

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**TAXATION COMMITTEE**

Tuesday, September 16, 2014  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Dwight Cook, Chairman, called the meeting to order at 9:00 a.m.

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

**Members absent:** Representatives Dan Ruby, Robin Weisz, Steven L. Zaiser

**Others present:** Senator Joan Heckaman, member of the Legislative Management, was also in attendance. See [Appendix A](#) for additional persons present.

**It was moved by Representative Headland, seconded by Senator Burckhard, and carried on a voice vote that the minutes of the July 30, 2014, meeting be approved as distributed.**

**TAX DEPARTMENT - USE OF MODIFIERS IN  
AGRICULTURAL PROPERTY ASSESSMENTS**

Chairman Cook called on Ms. Sara Meier, Property Tax Specialist, Tax Department, for presentation ([Appendix B](#)) of information on the use of modifiers in agricultural property assessments and access to information on those modifiers already reflected in certain soil survey classifications. Ms. Meier provided information on the various websites available to assessors to assist in the valuation of agricultural property. She provided a demonstration of the functionality contained within those sources by analyzing an actual parcel of property located in Grant County. She said assessors could obtain information from these sources, including the location of a parcel, map unit information, soil information, slope, vegetative productivity index ratings, and crop productivity index ratings.

In response to a question from Chairman Cook, Ms. Meier said the parcel she discussed in her demonstration is currently being used as pasture land but is classified as cropland for purposes of taxation. She said Grant County does not differentiate between cropland and noncropland for purposes of valuation. She said the valuation schedule used in Grant County applies to all agricultural property regardless of how the property is actually used. She said some counties differentiate between cropland and noncropland for valuation purposes and some do not.

In response to a question from Committee Counsel, Ms. Meier said North Dakota State University (NDSU) determines the average value per acre for cropland and noncropland in each county. She said if a county does not differentiate between cropland and noncropland, the county will use the amount of acres reported by the Farm Services Agency to determine where the split is regarding cropland and noncropland acres.

In response to a question from Committee Counsel, Ms. Meier said if a county wanted to determine the value of a certain type of land based on a percentage of noncropland value, the noncropland value percentage would be derived from the noncropland value determined by NDSU.

In response to a question from Chairman Cook, Ms. Meier said some counties, such as Walsh County, differentiate between cropland and noncropland due to the existence of areas where high-quality soils are intermingled within larger areas of lower quality soils. She said rather than modifying an entire area containing only a small amount of high-quality soil, Walsh County will classify the area as noncropland to avoid inflating the value of the property above what the land can actually be used for. She said different methods of valuation work better for different counties.

Chairman Cook said it appears counties are not uniform in how they approach valuation.

Representative Schmidt said valuation should be tied to the inherent ability of a soil to produce, regardless of how the land is actually used.

In response to a question from Representative Belter, Ms. Meier said Grand Forks County is currently placing greater weight on actual use. She said Grand Forks County will not be applying modifiers this year.

In response to a question from Representative Headland, Ms. Meier said the valuation applied to similar soils located in two separate counties would likely not be the same. She said right from the beginning, each county starts out with its own values for agricultural land as determined by NDSU. She said whether the variance would grow larger based on whether a county differentiates between cropland and noncropland has not been studied.

Ms. Meier said a summary of the statutory provisions regarding agricultural property assessment is included in her handout. She said publications and courses regarding property assessment are also listed in the handout, as well as recommendations for the development of additional resources going forward. She said appropriate use of the information currently available and potential development of additional guidelines will hopefully increase consistency in the methods of valuation used from county to county. She said beginning in 2012, the soil survey method of valuation must have been implemented for use as the basis for agricultural assessments.

Committee Counsel said the agricultural productivity formula was first placed in statute in 1981. He said soil survey information was not available when the formula was first created. He said NDSU is currently required to calculate the average value per acre for cropland and noncropland within each county. He asked how use of soil survey data is now implemented within the formula valuations for cropland and noncropland. Ms. Meier said the average value for all agricultural land within a county is arrived at by taking the weighted average of cropland and noncropland values.

