NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TAXATION COMMITTEE

Tuesday and Wednesday, November 5-6, 2013
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dwight Cook, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Dwight Cook, Randall A. Burckhard, Lonnie J. Laffen, Ronald Sorvaag, Jessica K. Unruh; Representatives Jason Dockter, Glen Froseth, Patrick Hatlestad, Craig Headland, Jim Kasper, Jerry Kelsh, Scot Kelsh, Mike Nathe, Mark S. Owens, Dan Ruby, Jim Schmidt

Members absent: Senator Jim Dotzenrod; Representatives Wesley R. Belter, David Drovdal, Robin Weisz, Steven L. Zaiser

Others present: Tony Grindberg, State Senator, Fargo
See Appendix A for additional persons present.

It was moved by Representative Headland, seconded by Representative Ruby, and carried on a voice vote that the minutes of the July 31, 2013, meeting be approved as distributed.

TAX DEPARTMENT

Chairman Cook called on Mr. Ryan Rauschenberger, Deputy Tax Commissioner, Tax Department, for presentation (Appendix B) of information on property tax valuation and taxes imposed. Mr. Rauschenberger said the first page of tables shows agricultural property value and taxes statewide for the years 2002 to 2013. He said for the years in the comparison, agricultural valuation has increased at a much more rapid rate than property taxes on agricultural land, and the table reflects how the mill levy reduction grant program from 2009 to 2013 significantly reduced agricultural property taxes.

Chairman Cook asked if a comparison can be provided on agricultural property values going back to 1982. Mr. Rauschenberger said the Tax Department can compile that information.

Mr. Rauschenberger said the charts reflecting centrally assessed property show the substantial increase in recent years in total valuation of centrally assessed property and in property taxes collected. He said the substantial spike in valuation reflects rapid development of the wind energy industry, the oil industry, and the associated growth in pipeline properties.

Mr. Rauschenberger said commercial property valuation has grown at a steady pace from 2002 to 2013 and has approximately doubled in statewide value during that time. He said residential property values in the state have more than doubled during that time, and residential property valuation has a growth rate of 4.44 percent per year during that time period, which is from a combination of valuation of new property and increased valuation of preexisting property.

Representative Headland said it appears from the data provided that agricultural and commercial property have seemed to grow at a faster rate in value and tax collections. Mr. Rauschenberger said the growth in agricultural values and commercial and centrally assessed property values means these classes of property are now a greater share of the tax base and responsible for a greater share of taxes paid.

Mr. Rauschenberger said effective tax rates by property classification for the years 2002 to 2012 show significant declines in effective tax rates primarily because of the mill levy reduction grant property tax relief provided. He said for 2012 the effective tax rates are 1.21 percent for centrally assessed property, 1.29 percent for agricultural property, 1.51 percent for residential property, and 1.73 percent for commercial property. When the 2013 property tax valuation and tax collection data becomes available and reflects the 2013 property tax relief provided by 2013 legislation, he said, it should show a significant reduction in property tax payments and effective tax rates for all property classifications.

Representative Froseth asked if it is correct to assume most centrally assessed property is owned by out-of-state entities. Mr. Rauschenberger said that is correct and described the kinds of property subject to central assessment.

Representative Nathe asked how much the Legislative Assembly has authorized to fund property tax relief reflected in the charts. Mr. Rauschenberger said a quick approximation of total property tax relief funding would be approximately $1.8 billion since 2007.

Ms. Sara Meier, Property Tax Specialist, Tax Department, distributed a copy (Appendix C) of tables showing the levies available for each kind of political subdivision ranked by the average number of mills in each category. She said ranking the levies in this way indicates the relative use of each type of levy available to each political subdivision.

Representative Froseth said there was an effort at consolidation of county property tax levy authority. He said there are a large number of levies available to counties, and consolidation might be desirable to clean up the proliferation of separate levies.

Senator Cook asked if the levy by soil conservation districts is levied by those districts or must be approved by the board of county commissioners. Ms. Meier said she believes the levy is imposed by the soil conservation district. Senator Cook asked if the members of the board are elected, and Ms. Meier said she believes they are elected. Senator Cook asked if there are boards or commissions that are not elected that have authority to levy property taxes. Ms. Meier said she will see what the department can find out on that topic.

Representative Nathe said from the information provided, it appears many levies allowed by law are not being used by any political subdivision. He asked if these could be consolidated to eliminate or combine levies that are not being used, similar to the consolidation that was recently completed for levies for school districts. Chairman Cook said that effort could be initiated by this committee.

Chairman Cook called on Ms. Linda Leadbetter, State Supervisor of Assessments, Tax Department, to provide information requested relating to the 2013 changes to the homestead credit and veterans' credit. Ms. Leadbetter said both credit programs were expanded by 2013 legislation. She said in 2011 and 2012 approximately 4,000 persons received a homestead credit benefit, and the property taxes of those individuals were reduced by a combined $3.2 million for each of those years. She said the normal filing date to claim the homestead credit is February 1, but this year the legislation extending the program was not enacted by that time. She said an outreach effort encouraged by the department through county officials to inform citizens of potential eligibility for the credit was conducted. She said information is not available at this time on the number of claims and the cost of the program for 2013 because data for this tax year is not complete. She said the estimated fiscal effect of the expansion of the program was for an additional $7.7 million of homestead credit relief funded by state allocations among counties. She said the renter refund is a companion credit for persons age 65 or older or totally and permanently disabled who rent accommodations. She said the income qualification increases apply also to the renter refund eligibility but the deadline for claiming the renter refund is June 2014, so outreach for renters has not been done at this time and will not reflect in 2013 tax year statistics. She said the veterans' credit was also expanded. She said the credit was expanded to cover $150,000 of true and full value of a home, an increase from the previous limit of $120,000 of true and full value. She said outreach efforts have been conducted for the veterans' credit through veterans' organizations. Representative Headland asked how soon information would be available on the increased number of claimants and the cost of the program. Ms. Leadbetter said the information has not been received and will be available in the near future. She said she will check when the information would be ready for presentation to the committee.

Chairman Cook called on Mr. Cory Fong, Tax Commissioner, Tax Department, for comments on the new responsibility of the Tax Commissioner to prescribe the format of property tax statements and notices. Mr. Fong said 2013 Senate Bill No. 2036 required the Tax Commissioner to prescribe formats for these forms. He said by July 18 he certified two counties regarding the information required to be contained on 2013 property tax statements. He said the information required included three years of information on benefits under the mill levy reduction grant program and a separate identification of the state-paid property tax relief available under a separate relief program created in 2013. Copies of sample property tax statements are included in the information contained in Appendix B. He said there are great levels of complexity and variation among counties, and the time limitations for this tax year required focusing on how legislative property tax relief should be displayed.

Mr. Fong said the state has a great opportunity at this time because the department now has 53 county tax statements in the office for consideration. He said there is a considerable difference among counties in format, programming, and other administrative issues. He said the department and county officials will be seeking a sensible and feasible overhaul of the statements to pursue uniformity and improved information to property owners.

Chairman Cook said this committee should also participate in consideration of changes to property tax statements and uniformity. In response to a question from Representative Froseth, Mr. Fong said during department discussions with county officials regarding uniformity of tax statements, concerns were expressed that some counties had invested significant amounts to develop the format they were using and they are satisfied with the results they are using. He said a feasibility study of uniform formatting and software would be worthwhile.

Representative Headland asked if the property tax relief statement is required by law to be contained on the tax statement. Mr. Fong said it is required, but the statutory provision requires the total amount of relief to be stated. He said the department determined separate identification of the mill levy reduction grant and the 12 percent state-paid is more informative for taxpayers, and statement of both program amounts and the total are required for the 2013 statements.

Mr. Fong said the Tax Commissioner was also required by 2013 legislation to prescribe the format of notices to be sent to taxpayers for assessment increases, and those notices had already been sent out for 2013 before the law was enacted. He said notices were sent out this year under the provisions of the law in effect at that time period. He said these notices, in turn, triggered notice requirements under the zero increase number of mills notice requirement. He said several questions and concerns arose during that cycle in 2013. He said some jurisdictions were required to send out thousands of notices of budget hearings to taxpayers.

Mr. Fong said the department has no recommendations at this time on the contents of the property tax statements or notices. He said after the statements have been used for this year, experience of the public will be important to consider in determining if improvements are required.

Representative Nathe said concerns were expressed by some political subdivisions about the cost of mailing notices. He said there is an option for email delivery of notice. Mr. Fong said that is correct, an email notice may be used if the individual has email approval on file. He said that may be a good question for the North Dakota Association of Counties to gather information about. He said he does not know how many individuals have consented to receive electronic mail of notices.

Representative Schmidt said some of the sample property tax statements contain information on the number of mills applied to the subject property. He said legislators have discussed the many statements from constituents that mill rates against value are difficult to understand. He said there may be a better understanding of information on the property tax statement if mills are not included and amounts are stated in dollars. Mr. Fong said perhaps that is one of the issues that must be considered in determining how effective the 2013 property tax statements are in informing property owners.

