



TAXATION COMMITTEE

Wednesday, April 6, 2022
Pioneer Room, State Capitol
Bismarck, North Dakota

Senator Dale Patten, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Dale Patten, Merrill Piepkorn, Mark F. Weber; Representatives Dick Anderson, Jason Dockter, Robb Eckert, Patrick Hatlestad, Craig Headland, Jim Kasper*, Ben Koppelman*, Vicky Steiner

Members absent: Senator Scott Meyer; Representatives Tom Kading, Wayne A. Trottier

Others present: Senator Tracy Potter, Bismarck
Allen H. Knudson, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

**Attended remotely*

It was moved by Representative Hatlestad, seconded by Senator Weber, and carried on a voice vote that the minutes of the February 17, 2022, meeting be approved as distributed.

ECONOMIC DEVELOPMENT TAX INCENTIVES STUDY

Ms. Megan J. Gordon, Counsel, Legislative Council, presented a memorandum entitled [Economic Development Tax Incentive Study - Evaluation Chart](#).

Ms. Nancy Johnson, Executive Director, North Dakota Soybean Growers Association, provided information ([Appendix B](#)) related to the soybean or canola crushing facility construction or retrofit credit. She noted:

- Soybeans are a profitable crop in the state and typically are grown in every county;
- China is ranked first in the international soybean crush market, followed by the United States;
- Archer Daniels Midland Co. (ADM) is retrofitting the former Cargill Malting Plant in Spiritwood to become the first dedicated soybean crushing plant and refinery in the state in response to the fast-growing demand from food, feed, industrial, and biofuel customers; and
- The retrofitted plant is expected to have a processing capacity of 150,000 bushels of soybeans per day and be completed in time to crush the 2023 soybean harvest.

Ms. Johnson recommended the committee consider indexing incentives available to the soybean crush industry to account for changes in the soybean crush plant market because the incentive programs were established several years ago.

In response to a question from a committee member, Ms. Johnson noted:

- A company is considering constructing a soybean crushing facility in Casselton;
- Due to the proximity of the potential plant to the Minnesota border, the plant likely would draw a large number of North Dakota and Minnesota soybeans; and
- The approximate crushing capacities of both the Spiritwood plant and the anticipated Casselton plant only would cover about half of the statewide soybean capacity.

The committee received written testimony ([Appendix C](#)) from ADM regarding the impact of tax incentives offered to ADM and recommendations for incentives available to the soybean crush industry.

Ms. Gordon presented a bill draft [23.0056.01000] regarding the manufacturing automation tax credit. She noted the bill draft would eliminate the sunset date on the income tax credit for purchases of manufacturing machinery and equipment for automating manufacturing processes.

It was moved by Representative Steiner that the bill draft [23.0056.01000] to eliminate the sunset date on the income tax credit for purchases of manufacturing machinery and equipment for automating manufacturing processes be approved and recommended to the Legislative Management. After discussion, Representative Steiner withdrew her motion.

Ms. Andrea Pfennig, Director of Government Affairs, Greater North Dakota Chamber, provided information ([Appendix D](#)) related to the manufacturing automation tax credit. She noted:

- The total output from manufacturing in the state was \$4.16 billion in 2019, comprising 7.28 percent of the state's economic output;
- The manufacturing industry has used automation as a solution to both statewide and nationwide workforce shortage issues;
- Due to proration of the aggregate maximum \$1 million credit allowance, companies only have been receiving an average of 8.8 percent of the cost of the manufacturing machinery and equipment purchased in a taxable year; and
- Raising the aggregate maximum credit allowance from \$1 million per year to \$2.5 million per year would be beneficial to the manufacturing industry.

Ms. Miranda Bergquist, Chief Financial Officer, and Mr. Scott Staudinger, Vice President of Government Affairs and Human Resources, Cloverdale Foods Company, provided information ([Appendix E](#)) regarding the manufacturing automation tax credit. They noted:

- Over the past 5 years, Cloverdale Foods Company submitted over \$5 million of qualified automation projects through the automation tax credit program;
- The company has invested heavily in automation to upgrade old equipment, remain competitive, increase efficiency and output, and maintain a safe working environment; and
- The company believes the automation tax credit program is essential to the success of new categories of production and to maximize the manufacturing plant's overall capacity.

The committee received written testimony ([Appendix F](#)) from Ms. Teran Doerr, President, Economic Development Association of North Dakota, and Executive Director, Bowman County Development Corporation, in support of the manufacturing automation tax credit.

The committee received written testimony ([Appendix G](#)) from Ms. Samantha Vangsness, Executive Director, North Dakota Ethanol Producers Association, regarding the state ethanol industry.

PROPERTY AND INCOME TAX REFORM AND RELIEF STUDY

Ms. Gordon presented memorandums entitled:

- [Property Tax Reform and Relief - Background Memorandum](#); and
- [Income Tax Reform and Relief - Background Memorandum](#).

