NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TAXATION COMMITTEE

Thursday, September 6, 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, Scott Meyer; Representatives Thomas Beadle, Jason Dockter, Sebastian Ertelt, Jim Grueneich, Ron Guggisberg, Patrick Hatlestad, Craig Headland, Ben Koppelman, Alisa Mitskog, Emily O'Brien, Randy A. Schobinger, Vicky Steiner, Nathan Toman

Members absent: Senators Jim Dotzenrod, Lonnie J. Laffen; Representative Jim Kasper

Others present: Representative Corey Mock, Grand Forks, member of the Legislative Management
See Appendix A for additional persons present.

It was moved by Senator Bekkedahl, seconded by Representative Dockter, and carried on a voice vote that the minutes of the July 12, 2018, meeting be approved as distributed.

ECONOMIC DEVELOPMENT TAX INCENTIVES STUDY

Chairman Unruh called on the Legislative Council staff for presentation of updated background memorandums entitled *Economic Development Tax Incentive Study - Research Expense Tax Credit*, *Economic Development Tax Incentive Study - New Jobs Credit from Income Tax Withholding*, *Economic Development Tax Incentive Study - Internship Program Credit*, *Economic Development Tax Incentive Study - Workforce Recruitment Credit*, *Economic Development Tax Incentive Study - New or Expanding Business Exemptions*, and *Economic Development Tax Incentive Study - Renaissance Zone Tax Credits and Exemptions*. The Legislative Council staff said the memorandums have been updated with the additional data and testimony the committee received at previous meetings. She presented a memorandum entitled *Economic Development Tax Incentive Study - Evaluation Chart*. She said the chart has been updated to assist the committee in tracking its progress in studying economic development tax incentives.

Chairman Unruh called on Ms. Rikki Roehrich, Community Services Block Grant Program Administrator, Community Development Programs, Department of Commerce, for presentation of the 2017 report (Appendix B) pertaining to renaissance zone progress and a summary of reports (Appendix C) provided by cities that have a renaissance zone included in a tax increment financing (TIF) district, pursuant to North Dakota Century Code Section 40-63-03. Ms. Roehrich said 1,665 projects have been approved and 1,314 projects have been completed since the inception of the renaissance zone program. She said there were 58 renaissance zones in the state in 2017. She said two established renaissance zones reached their expiration date in 2017 and requested an extension. She said both were approved for a full 5-year extension. She said a survey of renaissance zone communities conducted in 2017 indicated renaissance zones resulted in the creation of 10 new businesses, 5 business expansions, and 189 new jobs. She said the total benefits of the 46 projects completed in 2017 was $913,316 in income tax exemptions and $2.97 million in property tax exemptions. She said the cities of Hazen and Mandan have properties located in both a renaissance zone and a TIF district. She said Mandan is the only city with properties that receive benefits from both the renaissance zone and TIF programs. She said renaissance zones are a vital economic tool for smaller communities.

Chairman Unruh called on Ms. Ellen Huber, President, Economic Development Association of North Dakota, and Business Development and Communications Director, City of Mandan, for a presentation (Appendices D and E) of the association's recommendations pertaining to the committee's study of economic development tax incentives. Ms. Huber said site selectors consider a variety of factors when determining where to locate a business. She said the association considered these factors when developing its recommendations. She said the association's recommendations focus on workforce development, infrastructure funding, the use of community development matching grants to leverage crowd funding, the development of a state deal closing fund, and the development of a futures committee. She said workforce attraction is a large concern in communities across the state. She said the association recommends a four-prong approach to addressing the state's workforce needs. She said this approach entails developing a scholarship program that offers forgivable loans, extending educational opportunities to local communities, developing an incentive to spur the use of innovative technologies to improve job quality and output, and developing and retaining child care services.

Ms. Huber said the scholarship program offers a forgivable loan aimed at high-demand and hard-to-fill careers and requires a private sector funding match for up to $10 million in public funds. She said the program is administered by the Bank of North Dakota in conjunction with the North Dakota University System and requires a recipient to live and work in the state for at least 3 years following graduation. She said the Build Dakota Scholarship Fund in South Dakota is a similar program that is funded by the South Dakota future fund and private funds.

Representative Koppelman said the loan-forgiveness program might not align with the goal of attracting a larger workforce. He said many individuals with the workforce skills the state needs already have completed their education in other states. He said the loan-forgiveness program would not entice those individuals to come to the state.

