

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TAXATION COMMITTEE

Tuesday, July 23, 2019
 Roughrider Room, State Capitol
 Bismarck, North Dakota

Representative Jim Grueneich, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Jim Grueneich, Jake G. Blum, Jason Dockter, Matt Eidson, Sebastian Ertelt, Ron Guggisberg, Patrick Hatlestad, Craig Headland, Vicky Steiner; Senators Dwight Cook, Jim Dotzenrod, Jordan Kannianen, Curt Kreun, Dale Patten, Jessica Unruh

Members absent: Representatives Tom Kading, Ben Koppelman, Alisa Mitskog

Others present: Senator Erin Oban, Bismarck, member of the Legislative Management
 See [Appendix A](#) for additional persons present.

Chairman Grueneich said the committee will receive information regarding the economic development tax incentive and special assessment funding replacement option studies at today's meeting and information regarding the gaming and electronic smoking device studies at a future meeting.

At the request of Chairman Grueneich, the Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY

Chairman Grueneich called on the Legislative Council staff for presentation of a memorandum entitled [Economic Development Tax Incentives Review - Background Memorandum](#). The Legislative Council staff said North Dakota Century Code Section 54-35-26 provides a list of economic development tax incentives that must be reviewed once every 3 interims. She said this interim is the last in the first 3-interim review cycle. She said incentives requiring review this interim include the sales tax exemption for manufacturing and recycling equipment, the sales tax exemption for materials used to construct fertilizer or chemical processing facilities, the sales tax exemption for materials used to inject carbon dioxide for storage or enhanced oil recovery, the sales tax exemption for enterprise information technology equipment and computer software used in a qualified data center, fuel tax refunds for certain users, coal severance and conversion tax exemptions, and oil and gas gross production tax exemptions. She said the next seven memorandums describe the operation of each incentive, the perceived goals of the incentive when it was enacted, and the data and testimony the committee will need to receive to effectively evaluate each incentive. She said the memorandums will be updated throughout the interim as data and testimony are received.

Chairman Grueneich called on the Legislative Council staff for presentation of memorandums entitled [Economic Development Tax Incentives Study - Manufacturing and Recycling Sales Tax Exemption](#), [Economic Development Tax Incentives Study - Fertilizer or Chemical Processing Facility Sales Tax Exemption](#), [Economic Development Tax Incentives Study - Carbon Dioxide Capture and Injection Sales Tax Exemption](#), and [Economic Development Tax Incentives Study - Qualified Data Center Sales Tax Exemption](#).

Senator Cook said he would be interested in receiving information regarding the number of data centers added in the state since 2015.

In response to a question from Representative Dockter, the Legislative Council staff said Tax Department representatives have cited confidentiality concerns in the past when withholding information relating to incentives claimed by fewer than five claimants. She said previous interim committees have received information on infrequently claimed incentives by inviting industry representatives to appear before the committee and voluntarily provide information regarding the use of incentives.

In response to a question from Representative Headland, the Legislative Council staff said there is not a specific statutory reference restricting disclosure when there are fewer than five claimants for a tax incentive. She said the

Tax Department has had a long-standing policy of withholding information on incentives claimed by fewer than five claimants to avoid disclosing information that would increase the likelihood of the public being able to identify the claimant. She said the department is subject to very strict confidentiality provisions, which were outlined in a memorandum provided to the 2017-18 interim Taxation Committee.

Chairman Grueneich called on the Legislative Council staff for presentation of a memorandum entitled [Economic Development Tax Incentives Study - Fuel Tax Refunds for Certain Users](#).

Senator Cook said he would like more information regarding the exemption for fuel purchased by the federal government.

Representative Steiner said she would like the history behind the four cent reduced fuel tax rate. She said she would like information on whether the rate has remained static over time or has fluctuated with changes to the 23 cent tax rate.

In response to a question from Representative Headland, Mr. Ryan Rauschenberger, Tax Commissioner, said the department would provide fiscal information relating to fuel tax refunds. He said the refund amounts would be broken down by category of refund.

Senator Dotzenrod said he would like information on whether there is a tax on diesel fuel purchased by railroads and whether any tax revenue is dedicated to railroad safety crossings.