Chairman Cook said it would be interesting to see what type of valuation changes would result if the noncropland classification was removed in a county using both a cropland and noncropland classification in determining valuations. In response, Ms. Meier said the likely result would be a decrease in the value of those soils in the cropland category and an increase in the value of those soils in the noncropland category. She said this result would occur due to a spreading of value over all soils rather than having two separate categories of soils with an average value for each category.

In response to a question from Representative J. Kelsh, Ms. Meier said valuations are based on soil type at the county level. She said information from NDSU's formulas are used to determine production information for cropland and noncropland.

In response to a question from Representative Headland, Ms. Meier said she was not aware of the exact number of counties currently utilizing both cropland and noncropland classifications for purposes of valuation.

### **BILL DRAFT ON USE OF MODIFIERS IN AGRICULTURAL PROPERTY ASSESSMENTS**

Chairman Cook called on Mr. Walstad for review of a bill draft [[15.0199.02000](#)] on the use of modifiers in agricultural property assessments. He said under current law, each county may submit a list of modifiers it intends to use to the State Supervisor of Assessments for approval and, if approved, may apply those modifiers in its assessments of agricultural property. He said the initial bill draft reviewed at a previous meeting would have changed how modifiers for agricultural property are applied. He said the initial bill draft would have provided only two modifiers be allowed and those two modifiers would be uniform for every county. He said due to concerns raised by committee members at the previous meeting, a revised bill draft was prepared with the assistance of the Tax Department.

Mr. Walstad said this revision of the bill draft takes a similar approach as the previous bill draft. He said rather than each county creating a draft of modifiers and then submitting the draft to the State Supervisor of Assessments for approval, all modifiers in the state would be uniform. He said a single schedule of modifiers would be adopted by the State Supervisor of Assessments and use of modifiers within counties statewide would be restricted to the modifiers provided in that schedule. He said before February 1 of each year, the county director of tax equalization would provide all assessors within the county the schedule of modifiers that must be used, a copy of the guidelines regarding how modifiers must be applied, and instruction on how to use available soil survey resources. He said additional guidelines would need to be developed by the Tax Department to accompany those already available. He said the revised bill draft also provides that approved modifiers may be applied to reduce the soil type valuation of an area if a site inspection is conducted by the assessor to confirm the existence of conditions warranting the modification. He said the revised bill draft provisions strive to promote uniformity in agricultural property valuations by limiting the number of modifiers that may be used statewide and providing assessors with soil type information so they may better determine which modifiers are already reflected in a soil type to avoid duplication.

In response to a question from Chairman Cook regarding the difference between a detailed or general soil survey, Ms. Meier said a detailed soil survey describes each map unit while a general soil survey groups those map units into classes and then applies a value to each class.

In response to a question from Chairman Cook, Ms. Meier said she did not believe it was necessary to specify that the soil surveys referenced on page one of the revised bill draft were those provided by the Natural Resources Conservation Service (NRCS) as these are the only soil surveys used.

### COMMENTS BY INTERESTED PERSONS

Chairman Cook invited comments by interested persons in attendance regarding the bill draft on the use of modifiers in agricultural property assessments.

Mr. Dustin Bakken, Director of Tax Equalization, Stutsman County, presented testimony ([Appendix C](#)) on the use of modifiers in agricultural land valuation and the system in place in Stutsman County. He said Stutsman County makes a distinction between cropland and noncropland for purposes of determining valuation. He said rather than relying on modifiers, actual use of the land is considered when determining valuation. He said this gives landowners some input into how their land is valued. He said if a landowner wants to take poor quality soil and crop it, Stutsman County will place a cropland value on that land. He said in the alternative, if a landowner decides to pasture high-quality soil, the county will place a noncropland value on that land. He said the county finds this method preferable to applying modifiers to reduce the valuation of land that is not being utilized for its highest and best use. He said agricultural land in Stutsman County is currently at 19 percent of market value. He said he would be willing to participate in the exercise of comparing how valuations would change if Stutsman County were to remove the noncropland classification. He said the outcome of this exercise would likely show a decrease in value for high-quality soils and an increase in value for low-quality soils.