Ms. Huber said she welcomes ideas regarding the best way to meet the state's workforce needs. She said the loan-forgiveness program aims to encourage residents of North Dakota to remain in the state to complete their education. She said the program could be modified to provide reimbursement to certain skilled individuals who come from other states with existing student loan debt.

Representative Koppelman said the association identified the availability of income and property tax incentives as a key driver behind a business's decision to locate in a particular area. He said these same incentives could be offered to individuals to help attract a larger workforce to the state. He said a large portion of the job vacancies in the state do not require a 4-year degree.

Representative Mitskog said the need for a skilled workforce is among the top concerns for employers in the southeastern part of the state. She said this is especially true in Wahpeton, which has a large percentage of manufacturing-based employers. She said fewer students from South Dakota are attending the North Dakota State College of Science in Wahpeton as a result of the scholarship programs offered in South Dakota. She said scholarship programs offered in Minnesota for high-demand fields also have reduced the number of high school students remaining in the state after graduation. She said the state's workforce needs will need to be addressed during the upcoming legislative session. She said the state needs to remain competitive with neighboring states that have taken measures to address workforce training needs. She said data indicates students often remain to live and work in the communities in which they received their education.

Ms. Huber said students who complete their education in North Dakota are more likely to intern with businesses in the state and remain in the state. She said the association is open to suggestions regarding ways to guide young people from this state, and other states, into high-demand career fields.

Ms. Huber reviewed the association's recommendations for a 21st century manufacturing workforce incentive. She said the incentive is an enhanced version of the automation tax credit that expired in 2017. She said the incentive would provide an income tax credit to manufacturers investing in equipment to increase output and job quality. She said the maximum amount of credits that can be awarded to applicants per year is $2 million. She also reviewed the association's recommendations regarding deal closing funds. She said South Dakota has a future fund from which grants can be awarded based on a recipient's needs.

In response to a question from Representative Headland, Ms. Huber said closing funds, which can take the form of cash or other upfront incentives, are administered in a variety of ways in other states. She said for purposes of a closing fund in this state, the association would envision funds being awarded by a board composed of the Governor and representatives from legislative leadership, the Department of Commerce, and the association. She said the fund would be used sparingly and in some years may not be used at all.

In response to a question from Representative Mitskog, Ms. Huber said the state lost an opportunity for a soybean plant to South Dakota due to that state's use of its discretionary future fund.

In response to a question from Representative Mock, Ms. Huber said funding for South Dakota's future fund partially is tied to that state's workforce insurance program. She said the association welcomes the opportunity to study funding mechanisms and best practices in other states if the committee is interested in receiving that information.

In response to a question from Representative Headland, Ms. Huber said the association is agreeable to modifying the 21st century workforce incentive to tie the availability of the credit to increased output.

Representative Steiner said the bill draft needs more specific proration language. She said the committee should consider whether it is better to prorate the credits between all applicants equally or award a larger portion of the credits to a smaller, better-suited pool of applicants. She said the bill draft should provide more detail regarding how applicants are evaluated when awarding the credits.

Chairman Unruh called on the Legislative Council staff for presentation of a bill draft [19.0294.01000] pertaining to the association's recommendations for a North Dakota talent attraction and retention scholarship program and a 21st century manufacturing workforce incentive. The Legislative Council staff said the 21st century manufacturing incentive is a slight rework of the automation tax credit that expired in 2017. She said the 2015-16 interim Political Subdivision Taxation Committee studied the automation tax credit and recommended a bill draft to remove the sunset date on the credit for introduction during the 2017 legislative session. She said the resulting bill, 2017 House Bill No. 1047, failed to pass. She said the automation tax credit provided an income tax credit equal to 20 percent of the amount expended to purchase manufacturing machinery and equipment to automate a manufacturing process. She said the amount of credits available to all claimants initially was limited to $2 million per year but the credit amount was reduced to $500,000 for calendar years 2016 and 2017. She said credits were prorated among claimants if the credit amount claimed exceeded the available amount and any credits remaining at the end of a calendar year were carried forward for use in the succeeding calendar year.

