:09:10) Section 3 relates to TIF. Section 4 is from Political Subdivision Committee from their work on SB 2055. Section 5 changes the study language.

(0:09:11-0:10:00) Section 6 relates to the Governor's request for information about property tax impacts and city growth and development.

Vice Chairman Bekkedahl moved to adopt amendments 17.0148.01003.

Senator Unruh seconded the motion.

A Roll Call Vote was taken. 6 ayes, 0 nays, 0 absent.

Senator Laffen moved a do pass, as amended on SB 2166.

Vice Chairman Bekkedahl seconded.

A Roll Call Vote was taken. 6 ayes, 0 nays, 0 absent.

Senator Cook will carry the bill.

February 15, 2017

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2166

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city; to amend and reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of section 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

Duties of cities granting property tax incentives.

1. Notwithstanding any other provision of law, before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city shall send the chairman of each county commission and the president of each school district affected by the property tax incentive a letter, by certified mail, which provides notice of the terms of the proposed property tax incentive.
2. Within thirty days from receipt of the letter, each affected county and school district shall notify the city, in writing, whether the county or school district elects to participate in granting the tax incentive on the county or school district portion of tax levied on the property. The notification from a county or school district electing not to participate must include a letter explaining any reason for which the entity elected not to participate and whether the county or school district is willing to negotiate the terms of the property tax incentive with the city.
3. If the city does not receive a response from an affected county or school district within thirty days of delivery of the letter, the county and school district must be treated as participating in the property tax incentive.
4. The term "negotiation" as used in this section means the governing body of an affected county or school district may negotiate the terms of participating in the tax incentive, including the duration of the tax incentive and the taxable value selected for the base year for purposes of computing tax instruments.
5. If an agreement is reached through negotiation under this section, the property tax incentive must be applied in accordance with the agreement.

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SECTION 2. AMENDMENT. Subsection 7 of section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city must comply with the requirements in section 1 of this Act.

SECTION 3. AMENDMENT. Section 40-58-20.2 of the North Dakota Century Code is amended and reenacted as follows:

40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.

1. Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:
 1. a. The anticipated costs of development of property to be reimbursed by tax incentives.
 2. b. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
 3. c. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
 4. d. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.
2. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of the municipality must comply with the requirements in section 1 of this Act.

SECTION 4. AMENDMENT. Subsection 2 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, a description of the properties and structures on each block, identification of those properties and structures to be targeted for potential zone projects, and a description

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of the present use and conditions of the targeted properties and structures.

- b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
- c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
- d. A description of the types of projects the city would encourage in the city's targeted properties.
- e. A description of the promotion, development, and management strategies to maximize investment in the zone.
- f. A plan for the development, promotion, and use of a renaissance fund organization, if one is desired to be established. If a city is not ready to commit to establishing a renaissance fund organization, the city may indicate in the renaissance zone application the city's desire to submit a plan for approval at a later date.
- g. Evidence of community support and commitment from residential and business interests. Evidence of community support must include letters of support from the governing bodies of each county and school district that contain property located within the boundaries of the proposed renaissance zone.

SECTION 5. AMENDMENT. Subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for ~~state-imposed tax aspects of~~ economic development tax incentives, including each of the following:
 - a. Renaissance zone credits and exemptions.
 - b. Research expense credit.
 - c. Agricultural commodity processing facility investment credit.
 - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.
 - e. Seed capital investment credit.
 - f. Wage and salary credit.
 - g. Internship program credit.

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- h. Microbusiness credit.
- i. Angel fund investment credit.
- j. Workforce recruitment credit.
- k. Soybean or canola crushing facility construction or retrofit credit.
- l. Manufacturing automation equipment credit.
- m. New or expanding business exemption.
- n. Manufacturing and recycling equipment sales tax exemption.
- o. Coal severance and conversion tax exemptions.
- p. Oil and gas gross production and oil extraction tax exemptions.
- q. Fuel tax refunds for certain users.
- r. New jobs credit from income tax withholding.
- s. ~~Any economic development tax incentive created by the sixty-fourth legislative assembly~~ Development or renewal area incentives.
- t. Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.
- u. Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas.
- v. Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM CITY GROWTH AND DEVELOPMENT. During the 2017-18 interim, the legislative management shall consider studying how city growth and infill development affects property taxes, and evaluate the return on investment for state and community projects. The study must examine various policies affecting city development patterns, including the impact of transfer payments between state and local governments; the cost of government services and infrastructure, including future liability; the amount of tax revenue generated per increment of assumed liability for downtown areas; and whether certain areas of a city generate more revenue than expenses while other areas generate more expenses than revenue. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 7. EFFECTIVE DATE. Sections 1 through 4 of this Act are effective for property tax incentives approved after December 31, 2017."

Renumber accordingly

Date: 2-15-17
 Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2166**

Senate _____ Finance and Taxation _____ Committee

Subcommittee

Amendment LC# or Description: 17.0148.01003

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Bekkedahl Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	<input checked="" type="checkbox"/>		Senator Jim Dotzenrod	<input checked="" type="checkbox"/>	
Vice Chair Brad Bekkedahl	<input checked="" type="checkbox"/>				
Senator Lonnie J. Laffen	<input checked="" type="checkbox"/>				
Senator Jessica Unruh	<input checked="" type="checkbox"/>				
Senator Scott Meyer	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0
 Absent 0
 Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

SB 2166: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2166 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city; to amend and reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of section 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives; to provide for a legislative management study; and to provide an effective date.

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2. Within thirty days from receipt of the letter, each affected county and school district shall notify the city, in writing, whether the county or school district elects to participate in granting the tax incentive on the county or school district portion of tax levied on the property. The notification from a county or school district electing not to participate must include a letter explaining any reason for which the entity elected not to participate and whether the county or school district is willing to negotiate the terms of the property tax incentive with the city.
3. If the city does not receive a response from an affected county or school district within thirty days of delivery of the letter, the county and school district must be treated as participating in the property tax incentive.
4. The term "negotiation" as used in this section means the governing body of an affected county or school district may negotiate the terms of participating in the tax incentive, including the duration of the tax incentive and the taxable value selected for the base year for purposes of computing tax instruments.
5. If an agreement is reached through negotiation under this section, the property tax incentive must be applied in accordance with the agreement.

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7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township

affected by the proposed action. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city must comply with the requirements in section 1 of this Act.

SECTION 3. AMENDMENT. Section 40-58-20.2 of the North Dakota Century Code is amended and reenacted as follows:

40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.

1. Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:
 - 1- a. The anticipated costs of development of property to be reimbursed by tax incentives.
 - 2- b. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
 - 3- c. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
 - 4- d. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.
2. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of the municipality must comply with the requirements in section 1 of this Act.

SECTION 4. AMENDMENT. Subsection 2 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, a description of the properties and structures on each block, identification of those properties and structures to be targeted for potential zone projects, and a description of the present use and conditions of the targeted properties and structures.
 - b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
 - c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
 - d. A description of the types of projects the city would encourage in the city's targeted properties.

- e. A description of the promotion, development, and management strategies to maximize investment in the zone.
- f. A plan for the development, promotion, and use of a renaissance fund organization, if one is desired to be established. If a city is not ready to commit to establishing a renaissance fund organization, the city may indicate in the renaissance zone application the city's desire to submit a plan for approval at a later date.
- g. Evidence of community support and commitment from residential and business interests. Evidence of community support must include letters of support from the governing bodies of each county and school district that contain property located within the boundaries of the proposed renaissance zone.

SECTION 5. AMENDMENT. Subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the ~~state imposed tax aspects of the incentives~~ it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for ~~state imposed tax aspects of~~ economic development tax incentives, including each of the following:
 - a. Renaissance zone credits and exemptions.
 - b. Research expense credit.
 - c. Agricultural commodity processing facility investment credit.
 - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.
 - e. Seed capital investment credit.
 - f. Wage and salary credit.
 - g. Internship program credit.
 - h. Microbusiness credit.
 - i. Angel fund investment credit.
 - j. Workforce recruitment credit.
 - k. Soybean or canola crushing facility construction or retrofit credit.
 - l. Manufacturing automation equipment credit.
 - m. New or expanding business exemption.
 - n. Manufacturing and recycling equipment sales tax exemption.
 - o. Coal severance and conversion tax exemptions.

- p. Oil and gas gross production and oil extraction tax exemptions.
- q. Fuel tax refunds for certain users.
- r. New jobs credit from income tax withholding.
- s. ~~Any economic development tax incentive created by the sixty-fourth legislative assembly~~ Development or renewal area incentives.
- t. Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.
- u. Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas.
- v. Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM CITY GROWTH AND DEVELOPMENT. During the 2017-18 interim, the legislative management shall consider studying how city growth and infill development affects property taxes, and evaluate the return on investment for state and community projects. The study must examine various policies affecting city development patterns, including the impact of transfer payments between state and local governments; the cost of government services and infrastructure, including future liability; the amount of tax revenue generated per increment of assumed liability for downtown areas; and whether certain areas of a city generate more revenue than expenses while other areas generate more expenses than revenue. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 7. EFFECTIVE DATE. Sections 1 through 4 of this Act are effective for property tax incentives approved after December 31, 2017."

Renumber accordingly

2017 HOUSE FINANCE AND TAXATION

SB 2166

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2166
3/14/2017
29146

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to approval of property tax incentives granted by a city; relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives.

Minutes:

Attachment #1-5

Chairman Headland: Opened hearing on SB 2166.

Senator Cook: Introduced bill. This bill would make it illegal to benefit both from a TIF project and a renaissance project. Throughout our testimony, I believe our challenge is the length that a piece of property can receive a property tax exemption. If a piece of property is going to be put in a renaissance zone it's going to get property tax exemption for five years then it could go into a TIF district for another 25 years. It ends up receiving a property tax exemption for a long time. I think we have to have some further restrictions in the law than what we have currently. Before you, I have a bill that says if a city is going to offer a property tax exemption for a period longer than five years they have to sit down and negotiate it with their school board and with the county commission. If they don't agree, the school or the city can opt out of their share of the property tax exemption. I don't know if this is the right solution or not but I think it's an improvement to what we have. I believe there are some amendments coming. I think this is a good bill that would get us going a bit better in the right direction and bring some peace to the war of local tax exemptions.

Chairman Headland: Is it becoming more common that cities are authorizing pilots after the renaissance zone exemption has expired?

Senator Cook: There are a few cities that use pilots more than others. They make decisions before the issue of the renaissance zone. When a project is being built it already knows at the start if it's going to get a five-year exemption followed by so many years of TIF. That's how the economic development package is negotiated.

Chairman Headland: We had another bill earlier in the session that was defeated in the House that addressed local buy in. I understand yours isn't applicable until after the first five years of exemption. It amounts to giving veto power to another political subdivision.

Senator Cook: The bill before you has a condition that allows a city or a county veto power. That situation is a definition of community support. The friendly amendments I talked about would remove that. I think that if the negotiation was done up front, I don't think there would ever be a chance for a county to veto an extension to a renaissance zone. If the amendments took that part out, I'd be fine with that too and that would remove the veto power.

Representative Hogan: In your example where there's a planned renaissance zone followed by a pilot, would the approval come at the beginning of the renaissance zone or at the five-year time frame?

Senator Cook: It would be at the beginning.

Representative Olson: If we get rid of that section dealing with the letter of community support on page four, the remaining veto power would not be to veto a project but just to veto that political subdivision's mills, their portion of the taxes that would be exempted?

Senator Cook: That's correct. The amendment will come for section four.

Chairman Headland: Is there support for SB 2166?

Dustin Gawrylow, North Dakota Watchdog Network: Distributed written testimony in support. See attachment #1. Ended testimony at 13:00. It is our contention that this bill would have addressed the issue of how much money is being diverted from each political subdivision. That is the data driven case behind supporting this sort of measure.

Chairman Headland: You heard of the possibility of the proposed amendment. I'm assuming you wouldn't favor that. What are your thoughts?

Dustin Gawrylow, Lobbyist for North Dakota Watchdog Network: I think that anything we do to help create more checks and balances in the system is good. Ultimately, I would prefer more of those checks and including the support for the existence of these exemptions at the local level. It's up to you all to determine what can actually make it through at the end of the day. As long as it looks something like this we are all in favor of it.

Chairman Headland: Is there further testimony in support?

Jason Flohrs, Americans for Prosperity: Distributed written testimony in support. See attachment #2. Ended testimony at 17:02.

Chairman Headland: Is there further testimony in support? Is there opposition?

Bill Wocken, North Dakota League of Cities: Distributed written testimony in opposition. See attachment #3. Ended testimony at 20:31.

Chairman Headland: Would it be your belief that if asked to weigh in on an incentive, a definite increase in taxable value would occur so there would be more taxes for everybody in the end? Do you believe cities, counties, or school districts would use their veto authority to kill a project if they could see the benefits of the project further down the road?

Bill Wocken: I don't know if they would veto that kind of proposal. I would hope that all entities of government would have the opportunity to look at the potential gains, as well as what the deferred revenue might be and to make that judgement. I would not want to have the opportunity for someone to say they didn't want the project, so they would let them pay for the incentives but then they'd want to share in the rewards. They would increase back to tax base and that is our concern.

Representative B. Koppelman: I heard two examples in veto power; one is absolute veto power when the school district says no the project dies. The second suggestion you said is if they could just opt out of their share then they wouldn't have to put any skin in the game but then would reap the rewards later. Isn't the first example what cities in essence are able to do now?

Bill Wocken: The two instances of veto power are found on page 4 lines 6-9 and that is the evidence of local support. Without that a zone cannot go forward. I think the amendment would solve that issue for us. The renaissance zone and TIF projects have to be brought forward by a city. If the school district thinks the project is a good project they could tell the city they would support a project of that nature, then it's up to the city to bring it forward. Since the cities' responsibility is to grow a tax base I don't know why a city wouldn't support a project that would grow a tax base. The big question usually comes in how much incentive to apply in order to get the desired return and that's where I think the return on investment has to be looked at. That has been done effectively by cities in most cases.

Representative B. Koppelman: If we did nothing, project by project, the city has absolute veto power on any applicant. One of your primary objections is the other political subdivisions having veto power over the entire project. In essence, the city enjoys veto power now over the entire project, even in some cases where the school district collects more tax and the city seems okay with that. Why are cities best suited to have absolute veto power but not the school districts or the counties?

Bill Wocken: The way the bill is currently written cities are given the responsibility for advancing renaissance zones. I don't know if I've ever seen it happen when a city didn't want the project but the school district did but I would hope the city and the school district would then discuss the project and why it would be a good idea. Why would a city veto a proposal that would improve its own tax base?

Representative Olson: On page 4, lines 7-9, where Senator Cook is attempting to define the existing requirement of law, there needs to be evidence of community support and commitments for an extension of a renaissance zone. This came to a head when a renaissance zone was recently extended in the state. Within the Department of Commerce policy manual in order to approve or extend a renaissance zone, they stated a letter of support was required by the county and the schools. They didn't get that letter of support from a county. So, instead of granting the full five-year extension, they granted a limited extension with the request that the legislature come in and more clearly define what this evidence of community support might be. The reason that Commerce approved it was because they felt their policy didn't have the force of law and they didn't want to be on the receiving end of a lawsuit for failure to approve the renaissance zone. If this is not the way

to define what evidence of community support is, what would you propose we do to define what it actually is?

Bill Wocken: As you look at community support you can paint the picture however you like. I don't fault the Department of Commerce for putting a policy in place because someone has to define this when it's not defined in law. This bill attempted to put what evidence of community support meant to you. The League of Cities is concerned with this because "the evidence of support must include letters of support from governing bodies from each county and school district." If it said "should include" or "may include" then we probably wouldn't have an issue with that. Certainly, that's a question that would be asked anytime a renaissance zone would be renewed because it is evidence of community support.

Representative Olson: We may as well just strike out that entire portion of evidence of community support then because it's not defined anywhere within the law. They defined it within policy but then they didn't follow the policy and asking us to come in and define it. What would you suggest we put into the law that would define evidence of community support?

Bill Wocken: No, I do not have a suggestion for that. You can strike the section if you wish or you could add "any evidence of community support" then that would continue to be one of those items you would consider, but it isn't prescriptive as when it says it "must include." That is where we have the problem with it.

Chairman Headland: Are there any other questions? Is there further opposition?

Jason Tomanek, Assistant City Administrator for the city of Bismarck: Distributed written testimony in opposition. See attachment #4. Ended testimony at 34:19. To touch on this a bit on the first page some of the highlights; \$52 million in private investment, nearly 500 jobs, 50 new businesses, and 105 projects have been completed but are still some in the works. On the second page the total assessed value of all the properties within a renaissance zone whether they were a recipient of the tax exemptions or not, has grown from just under \$85 million in 2003 to over \$201 million in November of 2016; an average annual growth rate of over 10% on the assessed values of the properties. That is an uptake on the taxes collected for all political subdivisions across the board.

Chairman Headland: Is any of that property (inaudible)

Jason Tomanek: Currently, the bulk of the renaissance zone in downtown Bismarck is also in the tax increment district.

Chairman Headland: The other political subdivisions are not sharing in on the revenue?

Jason Tomanek: That is correct. However, the city of Bismarck's tax increment finance district is set to close in 2026.

Representative Ertelt: We see some figures you provided for what the city feels were generated because of the renaissance zone. What figures do you have for the rest of the city outside of the renaissance zone?

Jason Tomanek: As far as taxable values?

Representative Ertelt: Any of these data points you're providing for renaissance zone, private investment, full-time jobs, or new businesses.

Jason Tomanek: I don't have any of those numbers with me today.

Representative Hogan: One of the major points of this bill is evidence of community support. What's the current practice? Do you routinely get letters of support from schools and counties?

Jason Tomanek: Currently, the renaissance zone authority meets once a month. Those agenda packets are distributed electronically to a variety of individuals, some of which include members of the school board, public school district, as well as the county. There are public hearings required for every renaissance zone project that goes through review. Prior to being the assistant city administrator, I was their renaissance zone program manager for the city of Bismarck for nearly 10 years. Off the top of my head, I cannot recall even once or maybe twice where a member of the county commission, the park district, or the school board attended a renaissance zone meeting to weigh in or offer comment on a project. In the early days of the renaissance zone program in Bismarck, we showed community support through a variety of ways; letters from private businesses, residents, or public entities. It was just this last round when Bismarck requested a five-year extension of the renaissance zone program that the Burleigh County Commission decided not to support the request.

Representative B. Koppelman: When you have your renaissance zone meetings, do you have any knowledge how many were debating the renaissance zone versus the area up north or the Kirkwood area? Where are you mostly motivating in this city as compared to creating brand new business and brand new jobs that wouldn't have located somewhere else in the city?

Jason Tomanek: I don't know that we have ever asked anyone. Certain businesses in Bismarck do not fit in the downtown area. You wouldn't likely see a new car dealership open downtown because the volume of space required for that type of business isn't available. A small retail shop that has walk up traffic, niche retail, and the vibrancy of downtown may be an opportunity. In nine or ten, the city of Bismarck modified its renaissance zone boundary. In order to do that we pulled a number of property owners and business owners in downtown and asked why they were there. It was at the direction of the city commission for us to go out and solicit comments as to why people chose to participate in the renaissance zone program and why they did not. Overwhelmingly, those that chose to be downtown were there because they felt it would be the right fit for their business, and those that did not chose to participate downtown sited lack of parking and one response was they had no property in downtown with no interest in the area. Does the renaissance zone program pull businesses from other parts of the community? In some cases, perhaps, but if you go to the north side of town you'll see that there are a number of small local businesses that have chosen to locate in a strip mall. I suspect parking might be one of those reasons. The businesses that have chosen to locate downtown feels that it was the right location for them.

Representative Olson: The example you give on the housing project under construction, is that housing project a recipient of any other tax incentives like TIF?

Jason Tomanek: No, it could not be because in order for a TIF project to work the city has to be able to collect the property taxes to then reinvest that money as public infrastructure. If we're giving them the exemption on property taxes, there's nothing for the city to collect through the tax increment and, therefore, nothing more to spend. That project, to my knowledge, does not have any other tax exemption status with the city of Bismarck; it is not a tax increment project.

Representative Olson: Is it planned to be part of a TIF once the five years is up? I know that has occurred when it gets into the renaissance zone then they stack a TIF on the back end, so all the increased value goes to pay off the bond or the TIF.

Jason Tomanek: That is not the case in this example.

Chairman Headland: Is there further opposition? Do we have any questions for Linda? Closed hearing on SB 2166.

Dawn Kopp, Executive Director of the Downtowners Business Association of Bismarck submitted additional testimony distributed but did not testify at the hearing. See attachment #5.


2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2166
3/22/2017
29551

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to approval of property tax incentives granted by a city; relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives.

Minutes:

Attachment 1-3

Chairman Headland: Distributed proposed amendments 17.0148.02001. See attachment #1. This amendment is going to offer some language that was in an original draft of a similar bill to this that states if your property is in a tax increment financing zone then it can't also be added to a renaissance zone or vice versa. The other part of the amendment does nothing more than take out the evidence of support, which we found in another bill we had that we didn't really care for. It gives veto power to other political subdivisions when it comes to property tax incentives.

Representative Steiner: I understood the reason you were having evidence of community support from the other taxing districts is because sometimes school districts overlapped across different boundaries and you wanted to make sure all taxpayers were interested in that project. To pull that out, are you saying the power goes back to that city to make the final call?

Chairman Headland: The amendment is saying we're not going to give another political subdivision veto power over a renaissance zone or other property tax incentives.

Representative B. Koppelman: There was some concern when we talked about what constitutes evidence of community support. If we remove this what would we be left with in the process? I don't necessarily want them to have veto power and kill the project entirely but there was some discussion as to whether a school district or a county could choose to not have their portion of the tax given away in a circumstance they didn't approve. We talked about the concept of giving them approval for the whole zone but not review project by project. Then it didn't make it cumbersome for those that came and applied for the exemption. Does this remove all those things then in the amendment they wouldn't have their say to opt even their share out?

Chairman Headland: No, not to my understanding. All this says is they would have to have letters of support from all other political subdivisions. This just removes that. Maybe someone from the cities can better explain it.

Bill Wocken, North Dakota League of Cities: My understanding of the process is that the Department of Commerce requires letters of community support when they consider a new renaissance zone application. I don't believe they require individual letters of support for each project. I believe it is just at the time of the application. I assume from the discussion that if that is taken out it would apply to the time at which the renaissance zone application for either the initial period or the extension is being granted.

Chairman Headland: All of that in section 1 of the bill still applies.

Representative Ertelt: The evidence of community support or the letters you're referring to that have been submitted, who is submitting them?

Bill Wocken: The city prepares the application, submits it to the Department of Commerce, then they decide if the application should be approved or not. At the time the application is submitted the letters of support are submitted along with the application. I believe that is what the requirement on page 4 talks about. If that is the part that's being omitted, then it would just be at the time of the application or an extension of the renaissance zone.

