

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**TAXATION COMMITTEE**

Wednesday, February 14, 2018  
 Roughrider Room, State Capitol  
 Bismarck, North Dakota

Senator Jessica Unruh, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Jessica Unruh, Brad Bekkedahl, Dwight Cook, Jim Dotzenrod, Lonnie J. Laffen, Scott Meyer; Representatives Thomas Beadle, Jason Dockter, Sebastian Ertelt, Ron Guggisberg, Patrick Hatlestad, Craig Headland, Ben Koppelman, Alisa Mitskog, Emily O'Brien, Randy A. Schobinger, Nathan Toman

**Members absent:** Representatives Jim Grueneich, Jim Kasper, Vicky Steiner

**Others present:** Senator Rich Wardner, Dickinson, and Representative Corey Mock, Grand Forks, members of the Legislative Management

See [Appendix A](#) for additional persons present.

**It was moved by Representative Hatlestad, seconded by Representative Schobinger, and carried on a voice vote that the minutes of the December 14, 2017, meeting be approved as distributed.**

**ECONOMIC DEVELOPMENT TAX INCENTIVES  
AND CITY GROWTH AND DEVELOPMENT**

Chairman Unruh called on the Legislative Council staff for presentation of updated background memorandums entitled [Economic Development Tax Incentive Study - Renaissance Zone Tax Credits and Exemptions](#), [Economic Development Tax Incentive Study - Tax Increment Financing Districts](#), and [Economic Development Study - New or Expanding Business Exemptions](#). The Legislative Council staff said the incentive background memorandums are updated as the committee receives additional data and testimony pertaining to the incentives selected for review. She said the memorandums serve as the central repository for information relative to the committee's assessment of each incentive. She presented a memorandum entitled [Economic Development Tax Incentive Study - Evaluation Chart](#) and said the chart lists the seven incentives the committee selected for review and the eight items the committee may take into consideration when evaluating incentives. She said a check mark on the chart does not indicate a yes or no response to each of the eight items, but indicates the committee has received information that would allow it to begin to assess each item. She said the chart assists the committee in tracking the areas in which information has been received and the areas in which information remains outstanding. She said a fair amount of the committee's assessment is subjective and will rely on data and testimony provided to the committee. She said the provision of testimony by parties that use or are impacted by the incentives plays an important role in the committee's evaluation and is strongly encouraged.

Chairman Unruh encouraged committee members to share suggestions regarding ways to check off additional boxes on the evaluation chart.

Chairman Unruh called on Mr. Kelvin Hullet, Economic Development and Government Program Market Manager, Bank of North Dakota, for a presentation ([Appendix B](#)) regarding the Bank's work in preparing a dynamic fiscal impact report for the committee. Mr. Hullet said 2017 Senate Bill No. 2044 directed the Bank to develop the ability to conduct dynamic fiscal impact analysis. He said the Bank purchased software from Regional Economic Modeling Inc. (REMI) and formed a working group consisting of individuals from the Department of Commerce, Tax Department, Office of Management and Budget, and Legislative Council. He said the Bank hired Mr. Scott Nystrom, Senior Consultant, FTI Consulting, Inc., to assist in calibrating and running the software. He said Mr. Nystrom previously worked for REMI and has calibrated the REMI model for over 25 states. He said the renaissance zone credits and exemption were the first incentives analyzed using the software. He said the renaissance zone report is based on 4 years of actual data.

Chairman Unruh called on Mr. Nystrom to present a report ([Appendix C](#)) on the estimated economic and fiscal impacts of the renaissance zone program. Mr. Nystrom reviewed the steps taken to calibrate the software to North Dakota's specifications. He said the report covers the 2013 through 2022 period and assumes the renaissance

zone program would cease at the end of 2017. He said the model assessed projects directly involved in the renaissance zone program and used data from the Department of Commerce regarding incremental jobs, wages, and property investments. He said the renaissance zone program generated over 600 jobs and \$47 million in annual gross domestic product during its peak in 2016. He said the industries that received the greatest benefit from the program were banking, retail, food service, agricultural support, and professional services. He said new jobs in these sectors incrementally tightened the labor market, which drew migrants to the state. He said the direct cost to the state of providing the tax benefits was \$6.9 million for the 2013 through 2016 period. After offsetting additional revenues, he said, the renaissance zone program cost the state \$1.9 million for the 2013 through 2016 period. He said the continued costs to the state for the 2017 through 2022 period would be \$2.4 million, resulting in a total net loss to the state of \$4.3 million for the 2013 through 2022 period.