The Legislative Council staff said the only changes made to the expired credit are a change to the credit's title, a reversion to the 2015 yearly credit amount of $2 million, the addition of language indicating the purchase of automation machinery and equipment should improve job quality and increase output, a clarification that purchases of replacement machinery and equipment that do not serve the purposes of upgrading or advancing a manufacturing process will not qualify for the credit, a new definition of primary sector business, and a requirement for the applicant to file a statement regarding how the upgrade or advancement will improve job quality and increase output. She said the definition of primary sector business cites to the uniform definition of the term, which was recommended by the 2015-16 interim Political Subdivision Taxation Committee as 2017 House Bill No. 1044, following the committee's study of incentives, and passed by the 65th Legislative Assembly.

In response to a question from Representative Headland, the Legislative Council staff said the bill draft requires an applicant to describe how the automation machinery or equipment purchase will improve job quality or increase output. She said the bill draft does not contain provisions allowing the Tax Commissioner to pull the credit back if increases in job quality or output do not occur.

In response to a question from Representative Steiner, the Legislative Council staff said the association did not define "job quality" or "increased output" in the bill draft.

Senator Cook said he questioned whether the bill draft would fare better as a committee bill or a privately sponsored bill. He said the automation credit has a long history and typically has faced more opposition in the House than in the Senate. He said although the bill draft may be more successful as a privately sponsored bill, any committee-suggested improvements to the bill draft are welcome.

Ms. Huber said the association would support either committee or private sponsorship. She said the association would like the bill draft to come forward for debate, discussion, and further improvement through the legislative process.

Chairman Unruh said the bill draft would fare better as a privately sponsored bill but would consider any suggested changes at the committee's last meeting in October.

Senator Cook said he would like the bill draft to include a definition for "increased output."

Representative Headland said he would like the bill draft to include language that specifies the required levels of increased output. He said the association may wish to assist in defining the desired level of increased output.

Ms. Huber said the association would speak to its members and the Greater North Dakota Chamber to define "job quality" and "increased output."

Representative Dockter said the previous interim study of incentives highlighted the importance of clearly defining terms for purposes of administering and gauging the effectiveness of incentives.

The Legislative Council staff reviewed the provisions of the North Dakota talent attraction and retention scholarship program. She said the program is administered by the Bank of North Dakota in conjunction with the University System and the North Dakota Dollars for Scholars program. She said the program offers a scholarship in the form of a forgivable loan. She said the program requires an individual receiving a forgivable loan to work in the state for 3 years following graduation. She said the loan is available for up to eight consecutive semesters and requires the individual to enroll in a minimum of 12 credit-hours per semester. She said an individual may qualify for a maximum of $8,500 per year for 4 years. She said the program requires a dollar-for-dollar, public-private match.

In response to a question from Representative Steiner, the Legislative Council staff said the association did not define "highly specialized careers or skill sets."

In response to a question from Representative Headland, Ms. Huber said $8,500 per year is the average cost of tuition at North Dakota institutions of higher education. She said the bill draft allows the scholarship amount to be adjusted for future increases.

In response to a question from Representative Steiner, Ms. Huber said the association did not consider every possible residency scenario but is open to suggestions aimed at making the scholarship program the best program to attract and retain talent.

Senator Cook said many states are experiencing workforce shortages. He said South Dakota's scholarship program illustrates the need for North Dakota to step up to the plate. He said he would like to receive more information on South Dakota's Build Dakota Scholarship Fund. He said he would prefer a scholarship program that focuses on 2-year degree, blue-collar jobs.

Chairman Unruh said she plans to have Ms. Michelle Kommer, Commissioner, Department of Labor and Human Rights, speak to the committee in October to discuss the results of the employer surveys sent by the Workforce Development Council and the council's recommendations regarding workforce needs.

Senator Cook said the need for a larger workforce is one of the biggest issues the state is facing. He said the scholarship program in the bill draft will not help the state attract workers from other states but might help the state retain its younger generations. He said he would like the provisions relating to the scholarship program and the 21st century workforce incentive placed in two separate bill drafts.

Ms. Huber said the scholarship program provides loan forgiveness for up to 4 years because the state is experiencing a critical need for licensed nurses holding a 4-year degree. She said the program allows loan forgiveness for 2- and 4-year degree programs.

Chairman Unruh invited comments from interested persons in attendance regarding the committee's study of economic development tax incentives and committee bill drafts. No comments were received.

Chairman Unruh called on Mr. Jonathan Williams, Chief Economist and Vice President; and Mr. Elliot H. Young, Research Analyst; American Legislative Exchange Council Center for State Fiscal Reform, appearing via WebEx, for a presentation (Appendix F) regarding the long-term benefits of eliminating state income taxes. Mr. Williams said he appreciates the opportunity to present information to the committee regarding the council's research and analysis on income taxes and economic competitiveness in the states. He said the committee members have received copy of the publication *Rich States, Poor States: ALEC-Laffer State Economic Competitiveness Index*, which is on file with the Legislative Council.