In response to a question from Chairman Cook, Mr. Walstad said elimination of the noncropland category is not likely to generate any additional revenue if the county average value per acre under the formula remains the target. He said the result would be a shift in value within the agricultural property, but the overall value for the county should not increase.

Chairman Cook said, for taxes to be equalized and fair, a property owner should not be able to determine the assessment applied to their property.

Representative J. Kelsh said it is his recollection that the main reason the state shifted to utilizing soil types in valuation was to avoid that very outcome. He said a valuation system based on soil types was put in place to avoid the unfairness of having two property owners, with the same quality soil on their property, receive two different valuations depending upon whether the land was being used as cropland or noncropland. He said it was determined that a property containing high-quality soil should receive a higher valuation, regardless of how the property owner chooses to use the land.

In response to a question from Senator Dotzenrod, Mr. Bakken said two different valuation scales are used for cropland and noncropland. Mr. Bakken said cropland values are based on productivity index ratings and noncropland values are based on animal unit ratings. He said additional adjustments are made after a property's productivity index and animal unit ratings are determined.

In response to a question from Representative Headland, Mr. Bakken said assessors typically do not inspect every parcel of agricultural land every year. He said a great deal of information can be obtained through the use of aerial imagery services. He said some of the existing aerial imagery is so detailed an assessor can distinguish actual rows of crops and number of animals present on a parcel. He said field inspections will be performed if a certain situation warrants an inspection.

Mr. Allan Vietmeier, Tax Director, Burleigh County, presented testimony ([Appendix D](#)) on the use of modifiers in agricultural land valuation and the system in place in Burleigh County. He said modifiers are not used in Burleigh County, nor is the actual use of the property taken into account. He said modifiers were used in Burleigh County in the past but are no longer being used because modifiers were being improperly applied. He said value of agricultural property in Burleigh County is determined based on the highest and best use of the soil type contained within the property. He said Burleigh County does differentiate between cropland and noncropland. He said the highest and best use for any soil type with a productivity index below 40 would be for noncropland purposes and the highest and best use for any soil type with a productivity index of 40 and above would be for cropland purposes. He said approximately 50 percent of the agricultural property in Burleigh County is farmed. He said he did not think

modifiers needed to be set out in statute. He said Burleigh County's average true and full value is at approximately 20 percent of market value. He said property that is already at only 20 percent of market should not need modifiers applied to further reduce valuations.

Mr. Vietmeier said he would also be willing to participate in the exercise of analyzing how valuations would change in Burleigh County if a distinction was no longer made between cropland and noncropland. He said he agreed with the comment made by Ms. Meier that the result of removing the distinction between cropland and noncropland would be a decrease in the value of higher-quality cropland and an increase in value of lower-quality noncropland due to an averaging between the two classifications.

In response to a question from Chairman Cook, Mr. Vietmeier said a property owner with land consisting of the same soil type, but located in three different counties, could have a different valuation applied in each county because productivity indexes can vary from county to county. He said regardless of how well a soil survey is done, the productivity index for that soil may be higher or lower from one county to another.

Senator Dotzenrod said that many counties will apply modifiers in situations where the presence of rocks is negatively impacting the ability of the property owner to farm the land. He asked how this type of land would be valued in Burleigh County considering modifiers are not applied. Mr. Vietmeier said he places great weight on the determinations made by soil scientists. He said often, if you drill down into the information provided in the soil survey, many of the issues being addressed through the application of modifiers have already been accounted for in the soil survey. He said by applying a modifier the property is essentially receiving a double modification.

In response to a question from Representative Schmidt, Mr. Vietmeier said land with a low productivity index would be classified as noncropland in Burleigh County regardless of how the property owner chooses to use the land. He said actual use of the land is not taken into account for purposes of valuation. He said land is valued based on its highest and best use.

In response to a question from Chairman Cook, Mr. Vietmeier said no additional revenue would be realized due to a county eliminating its noncropland classification.