Representative Headland said on the issuance of notice to property owners who had an increase exceeding 10 percent in valuation, his view of legislative intent was if the increase exceeded 10 percent and $3,000 for a taxable property, notice should be sent to the property owner. Senator Cook agreed but said the 2013 legislation was not written to cover increases ordered by the county board of equalization. He said a 1983 Attorney General opinion provided notice does not have to be sent to property owners if an entire class of property is increased by the county board of equalization. He said this will be an issue of consideration for this committee.

Mr. Fong said the department was also requested to brief the committee on progress on the directive to develop detailed rules for supervision for assessment officials. He said the most notable aspect is the authority of the State Supervisor of Assessments to suspend or revoke a certificate of an assessment official. He said this objective was the first area of focus of the department. He said the legal and property tax divisions of the department are currently working to identify the core responsibility of assessment officials and to identify instances in which suspension or revocation of assessment credentials would be appropriate. He said the department will keep the committee informed of developments on these efforts. Senator Cook said he and Mr. Fong both worked hard on the legislation leading to the rules provisions under consideration. He said he is looking forward to the completion of the rulemaking process and asked when Mr. Fong expects the rules to be in place. Mr. Fong said he is leaving office and hopes the succeeding Tax Commissioner makes this effort a priority. Senator Cook said he hopes that is the case and asked Mr. Fong to leave word for the next Tax Commissioner that this is a priority concern of the committee.

CONSIDERATION OF LEGISLATIVE COUNCIL MEMORANDUMS

Chairman Cook called on Mr. Walstad for presentation of a memorandum entitled *Property Tax Classification and Exemption Authority Under the Constitution of North Dakota*.

Chairman Cook called on Ms. Kramer for presentation of a memorandum entitled *Property Tax Restructuring in 1981 - Background Memorandum*.

Senator Cook said the 1981 legislative property tax restructuring was very significant and laid the foundation for the property tax system as it exists today. He said he believes the 1981 legislative action shifted the property taxes from agricultural property to other tax types and that shifting has reversed course at times since 1981. He said examining statistics on property tax relative burdens for classes of property would be valuable to the committee study.

COMMENTS BY INTERESTED PERSONS

Chairman Cook invited comments by interested persons in attendance.

Mr. Charles Tuttle, Minot, said the committee has discussed the notices of budget hearings that were required to be sent to taxpayers this tax year. He said he has been all over the state talking to people who attended these meetings. He said the notices that were sent out really are not clear to most people. He said the notices that he found were unintentionally deceptive--especially notices from school boards. He said people were asked to come to a meeting because the school board was raising property taxes. He said they were actually not raising taxes. He said he was at a hearing on the school board budget in Dickinson and it was not raising taxes, it was actually lowering the mills. He said the legislature has attempted to lower property taxes, but when you see millions of dollars of tax relief for a biennium and you do not see an actual lowering of property taxes, it is hard for the property owner to understand what the legislature is doing. He said property taxpayers are not really feeling any property tax relief. He said at one of the school board hearings he attended, there was a statement the state is forcing the school district to lower its levy by 60 mills, but taxpayers were not told that the state is giving them property tax relief for that. He said it was going to raise the mills back to 93 mills. He said in the previous biennium, there were grants to the school districts provided by the state, and they did not pass that on to the property owners. He said he understands the legislature in this biennium was trying to get relief to the taxpayers, but they are just not getting the relief.

Mr. Tuttle said there are options with the schools, and we just are not using them. He said we actually have money in the common schools trust fund to give school districts the money they need and give property owners the relief they need. He said he has been studying the common schools trust account for the last two years. He said the common schools trust fund originated at statehood with a federal grant to states of two sections in every township. He said the reason for it was to push states into getting their own constitutions and keep the British and French influence out of the new territories. He said the effort was intended to give every child in the United States a free public school education. He said we have a unique situation in North Dakota. In most states, he said, there is a stream of income from school lands from grazing or agriculture or other sources. He said in cases when they sell school lands, the income from the sale goes into the common schools trust fund and the income generated goes to fund the common schools. He said in North Dakota's case, we have huge amounts of mineral rights. He said the deposits from the sources in North Dakota are about $600 million a year now, and there is over $3 billion in the account. He said he and others are hoping to get the legislature to look at this fund as a source to get schools fully and properly funded. Chairman Cook said he would suggest to Mr. Tuttle that idea should be presented to the Education Finance Committee. Chairman Cook said the only income the state can spend is the interest earnings from the common schools trust fund. Mr. Tuttle said we can actually bond the common schools trust fund balance. Chairman Cook said this committee is intended to focus on taxation issues.

Mr. John Herz, City Assessor, Grand Forks, said he was particularly interested in the committee discussion of the homestead credit and veterans' tax credit. He said the notices for these credits went extremely well. He expressed appreciation to the legislature for expanding the homestead and veterans' credits. He said he anticipates about a 50 percent increase in the assistance that will be received by eligible taxpayers in Grand Forks.

Representative Kasper asked for the actual dollar amounts of the increase for these credits. Mr. Herz said there was approximately $600,000 of taxable value covered in Grand Forks in the previous year, and the coverage this year would be approximately $1.2 million in taxable value. Representative Kasper asked how many people that covers. Mr. Herz said numbers are still being collected, but the assistance should be available for 600 to 700 eligible taxpayers in Grand Forks. He said some of these taxpayers also discovered through the program that they may be eligible for a credit for previous years.

Representative Nathe said information should be obtained on the number of counties that are able to take advantage of providing notices by email. He said email delivery provides an option for cost-savings to counties, and consideration should be given to expanding the number of taxpayers receiving email notifications.

TAX DEPARTMENT

Chairman Cook called on Mr. Rauschenberger for presentation of a review of the effect of 2013 House Bill No. 1358 relating to allocation of oil and gas gross production tax revenues. He reviewed the allocation formula changes in House Bill No. 1358 and said Ms. Kathy Strombeck, Tax Department, would review the detail estimates based on projected revenues for allocations among political subdivisions. Ms. Strombeck provided a table (Appendix D) showing the Tax Department estimated distribution to counties, cities, schools, and townships under House Bill No. 1358. She said these amounts shown on the handout are based on the official forecast of $75 per barrel average price for oil and 850,000 barrels per day of production. She said at this point in the biennium, it appears the estimates are conservative, and August average price was approximately $94 per barrel and production was approximately 911,000 barrels per day. She said the first column of the table shows estimated total allocation per county from four-fifths of oil and gas gross production tax. She said the next four columns of the table illustrate allocation of the city share calculated as 20 percent of estimated total allocation and excluding allocation to hub cities, which are separately treated under the allocation provisions. She said the next two columns illustrate the share allocated to schools. She said school allocations are based on the revenue received in fiscal year 2013. She said counties receiving less than $5 million in fiscal year 2013 retain a 35 percent share of allocations as was the case in the previous formula. She said if the county allocation to schools exceeded $5 million in fiscal year 2013, the allocation among schools drops to 5 percent of the total. She said for some schools, this has caused a drop in the amount they can expect to receive. She said the schools adversely affected by this change are shown in pink on the table. She said Bottineau County is in a unique position because three school districts in Bottineau County will drop to a 5 percent allocation share in fiscal year 2015. She said it is important to remember 75 percent of the revenues to school districts under the formula is imputed in the education funding formula, so it is expected the impact will be about 25 percent of the amount indicated in the table. She said the next columns on the table indicate county general fund shares, which are 45 percent of revenues for counties receiving less than $5 million in fiscal year 2013 and 60 percent for counties receiving more than $5 million in fiscal year 2013. She said the remaining columns show estimated allocations for townships and hub cities.

Senator Cook asked what amounts would be received by these political subdivisions if the forecasted amount basis is adjusted to use current price and production amounts. Ms. Strombeck said she can prepare a new analysis using that basis.

OFFICE OF MANAGEMENT AND BUDGET

Chairman Cook called on Mr. Joe Morrissette, Office of Management and Budget, for presentation (Appendix E) of information showing oil tax distributions among state funds for the 2013-15 biennium. Mr. Morrissette said the first page of the information is a flowchart that is useful in explaining the flow of oil tax revenues. He said the next page of the information shows the oil tax forecast tax flow based on the legislative forecast and indicates when in this biennium deposits to various funds would be triggered based on forecasted revenues. He said the final page of the information provided shows actual to date cashflow as compared to the legislative forecast. He said for the first three months of the biennium, revenues were $89 million more than the forecast for that period.

In response to a question from Senator Cook, Mr. Morrissette said he believes the September deposit in the strategic investment and improvements fund was an adjustment from the prior biennium.

NORTH DAKOTA LEAGUE OF CITIES

Chairman Cook called on Ms. Connie Sprynczynatyk, Executive Director, North Dakota League of Cities, for presentation of information on representatives of the North Dakota League of Cities and the information they will provide. Ms. Sprynczynatyk said the League of Cities was asked by the committee to address several questions for this meeting. She identified the individuals and the topics they would address.