In response to a question from Representative Beadle, Mr. Nystrom said the figures pertaining to incremental jobs were determined by comparing the number of jobs reported in the quarter the renaissance zone project was completed to the number of jobs reported four quarters after the project was completed.

In response to a question from Representative Ertelt, Mr. Nystrom said comparisons between a renaissance zone project's pre-project value and post-project value would not account for any rate changes that might have occurred from the time the project commenced to the time the project was completed.

In response to a question from Representative Guggisburg, Mr. Nystrom said the REMI model was about 99 percent accurate in its projections regarding population and gross domestic product in all but three states. He said the model has been used in a number of states to evaluate the new markets tax credit, which is similar to the renaissance zone tax credit. He said the model also is effective in predicting the impacts on an economy from unexpected events, such as natural disasters.

In response to a question from Senator Bekkedahl, Mr. Nystrom said the \$1.9 million net loss for the 2013 through 2016 period is calculated by subtracting state expenditures and the cost of the tax benefit from revenues, and the \$2.4 million net loss for the 2017 through 2022 period is calculated by subtracting ongoing state expenditures, mostly attributable to education expenditures, from revenues.

In response to a question from Representative Beadle, Mr. Nystrom said the model can determine the center of distribution in regard to whether jobs are being pulled from Minnesota into North Dakota. He said North Dakota is one of the more open economies in the nation as a result of having a large metro area on the state's border and a large influx of out-of-state labor due to the oil boom.

Senator Dotzenrod said a large portion of the expenditures listed in the report seem to relate to education. He said most states probably would like to have a large, well-educated workforce.

In response to a question from Senator Dotzenrod, Mr. Nystrom said the positive impacts from a larger, well-educated workforce are not displayed on the report, partially because the report covers a relatively short period of time that would not allow for the children of new hires to complete their education and enter the workforce. He said it is always difficult to determine whether population growth is a cost or a benefit to a state because it produces both positive and negative impacts.

In response to a question from Representative Beadle, Mr. Nystrom said the model does not take into account land use concepts.

Chairman Unruh said the benefits of using the renaissance zone program as a location tool are hard to capture with economic modeling software. She said other incentives that have more of a statewide impact might be better suited to highlight the software's full capabilities.

Senator Cook said, in regard to question number eight on the evaluation chart, the committee is constrained by lack of data as he would like to see jobs data that covers more than 4 years. He said the Governor has noted the state has 15,000 unfilled jobs. He said the state needs people, but this report shows additional people bring costs as well as benefits. He said state economic development incentives aimed at creating jobs seem outdated. He said the state needs to put new incentives in place to attract people.

Ms. Rikki Roehrich, Program Administrator, Community Services, Community Development Programs, Department of Commerce, said the department inquires about jobs created in its annual renaissance zone report, but it does not capture wage data. She said the department also does not follow up on how many jobs are in place after an extended period of time. She said Job Service North Dakota retains only 4 years of data. She said retention policies would need to change for Job Service North Dakota to retain data for a longer period.

In response to a question from Representative Beadle, Ms. Roehrich said she would be willing to reach out to some of the cities that have better data tracking mechanisms to see if they have additional jobs data. She said she is sure there were jobs created within the last 18 years that have a residual income tax benefit. She said the department used data from Job Service North Dakota for the report because that was the most accurate and complete set of data available.

In response to a question from Representative Headland, Ms. Roehrich said there are several projects in progress. She said the best the department could do in regard to getting additional data is to solicit estimates from project owners.

Mr. Nystrom said the data from any projects in progress would have to be pretty large and impact industries other than those historically impacted by renaissance zone incentives to have any significant impact on the key findings in the report.

Chairman Unruh said this is a tough incentive to evaluate because it is not just about job creation. She said it is a location and investment tool for businesses to use when looking at investing in a community.

In response to a question from Representative Guggisberg, Chairman Unruh said other agencies, including the Office of Management and Budget, Tax Department, and Legislative Council were considered when initially discussing where to house the REMI software. She said placement at the Bank of North Dakota ultimately came down to budget and staffing constraints. She said the software takes a fair amount of time to implement, which is why the Bank put together a comprehensive team comprised of members from various agencies. She said she would have liked to have seen the software placed with the Legislative Council, but there were staff constraints given the time required to implement and run the software. She said if the Legislative Assembly elects to use the software beyond the 2019 legislative session pilot period, the agency in which the software would be best placed long term likely would be discussed.

Senator Cook said the Bank of North Dakota also purchased the software for its own use in addition to the use by the interim committee and the 66<sup>th</sup> Legislative Assembly.