### COMMITTEE DISCUSSION

Chairman Cook said the bill draft [15.0199.02000] may not resolve all the concerns regarding application of modifiers but noted the bill draft would be worth advancing for further consideration during the 2015 legislative session.

Senator Dotzenrod expressed concern regarding the provision in the bill draft requiring assessors to make site inspections to confirm the existence of certain conditions. He said a large portion of assessment work appears to be completed through review of aerial photography. He said the provision requiring site inspections may create an unnecessary burden for assessment officials. Additionally, he said, it would likely be challenging to develop a bill draft that will accommodate the various assessment practices used throughout the state. He said despite his concerns he still finds merit in advancing the bill draft for further consideration to assure taxpayers that their agricultural property assessments are being arrived at in a fair manner statewide.

**It was moved by Senator Unruh, seconded by Representative Drovda, and carried on a roll call vote that bill draft [15.0199.02000] be approved and recommended to the Legislative Management.** Senators Cook, Burckhard, Dotzenrod, Laffen, Sorvaag, and Unruh and Representatives Belter, Dockter, Drovda, Froseth, Hatlestad, Headland, Kasper, J. Kelsh, S. Kelsh, Nathe, Owens, and Schmidt voted "aye." No negative votes were cast.

### STATE TREASURER - EFFECT OF OIL INDUSTRY EMPLOYMENT ON OIL PRODUCTION TAX ALLOCATIONS

Chairman Cook called on Mr. Ryan Skor, Director of Finance, State Treasurer, for presentation ([Appendix E](#)) of information regarding the effect on oil production tax allocations if the currently used employment data were replaced with data provided in the revised oil industry employment report prepared by Job Service North Dakota. Mr. Skor said there are currently three cities having a population of over 12,500 and covered mining employment of greater than 1 percent. He said these three hub cities are Williston, Dickinson, and Minot. He said if the new data was used taking into account all oil and gas-related employment, rather than just mining employment, six additional cities would qualify as hub cities. He said the six additional hub cities would be Williston, Dickinson, Minot, Mandan, Bismarck, West Fargo, Fargo, Jamestown, and Grand Forks.

Mr. Skor said hub cities currently receive \$375,000 per fiscal year for each full or partial percentage of covered mining employment. He said in addition, the top three hub cities also receive a portion of the revenue allocated to counties receiving allocations in the amount of \$5 million or more per fiscal year. He said Williston, Dickinson, and Minot would remain as the top three hub cities and allocations to these three cities would increase significantly. He said the additional allocations to the resulting nine hub cities, and their corresponding school districts, would result in a decrease in allocations to the general fund.

### **TAX DEPARTMENT - PROPERTY TAX RELIEF**

Chairman Cook called on Mr. Joe Morrisette, Deputy Tax Commissioner, Tax Department, for presentation ([Appendix F](#)) of information on the overall combined property tax reduction for the 2013 tax year for an average \$200,000 property as well as a comparison of the resulting reduction from an increased 25 percent property tax credit. Mr. Morrisette reviewed the effect legislative tax relief efforts had on four randomly selected parcels within the state. He said the cumulative effect of property tax relief efforts arising out of the 2009-13 legislative sessions has resulted in an approximate reduction in property tax liabilities of 35 to 40 percent. He said the Tax Department calculated the total amount raised from local property taxes statewide and the total dollar value of state-paid property tax relief for the current biennium. He said the combined amount of these two figures is \$2.5 billion. He said the \$860 million in state-paid property tax relief represents approximately 35 percent of the total \$2.5 billion. He said it would cost approximately \$215 million to \$230 million to continue the 12 percent state-paid property credit for the 2015-17 biennium. He said to provide a state-paid property credit at a rate of 25 percent for the same period would cost roughly \$450 million to \$500 million.

In response to a question from Chairman Cook, Mr. Morrisette said it is possible that some taxpayers received a reduction in their property tax liability in an amount greater than 39 percent. Mr. Morrisette said a rural residence not subject to any city levies may have realized a greater reduction in property tax liability than a residence located in an area where both the mill rate and property values increased.