Mr. Jerry Hjelmstad, North Dakota League of Cities, distributed a copy (Appendix F) of information requested by the committee. He said at the previous meeting, information on tax levies as gathered by the League of Cities was provided to the committee. He said the committee requested expansion of the coverage of the information to include taxable years 2008 through 2012. He said the information provided shows taxable valuation, state and county mill rates, school district mill rates, city mill rates, park district mill rates, and mill rates of other taxing entities plus the combined mill rate within each county and city and the total dollars of taxes collected. He said the information is provided for each taxing district for each year 2008 through 2012.

Mr. Hjelmstad said the committee also requested information on changes in taxable valuation of property, prepared to indicate how much growth in taxable valuation is attributable to assessment increases and how much is attributable to new property. He said the information (Appendix G) is based on statistics for cities over 5,000 population, which accounts for 74 percent of city population in the state and 81 percent of city taxable valuation in the state. He said the table shows 2011 taxable valuation and 2012 taxable valuation in dollars, the amount of increase in valuation from 2011 to 2012, and how much of the valuation increase is attributable to changes in value of preexisting property and how much is attributable to new growth occurring in 2012. For these cities, he said, the total increase in taxable valuation was approximately $90 million in 2012 and, of that amount, approximately $50 million of the increase was increased valuation of preexisting property and approximately $40 million of the increase was valuation of new property.

Ms. Darcie Huwe, Finance Director/City Auditor, Wahpeton, said she was requested to provide an overview of how city budget and revenue needs are determined and established. She distributed information (Appendix H) on the municipal budget process. She reviewed the budget timeline and the information showing factors involved in developing a budget plan, evaluating current conditions, projecting available resources, and anticipating city funding needs for ongoing programs. She said a balanced budget requirement exists for cities which makes members of the governing body personally liable for city expenditures exceeding available funding. She described development of a preliminary budget and the hearings preceding adoption of a budget. She reviewed the annual fiscal cycle of the city of Wahpeton and the contents of the budget for the city. She reviewed the information considered by the city in establishing a budget, including a comparison to previous year levies by the county, school district, park board, and city of Wahpeton. She said for 2012 the city needed mill levy increases for some programs and was able to make mill levy decreases for other programs, resulting in the same mill rate for 2012 which was used in 2011. She reviewed information on mill levy allocations and comparisons from the previous year and detail information on general fund revenue and expenses for 2012.

Representative Headland said he believes the starting point for a city budget should be based on no increase in expenditures. Ms. Huwe said the city of Wahpeton lost approximately 1,000 in population and is faced with maintaining the same amount of streets and the same level of other services. She said the decline in population and the reliance on property tax revenue creates difficulty in balancing sufficient revenue for city services against the desire of the city to avoid increasing property tax rates. She said the budget process must balance those considerations, but the governing body of the city of Wahpeton has shown commitment to minimizing taxes to the extent possible.

Mr. Brad Bekkedahl, City Commissioner, Williston, said this is his 18th year as the Finance Commissioner for Williston. He said Williston had more than 10 percent growth in valuation in every property classification category. He said the notices of assessment increases were sent to taxpayers as required by law. He said the city of Williston always tries to get the preliminary budget out and advertised by August so that by September 10, the city is holding its final budget hearing. He said the city was required to send out 4,933 notices to taxpayers. He said the total cost to the city for sending the notices was $3,138. He said the commission meeting room accommodates approximately 70 members of the public and approximately 140 people to 150 people showed up for the hearing. He said many people in attendance were confused about why the notice was received. He said a good portion of the meeting was involved with explaining the reason notices were provided. He said he thought the meeting was a good process and the public left better-informed. He said the preliminary budget indicated a likely increase of

15.5 percent in property taxes, and the final budget adopted provided for an increase of approximately 5 percent. He said the final budget provided for an increase of approximately $1 million in property tax revenue, of which approximately $800,000 is tax applied to new growth. He said many people in attendance at the meeting were under the assumption that because they live in the city, the entire tax bill they receive is from the city. He said it was explained that in Williston approximately 19 percent of the property tax bill is for the city of Williston and most of the remaining share is for the school district and the county. He said it is normal for the city of Williston to have members of the public in attendance at budget hearings, but the attendance was much larger this year. He said if the city of Williston had maintained the same mill rate for 2013, citizens would have seen a property tax increase of approximately 73 percent because valuations of new and existing property have increased by that amount. He said taxable valuation in Williston in 2008 was approximately $23 million, and in 2013 it is approximately $91 million. In response to a question from Senator Cook, Mr. Bekkedahl said the 5 percent increase in the final budget for the city did not factor in consideration of the 12 percent property tax decrease funded by the state. He said the net result should be that taxpayers in the city of Williston will actually see a reduction in the amount of taxes paid to the city of Williston.

In response to a question from Representative Nathe, Mr. Bekkedahl said the city receives valuation information from the county in the first week of August. He said budget hearings are in mid- to late August. He said it would be wonderful to receive valuation information in June to coincide with preliminary budget work.

Mr. Augie Ternes, Finance Director, Bismarck Parks and Recreation District, provided testimony (Appendix I) on his experience with 2013 legislative changes on the budget notice requirements.

Senator Cook said the budget and tax levy dialog indicated 6.11 percent less in taxes to the Bismarck Parks and Recreation District than in the previous year. He said this is after consideration of a 12 percent property tax relief allocation from the state. He asked if it was explained to taxpayers that they were receiving a 12 percent relief allocation and the Bismarck Parks and Recreation District was taking half of that amount with its tax levy. Mr. Ternes said that was explained to those in attendance at the meeting.

In response to a question from Representative Headland, Mr. Ternes said the Bismarck Parks and Recreation District received calls from taxpayers on the notices that were sent out. He said that has not been the case for the prior eight years, and the process will be educational for all concerned. Senator Cook said education of taxpayers is the key to the notice requirements, and he appreciates that Mr. Ternes recognizes that.

Mr. Jim Hatlelid, President, City Council, Minot, provided information on the experience of the city of Minot with the notice to taxpayers information. He said the city of Minot sent out 9,000 letters relating to the property tax levy at a cost of about $3,400. He said he does not believe the notice and expense was a big deal. He said 175 people showed up for the budget hearing, which is more than the total attendance at the prior 28 meetings he was involved with for the city. He said at the conclusion of the budget hearing, the Mayor invited those in attendance to stay because the next presentation was a recommendation by Mr. Hatlelid that the mill rate be reduced by 10 mills. He said the city staff had received calls prior to the meeting, and he received a few at home. He said he also met with a coffee group at its invitation. He said he thinks education was provided for many taxpayers through the process.

Ms. Sprynczynatyk said she would cover the next portion of information from the League of Cities. She said the discussion about declining population and the effect on the city budget are important to remember. She said in periods of growing city population, there is necessary growth in the city budget to provide additional services. She said these factors for cities are similar to the reasons the state budget has grown in recent years.

Ms. Sprynczynatyk said the information she distributed includes a copy (Appendix J) of a page from the Tax Department Red Book publication illustrating the relative property tax imposition by political subdivisions over a period of 10 years.

Ms. Sprynczynatyk said the next information (Appendix K) she distributed includes comparisons in pie chart form of 2008 and 2013 general fund revenues and budget information for 12 cities. She said the cities were selected to provide information for most of the larger cities and a selected cross section of other cities on revenue sources and expenditures. She also provided a copy (Appendix L) of tables showing comparisons for the 13 largest cities for 2008 and 2012. She said the information provides comparison of mill rates and taxes on a $100,000 house. She said a $100,000 house was selected because no matter where you are in North Dakota, one mill is a tax of $4.50 on a $100,000 house. She said the significant factor is the effect in the final column of changes in dollars of taxes imposed.

Senator Cook said one complication is that a $100,000 house in 2008 is not a $100,000 house in 2012 because valuation has probably increased. Ms. Sprynczynatyk said that is correct, but the comparison is still valid and the rate of increase in value for that house can be applied to dollars of tax levied to see the effect for that property. Senator Cook said property owners have heard they will be receiving a property tax reduction and are surprised by opening the property tax statement to find no reduction. He said the complexity of helping taxpayers understand these effects is the challenge the legislature and political subdivisions must meet.

Ms. Sprynczynatyk said the next three presenters are experts in city budget issues and would address questions raised regarding the inflationary factors influencing city budgets in the areas of growth, construction inflation, and personnel costs.

Mr. Jim Brownlee, City Administrator, West Fargo, said he has had the pleasure of being City Administrator for West Fargo for the last 10 years, and West Fargo has experienced phenomenal growth during that time. He said the West Fargo population in the 2000 decennial census was 14,900. He said the West Fargo population today is estimated at 31,441, representing growth of 111 percent over a decade. He said with that growth comes demands to meet for services. He said the Chief of Police reported 10,500 calls for service in 2008 and approximately 20,000 calls for service for the most recent year. He said since 2008, the street department has added 64 lane miles of road. He said 407,000 linear feet of storm sewer and sewerlines was in place in 2008, and today, West Fargo has more than 1,000,000 linear feet of storm sewer and sewerlines. He said these statistics indicate the kind of issues the city of West Fargo has addressed with the rapid growth in population.