Representative Olson: Part of the reason this language was included in the bill is because the Department of Commerce denied Bismarck's request for an extension of five years, instead gave them 15 months. That extension expires August 1, 2017. The previous commissioner of Commerce, Alan Anderson, stated the department was not granting approval for the five-year extension because the development plan didn't contain all the letters of support necessary. The department's policy was to have evidence of community support and must include letters of support from both the county commission and the school board. Their intent then was for us to provide them with some kind of guidance of what that evidence of community support should be. It's really never been a problem until now because there hadn't been anyone who actually objected in the form of withholding a letter of support. Now we have to figure out how to give Commerce clear guidance as to how that evidence of community support should be defined. I don't know that it's necessarily something we should be removing. I don't think it will be a big setback to the program because there's never been an instance before when the letter has been withheld. We have to do something because Commerce denied the five-year extension as it is and it expires on August 1, 2017.

Representative Schobinger: I wonder if we're not thinking about this the wrong way. Maybe we should consider moving from letters of support to allowing these folks to opt out but requiring a unanimous vote of those governing bodies to do it. It would give them the ability to do it but also force the cities and the folks approving these renaissance zones to go and make sure what they're doing is correct. To me that might achieve what we're looking to do.

Representative B. Koppelman: When we look at the proposed amendment on page 4, that seems to be the piece that is more broad when you must have them from each entity. To

me, that is talking about the entire renaissance zone. If there is any veto power at all in this bill I believe it lies in section 1, not in section 4.

Chairman Headland: Section 4 is specific to renaissance zone.

Representative Olson: Section 1 provisions only allow for opting out of their mills, so it's not a veto of the project, it's just an exclusion of their mills. Section 4 could be construed as a veto for the entire project without that letter of support.

Representative B. Koppelman: But if we don't do anything with section 4 it's not going to cease being in limbo because there is no governance. The way the renaissance program was run since day one, under policy, that doesn't have the force of law and could no longer continue to be run that way without this section, is that correct?

Representative Olson: The policy doesn't have the force of law but it's never been an issue because there's never been the grounds for a challenge since the letters have always been forthcoming. If they had unanimous consent they would never deny it because they are construing that as evidence of community support, that's their policy. But the moment we run into somebody pulling back and not withholding a letter, now it's in limbo until they get that letter from the county. If we don't pass this, then I don't know what they are going to do on August 1 if Burleigh County doesn't present that letter. If the county doesn't truly want to participate in the zone and they approve it for five years then the county might sue, but if they decide not to approve it because of the lack of the letter from the county, then the city or the school district might sue.

Chairman Headland: I think we're reading more into this than what is already there. In subsection G of section 4, it says as part of the development plan the renaissance zone doesn't have to have these letters. Somebody from Commerce may be able to walk us through this.

Justin Dever, Co-deputy Commissioner for the North Dakota Department of Commerce: Removal of subsection G would clarify that letters of support would not be needed and there would not be evidence of community support which would not be required as part of the development plan. It is required either at the front end when they want to create a new zone or when they are coming back for a five-year extension. Currently, our policy doesn't have the force of law. If we wanted to put our policies in such a way, we would have to do administrative rules. It is our preference to have the legislature make that decision.

Chairman Headland: By removing it, our decision would be the fact that the letter is not needed. If we leave it in there we're stating the letter is dated. It's that simple.

Justin Dever: It is that simple.

Representative Olson: Currently, the law states evidence of community support and commitment from residential and business interest is required for the approval of a development plan by your department. If we fail to adopt this amendment, I don't know how that would solve the issue for you because then you're back to your policy. We haven't stated you don't need evidence of community support. If we don't adopt this addition to subsection

G we simply have failed to clarify it for you. What definition would Commerce move forward with? What would be the status of the renaissance zone in Bismarck come August 1?

Justin Dever: The amendment would be specifically to SB 2166. The senate version of the bill provides clarification. It specifically requires letters of support. The amendment before you would clarify it in the other direction saying it would not require it.

Representative Olson: In addition to the proposed language we're removing the entire subsection.

Justin Dever: That's correct.

Representative Steiner: One of the notes I received from the city said it was fine if the county or the school wants to pull out, but if this thing is successful then they shouldn't share in the incremental value of that property of that and the taxes that would result from it.

Chairman Headland: I've heard the same.

Representative Mitskog: How would they do that?

Representative Steiner: I'm not sure.

Chairman Headland: I don't know how that would be possible. We've discussed the part of the amendment. Let's discuss the other two parts of the amendment which would say if you're in a renaissance zone district you can't create a TIF incentive in that same property or vice versa. How does everybody feel about that?

Representative B. Koppelman: I'm very supportive of that part of the amendment.

Vice Chairman Dockter: I'm really supportive of that because Bismarck is one of four communities that has renaissance zone and TIF stacked on top of each other.

Chairman Headland: I understand the concern with the language to remove the letters of support. Would the committee be interested in moving forward the other portions without that language?

Representative B. Koppelman: **MADE A MOTION TO ADOPT AMENDMENT .02001 with the change on page 4 insert section 6 and renumber.**

Chairman Headland: We have a motion to adopt the amendment minus the removal of evidence of community support must include the letters of support. All that language regarding page 4.

Representative Ertelt: **SECONDED**

Chairman Headland: Discussion?

Representative Howe: You made a comment that this isn't for current TIF districts and renaissance zones, so if you have a TIF stacked on top of a renaissance zone this can't go back and change that?

Chairman Headland: I believe that's the way it's been indicated to myself. But for future development and renewal if this language were to become law they wouldn't be able to stack them.

Representative B. Koppelman: My intent on the motion was to keep the language on page 4 lines 7-9, the new language that's in the bill. On page 4 line 7 remove and page 4 replace lines 8 and 9 with; those two lines would be somewhat be struck off the amendment. Number 1 section 6 isn't even in numerical order. I want to make sure the stuff that is there stays in some fashion so how are we going to do that to make it clear?

Representative Ertelt: As I understood it, on the amendment .02001 page 4 overstrike line 6, page 4 overstrike "interest" in line 7, page 4 line 7 remove "evidence of community support must include letters of support from the", and the section numbers would be renumbered accordingly.

Chairman Headland: That would be the intent certainly.

Representative B. Koppelman: That's the intent but the line after "replace lines 8 and 9 with" so they are striking "governing bodies of each county and within the boundaries" and replacing it with section six. Leave lines 6-9 then say "insert section 6 and have it renumber accordingly."

Chairman Headland: We're just renumbering section 6 of the amendment. Is there further discussion of the amendment?

Roll call vote: 13 YES 1 NO 0 ABSENT

MOTION CARRIED TO ADOPT AMENDMENT .02001 AND ON PAGE 4 INSERT SECTION 6 AND RENUMBER ACCORDINGLY

Chairman Headland: We have amended bill SB 2166 before us.

Representative B. Koppelman: I'm ready to make a motion but I wanted to get clarification on the effective date first. If we specifically say July 31 I believe it's okay because even though the effective date is later, do we need an adjustment in the effective date for sections 3 and the new section?

Chairman Headland: That may be a question for Dee or Dan.

Representative B. Koppelman: Is there anything in sections 1-4 we see that we would object to, changing that date to be in concert with the amendment of July 31, 2017 or say it's effective August 1 or approved after July 31, whatever the proper wording is there. Burleigh County needs to get their issue addressed by then because their extension runs out. Is there any downside to making the effective date in section 7 to July instead of December?

Chairman Headland: Or would we change the amendment with the July date to the December date? I think the language was taken off of another bill that may have had that effective date for all of the sections for that particular bill.

Representative B. Koppelman: I don't know that the issues we're talking about would have to do with city budgets. These tax incentives are not budgetary in nature but you're delaying a collection of tax. We should ask the Tax Department.

Chairman Headland: Whatever change needs to be made we should make it. I don't know which change is the proper change.

Representative B. Koppelman: There may be unintended consequences involved with the date of December in the amendment and dealing with the situation in Burleigh County.

Representative Olson: The extension for the Bismarck renaissance zone area is through August 1, 2017 so if this takes effect July 31 it would apply to whatever they decide to do after August 1, 2017. If it takes effect in December then that application, approval process, and stacking situation wouldn't be modified by this legislation.

Chairman Headland: Would we be more comfortable if this question was posed up at Legislative Council. Let's recess for a minute and find out.

Representative Olson: Isn't this administered under the Division of Community Services?

Justin Dever: Yes it is.

Representative Olson: Where was the Division of Community Services prior to the formation of the Department of Commerce?

Justin Dever: It was part of the Office of Management and Budget which had a specific exemption from the Administrative Practices Act. That was the reason why the administrative rules were not put in place for renaissance zone.

Representative Olson: That exemption existed under OMB but the Administrative Agency's Practices Act chapter 28-32 doesn't appear to exclude the Division of Community Services. In 28-32-01 subsection 2 it states that there is a list of excluded agencies but it doesn't state the Division of Community Services is necessarily excluded. Is it your understanding that the Division of Community Services is excluded from rule making?

Justin Dever: The Division of Community Services is not. If it was excluded, we could have enforced our policy, but since we don't in order for us to enforce that policy we would have needed to have gone through administrative rules.

Representative Olson: Are you saying the policy you carried over was from OMB and it hasn't been updated since then?

Justin Dever: The policy has been updated but we haven't gone through the administrative rules process with it. We should have recognized the fact that it needed to go through administrative rules but that did not occur.

Representative Olson: If the Division of Community Services is not exempt from the requirement to go through the rule making procedure. If it had actually done that then part of our dilemma here may have already been taken care of because their entire policy structure would have been given the force of law through the rule making procedure. I think we also need to get clarification whether or not the division that is administering the renaissance zone program should have gone through rule making procedures and find out why they didn't and what we need to do to fix that if they should have.

Representative Hogan: Representative Olson makes a really good point. As it relates to this bill, if it's our expectation this bill will have administrative rules related to it that is also a timely process and one we might one to consider. It takes about nine months to implement which may affect the effective date.

Chairman Headland: Emily, from Legislative Council, is on her way here to help us figure this out. We'll stand in recess until she gets here.

Chairman Headland: Emily, we're reviewing the amendment and we have some questions. We've moved to remove the language on page 4 line 6 through page 4 replace lines 8-9 but another question has come before us regarding the dates. In the other portions of the amendment it refers to July 31, 2017 but in the bill the effective date is December 31, 2017. We have some conflict there. What should the dates be or does it work the way it is written?

Emily Thompson, Counsel, Legislative Council: The effective dates sections 1, 2, 4, and 5 have been pushed out to the end of the year because now we have to have this community support or a buy in from the other political subdivisions and we didn't want to do that mid-year, so at the end of this calendar year that will be a requirement. The other two sections of the bill are not included in the effective date; sections 3 and 6. These sections prohibit something that's in a renaissance zone from being included in a TIF district and vice versa. The effective date wouldn't have to be pushed out until the end of this year because that is saying that Commerce can't approve something for a renaissance zone when they approve and review those applications. Something in a TIF district can't be within the boundaries of something they are approving. It doesn't have the normal July 1 tax effective date because it's not really changing a rate, it's just in regard to something Commerce is approving. The internal citation in sections 3 and 6 says after July 31, 2017, which would be August 1 that is the normal effective date. There's no conflict saying Commerce can't include something in a renaissance zone when they are reviewing that application if the land is already in a TIF district. That doesn't have an overlap with requiring that buy in from those other political subdivisions.

Representative Olson: You're saying in section 7 it should say sections 1, 2, 4, and 5 are effective for property taxes since it's after December 31, 2017, thereby excluding sections 3 and 6 from that particular effective date since they have their own effective dates within their sections?

Emily Thompson, Counsel, Legislative Council: Correct. Sections 3 and 6 are excluded because they have the normal August 1 effective date. Sections 1 and 2 have a December 31, 2017 effective date. Section 3 is our new section which would have an August 1, 2017 effective date. Section 4 and 5 would be effective December 31. Section 7 would have an August 1 effective date because all this is doing is adding to that list of incentives that can be studied. Section 7 is adding the development or renewal area incentives to the list of tax incentives that an interim committee can study. It won't have any effect on rates so there wouldn't need a specific tax effective date associated with that. The legislative management study also doesn't need a reference to an effective date.

Chairman Headland: I think we have it now. A marked up version would have been helpful to walk us through this.

Representative Olson: If we're pushing out section 4 to December 31, 2017 we still have the unresolved issue of the extension of the renaissance zone in Burleigh County, Bismarck, that is going to expire on August 1, 2017. Do we need to clarify in here that another extension may be granted through December 31, 2017 so they have time to negotiate and discuss getting those letters of support? They may not have that letter of support by August 1, at which point it would expire, so then they would be back to the same situation they are asking us to fix.

Emily Thompson, Counsel, Legislative Council: Are you looking at section 4, where it's talking about a tax increment financing proposal and the need for a letter of support?

Representative Olson: No, the portion that relates to evidence of community support must include letters of support from the governing bodies of each county.

Emily Thompson, Counsel, Legislative Council: Since we're stripping off the new language and leaving that section as is according to your motion, that would have previously been effective for incentives approved after December 31, 2017. The other provisions in the bill that discuss the letters of support don't kick in until December 31, 2017 so that requirement wouldn't be in law for August for the situation you're looking at, so there would be a gap there.

Representative Olson: Maybe we need to include something that deals with the gap so they have some clear directive that they may extend it without the letters of community support through December 31, 2017, to give them time to figure out whether or not they are going to get those letters of support.

Representative Mitskog: I'm really troubled with the motivations in this bill. We might as well insert Burleigh County, Bismarck in here. To be changing this in response to a local issue is concerning.

Representative B. Koppelman: In the original bill it was page 4 lines 7-9 and in your marked up copy is now section 5, although we did not remove lines 7-9 we are still planning to insert this language on your amendment that starts with section 6. I don't know why it's labeled section 6 because that doesn't make sense to me in the numbering scheme but we want that language to be in there. If that language is in there it will still say July 31, 2017, so with your

new numbering of that section 5 that needs to be effective July 31, 2017 then that would deal with the situation in Burleigh County.

Chairman Headland: Emily, do you understand what we're trying to do? I think there's confusion amongst us in what we're doing. Could you rewrite the amendment for us or don't we need it?

Emily Thompson, Counsel, Legislative Council: In the section of the renaissance zone language, the definition of a development plan, one of the things it must require is the evidence of community support and commitment from residential and business interests. Is it the committee's intention to keep that as is or is something being added from your previous discussion? Is additional language being added to the definition of a development zone?

Chairman Headland: There wasn't any additional language proposed in the removal. We were essentially removing section G. Part of G is in current statute and she is asking us if we want that to remain.

Representative Hogan: I think it's important for Emily to know about our discussion whether this needs to have administrative rules going with them. That typically takes nine months to do and would that affect the effective date? Currently there are no administrative rules for any of this.

Representative Toman: Subsection 2 of the Administrative Agency's Practice Acts exempts the Department of Commerce with respect to the Division of Economic Development and Finance, so that is why there are no rules.

Representative Olson: That's not the division that operates the renaissance zone, that's Division of Community Services which was brought over from OMB. They have been in error by omitting themselves from rule making. The amendment we just adopted, .02001, removed the references to subsection G of the original section 4 amendment of the original bill. We've left intact the language in the original bill that has the existing reference to evidence of community support and commitment from residential and business interests that is already in code. We've also left the amendment that the bill is proposing to include the letters of community support. We amended the amendment.

Emily Thompson, Counsel, Legislative Council: Are you asking whether additional language to elaborate evidence of community support or what is required needs to be somewhere in law from the August 1 date to after the December 31 date?

Chairman Headland: Yes, that is what Representative Olson is asking.

Representative Olson: We need to provide clarification that the evidence of community support, we don't want that to go into effect August 1 because there isn't enough time for them to act on that with the county. I'm asking the committee whether or not we'd like to provide some guidance that would allow Commerce to provide an extension without that evidence to deal with this case, so we would allow that extension through December 31 for them to get those letters of support.

Emily Thompson, Counsel, Legislative Council: These letters will not be required until after December 31, 2017. The letters wouldn't be required until January 1, 2018 and if this is up for approval in August they wouldn't need an extension to attain letters that aren't technically required under any language until then.

Representative Olson: Previously, the Department of Commerce declined to extend Bismarck's request for a five-year extension, and instead allowed an extension for 15 months through August 1 to allow legislature to define community support. The former Commerce commissioner stated they were not approving the five-year extension because it didn't contain all of the letters of support necessary. The letters of support are a requirement in the current policy manual the Department of Commerce created for development plan approval. That's why they are in a limbo zone of not approving it because of the policy manual which requires letters of support, but they can't disapprove it because they don't feel their policy manual has the force of law. They gave the issue to us to define what those letters of community support are, leaving the August 1 deadline without any clear guidance.

Emily Thompson, Counsel, Legislative Council: I believe it stated that since the rules weren't officially promulgated it doesn't have the force of effect of law, so the law that Commerce would be bound by is what you see in century code. Whether or not Commerce would be prohibited from extending, since the language says they must have this, does not have the force in effect of law. If you're looking to allow them to extend I don't know that would necessarily be prohibited under the current language you have now since those guidelines have been set aside as not having the force of effect in law.

Representative B. Koppelman: This was a pretty big deal around here. When Commerce extended it for the period of time, that caused a lot of heartburn for people that said they were violating their own policy by extending it. I don't know that anyone expected that effectiveness of our decision to extend beyond the normal implementation of law within our state. Depending on what kind of bill it is, it is either July 1 or August 1, in this case it would be August 1. The reason that date is there was very intentional because whatever we do here is intended to govern starting August 1, not July 1. I think this should go into effect in August because I think that's what the Department of Commerce wanted us to do. Maybe the other provisions in this bill would also set the stage for what happens going forward after August 1 if the city wants to continue with it and the county wants out. I don't see this is something where we need to give them more time because it's just a matter of which side we're going to fall on.

Chairman Headland: I would feel more comfortable if we had a marked up version.

Emily Thompson, Counsel, Legislative Council: I'd be happy to send that right down. Are you referring to the marked up which removes the development plan language from the bill entirely and removing the new language in G?

Chairman Headland: We want to include the language in section G.

Representative B. Koppelman: We could print a Christmas tree version and recess until we could review it.

Chairman Headland: Let's take a short recess.

Emily Thompson, Counsel, Legislative Council: Distributed a marked up version of the bill. See attachment #2.

Representative B. Koppelman: The amendment motion I made we have before us. On page 4 lines 13-16, we removed the overstrike, otherwise that was my amendment. I don't see any reason why we wouldn't make the entire bill effective August 1 with our normal deadlines. I suggest in section 9 to consider the effective date as July 31 or August 1, whichever is appropriate.

Chairman Headland: Is there a reason we wouldn't do that?

Emily Thompson, Counsel, Legislative Council: The original date was pushed out to the end of the year so we wouldn't meddle with anything that was in the works. If any property tax incentives would have been granted by the effective date that wouldn't be impacted, it would just be going forward after either July 1 or August 1; July 1 if it would have tax impact or August 1 if it does not.

Chairman Headland: Can we say this act becomes effective either July 31, 2017 or August 1, 2017?

Emily Thompson, Counsel, Legislative Council: It would be an August 1 effective date.

Chairman Headland: If it's going to be August 1 effective date, do the other dates remain July 31?

Emily Thompson, Counsel, Legislative Council: All the dates would be August 1. I don't know that any would be moved to July 1.

Representative B. Koppelman: If we leave it in the context of how this was worded then the date should be July 31, but if we going to say this act becomes effective then it would be August 1, I think that's the difference. If we're going to use the wording that we used in your amendment and keep it that way where it says, "after July 31" then in section 9 I would strike out line 12 page 6 the sections 1, 2, 4, and 5 of then capitalize "This" then it would read "This act is effective for property tax incentives approved after July..."

Emily Thompson, Counsel, Legislative Council: I can certainly make that change.

Chairman Headland: We should have a motion.

Representative B. Koppelman: MADE A MOTION TO FURTHER AMEND .02001 on page 6 line 12 strike "Section 1", II, IV, words "and" and "V of", capitalize This, on line 13 strike out December and replace it with July. It would read "This act is effective for property tax incentives approved after July 31, 2017."

Representative Ertelt: SECONDED

Chairman Headland: Does everybody understand this is just a date change?

Representative Hogan: I'm going to resist this motion just because if there are plans in negotiations I'm more comfortable with the December date. I'm not sure how long it takes to go through negotiations.

ROLL CALL VOTE: 11 YES 2 NO 1 ABSENT

MOTION CARRIED TO FURTHER AMEND

Representative Schobinger: MADE A MOTION TO FURTHER AMEND. See attachment #3, proposed amendment. I suggest replacing the language regarding evidence of community support with "the community support must be presumed unless the governing body of the impacted school or county unanimously approves a motion to be excluded from the renaissance zone."

Representative Mitskog: SECONDED

Chairman Headland: We're open for discussion.

Representative B. Koppelman: To require a unanimous consent not to give the money away concerns me. You might have two out of five commissioners that want the tax revenue to do something differently. How would you wrestle through that?

Representative Schobinger: As I understand the law today there really is no provision for the school boards or the county to opt out. I tend to agree with the concept of finding a way for them to opt out, but I think that bar should be set really high. When it's unanimous that forces the city to go to the county or to the school districts and negotiate with them.

Representative B. Koppelman: I understand that argument. The school district is still the lion's share of the tax. The city has the ability to benefit from property tax, sales tax, and other things they collect. The county and the school district primarily only benefits from the property tax. The city has more to gain than a county or school district. I don't know if the argument that they benefit as much is exactly true. I don't know if having above 50% plus one threshold is a bad idea but I think unanimous can be really difficult. If we really want to balance the playing field, we should have all the groups in one room and have a majority from each on every single little thing. This is just the initial setting up of the entire zone or the renewal of that, this isn't the project by project veto. The law says they have to show community support already.

Representative Schobinger: Could the school districts or the county opt out now?

Representative B. Koppelman: That's where the problem lies because there is no clear definition. The Department of Commerce says there is no way to define it other than their policy which has no force of law, so right now they don't have an opting out because we haven't defined it. The intent in law was that they had the ability to withhold their support and it didn't require a super majority of any sort.