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented information ([Appendix H](#)) regarding the state budget and legacy fund and memorandums entitled [Legacy Fund Earnings Scenario](#) and [Estimated Revenue Sources and Distributions for Major State Funds for the 2021-23 Biennium - November 2021 Special Session](#). He noted:

- General fund appropriations for the 2021-23 biennium total \$5.01 billion, including \$4.88 billion of ongoing funding and \$130 million of one-time funding;
- Estimated oil and gas tax revenues for the 2021-23 biennium total \$3.72 billion, \$1.05 billion of which represents the state funds share of oil and gas tax revenues;
- General fund tax and fee revenues are 14 percent more than forecast during the 2021 legislative session through February 2022 and oil tax revenues are 29 percent more than forecast during the 2021 legislative session through March 2022; and

- Legacy fund earnings have been substantial; however, earnings are subject to volatility due to market fluctuations.

In response to a question from a committee member, Mr. Knudson noted state revenue attributable to individual and corporate income tax for the 2021-23 biennium is \$780 million, which includes \$570 million for individual income tax and \$210 million for corporate income tax.

Mr. Lynn Helms, Director, Department of Mineral Resources, provided information ([Appendix I](#)) regarding the oil production outlook for the state. He noted:

- The state has 37 drilling rigs operating and produces about 1.1 million barrels of oil per day at a price in excess of \$100 per barrel;
- Data indicates over the next approximately 12 years, the state oil production rate will increase to about 1.4 million barrels per day and plateau;
- 40,000 wells are estimated to be in production in 2040; and
- Drilling inventory in the state likely will be exhausted within approximately 18 years, after which enhanced oil recovery methods will be needed to further develop oil production.

In response to questions from committee members, Mr. Helms noted:

- If the average price of a barrel of crude oil exceeds the trigger price of \$94.69 for 3 consecutive months, the oil extraction tax will increase from 5 to 6 percent until the average price drops below the trigger price for 3 consecutive months;
- The average price of a barrel of crude oil is based on the West Texas Intermediate oil prices;
- A well located in the Bakken Formation qualifies as a stripper well when it produces less than 35 barrels of oil per day;
- The number of stripper wells will increase in the late 2030s based on the anticipated number of producing wells and estimated daily production rate at that time; and
- Stripper wells are exempt from the oil extraction tax.

Mr. Adam J. Tescher, Director, School Finance and Organization, Department of Public Instruction, provided information ([Appendix J](#)) regarding K-12 education funding. He noted:

- The cost of providing adequate K-12 education is funded by a combination of state and local taxes, with statewide taxes funding approximately 75 percent of the cost;
- The local share of K-12 education funding is equal to 60 mills on the taxable valuation of property in the school district and 75 percent of other local in lieu of property tax revenue;
- The formula is student driven and uses various weighting factors to account for increased costs associated with school district size and serving students with special needs; and
- A base per student funding rate is set by the Legislative Assembly and is designed to generate the funding necessary to educate students to state standards.

Senator Tracy Potter, Bismarck, noted the importance of studying potential property tax relief by providing an income tax credit for property taxes paid, similar to the program established in Senate Bill No. 2032 (2007).

Committee Discussion and Directives

Committee members discussed potential impacts of income tax relief as compared to potential impacts of property tax relief.

A committee member noted identifying a solution to stop the growth of property taxes is difficult because property tax is locally assessed and taxable valuations frequently increase; however, increased transparency may assist taxpayers in gaining an understanding of the various reasons for property tax fluctuations.

Chairman Patten noted the importance of beginning the discussion of potential property or income tax relief by determining an affordable amount of relief and whether a reliable, dependable revenue source exists which would support the amount of relief.

Committee members discussed the concept of property tax relief through an income tax credit similar to the program established in Senate Bill No. 2032 and indicated a desire to engage in further discussion with the Tax Department regarding the program.

Committee members indicated a desire to review additional information, including data related to corporate and individual income taxes paid based on income level, available data regarding the number of property and income taxpayers, the impact of the income tax credit authorized in House Bill No. 1515 (2021), data related to corporate and individual income tax deductions and credits claimed by taxpayers, and information regarding budgeting deadlines for taxing districts.

BIOLOGIC MANUFACTURING SALES TAX EXEMPTION STUDY

Ms. Gordon presented a memorandum entitled [Incentives Available to Bioscience, Manufacturing, and Agricultural Industries](#).

Mr. Mike Burke, Chief Executive Officer, Lincoln Therapeutics, provided testimony related to the bioscience industry and the benefits of a sales and use tax exemption related to biologic and biotechnology research and development and manufacturing. He noted:

- The state has a growing ecosystem for bioscience; and
- Providing a sales and use tax exemption related to biologic and biotechnology research, development, and manufacturing would be a tool to strengthen the bioscience ecosystem in the state by attracting biologic and biotechnology research and development projects.

The committee received written testimony ([Appendix K](#)) from Mr. Richard A. Glynn, Executive Director, Bioscience Association of North Dakota, related to the bioscience industry.

No further business appearing, Chairman Patten adjourned the meeting at 3:56 p.m.

Megan J. Gordon
Counsel

Emily Thompson
Legal Division Director

ATTACH:11