Representative Guggisberg said he would like to push back on the idea that the decision to place the software with the Bank of North Dakota was revenue based. He said the state takes profits from the Bank and those profits could have been used to place the software with any agency.

Chairman Unruh called on Mr. Charles Marohn, Founder and President, Strong Towns, for presentation of information ([Appendix D](#)) regarding city growth and development. Mr. Marohn said he worked for a number of years as a licensed civil engineer before starting his planning firm. He said he has worked for small cities across Minnesota to help with pending financial problems, which became acute after 2008 when the housing market began to reset. He said what started in 2008 as a blog about why cities were going broke developed into the nonprofit organization of Strong Towns, which shares his message with cities, elected officials, and others that wish to influence city policy. He provided an example of the city of Remer, Minnesota, which was being fined \$10,000 per year by a pollution control agency because the city's wastewater treatment pond was threatening to overflow its banks. He said the town hired his engineering firm to evaluate the problem, which centered on a one-block area of pipe that had cracked and was allowing ground water to fill the pond. Because the small town of 320 people did not have the budget to make the \$300,000 repair to the pipe, he said, the city repackaged its sewer maintenance project as an expansion project to qualify for grant funding. He said the expansion project ultimately cost \$2.6 million, with all but \$130,000 funded by grants. He said what seemed like a happy ending for the city at the time really just pushed a larger problem a few decades down the road. He said he took a city that did not have enough funds to fix 300 feet of pipe and gave them an extra 2 miles of pipe that would eventually need repairs. He said the city's core problem was its underlying tax base and development pattern was not generating enough prosperity and cashflow to service its liabilities.

Mr. Marohn said Strong Towns takes a hard look at the illusion of wealth growth creates. He said a city sees a windfall when a developer assumes all the upfront costs of building residential and commercial buildings and putting in streets, curbs, and gutters. He said the city takes a hit 25 years down the road when it has to assume all the maintenance costs for the infrastructure that cannot be supported by the existing tax base. He provided an example of a residential cul-de-sac and the astronomical tax increase that would be required to generate enough revenue to maintain the neighborhood roads. He said what starts with a lot of growth and no expenditures turns into large maintenance costs down the road. He said the more we grow, the poorer we become. He said local governments are being forced to absorb the cost of its own development plan. He said cities that used to be built incrementally over time are now built in large blocks. He said areas built incrementally age incrementally. He said areas built in large blocks end up requiring maintenance all at the same time. He said cities build wealth by making

modest investments over a broad area over a long period of time. He said cities need to make high-return investments to remain solvent. He gave the example of the tax revenue lost when an old strip mall is replaced by a new fast food restaurant with a green space and large parking area. He said while the area may appear new and attractive, these types of changes are degrading the higher value tax base. He said cities must think in terms of value per acre and focus on high-intensity development. He said a ratio of \$20 of private investment for every \$1 of public investment leads to a stable environment. He said his organization is seeing \$2 of public investment for every \$1 of private investment. He said there is no way to tax \$1 of private investment to pay to maintain \$2 of public investment.

In response to a question from Senator Cook, Mr. Marohn said he was not aware of any cities that had tax incentives or tax policies tied to the dollars of revenue generated per square acre.

In response to a question from Representative Mitskog, Mr. Marohn said North Dakota is unique in how it uses special assessments. He said special assessment balances must be paid at the time ownership of the property transfers in Minnesota. He said this is not the case in North Dakota. He said local governments in North Dakota serve as risk taking financial instruments for developers. He said he does not think the government should be financing this type of development, but if they are, they should at least require the debt liquidate at the time the ownership of the property transfers. He said the state would benefit from discussing how to reform the special assessment process. He said in regard to preferences for single-family homes over apartments, individuals generally prefer the cheapest option, which is influenced by where the government chooses to direct its subsidies.

Senator Dotzenrod said people seem to be leaving low-tax areas and moving to high-tax areas due to the amenities and services provided in those areas. He said improvements could be made in the way communities allocate resources, but the dynamic on how populations move to cities likely cannot be changed.

In response to a question from Senator Dotzenrod, Mr. Marohn said the productivity of urban areas subsidize rural areas. He said the trade comes with the commodities that rural areas provide to urban areas such as food, lumber, or coal.

In response to a question from Representative Mock, Mr. Marohn said whether big box stores are helping or harming small towns is an open question. He said he sees big box stores as more of a friend than a foe.