Representative Schobinger: All the power now seems to rest with the cities. This bill now completely takes it away from the city and gives it to the other side. My amendment allows them to opt out but it sets that bar high for them. (remaining words were inaudible as his microphone wasn't turned on)

Representative Olson: You might be misinterpreting this because now there is no provision in law to opt out of a renaissance zone. This isn't providing the counties or schools the ability to opt out of the renaissance zone. This relates to the approval of the entire project itself; the entire renaissance zone. Once it's approved they are all in or else it's not approved. There's nothing in here for a carve out for the school district or a carve out for the county. We're simply attempting to define the evidence of community support which is already required under the law to initially approve the renaissance zone or to extend the renaissance zone. The Department of Commerce and their policy manual said they would consider that to be a letter of support from each of the governing bodies. Your amendment would define community support a bit differently but it wouldn't provide for an exclusion. Even though you say they unanimously approve a motion to be excluded from a renaissance zone that still doesn't give them the authority to exclude themselves from a renaissance zone, we would have to pass other language to provide that. The only exemptions this bill is providing is in section 1, any tax incentive that's estimated to receive the incentive for more than five years have an option to opt out. They're presumed opt in unless they opt out then in that case their portion of the mills would be excluded from the incentive. That's only for incentives that are estimated to last more than five years. The amendment you're proposing would relate to the creation or the extension of a renaissance zone, not to the exclusion from a property tax incentive.

Representative Schobinger: The language on lines 7-9, say that if the school district doesn't send the letter of support they still have to be part of that zone even though they didn't send the letter?

Representative Olson: Right now there has only been one instance where a letter of support has been withheld, and that's recently in Burleigh County where the county didn't give a letter of support. For the entire history of the renaissance zone legislation in North Dakota, letters of support have always been given by the school districts and the counties to the cities to go ahead and create or extend the zone. In this case the county didn't provide the letter but the Department of Commerce went ahead and extended it anyway because they didn't feel their policy had the force of law, and that the law was clear as to what evidence of community support meant. All we're doing in this bill then is taking what's already the policy of the Department of Commerce and putting it into code so there is clarity on the issue. I think that whatever the issue is with Burleigh County they will get that resolved and the county will probably provide them with the letter of support as would be required by law if this bill passes. I don't think it will be a huge impact just to codify that into law, so should there ever be a disagreement in the future there is language in the law.

Representative Schobinger: We can vote on this.

Representative Hogan: On page 4 of the Christmas tree version, section G, is it our intent to eliminate the evidence of community support that's currently in law?

Chairman Headland: We've already removed the overstrike in a prior motion.

Representative Hogan: Part of that section G?

Chairman Headland: The whole section G is in the bill. We have a motion on the table. Is there further discussion on the proposed motion?

ROLL CALL VOTE: 4 YES 10 NO 0 ABSENT

MOTION FAILED

Representative B. Koppelman: MADE A MOTION FOR A DO PASS AS AMENDED

Representative Olson: SECONDED

Chairman Headland: Discussion?

ROLL CALL VOTE: 10 YES 4 NO 0 ABSENT

MOTION CARRIED

Representative B. Koppelman will carry this bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

Page 1, line 1, after "40-05" insert ", a new subsection to section 40-58-20, and a new subsection to section 40-63-03"

Page 1, line 2, after "city" insert "and a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district"

Page 2, after line 20, insert:

"SECTION 3. A new subsection to section 40-58-20 of the North Dakota Century Code is created and enacted as follows:

A lot or parcel of property may not be approved for inclusion in a development or renewal plan after July 31, 2017, for tax increment financing purposes if that lot or parcel of property has been approved for inclusion in a renaissance zone under chapter 40-63."

Page 4, overstrike line 6

Page 4, line 7, overstrike "interests."

Page 4, line 7, remove "Evidence of community support must include letters of support from the"

Page 4, replace lines 8 and 9 with:

"SECTION 6. A new subsection to section 40-63-03 of the North Dakota Century Code is created and enacted as follows:

The department of commerce division of community services may not designate a renaissance zone after July 31, 2017, which includes a lot or parcel of property that has been approved for inclusion in a development or renewal plan for tax increment financing purposes under section 40-58-20."

Page 5, line 30, replace "through" with ", 2,"

Page 5, line 30, after "4" insert ", and 5"

Renumber accordingly

Replace the new language on lines 7-9 with "Community support must be presumed unless the governing body of the impacted school district or county unanimously approves a motion to be excluded from the renaissance zone"

March 22, 2017

3/22/17 DG

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

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Page 4, after line 9, insert:

"SECTION 6. A new subsection to section 40-63-03 of the North Dakota Century Code is created and enacted as follows:

The department of commerce division of community services may not designate a renaissance zone after July 31, 2017, which includes a lot or parcel of property that has been approved for inclusion in a development or renewal plan for tax increment financing purposes under section 40-58-20."

Page 5, line 30, replace "4" with "6"

Page 5, line 31, replace "December" with "July"

Renumber accordingly

Date: 3-22-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2166

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: .2001 and on p.4 insert section 6 + renumber

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓		Representative Mitskog		✓
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment _____

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

Date: 3-22-17
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2166**

House Finance and Taxation Committee

(17.0148.02002) Subcommittee overstrike July and replace with December
 Amendment LC# or Description: further amend p. 6 line 12 strike (of 02001 amendment) Section 1

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan		✓
Vice Chairman Dockter	✓		Representative Mitskog		✓
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 11 No 2

Absent 1

Floor Assignment _____

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

Date: 3-22-17
 Roll Call Vote #: 3

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2166**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: further amend - see attachment #3
- Replace new language on lines 7-9

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. Schobinger Seconded By Rep. Mitskog

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland		✓	Representative Hogan		✓
Vice Chairman Dockter		✓	Representative Mitskog	✓	
Representative Ertelt		✓			
Representative Grueneich		✓			
Representative Hatlestad		✓			
Representative Howe	✓				
Representative Koppelman		✓			
Representative Olson		✓			
Representative Schobinger	✓				
Representative Steiner		✓			
Representative Toman		✓			
Representative Trottier	✓				

Total (Yes) 4 No 10

Absent 0

Floor Assignment _____

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

Motion fails.

Date: 3-22-17
 Roll Call Vote #: 4

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2166**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Olson

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan		✓
Vice Chairman Dockter	✓		Representative Mitskog		✓
Representative Ertelt	✓				
Representative Grueneich		✓			
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓	✓			
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Koppelman

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

REPORT OF STANDING COMMITTEE

SB 2166, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2166 was placed on the Sixth order on the calendar.

Page 1, line 1, after "40-05" insert ", a new subsection to section 40-58-20, and a new subsection to section 40-63-03"

Page 1, line 2, after "city" insert "and a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district"

Page 2, after line 20, insert:

"SECTION 3. A new subsection to section 40-58-20 of the North Dakota Century Code is created and enacted as follows:

A lot or parcel of property may not be approved for inclusion in a development or renewal plan after July 31, 2017, for tax increment financing purposes if that lot or parcel of property has been approved for inclusion in a renaissance zone under chapter 40-63."

Page 4, after line 9, insert:

"SECTION 6. A new subsection to section 40-63-03 of the North Dakota Century Code is created and enacted as follows:

The department of commerce division of community services may not designate a renaissance zone after July 31, 2017, which includes a lot or parcel of property that has been approved for inclusion in a development or renewal plan for tax increment financing purposes under section 40-58-20."

Page 5, line 30, replace "4" with "6"

Page 5, line 31, replace "December" with "July"

Renumber accordingly

2017 CONFERENCE COMMITTEE

SB 2166

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
4/4/2017
Job #: 29928

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Minutes:

No Attachments

Chairman Cook: Called the conference committee on SB 2166 to order. All members present. I can see what you did to this bill and I don't need an answer or explanation to it. If you could share your reasons as to your thought process.

Representative Olson: We liked the language as was on the bill before, thought we'd give it another try and put it back in.

Chairman Cook: I do have one concern with the language as written. We're talking about a parcel of property, looking at Section 3, "may not be approved for inclusion in a development or renewal plan if that lot or parcel of property has been approved for inclusion in a renaissance zone". It is very possible that a piece of property could be in a renaissance zone and never receive a renaissance zone income tax exemption. I think we need to amend this, talked to Emily when this was in the Senate, but we ended up going in a different direction instead.

Representative Olson: I would agree.

Chairman Cook: Section 3 and Section 6. The piece of property, just because it's in a TIF, development zone, or renaissance zone, doesn't exclude it from, unless it receives the actual tax benefit.

Representative Olson: That was our intent as well. We don't want to exclude them based on their geographical boundaries, but participation in one or the other plans.

Senator Unruh: I shared the concerns, remember when we talked about 3 and 6 in the other bill and came to the same conclusions, was the reason we took it out. I like the bill much better without the whole provision, not sure that we could get it through the Senate.

Senator Dotzenrod: It looks like that language basically you can't do one if you do the other. What it seems that we had on our side was you had to have permission from the school or the county?

Chairman Cook: That language is still in here. This is 2166 completely as we passed it over, except for section 3 and section 6.

Senator Dotzenrod: Have to do one or the other, if the school approves it, you can add it on. They can participate beyond the five years. First 5 years, everyone was one.

Chairman Cook: Anything longer than 5 years had to be discussed with the schools. Most of the discussion would be one that was designed to receive both.

Senator Dotzenrod: You could participate in both, under that provision, but not under this, the way it's amended. So we've got a conflict between how those two would work.

Chairman Cook: I don't think there's a conflict.

Senator Unruh: That provision to get approval for longer than 5 years would still apply to most every TIF district.

Chairman Cook: Let me work on some amendments, we'll try to get a sense on where the senate floor is and what we can do.

Meeting adjourned.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
4/10/2017
Job #: 30023

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to approval of property tax incentives granted by a city and a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district; and relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives; to provide for a legislative management study; and to provide an effective date.

Minutes:

Attachment #1

Chairman Cook: Called the conference committee on SB 2166 to order. All members present.

Representative Olson: Handed out proposed amendments, **attachment #1**. What this does is recede from the House amendments and insert a study of the same issue we were attempting to deal with that the House put on.

Representative Olson: Moved to recede from the House amendments and further amend.

Senator Unruh: seconded.

A Roll Call Vote was taken. 6 ayes, 0 nays, 0 absent.

(0:02:08-0:04:48) A question was raised about the letters of community support from the governing bodies.

Senator Cook and Representative Olson will carry the bill to their respective floors.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2166
4/10/2017
Job #: 30030

Subcommittee
 Conference Committee

Committee Clerk Signature

Jana Bellamy

Explanation or reason for introduction of bill/resolution:

A BILL relating to approval of property tax incentives granted by a city and a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district; and relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives; to provide for a legislative management study; and to provide an effective date.

Minutes:

Attachment #1

Chairman Cook called the conference committee on SB 2166 to order. All members present.

Chairman Cook: Shortly after we adjourned, it was brought to my attention that by the house receding from their amendments we lost the July 31 effective date. The Senate had an effective date of December 31. It should be July 31 because that's the time in which the one-year extension to the Bismarck renaissance zone expires. So we need to amend this and reconsider our action.

(0:00:55-0:01:36) Discussion if an emergency clause needs to be added.

Chairman Cook: Would need a motion that we reconsider our earlier action.

Senator Unruh: So moved.

Representative Olson: Second.

Voice Vote. Motion passed.

Representative Olson: The House recedes from its amendments, and further amends with amendment .02005 and further amending the amendment to include "Page 5, line 31, replace "December" with "July" and renumber accordingly.

Representative Howe: seconded.

A Roll Call Vote was taken. 6 ayes, 0 nays, 0 absent.

Senator Cook and Representative Olson will carry the bill to their respective floors.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

That the House recede from its amendments as printed on page 983 of the Senate Journal and page 1112 of the House Journal and that Engrossed Senate Bill No. 2166 be amended as follows:

Page 5, after line 29, insert:

"SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY TAX INCENTIVES. During the 2017-18 interim, the legislative management shall consider studying the duplicative application of property tax incentives, including benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

April 10, 2017

OK
4/11/17

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

That the House recede from its amendments as printed on page 983 of the Senate Journal and page 1112 of the House Journal and that Engrossed Senate Bill No. 2166 be amended as follows:

Page 2, line 7, replace "instruments" with "increments"

Page 5, after line 29, insert:

"SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY TAX INCENTIVES. During the 2017-18 interim, the legislative management shall consider studying the duplicative application of property tax incentives, including benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Page 5, line 31, replace "December" with "July"

Renumber accordingly

Date: 4-10-17
 Roll Call Vote #: 1

**2017 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. **2166** as (re) engrossed

Senate Finance and Taxation Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Olson Seconded by: Senator Unruh

Senators	4-4	4-10		Yes	No	Representatives	4-4	4-10		Yes	No
Senator Cook (Chair)	P	P		X		Representative Olson	P	P		X	
Senator Unruh	P	P		X		Representative Howe	P	P		X	
Senator Dotzenrod	P	P		X		Representative Grueneich	P	P		X	
Total Senate Vote						Total Representative Vote					

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Cook House Carrier Olson

LC Number 17.0148.02005 . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4-10-17
 Roll Call Vote #: 2

**2017 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. **2166** as (re) engrossed

Senate Finance and Taxation Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Reconsider*
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Unruh Seconded by: Representative Olson

Senators	4/10	Yes	No	Representatives	4/10	Yes	No
Senator Cook (Chair)	P			Representative Olson	P		
Senator Unruh	P			Representative Howe	P		
Senator Dotzenrod	P			Representative Grueneich	P		
Total Senate Vote				Total Representative Vote			

Vote Count Yes: _____ No: _____ Absent: _____
voice vote

Senate Carrier _____ House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted
 Statement of purpose of amendment

motion pass

Date: 4-10-17
 Roll Call Vote #: 2

**2017 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 2166 as (re) engrossed

Senate Finance and Taxation Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Olson Seconded by: Representative Howe

Senators	4-10	Yes	No	Representatives	4-10	Yes	No
Senator Cook (Chair)	P	X		Representative Olson	P	X	
Senator Unruh	P	X		Representative Howe	P	X	
Senator Dotzenrod	P	X		Representative Grueneich	P	X	
Total Senate Vote				Total Representative Vote			

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Cook House Carrier Olson

LC Number 17.0148.02005; further amend as below of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*Page 5, line 31. replace "December" with "July"
 Renumber accordingly*

Insert LC: 17.0148.02006
Senate Carrier: Cook
House Carrier: Olson

REPORT OF CONFERENCE COMMITTEE

SB 2166, as engrossed: Your conference committee (Sens. Cook, Unruh, Dotzenrod and Reps. Olson, Howe, Grueneich) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 983, adopt amendments as follows, and place SB 2166 on the Seventh order:

That the House recede from its amendments as printed on page 983 of the Senate Journal and page 1112 of the House Journal and that Engrossed Senate Bill No. 2166 be amended as follows:

Page 2, line 7, replace "instruments" with "increments"

Page 5, after line 29, insert:

"SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY TAX INCENTIVES. During the 2017-18 interim, the legislative management shall consider studying the duplicative application of property tax incentives, including benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Page 5, line 31, replace "December" with "July"

Renumber accordingly

Engrossed SB 2166 was placed on the Seventh order of business on the calendar.

2017 TESTIMONY

SB 2166

1/18/2017

SB 2166

Attachment #1

pg 1

Cook, Dwight C.

From: Tony Gehrig <tgehrig@cityoffargo.com>
Sent: Wednesday, January 18, 2017 5:31 AM
To: Cook, Dwight C.
Subject: I support SB 2166

Sen. Cook, please pass this along to your committee members.

I would like to lend my support for SB 2166, and truly any legislation to limit or phase out these incentives.

Incentives, in order to be effective, must be focused and limited in both time and scope. Allowing any incentive program to carry on indefinitely, as all these incentives have been allowed to do, has real world implications. Not the least of which is a real impact to that average tax payers who end up shouldering the burden of increased property taxes based solely on incentives.

Many will point to incentives and suggest that Fargo and other cities have grown because of them. The reality is 99% of businesses in Fargo have never received any incentive. 66% of downtown businesses have never received any incentive. To suggest our growth is based on incentives is to over simplify and exaggerate. I submit to you that Fargo is growing today INSPITE of incentives. Every small business is harmed when they are required to pay more in taxes to cover what other do not pay.

I have attached an article that I wrote regarding incentives. It is a very quick read and adds context to the debate. The opinions here are my own, and are not meant to represent the Fargo City Commission.

<https://www.sayanythingblog.com/entry/tony-gehrig-the-dirty-little-secrets-behind-property-tax-exemptions/>

Tony Gehrig
Fargo City Commissioner
Cell: 701-893-8185
Email: tgehrig@cityoffargo.com

1/18/17

SB 2166

Testimony #2 Pg 1

SB 2166 Testimony
Bernie Dardis, FMWF Chamber of Commerce
1/18/2017

Good morning Chairman Cook and members of the committee, thank you for allowing me to speak with you today. My name is Bernie Dardis, I am here as a member of the Board of Directors for the Fargo Moorhead West Fargo Chamber of Commerce.

I understand that this bill examines the complex issue of Renaissance Zones and TIF districts. With some properties and parcels of land resulting in receiving the benefits of both. I won't begin to describe to you the specific complexities of both programs, as I'm sure you are aware, but I will state that with the proper implementation of these programs it can truly be a success.

The Fargo metropolitan community is one that has undergone immense growth and change in the last decade, just as many other communities across the state have. It has certainly become the most transformed area of our entire region. If you take a drive through downtown Fargo you will see thriving nightlife, an array of living options, lively retail and business space and engaging community activities. Downtown Fargo hasn't always been described in that manner. With the proper use of both of these programs we have been able to transform what was once an under-utilized section of the community and turn it into one of the most thriving portions in the entire metro.

To say that either of these programs is important to our downtown redevelopment would be an understatement. It is absolutely imperative to the complete transformation that has taken place. What was once a run-down and desolate part of town now sees thousands on a daily basis as they live, work and play in downtown Fargo. The downtown Fargo economy has seen exponential growth as it has gone through these years of change, which has had a positive impact on the entire community. It is clear to see that none of this tremendous transformation would have taken place without the Renaissance Zone program and TIF districts.

As your committee and the entire legislative body consider the continued use of certain incentive programs, I urge the committee to review the strategic implementation of how they have been used in the downtown Fargo redevelopment. I am proud of the transformation that has taken place in our community and I urge the committee to continue their support of both.

Thank you for allowing me to speak with you today.

4/18/17

SB 2166

Testimony #3 pg 1

Testimony Presented on Senate Bill 2166 to the

Senate Finance and Taxation Committee

Senator Dwight Cook, Chair

for the City of Fargo

by Jim Gilmour, Director of Planning and Development

January 18, 2017

Mr. Chairman and Members of the Committee:

The City of Fargo supports both the Renaissance Zone (RZ) and the Tax Increment Financing (TIF) District.

Fargo has only combined RZ and TIF on the same project a couple of times. The Roberts Commons mixed-use development is an example where the programs worked well together.

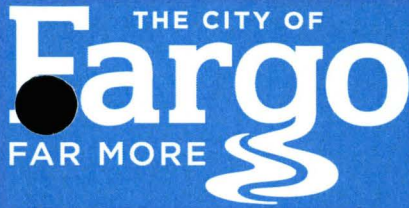
A TIF district was created to help finance a publicly-owned parking ramp. The City of Fargo sold bonds that must be paid off over 20 years.

The private developer builds retail/housing developments, of about \$30 million in value. The City is granting 5-year Renaissance Zone property tax exemptions to the private developments.

After the Renaissance Zone incentives expire in 5 years, the new property taxes from the private developments are collected for the TIF district to pay off bonds for the parking ramp. (Other parking funds are used to pay off the debt during the first five years.)

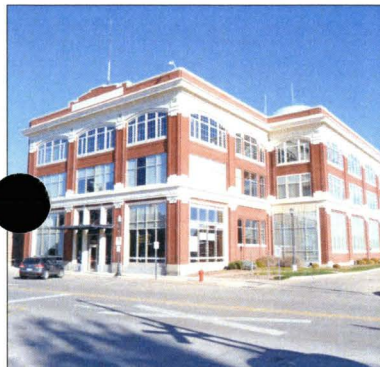
Key Points

- New private sector development replaces surface parking lots that paid almost no property taxes for 30 plus years. New developments will be about \$30 million in value.
- Private sector development receives a 5-year RZ exemption, the same as other projects.
- The downtown benefits by the creation of 455 parking spots in a parking ramp. Users of the spaces will be the people who previously parked in the surface parking lots; new businesses locating downtown; new downtown residents living in the housing; and downtown visitors.
- There is more parking, including free parking in the evenings and on weekends. This increases development and property values of adjacent property.
- The City of Fargo owns the parking facility, with a portion paid for by TIF, and the rest paid from revenue from this new parking ramp and other downtown parking facilities.
- Once the parking bonds are paid, property tax revenue to local governments increase.
- Once the parking bonds are paid, additional parking revenue is available for maintenance and expansion of the downtown parking system.