In response to a question from Chairman Cook, Mr. Morrisette said it was possible that some taxpayers saw an increase in their property tax liability depending on changes to the value of the property and changes to the local mill rate.

In response to a question from Senator Burckhard, Mr. Morrisette said he could only speculate as to why the lowest percentage decrease in property tax liability is seen in the example of the Minot residence. He said many factors, including the local budget come into play. He said the combination of a less significant drop in mills with a greater increase in valuation could result in a lower overall percentage decrease in property tax liability.

### **COMMENTS BY INTERESTED PERSONS**

Chairman Cook said a group that likely missed out on state-paid property tax relief are the rural electric cooperatives. Chairman Cook called on Mr. Harlan Fuglesten, Communications and Government Relations Director/Legal Counsel, North Dakota Association of Rural Electric Cooperatives. Mr. Fuglesten presented testimony ([Appendix G](#)) regarding the difference between taxation of rural electric cooperatives and taxation of investor-owned utilities. He said rural electric cooperatives are paying 25 to 30 percent more in property taxes than investor-owned utilities. He said rural electric cooperatives also do not receive the benefit of the state-paid property tax credit afforded to other property taxpayers in the state.

Chairman Cook recalled the discussions held on this topic during the 2013 legislative session. He said reliance was placed on figures provided by the Tax Department. He said better information is needed regarding the taxes paid by investor-owned utilities to ensure rural electric cooperatives and investor-owned utilities are on an equal playing field in terms of taxation.

In response to a question from Chairman Cook, Mr. Fuglesten said he has requested data on investor-owned utilities from the Tax Department. He said the request is still pending at this point. He said data was provided by investor-owned utilities during the 2013 legislative session but was received too late in the legislative session for it to be clearly conveyed to legislators. He said the difference between property tax applied to investor-owned utilities and that applied to rural electric cooperatives will cost rural electric cooperatives an extra \$2 million in taxes each year.

In response to a question from Chairman Cook, Mr. Fuglesten said it is very likely this issue will arise during the 2015 legislative session. He said he would like to make sure legislators are aware of the problem at hand. He said he hopes to have the data needed to illustrate the problem early enough in the legislative session so it may be clearly conveyed to legislators. He said he would like any property tax relief that may be afforded to other property taxpayers during the 2015 legislative session to also be afforded to rural electric cooperatives.

In response to a question from Senator Laffen, Mr. Fuglesten said any increase or decrease in taxes will ultimately be reflected in the rates paid by customers of a rural electric cooperative.

In response to a question from Representative Kasper regarding the territory of investor-owned utilities and rural electric cooperatives, Mr. Fuglesten said substantial progress has been made in developing service area agreements in many areas of the state. Yet, he said, there is still a sense of competition between rural electric cooperatives and investor-owned utilities.

In response to a question from Representative Kasper, Mr. Fuglesten said the growth of rural electric cooperatives in respect to sales is substantially higher than that of investor-owned utilities. He said this is largely a result of increased oil and gas activity in the western part of the state.

Chairman Cook said it is obvious that tax relief resulting from the 12 percent state-paid property tax credit is not being realized by rural electric cooperatives.

Chairman Cook called on Ms. Linda Leadbetter, State Supervisor of Assessments, Tax Department, and asked whether she was familiar with this issue. Ms. Leadbetter said she was familiar with the issue and several discussions had been held within the Tax Department regarding this topic. Chairman Cook asked if the Tax Department had reached out to the investor-owned utilities to request tax information. Ms. Leadbetter said the Department had yet to do so but could make a request for those documents.

In response to a question from Representative Froseth, Ms. Leadbetter said rural electric cooperatives are receiving property tax relief in regard to the property tax applied to their buildings and equipment.

Chairman Cook said this issue will likely be discussed over the course of the 2015 legislative session.