Mr. Brownlee provided the committee an information sheet (Appendix M) showing the budgeted expenditures for the city of West Fargo for the years 2008 through 2014. He said the 2008 budget was approximately $28 million, and the 2014 budget is approximately $45 million. He said debt service has become the largest category of budgeted expenditures because of the incredible demands of infrastructure enhancements over the past decade. He said the sheet indicates the total mill rate for West Fargo has been maintained at a constant level, indicating that most of the cost of growth in West Fargo is being funded from property tax attributable to new growth. He said the city commission is very cognizant of maintaining property tax rates as new development occurs.

Senator Cook said the existing properties in West Fargo have had assessment increases, and the growth experienced in West Fargo contributes to increased taxes for existing properties. Mr. Brownlee said that is correct. Senator Cook asked why property tax exemptions and incentives are needed if assessment growth and growth in new property generates additional tax revenue. Mr. Brownlee said West Fargo competes for growth of commercial and accompanying residential property. He said West Fargo is in a competitive area with several other communities located nearby. He said location of new commercial property will dictate needs for new residential property to generate growth in taxable value.

Mr. Shawn Kessel, City Administrator, Dickinson, said he was asked to address the issue of construction cost inflation in recent years. He provided a copy (Appendix N) of written testimony. He said the city of Dickinson's experience with developing a wastewater reclamation facility illustrates the effects of construction cost inflation which must be dealt with by cities. He said in March 2010 Dickinson completed a plan for a wastewater treatment facility. He said Dickinson was experiencing predictable population growth in 2008 and 2009. He said in 2011 Dickinson was the fourth fastest-growing small town in the nation and was the third fastest-growing small town in the nation in 2012. He said this explosive population growth meant the facility as planned would no longer meet expected demands, so the planned facility had to be expanded. He said the table attached to his testimony illustrates the growth in the cost of the project. He said he attached to his testimony a table and graph of North Dakota's overall construction cost index for 2001 to 2013.

Representative Kasper asked how Dickinson financed the increased cost of the facility. Mr. Kessel said Dickinson was fortunate to be able to use the state revolving loan fund and has accessed approximately $69 million from the fund. He said the interest rate on the debt is 2.5 percent over a 20-year term. He said the city has committed water rates as the source of the bond repayment. Senator Cook asked if hookup fees are part of the financing for the bonds. Mr. Kessel said hookup fees are not yet part of the financing. He said the city has considered those fees, but there is a front-end cost and the delayed revenue stream from hookup fees does not meet the immediate need for revenue.

Mr. Bekkedahl said he was requested to provide information (Appendix O) on growth and personnel costs for the city of Williston.

Mr. Bekkedahl said Williston was the fastest growing micropolitan area for 2012, marking the second consecutive year of that status. He said the Williston area gained 2,081 residents between July 2011 and July 2012, representing an increase of 9.3 percent to the population. He reviewed the information provided to illustrate the effects of rapid growth in Williston and the huge expansion in the number of city employees, which has doubled from 2010 through 2014. He said the oil industry activity in and near Williston has had a substantial inflationary effect on salaries and has caused rapid increases in salaries that must be paid by the city of Williston to its employees. He said oil industry activity has also caused increased demand and cost for housing, and the city has had to expend funds for housing for city employee retention. He said the employment increases for the city have come mainly in the areas of police and fire protection and public works.

LOCAL CONTROL ISSUES

Chairman Cook called on Mr. Terry Bjerke, Grand Forks. Mr. Bjerke said he is a member of the Grand Forks City Commission but is not here representing the Grand Forks City Commission. He said he requested time to address the committee on his concerns with local control issues. A copy (Appendix P) of information distributed by Mr. Bjerke identifies his concerns. He said with regard to the local portion of sales taxes rebated to Canadian citizens, he believes state law should be changed so the local governing body decides if it wants to rebate the local portion.

Mr. Bjerke said the other concern he wants to discuss is property tax exemption for private businesses operating in a facility on state land. He said the authority to grant these exemptions should come from the city and not from the decision of state government. He said these businesses operating in incubator status raise a number of concerns. He said one issue is the local governing body has no authority to review how appropriate exemptions are or the degree to which the incubator business will compete with existing businesses in the community. He said another consideration is there is no restriction on the time that businesses can continue to operate on state land and be exempt from property taxes. He said the incubator status of businesses should be limited to not more than three years to five years, and those businesses then must move off state land and into the private sector or pay appropriate property taxes if they remain on state land.

Representative Kasper said he appreciated Mr. Bjerke's comments on cutting the city budget and asked Mr. Bjerke what areas in the city budget he would prefer to cut. Mr. Bjerke said economic development and other costs outside the role of government to provide services to taxpayers are costs he believes should be eliminated from city spending.

Representative Owens said he believes there was a provision in a bill or at least a discussion by a legislative committee about requiring incubated businesses to leave the incubator premises after a period of years. He asked for information on that issue for the next committee meeting.

NORTH DAKOTA ASSOCIATION OF COUNTIES

Chairman Cook called on Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, who said the association was requested to address several topics for the committee. Mr. Traynor introduced Ms. Dawn Rhone, Auditor, Morton County, for presentation (Appendix Q) of information on the county budget process. Ms. Rhone said the first page of information she provided shows the disaster emergency services division budget calculation for the 2014 budget request and the budget data for 2011 through 2013. She reviewed the information on the 2014 general fund revenue budget and the 2014 requested budget amounts. She said the 2014 budget represents an increase of 9 percent from the 2013 budget. She reviewed the Morton County 2014 budget information, indicating a reduction of 10.65 mills in the county mill rate.

Senator Cook said he understands that the county social services board sets the salaries of county social services employees and asked if that is correct. Ms. Rhone said that is correct, and the county commission has no authority over county social services employee salaries.

Representative Schmidt asked if the information showing estimated funds available includes money held in reserve. Ms. Rhone said those amounts do include reserve funds. Representative Schmidt said his interest is in entities other than the county that have money in the bank. Ms. Rhone said those kinds of funds may not be included if not reported by those entities. Representative Schmidt said he thinks the information needs to include money held in the bank or in reserve for those entities reporting to the county. He said he believes a lot of water boards have a substantial amount of money in the bank.

Senator Unruh raised a question of whether there is any statutory provision requiring various governmental entities to report funds in reserve or in investments. Mr. Walstad said the State Auditor stated at the previous meeting that information is available in audit reports, but individual audit reports have to be examined to find the information. Mr. Walstad said he is not aware of a specific statutory provision requiring reporting on investments and funds held in reserve. Ms. Rhone said she is not aware of any legal authority on that issue.

Mr. Traynor reviewed prepared testimony (Appendix R) regarding budget meeting notices and attendance. He reviewed prepared testimony (Appendix S) relating to previous legislative efforts regarding county levy consolidation authority.

Senator Cook asked if the history of legislative consideration of consolidation of levy authority shows legislative concern that counties may use consolidation to increase tax rates. Mr. Traynor said that was a significant concern, and there were some who expressed opinions that counties would use the increased mills available through consolidation to increase taxes on county residents.

Representative Headland said it appears during the time when a percentage increase in property tax levies was allowed for several years, the counties that took maximum advantage of the increased authority are now able to levy significantly more than other counties. He said it appears to him that approach is part of the current problem with property tax levels.

EDUCATION FUNDING CHANGES

Chairman Cook called on Mr. Jerry Coleman, Director of School Finance, Department of Public Instruction, for information (Appendix T) on 2013 legislative changes and school district ending fund balances. Mr. Coleman reviewed the 2013 revision of the foundation aid formula, property tax levy changes, and the worksheet developed for determination of state aid to school districts. He reviewed information on 1996 to 2013 school district general fund and ending balance information.

Representative Headland asked if school districts have an incentive by law to grab the maximum available property tax levy. Mr. Coleman said he has heard opinions both ways, and although final information will not be available until January, he has heard that some districts will try to maintain a levy at or near 60 mills and that others will increase levies. Chairman Cook said he thinks we will learn more about that question when levy data becomes available in January.

Senator Laffen said he has heard it said by school district officials that when property tax funding was a greater share of school district revenue, a fast-growth district realized additional revenue faster than under the state funding model. Mr. Coleman said under the current formula, schools on a statewide basis will obtain about 20 percent of revenue from property taxes. He said previously schools obtained approximately 50 percent of revenue from property taxes. He said statistics that drive the state aid formula use the prior year numbers, which means there is a timelag built into foundation aid funding. Representative Nathe said legislative changes also included availability of rapid enrollment grants for districts experiencing a growth of 4 percent or more in student enrollment.

Senator Cook said if a school district reduces its levy to less than 60 mills, it would see a reduction in state funding because it is not making a maximum effort. He said if a school district could use part of its ending fund balance to reduce its mill rate to 54 mills, the district would be disadvantaged in the state funding formula and this means there is an incentive not to use ending fund balance money to reduce property taxes. Mr. Coleman said the new funding formula did not create an incentive that did not exist before. Senator Cook said he understands the incentive is not new but is an issue that should be explored.