Renaissance Zone Program Report

Comparative Analysis

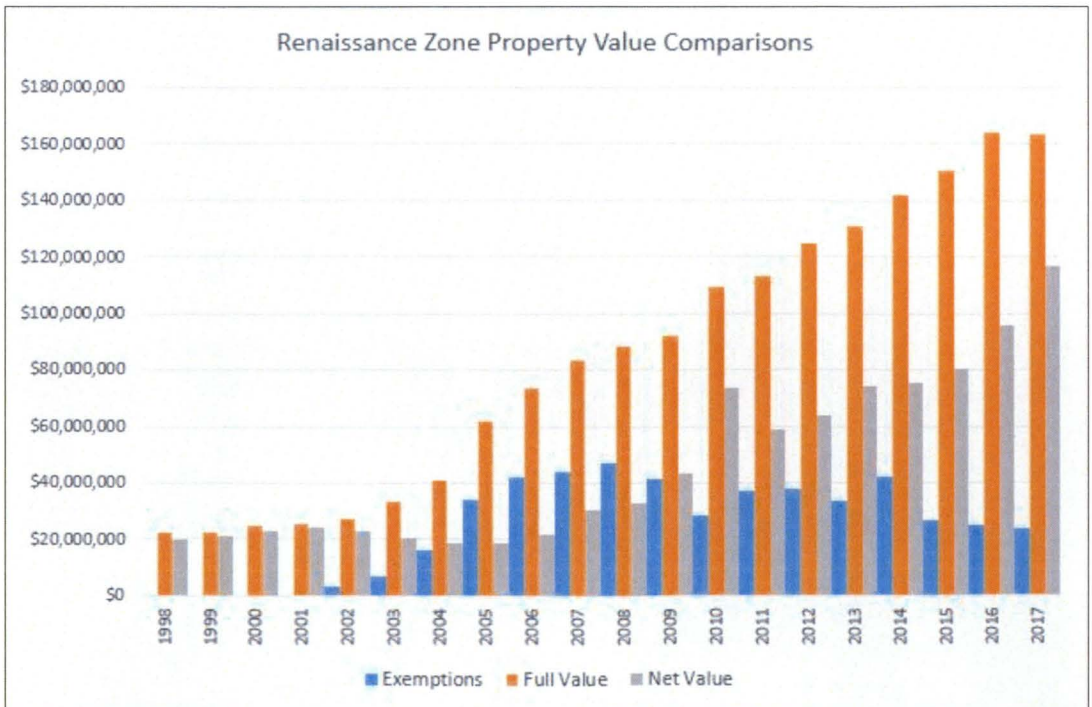


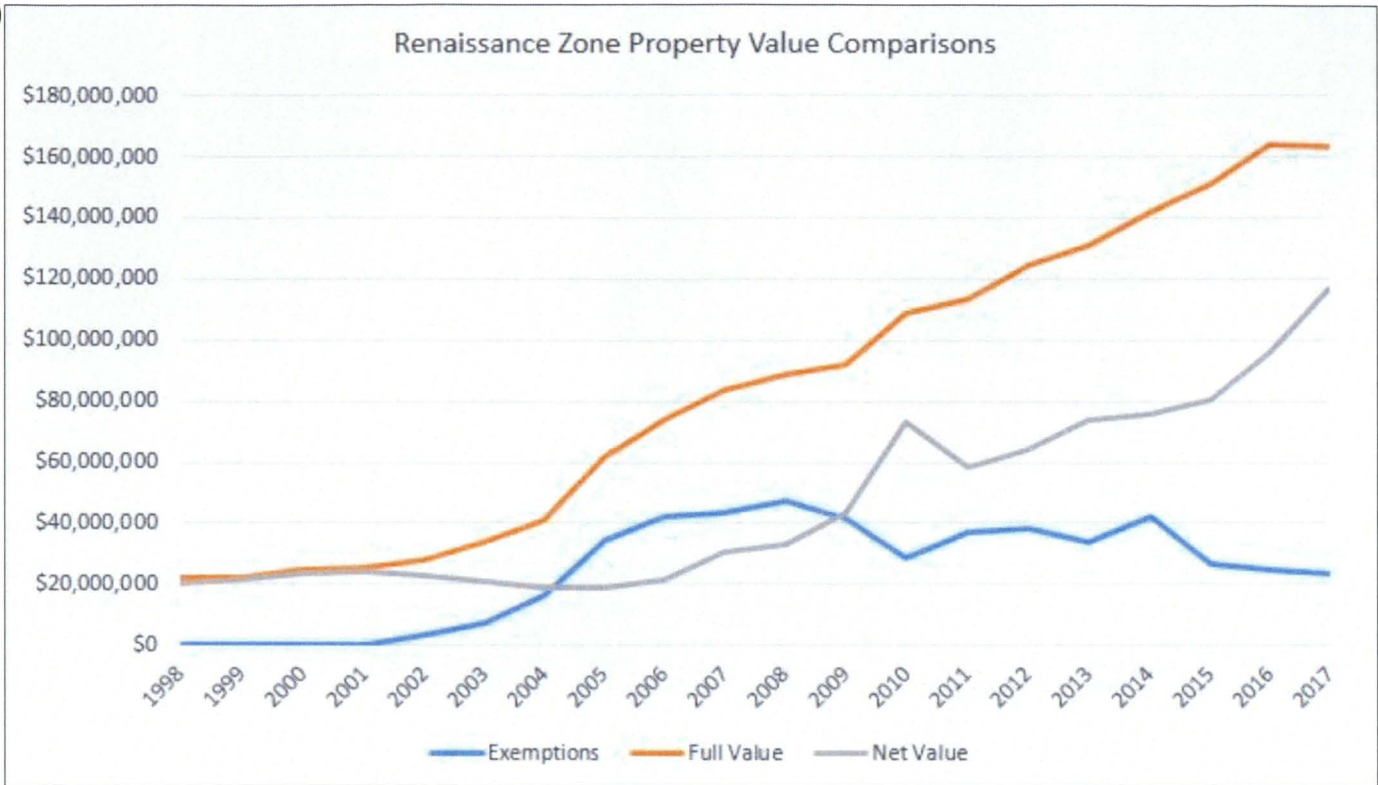
Summary Highlights

Total RZ Properties	Total RZ Properties with Completed Exemptions	Ongoing RZ Exemption Properties
176	146	30

Full Value			
Total Properties	Full Value-1 Year Prior to Exemption	Full Value-2017	% Change
146	\$50,159,900	\$163,222,100	225%

Net Value			
Total Properties	Net Value-1 Year Prior to Exemption	Net Value-2017	% Change
146	\$44,094,500	\$116,694,100	165%





Ongoing Renaissance Zone Projects

Ongoing Renaissance Zone Property Values				
Exemption Start Year	# of Properties	Full Value of Property 1 Year Before Exemption	2017 Full Value	Difference
2011	18	\$3,685,500	\$8,297,400	\$4,611,900
2013	3	\$1,099,800	\$2,079,200	\$979,400
2014	4	\$4,639,500	\$9,667,400	\$5,027,900
2015	2	\$4,222,300	\$6,675,500	\$2,453,200
2016	3	\$929,200	\$2,859,700	\$1,930,500
Total	30	\$14,576,300	\$29,579,200	\$15,002,900

4/18/17

SB2166

Testimony # 3

pg 4

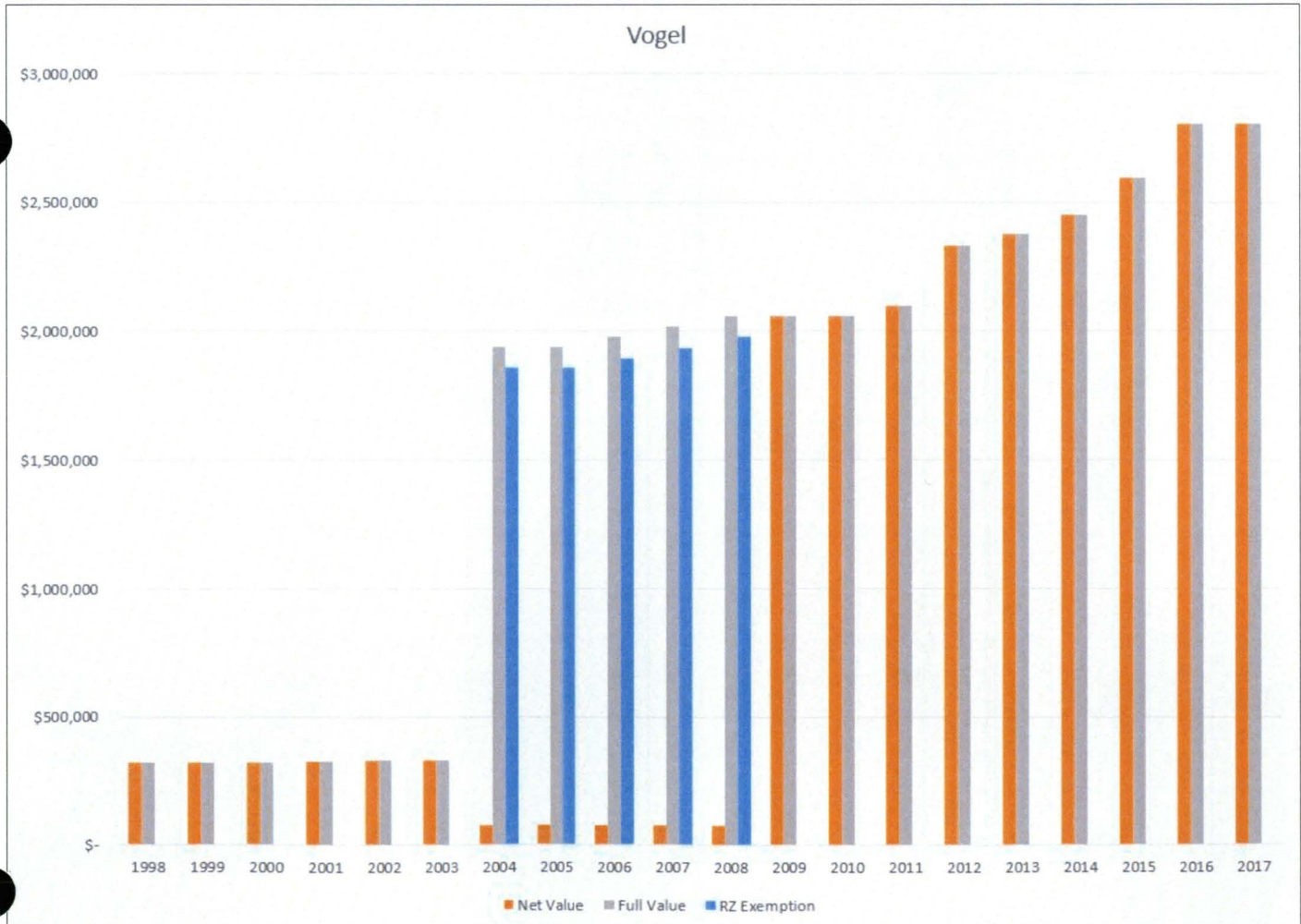
Vogel Law Firm



Before



After



4/18/17

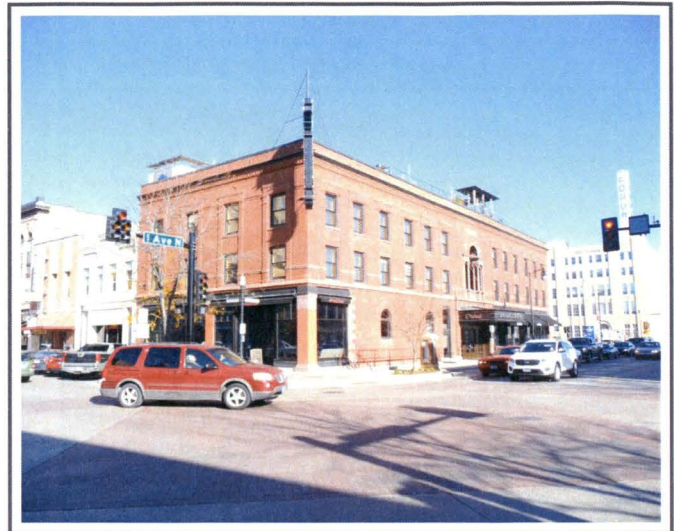
SB2166

Testimony # 3
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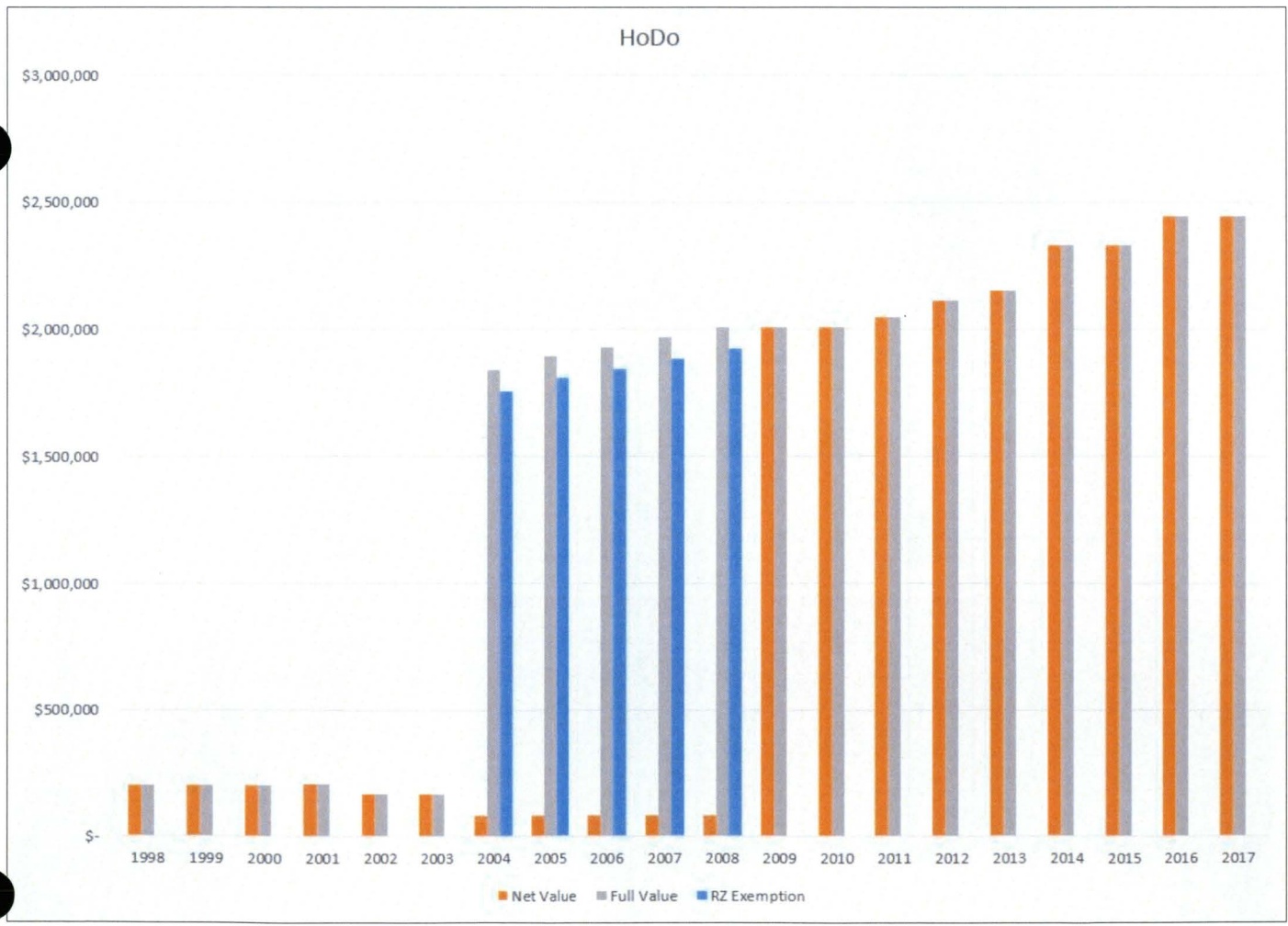
pg 5



Before



After



4/18/17

SB 2166

Testimony #3 pg 6

Renaissance Zone Scorecard			
Minimum Criteria (Rehabilitation Project)			
		Staff Rating	Member Rating
1	Use consistent with the plan (as per Vision and Goals)		
2	Exterior rehabilitation sufficient to eliminate any and all deteriorated conditions that are visible on the exterior of the building		
3	Re-investment that totals no less than 50 percent of the current true and full valuation of the building		
4	The investment totals at least \$40 in capital improvements per square foot for commercial properties or \$25 in capital improvements per square foot for residential properties (The authority may waive the square foot investment requirement for certain projects)		
Sub Total			
Minimum Criteria (Proposals involving new construction or additions)			
6	Use consistent with the plan (as per Vision and Goals)	N/A	NA
7	Does the investment comply with minimum investment thresholds (locally determined) for residential and commercial projects as set forth in the RZ Plan?	N/A	NA
8	Tenant must be leasing space in a building that has been approved as a Zone project	NA	NA
Project Review Guidelines			
9	The new construction or proposed improvements are representative of "High Priority Land Uses" as defined in the RZ Plan: <ul style="list-style-type: none"> • Primary sector business • Active Commercial, Specialty Retail and/or Destination Commercial • Mixed use development (combination of housing, commercial, and/or retail uses in a horizontal or vertical fashion) • Large, upscale residential units 		
10	The investment is located in a 'Target Area' as defined by the RZ Plan: <ul style="list-style-type: none"> • Parcels that have been vacant or underutilized for an extended period of time • Parcels specifically targeted for clearance 		
11	The project will create civic space or public space and/or will enhance pedestrian connectivity, streetscape amenities or will contribute to street level activation: <ul style="list-style-type: none"> • Incorporation of "civic" or "public" space within a redevelopment proposal will receive additional consideration • Demonstrated commitment to strengthening pedestrian corridors and issues of "connection" • Attention to streetscape amenities • Contribution to street activity 		
12	Consideration and analysis as to the total actual investment in the project: <ul style="list-style-type: none"> • Consideration can be given for the level of capital investment in a project. (i.e., additional consideration can be given for higher levels of investment) 		
13	Consideration as to whether the project will include or accommodate the relocation of a business from another North Dakota community: <ul style="list-style-type: none"> • Commercial tenants that are re-locating within the Downtown Area (as defined by the 1996 Downtown Area Plan) are not eligible for tax incentives without special approval from the Zone Authority • Commercial tenants that are relocating from a North Dakota community (other than Fargo) to the Fargo Renaissance Zone are not eligible for tax incentives without special approval from the Zone Authority. 		
14	Is the project located within a historic district? Will the project fit contextually and will the project contribute or enhance the area from an architectural perspective? <ul style="list-style-type: none"> • Although not included in the Project Review Guidelines, historic preservation is considered an important component of downtown projects even when Historic Preservation and Renovation Tax Credits are not being requested. 		
Sub Total			
Total Rating (100 possible points)			

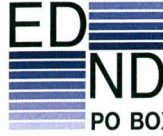
1/18/17

SB 2166

Testimony #4

pg 1

ECONOMIC DEVELOPMENT ASSOCIATION OF NORTH DAKOTA



PO BOX 1091 • BISMARCK, NORTH DAKOTA 58502

**Testimony for Senate Finance and Taxation Committee
SB2166— A Bill to Related to the Renaissance Zone Program
& Tax Increment Financing
January 18, 2017**

Chairman Cook and members of the committee, I am Ellen Huber, Business Development and Communications Director for the City of Mandan. I also serve as vice president of the Economic Development Association of North Dakota. I am here today to testify in opposition to Senate Bill 2166 on behalf of both the City of Mandan and EDND.

The bill as introduced prohibits property from receiving both Renaissance Zone and tax increment (TIF) financing benefits. It also prohibits a parcel of property from being included in a development or renewal plan if also in a Renaissance Zone. This bill seems contradictory to Governor Burgum's proposed Main Street Initiative.

Tax increment financing is permissible in 49 states according to a document posted on the Government Finance Officers Association website. Additional restrictions on the use of TIF in North Dakota could make it more difficult for our state to compete with other states for investment in development and redevelopment projects.

As economic development and revitalization incentives, both the Renaissance Zone program and TIF authorizing legislation include purposes related to encouraging investment in downtown and other blighted properties. Thus some natural overlap of boundaries is to be expected.

A major reason for the use of TIF and a Renaissance Zone is because redevelopment projects in downtowns are usually more expensive than new development of equal square footage due costs such as, but not limited to: demolition of inferior structures, abatement of asbestos if rehabbing a building, maintaining the historical integrity of a building, the need to upgrade infrastructure such as size of water lines for fire suppression systems, and installation of an elevator for multi-story buildings or other means to improve accessibility.

(more)

4/18/17

SB 2166

Testimony #4 pg 2

SB2166 — Testimony for Senate Finance and Taxation Committee
January 18, 2017

A property can be in a Renaissance Zone without being a direct beneficiary if the property owner hasn't applied, been approved for and completed a rehab, new construction or lease project. Likewise, a property could be in an urban renewal area that is eligible for TIF consideration without receiving any TIF benefits. Perhaps with the exception of the Bismarck situation, there is likely very little real overlap in the actual use or approval of both tools for the same project, particularly at the same time.

More unusual projects involving blighted and hard to develop properties may warrant the use of both Renaissance Zone and TIF to secure extraordinary private investment. Examples exist in other cities, surely in the very successful revitalization of downtown Fargo, but for purposes of familiarity, I address the situation in Mandan (see report submitted annual to the N.D. Commerce Department).

The Mandan City Commission has twice approved a Renaissance Zone 100% property tax exemption for years 1-5 and a TIF exemption on the improved increment for years 6-15. Approval was granted in 2009 for a \$2.3 million four-story, mixed-used infill development on a site remediated from an underground diesel fuel spill. The TIF exemption is for the apartment portion of the building only, not the ground level commercial. In 2012, the Commission approved a TIF exemption for a \$2.7 million rehab of a historic grocery warehouse (known in more recent history as the John Iverson building), valued at only \$152,000.

Now home to American Bank Center, new to Mandan, the bank initially occupied the first floor of this three-story building and brought 16 jobs to Mandan. They are now in the process of completing the build-out for the second floor for 27 works stations. They expect to have 20 of these positions filled during the first quarter of 2017. These will be people working in operations, mortgage processing, marketing and more, all good paying jobs that will result in more people seeking places to shop, eat and attain other services on Main Street Mandan. The third floor of the building has basic heating, air, electrical and plumbing systems in place. It remains available for lease and hopefully will soon be the home to another new or expanding business.

Two other projects that were approved in 2004 and 2007 to receive a 15-year TIF exemption involve properties within the boundaries of Mandan's Renaissance Zone, but these are not Renaissance Zone projects. The projects are Library Square I and II senior affordable housing projects, also redevelopments in an area impacted by the underground diesel fuel spill.

(more)

1/18/17

SB 2166

Testimony #4 pg 3

SB2166 — Testimony for Senate Finance and Taxation Committee
January 18, 2017

A potential future need in Mandan to use both tools, or at least where parcels are within boundaries for both the urban renewal plan and the Renaissance Zone, involves the redevelopment of the 400-600 blocks of West Main Street. Challenges exist in securing private sector investment in redevelopment of three long-time vacant privately held buildings (two former retail buildings of 32,000 sf and 16,000 sf and a former Elks lodge at 16,000 sf). To secure investment, city officials may need to consider a higher level of assistance or these buildings could remain dark and continue to have a negative impact on downtown Mandan for years to come.

The Renaissance Zone Program and TIF are unique from most of North Dakota's economic development tools in that these tools encourage investment in downtown and other blighted properties and the attraction and development of a variety of types of businesses as well as housing to these areas. Most of the other economic development incentives still available in our state are limited to certified primary sector businesses.

Many North Dakota communities are striving to revitalize their Main Streets and downtowns. We ask you to oppose SB2166 to leave important tools like tax increment financing and the Renaissance Program intact with the allowance for overlap when local officials deem appropriate based on consideration of such factors as unfair competition, public benefit and the best interests of the municipality as a whole. Thank you for your consideration.

RENAISSANCE ZONE AND TAX INCREMENT FINANCING DISTRICT REPORTING

NORTH DAKOTA DEPARTMENT OF COMMERCE
 DIVISION OF COMMUNITY SERVICES
 SFN 60123 (3/12)

4/12/17

City City of Mandan	Address 205 Second Avenue NW	State ND	ZIP Code 58554
Primary Contact Ellen Huber, Business Development Director	Email Address ehuber@cityofmandan.com	Telephone Number 701-667-3485	

Property Description	Expected Duration of Property in RZ & TIF	Annual Renaissance Zone (RZ) Benefit			Tax Increment Financing (TIF) District Benefit		
		Property Tax Amount (\$)	Income Tax Amount (\$)	Duration of Benefit	Description	Amount (\$)	Duration of Benefit
100 First Avenue NW (Library Square I) Owner: MDI Limited Partnership #81	2005-2018 (TIF only)	0	0	0	15-year exemption on building (senior housing)	\$24,399 (2015)	2004-2018
110 First Avenue NW (Library Square II) Owner: MDI Limited Partnership #100	2010-2024 (TIF only)	0	0	0	15-year exemption on building (senior housing)	\$37,650 (2015)	2010-2024
200 W Main Street (Mandan Place) Owner: Mandan EVI Apartments LLC	2011-2025	\$32,861 (2015)	0	5 years 2011-2015	10-yr exemption on apartments (77% of bldg)	est. \$25,303 in 2016	2016-2025
101 E Main Street (American Plaza) Owner: American Bank Center	2015-2029	\$16,201 (2015)	Estimated \$69,310	5 years 2015-2019	10-yr exemption (base value was \$152,100)	est. \$14,071 in 2020	2020-2029
Note: 2015 mill levy is 280 mills.							