Representative Guggisberg said there is a lower tax on railroad fuel with part of the revenue going to the rail safety fund and part going to the highway distribution fund.

Representative Guggisberg said he would like information on the number of emergency medical service organizations claiming fuel tax refunds. He said this information will help the committee understand if the refund provision is serving the purpose for which it was enacted.

Senator Cook said the committee is not studying fuel tax increases, but a bill was introduced during the 2019 legislative session that would have increased the fuel tax by seven cents.

Representative Headland said the committee should not go down the road of studying fuel tax increases.

Chairman Grueneich said he agreed with Representative Headland's statements.

Chairman Grueneich called on the Legislative Council staff for presentation of memorandums entitled [Economic Development Tax Incentives Study - Coal Severance and Conversion Tax Exemptions](#), and [Economic Development Tax Incentives Study - Oil and Gas Gross Production and Oil Extraction Tax Exemptions](#).

Chairman Grueneich called on Mr. Rauschenberger for a presentation ([Appendix B](#)) of fiscal information pertaining to the sales and use tax exemptions selected for study. Mr. Rauschenberger said roughly \$16 million in sales tax exemptions was provided from fiscal year 2015 to 2019 as a result of the manufacturing sales tax exemption. He said close to the same amount was provided over the same period for agriculture processing sales tax exemptions, which includes exemptions for manufacturing equipment and construction materials. He said roughly \$400,000 was provided for the recycling sales tax exemption in fiscal years 2015, 2018, and 2019. He said data for the recycling exemption for fiscal years 2016 and 2017, data for the qualified data center exemption, data for the fertilizer or chemical processing plant exemption, and data for the carbon dioxide capture and injection exemption cannot be disclosed because there are too few claimants. He said legislation from past sessions has allowed the Tax Department to disclose information to the Department of Commerce for economic analysis. He said company and industry representatives may wish to appear before the committee to voluntarily provide information on how companies are using incentives.

In response to a question from Senator Cook, the Legislative Council staff said companies have been responsive to previous interim committee requests to appear and discuss the use of incentives. She said legislation was passed by the 2017 Legislative Assembly to address confidentiality concerns raised by previous interim committees. She said she would provide a copy of the legislation to the committee members.

In response to a question from Senator Cook, Mr. Rauschenberger said disclosure when there are a small number of companies claiming an incentive can reveal information to competitors within an industry. He said he would not be opposed to legislation requiring a company to sign a waiver allowing for the release of certain information as a condition of receiving an incentive.

Senator Cook said he would be interested in reviewing a bill draft that would require those receiving incentives to sign a confidentiality waiver as a condition on receiving incentives to foster further committee discussion on the topic.

Chairman Grueneich invited comments from interested persons regarding the committee's study of economic development tax incentives. No comments were received.

SPECIAL ASSESSMENT REVENUE REPLACEMENT STUDY

Chairman Grueneich called on the Legislative Council staff for presentation of a memorandum entitled [Special Assessment Revenue Replacement Study - Background Memorandum](#).

Representative Ertelt said he would be interested in receiving information regarding whether those levying special assessments in each type of special assessment district are elected or appointed.

Chairman Grueneich called on Mr. Brian Ritter, President, Bismarck-Mandan Chamber of Commerce and President and Chief Executive Officer, Bismarck-Mandan Development Association, for a presentation ([Appendix C](#)) regarding the committee's study of special assessment revenue replacement options. Mr. Ritter said from 2016 to 2018, the City of Bismarck's Infrastructure Task Force, Special Assessment Task Force, and Joint Task Force met to identify alternative means of funding Bismarck's roadway infrastructure and review Bismarck's process for levying special assessments. He reviewed the four-point plan recommended as a result of the review process and the barriers to asking for voter approval of a street utility tax.

In response to a question from Chairman Grueneich, Mr. Ritter said in the rural areas of Bismarck and Mandan there is a precedent for developers taking on all the costs of new developments. He said building the costs of the development into each lot increases the cost of the lot when it is sold but also provides several benefits. He said benefits include not having to create a special assessment district, which lowers the overall cost of the project by 10 to 12 percent; removing the necessity for a public bid process, which allows developers to directly negotiate with contractors; and allowing homeowners to include the increased lot cost in their mortgage, which allows the homeowner to write off a portion of the cost as a mortgage interest deduction.