### **DEPARTMENT OF PUBLIC INSTRUCTION - ANTICIPATED COSTS FOR K-12 EDUCATION FUNDING**

Chairman Cook called on Mr. Jerry Coleman, Director of School Finance, Department of Public Instruction, for presentation of information ([Appendix H](#)) on the anticipated costs for the 2015-17 biennium for K-12 education funding. Mr. Coleman explained the K-12 funding formula that was passed during the 2013 legislative session. He said the formula is student driven and is funded to what it should cost to educate students to state standards on a per student basis. He said the formula utilizes the average daily membership of students for the prior school year. He said transitional adjustments were built into the formula to prevent any major disruptions to school district budgets. He said the formula draws on funding from both state and local sources. He said roughly 20 percent of school funding is derived from local sources and the remainder is funded by state sources.

In response to a question from Chairman Cook, Mr. Coleman said the funding formula operates under the assumption that a school district will levy the full 60 mills on the taxable valuation of the district. He said if the taxable valuation in a school district goes up by more than 12 percent, the taxing district may not levy a tax that exceeds the amount the school district levied in dollars for the prior year by more than 12 percent. He said if the school district elects to levy less than 60 mills, less revenue will be received.

In response to a question from Representative Kasper, Mr. Coleman said he was not aware of the number of school districts currently levying less than 60 mills. He said some school districts in the western part of the state are experiencing up to a 60 percent increase in taxable valuation. He said due to the restriction on a school district's ability to levy more than 12 percent over what they levied in dollars for the prior year, a district experiencing a large growth in taxable valuation would need to make the appropriate decrease to its mill levy to remain below the maximum thresholds.

In response to a question from Representative Nathe, Mr. Coleman described the three levies under the control of the board of a school district. He said the board may levy a tax not exceeding the amount in dollars the school district levied for the prior year, plus 12 percent, up to a levy of 70 mills on the taxable valuation of the district. He said the board may also levy up to 12 mills for miscellaneous purposes and up to 3 mills for deposit into a special reserve fund. He said he was not aware of the number of school districts currently levying the full 85 mills but noted this information is available on the Department of Public Instruction website in the publication entitled *School Finance Facts*.

In response to a question from Chairman Cook, Mr. Coleman said it is irrelevant whether a school district chooses to levy mills under its general levy authority or its miscellaneous levy authority in regard to the amount of revenue the school district will receive. He said if a district elected to levy 58 mills under its general levy authority

and 2 mills under its miscellaneous levy authority, the same amount of revenue would be generated as would be generated if the district elected to levy all 60 mills under its general levy authority.

In response to a question from Representative Headland, Mr. Coleman said the maximum amount of mills that can be levied through school board authority is 85 mills. He said if the board needs to levy additional mills it would have to receive approval for that levy authority through a vote of the people.

In response to a question from Representative Headland, Mr. Coleman said the authority for a school board to levy up to 3 mills for deposit into a special reserve fund existed prior to the 2013 legislative session. He said the change that occurred during the 2013 legislative session was the limitation on how large a district's special reserve fund could grow before the excess from that fund would have to be transferred into the general fund. He said a school district is allowed to grow their special reserve fund up to the amount that 15 mills would generate. He said any amount exceeding that maximum must be transferred into the general fund.

Mr. Coleman reviewed recent population changes within the state and said early estimates anticipate a gain of 10,000 students over the biennium. He said in regard to the formula, this figure will translate into approximately 14,000 additional weighted student units. He said he anticipates the amount appropriated for the 2013-15 biennium will need to be increase by about 12 percent.

In response to a question from Chairman Cook, Mr. Coleman said a 12 percent increase in appropriations would represent the amount needed to keep funding on par with what it is now. He said the 12 percent increase would amount to roughly \$275 million. He said \$75 million would be derived from local property tax increases, due to increases in valuation, and \$200 million would be derived from state sources. He said the total appropriation for the current biennium is between \$1.7 billion and \$1.8 billion and the anticipated appropriation needed for the upcoming biennium will be roughly \$2 billion.