SB 2166

Testimony #4

pg 4

INSTRUCTIONS FOR RENAISSANCE ZONE AND TAX INCREMENT FINANCING DISTRICT REPORTING

City – Enter the Renaissance Zone city.

Address – Enter the mailing address for the city.

State – Enter ND

Zip Code – Enter zip code for city.

Primary Contact – Enter primary contact for the Renaissance Zone.

Email Address – Enter the email address for the primary contact.

Telephone Number – Enter the telephone number for the primary contact.

Property Description – Enter both property building type and address for the individual property in both the RZ and TIF.

Expected Duration of Property in RZ & TIF – Enter the date of which the property was included into the RZ & TIF and the date of which it is expected to be removed.

ANNUAL RENAISSANCE ZONE (RZ) BENEFIT

Property Tax Amount (\$) – If the property is a RZ project, enter the estimated annual property tax exemption.

Income Tax Amount (\$) – If the property is a RZ project, enter the estimated annual income tax credit/deduction.

Duration of Benefit – If the property is a RZ project, enter the starting and ending dates of the RZ benefit.

TAX INCREMENT FINANCING (TIF) DISTRICT BENEFIT

Description – If the property is a TIF project, describe the benefit the property is receiving or the program in which the property is a part of.

Amount (\$) – If the property is a TIF project, enter the amount of the benefit for the property.

Duration of Benefit – If the property is a TIF project, enter the starting and ending dates of the TIF benefit.

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SB 2166

Testimony #5

pg 1

Testimony in Opposition to Senate Bill 2166
January 18 2017
Senate Finance and Taxation Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the Senate Finance and Taxation Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to Senate Bill 2166. The bill seeks to prevent any overlap in the boundaries of a Tax Increment Financing zone (TIF) and a Renaissance Zone. It is designed to prevent the use of both TIF and Renaissance Zone resources in any one project.

It is difficult to use TIF and Renaissance Zone together because the five year tax exemption on the improvements in a Renaissance Zone effectively prevents a viable tax increment from being generated. That is, since TIF uses the increase in the actual taxes paid by a renovated property to provide the "increment", the Renaissance Zone tax exemption insures there will be no increment for five taxable years. In my 30 plus years dealing with TIF projects I have seen only one project use both programs in Bismarck. It was a building that was ready for demolition that received extensive renovation.

As you have heard from previous testimony Bismarck uses an area-wide renewal district. From that district distinct projects are developed. Bismarck likes to have individual projects completed and the principal costs of the project renewal amortized in no more than eight years so that no project takes up a disproportionately large part of

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Testimony # 5

pg 2

the fund. Other communities testifying here today have related how they blend the incentives and other resources to make viable projects.

It has proven valuable to have both the TIF and Renaissance Zone redevelopment incentive programs available for development projects. Both incentive programs have their strong points. I would like to allow cities to offer developers a choice of either program. The way in which a project plays out and the needs of the developer help determine that choice.

If I might editorialize for a moment. Most new development in the state occurs in cities. Cities must make efforts to grow their tax base if they and the state are to be successful. Incentive programs like TIF and Renaissance Zone help to grow tax base but they must be used responsibly and I believe you have heard some great examples this morning of how this is being done successfully in several cities. Cities need to assist projects in such a way that they get a return on the investments they make just like any successful business, farm or enterprise. I think the need for a return on redevelopment incentive investments is the root concern of this bill but I do not think the bill advances the concern. I therefore ask you to give Senate Bill 2166 a DO NOT PASS recommendation.

On a personal note, I do not agree with many of the observations of a previous speaker about the Bismarck TIF zone but this is neither the time nor the place for that discussion. I do not want my silence on this topic to be judged as assent.

1/24/2017

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Attachment #1

pg 1



BOARD OF CITY COMMISSIONERS

City Hall
200 North 3rd Street
Fargo, ND 58102

Phone: 701-241-1310
Fax: 701-241-1526

January 23, 2017

Subject: Economic Incentives Including Renaissance Zones, TIFs and PILOTs

While this letter does not represent the official stance of the Fargo or Bismarck City Commission, it does represent the stance of two Commissioners from the two largest cities in our state.

Incentives are created to produce an intended outcome. As such, incentives by their very nature are to be limited in both time and scope. However, in North Dakota that is not the case. For over 20 years, North Dakota cities have been allowed to use, and certainly overuse, economic incentives like the Renaissance Zones, TIFs and PILOTs. Justifiably, many lawmakers have taken notice of how long these incentives have been going on and what the impact is to the taxpayer. While many local city leaders will cling tightly to incentives, it is important to recognize the real impacts incentives have.

City Commissioners have unjustly been empowered to manage the mills of all local subdivisions and control state income tax. As a City Commissioner, when I exempt a property, I am not exempting them just from the city mills, I am in fact diverting money away from schools, parks, the county, our airport and exempting state income tax. Neither the other local subdivisions nor our state legislators have any say in how many, what kind, or for how long I can grant an exemption. This alone should be enough to shock legislators into action and begin phasing out these incentives. Unfortunately, there are many more problems.

Incentives pit small businesses against large. The majority of small businesses don't qualify for these exemptions. Additionally, when a large business like FedEx receive an incentive to move from Grand Forks to Fargo, small local competitors are directly impacted and truly pay FedEx's property tax bill for them, along with all property owners and ND income taxpayers.

Speaking of FedEx, many Fargo leaders claim incentives brought FedEx to Fargo, meaning Fargo used a state income tax exemption to move FedEx from one ND city to another. Not a very wise investment. However, FedEx said they were coming to Fargo without the incentive at a public meeting, which of course means we gave tax dollars away for no reason what so ever.



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When the government picks winners and losers, all taxpayers lose. These incentives directly impact each taxpayer. On average, a property owner pays 7% of their total property tax bill directly to incentives. That is to say that we pay 7% directly to pay someone else's bill. To put that into context, Fargo's share of our total property tax bill is 17% and incentives are 7%. That is dramatic and illustrates how out of control these incentives are.

Bismarck is no better. They boast the longest running TIF in the state! For nearly 50 years, those in the TIF district have not paid any additional taxes to schools, parks or the county. In Fargo, incentives are stacked on top of each other which means that a single property won't have to pay taxes in some cases for 25 plus years.

These incentives represent an unjust and unsustainable tax system that you have the power to change. Incentives often lead to cronyism and favoritism which allows five City Commissioners to decide who wins and who loses. These incentives not only harm the state's budget, they divert money from schools and parks while directly impacting homeowners. City Commissions around the state have abused these incentives for long enough. It is time to retire the Renaissance Zone, and dramatically limit TIFs and PILOTs.

Sincerely,

Tony Gehrig
Fargo City Commissioner

Steve Marquardt
Bismarck City Commissioner

17.0148.01001
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 1, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2166

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to the duties of municipalities prior to approving a property tax reduction or exemption, and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

Duties of municipalities granting property tax incentives.

1. Notwithstanding any other provisions of law, before a municipality may grant a property tax reduction or exemption on any parcel of property that has received a property tax reduction or exemption in each of the past five consecutive years, the municipality shall send a letter to each taxing district that would be impacted by the grant of the property tax reduction or exemption.
2. The letter must notify the governing body of the taxing district of its right to:
 - a. Object to the proposed property tax reduction or exemption;
 - b. Negotiate the amount and duration of any property tax reduction or exemption; and
 - c. Negotiate the taxable value selected for the base year for purposes of computing tax increments.
3. The municipality shall allow thirty days from the date the notice was mailed for impacted governing bodies to submit comments.
4. At the close of the thirty-day notice period, the municipality may apply the property tax reduction or exemption to the portion of any taxing entity's taxable value for which an objection was not submitted and in accordance with any negotiated terms agreed upon by the municipality and the impacted governing body.

SECTION 2. EFFECTIVE DATE. This Act is effective for property tax reductions or exemptions approved after July 31, 2017."

Renumber accordingly

2/13/17

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Attachment #1

pg 1

17.0148.01002
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 13, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2166

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to the duties of municipalities before approving a property tax reduction or exemption, and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

Duties of municipalities granting property tax incentives.

1. Notwithstanding any other provision of law, a municipality may not grant a property tax reduction or exemption on any parcel of property that has received a property tax reduction or exemption in each of the past five consecutive years unless the municipality receives evidence of support from each county and school district that would be impacted by the grant of a property tax reduction or exemption.
2. The municipality shall send a letter notifying each impacted county or school district of the proposed property tax reduction or exemption and allow thirty days from the date the notice was mailed for the governing body of each impacted county or school district to submit evidence of support for the proposed tax reduction or exemption.
3. For purposes of this section, "evidence of support" means a letter that states the governing body of the impacted county or school district supports the proposed property tax reduction or exemption, subject to any terms negotiated under subsection 4.
4. The governing body of an impacted county or school district may negotiate the amount and duration of any proposed property tax reduction or exemption and the taxable value selected for the base year for purposes of computing tax increments.
5. At the close of the thirty-day notice period, the municipality may apply the property tax reduction or exemption to the taxable value of the impacted county or school district in accordance with the terms agreed to by the governing body of the impacted county or school district under this section.

SECTION 2. EFFECTIVE DATE. This Act is effective for property tax reductions or exemptions approved after July 31, 2017."

Renumber accordingly

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pg 1

DRAFT LANGUAGE

A concurrent resolution directing the Legislative Management to study the tax productivity of city growth and development, analyze the amount of tax revenue generated per increment of assumed liability for downtowns, and examine the various policies affecting city development patterns.

WHEREAS, the state has invested significantly in infrastructure, incentives, and transfer payments between state and local governments that have substantial impacts on city development patterns; and

WHEREAS, the cost of government services and infrastructure, including future liability, have been the primary cost driver for local government; and

WHEREAS, various areas of a city generate more revenues than expenses while other areas produce more expenses than revenues; and

WHEREAS, associated data would help analyze how city growth and infill development affects property taxes while evaluating the return on investment for state and community projects;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the productivity of city growth and development, analyze the amount of tax revenue generated per increment of assumed liability for downtowns, and examine the various policies affecting city development patterns.

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-sixth Legislative Assembly.

2/15/2017

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Attachment #1

pg 1

17.0148.01003
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 15, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2166

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city; to amend and reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of section 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

Duties of cities granting property tax incentives.

1. Notwithstanding any other provision of law, before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city shall send the chairman of each county commission and the president of each school district affected by the property tax incentive a letter, by certified mail, which provides notice of the terms of the proposed property tax incentive.
2. Within thirty days from receipt of the letter, each affected county and school district shall notify the city, in writing, whether the county or school district elects to participate in granting the tax incentive on the county or school district portion of tax levied on the property. The notification from a county or school district electing not to participate must include a letter explaining any reason for which the entity elected not to participate and whether the county or school district is willing to negotiate the terms of the property tax incentive with the city.
3. If the city does not receive a response from an affected county or school district within thirty days of delivery of the letter, the county and school district must be treated as participating in the property tax incentive.
4. The term "negotiation" as used in this section means the governing body of an affected county or school district may negotiate the terms of participating in the tax incentive, including the duration of the tax incentive and the taxable value selected for the base year for purposes of computing tax instruments.
5. If an agreement is reached through negotiation under this section, the property tax incentive must be applied in accordance with the agreement.

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SECTION 2. AMENDMENT. Subsection 7 of section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- 7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city must comply with the requirements in section 1 of this Act.

SECTION 3. AMENDMENT. Section 40-58-20.2 of the North Dakota Century Code is amended and reenacted as follows:

40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.

- 1. Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:
 - 1. a. The anticipated costs of development of property to be reimbursed by tax incentives.
 - 2. b. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
 - 3. c. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
 - 4. d. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.
- 2. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of the municipality must comply with the requirements in section 1 of this Act.

SECTION 4. AMENDMENT. Subsection 2 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

- 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, a description of the properties and structures on each block, identification of those properties and structures to be targeted for potential zone projects, and a description

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of the present use and conditions of the targeted properties and structures.

- b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
- c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
- d. A description of the types of projects the city would encourage in the city's targeted properties.
- e. A description of the promotion, development, and management strategies to maximize investment in the zone.
- f. A plan for the development, promotion, and use of a renaissance fund organization, if one is desired to be established. If a city is not ready to commit to establishing a renaissance fund organization, the city may indicate in the renaissance zone application the city's desire to submit a plan for approval at a later date.
- g. Evidence of community support and commitment from residential and business interests. Evidence of community support must include letters of support from the governing bodies of each county and school district that contain property located within the boundaries of the proposed renaissance zone.

SECTION 5. AMENDMENT. Subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for ~~state-imposed tax aspects of~~ economic development tax incentives, including each of the following:
 - a. Renaissance zone credits and exemptions.
 - b. Research expense credit.
 - c. Agricultural commodity processing facility investment credit.
 - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.
 - e. Seed capital investment credit.
 - f. Wage and salary credit.
 - g. Internship program credit.

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- h. Microbusiness credit.
- i. Angel fund investment credit.
- j. Workforce recruitment credit.
- k. Soybean or canola crushing facility construction or retrofit credit.
- l. Manufacturing automation equipment credit.
- m. New or expanding business exemption.
- n. Manufacturing and recycling equipment sales tax exemption.
- o. Coal severance and conversion tax exemptions.
- p. Oil and gas gross production and oil extraction tax exemptions.
- q. Fuel tax refunds for certain users.
- r. New jobs credit from income tax withholding.
- s. ~~Any economic development tax incentive created by the sixty-fourth legislative assembly~~ Development or renewal area incentives.
- t. Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.
- u. Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas.
- v. Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM CITY GROWTH AND DEVELOPMENT. During the 2017-18 interim, the legislative management shall consider studying how city growth and infill development affects property taxes, and evaluate the return on investment for state and community projects. The study must examine various policies affecting city development patterns, including the impact of transfer payments between state and local governments; the cost of government services and infrastructure, including future liability; the amount of tax revenue generated per increment of assumed liability for downtown areas; and whether certain areas of a city generate more revenue than expenses while other areas generate more expenses than revenue. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 7. EFFECTIVE DATE. Sections 1 through 4 of this Act are effective for property tax incentives approved after December 31, 2017."

Renumber accordingly

17.0148.01003

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2166

Introduced by

Senators Cook, Laffen, Unruh

Representatives Dockter, Headland, Olson

1 A BILL ~~for an Act to create and enact a new subsection to sections 40-58-20 and 40-63-03 of~~
 2 ~~the North Dakota Century Code, relating to a prohibition on property receiving benefits from~~
 3 ~~both a renaissance zone and a tax increment financing district.~~ for an Act to create and enact a
 4 new section to chapter 40-05 of the North Dakota Century Code, relating to approval of property
 5 tax incentives granted by a city; to amend and reenact subsection 7 of section 40-57.1-03,
 6 section 40-58-20.2, subsection 2 of section 40-63-01, and subsection 3 of section 54-35-26 of
 7 the North Dakota Century Code, relating to approval of property tax incentives granted by a city
 8 and evaluation of economic development tax incentives; to provide for a legislative
 9 management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 ~~SECTION 1. A new subsection to section 40-58-20 of the North Dakota Century Code is~~
 12 ~~created and enacted as follows:~~

13 ~~A lot or parcel of property may not be approved for inclusion in a development or~~
 14 ~~renewal plan after July 31, 2017, for tax increment financing purposes if that lot or~~
 15 ~~parcel of property has been approved for inclusion in a renaissance zone under~~
 16 ~~chapter 40-63.~~

17 ~~SECTION 2. A new subsection to section 40-63-03 of the North Dakota Century Code is~~
 18 ~~created and enacted as follows:~~

19 ~~The department of commerce division of community services may not designate a~~
 20 ~~renaissance zone after July 31, 2017, which includes a lot or parcel of property that~~
 21 ~~has been approved for inclusion in a development or renewal plan for tax increment~~
 22 ~~financing purposes under section 40-58-20.~~

23 **SECTION 1.** A new section to chapter 40-05 of the North Dakota Century Code is created
 24 and enacted as follows:

Duties of cities granting property tax incentives.

1. Notwithstanding any other provision of law, before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city shall send the chairman of each county commission and the president of each school district affected by the property tax incentive a letter, by certified mail, which provides notice of the terms of the proposed property tax incentive.

2. Within thirty days from receipt of the letter, each affected county and school district shall notify the city, in writing, whether the county or school district elects to participate in granting the tax incentive on the county or school district portion of tax levied on the property. The notification from a county or school district electing not to participate must include a letter explaining any reason for which the entity elected not to participate and whether the county or school district is willing to negotiate the terms of the property tax incentive with the city.

3. If the city does not receive a response from an affected county or school district within thirty days of delivery of the letter, the county and school district must be treated as participating in the property tax incentive.

4. The term "negotiation" as used in this section means the governing body of an affected county or school district may negotiate the terms of participating in the tax incentive, including the duration of the tax incentive and the taxable value selected for the base year for purposes of computing tax instruments.

5. If an agreement is reached through negotiation under this section, the property tax incentive must be applied in accordance with the agreement.

SECTION 2. AMENDMENT. Subsection 7 of section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action. Before granting a property tax incentive on any parcel

of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city must comply with the requirements in section 1 of this Act.

SECTION 3. AMENDMENT. Section 40-58-20.2 of the North Dakota Century Code is amended and reenacted as follows:

40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.

1. Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:

- ~~1.~~ a. The anticipated costs of development of property to be reimbursed by tax incentives.
- ~~2.~~ b. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
- ~~3.~~ c. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
- ~~4.~~ d. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.

2. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of the municipality must comply with the requirements in section 1 of this Act.

SECTION 4. AMENDMENT. Subsection 2 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

- 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, a description of the properties and structures on each block, identification of those properties and structures to be targeted for potential

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- 1 zone projects, and a description of the present use and conditions of the targeted
- 2 properties and structures.
- 3 b. A description of the existing physical assets, in particular natural or historical
- 4 assets, of the zone and a plan for the incorporation and enhancement of the
- 5 assets within the proposed development.
- 6 c. An outline of goals and objectives and proposed outcomes, including major
- 7 milestones or benchmarks, by which to gauge success resulting from the
- 8 designation of the zone.
- 9 d. A description of the types of projects the city would encourage in the city's
- 10 targeted properties.
- 11 e. A description of the promotion, development, and management strategies to
- 12 maximize investment in the zone.
- 13 f. A plan for the development, promotion, and use of a renaissance fund
- 14 organization, if one is desired to be established. If a city is not ready to commit to
- 15 establishing a renaissance fund organization, the city may indicate in the
- 16 renaissance zone application the city's desire to submit a plan for approval at a
- 17 later date.
- 18 g. Evidence of community support and commitment from residential and business
- 19 interests. Evidence of community support must include letters of support from the
- 20 governing bodies of each county and school district that contain property located
- 21 within the boundaries of the proposed renaissance zone.

22 **SECTION 5. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century
23 Code is amended and reenacted as follows:

- 24 3. The legislative management interim committee assigned the study responsibility under
- 25 this section may examine economic development tax incentives, shall complete
- 26 analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis
- 27 during the interim, and shall approve a plan to provide that each of the economic
- 28 development tax incentives listed in this subsection is subject to a complete analysis
- 29 within each six-year period. The interim committee may include in its
- 30 recommendations any amendments to this section, including amendments to add or
- 31 remove incentives from the list of incentives subject to analysis under this subsection.

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Attachment #1A

Sixty-fifth
Legislative Assembly

- 1 Analysis must be completed for ~~state-imposed tax aspects of~~ economic development
- 2 tax incentives, including each of the following:
- 3 a. Renaissance zone credits and exemptions.
- 4 b. Research expense credit.
- 5 c. Agricultural commodity processing facility investment credit.
- 6 d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel
- 7 blending credit, and biodiesel fuel equipment credit.
- 8 e. Seed capital investment credit.
- 9 f. Wage and salary credit.
- 10 g. Internship program credit.
- 11 h. Microbusiness credit.
- 12 i. Angel fund investment credit.
- 13 j. Workforce recruitment credit.
- 14 k. Soybean or canola crushing facility construction or retrofit credit.
- 15 l. Manufacturing automation equipment credit.
- 16 m. New or expanding business exemption.
- 17 n. Manufacturing and recycling equipment sales tax exemption.
- 18 o. Coal severance and conversion tax exemptions.
- 19 p. Oil and gas gross production and oil extraction tax exemptions.
- 20 q. Fuel tax refunds for certain users.
- 21 r. New jobs credit from income tax withholding.
- 22 s. ~~Any economic development tax incentive created by the sixty fourth legislative~~
- 23 ~~assembly~~Development or renewal area incentives.
- 24 t. Sales and use tax exemption for materials used to construct a fertilizer or
- 25 chemical processing facility.
- 26 u. Sales and use tax exemption for materials used in compressing, gathering,
- 27 collecting, storing, transporting, or injecting carbon dioxide for use in enhanced
- 28 recovery of oil or natural gas.
- 29 v. Sales and use tax exemption for enterprise information technology equipment
- 30 and computer software used in a qualified data center.

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#1A

Sixty-fifth
Legislative Assembly

1 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM**
2 **CITY GROWTH AND DEVELOPMENT.** During the 2017-18 interim, the legislative management
3 shall consider studying how city growth and infill development affects property taxes, and
4 evaluate the return on investment for state and community projects. The study must examine
5 various policies affecting city development patterns, including the impact of transfer payments
6 between state and local governments; the cost of government services and infrastructure,
7 including future liability; the amount of tax revenue generated per increment of assumed liability
8 for downtown areas; and whether certain areas of a city generate more revenue than expenses
9 while other areas generate more expenses than revenue. The legislative management shall
10 report its findings and recommendations, together with any legislation required to implement the
11 recommendations, to the sixty-sixth legislative assembly.

12 **SECTION 7. EFFECTIVE DATE.** Sections 1 through 4 of this Act are effective for property
13 tax incentives approved after December 31, 2017.

1 p. 1
SB 2166
3-14-17

HB 2166 – Testimony by Dustin Gawrylow (Lobbyist #215) North Dakota Watchdog Network

Senate Bill 2166 amounts to what may be the most comprehensive reform to corporate welfare tax exemptions that has ever passed at least one chamber of this assembly in the last 10 years.