Mr. Young reviewed the economic literature pertaining to various forms of taxation and taxation's impact on growth, the growth differentials between the nine states without income tax and states with high income tax, the effect of regional competition on the state, and recent notable tax reforms implemented in Tennessee and North Carolina. He said corporate and personal income taxes tend to be more harmful to economic growth than consumption taxes. He said broad-based taxes on consumption allow tax rates to remain low. He said from 2006 to 2016, the population in states without income tax grew 111 percent faster than the population in those state's higher tax counterparts. He said North Dakota is well positioned to adopt pro-growth reforms to its tax code. He said revenue stability is not increased during down years by instituting many forms of taxation. He said a preferable tax code is one that contains one or two broad-based consumption taxes. He said the state's economic competitiveness has improved substantially over the past few years. He said ranked from best to worst, the state ranks 10th in personal income tax, 7th in corporate income tax, 9th in property tax, and 47th in sales tax.

In response to a question from Representative Headland, Mr. Williams said a state's sales tax ranking is determined by dividing total state and local sales tax collections by total personal income tax collections. He said a state's ranking does not take into account a state's sales tax base or sales tax structure.

In response to a question from Senator Cook, Mr. Williams said the prevalence of the oil industry and the fact that $250,000 in sales tax is generated on each new well has a negative impact on the state's ranking because the ranking is based purely on collections.

In response to a question from Representative Headland, Mr. Williams said both individual and corporate income tax rates impact a state's economic growth and the ability to attract individuals to the state. He said the lack of income tax, or income tax imposed at low rates, also is a valuable tool for economic developers to use in recruiting business and individuals to invest in a state.

Mr. Young said 22 of the 28 million businesses in the United States are small businesses that file individual income tax returns. He said income tax reductions allows small businesses with historically narrow profit margins to redirect income tax savings toward expansion, which potentially results in the creation of new jobs.

In response to a question from Representative Guggisberg, Mr. Young said there are more recent studies than the 2008 Organization for Economic Co-operation and Development study but none are as expansive as that study. He said he could provide the committee with summaries and links to other relevant studies.

In response to a question from Representative Guggisberg, Mr. Young said the Laffer curve, developed by Dr. Arthur Laffer, shows changes in human behavior and is based on the premise that people tend to make decisions that enhance their well-being or the well-being of their families. He said the Laffer curve illustrates the relationship between tax rates and revenue. He said the curve shows a zero percent tax rate raises zero revenue and a 100 percent tax rate also raises zero revenue because people will not work just to pay tax.

PROPERTY TAX SYSTEM STUDY

Chairman Unruh called on the Legislative Council staff for presentation of an updated memorandum entitled *Special Assessment Fees in Various Cities*. The Legislative Council staff said the memorandum has been updated with information from the three cities that had not reported when the memorandum was presented in July.

In response to a question from Chairman Unruh, the Legislative Council staff said not all cities reported having a city engineer.

Senator Bekkedahl said Williston uses both city engineers and external engineers and the fees for engineering services are dependent on the engineer selected. He said a fixed fee is applied to city engineering services. He said because city engineers were not able to keep up with the level of growth Williston was experiencing, the city had to contract work to external engineers.

Chairman Unruh called on the Legislative Council staff for presentation of a bill draft [19.0286.01000] relating to the homestead tax credit for special assessments. The Legislative Council staff said the committee reviewed a bill draft [19.0237.01000] at the previous meeting which increased the amount of the homestead tax credit for special assessments from $6,000 to $15,000 and reduced the interest rate charged on the credit from 9 percent to 6 percent. She said there was a request at the previous meeting to retain the $15,000 increase and link future changes to the credit amount to the consumer price index. She said changes also were requested relating to the interest charged on the credit. She said the bill draft [19.0286.01000] retains the increased $15,000 credit for 2019 and adjusts the credit in each succeeding year to track with changes to the consumer price index. She said the bill draft cites to the consumer price index for all urban consumers in the Midwest region because that index most closely tracks with North Dakota's economy. She said the interest rate associated with the credit was modified to link to the interest rate charged on loans under Section 47-14-05 which is 6 percent. She said both changes were requested to prevent the Legislative Assembly from having to make further changes to the credit as interest rates and the average amount of special assessments fluctuate in the future.