Senator Dotzenrod said the principle behind special assessments is those who are paying for the improvement receive the benefit of the improvement. He said if the funding source for improvements was changed to a street utility tax, someone could pay the tax for 20 years and never receive the benefit of an improvement.

In response to a question from Senator Dotzenrod, Mr. Ritter said the impetus behind the task force was to receive feedback from interested parties and to develop an alternative funding source for improvements. He said the task force's suggestion was to allow the voters to decide whether they wanted to allow the imposition of a street utility tax.

In response to a question from Senator Dotzenrod, Mr. Keith Hunke, City Administrator, City of Bismarck, said voters in a taxing district would be voting for a street utility tax that would be crafted by the governing body of the taxing district and described on the ballot. He said the taxing district would be voting on the concept of a street utility tax as a whole, in contrast to the vote that occurs for each proposed special assessment district prior to the formation of each district. He said the frequency in which certain areas would receive improvements funded by the street utility tax would depend on the conditions in each area.

In response to a question from Chairman Grueneich, Mr. Hunke said requiring developers to pay all the upfront costs of the development would not hinder growth. He said the Bismarck City Commission made changes to the city's development fee model in 2019. He said the city previously special assessed trunk line fees to new properties. He said the city now provides developers with a capital charge or credit depending on the type of development.

In response to a question from Senator Cook, Mr. Hunke said the task force estimated the street utility tax at \$25 per month for each residential utility bill and \$65 per month for each 10,000 square feet of commercial property. He said the task force arrived at the tax rate by dividing the amount of special assessments to be assessed for street rehabilitation work by the number of residential and commercial units in the city. He said the city would need to do additional work to arrive at a more exact figure if it receives authority to proceed with the tax. He said the city will be working with a consultant to refine a model that incorporates historical special assessment data and data from the city's pavement management system to calculate a more precise tax estimate. He said the city wants to be ready if the Legislative Assembly grants the city authority to proceed with a street utility tax.

In response to a question from Senator Cook, Mr. Hunke said the amount of the tax would be provided on the ballot at the time the citizens vote on the tax. He said he does not see the question being posed to the voters as a simple "yes" or "no" vote on the concept of allowing the tax. He said the city wants to be as transparent as possible. He said it would be prudent to apply a sunset to the tax or a time period after which the amount of the tax would be revisited. He said it would be wise to require the city to go back to a vote of the people for any tax increase. He said it is important to have all the stakeholders involved in the process to avoid hamstringing any one city for the benefit of another.

In response to a question from Senator Cook, Mr. Hunke said there was \$120 million of outstanding special assessment debt in Bismarck at the time the task force calculated the tax rate. He said the task force determined it would not be feasible to account for the outstanding debt in the tax. He said the treatment of existing special assessment debt is an issue that will require further discussion. He said he is not sure whether legislation should address the treatment of outstanding special assessment debt. He said requiring the tax to incorporate outstanding special assessment debt would be a deal breaker for Bismarck.

In response to a question from Representative Dockter, Mr. Hunke said the recent water rate increase in Bismarck did not require voter approval.

Representative Dockter said it would not be feasible to go back to the voters for approval every time a street utility tax would need to be increased. He said he would view changes to the proposed tax in a similar manner to changes in water rates, which includes an opportunity for public comment, but vests final authority for rate changes with the city commission.

Representative Guggisberg said raising road maintenance funds through the use of a street utility tax removes the connection between the roads and the use of the roads. He said charging \$25 per month per residence will result in someone without a car paying the same amount as someone with a five-stall garage.

In response to a question from Representative Guggisberg, Mr. Hunke said the task force looked at other alternatives before proceeding with the concept of a street utility tax. He said the task force reviewed data from the Department of Transportation on the number of licensed vehicles in Burleigh County and reviewed county and city population figures. He said the idea of a street utility tax ultimately rose to the top as the best option for the task force.