Chairman Cook called on Mr. Tom Nitschke, Superintendent, Kulm School District, for comments on school funding. Mr. Nitschke said he heard concerns expressed that taxpayers will not see the property tax relief provided by the Legislative Assembly. He does not believe that is true. He said not every school district grabs every dollar of property tax levy authority available. He said taxpayers in his school district will see a property tax reduction of 25 percent. He said the Kulm School District levied 60 mills, although it would have been possible by law to levy 67.2 mills. He said with regard to the question of the amount needed as an ending fund balance, smaller districts require a greater cushion. He said a 35 percent ending balance for the Kulm School District is about $700,000. He said that amount can be eaten up quickly if student enrollment changes significantly. He suggested consideration be given to allowing an increase of more than 12 percent from the previous year for a district levying fewer than 60 mills.

Chairman Cook called on Dr. Jon Martinson, Executive Director, North Dakota School Boards Association, for information on school district levies. Dr. Martinson said the association surveyed school districts through its website to attempt to retrieve information on 2012 and 2013 school district taxable valuation, mill levies, and property taxes in dollars. He said several respondents clearly had difficulty entering the correct information, and the resulting information received is unreliable for committee use.

Chairman Cook called on Mr. Adam Mathiak, Fiscal Analyst, Legislative Council, for presentation of a memorandum entitled *Property Taxes and Assistance to Political Subdivisions - 2005-07 Biennium to 2013-15 Biennium*. Mr. Mathiak said the tables shown in the memorandum are intended to reflect on a biennial basis over a period of 10 years the amount of property tax collections statewide, state assistance to political subdivisions, and the total available to political subdivisions through property taxes and state assistance.

Chairman Cook recessed the meeting at 4:45 p.m.

Chairman Cook called the meeting back to order at 8:00 a.m. on Wednesday, November 6. He welcomed Senator Grindberg to the meeting and said he invited Senator Grindberg to attend because he has been significantly involved in legislative economic development issues for several legislative sessions.

Chairman Cook called on Mr. Walstad for review of information (Appendix U) from "Financing Options for North Dakota Cities and Park Districts" prepared by Arntson Stewart Wegner PC. He said the publication was provided courtesy of Mr. Scott Wegner. He said the committee requested information to identify "loopholes" that would allow political subdivisions to incur debt without approval of voters. He said financing options for political subdivisions are extremely complex, and the publication provides an excellent summary of options available. He said the publication provides a review of political subdivision debt limits, traditional financing methods through general obligation bonds and public vote approval, general obligation bonds that may be issued without a public vote, revenue bonds, lease financing including special provisions for law enforcement facilities and lease revenue bonds, tax increment bonds, housing authority revenue bonds and general obligation housing bonds, Municipal Industrial Development Act (MIDA) bonds, and miscellaneous specialty provisions. He said there are two or three areas that may fall into the kinds of debt authority in which the committee expressed interest. He said one is financing through a building authority. He said this topic was addressed by passage of 2013 House Bill No. 1286, which provides that lease financing through a building authority involving a total project cost of $4 million or more must obtain approval from a majority of qualified electors of a school district before a project may proceed with that funding method. He said another area of possible concern is with regard to county and city authority to enter leases for court, corrections, and law enforcement facilities under North Dakota Century Code Section 57-15-59. He said this provision allows a county or city governing body to enter leases for court facilities, corrections centers, jails, and other law enforcement facilities for a term of 1 year to 20 years. He said the section requires the governing body to dedicate necessary annual mill levies to fund lease payments and the levies are irrepealable as is the case for bonded debt. He said the section allows the governing body to levy up to 10 mills for purposes of lease payments. He said this provision is broader than the authority of building authorities because it allows dedication of 20 years of mill levies. He said this section of law has been the topic of news articles (Appendix V) in October because the Griggs County Board of County Commissioners approved funding of a $3.5 million courthouse and emergency operations center despite voters having rejected a bond issue for the proposal three times in separate elections. He said there was a resulting petition drive, and all of the members of the Griggs County Board of County Commissioners were recalled and replaced in an October election. He said another funding option is that school districts are eligible to borrow from the state's school construction fund and finance payments through the building levy without voter approval. He said this financing method has existed for many years.

Chairman Cook called on Ms. Sprynczynatyk for presentation of information on behalf of the League of Cities regarding grantor reports prepared by cities to evaluate property tax exemption proposals. She said all cities are determined to grow. She said people want vital communities at minimal cost. She said legislators should keep in mind that if the connection between who pays for services and who wants those services is broken, it breaks an important link in assuring fairness in taxation policy.

Ms. Sprynczynatyk distributed a copy (Appendix W) of sample grantor reports for Minot, West Fargo, and Bismarck. She said grantor reports are prepared by cities as required by law. She said grantor reports should be available from any city in which exemptions have been provided, and the information should be available upon request or through website access.

Mr. Bill Wocken, City Administrator, Bismarck, provided testimony (Appendix X) on city evaluation methods for proposed property tax exemptions. He said it appears the committee hopes to devise methodology for uniform evaluation of property tax exemption proposals. He said he could not devise a method that would be universally effective. He said challenging local government to look at a business model when granting exemptions is the best advice he can provide. He said a property tax exemption is like an investment by a local government. He said different options might be best for different cities, but if an exemption is looked at as an investment that needs to have a positive return, he thinks cities will continue to be well-served.

Mr. Wocken provided and reviewed a spreadsheet of current Bismarck renaissance zone projects and status. He said the property in the renaissance zone had a consolidated beginning value of approximately $14.7 million and a 2013 market value of approximately $32.1 million.

Representative Nathe said many of the businesses listed in the Bismarck renaissance zone for exemptions are already very successful. He asked if the relative wealth or success of a business applicant is considered. Mr. Wocken said there is consideration of the chances of success of the proposed business venture. Representative Nathe asked if the relative wealth of the applicant is considered. Mr. Wocken said there is no needs test applied in consideration of renaissance zone applicants.

Representative Headland said there are companies on the renaissance zone list that appear to have five different tax entities qualifying for exemptions. He asked if there are developers gaming the system by the way the business is structured. Mr. Wocken said under the renaissance zone law, there are exemptions available for new building, remodeling, and leasing. He said that approach may account for use of leasing entity exemptions. Representative Headland asked if it is fair for one company to qualify for several exemptions. Mr. Wocken said the reason for the leasing exemption is to make leasing of revitalized property feasible. He said he cannot address the fairness of that exemption.

Senator Grindberg said the renaissance zone in Fargo has been a great success in developing the downtown area. He said giving up tax revenue for five years provides an enhanced tax base going forward and improves the community. He asked Mr. Wocken at what point he believes a renaissance zone is no longer needed. Mr. Wocken said Fargo initiated action with its renaissance zone earlier than Bismarck. The renaissance zone has been a success in Bismarck. He said the renaissance zone law caps the number of blocks that may be included in a renaissance zone, but as projects are completed, the renaissance zone area can be moved to cover other property so there can be continuing use of the renaissance zone for redevelopment if a need exists in the community. He said a time will come for a city to phase out use of renaissance zones, and that time would be determined based on the conditions in each city.

Senator Burckhard said use of the renaissance zone in Minot has been successful in revitalizing downtown Minot.

Mr. Walstad said the committee heard suggestions that written agreements should be used between city governing bodies and project developers seeking property tax exemptions. He asked if written agreements are used by the city of Bismarck. Mr. Wocken said there should be written agreements in granting exemptions, but he cannot verify that there has been a written agreement in every case for the city of Bismarck.

Chairman Cook called on Mr. John Phillips, Economic Development Association of North Dakota. Mr. Phillips said he is also Director of the Beulah Economic Development and is working with affordable housing through Lutheran Social Services. He said targeted investment strategies at the state level have helped achieve economic growth. He said at the local level, the same principle should apply, and economic development efforts must be tailored to meet local conditions and needs. He said there are all sizes of communities in North Dakota and allowing flexibility at the local level is the key to allow locals to tailor incentives to local needs. He said two pieces of key legislation were enacted in 2013 to establish the housing incentive fund and to provide for affordable child care. He said the funds for these programs have already been exhausted. He said the Economic Development

Association of North Dakota is ready to provide a resource for the committee in examination of economic development incentives.

Senator Cook said in the 1990s, the state tried to develop job creation programs to encourage young people to remain in North Dakota. He said conditions have now changed, and unemployment is at a very low rate and perhaps the target of economic development efforts should be changed to meet current needs. He asked if there are some economic development programs we no longer need. Mr. Phillips said that is a good question to evaluate. He said conditions have clearly changed since many of the laws on economic development incentives were enacted.

Senator Cook said there is mixed public opinion on whether property tax exemptions are appropriate. He said some people think targeted exemptions are unfair and that all property taxes should be reduced or eliminated. He asked if we have created an environment where there are some economic developers who believe an exemption should be requested for every investment. Mr. Phillips said it is in this respect the discretion of the community comes into play. He said there is a difference between smaller communities and the larger cities in need for economic development and the kind of development that is appropriate.