In response to a question from Representative Beadle, the Legislative Council staff said the bill draft does not require the Tax Department to publish the amount of the credit as adjusted each year. She said four other sections of the Century Code provide for adjustments based on changes to the consumer price index.

Chairman Unruh requested the Legislative Council staff obtain information regarding the estimated fiscal impact of the bill draft.

Representative Ertelt said he is hesitant to act on the bill draft before receiving fiscal impact information.

Representative Koppelman said he also would prefer to review fiscal impact information before taking action. He said he is concerned enhanced property owner protections will embolden political subdivisions to use special assessments as a backdoor method of taxation. He said property tax buydowns provided by the Legislative Assembly in the past did not incentivize political subdivisions to keep property taxes low. He said legislative property tax relief almost made it easier for political subdivisions to raise taxes because the increases were softened by the legislative property tax relief. He said he worries the bill draft will have the effect of allowing special assessments to continue to grow at a wild pace.

Senator Cook said he would like to receive information regarding the estimated fiscal impact of the bill draft but the information likely would not impact his decision regarding whether to recommend the bill draft to the Legislative Management for introduction.

Chairman Unruh called on Ms. Linda Leadbetter, State Supervisor of Assessments, Tax Department. Ms. Leadbetter said the department received 25 applications for the credit. She said 25 applications at the existing $6,000 limit would amount to $150,000 in credits. She said she is unsure if the increased credit amount will have the impact of enticing more property owners to apply for the credit. She said the department will need to review past claimant history to determine the estimated fiscal impact of the bill draft.

Chairman Unruh said the committee members can decide whether to take action on the bill draft before receiving additional fiscal impact information. She said the committee does not have the power to pass legislation. She said the committee only has the power to recommend legislation to the Legislative Management for introduction during the next legislative session.

In response to a question from Representative Guggisberg, the Legislative Council staff said the homestead tax credit was first enacted in 1969. She said the homestead tax credit for special assessments was enacted several years later and very few changes were made to the credit following its enactment. She said the interest rate applied to the credit has been 9 percent since the credit was first enacted.

It was moved by Senator Cook, seconded by Representative Beadle, and carried on a roll call vote that the bill draft [19.0286.01000] relating to the homestead tax credit for special assessments be approved and recommended to the Legislative Management. Senators Unruh, Bekkedahl, Cook, and Meyer and Representatives Beadle, Dockter, Grueneich, Guggisberg, Hatlestad, Headland, Mitskog, O'Brien, Steiner, and Toman voted "aye." Representatives Ertelt, Koppelman, and Schobinger voted "nay."

Chairman Unruh called on Mr. Brian Ritter, President, Bismarck-Mandan Chamber of Commerce and Bismarck-Mandan Development Association, for a presentation (Appendix G) regarding special assessments. Mr. Ritter said the City of Bismarck formed a task force with the chamber and the Bismarck-Mandan Development Association to develop recommendations pertaining to infrastructure funding and special assessments. He said a developer developing new property in Bismarck is responsible for paying the belowground costs of the new development. He said the developer places a deposit for the cost of the aboveground improvements and special assesses the costs back to the lot, which ultimately are inherited by the purchaser of the lot. He said the task force recommends changing the system to one in which the developer pays the aboveground and belowground costs and builds the costs into the purchase price of the lot. He said this approach will eliminate special assessment districts and allow homeowners to amortize the additional lot costs over the life of their mortgage. He said the city commission could make the change through ordinance without a vote of the people. He said the largest landowners and developers in the area are open to the change but request 2-years notice before the change is made.

Mr. Ritter said in regard to special assessments for ongoing maintenance costs, the task force recommends the imposition of a street utility tax to replace special assessment revenue. He said the tax would appear as a monthly charge on all residential and commercial utility bills. He said the charge would be determined based on the city's road and street budget needs for each upcoming year. He said the use of a street utility tax would require a legislative change because 2017 Senate Bill No. 2326 prevents political subdivisions from seeking voter approval of any funding mechanism not in a city's home rule charter before August 1, 2017. He said the chamber will be seeking legislation to allow political subdivisions to seek voter approval for a street utility tax.

In response to a question from Chairman Unruh, Mr. Ritter said the estimated cost of the street utility tax in years 1 through 5 would be $20 to $25 per month for each residential utility bill payer and $65 per 10,000 square feet of assessed value for commercial properties.