I urge you to support this bill as it is written.

SB 2166 creates an opt-out approach for counties and school districts to voice objection to any city-allocated property tax exemption that exceeds more than 5-years in duration.

This will include usage of Tax Increment Financing, which often can last for decades on end under the current unchecked system.

It also requires that letters of support come from the counties and schools in order for a city to continue to utilize the Renaissance Zone program – a situation that reared its head last year in Bismarck.

And it also includes continuations of the current tax exemption studies, as well as new studies.

Attached is some impact data with regard to Bismarck's situation.

#1 p.3

Burleigh County Raw Data - TIF Valuation, TIF Value Annual Growth, TIF Revenue Diverted (Total), Total City Value Growth, and Mill Levies of Bismarck political Sub-divisions (by Year)

Year	TIF Valuation	TIF Value Growth	TIF Revenue Diverted	Total City Valuation	Total City Value Growth	City Mills	School Mills	Park & Library Mills	County & State Mills	Total Mills
1981	\$ 37,609.00		\$ 9,378	\$ 49,988,566		91.59	152.86	18.16	34.09	296.70
1982	\$ 177,992.00	373.3%	\$ 57,518	\$ 52,818,479	5.7%	101.94	162.34	18.57	40.30	323.15
1983	\$ 519,118.00	191.7%	\$ 171,885	\$ 54,800,781	3.8%	103.41	167.10	18.91	41.69	331.11
1984	\$ 1,092,196.00	110.4%	\$ 372,482	\$ 58,086,554	6.0%	103.74	177.01	20.49	42.79	344.03
1985	\$ 1,356,345.00	24.2%	\$ 493,506	\$ 60,022,401	3.3%	107.24	183.18	20.41	53.02	363.85
1986	\$ 1,311,883.00	-3.3%	\$ 505,337	\$ 56,993,660	-5.0%	90.74	204.57	24.36	65.53	385.20
1987	\$ 1,160,707.00	-11.5%	\$ 461,729	\$ 55,408,591	-2.8%	99.00	204.78	28.55	68.47	397.80
1988	\$ 1,181,794.00	1.8%	\$ 481,888	\$ 55,796,231	0.7%	101.37	211.58	34.60	60.21	407.76
1989	\$ 1,256,941.00	6.4%	\$ 532,868	\$ 56,127,214	0.6%	106.38	219.07	36.12	62.37	423.94
1990	\$ 1,278,851.00	1.7%	\$ 575,713	\$ 56,777,668	1.2%	113.36	229.57	38.07	69.18	450.18
1991	\$ 1,129,819.00	-11.7%	\$ 543,341	\$ 57,012,544	0.4%	115.86	248.27	39.78	77.00	480.91
1992	\$ 831,560.00	-26.4%	\$ 416,853	\$ 56,773,483	-0.4%	122.19	258.63	39.74	80.73	501.29
1993	\$ 927,300.00	11.5%	\$ 467,257	\$ 60,076,862	5.8%	120.43	263.89	39.13	80.44	503.89
1994	\$ 1,196,026.00	29.0%	\$ 591,064	\$ 63,536,984	5.8%	116.60	264.47	38.45	74.67	494.19
1995	\$ 1,603,925.00	34.1%	\$ 780,710	\$ 75,919,217	19.5%	113.76	262.84	39.19	70.96	486.75
1996	\$ 1,626,399.00	1.4%	\$ 781,094	\$ 79,975,886	5.3%	109.37	260.72	39.00	71.17	480.26
1997	\$ 1,749,739.00	7.6%	\$ 837,320	\$ 84,306,587	5.4%	107.25	263.29	38.69	69.31	478.54
1998	\$ 2,094,991.00	19.7%	\$ 1,005,135	\$ 87,688,773	4.0%	108.25	265.07	38.75	67.70	479.78
1999	\$ 2,244,847.00	7.2%	\$ 1,102,085	\$ 93,449,186	6.6%	107.30	279.88	38.44	65.32	490.94
2000	\$ 2,282,215	1.7%	\$ 1,111,302	\$ 98,161,453	5.0%	106.37	277.88	37.98	64.71	486.94
2001	\$ 2,463,979	8.0%	\$ 1,191,876	\$ 103,261,695	5.2%	106.41	275.82	38.95	62.54	483.72
2002	\$ 2,542,969	3.2%	\$ 1,277,084	\$ 108,275,282	4.9%	104.44	274.09	39.01	65.00	482.54
2003	\$ 2,682,234	5.5%	\$ 1,270,145	\$ 114,071,842	5.4%	102.41	267.77	39.65	63.71	473.54
2004	\$ 2,567,701	-4.3%	\$ 1,207,949	\$ 121,589,679	6.6%	101.56	262.21	40.62	66.05	470.44
2005	\$ 2,858,998	11.3%	\$ 1,308,306	\$ 132,395,061	8.9%	98.59	255.02	40.67	63.33	457.61
2006	\$ 3,086,810	8.0%	\$ 1,359,431	\$ 149,966,086	13.3%	94.37	248.40	39.46	58.17	440.40
2007	\$ 3,551,686	15.1%	\$ 1,455,943	\$ 167,123,847	11.4%	87.93	229.42	39.65	52.92	409.93
2008	\$ 3,851,694	8.4%	\$ 1,543,027	\$ 184,598,386	10.5%	82.78	223.39	39.59	54.85	400.61
2009	\$ 4,015,670	4.3%	\$ 1,279,915	\$ 194,765,794	5.5%	80.63	142.03	39.63	56.44	318.73
2010	\$ 4,384,287	9.2%	\$ 1,394,992	\$ 199,968,720	2.7%	80.68	142.13	39.82	55.55	318.18
2011	\$ 4,995,930	14.0%	\$ 1,565,975	\$ 207,866,346	3.9%	79.05	140.99	39.62	56.32	315.98
2012	\$ 5,232,901	4.7%	\$ 1,615,397	\$ 223,107,026	7.3%	75.77	138.39	39.55	54.99	308.70
2013	\$ 5,395,642	3.1%	\$ 1,407,237	\$ 254,647,487	14.1%	69.35	101.68	38.50	51.28	260.81
2014	\$ 6,285,055	16.5%	\$ 1,594,078	\$ 290,448,208	14.1%	63.10	103.60	37.30	49.63	253.63
Average TIF Value Growth		5.0%	\$ 30,769,820	Average Total City Value Growth		5.4%				

#1 p.4

Mill Levy Ratios of Bismarck political Sub-divisions and the Subsequent Annual Amounts Diverted by TIF From Each

Year	City	School	Park	County	City Portion of Diverted	School Portion of Diverted	Park Portion of Diverted	County Portion of Diverted
	Mill Ratio	Mill Ratio	Mill Ratio	& State Mill Ratio				
1981	30.90%	51.50%	6.10%	11.50%	\$2,895	\$4,832	\$574	\$1,078
1982	31.50%	50.20%	5.70%	12.50%	\$18,144	\$28,895	\$3,305	\$7,173
1983	31.20%	50.50%	5.70%	12.60%	\$53,682	\$86,745	\$9,817	\$21,642
1984	30.20%	51.50%	6.00%	12.40%	\$112,320	\$191,649	\$22,185	\$46,329
1985	29.50%	50.30%	5.60%	14.60%	\$145,454	\$248,455	\$27,683	\$71,913
1986	23.60%	53.10%	6.30%	17.00%	\$119,040	\$268,372	\$31,957	\$85,968
1987	24.90%	51.50%	7.20%	17.20%	\$114,910	\$237,689	\$33,138	\$79,474
1988	24.90%	51.90%	8.50%	14.80%	\$119,798	\$250,044	\$40,890	\$71,156
1989	25.10%	51.70%	8.50%	14.70%	\$133,713	\$275,358	\$45,401	\$78,395
1990	25.20%	51.00%	8.50%	15.40%	\$144,971	\$293,586	\$48,686	\$88,471
1991	24.10%	51.60%	8.30%	16.00%	\$130,901	\$280,500	\$44,944	\$86,996
1992	24.40%	51.60%	7.90%	16.10%	\$101,608	\$215,067	\$33,046	\$67,132
1993	23.90%	52.40%	7.80%	16.00%	\$111,675	\$244,705	\$36,285	\$74,592
1994	23.60%	53.50%	7.80%	15.10%	\$139,457	\$316,313	\$45,987	\$89,307
1995	23.40%	54.00%	8.10%	14.60%	\$182,462	\$421,575	\$62,858	\$113,814
1996	22.80%	54.30%	8.10%	14.80%	\$177,879	\$424,035	\$63,430	\$115,751
1997	22.40%	55.00%	8.10%	14.50%	\$187,659	\$460,689	\$67,697	\$121,274
1998	22.60%	55.20%	8.10%	14.10%	\$226,783	\$555,319	\$81,181	\$141,831
1999	21.90%	57.00%	7.80%	13.30%	\$240,872	\$628,288	\$86,292	\$146,633
2000	21.80%	57.10%	7.80%	13.30%	\$242,759	\$634,182	\$86,679	\$147,682
2001	22.00%	57.00%	8.10%	12.90%	\$262,192	\$679,615	\$95,972	\$154,097
2002	21.60%	56.80%	8.10%	13.50%	\$276,410	\$725,403	\$103,243	\$172,028
2003	21.60%	56.50%	8.40%	13.50%	\$274,688	\$718,222	\$106,351	\$170,885
2004	21.60%	55.70%	8.60%	14.00%	\$260,776	\$673,277	\$104,300	\$169,597
2005	21.50%	55.70%	8.90%	13.80%	\$281,869	\$729,102	\$116,275	\$181,060
2006	21.40%	56.40%	9.00%	13.20%	\$291,302	\$766,764	\$121,806	\$179,560
2007	21.50%	56.00%	9.70%	12.90%	\$312,300	\$814,828	\$140,824	\$187,955
2008	20.70%	55.80%	9.90%	13.70%	\$318,843	\$860,430	\$152,489	\$211,265
2009	25.30%	44.60%	12.40%	17.70%	\$323,784	\$570,346	\$159,141	\$226,645
2010	25.40%	44.70%	12.50%	17.50%	\$353,724	\$623,139	\$174,582	\$243,547
2011	25.00%	44.60%	12.50%	17.80%	\$391,766	\$698,737	\$196,354	\$279,118
2012	24.50%	44.80%	12.80%	17.80%	\$396,497	\$724,181	\$206,961	\$287,757
2013	26.60%	39.00%	14.80%	19.70%	\$374,188	\$548,629	\$207,732	\$276,688
2014	24.90%	40.80%	14.70%	19.60%	\$396,587	\$651,131	\$234,432	\$311,927
Gross Total Diverted					\$ 7,147,187	\$ 15,729,630	\$ 2,978,801	\$ 4,678,847
<i>Returned in 2012</i>					<i>\$ 2,090,000</i>	<i>\$ 4,480,000</i>	<i>\$ 960,000</i>	<i>\$ 1,280,000</i>
Total Diverted Not Returned					\$ 5,057,187	\$ 11,249,630	\$ 2,018,801	\$ 3,398,847

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Political Sub-Division Revenue and Annual Dollar-Value Increases

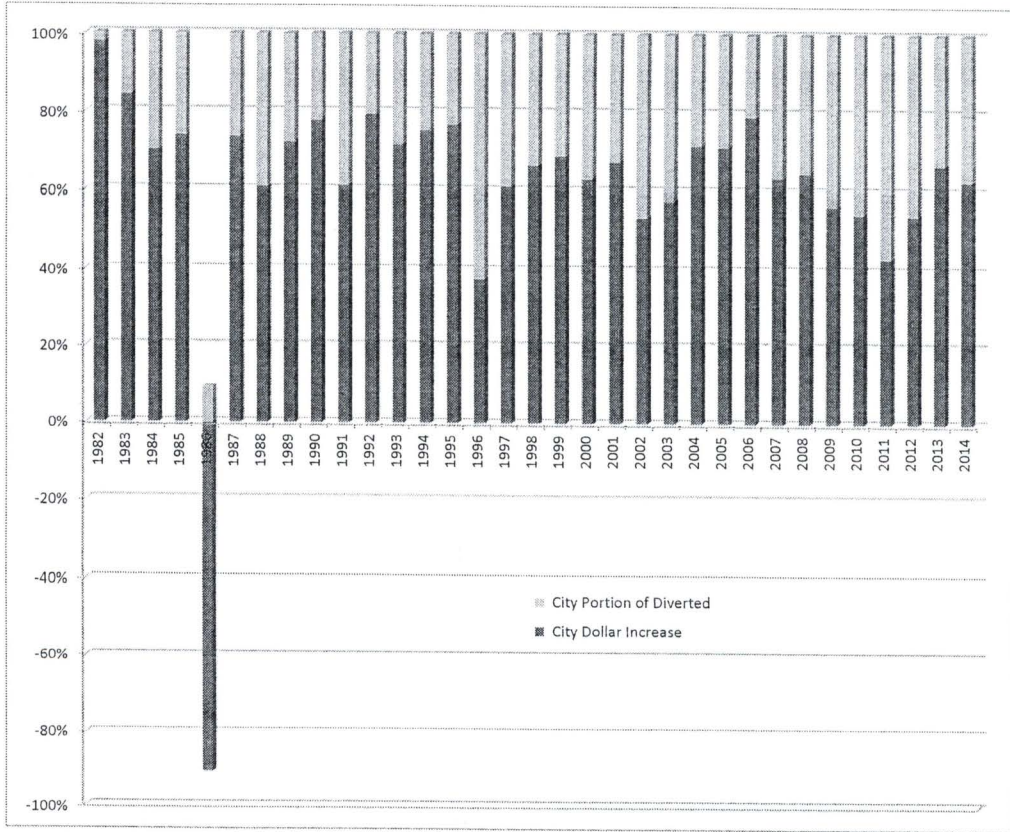
<u>Year</u>	<u>City</u>	<u>City</u>	<u>School</u>	<u>School</u>	<u>Park</u>	<u>Park</u>	<u>County</u>	<u>County</u>
	<u>Revenue</u>	<u>Dollar Increase</u>	<u>Revenue</u>	<u>Dollar Increase</u>	<u>Revenue</u>	<u>Dollar Increase</u>	<u>Revenue</u>	<u>Dollar Increase</u>
1981	\$4,684,034		\$7,990,144		\$928,726		\$1,490,040	
1982	\$5,526,432	\$842,398	\$8,946,815	\$956,671	\$1,006,728	\$78,002	\$1,540,790	\$50,750
1983	\$5,817,153	\$290,721	\$9,581,075	\$634,260	\$1,063,749	\$57,021	\$1,846,553	\$305,763
1984	\$6,083,118	\$265,965	\$10,573,984	\$992,909	\$1,201,494	\$137,745	\$1,993,814	\$147,261
1985	\$6,496,946	\$413,828	\$11,255,282	\$681,298	\$1,236,503	\$35,009	\$2,130,382	\$136,568
1986	\$5,345,964	(\$1,150,982)	\$12,232,155	\$976,873	\$1,434,861	\$198,358	\$2,233,408	\$103,026
1987	\$5,668,382	\$322,418	\$12,359,054	\$126,899	\$1,577,412	\$142,551	\$2,370,838	\$137,430
1988	\$5,854,380	\$185,998	\$12,860,862	\$501,808	\$1,937,599	\$360,187	\$2,490,258	\$119,420
1989	\$6,204,914	\$350,534	\$13,682,003	\$821,141	\$2,042,057	\$104,458	\$2,650,052	\$159,794
1990	\$6,716,442	\$511,528	\$14,553,912	\$871,909	\$2,186,280	\$144,223	\$2,828,048	\$177,996
1991	\$6,923,675	\$207,233	\$15,870,588	\$1,316,676	\$2,307,295	\$121,015	\$2,988,892	\$160,844
1992	\$7,316,476	\$392,801	\$16,546,362	\$675,774	\$2,309,488	\$2,193	\$3,163,339	\$174,447
1993	\$7,601,839	\$285,363	\$17,776,283	\$1,229,921	\$2,398,654	\$89,166	\$3,329,296	\$165,957
1994	\$8,031,339	\$429,500	\$19,360,654	\$1,584,371	\$2,576,778	\$178,124	\$3,531,126	\$201,830
1995	\$8,639,571	\$608,232	\$22,291,852	\$2,931,198	\$2,903,883	\$327,105	\$3,770,151	\$239,025
1996	\$8,746,962	\$107,391	\$23,468,167	\$1,176,315	\$3,047,882	\$143,999	\$3,987,205	\$217,054
1997	\$9,041,881	\$294,919	\$25,047,297	\$1,579,130	\$3,191,005	\$143,123	\$4,086,085	\$98,880
1998	\$9,492,309	\$450,428	\$26,492,666	\$1,445,369	\$3,311,128	\$120,123	\$4,160,991	\$74,906
1999	\$10,027,097	\$534,788	\$29,875,102	\$3,382,436	\$3,504,343	\$193,215	\$4,295,667	\$134,676
2000	\$10,441,432	\$414,335	\$31,284,858	\$1,409,756	\$3,643,753	\$139,410	\$4,423,707	\$128,040
2001	\$10,988,076	\$546,644	\$32,929,284	\$1,644,426	\$3,937,367	\$293,614	\$4,580,582	\$156,875
2002	\$11,308,270	\$320,194	\$34,585,073	\$1,655,789	\$4,138,280	\$200,913	\$4,721,965	\$141,383
2003	\$11,682,098	\$373,828	\$35,910,215	\$1,325,142	\$4,438,535	\$300,255	\$4,916,211	\$194,246
2004	\$12,348,648	\$666,550	\$37,942,107	\$2,031,892	\$4,855,075	\$416,540	\$5,070,886	\$154,675
2005	\$13,052,829	\$704,181	\$40,608,321	\$2,666,214	\$5,293,154	\$438,079	\$5,281,653	\$210,767
2006	\$14,152,301	\$1,099,472	\$45,177,796	\$4,569,475	\$5,814,186	\$521,032	\$5,573,799	\$292,146
2007	\$14,695,200	\$542,899	\$47,113,695	\$1,935,899	\$6,461,008	\$646,822	\$5,801,672	\$227,873
2008	\$15,281,053	\$585,853	\$51,300,098	\$4,186,403	\$7,123,652	\$662,644	\$6,022,617	\$220,945
2009	\$15,703,966	\$422,913	\$34,606,096	(\$16,694,002)	\$7,523,802	\$400,150	\$6,234,067	\$211,450
2010	\$16,133,477	\$429,511	\$35,657,968	\$1,051,872	\$7,762,786	\$238,984	\$6,338,667	\$104,600
2011	\$16,431,836	\$298,359	\$36,758,605	\$1,100,637	\$8,027,799	\$265,013	\$6,529,942	\$191,275
2012	\$16,904,819	\$472,983	\$38,555,228	\$1,796,623	\$8,600,776	\$572,977	\$6,909,122	\$379,180
2013	\$17,659,802	\$754,983	\$32,293,085	(\$6,262,143)	\$9,549,280	\$948,504	\$7,853,480	\$944,358
2014	\$18,327,284	\$667,482	\$37,551,544	\$5,258,459	\$10,688,493	\$1,139,213	\$8,946,117	\$1,092,637

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City General Fund Dollars Lost to TIF

Year	City Dollar Increase	City Portion of Diverted	Diverted As Portion of Revenue Increase
1981			
1982	\$842,398	\$18,144	2%
1983	\$290,721	\$53,682	18%
1984	\$265,965	\$112,320	42%
1985	\$413,828	\$145,454	35%
1986	(\$1,150,982)	\$119,040	-10%
1987	\$322,418	\$114,910	36%
1988	\$185,998	\$119,798	64%
1989	\$350,534	\$133,713	38%
1990	\$511,528	\$144,971	28%
1991	\$207,233	\$130,901	63%
1992	\$392,801	\$101,608	26%
1993	\$285,363	\$111,675	39%
1994	\$429,500	\$139,457	32%
1995	\$608,232	\$182,462	30%
1996	\$107,391	\$177,879	166%
1997	\$294,919	\$187,659	64%
1998	\$450,428	\$226,783	50%
1999	\$534,788	\$240,872	45%
2000	\$414,335	\$242,759	59%
2001	\$546,644	\$262,192	48%
2002	\$320,194	\$276,410	86%
2003	\$373,828	\$274,688	73%
2004	\$666,550	\$260,776	39%
2005	\$704,181	\$281,869	40%
2006	\$1,099,472	\$291,302	26%
2007	\$542,899	\$312,300	58%
2008	\$585,853	\$318,843	54%
2009	\$422,913	\$323,784	77%
2010	\$429,511	\$353,724	82%
2011	\$298,359	\$391,766	131%
2012	\$472,983	\$396,497	84%
2013	\$754,983	\$374,188	50%
2014	\$667,482	\$396,587	59%

\$13,643,250 Total Property Tax Increase	
Total Diverted To TIF	\$7,219,013
Property Taxes Overpaid Due To TIF	
53%	