Chairman Unruh called on Mr. James Gilmour, Director of Strategic Planning and Research, City of Fargo, for presentation of information (Appendices E and F) pertaining to Fargo's renaissance zone program. Mr. Gilmour said he has been working in the planning department in Fargo since 1994 and has seen great improvements to the city's downtown as a result of the renaissance zone program. He said in addition to the investment attracted by the renaissance zone program, the city also has updated its zoning, improved parking, and developed a downtown plan. He said property values were \$245 million in the downtown area in 2000 and have since increased to \$541 million. He said \$130 million of that amount is attributable to renaissance zone projects. He said taxpayers' mill levies would have been 11.6 mills higher had no additional development occurred downtown. He said city property taxpayers have benefited from the renaissance zone program. He said he hopes the program continues as the city has a lot of work to do. He said the city has seen over 600 new apartments, which have been added using the renaissance zone program or payments in lieu of taxes. He said Fargo is trying to keep the 21<sup>st</sup> century workforce in the area by making the city an attractive place to live, work, and do business.

In response to a question from Senator Bekkedahl, Mr. Gilmour said Fargo does not have any properties receiving both renaissance zone and tax increment financing (TIF) district benefits. He said only one property has received benefits under both programs. He said that property received a 50 percent property tax exemption under the renaissance zone program with the remainder of the tax increment going to the TIF district. He said the city has one TIF project in progress and a second project pending. He said the city plans to use the TIF district revenue to pay for a public parking garage.

In response to a question from Senator Cook, Mr. Gilmour said the renaissance zone program has the greatest impact on commercial projects and payments in lieu of taxes have the greatest impact on residential housing projects. He said housing projects often are located slightly outside the renaissance zone boundary. He said those projects have been provided a full property tax exemption for the first 5 years and a 75 percent property tax exemption for the following 5 years. He said the city likely could put together a 3-D chart of values per acre. He said property tax revenues from multifamily properties and small lot subdivisions sustain their respective maintenance needs. He said big box stores do not generate as much property tax revenue, but generate sales tax revenue. He said smaller, more densely populated areas save cities money in the long run.

Senator Laffen said his business has six offices across the state and the only city to which he can recruit new employees is Fargo. He said new employees are looking to locate in vibrant cities.

In response to a question from Representative Ertelt, Mr. Gilmour said he could provide the committee with a comparison of the change in property values inside the renaissance zone to the change in property values outside of the renaissance zone for the 2001 through 2017 period.

Representative Beadle requested that Mr. Gilmour also note any zoning changes that occurred during that time period in his report.

Chairman Unruh called on the Legislative Council staff for presentation of a memorandum entitled [\*Definition of a "Blighted Area" for Purposes of Development or Renewal Area Programs\*](#). The Legislative Council staff reviewed the history behind the creation of TIF districts and the evolution of the definition of a "blighted area." She said the definition was amended only once since the enactment of the urban renewal chapter in 1955. She said the definition was amended in 2011 to exclude land assessed as agricultural property within the last 10 years. She said the question of whether a slum or blighted area exists in a city appeared to be a question of fact that must be answered by the city governing body. She said the term "blighted area" does not appear in the renaissance zone chapter.

In response to a question from Senator Cook, the Legislative Council staff said the governing body of a municipality establishes by resolution whether a slum or blighted area exists before approving a development or renewal plan and the use of TIF.

Chairman Unruh called on Ms. Roehrich for presentation of information ([\*Appendix G\*](#)) regarding government programs administered or promoted by the department, which are complementary or duplicative to the incentives selected for review during the 2017-18 interim. Ms. Roehrich said no other state-administered programs have complimentary or duplicative effects in regard to the renaissance zone program. She said several city-administered programs, such as TIF districts and payments in lieu of taxes, might have similar effects depending on how the programs are structured and managed. She said, in regard to the internship program credit, the operation intern program might be similar. She said the operation intern program is a state-funded program that provides up to \$3,000 in matching funds per student, per term, which can be used for various purposes, including reimbursing salaries and wages. She said the program is limited to providing \$6,000 per student and \$30,000 per employer per biennium. She said no other programs administered by the department would have a complimentary or duplicative effect on the remaining five incentives the committee is evaluating.

Chairman Unruh invited comments from interested persons in attendance regarding the committee's study of economic development tax incentives and the property tax system.