Representative Koppelman said the street utility tax approach may provide a way for the City of West Fargo to assess infrastructure costs associated with the fair grounds.

In response to a question from Representative Koppelman, Mr. Ritter said a street utility tax could apply to offset both existing and new special assessments or only apply to offset new special assessments going forward. He said Bismarck has $126 million in outstanding special assessments. He said it would take an estimated 8 to 10 years to pay that debt through the use of a street utility tax before the tax would apply only to pay ongoing maintenance costs.

Representative Koppelman said some cities dedicate a portion of property tax and city sales tax revenue to infrastructure funding in addition to revenue from special assessments.

In response to a question from Representative Koppelman, Mr. Keith Hunke, City Administrator, City of Bismarck, said the city commission has the authority to take sales tax revenue to offset or subsidize special assessment projects and reallocate that revenue to other infrastructure projects. He said Bismarck buys down 25 mills of property tax. He said changes to the mill levy buydown could be made based on the will of the voters and the city commission.

In response to a question from Representative Dockter, Mr. Ritter said the legislative change the task force is seeking would allow voters to vote on the imposition of a street utility tax. He said it would not open the door to allowing other funding mechanisms.

Chairman Unruh said she has concerns regarding a taxpayer's ability to weigh in on the fee in the future. She said the cost has been estimated for the first 5 years but she questions the amount of control taxpayers will have over fees after the first 5 years. She said she fears a ballot question may be structured so the fee is easy to sell on the front end but could lead to future liability if certain protections are not included in the language.

Mr. Ritter said a variety of concerns could be addressed through the wording of the ballot question. He said the ballot question could limit the fee to applying for a limited duration or subject the fee to reapproval by the voters after a set period.

Senator Cook said a discussion regarding the elimination of special assessments is overdue.

In response to a question from Senator Cook, Mr. Ritter said the only exception he could see to the total elimination of special assessments with the use of a street utility fee would be in relation to park districts. He said park and recreation districts in Bismarck can levy special assessments via the City of Bismarck. He said a separate plan or procedure would need to be developed to address special assessments levied by the parks department via the City of Bismarck.

Senator Cook said he could see proposed legislation requiring special assessments be eliminated entirely if the city is allowed to impose a street utility tax. He said he also could see proposed legislation requiring continued voter approval, especially in regard to street utility tax increases that exceed a certain amount.

Chairman Unruh said she would be supportive of both protections being added to any proposed legislation to allow the imposition of a street utility tax. She said she is glad the task force has taken the time to review alternatives to the use of special assessments.

Representative Koppelman said there is the potential to replace special assessments for park districts purposes with a similar monthly park fee that could be approved by a vote of the people.

Chairman Unruh invited comments from interested persons regarding the committee's study of the property tax system and committee bill drafts.

Mr. Steven Vogelpohl, municipal bond attorney, Bismarck, provided information (Appendix H) regarding park district borrowing methods. He said the purpose of his testimony is to provide two proposals for suggested law reform. He said both proposals would provide park districts with borrowing authority that obligates property tax as a repayment source for park district improvements, while leaving conflicting and differing interpretations of Attorney General Opinion 82-71 unreconciled. He said both proposals remove election provisions that require approval of 60 percent of the voters as a prerequisite to issuing bonds. He said removing the election requirement makes bonding an economical and viable option for park districts. He said the first proposal does not provide a property owner the opportunity to bar the park district from issuing bonds. He said the second proposal allows property owners to bar the park district from issuing bonds if the owners of taxable property having an assessed value equal to 5 percent or more of the assessed valuation of all taxable property within the park district file a written protest within 60 days following the publication of the initial resolution authorizing the issuance of general obligations bonds.

In response to a question from Senator Cook, Mr. Vogelpohl said special assessments paid from a general obligation tax is used by park districts as a financing tool to allow park districts to bond. He said park districts must hold an election to issue bonds under Chapter 21-03. He said he is not looking to have park districts appear before the committee to account for its use of special assessments. He said he is seeking legislation to give park districts a viable option to walk away from the use of special assessments as a financing method.

In response to a question from Representative Koppelman, Mr. Vogelpohl said the proposed legislation does not remove any powers of the park district. He said it gives a park district that wants to stay out of a complicated set of legal arguments the means to do so.