In response to a question from Senator Burckhard, Mr. Coleman said when counting students for purposes of average daily membership, only those students having completed the school year are counted. He said the number of students having completed the school year in the spring represent the number of students comprising the average daily membership figure applied for the following school year.

Representative Nathe said he has also received questions regarding when average daily membership figures are determined. He explained that if fall enrollment figures were used, schools may be in the unpleasant position of having to pay back dollars if the number of students still enrolled come the end of the school year is less than the number of students who were enrolled at the beginning of the school year.

## **BACKGROUND ON UNIVERSITY INCUBATORS**

Chairman Cook called on Mr. Walstad for review of a document ([Appendix I](#)) providing background on university incubators prepared by the Vice President for University and Public Affairs at the University of North Dakota (UND). Mr. Walstad said the document provided information relevant to concerns raised by committee members at a previous meeting in regard to the property tax exemption for leasehold interests in certain buildings on university campuses. He said under current law, a property tax exemption is provided for business incubator facilities owned by a university if the facility is used at least in part by students and faculty. He said it was not clear from discussion at the prior meeting whether these facilities were actually being used by students or faculty. He said the information provided in this document indicates access is being provided in various ways to students and faculty. He said the document also addresses concerns raised by committee members that tenants could potentially receive a property tax exemption for an unlimited duration by remaining in one of these facilities. He said this document notes that UND incubators have hosted more than 140 tenants and more than 100 of those tenants have left the facility. He said according to the information provided in this document, it does not appear tenants are remaining in these types of facilities for an extended period of time.

## **BILL DRAFTS ON PROPERTY TAX STATUS OF CERTAIN LEASEHOLD INTERESTS**

Chairman Cook called on Mr. Walstad for review of bill drafts [[15.0071.02000](#)] and [[15.0071.05000](#)] regarding the property tax status of leasehold interests in certain buildings at state institutions of higher education. Mr. Walstad said bill draft [[15.0071.02000](#)] was prepared based on a suggestion from the Grand Forks City Commission that a leasehold exemption should be limited to three years unless extended by the city governing body for up to an additional three years. He said beyond that six year period, the exemption would no longer be available to the tenant under this version of the bill draft. He said the second bill draft differs from the original in that bill draft [[15.0071.05000](#)] bases the expiration of the property tax exemption on the volume of sales achieved by a tenant of the facility, rather than on the duration the tenant remains in the facility. He said this version of the bill draft provides that a tenant is ripe for removal from an incubator facility upon achieving a total sales volume of \$5 million.

## COMMITTEE DISCUSSION

Chairman Cook said the topic of university incubators originally arose from prior testimony provided to the committee by a member of the Grand Forks City Commission. He said as the committee has continued to discuss the issue it is apparent a variety of factors come into play. He said the topic may be more appropriately addressed within the context of a broader economic incentives review than in a stand-alone bill draft.

Representative J. Kelsh said he agreed with Chairman Cook and noted that local subdivisions can already provide a business with up to a 20 year property tax exemption regardless of whether or not the business is located in an incubator facility.

Representative Owens said he has given further consideration to the bill draft linking duration of tenancy in an incubator facility to volume of sales. He said after receiving further information on the topic it appears that many businesses located in incubator facilities are made up of only a few individuals. He said it may take a small business a great deal of time to attain even \$1 million in sales. He said in consideration of this fact, linking duration of occupancy to sales volume may not produce the limiting effect that was intended. He said he also agrees with Chairman Cook that the topic may be better addressed within the context of a broader economic incentives review.

## STATE FUNDING FOR INFRASTRUCTURE AND POLITICAL SUBDIVISIONS

Chairman Cook called on Mr. Walstad for a presentation of a memorandum entitled [State Funding for Infrastructure and Political Subdivisions 2011-13 and 2013-15 Bienniums](#). Mr. Walstad said the memorandum was originally prepared for Representative Nathe, but contained information that may be of interest to all committee members. He said the memorandum provides information on the the total appropriations for major infrastructure from state funds and estimated state funding allocations to political subdivisions, including allocations for property tax relief. He said the table displayed in the memorandum reflects a total of over \$4 billion in infrastructure appropriations and funding allocations.