In response to a question from Senator Kannianen, Mr. Hunke said the city would be able to locate vacant lots not receiving a utility bill through the city's property information system. He said whether vacant lots would be assessed the tax is a question that requires further discussion. He said the task force's analysis only took into consideration properties receiving a utility bill.

Senator Kreun said an individual currently paying special assessment installments potentially could be paying two taxes for up to 20 years if a street utility tax were imposed. He said his main questions with this approach include whether people paying two taxes will receive any type of compensation and who would assume responsibility for a project if a developer files bankruptcy halfway through the project. He said as a city council member for 12 years, he is familiar with the questions being debated. He said he does not like special assessments any more than the next person but there must be a way to pay for new development or reconstruction. He said the theory with special assessments always has been the people using the improvement should be the people paying for the improvement. He said it would be very costly to convert from levying special assessments to levying a street utility tax. He said he would encourage any suggestions to overcome these obstacles.

In response to a question from Senator Cook, Mr. Hunke said a street utility tax would apply to each rental unit in an apartment setting. He said imposition of a street utility tax would eliminate the need for imposing future special assessments for street maintenance projects. He said additional discussion would be needed regarding the use of special assessments for new streets. He said the street utility tax described by the task force would not cover the costs for new development.

In response to a question from Senator Cook, Mr. Hunke said he could provide the committee with information regarding the number of payers the city would be gaining with the imposition of a street utility tax when compared to the number of payers currently remitting special assessment installments.

In response to a question from Chairman Grueneich, Mr. Hunke said the \$25 street utility tax per residence and \$65 street utility tax per 10,000 square feet of commercial space is estimated to generate \$17 million per year, which is the amount the task force determined would otherwise need to be special assessed to pay for street maintenance projects. He said the estimated street utility tax rates do not factor in paying for any other costs or

paying for special assessments levied for newly developed property. He said the annual debt payment the city receives for outstanding special assessments is about \$1.5 million.

In response to a question from Representative Headland, Mr. Hunke said the street utility tax would be applied to the city utility bill, which includes charges for garbage, sewer, water, traffic signals, and street lights.

In response to a question from Representative Dockter, Mr. Hunke said the interest rate on special assessments is around 4 to 4.5 percent after calculating the bond assessment and any additional city costs. He said the interest rate is similar to the rate an individual would pay on their mortgage. He said use of a street utility tax rather than the special assessment method generates savings by eliminating advertising costs, bond council costs, and other add-on costs.

In response to a question from Senator Dotzenrod, Mr. Hunke said the street utility tax only would pay for annual street maintenance costs. He said special assessments for other things like sewer and surface water management still would be paid for using special assessments.

In response to a question from Senator Cook, Mr. Hunke said a city in Wisconsin recently converted the amount being assessed through special assessments to a street utility tax assessed based on impact. He said Oregon and Montana have enabling legislation that allows communities to impose a fee similar to what the task force proposed.

Senator Cook said the task force began discussing the concept of a street utility tax long before Bismarck passed the additional one-half cent sales tax and before the Legislative Assembly passed House Bill No. 1066 (2019), often referred to as the prairie dog bill. He said the city is receiving more revenue now than it was receiving when the street utility tax concept was initially discussed.

In response to a question from Senator Cook, Mr. Hunke said Bismarck will be receiving \$16 million under House Bill No. 1066. He said the city has not allocated those funds to specific projects yet. He said the one-half cent sales tax is dedicated to a specific list of projects.

Representative Dockter said the funds from House Bill No. 1066 are for new infrastructure to support growth and economic development. He said he views special assessments as being used for maintenance projects.

Senator Cook said maintenance projects are an allowable use under House Bill No. 1066. He said Mandan is using those funds to buy down 20 percent of every special assessment district.

Senator Oban said the problem hindering the task force's work was created in 2017 by legislation that took away a city's ability to levy new taxes or fees. She said many of the committee's questions have been very specific to what Bismarck is doing. She said she trusts locally elected officials to iron out the details.