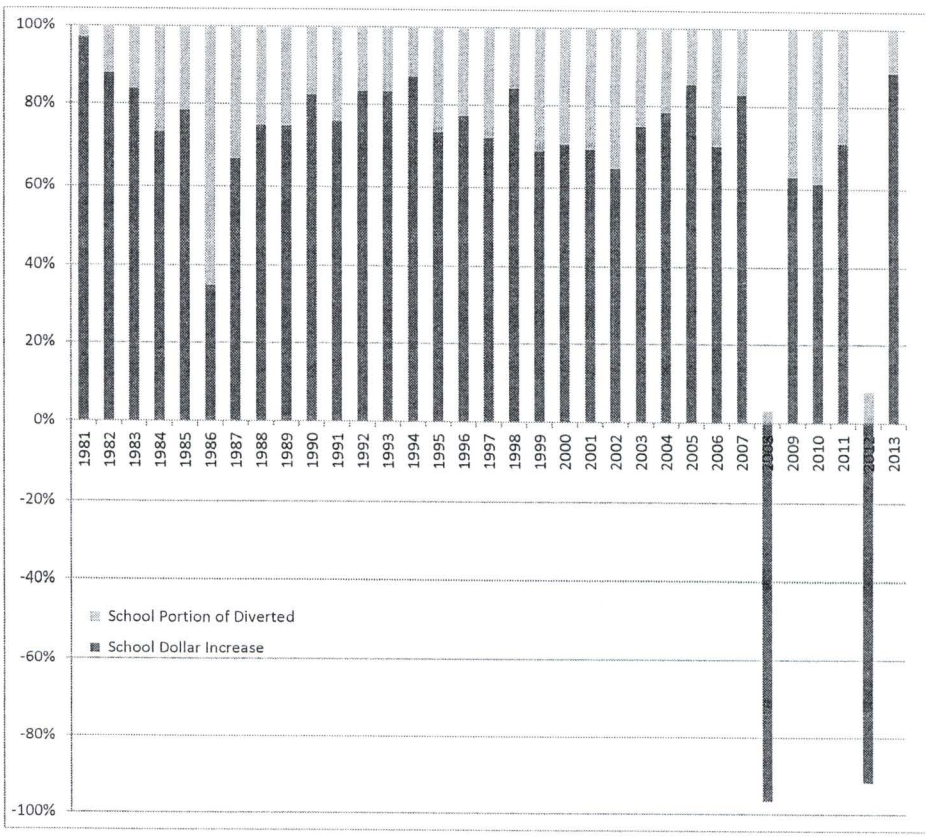
#1 p.7

School General Fund Dollars Lost to TIF

Year	School Dollar Increase	School Portion of Diverted	Diverted As Portion of Revenue Increase
1981			
1982	\$956,671	\$28,895	3%
1983	\$634,260	\$86,745	14%
1984	\$992,909	\$191,649	19%
1985	\$681,298	\$248,455	36%
1986	\$976,873	\$268,372	27%
1987	\$126,899	\$237,689	187%
1988	\$501,808	\$250,044	50%
1989	\$821,141	\$275,358	34%
1990	\$871,909	\$293,586	34%
1991	\$1,316,676	\$280,500	21%
1992	\$675,774	\$215,067	32%
1993	\$1,229,921	\$244,705	20%
1994	\$1,584,371	\$316,313	20%
1995	\$2,931,198	\$421,575	14%
1996	\$1,176,315	\$424,035	36%
1997	\$1,579,130	\$460,689	29%
1998	\$1,445,369	\$555,319	38%
1999	\$3,382,436	\$628,288	19%
2000	\$1,409,756	\$634,182	45%
2001	\$1,644,426	\$679,615	41%
2002	\$1,655,789	\$725,403	44%
2003	\$1,325,142	\$718,222	54%
2004	\$2,031,892	\$673,277	33%
2005	\$2,666,214	\$729,102	27%
2006	\$4,569,475	\$766,764	17%
2007	\$1,935,899	\$814,828	42%
2008	\$4,186,403	\$860,430	21%
2009	(\$16,694,002)	\$570,346	-3%
2010	\$1,051,872	\$623,139	59%
2011	\$1,100,637	\$698,737	63%
2012	\$1,796,623	\$724,181	40%
2013	(\$6,262,143)	\$548,629	-9%
2014	\$5,258,459	\$651,131	12%

\$52,517,545	Total Property Tax Increase
Total Diverted To TIF	\$15,845,270

Property Taxes Overpaid Due To TIF	30%
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#1 p. 8

Parks General Fund Dollars Lost to TIF

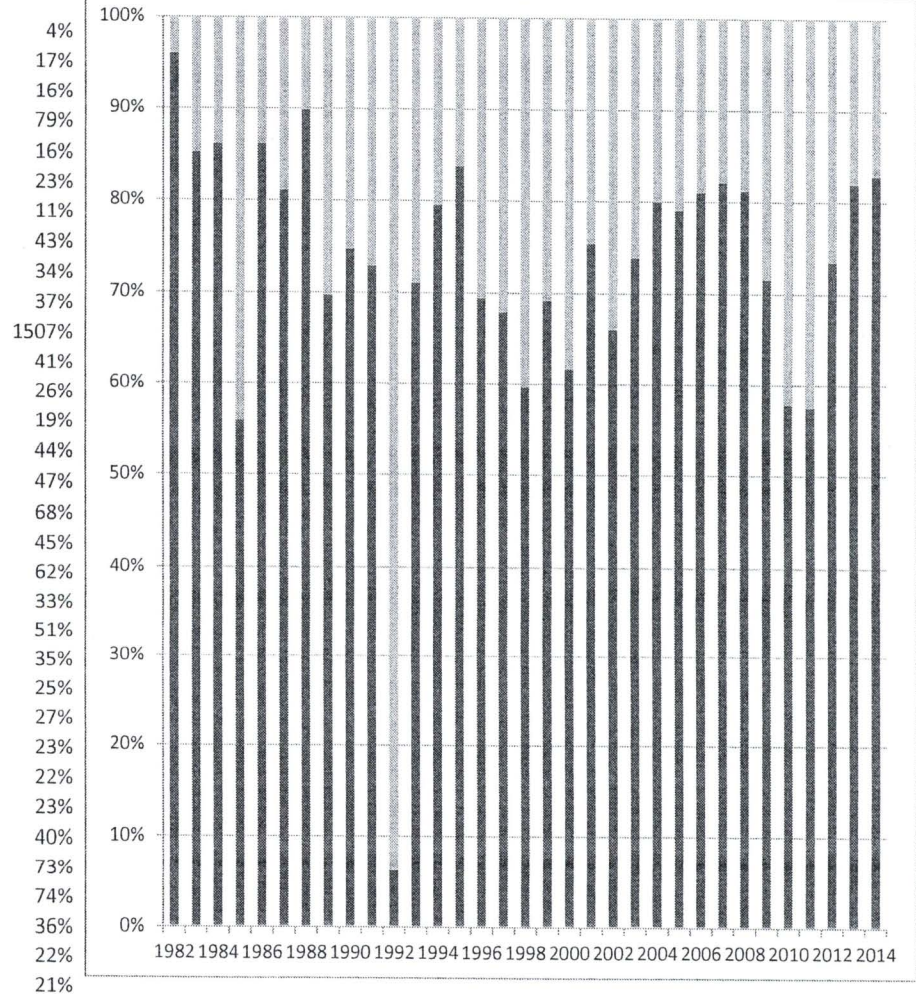
<u>Year</u>	<u>Park Dollar Increase</u>	<u>Park Portion of Diverted</u>
1981		
1982	\$78,002	\$3,305
1983	\$57,021	\$9,817
1984	\$137,745	\$22,185
1985	\$35,009	\$27,683
1986	\$198,358	\$31,957
1987	\$142,551	\$33,138
1988	\$360,187	\$40,890
1989	\$104,458	\$45,401
1990	\$144,223	\$48,686
1991	\$121,015	\$44,944
1992	\$2,193	\$33,046
1993	\$89,166	\$36,285
1994	\$178,124	\$45,987
1995	\$327,105	\$62,858
1996	\$143,999	\$63,430
1997	\$143,123	\$67,697
1998	\$120,123	\$81,181
1999	\$193,215	\$86,292
2000	\$139,410	\$86,679
2001	\$293,614	\$95,972
2002	\$200,913	\$103,243
2003	\$300,255	\$106,351
2004	\$416,540	\$104,300
2005	\$438,079	\$116,275
2006	\$521,032	\$121,806
2007	\$646,822	\$140,824
2008	\$662,644	\$152,489
2009	\$400,150	\$159,141
2010	\$238,984	\$174,582
2011	\$265,013	\$196,354
2012	\$572,977	\$206,961
2013	\$948,504	\$207,732
2014	\$1,139,213	\$234,432

\$9,759,767 Total Property Tax Increase

Total Diverted To TIF \$2,991,923

Property Taxes Overpaid Due To TIF 31%

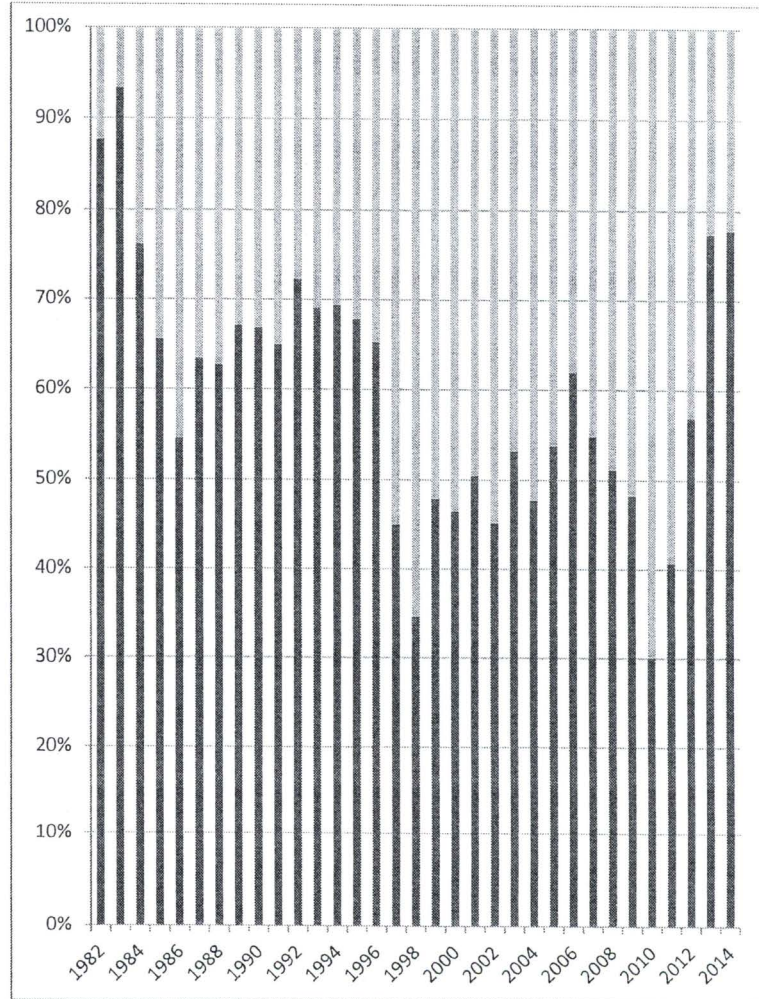
**Diverted
As Portion
of Revenue Increase**



#1 p.9

County General Fund Dollars Lost to TIF

<u>Year</u>	<u>County Dollar Increase</u>	<u>County Portion of Diverted</u>	<u>Diverted As Portion of Revenue Increase</u>
1981			
1982	\$50,750	\$7,173	14%
1983	\$305,763	\$21,642	7%
1984	\$147,261	\$46,329	31%
1985	\$136,568	\$71,913	53%
1986	\$103,026	\$85,968	83%
1987	\$137,430	\$79,474	58%
1988	\$119,420	\$71,156	60%
1989	\$159,794	\$78,395	49%
1990	\$177,996	\$88,471	50%
1991	\$160,844	\$86,996	54%
1992	\$174,447	\$67,132	38%
1993	\$165,957	\$74,592	45%
1994	\$201,830	\$89,307	44%
1995	\$239,025	\$113,814	48%
1996	\$217,054	\$115,751	53%
1997	\$98,880	\$121,274	123%
1998	\$74,906	\$141,831	189%
1999	\$134,676	\$146,633	109%
2000	\$128,040	\$147,682	115%
2001	\$156,875	\$154,097	98%
2002	\$141,383	\$172,028	122%
2003	\$194,246	\$170,885	88%
2004	\$154,675	\$169,597	110%
2005	\$210,767	\$181,060	86%
2006	\$292,146	\$179,560	61%
2007	\$227,873	\$187,955	82%
2008	\$220,945	\$211,265	96%
2009	\$211,450	\$226,645	107%
2010	\$104,600	\$243,547	233%
2011	\$191,275	\$279,118	146%
2012	\$379,180	\$287,757	76%
2013	\$944,358	\$276,688	29%
2014	\$1,092,637	\$311,927	29%



\$7,456,077	Total Property Tax Increase
Total Diverted To TIF	\$4,707,662
Property Taxes Overpaid Due To TIF	63%



#2
SB 2166
3-14-17

3/14/2017

Members of the House Finance and Tax Committee:

On behalf of the 10,000 Americans for Prosperity Activists in North Dakota and the 3.2 million activists across the nation, I write today to urge you to support Senate Bill 2166. This bill would require the consent of each municipality in order for a tax exemption or payment in lieu of taxes for a period longer than five years to take effect on that municipality's taxing authority, and would limit the ability of municipalities to stack multiple economic development programs on top of each other.

Many cities in North Dakota have used targeted tax incentives like tax increment financing (TIF's), payment in lieu of taxes (PILOT), and "Renaissance Zone" tax breaks in an attempt to jump start economic growth and lure in existing businesses from other areas. The costs for these programs are not equally distributed, however. While city officials who pass these exemptions score political points for bringing a new business to town, the burden of the lost revenue often falls unfairly to other taxing entities in addition to their own.

These entities, such as school districts, are still faced with immediate additional costs due to increases in population and economic activity without the immediate revenue to support it. The local tax system is designed to pay for these costs through property taxes, but this equilibrium is thrown entirely out of balance when cities unilaterally exempt these businesses from the costs they impose on other entities. As a result, those individuals and businesses who don't get an exemption end up paying an increased share of a larger burden. What's worse, under current law, they don't even get a say in the decision.

This bill would also limit the ability of a municipality to stack multiple economic development incentives on top of each other. Supporters of these economic development incentives argue that the foregone property tax is a small price to pay for future return on investment. However, many cities currently stack multiple incentives right on top of another, pushing off far into the future the date when the property returns to the tax rolls. In Fargo, for example, some properties are scheduled to receive handouts for more than 25 years, delaying any return to taxpayers for decades. No private company would agree to terms like that – why should taxpayers?

Americans for Prosperity strongly supports passage of SB 2166. This bill takes a good first step toward reforming economic development incentives and giving citizens the voice they deserve in fighting these special interest handouts.

Sincerely,

Jason Flohrs
North Dakota State Director
Americans for Prosperity

Americans for Prosperity (AFP) exists to recruit, educate, and mobilize citizens in support of the policies and goals of a free society at the local, state, and federal level, helping every American live their dream – especially the least fortunate. AFP has more than 3.2 million activists across the nation, 10,000 in North Dakota, a local infrastructure that includes 37 state chapters, and has received financial support from more than 100,000 Americans in all 50 states. For more information, visit www.AmericansForProsperity.org.

#3 p.1
SB 2166
3-14-17

Testimony in Opposition to Engrossed Senate Bill 2166
March 14, 2017
House Finance and Taxation Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Finance and Taxation Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to Engrossed Senate Bill 2166. The bill seeks to prevent the award of development incentives of five years or more in duration without consultation with affected counties and school districts.

The League of Cities has three basic concerns with this bill. We believe that the property tax exemption issue does not need further discussion as that was removed from House Bill 1182 during this committee's deliberation of that bill.

Page 4, Lines 6 through 9 of the engrossed bill gives a county or a school district absolute veto authority over a Renaissance Zone proposal. Allowing this veto authority to exist is a threat to almost any Renaissance Zone project. With this veto power any taxing entity can kill a proposal for all the entities. The League of Cities asks you to remove this language from the bill.

Our third concern is that the bill allows a taxing entity to refuse to participate in the granting of a development incentive but then to share in any market value increase generated by the project. That market value increase is directly related to the incentives that are given. If a taxing unit can share in the upside potential of a project without

sharing in the costs of the incentive. The League of Cities would argue that if a taxing entity is able to opt out of a project it should not be able to participate in the added market value generated by that project for a period of time.

If I might editorialize for a moment. Most new development in the state occurs in cities. Cities must make efforts to grow their tax base if they and the state are to be successful. Incentive programs like Tax Increment Financing and Renaissance Zone help to grow tax base but they must be used responsibly and I believe there are many great examples of how this is being done successfully in a number of cities. Cities need to assist projects in such a way that they get a return on the investments they make just like any successful business, farm or enterprise. I think the need for a return on redevelopment incentive investments is the root concern of this bill but I do not think the bill advances the concern. I therefore ask you to give Senate Bill 2166 a DO NOT PASS recommendation.

4 p. 1
SB 2166
3-14-17

Bismarck City Administration

**OPPOSITIONAL TESTIMONY TO SENATE BILL 2166
MARCH 14, 2017
HOUSE FINANCE AND TAXATION COMMITTEE
JASON TOMANEK, ASSISTANT CITY ADMINISTRATOR,
ON BEHALF OF THE CITY OF BISMARCK**

Good morning Mr. Chairman and members of the Finance and Taxation Committee. For the record, my name is Jason Tomanek, Assistant City Administrator, appearing on behalf of the City of Bismarck in opposition to Senate Bill 2166.

The City of Bismarck has experienced great success in redeveloping the downtown area through the incentives offered by the current Renaissance Zone program. In particular, our records demonstrate that over \$52,000,000 in private investment has been infused into our local economy, more than 50 new businesses have opened their doors throughout the downtown area and nearly 500 full-time employment positions have been created as a direct result of the program.

During the Renaissance Zone program's existence in downtown Bismarck, nearly thirty buildings have undergone some type of significant renovation or rehabilitation. This is a remarkable accomplishment that has been undertaken by dozens small business owners, local contractors and property owners to help enhance the overall downtown experience. I would like to share with the Committee that although many buildings in downtown Bismarck have been improved, there are an abundance of properties that have yet to undergo improvements. Additionally, there are several under-utilized parcels that could be redeveloped into a variety of uses that further support the entire community of Bismarck. In short, Bismarck has experienced great success but we have more work to accomplish.

The City of Bismarck recently completed a Renaissance Zone Needs Assessment report that helped determine which parcels within the existing Renaissance Zone would be eligible for future projects. The report also considered the feasibility of new construction projects versus rehabilitation of existing buildings and it compared the progress already made within the Zone to the potential for future growth and development. The needs assessment identified properties with low assessed values and visual signs of deterioration. At the current rate, it would take thirteen more years for the program to complete all of the top potential and high priority projects. The study demonstrated the significant need for a continued duration to the Renaissance Zone program that would allow for further redevelopment, renovation and rehabilitation of buildings in downtown Bismarck.



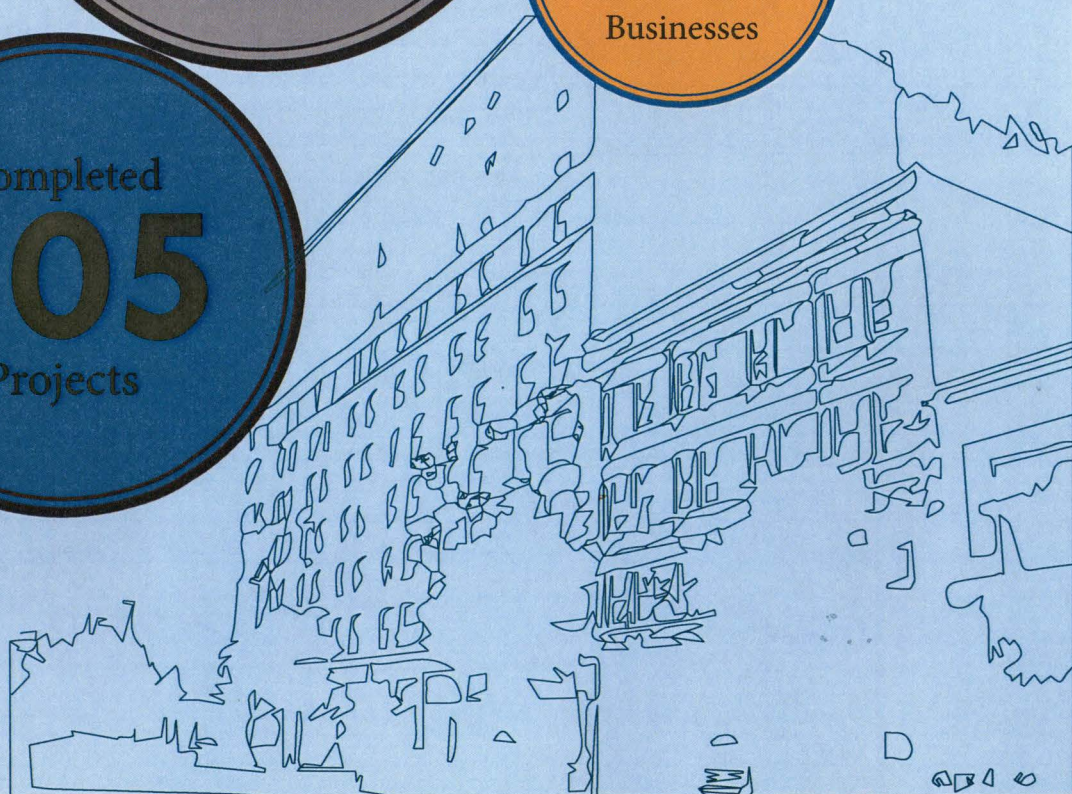
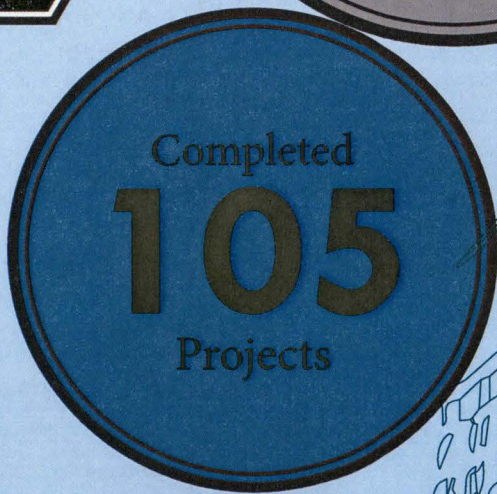
In addition to improving the built environment within a downtown area, one intended outcome of the Renaissance Zone program has been to encourage the availability of quality housing units. Admittedly, this is one area where Bismarck has not seen great success thus far. However, a recently approved Renaissance Zone project will offer 30 units of low-income, senior housing on Main Avenue, the project is currently under construction. This exciting new facility will provide thirty apartment units and community rooms for its residents on a previously-vacant parcel. The developer of the project indicated had it not been for the Renaissance Zone program, the project would not have been attainable. The return on the investment to the City of Bismarck is simple, a significant increase in the taxable value of this property. The estimated value of the building upon completion is \$3,000,000; a tremendous increase over the previous value of \$20,000 as an unimproved parcel. The estimated property tax generation by this property is \$32,000 annually. This is just one example of how the Renaissance Zone program is beneficial for communities throughout the state.

In summary, I believe Senate Bill 2166 would invoke some limiting features of the Renaissance Zone program and prematurely eliminate the opportunity for further improvements in downtowns throughout North Dakota, please consider a "do not pass" for Senate Bill 2166.

Bismarck RENAISSANCE ZONE PROGRAM SUMMARY

The Renaissance Zone program was established by the North Dakota legislature in 1999 to provide tax exemptions and credits to both residents and businesses for revitalization and redevelopment activities within the Zone. Bismarck's Renaissance Zone was established in March 2001 and has been expanded over the years to include a 36 block area. The purpose of the program is to encourage reinvestment in downtown properties, which strengthens the core of the community and helps bolster the economy of the whole region.

The Renaissance Zone provides both property and income tax incentives to property and business owners who invest in qualified projects. There are five different types of Renaissance Zone projects: rehabilitation, new construction, purchase with major improvements, lease, and historical preservation and renovation.