Mr. Daniel Nairn, Planner, Community Development Department, City of Bismarck, provided information ([\*Appendix H\*](#)) on Bismarck's renaissance zone program. He said 116 projects have been completed in Bismarck, with over \$62 million in private investment, since the renaissance program began in the early 2000s. He said the average value of a project completed within the renaissance zone is \$263,000. He said Bismarck has seen significant growth in its downtown tax base since the program began. Prior to 2004, he said, growth in the city's downtown was stagnant and there were several vacant buildings. From 2004 through the present, he said, properties within the renaissance zone have experienced a 10.4 percent average annual growth rate per year. He said an acre of land within the renaissance zone has nearly three times the assessed value of an acre of land located outside the renaissance zone. He said the cost of providing a renaissance zone incentive to rehabilitate property in the renaissance zone is recouped, on average, within 2 years and 3 months after the property comes back onto the tax rolls. He said Bismarck's renaissance zone received a 5-year extension in the summer of 2017. He said the city has received several new project applications in the past few months. He said the city sets a high threshold for approving projects and routinely turns down projects that would result in too small of an investment. He said the city views the renaissance zone program as an important tool for encouraging the type of design and development the city would like to see for its future growth.

In response to a question from Representative Beadle, Mr. Nairn said Bismarck has a downtown business association that promotes the renaissance zone program.

In response to a question from Senator Cook, Mr. Nairn said Bismarck eliminated its TIF district in the summer of 2017.

Mr. Wayne Papke, Mandan, distributed packets to the committee containing information (Appendices [I](#), [J](#), [K](#), [L](#), and [M](#)) pertaining to his study of various components of the property tax system. He said the committee cannot fix the property tax system piecemeal and a comprehensive approach is required to reform the property tax system.

## **HYBRID LONG-TERM CARE INSURANCE INCOME TAX CREDIT STUDY**

Chairman Unruh called on the Legislative Council staff for presentation of a memorandum entitled [Income Tax Credit for Premiums Paid for Long-Term Care Partnership Plan Insurance](#). The Legislative Council staff said the memorandum provides a summary of the testimony provided in support of the 2009 enactment of the current income tax credit for premiums paid for long-term care partnership plan insurance.

Chairman Unruh called on Mr. Jon Godfread, Insurance Commissioner, for presentation of information ([Appendix N](#)) regarding a definition of hybrid long-term care insurance for purposes of a state tax credit. Mr. Godfread said the number of individuals purchasing stand-alone, long-term care policies is shrinking dramatically. He said there has been a dramatic spike in long-term care costs due to increased life expectancies and higher quality assisted living centers. He said what has occurred in the past is almost like a bait and switch scenario where an individual is sold a product at one price and then 5 years down the road the price increases dramatically. He said he has seen requests to increase the premiums on some policies by upwards of 300 percent. He said companies are being asked the hard questions including whether these products were adequately priced when they were rolled out. He said the long-term care market is in a dramatic period of change to determine how to price and model these policies going forward. He said part of that change is the introduction of hybrid policies that attach long-term care riders to a life insurance or annuity policy. He said a simplified example of a hybrid policy is one that allows an individual to draw a portion of the individual's life insurance benefit to cover long-term care costs. If the committee is looking to create a tax credit for premiums paid for hybrid long-term care policies, he said, the first issue that may arise is the lack of a definition for a "hybrid" or "combination" policy. He said no other state has a legal definition for these types of policies. He said North Dakota would be breaking new ground if it were to craft a definition. He said the handout ([Appendix N](#)) attempts to provide a framework for a definition and could serve as a starting point. He said other considerations that might need to be taken into account if a credit is pursued is whether there will be a cap on the credit. With some policies, he said, there could be the potential for a taxpayer to overpay the premium to increase the cash value of the policy and receive a larger tax credit. He said a bill draft also might prompt requests for similar treatment from those in the stand-alone long-term care market.

In response to a question from Representative Guggisberg, Mr. Godfread said the Insurance Department has seen a stark decline in the number of new long-term care insurance policies being issued. He said individuals who purchased policies in the 1990s are facing tough decisions on whether they can afford to maintain their policies due to rising premiums. He said he has seen customers forfeit policies. He said the Insurance Department is requiring insurance companies to provide options to customers facing sharp increases to help customers retain coverage. He said options can include daily benefit reductions or the removal of inflation riders to help stabilize premiums. He said the department also is requiring insurance companies to give customers a 3-year outlook on premiums for new policies. He said insurance companies are not realizing profits on older policies.

Chairman Unruh said after today's presentations, the committee likely has collected all the information it needs to assess this study topic.

Chairman Unruh invited comments from interested persons in attendance regarding the committee's study of providing an income tax credit for premiums paid for hybrid long-term care insurance. No comments were received.