Senator Cook said the legislature provided $2.6 million for child care grants in 2013. He said the program has been exhausted and that he questions if there are child care providers out there waiting for the next legislative session to provide grants before beginning a child care business. Mr. Phillips said he does not believe waiting for another round of grants is a major factor in child care decisions. He said community demand for quality child care should be an adequate incentive where there is significant demand for child care services.

Representative Dockter said he would like to see statistics a year from now on the success of grants provided to initiate child care facilities. He said he believes market demand in the community is a more important factor than grants.

Senator Laffen said he believes economic development efforts make sense. He said he believes there should be focus on diversification so that in 30 years when economic conditions change, there are businesses in place that do not rely exclusively on current economic circumstances.

Chairman Cook called on Mr. Justin Dever, Manager, Office of Innovation and Entrepreneurship, Department of Commerce, for presentation (Appendix Y) of an annual report for business incentive accountability.

Mr. Dever said Chart 1 on page 10 of his handout indicates 42 percent of projects have been successful in meeting goals established for grants approved at least two years ago. He said another 8.6 percent of projects have repaid in full the amount of loan benefit received, and 30.8 percent have not met goals for the approval granted at least two years ago. Representative Headland said the chart indicates 30.8 percent of projects did not meet the goals established. He asked what happens to companies that do not meet the goals. Mr. Dever said if a project has not met its goal at marker dates in the agreement, it will no longer receive partnership in assisting community expansion (PACE) benefits.

Representative Nathe asked if the failure rate for some of these projects is attributable to inability to find employees in this market. Mr. Dever said that could be a part of the problem for some projects. Representative Nathe said it is ironic that the success of the state economy may contribute to failure of some projects because not enough employees are available.

Mr. Dever said the data provided indicates about 46 percent of projects that were successful met job creation goals in one year to two years. He said another 46 percent of successful projects met job creation goals in the third year, and the remaining 7 percent met job creation goals after the third year.

THE PEW CHARITABLE TRUSTS

Chairman Cook called on Mr. Jeff Chapman, Manager, Economic Development Tax Incentives, The Pew Charitable Trusts, and said Mr. Chapman was invited to North Dakota to describe efforts of The Pew Charitable Trusts (Pew) in assisting other states in evaluation of tax incentive provisions of law. Mr. Chapman said Pew has worked with a number of states on issues relating to evaluation of tax incentives provided at the state level. Pew has not developed a "model bill" and tries to evaluate existing circumstances and tailor suggestions to the conditions existing in individual states.

Mr. Chapman reviewed a PowerPoint slide presentation (Appendix Z) prepared for committee consideration. He said there are four principles Pew has identified as applicable to evaluation of tax incentives. He said states should review incentives regularly to see if they still serve the intended purpose. He said some states do this on an ad hoc basis, but a regular review is an important component because of changing conditions. He said evaluations should be based on measurable goals. He said questions to evaluate are how the incentive fits in the current state strategy for development, what is the measurable goal, does the incentive still fit state priorities, and is it cost-effective.

Representative Schmidt said the suggestion of a cost-benefit analysis is of interest for North Dakota. He asked if Pew has a suggested process North Dakota could consider for use in cost-benefit analysis. Mr. Chapman said Pew does not have a model but does work with states to tailor a creative way to do this. He said Pew has worked with economists and applied other methods in other states. He said Pew can offer help to develop individual approaches.

Mr. Chapman said the third principle for tax incentive evaluation is to measure the benefits and costs using rigorous evaluation, and the fourth principle is use evidence to inform policy choices. He reviewed the information for each of the four principles described in his slide presentation. He said evidence must be used to form policy choices, which involves the question how can evaluations be best connected to policy decisions. He said Oregon follows an approach of sunsetting incentives, which requires legislative review of incentives at regular intervals. He said another approach is requiring regular legislative hearings to consider incentives as done in Washington, Iowa, and Arizona. In this approach, he said, regular legislative hearings are required to consider completed evaluations of programs. He said Pew worked with the state of Rhode Island to establish a program for a three-year cycle of evaluation of incentives. He said the Governor is required to consider the evaluations done during the most recent cycle and include recommendations on those incentives in the Governor's budget. He said this process triggers legislative review of incentives on a regular cycle.

Senator Cook said there are help wanted signs all over in North Dakota. He said perhaps this change in employment suggests the legislature consider reexamining incentives that were intended to create jobs when the economy was in a different circumstance. Mr. Chapman said he is not an expert on the North Dakota economy, but those kinds of changes are the reason reevaluation of incentive policies is important.

Senator Cook asked if the reviews are entirely legislative or if analysis is involved by a state agency. Mr. Chapman said Pew would recommend an analytical capacity be involved in the process, perhaps through a state agency as has been done in other states. He said the important thing is there is someone who has the resources and capacity to provide useful information to the legislature for consideration.

In response to a question from Representative Nathe, Chairman Cook said he hopes that Pew will be able to participate in further consideration of options for evaluating incentives and establishing a process for ongoing consideration of incentives the legislature has provided. Senator Cook said there has been some discussion in North Dakota about the feasibility of eliminating the income tax. He asked how Mr. Chapman would suggest evaluating that option. Mr. Chapman said that issue is outside his expertise. He said Pew may be able to assist in some capacity in evaluating or suggesting ways to evaluate that possibility. Senator Cook asked for a description of how Pew worked with the state of Rhode Island. Mr. Chapman said a window opened because an incentive was granted in Rhode Island that did not work out and was cause for reevaluation of incentives. He said Pew has also been working with Maine providing assistance to a task force established for this purpose. Senator Cook asked how many trips to Rhode Island or Maine have been made. Mr. Chapman said Pew assistance in Rhode Island has mostly been conducted by telephone conversations. He said Pew staff have made four trips or five trips to Maine this year.

Representative Froseth asked if the legislature receives a regular report on the cost of tax exemptions. Mr. Fong said the Tax Department has provided reports on the cost of exemptions as requested by legislative interim committees. He said the Tax Department Red Book publication contains information on exemption costs that are regularly requested, such as sales tax exemptions.

Representative Headland said there is a constant interest in property tax exemptions and the cost to other taxpayers. He said there is little or no information available on the total amount of property tax exemptions and effects on other taxpayers. He said he would like to see that resource developed. Mr. Chapman said Pew does not work directly on local exemption issues. He said he believes it is an issue that should be considered by states.

After a brief recess, Chairman Cook reconvened the meeting for a discussion by a panel consisting of Mr. Chapman, Mr. Dever, Mr. Wocken, and Mr. Keith Lund, Vice President, Economic Development Association of North Dakota.

Mr. Lund said he would agree that every state could improve its method of evaluating tax incentives. He said the Economic Development Association of North Dakota views incentives as investments by the state, and the investments should be made wisely based on proper evaluation. He said the association offers its help as a resource.

Mr. Dever said he sees three related areas that require consideration. He said one is transparency, which means making information available so the public knows who is receiving incentives. He said accountability should require recipients to account for the results they promised in seeking the incentive. He said the third component is measuring and evaluating the effectiveness of the incentive. He said one of the difficulties with measuring incentives is that much of the income tax information is confidential and not available to the Department of Commerce.

Senator Cook said the issue of confidentiality of income tax information is a concern he shares in considering how to evaluate incentives. Mr. Dever said the Tax Department has information, and Job Service North Dakota has information that would be useful in evaluation. He said consideration might be given to making an incentive contingent upon the applicant waving confidentiality to the extent necessary for evaluating the incentive.

Senator Cook asked how we evaluate the state focus of incentives in a changing economy. Mr. Dever said that is an important consideration, and perhaps a different focus is required in different parts of the state. Mr. Wocken said the city of Bismarck does ask for some confidential information from applicants for tax incentives. He said the city agrees to retain confidentiality for access to the information. He said the city of Bismarck believes the city must anticipate needs before they arise. He said developing an economic engine takes time, and being ahead of developments is very important to proper administration of incentives.

Representative Schmidt asked if consideration should be given to an opportunity to expand to low-interest loans in lieu of tax incentives. Mr. Dever said North Dakota has PACE programs in place now for low-interest loan assistance.

Senator Cook asked Mr. Lund what would the Economic Development Association of North Dakota think if the legislature looked at a bill to sunset tax incentives at regular intervals. He said he has not had an opportunity to discuss that question with the board, but he would suggest periodic review of incentives rather than sunsetting.

Senator Cook asked what if the Economic Development Association of North Dakota examined incentives and brought forward recommendations. Mr. Lund said there may be some incentives that are not being used much or not accomplishing the intended purposes, and it would be good to review incentives on that basis. Senator Cook asked if the association would do so. Mr. Lund said he would work with the Department of Commerce on this approach.

Representative Froseth said he sees the northeast corner, central area, and other pockets of the state that have not had the same degree of economic growth. He suggested the evaluation include consideration of those pockets to see if special efforts are needed.

Representative J. Kelsh said he would agree that we seem to be focusing on the needs of western North Dakota and larger cities. He said incentives available for use in rural areas are very important. He said a few jobs in a small community can make a big difference.

Mr. Chapman said targeting incentives to areas has been used successfully. He said evaluation in another state found some recipients did not really need an incentive they were getting. He said scarce resources must be effectively used.