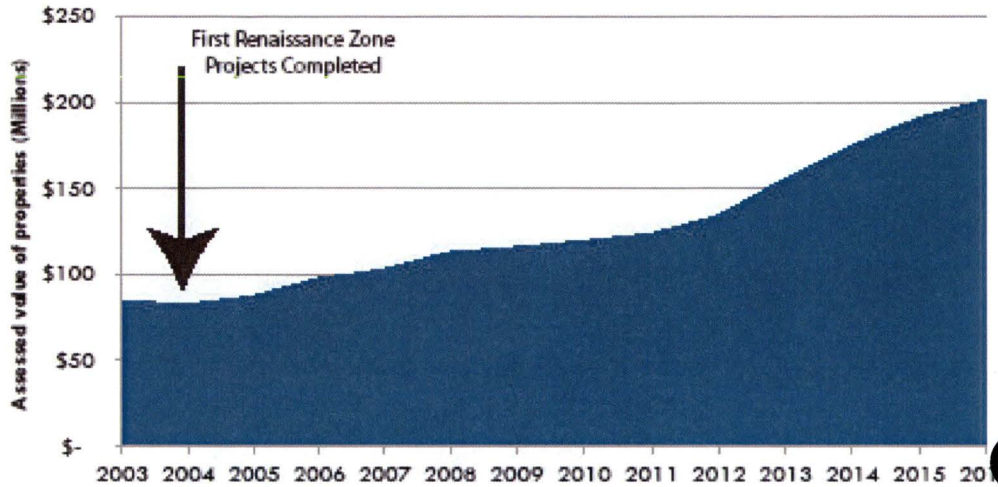


PROGRAM EVALUATION

The Renaissance Zone is a proven effective tool for revitalizing and strengthening the core of our community

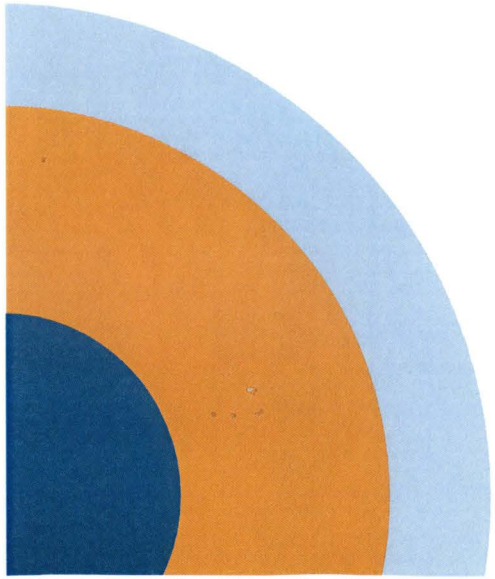
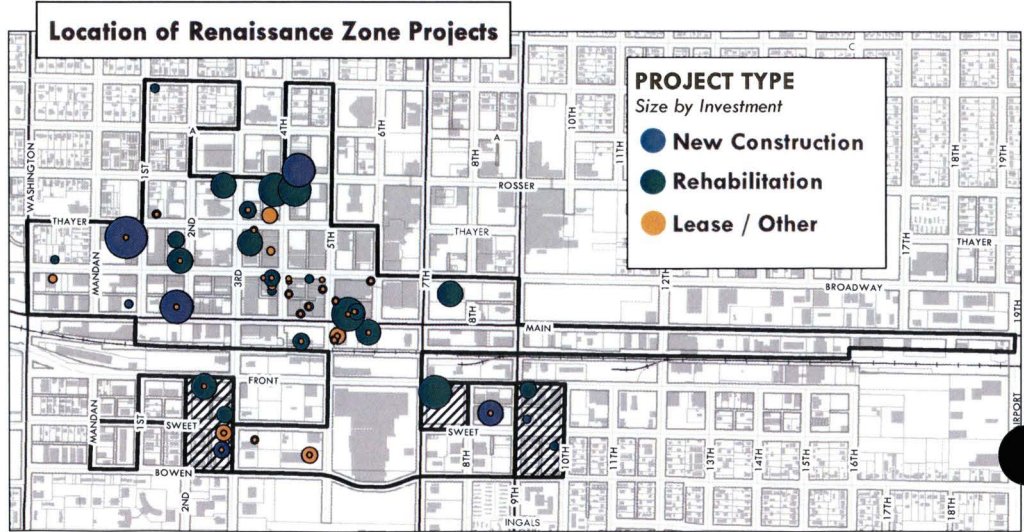
Since the first Renaissance Zone buildings were completed in 2004, overall property values in downtown Bismarck have increased each year. Prior to the program, these same property values were decreasing.

The total assessed value of all properties within the Renaissance Zone, whether a recipient of the tax incentive or not, has grown from \$84,578,100 in 2003 to \$201,152,500 in 2016, which amounts to an average annual rate of growth of 10.6%.



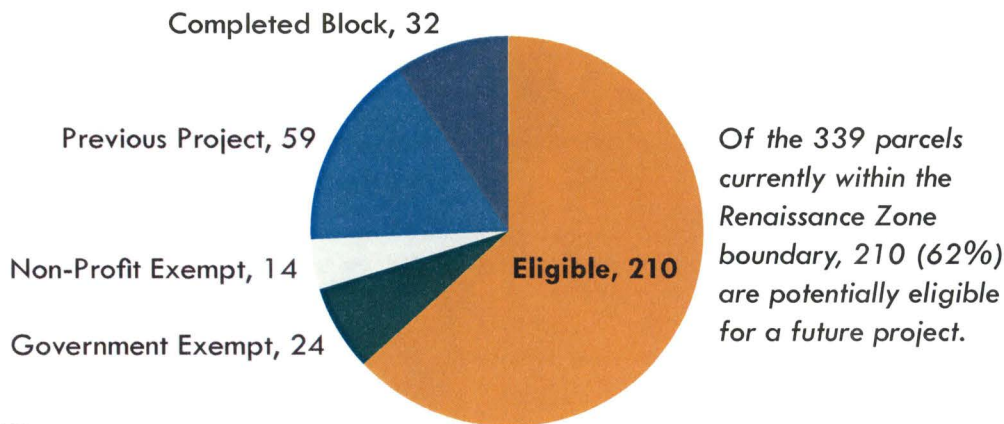
By 2019 the total taxes generated from project parcels is projected to surpass the total taxes exempted from these parcels since the program began.

Over the long-term, the net effect of the Renaissance Zone is an increase in tax revenue collected by the City, lessening the burden on other taxpayers. Once each project's five-year tax exemption period is complete, the properties re-enter the tax rolls at a higher taxable value for each year into the future. Every year since 2012, the City of Bismarck has collected more revenue from all Renaissance Zone project parcels than they would have if the program did not exist and the investments were not made.

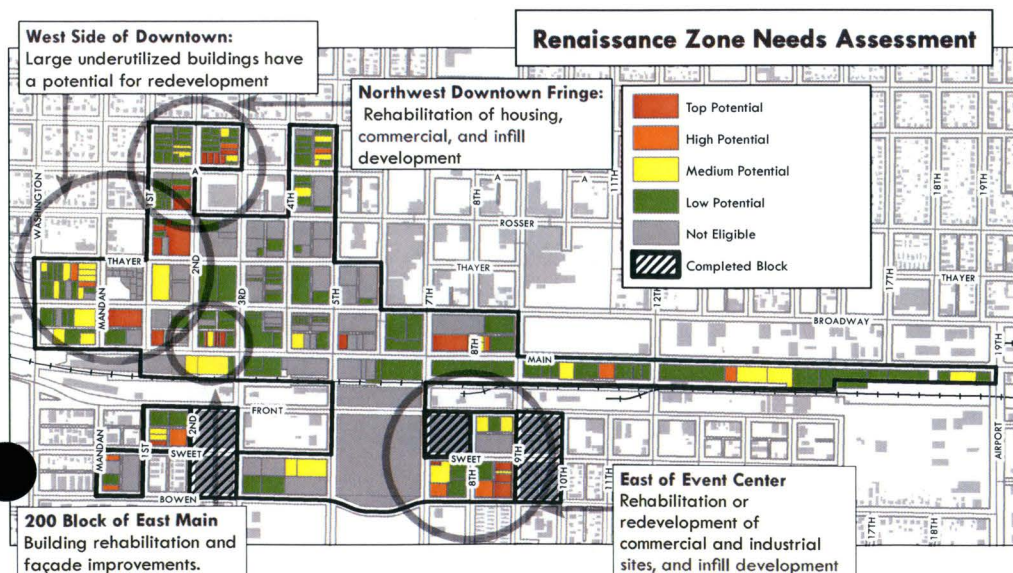


What's next?

Despite the effectiveness of the program in spurring redevelopment, there is still a need to address identified medium, high and top potential projects within the Renaissance Zone.



In 2016, the City of Bismarck performed a Needs Assessment to evaluate areas within the Renaissance Zone boundary that have not met the program's goals. Projects may not be considered eligible if they have previously received Renaissance Zones exemptions, or are owned by a government or non-profit organization. Five blocks have been completed and are no longer eligible. Four hot spots of unimproved areas can be identified within the zone.



BISMARCK RENAISSANCE ZONE GOALS

Establish the Renaissance Zone as the Center of Business Life, Government and Cultural Opportunity for the Bismarck Region.

Promote the Renaissance Zone as the Preferred Location for Hotel, Class A Office Buildings, Specialty Retail, Government and Institutional Uses.

Maximize Accessibility of the Renaissance Zone from Throughout the Region and Provide Safe, Convenient, and Attractive Circulation Within the Zone.

Arrange Compatible Land Uses in Compact and Orderly Ways to Enhance the Functions of the Renaissance Zone.

Encourage a Zone That Upholds Bismarck's Heritage as Well as Recognizes and Takes Advantage of its Pattern of Development.

Achieve High Quality in the Design and Visual Appearance of the Renaissance Zone.

Promote the Renaissance Zone as a Location for Increased Housing Opportunities.



In 2009, a vacant property located along the 400 block of East Main Avenue in the heart of downtown Bismarck applied for Renaissance Zone incentives to make improvements. The building had previously been used as a Chinese restaurant and had fallen into disrepair. The applicant converted the property to an Irish themed pub/restaurant with additional leased spaces on the second floor. Renovations included rebuilding supporting walls, water, sewer and utility upgrades as well as renovations to appropriately restore the character of the 1905 historic two story building. Today the restaurant is a popular place among locals and visitors and the property contributes to the vibrancy of the downtown core.



The rehabilitation of an existing two-story building and infill of an adjacent open area along the 500 block of East Main Avenue helped restore the urban edge of one of downtown Bismarck's blocks. The 2011 project consisted of a new, historically appropriate façade spanning 75 feet with large, street-level windows and renovations to the existing adjacent two story building. The new infill space combined with the rehabilitated space provides offices, a restaurant, retail and a bar with a rooftop terrace which offers views of the city. The project utilizes the "lease" Renaissance Zone incentive which provides state income tax incentives to occupants who lease and invest in space within a qualifying Renaissance Zone project.

#5
SB 2166
3-14-17

March 13, 2017



DOWNTOWNERS
BISMARCK

North Dakota House Finance & Taxation Committee Members
Chairman Craig Headland
RE: SB2166

Chairman Headland and Committee Members,

My name is Dawn Kopp, Executive Director of the Downtown Business Association of Bismarck. Our organization works on behalf of nearly 200 member businesses in the Downtown and Bismarck area. We respectfully ask for a "Do Not Pass" recommendation on SB2166. For property tax incentives that work in areas of already existing infrastructure, like a Downtown or Main Street, there is significant return on investment. Further regulating them could hamper the successes and returns for all taxing entities involved.

Thank you for your consideration on SB2166.

Please submit this written testimony as part of the official record.

Thank you for your consideration—

Sincerely,



Dawn Kopp

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

Page 1, line 1, after "40-05" insert ", a new subsection to section 40-58-20, and a new subsection to section 40-63-03"

Page 1, line 2, after "city" insert "and a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district"

Page 2, after line 20, insert:

"SECTION 3. A new subsection to section 40-58-20 of the North Dakota Century Code is created and enacted as follows:

A lot or parcel of property may not be approved for inclusion in a development or renewal plan after July 31, 2017, for tax increment financing purposes if that lot or parcel of property has been approved for inclusion in a renaissance zone under chapter 40-63."

Page 4, overstrike line 6

Page 4, line 7, overstrike "interests."

Page 4, line 7, remove "Evidence of community support must include letters of support from the"

Page 4, replace lines 8 and 9 with:

"SECTION 6. A new subsection to section 40-63-03 of the North Dakota Century Code is created and enacted as follows:

The department of commerce division of community services may not designate a renaissance zone after July 31, 2017, which includes a lot or parcel of property that has been approved for inclusion in a development or renewal plan for tax increment financing purposes under section 40-58-20."

Page 5, line 30, replace "through" with ", 2,"

Page 5, line 30, after "4" insert ", and 5"

Renumber accordingly

#2 p.1
SB 2166
3-22-17

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2166

Introduced by

Senators Cook, Laffen, Unruh

Representatives Dockter, Headland, Olson

1 A BILL for an Act to create and enact a new section to chapter 40-05, a new subsection to
2 section 40-58-20, and a new subsection to section 40-63-03 of the North Dakota Century Code,
3 relating to approval of property tax incentives granted by a city and a prohibition on property
4 receiving benefits from both a renaissance zone and a tax increment financing district; to
5 amend and reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of
6 section 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code,
7 relating to approval of property tax incentives granted by a city and evaluation of economic
8 development tax incentives; to provide for a legislative management study; and to provide an
9 effective date.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1.** A new section to chapter 40-05 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Duties of cities granting property tax incentives.**

- 14 1. Notwithstanding any other provision of law, before granting a property tax incentive on
15 any parcel of property that is anticipated to receive a property tax incentive for more
16 than five years, the governing body of a city shall send the chairman of each county
17 commission and the president of each school district affected by the property tax
18 incentive a letter, by certified mail, which provides notice of the terms of the proposed
19 property tax incentive.
- 20 2. Within thirty days from receipt of the letter, each affected county and school district
21 shall notify the city, in writing, whether the county or school district elects to participate
22 in granting the tax incentive on the county or school district portion of tax levied on the
23 property. The notification from a county or school district electing not to participate
24 must include a letter explaining any reason for which the entity elected not to

1 participate and whether the county or school district is willing to negotiate the terms of
2 the property tax incentive with the city.

3 3. If the city does not receive a response from an affected county or school district within
4 thirty days of delivery of the letter, the county and school district must be treated as
5 participating in the property tax incentive.

6 4. The term "negotiation" as used in this section means the governing body of an
7 affected county or school district may negotiate the terms of participating in the tax
8 incentive, including the duration of the tax incentive and the taxable value selected for
9 the base year for purposes of computing tax instruments.

10 5. If an agreement is reached through negotiation under this section, the property tax
11 incentive must be applied in accordance with the agreement.

12 **SECTION 2. AMENDMENT.** Subsection 7 of section 40-57.1-03 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 7. During the negotiation and deliberation of a property tax exemption or the option to
15 make payments in lieu of taxes under this chapter, a municipality shall include, as
16 nonvoting ex officio members of its governing body, a representative appointed by the
17 school board of each school district affected by the proposed action and a
18 representative appointed by the board of township supervisors of each township
19 affected by the proposed action. Before granting a property tax incentive on any parcel
20 of property that is anticipated to receive a property tax incentive for more than five
21 years, the governing body of a city must comply with the requirements in section 1 of
22 this Act.

23 **SECTION 3.** A new subsection to section 40-58-20 of the North Dakota Century Code is
24 created and enacted as follows:

25 A lot or parcel of property may not be approved for inclusion in a development or
26 renewal plan after July 31, 2017, for tax increment financing purposes if that lot or
27 parcel of property has been approved for inclusion in a renaissance zone under
28 chapter 40-63.

29 **SECTION 4. AMENDMENT.** Section 40-58-20.2 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to**
2 **representatives of affected taxing districts.**

3 1. Before approval of a development or renewal plan for any development or renewal
4 area under section 40-58-20, the governing body of the municipality shall conduct a
5 public hearing on the proposal. The governing body shall provide invitations to
6 participate in the public hearing to the governing body of each county, school district,
7 and park district within the development or renewal area. At a minimum, the governing
8 body of the municipality shall provide the following information at the public hearing:

- 9 4. a. The anticipated costs of development of property to be reimbursed by tax
10 incentives.
11 2. b. The anticipated annual revenue from tax increments which will be received to
12 complete the development or renewal plan.
13 3. c. The anticipated date when the plan will be completed, the costs will be fully paid,
14 and the tax increments will be released.
15 4. d. The estimate of the dollars annually attributable to the levies from each taxing
16 entity which will be credited to the tax increment fund.

17 2. Before granting a property tax incentive on any parcel of property that is anticipated to
18 receive a property tax incentive for more than five years, the governing body of the
19 municipality must comply with the requirements in section 1 of this Act.

20 **SECTION 5. AMENDMENT.** Subsection 2 of section 40-63-01 of the North Dakota Century
21 Code is amended and reenacted as follows:

- 22 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of
23 section 40-63-03 and includes the following:
24 a. A map of the proposed renaissance zone which indicates the geographic
25 boundaries and blocks, a description of the properties and structures on each
26 block, identification of those properties and structures to be targeted for potential
27 zone projects, and a description of the present use and conditions of the targeted
28 properties and structures.
29 b. A description of the existing physical assets, in particular natural or historical
30 assets, of the zone and a plan for the incorporation and enhancement of the
31 assets within the proposed development.

- 1 c. An outline of goals and objectives and proposed outcomes, including major
- 2 milestones or benchmarks, by which to gauge success resulting from the
- 3 designation of the zone.
- 4 d. A description of the types of projects the city would encourage in the city's
- 5 targeted properties.
- 6 e. A description of the promotion, development, and management strategies to
- 7 maximize investment in the zone.
- 8 f. A plan for the development, promotion, and use of a renaissance fund
- 9 organization, if one is desired to be established. If a city is not ready to commit to
- 10 establishing a renaissance fund organization, the city may indicate in the
- 11 renaissance zone application the city's desire to submit a plan for approval at a
- 12 later date.
- 13 ~~g. Evidence of community support and commitment from residential and business~~
- 14 ~~interests. Evidence of community support must include letters of support from the~~
- 15 ~~governing bodies of each county and school district that contain property located~~
- 16 ~~within the boundaries of the proposed renaissance zone.~~

17 **SECTION 6.** A new subsection to section 40-63-03 of the North Dakota Century Code is
18 created and enacted as follows:

19 The department of commerce division of community services may not designate a
20 renaissance zone after July 31, 2017, which includes a lot or parcel of property that
21 has been approved for inclusion in a development or renewal plan for tax increment
22 financing purposes under section 40-58-20.

23 **SECTION 7. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century
24 Code is amended and reenacted as follows:

- 25 3. The legislative management interim committee assigned the study responsibility under
- 26 this section may examine economic development tax incentives, shall complete
- 27 analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis
- 28 during the interim, and shall approve a plan to provide that each of the economic
- 29 development tax incentives listed in this subsection is subject to a complete analysis
- 30 within each six-year period. The interim committee may include in its
- 31 recommendations any amendments to this section, including amendments to add or

- 1 remove incentives from the list of incentives subject to analysis under this subsection.
2 Analysis must be completed for ~~state-imposed tax aspects of~~ economic development
3 tax incentives, including each of the following:
- 4 a. Renaissance zone credits and exemptions.
 - 5 b. Research expense credit.
 - 6 c. Agricultural commodity processing facility investment credit.
 - 7 d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel
8 blending credit, and biodiesel fuel equipment credit.
 - 9 e. Seed capital investment credit.
 - 10 f. Wage and salary credit.
 - 11 g. Internship program credit.
 - 12 h. Microbusiness credit.
 - 13 i. Angel fund investment credit.
 - 14 j. Workforce recruitment credit.
 - 15 k. Soybean or canola crushing facility construction or retrofit credit.
 - 16 l. Manufacturing automation equipment credit.
 - 17 m. New or expanding business exemption.
 - 18 n. Manufacturing and recycling equipment sales tax exemption.
 - 19 o. Coal severance and conversion tax exemptions.
 - 20 p. Oil and gas gross production and oil extraction tax exemptions.
 - 21 q. Fuel tax refunds for certain users.
 - 22 r. New jobs credit from income tax withholding.
 - 23 s. ~~Any economic development tax incentive created by the sixty-fourth legislative~~
24 ~~assembly~~Development or renewal area incentives.
 - 25 t. Sales and use tax exemption for materials used to construct a fertilizer or
26 chemical processing facility.
 - 27 u. Sales and use tax exemption for materials used in compressing, gathering,
28 collecting, storing, transporting, or injecting carbon dioxide for use in enhanced
29 recovery of oil or natural gas.
 - 30 v. Sales and use tax exemption for enterprise information technology equipment
31 and computer software used in a qualified data center.

1 **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM**
2 **CITY GROWTH AND DEVELOPMENT.** During the 2017-18 interim, the legislative management
3 shall consider studying how city growth and infill development affects property taxes, and
4 evaluate the return on investment for state and community projects. The study must examine
5 various policies affecting city development patterns, including the impact of transfer payments
6 between state and local governments; the cost of government services and infrastructure,
7 including future liability; the amount of tax revenue generated per increment of assumed liability
8 for downtown areas; and whether certain areas of a city generate more revenue than expenses
9 while other areas generate more expenses than revenue. The legislative management shall
10 report its findings and recommendations, together with any legislation required to implement the
11 recommendations, to the sixty-sixth legislative assembly.

12 **SECTION 9. EFFECTIVE DATE.** Sections 1 ~~through~~, 2, 4, and 5 of this Act are effective for
13 property tax incentives approved after December 31, 2017.

#3
SB 2166
3-22-17

Replace the new language on lines 7-9 with "Community support must be presumed unless the governing body of the impacted school district or county unanimously approves a motion to be excluded from the renaissance zone"

4/10/2017

SB 2166

Attachment #1

pg 1

17.0148.02005
Title.

Prepared by the Legislative Council staff for
Representative Olson
April 7, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

That the House recede from its amendments as printed on page 983 of the Senate Journal and page 1112 of the House Journal and that Engrossed Senate Bill No. 2166 be amended as follows:

Page 5, after line 29, insert:

"SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY TAX INCENTIVES. During the 2017-18 interim, the legislative management shall consider studying the duplicative application of property tax incentives, including benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

4/10/2017

SB 2166

Attachment #1

pg 1

17.0148.02005
Title.

Prepared by the Legislative Council staff for
Representative Olson
April 7, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

That the House recede from its amendments as printed on page 983 of the Senate Journal and page 1112 of the House Journal and that Engrossed Senate Bill No. 2166 be amended as follows:

Page 5, after line 29, insert:

"SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY TAX INCENTIVES. During the 2017-18 interim, the legislative management shall consider studying the duplicative application of property tax incentives, including benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

~~Renumber accordingly.~~

Page 5, line 31 replace "December" with "July"

Renumber accordingly