## **OIL AND GAS REVENUE ALLOCATION REPORT**

Chairman Unruh called on the Legislative Council staff for presentation of a bill draft [[19.0088.01000](#)] to remove the reporting requirements for school districts and counties that receive oil and gas gross production tax allocations. The Legislative Council staff said counties and school districts that receive oil and gas gross production tax allocations are required to report certain information to the Tax Department, which provides a compilation of the reports to a Legislative Management committee. She said items contained in reports submitted by counties include the county's general fund balance, major general fund expenditure categories, and the amount of gross production tax allocated to townships. She said items contained in reports submitted by school districts include information on the school district's total budget and the use of gross production tax allocations. She said the bill draft removes the county and school district reporting requirements. She said the bill draft was requested following a discussion at the committee's December 14, 2017, meeting, which indicated the reports provided little use because gross production tax allocations were commonly commingled with other revenue sources in a county's general fund.

In response to a question from Representative Headland, Chairman Unruh said she requested the bill draft because the reports do not contain any substantive information. She said the state imposes several reporting requirements at the local level, many of which are useful to legislators. She said she viewed this report as one that could be eliminated to help ease the reporting burden at the local level.

Senator Cook said he has long thought the Legislative Assembly should take a comprehensive look at all the reporting requirements imposed at the local level to see which requirements are still relevant. He said a bill draft that eased reporting requirements, but strengthened uniformity in political subdivision accounting practices, might be a good tradeoff.

Chairman Unruh said she agreed a comprehensive review would be best, but thought she would start with this reporting requirement since the committee recently became aware of the report's lack of use.

Chairman Unruh invited comments from interested persons in attendance regarding the bill draft. No comments were received.

## PROPERTY TAX SYSTEM STUDY

Chairman Unruh called on the Legislative Council staff for presentation of a memorandum entitled [\*Property Tax Exemptions\*](#). The Legislative Council staff said the memorandum identifies the date each of the existing property tax exemptions under North Dakota law were enacted. She said the memorandum does not track the changes made to exemptions over time.

Chairman Unruh called on Ms. Linda Leadbetter, State Supervisor of Assessments, Tax Department, for presentations ([\*Appendix O\*](#)) regarding an update on the receipt of information for preparation of a statewide property tax increase report, an overview of agricultural property valuation and the use of modifiers, and the use of sales as a basis for residential and commercial property valuation.

In regard to the statewide property tax increase report, Ms. Leadbetter reviewed the process counties must follow when submitting their abstract of tax list to the Tax Commissioner. She said two counties missed the December 31 reporting deadline for 2017. She said four counties have not reported the full 3 years of required data pursuant to the new tax increase reporting requirements. She said some of the reporting delays were related to staffing issues and questions regarding the information counties were required to provide. She said the Tax Department has uploaded the information in the reports into a new online search tool that will allow the public to easily access property tax information. She provided a demonstration of the search tool and said users can apply various filters to narrow their search or conduct more detailed searches and export the data from their search results. She said the tool will allow taxpayers to make comparisons between various taxable years to determine why their taxes may have increased or decreased. She said the new tax increase reporting requirements and the development of the website has provided the department with another good checkpoint at the local level.

In response to a question from Senator Cook, Ms. Leadbetter said the two counties that have not completed the abstract of tax lists are Mercer and Sioux Counties. She said because this is the first year Mercer County is completing its report using a computer program, it is taking a bit of extra work for that county. She said the four counties that have not remitted the full 3 years of data are Benson, Ransom, Sargent, and Sioux Counties. She said the Tax Department will have the full report of tax increases available for the committee's next meeting.

Senator Cook said he is eager to review the final report to see which political subdivisions are raising taxes or holding taxes the same and to see if there are any abnormalities or taxes being levied incorrectly.

In response to a question from Senator Cook, Ms. Leadbetter said the Tax Department discovered some discrepancies at the township level. She said townships have the authority to levy 18 mills. She said a township can levy up to an additional 18 mills, for a total of 36 mills, upon the approval of a majority of the qualified electors of the township. She said the increased levy authority may not remain in effect for more than 5 taxable years. She said the townships at issue had incorrectly compounded the additional levy authority each year. She said the error resulted in one township levying nearly 60 mills and the other levying in excess of 60 mills. She said the department is working with the county auditor, the state's attorney, and the city commission to resolve the error and determine if abatements and refunds need to be issued for the amounts incorrectly levied. She said cities below a certain population threshold can audit their own financials. She said the error likely occurred at the county auditor level.

Ms. Leadbetter said the Tax Department has built certain tolerance levels into the system to help identify errors. She said the receipt of information for the property tax increase report has helped the department identify areas in which additional education or onsite training may be required. She said the department also has discussed whether it would be better to receive abstracts before property statements are mailed to help identify errors. She said the

law requires property tax statements to be mailed to taxpayers by December 26 and abstracts to be submitted to the department by December 31.