Representative Headland said we have reduced individual and corporate income taxes, and North Dakota is still ranked below average in some surveys of business climate. He asked how lowered tax rates for all compare to targeted incentives. Mr. Chapman said some entities that do comparisons prefer lower rates, and some prefer targeted incentives. He said those factors come into play to affect rankings of individual groups.

Representative Ruby said legislators hear suggestions of expanding the tax base from some quarters and use exemptions for incentives from other quarters. He asked when an expanded tax base is going to provide benefits that will help all taxpayers. Mr. Lund said that is a complicated issue. He said you would probably receive different answers in different areas. He said in Grand Forks, the city has about $30 million in property tax exemptions, and some projects would not have happened without this assistance. He said this is less than 1 percent of the tax base in Grand Forks, and that is a relatively small cost to obtain the benefit and diversification to the economy.

Representative Owens said it appears the common theme of the discussion is developing a method to properly measure the goals of economic development incentives. He said there are many questions that must be addressed on analysis and targeting. He suggested as the participants work through these issues, attention should be given to developing specific metrics on what standard should be used to measure effectiveness. He said this would also include consideration of a confidentiality waiver policy. He asked if accurate measurement recommendations would be possible. Mr. Dever said in consideration of these issues, the group can be looking at that as an important component. He asked Mr. Chapman what other states are looking at in terms of metrics other than the issue of job creation. Mr. Chapman said Pew has been working with the state of Nebraska recently as Nebraska tries to determine the goals of an incentive that has existed for quite a long time. He said Pew can be a resource for methods used in other states. He said for setting goals, it is difficult to do, and states do not do very well on this. He said Washington has just established a requirement for the Legislative Auditor to consider establishing goals for incentives. He said Pew has recommended to states that they not try to measure everything at once. He said evaluation of programs over a four-year or five-year period could involve review of perhaps one-fourth of recipients each year. He said at the beginning of the review for the selected recipients, a discussion is held with the evaluators to determine if the focus of evaluation is the number of jobs, the quality of jobs, the cost per job created, or other factors.

Representative Nathe said the value of economic development is felt more in smaller communities. He asked Mr. Chapman if Pew has experience in targeting incentives to areas. He said he does not know that any state has perfected targeting decisions. He said it is an issue that other states are facing, and he would be happy to look into that issue.

Mr. Wocken said state goals and local goals must be established. He said projects should be looked at from both points of view.

Representative Nathe said he believes development policy must be targeted and based on community size and the level of development in a particular area.

Representative Dockter said there was a bill last legislative session basing incentives on population. He said he likes the idea of targeting, and there are incentives in place that can be looked at to determine if they are effective using population restrictions.

Representative Ruby said he questions whether it is the role of government to encourage someone to do something they would not otherwise do. He said we should consider if we can overincentivize something beyond its efficiency point. He said consideration in evaluations should be given to the benefit to the entire community.

Mr. Wocken said he sees that issue as the responsibility of the granting entity. He said as a city official, consideration must be given to the benefit to the entire community. He said there may be some incentives available to local entities that do not fit the circumstance that exists and would not be used. He said setting goals for state programs and allowing local governments to set their own goals is the best approach.

Mr. Lund said the question of what someone would not ordinarily do should also be phrased as what someone would not ordinarily do in North Dakota. He said if a project is in initial stages and could be located in another state, the value of incentives to encourage the project to locate in North Dakota can be very significant.

Chairman Cook said the discussion should be altered to address what we all agree on and what we do to move forward. He said it appears to him the committee agrees that further consideration of these issues is required. He said he thinks the committee agrees that we cannot throw out all incentives, and we need to retain some incentives for development. He said it appears the committee agrees that improved methods should be developed for evaluation of incentives. He said it appears we agree that diversification should be a consideration in incentives to focus on what we want for a future economy. He said it also appears there is agreement that programs may need to be tailored to fit different areas in the state.

Representative Headland said another issue for consideration is workforce development. He said policies may need to be directed to attracting qualified workers to the state to fill jobs.

Representative Froseth said some communities in the state have the capacity to handle water and sewer needs for an additional 50 homes. He said some communities do not have capacity for additional homes without imposing additional tax loads to create water and sewer infrastructure and perhaps expand the local school to accommodate additional students. He said some kind of resource inventory might be considered to determine what areas have the capacity to absorb additional population growth without added cost in property tax and special assessments. He questions if the League of Cities or Association of Counties could conduct some sort of survey in that respect.

Chairman Cook asked Mr. Lund and Mr. Dever what they would be able to do to assist the committee. Mr. Lund said the Economic Development Association of North Dakota intends to work with the Department of Commerce to look at some of the incentives and would look to the Department of Commerce to be the conduit of information to the committee.

Chairman Cook said a good way to spur consideration of issues is to have bill drafts for consideration. He asked Mr. Walstad to work with Mr. Chapman to develop bill drafts for the committee to consider relating to evaluating tax incentives. He said the topics should include sunsetting of tax credits, periodic reviews, sharing of confidential information with evaluators, and other evaluation approaches for committee consideration.

Mr. Chapman said it would be useful to nail down in the next year a method to make ongoing evaluation a permanent part of the process in North Dakota. Chairman Cook said another bill draft should be prepared with that focus.

Mr. Dever said the North Dakota Economic Development Foundation should be considered as a resource for committee consideration of evaluation of incentives.

INCOME TAX STATISTICAL INFORMATION

Chairman Cook called on Mr. Joe Becker, Tax Department, for presentation of information on the effects of legislative reductions of individual and corporate income tax rates from 2009, 2011, and 2013 legislation. Mr. Becker said he was requested to provide information on individual income tax rate reductions and distributed a copy (Appendix AA) of the information. He said there was also earlier discussion about economic development targeted individual income tax credits and corporate income tax credits, and he distributed a copy (Appendix BB) of information on those credits. He reviewed the information contained in these tables.

PROPERTY TAX DISCUSSION

Chairman Cook said since the legislative session ended and the committee has been conducting its meetings, he has heard a number of observations and speculation about property tax reductions taxpayers will see in 2013. He said there are a number of issues he wants to point out to the committee.

Senator Cook said at the conclusion of the 2013 legislative session, statements were made that the legislature had provided a property tax reduction of about 40 percent. He said he assumes this led some taxpayers to believe their property tax bills would be reduced 40 percent this year. He said there is a requirement in law that political subdivisions that are taking some of that property tax relief away by increasing property taxes must send notice to taxpayers. He said one of those notices that was sent out contained the statement that although we have reduced the mill levy by 27.11 percent, state law requires that we list this as an increase of 10.94 percent. He said holding out to the public that a property tax reduction has been provided when in reality it is an increase in property taxes because of valuation increases creates confusion. He said the result of political subdivision tax increases is a reduction in the potential property tax relief provided to taxpayers. He said he is looking at a property tax bill that some taxpayer will be receiving that shows the true and full valuation increased from approximately $82,000 to $111,000. He said the statement indicates the mill rate for the property was decreased. He said the taxpayer will probably hear local officials say they reduced taxes by nine mills. He said the reality is that the taxpayer has to pay $167 more than in 2012.

Senator Cook said the legislature and local government are in this together. He said it is important that local officials and the legislature speak in the same terminology so taxpayers are not confused about what ends up on the property tax bill and why.

Senator Cook pointed out a newspaper article from *The Bismarck Tribune* with a caption stating that Bismarck plans to cut taxes. He said if you read the article, it states that taxes on a $200,000 home will amount to about $1 less than 2012. He said the value of that home will probably increase in 2013 and result in a property tax increase for that home.

Senator Cook said an article appeared in the *Great Plains Examiner* poking fun at *The Bismarck Tribune* article with the caption that Bismarck plans to cut taxes. He said in that article the author suggests the legislature must reform the system to prevent local government from fooling the public with a numbers game. He said the author went on to suggest the legislature should have discussed issues that have been "floated" to reform the property tax system. He said the article contains six bullet points of these ideas that have supposedly been floated including replacing market value with actual construction replacement cost. He said he has never heard this suggested in any legislation or legislative hearing. He said another suggestion is to end the threat of eviction by prohibiting local and state government from seizing private property from citizens. He said has never heard that idea presented to any legislative forum. He said the author suggested property values should be frozen for taxation purposes after 15 years of consistent ownership. He said that suggestion would clearly be unconstitutional in view of the uniformity of taxation requirement of the constitution. He said another suggestion is to eliminate all discretionary local property tax exemptions. He said the legislature has not taken that path but has put restrictions on local exemptions. He said the author suggests standardizing the property assessment process by putting the Tax Department in charge of training assessors and overseeing all property assessments statewide. He said the legislature did that years ago and strengthened Tax Department involvement in 2011. He said the author suggests eliminating the automatic tax revenue increases created by higher property values and local governments should have to go on record as raising taxes. He said the legislature did that by requiring notices to property owners of budget hearings if more than a zero-based budget is being proposed.

Senator Cook said there is so much misinformation being directed to taxpayers that, with regard to the letter to taxpayers about budget increases, we all have to get on the same page and understand the objective is to provide understandable information to taxpayers.