Senator Cook said he is not opposed to Bismarck moving forward with the idea of a street utility tax. He said he is asking questions to identify the means by which the Legislative Assembly can protect taxpayers from being abused by a city that might have a wild plan. He said there are issues that need to be discussed and identified in the legislation to offer a balance between protecting taxpayers and allowing cities additional taxing authority. He said the questions are serious questions to which he hopes the committee can find a resolution. He said he hopes the committee can recommend legislation that allows a city to do what it wants to do in a way that does not abuse taxpayers.

Representative Headland said part of the rationale behind the 2017 legislation was to prohibit a city from placing a tax burden on those who do not live in the city. He said an example is imposing sales tax to buy down property tax. He said individuals from rural areas who travel to more populated areas to shop are contributing sales tax revenue that ultimately may be used to buy down the property tax in the more populated area. He said the committee needs to consider protecting those individuals as well.

In response to a question from Representative Headland, the Legislative Council staff said the Tax Department publishes a list of political subdivisions that impose local option sales tax and the rate at which the tax is imposed. She said she would provide a copy of the publication to the committee.

Representative Dockter said he is glad House Bill No. 1066 included a variety of ways cities could use funding. He said he appreciates everyone's input in the study so the committee can determine if the tax is viable for purposes of proposing enabling legislation.

Chairman Grueneich said he is glad cities listened to legislators during the past session and did not factor in funds from House Bill No. 1066 as an ongoing part of their budgets.

REQUIRED REPORTS

Chairman Grueneich called on Ms. Carla Valentine, Program Administrator, ND Development Fund and Innovation, Department of Commerce, for a presentation ([Appendix D](#)) of the 2018 business incentive accountability report.

In response to a question from Representative Guggisberg, Ms. Valentine said some of the figures for 2018 in table 5A appear lower because the data still is being gathered. She said those receiving benefits under a business incentive agreement report 1 year from their benefit date.

In response to a question from Representative Steiner, Ms. Valentine said dividing the number of jobs created by the amount spent on incentives at the state level would provide the average cost per job.

In response to a question from Senator Cook, Ms. Valentine said the recipient of a business incentive must continue to report for 2 years or until they meet their job creation goals, whichever occurs sooner. She said 11 percent of businesses that received incentives between 2014 and 2018 did not meet their stated job goals and did not repay the funds provided under the agreement.

In response to a question from Representative Ertelt, Ms. Valentine said some incentive agreements do not require job creation. She said an example is the Bank of North Dakota's flex PACE program, which does not require job creation or retention as a goal. She said any jobs created as a result of that business incentive would be recorded as bonus jobs.

Chairman Grueneich called on Ms. Rikki Roehrich, Community Services Block Grant Program Administrator, Division of Community Services, Department of Commerce, for a presentation ([Appendix E](#)) of an annual report pertaining to renaissance zone progress and a summary of reports provided by cities that have a renaissance zone included in a tax increment financing district.

In response to a question from Representative Ertelt, Ms. Roehrich said those receiving renaissance zone incentives still can access other incentive programs. She said businesses that receive renaissance zone benefits complete a business incentive agreement. She said the 168 new jobs created in 2018 as a result of the renaissance zone incentive are included in the job creation statistics presented by Ms. Valentine.

In response to a question from Representative Steiner, Ms. Roehrich said the renaissance zone exemption for personal residences generally applies to dilapidated homes. She said to qualify for the exemption, the homeowner is required to make capital investments in the home to extend the life of the home, in an amount equal to at least 20 percent of the true and full value of the home.

Chairman Grueneich called on Mr. Rauschenberger for a presentation ([Appendix F](#)) of a report compiling information submitted by counties that received an allocation of oil and gas gross production tax revenues. Mr. Rauschenberger said the Tax Department is required by law to report the amount each county receives in gross production tax and how the counties use the funds. He said counties complete a survey provided by the department and return the survey along with revenue and expenditure reports. He said the full report of county information is on file with the Legislative Council. He said the surveys indicated most counties are using funds for law enforcement, several are using funds for roads and general county administrative costs, and none are using funds for social services costs.