In response to a question from Chairman Unruh, Ms. Leadbetter said there were a few minor concerns at the county level. She said some counties are trying to levy mills under levy authority repealed by 2015 Senate Bill No. 2144. She said these errors do not impact property tax statements, but counties need to be directed to levy these amounts under the general fund levy authority rather than the levy authority that has expired.

Chairman Unruh said the property tax increase report will be very valuable to the committee.

Ms. Leadbetter said agricultural value is defined in statute as the capitalized average annual gross return. She said a productivity formula, rather than a market assessment, is used to value agricultural land. She said North Dakota State University's Department of Agribusiness and Applied Economics establishes a base year index that is used to develop what the total or average value of cropland and noncropland should be in each county. She said the local assessor determines the relative value of each parcel by applying the following considerations, in descending order—the soil type and soil classification data from detailed or general soil surveys, the county's schedule of modifiers as approved by the State Supervisor of Assessments, and the actual use of the property by the property owner for cropland or noncropland purposes. She said 18 counties do not use modifiers and there is a large variance among those counties that use modifiers. She said the tax director in each county is required to provide assessors a list of approved modifiers by February 1 of each year and explain how those modifiers should be applied. Even though the modifiers are approved at the state level, she said, the Tax Department does not review whether modifiers are being correctly or consistently applied within the county unless a taxpayer appeals the local assessment to the State Board of Equalization (SBOE). She said the department investigates how modifiers have been applied at the county level when reviewing appeals made to SBOE. She said legislation to change the manner in which modifiers are applied failed to pass during the 2015 legislative session.

Ms. Leadbetter provided information ([Appendix O](#)) pertaining to the use of sales as a basis for valuation relating to valuing commercial and residential property. She said the true and full value for commercial and residential property is determined based on market value. She said assessors also can use a cost approach or income approach when valuing revenue-generating property. She said the Tax Department conducts an annual sales ratio study for each county and the 12 largest cities to examine the relationship between assessed value and market value. She said each jurisdiction is required to provide information on a minimum number of sales to ensure the department has an appropriate sampling. She said a jurisdiction that did not have adequate sales in the taxable year may include sales from the 3 prior years. She said a property's assessed value is compared to its sales price to calculate the property's sales value to assessed value percentage. She said the percentages that correlate to each property in the sales ratio study are ordered from lowest to highest and the median percentage is used to calculate the assessed value to market value percentage. She said the assessed value to market value percentage is used as the basis for equalization action by SBOE.

Ms. Leadbetter said for the 2017 tax year, SBOE requires assessments to be within 10 percent of the estimated market value for the prior tax year, but not in excess of 100 percent of market value. She said this equates to a tolerance level of 90 to 100 percent. She said tolerance levels help cities and counties determine assessments as they move into the next taxable year. She said sales information lags a year behind the assessments being considered. She said taxpayers often appeal to SBOE in the year following a year in which market values drop because assessed values will sometimes be higher than current year market values. She said the lag time from using prior year market values creates the opposite effect on assessed values in a year following a year in which market values increase. She said several motel and apartment complex owners in the western part of the state appealed to SBOE and the board was able to work with those owners to make adjustments to the properties.

In response to a question from Representative Ertelt, Ms. Leadbetter said if properties are found to be outside of tolerance, SBOE will direct the Tax Department to perform an investigation. She said the department will provide a recommendation to SBOE on the specific percentage increase or decrease required on specific types of properties or within specific locations to bring the properties within the 90 to 100 percent tolerance range. She said SBOE makes the final decision regarding any adjustments and state law requires the county auditor to make the adjustments directed by SBOE.

In response to a question from Senator Bekkedahl, Ms. Leadbetter said a property owner first must appeal the assessment to the local and county board of equalization before appealing to SBOE. She said the requirement to appeal to the local board of equalization does not apply if the assessment was increased following the meeting of the local board of equalization. She said the county board of equalization should notify the local board of equalization if the county board of equalization is increasing the assessment on a parcel of property.

Chairman Unruh called on Mr. Joshua C. Gallion, State Auditor, for presentation of information ([Appendix P](#)) regarding audits of political subdivisions. Mr. Gallion said there are 22 different categories of political subdivisions. He said townships are not classified as a political subdivision for purposes of the State Auditor's office. He said the office audits political subdivisions once every 2 years. He said a political subdivision, at the option of its governing body, may be audited by a certified or licensed public accountant rather than by the State Auditor. He said office staff audits about 22 to 23 counties. He said the office has a limited number of staff located in Fargo. He said cities with a population of 500 or more submit audits to the office. He said cities with a population of less than 500 may submit an annual financial report to the office in lieu of conducting an audit every 2 years. He said county audits and audits of cities with a population of 500 or more are posted on the State Auditor's website. He said the office reviews the mill levy calculations for audits it conducts.