Senator Cook said another article in *The Bismarck Tribune* reported statements by Mr. Bob Hale, Attorney, Minot, at a meeting at the Bismarck Public Library. He said in the article, Mr. Hale is quoted as saying the legislature has not done anything about property tax relief. Senator Cook said we know the legislature has done a substantial amount in providing property tax relief. He said he believes it is important for the committee to make time available for representatives of local government to take the podium and give examples of every instance in which they have actually reduced the property taxes of taxpayers. He said he does not mean reductions of mill rates but actual reductions of property taxes in dollars. He said word should go out through the League of Cities, Association of Counties, and North Dakota School Boards Association to invite any taxing district to share information with the public through this committee on actual reduction of property taxes for taxpayers. After general discussion by the committee, Senator Cook said it appears there is committee support for inviting Mr. Hale to discuss his suggestions for property tax relief with the committee.

Chairman Cook said he thinks the legislature has expressed its intent that when property tax relief is provided, it should go to the taxpayer unless the taxpayer agrees that some of the reduction may be taken by local government.

Senator Cook called on Mr. Walstad to review 2013 Reengrossed House Bill No. 1290. He said it was requested that this bill be reviewed for the committee. He said the bill draft was not approved by the legislature but was introduced to impose a cap on tax levies of taxing districts. He said the maximum increase allowable under the bill draft would be a 3 percent increase in dollars over the amount from the previous year unless voters approve a greater increase. He said adjustments are included in the language of the bill draft to recognize an additional increase for new property on the tax rolls. He said there is an adjustment included to reduce levies from temporary mill levy increases authorized by the voters or state law that no longer exist. He said this bill draft also contained a provision regarding statement of property tax relief on tax statements that was included in 2013 Senate Bill No. 2036 as approved and enacted.

Representative Kasper said he sponsored the legislation because he believes property taxes are increasing too fast. He said he believes a limit should be in place that may be increased by voter approval. He said what happens with legislation like this is that representatives of political subdivisions appear to oppose the limitation. He said he would like those entities to appear before this committee to explain the reasons for their opposition and any suggestions for alternatives. Chairman Cook said that would be included on the next agenda and would be followed by time for comments by interested persons in attendance. He said the invitation should also be extended to Mr. Doug Johnson, North Dakota Council of Educational Leaders. Representative Kasper also requested Mr. Hale be invited to consider this bill draft and if it furthers some of his interests in property tax reduction or restraint.

Chairman Cook called on Mr. Walstad to review 2013 House Bill No. 1380. He said the bill was introduced in the 2013 legislative session to allow cities to establish a special assessments district containing certain properties not subject to property taxes. He said those properties could be assessed under the bill through a special assessments approach for their equitable share of the cost of safety and emergency services provided by the city.

Mr. Walstad said during the committee hearing on the bill draft, opposition was expressed by nonprofit organizations that stated that already stressed budgets of those entities would be subjected to additional costs. He said opposition was also expressed by the League of Cities because there is no net gain to cities from this process and the collections would go to reduce taxes paid by other taxpayers. He said the League of Cities also observed that although the assessment is stated as a special assessment, it looks like a property tax, which would violate constitutional exemptions for charitable and other properties.

Senator Cook said the legislature has studied this issue in the past. He said his view is that some entities should share in the cost of some services. He said he does not know if this is the correct approach. Committee discussion followed, and suggestions were made that perhaps only an entity that has a property tax exemption and operates on a fee-based process would be subject to special assessments.

Representative Kasper said there is some merit to exempting all entities that receive all revenues from contributions. He said the fact is some services should be paid for by entities that are exempt from property taxes but receive benefits from the services.

Senator Cook said from the discussion, it appears the dividing line on paying for services would be for entities that exist on contributions. He said no charge would be assessed for them, but for entities existing on billed services and fees, contributions should be required for emergency services.

Chairman Cook instructed Mr. Walstad to draft legislation for public discussion which would allow a city or county to impose property tax based on entities receiving more than an unspecified percentage of revenue from contributions being excluded and other nontaxable properties would be subject to a partial property tax levy.

Representative Kasper said he would also like the same approach used to prepare a bill draft based on the special assessments approach used in House Bill No. 1380.

FORESTRY STEWARDSHIP TAX STUDY

Chairman Cook called on Mr. Larry Kotchman, State Forester, North Dakota Forest Service, for testimony (Appendix CC) relating to the forestry stewardship tax.

Representative Schmidt asked if planted windbreaks of farmers would be covered by the forestry stewardship tax. Mr. Kotchman said planted windbreaks could be included if the windbreak was at least 60 feet wide, but not many windbreaks would qualify on that basis.

Representative Hatlestad asked what the difference to the landowner in cost would be under the forestry stewardship tax or under agricultural assessment. Mr. Kotchman said in Steele County, there was an example of the tax being raised from $4 to $5 to $9.60 per acre under agricultural assessment.

Representative Schmidt said there are grazable woodlands in Morton County that do provide an economic benefit to the owner. Mr. Kotchman said woodland tax treatment is only available for lands that are not grazed.

Chairman Cook called on Mr. Traynor for testimony (Appendix DD).

Representative Headland asked for an example for how state support would be provided to support the forestry stewardship tax treatment. Mr. Traynor said what Mr. Kotchman suggested would be ideal, and this kind of wooded land preservation fits the purpose of the heritage fund.

Representative Hatlestad asked if a county that has granted forestry stewardship tax treatment can stop that program in the county. Mr. Kotchman said the agreements with counties are for five years and must be renewed. He said a county could terminate participation at the end of the contract.

Senator Cook asked if other states have similar programs. Mr. Kotchman said some states use long-term easements and fee acquisition programs. He said the North Dakota Forest Service would not recommend those approaches.

Chairman Cook called on Mr. Randy Kreil, Chief, Wildlife Division, Game and Fish Department, for testimony on the forestry stewardship tax study. Mr. Kreil said the Game and Fish Department believes there are many benefits to preservation of wooded lands in North Dakota. He said the department owns property in some counties to preserve woodlands, but the department pays full property tax on those properties. He said the department believes the forestry stewardship tax program is for private landowners, to encourage retention of wooded acreage. He said the department has, within the private land open to sportsmen (PLOTS) program, a private forest conservation program. He said this program is a short-term agreement with landowners to provide hunters walking access to the property. He said under the program, agreements are entered for three years, and payment to the landowner is $12 per acre.

Mr. Kotchman said it is intended that an application will be submitted to the outdoor heritage fund for support of this project. He said the upcoming deadline for applications with the outdoor heritage fund is December 2, and another round of applications is scheduled for April 2014. He said the Industrial Commission would have the final say on whether the program will be funded. Representative Headland asked if there is any evidence available about these properties changing hands. Mr. Kotchman said records are kept of declassified property, and there are very few acres declassified. He said there have been some changes of ownership.

PROPERTY TAX ASSESSMENT INCREASE NOTICES

Chairman Cook called on Mr. Walstad for presentation of a bill draft [15.0020.01000] relating to notice to a property owner of an assessment increase. During the notice mailings for this tax year, he said, it was discovered that notices were not sent out to taxpayers for assessment increases in some counties that relied on a 1983 Attorney General's opinion (Appendix EE) that notice of an assessment increase does not have to be given when the county board of equalization raises the assessment for an entire class of property 15 percent or more over the last assessment.

Mr. Walstad said the bill draft was prepared to address situations in which a board of equalization is the source of an order for an increase of valuation of property that would put the total valuation increase at a higher amount than the 10 percent increase currently required for notice. He said the current law has a provision for assessor notice to taxpayers of an increase of $3,000 and 10 percent from the previous year's value. He said the bill draft includes a separate provision requiring notice by a township, city, or county board of equalization or order of the State Board of Equalization resulting in a property valuation increase of the same threshold that applies to notice from the assessor. He said the other notice component is under Section 57-15-02.1, which requires notice of a property tax levy exceeding a zero increase number of mills which must be sent to taxpayers who received notice of an assessment increase under Section 57-12-09. He said Section 57-15-02.1 is not amended by this bill draft because it requires notice of a property tax increase to anyone who has received notice under Section 57-12-09 of an assessment increase. He said those affected by orders of a board of equalization action will also be triggered to receive the notice of a property tax levy increase.

COMMITTEE DISCUSSION

Chairman Cook asked committee members for suggestions of items for consideration at the next committee meeting.

Representative J. Kelsh said consideration must be given to inflation factors faced by local governments. He said if you have increasing costs and salaries, you have growing revenue needs to meet those increases. He said one example is roads, for which costs of building have doubled in 10 years.

Representative Ruby said the incubator exemption discussed in Grand Forks raises interesting questions. He said information should be provided on how the exemption is provided and the program.

Chairman Cook said the next meeting would probably be scheduled for January, but the timing would depend on availability of data on 2013 property tax totals.

No further business appearing, Chairman Cook adjourned the meeting at 2:00 p.m.

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Samantha E. Kramer
Committee Counsel

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John Walstad
Code Revisor

ATTACH:31