Chairman Grueneich called on Mr. Rauschenberger for a presentation ([Appendix G](#)) of a statewide property tax increase report. Mr. Rauschenberger said the report includes the total property taxes levied for calendar years 2015 through 2018 for all counties, the largest 13 cities, and the largest 14 school districts. He said the county data includes the total dollars levied for all political subdivisions in the county. He said the city data includes the total dollars levied for city levies and includes park district levies. He said the complete set of information for all taxing districts can be found on the department's searchable levy lookup database online. He said because the database has 50,000 data points for 2018, a user can search levy data and make comparisons in many different ways. He said the data for calendar years 2015 and 2016 does not include a deduction for the 12-percent property tax credit paid by the state. He said the credit was applied to property tax bills after the levy was calculated so it did not reduce the number of mills levied. He said levy reductions can be seen in calendar year 2017 as a result of the state payment of social services costs. He said state-paid social services resulted in the elimination of county's social service levy authority. He said it is difficult to make a direct year-to-year levy comparison as some years contain a credit that did not result in levy reductions and other years contain a state-paid social service program

that resulted in levy reductions. He said the data presented for each political subdivision includes all property tax levied, which includes tax levied on centrally assessed property and new property. He said a user can pull out centrally assessed or new property when using the database to compare information from year to year. He said the tax-levying political subdivision may be in the best position to answer specific questions regarding the reasons for any tax levy increases or decreases.

In response to a question from Representative Headland, Mr. Rauschenberger said he estimates the statewide average taxable value percentage increase for 2019 is 7 percent, or 3 to 4 percent if new property is excluded. He said the state supervisor of assessments would be able to provide a more exact percentage.

Representative Ertelt said he would like a list of the dollar amount paid to counties for social services costs to provide context to the levy changes that occurred between calendar years 2016 and 2017.

In response to a question from Representative Guggisberg, Ms. Kathy L. Strombeck, Director of Research and Communications, Tax Department, said the department could break out the data between residential, commercial, and agricultural properties.

In response to a question from Senator Dotzenrod, Mr. Rauschenberger said the data in the property tax levy database includes all mills levied. He said for counties, the data includes mills levied for townships. He said special assessments are not included in the database, but that information can be found in the department's *Property Tax Statistical Report*.

In response to a question from Senator Cook, Mr. Rauschenberger said the summary format of the report is the same format that was provided last interim. He said information can be provided from the database on as granular of a level as the committee would like.

In response to a question from Senator Cook, the Legislative Council staff said Section 57-20-04 requires the county auditor of each county to prepare and transmit an abstract of the tax list of the auditor's county by December 31 following the year in which taxes were levied. She said the report must provide each taxing district's property valuation, property tax levy, and any other information the Tax Commissioner requires.

Mr. Rauschenberger said the department collects the data in a way that allows new or demolished property to be pulled out of the report. He said the department can provide a large printout of the data or a live demonstration of the online levy lookup tool at a future meeting.

Senator Cook said he would like to see a report that excludes new property. He said for the next few years he would like to see an indepth report, similar to information received during the previous interim, which sends a message to every taxing district that legislators are monitoring the amounts being levied. He said the receipt of the report in a public forum provides an incentive for taxing districts to be mindful of the amounts they are levying.

Chairman Grueneich said the committee can take another look at property tax data at a future meeting. He said he does not think the committee needs to look at all political subdivisions. He said the committee could select a handful of political subdivisions to review in a more indepth manner and possibly have the department provide a live demonstration of the online levy lookup tool. He said if committee members have an interest in the amounts levied in their particular area, the committee could review that information as well.

Representative Headland said Minot was an outlier in regard to the percentage increase in the report provided last interim. He said Jamestown likely would be an outlier this interim as the city's mill rate was raised by over 20 mills for 2019. He said he does not know what impact state elected officials can have on local taxing decisions but it is nice to hear from representatives of these political subdivisions to understand the reasons for tax increases. He said taxpayers need to understand the responsibility falls on local elected officials, and state legislators are not the ones to fix the problem.

Senator Cook said last interim the outliers in the report were notified and provided testimony to the committee regarding why taxes were raised. He said outliers should appear before this committee and provide a similar explanation to the public. He said a forum for public accountability is the check legislators can provide but after that it is up to the public to address the issue at the local level.