## DEPARTMENT OF COMMERCE - ANNUAL REPORTS

Chairman Cook called on Ms. Carla Hahn, Accountability Manager, Department of Commerce, for presentation of an annual report ([Appendix J](#)) relating to the business incentive accountability law. Ms. Hahn reviewed the report and said from 2009-13 there were 581 business incentive agreements entered into amounting to just under \$95 million in incentives. She also provided a breakdown of incentive value by incentive type, public purpose, and type of business. She said a full copy of the report is available on the Department of Commerce website.

Chairman Cook called on Ms. Rikki Roehrich, Program Specialist, Division of Community Services, Department of Commerce, for presentation of information ([Appendix K](#)) regarding the annual report on renaissance zone progress and the annual report compiling data from cities that have a renaissance zone included in a tax increment financing district. Ms. Roehrich said 1,319 projects have been approved since the inception of the renaissance zone program and of those 1,319 projects, 1,073 have been completed. She said 55 cities in North Dakota currently have renaissance zones.

In response to a question from Senator Burckhard regarding the historic property preservation tax credit, Ms. Roehrich said a project seeking approval for this credit must first meet the criteria outlined by the State Historical Society.

Mr. Walstad asked if any data is available regarding the benefit received by taxpayers outside of a renaissance zone after projects within the zone are completed. He said part of the draw in creating a renaissance zone is the expectation that properties within the zone will carry a higher taxable value when they are eventually placed back on the tax rolls. He asked if there was any indication on whether increased revenue from former renaissance zone properties was being used to the benefit of properties outside the former renaissance zone or if it was simply being used for additional city expenditures. In response, Ms. Roehrich said she was not sure this type of data would be kept with the Department of Commerce.

## BILL DRAFTS SELECTED FOR RECOMMENDATION TO THE LEGISLATIVE MANAGEMENT

Chairman Cook reviewed the 10 bill drafts selected for recommendation to the Legislative Management including bill drafts:

- [\[15.0064.01000\]](#) to provide for regular legislative evaluation of state economic development tax incentives;
- [\[15.0067.02000\]](#) to provide that property tax levies requested by unelected boards are subject to adjustment by the board of county commissioners or city governing body;
- [\[15.0054.03000\]](#) to provide for sharing of otherwise confidential information by Job Service North Dakota and the Tax Department for purposes of evaluating tax incentives;

- [\[15.0066.03000\]](#) for adjustments to statutory provisions regarding determination of taxable valuation and replacement of mill rates with property tax determination based on cents per thousand dollars of taxable valuation;
- [\[15.0147.01000\]](#) regarding rural fire department excess levy increase approval by mail ballot election;
- [\[15.0094.02000\]](#) regarding electric industry property reporting for certain properties subject to central assessments;
- [\[15.0095.02000\]](#) regarding notice to taxpayers of a property tax levy increase public hearing;
- [\[15.0149.01000\]](#) to extend the state-paid 12 percent property tax relief credit enacted in 2013;
- [\[15.0039.03000\]](#) to require property assessor certification; and
- [\[15.0199.02000\]](#) regarding the use of modifiers in agricultural property assessments.

Chairman Cook received comments from committee members willing to monitor the progress of the selected bill drafts throughout the 2015 legislative session.

Chairman Cook thanked the members of the committee for their hard work during the interim.

**It was moved by Representative Nathe, seconded by Representative Kasper, and carried on a roll call vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management and that the committee be adjourned sine die.** Senators Cook, Burckhard, Dotzenrod, Laffen, Sorvaag, and Unruh and Representatives Belter, Dockter, Froseth, Hatlestad, Headland, Kasper, J. Kelsh, S. Kelsh, Nathe, and Schmidt voted "aye." No negative votes were cast.

No further business appearing, Chairman Cook adjourned the meeting sine die at 2:10 p.m.

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John Walstad  
Legal Division Director

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Emily L. Thompson  
Counsel

ATTACH:11