Senator Cook distributed bill draft [19.0284.01000] and bill draft [19.0166.01000]. The Legislative Council staff said bill draft [19.0284.01000] contains the proposal identified as option one in Mr. Vogelpohl's testimony and bill draft [19.0166.01000] contains the proposal identified as option two, which includes the ability for property owners to protest the initial resolution authorizing the issuance of park district general obligation bonds.

Chairman Unruh called on the Legislative Council staff to summarize the proposed changes the committee will review to bill draft [19.0294.01000] at the committee's October meeting. The Legislative Council staff said the sections relating to the scholarship program and the 21st century workforce incentive will be placed in two separate bill drafts. She said the 21st century workforce incentive will be amended to provide further clarification regarding increased job quality and increased output. She said the scholarship program will be amended to apply to 2-year degree programs and South Dakota's Build Dakota Scholarship Fund will be reviewed in more detail.

Chairman Unruh called for committee discussion and directives regarding the committee's study of the property tax system.

Representative Ertelt distributed a bill draft [19.0175.01000] relating to a property tax credit for property used as a primary residence. He said the bill draft expands the premise behind the long-held farm residence exemption to all property owners holding property as a primary residence. He said the principle of private property ownership does not exist unless an individual's property is exempt from tax. He said the bill draft allows an individual to fully own the individual's primary residence. He said the bill draft was prepared at his request by the Legislative Council staff.

The Legislative Council staff said the bill draft [19.0175.01000] eliminates property tax on an individual’s primary residence by providing a credit in the form of a reduction equal to the taxable valuation of the individual's primary residence. She said the credit is available for all classifications of property as long as the property serves as the applicant's primary residence. She said for multi-unit commercial property, the property tax credit will apply only to the portion of the property occupied by the property owner as the owner's primary residence. She said the bill draft eliminates other homestead-based property tax credits except for the farm residence property tax exemption. She said a farmer who does not qualify for the farm residence exemption may apply for the primary residence property tax credit. She said the bill draft retains the homestead property tax credit for special assessments but changes the qualifier reference from the homestead property tax credit to the primary residence property tax credit. She said a property approved to receive the credit continues to receive the credit from year to year but an assessor may request the owner verify information or file a renewed claim as needed.

In response to a question from Chairman Unruh, the Legislative Council staff said "primary residence" is defined in various places in Century Code. She said she could send the committee a memorandum prepared for a previous interim committee which outlines the various references to "primary residence" throughout Century Code.

In response to a question from Chairman Unruh, Representative Ertelt said the impetus for the bill draft was not based on any one item of testimony the committee received, but rather grew from the committee's study of the property tax system as a whole and the various attempts by the Legislative Assembly to fix the property tax system over the past decade.

In response to a question from Senator Cook, Representative Ertelt said the total amount of property tax generated from the taxation of residential property in 2017, payable in 2018, was $419.2 million. He said the figure was obtained from the *2017 Property Tax Statistical Report* published by the Tax Department.

Representative Headland said political subdivisions are not reimbursed by the state for the farm residence exemption and many of those residences have never been assessed. He said if those otherwise qualifying for the farm residence apply for the primary residence credit it could increase the fiscal impact of the bill draft and result in a net gain for political subdivisions.

In response to a question from Senator Bekkedahl, Representative Ertelt said he is considering potential revenue sources for the state payments to political subdivisions.

In response to a question from Representative Koppelman, Representative Ertelt said the bill draft does not incorporate elements of property tax reform. He said he has considered using income tax revenue to offset the property tax revenue lost by political subdivisions as a result of the credit.

In response to a question from Chairman Unruh, Representative Ertelt said a potential income tax offset mechanism would be tied to the political subdivision in which the primary residence is located.

Representative Beadle said the bill draft applies only to owner-occupied housing, as opposed to rental property. He said the fiscal impact of the bill draft likely will be less once the property tax tied to residential rental properties is subtracted from the estimated $419.2 million figure.

Chairman Unruh said she is apprehensive to recommend such a complicated new concept as a committee bill draft at this point in the interim. She said she would consider amendments to the bill draft at the last meeting based on some of the items raised during the committee's discussion of the bill draft. She said committee members could work with Representative Ertelt if they have suggested amendments.

Representative Ertelt said he was open to considering amendments to the bill draft.

No further business appearing, Chairman Unruh adjourned the meeting at 2:05 p.m.

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Emily L. Thompson
Counsel

ATTACH:8