CHARITABLE GAMING LAWS STUDY

Senator Cook said he recently attended a gaming conference with Ms. Collette Brown, Gaming Commission Executive Director, Spirit Lake Nation, and Chairwoman, North Dakota Gaming Regulators, and invited her to speak to the committee.

Chairman Grueneich called on Ms. Brown for information pertaining to the committee's study of gaming taxes. Ms. Brown said the discussion she had with Senator Cook pertained to the use of electronic pull tab devices in the state, state-tribal gaming compacts, and the tribe's future in gaming. She said the stated purpose of a state-tribal gaming compact is to ensure the health, safety, and welfare of the public and to protect the integrity of gaming. She said the tribes historically have had a good relationship with the state in regard to gaming. She said Spirit Lake has been negatively impacted by electronic pull tab devices and the state should have had a larger discussion with the tribes before allowing electronic pull tab devices to operate in the state. She said there is no true oversight of electronic pull tab devices because the state does not have enough staff to audit and inspect each facility hosting the devices in the same manner in which the state audits and inspects tribal casinos. She said the Spirit Lake Casino is located 7 miles south of Devils Lake and has been affected tremendously by these devices. She said casino revenues have decreased by 40 percent compared to prior year revenues since the devices began to operate in August of 2018. She said the Spirit Lake Tribe's only source of revenue is gaming revenue. She said she hopes the state can find a way to reduce the volume of electronic pull tab devices operating around tribal casinos and apply Internal Revenue Service regulations and more stringent testing standards to the devices. She said electronic pull tab devices should be subject to the same testing standards applied to tribal casinos. She said the tribes will be engaging in sports book betting as a result of the impacts created by electronic pull tab devices. She said the tribes will be sharing one manufacturer and one platform. She said the tribes are engaged in discussions regarding the laws and standard procedures required to operate a sports book. She said the tribes hope to make sports book betting information public when all the contracts are signed.

In response to a question from Chairman Grueneich, Ms. Brown said the goal is to have sports book betting operational by New Year's Eve. She said sports book betting will be across the board ranging from college to professional. She said the tribes are working on finding server locations and hiring a consultant. She said the sports book betting industry is small and is dominated by New Jersey.

In response to a question from Senator Dotzenrod, Ms. Brown said the five tribal casinos in the state will be sharing one platform and one manufacturer.

In response to a question from Representative Headland, Ms. Brown said she could provide information to the Legislative Council staff documenting the 40-percent revenue loss.

The Legislative Council staff said the gaming study originated as a single study but the Legislative Management divided the study between this committee and the interim Judiciary Committee. She said the interim Judiciary Committee will be addressing the policy behind gaming whereas this committee will be looking at the tax aspects of gaming. She said joint presentations between the committees may be possible depending on the level of overlapping subject matter. She said the committees will encourage information sharing where appropriate.

Senator Cook said the topic also may be addressed by the interim Tribal Taxation Issues Committee.

Representative Dockter requested the Legislative Council staff contact city representatives to request testimony on whether cities have studied special assessments or considered alternatives to special assessments.

Senator Kreun said he would volunteer the Grand Forks city administrator and finance director to testify at a future meeting. He said he is interested in any improvements or alternatives to the special assessment process.

Senator Cook said he provided meeting materials from the recent gaming conference he attended to the Legislative Council staff. He said there were some excellent presenters on the agenda he hopes the committee would consider hearing from at a future meeting. He said the Legislative Assembly is going to have to take a serious look at expanding the sales tax base and there are some good presenters who can address what other states are doing. He said the discussion would focus on replacing existing revenue rather than generating new revenue.

Representative Ertelt said he would be interested in receiving information regarding how much online sales tax the state is collecting. He said he would like the committee to receive online sales tax updates throughout the interim.

Senator Cook requested the committee receive information on the legislation in Oregon and Wisconsin regarding the committee's study of special assessment revenue replacement options.

No further business appearing, Chairman Grueneich adjourned the meeting at 1:45 p.m.

Emily L. Thompson
Code Revisor

ATTACH:7