In response to a question from Senator Bekkedahl, Mr. Gallion said the State Auditor's office provides more audit services to the eastern part of the state than the western part of the state because the office's staff are located in Fargo. He said the office's Bismarck branch closed and the staff were never replenished. He said he would be very open to restoring audit services to the western part of the state. He said services provided by the office are better priced than audit services provided by private companies.

In response to a question from Representative Ertelt, Mr. Gallion said all audits, whether conducted by the state or a private company, should follow the same government accounting standards. He said the State Auditor's office did not prepare the Williams County audit that contained the township mill levy errors. He said he has contacted the Williams County auditor and has reviewed the county's tax levy worksheets. He said he will be speaking to staff about possibly reviewing these calculations on an annual basis going forward.

In response to a question from Senator Dotzenrod, Mr. Gallion said the only recommendations the State Auditor's office would provide to political subdivisions would be the recommendations contained in audits the office conducts. He said the office looks at the audit reports completed by outside companies to verify the companies followed the correct process. He said the office may need to reach out to county auditors to remind them the State Auditor's office may be contacted as a resource for any audit or accounting questions. He said the township error appears to be an oversight that could have been caught.

In response to a question from Senator Cook, Mr. Gallion said the State Auditor's office reviews about 1,200 to 1,300 audits of political subdivisions. He said his staff reviews reports completed by private companies to ensure the reports were completed in a sufficient manner and the correct protocols were followed.

Chairman Unruh said the committee will continue to address any issues that arise in the future and try to ensure work is being done correctly and duties are not overlapping between various state agencies.

Chairman Unruh invited comments from interested persons in attendance regarding the committee's study of the property tax system.

Mr. Tom Valentine, Assessor, Fremont Township, Cavalier County, provided information ([Appendix Q](#)) regarding a requested abatement. He said there seems to be conflicting information regarding whether the land at issue is subject to an easement. He provided an example of another abatement request granted and said the county decreased the value on the property owner's home from \$85,000 to \$30,000. He said the county pays Vanguard Appraisals to assess residential and commercial property and Vanguard Appraisals valued the home at \$79,900. He said the property owner has requested an abatement on the value of the land as well. He said when he looked up the soil type on the property owner's land, the soil type listed by the county did not match the soil type listed on the web soil survey. He said there is conflicting information regarding soil types and soil value depending on the source referenced. He said it would be better if there was a single, consistent source of information that came from the state level. He also noted concerns with requiring individuals to appear in front of their local board of equalization before appearing before SBOE. He said many local boards hold meetings on the same day. He said a farmer with land spanning multiple townships would be hard pressed to attend multiple local equalization meetings on the same day. He said the timing of local equalization meetings might be a good issue for the committee to address.

Mr. Terry Traynor, Assistant Director of Policy and Programs, North Dakota Association of Counties, commended the Tax Department for its automation efforts and the provision of technical assistance. He said the department's efforts have resulted in tremendous improvements for local governments. He said the automated system Ms. Leadbetter described is going to help the North Dakota Association of Counties provide better information and allow individuals to have greater access to information relating to property taxes. He said there are no excuses for the two township errors. He said he was surprised more errors were not found given the sheer volume of political subdivisions and the thousands of individual calculations involved. He said individuals will need to remain diligent to ensure there are no additional errors going forward.

In response to a question from Senator Cook, Mr. Traynor said a requirement for counties to have a uniform accounting system becomes less important if counties can place a front-end system on their websites to allow data to be pulled from any accounting system and displayed in the same manner for comparison purposes.

In response to a question from Senator Cook, Chairman Unruh requested the Legislative Council staff to research the number of cities and counties that have approved a resolution to allow a 2-year property tax exemption for up to \$150,000 of the true and full value of new or builder-owned single-family residential property and the frequency in which the exemption is granted.

Chairman Unruh said 3-D images showing valuation density are available for Bismarck, Fargo, and Grand Forks. She said the committee will try to take a closer look at those valuation images at the committee's next meeting, which is tentatively scheduled for Wednesday, March 28, 2018.

No further business appearing, Chairman Unruh adjourned the meeting at 3:00 p.m.

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Emily L. Thompson  
Counsel

ATTACH:17