NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

POLITICAL SUBDIVISION TAXATION COMMITTEE

Wednesday, June 29, 2016
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jason Dockter, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Jason Dockter, Mark A. Dosch, Craig Headland, Kathy Hogan, Lawrence R. Klemin, Mike Lefor, Alisa Mitskog, Gail Mooney, Naomi Muscha, Mike Nathe, Nathan Toman; Senators Brad Bekkedahl, Randall A. Burckhard, Dwight Cook, Jim Dotzenrod, Tim Mathern, Jessica Unruh

Members absent: Representatives Larry Bellew, Ben Koppelman, William E. Kretschmar, Robin Weisz

Others present: See Appendix A

It was moved by Representative Headland, seconded by Senator Bekkedahl, and carried on a voice vote that the minutes of the April 26, 2016, meeting be approved as distributed.

CONTRACTOR SALES AND USE TAX STUDY

Chairman Dockter said the committee has been provided a copy of the bill draft [17.0009.02000] relating to a sales and use tax exemption for items purchased or installed by a contractor on behalf of an exempt entity and the bill draft [17.0055.01000] relating to a use tax exemption for items purchased by an exempt entity and installed by a contractor.

In response to a question from Representative Headland, the Legislative Council staff said the amount that would appear on a fiscal note for the bill draft [17.0009.02000] providing both a sales and use tax exemption would be a combined $44.22 million in sales and use tax revenue reductions. She reviewed the three categories that account for the $44.22 million reduction and said the committee previously discussed how the loss of some sales tax revenues may have a circular effect regarding savings in appropriations to state agencies and the amount of property tax levied at the local level.

In response to a question from Senator Mathern, Mr. Myles Vosberg, Director, Tax Administration Division, Tax Department, said the fiscal impact for the bill draft [17.0055.01000] providing only a use tax exemption is unknown because the Tax Department cannot determine the quantity of materials that would be purchased by the exempt entity rather than the contractor. He said the Tax Department likely would need to develop rules to clarify how those purchases would be sourced.

In response to a question from Senator Cook, Chairman Dockter said the committee's work on this study will be concluded if the committee does not take any action on the bill drafts. He reminded the committee members they have the option of bringing their own bill drafts forward during the 2017 legislative session.

SOCIAL SERVICES FINANCING STUDY

Chairman Dockter called on Mr. Joe Morrissette, Member, County Social Services Finance Working Group, and Deputy Tax Commissioner, for an update on the activities of the working group. He said the working group met on May 13, 2016, to discuss items on which a consensus had yet to be reached. He said these items included a decision on the inflationary rate that would be applied to grow 2015 expenditure data up to 2018 equivalents and the manner in which shared services would be accounted in a service area's base year expenditures.

Mr. Morrissette said the working group has reached a consensus on a number of items, including selection of the applicable base year and the formula implementation date. He said a county's levy authority for social service purposes would be eliminated after December 31, 2016, under the formula. He said counties would receive the first quarterly payment for an upcoming budget year on or before December 15 of the prior budget year and would receive each of the remaining quarterly payments at least 15 days before the start of each remaining quarter. He said a county's formula payment for the upcoming budget year would be calculated in June of each year using a county's actual caseload data from the previous calendar year. A county's formula payment for the budget year, he said, would be recalculated midway through a county's budget year to account for changes that might result from applying a county's most recently available caseload data to the formula. He said changes resulting from a recalculation would be reflected in a county's last two quarterly payments for that budget year. He said the formula also builds in incentives for counties that choose to consolidate.

Mr. Morrissette said the working group also has determined the maximum amount a county would be able to carry forward to an ensuing budget year from its current year social service fund balance. He said the allowable carryforward amount was set at 35 percent of a county's total annual budget, or $100,000, whichever is greater. This threshold was selected, he said, because the counties determined this carryforward amount would be sufficient to enable a county to hire an additional staff member if the county experienced an unanticipated increase in caseloads. He said counties also would be allowed to supplement the balance of human service funds with county general fund dollars if the county required additional funds to address unforeseen or extenuating circumstances. He said the balance in the fund at the end of the budget year would be subject to the carryforward limits, regardless of the source of the money remaining in the fund. The final item resolved by the working group, he said, was the percentage of indirect costs allocated to each county for incorporation into a county's base year expenditure totals. He said 25 percent of indirect costs would be included in the calculation of a county's base year expenditure totals. He said the working group is calculating the total amount of indirect costs associated with each county, but hopes to have this amount determined by the working group's next meeting.

Committee Discussion and Directives

Senator Mathern said he received anonymous information from individuals expressing concern that county social service staff were not able to participate in the process of developing the funding formula without jeopardizing their positions. He said these individuals noted concerns with the current social service structure in regard to an employee's actions being directed by an individual who does not have an equivalent license to the employee carrying out the particular duty and concerns regarding local state's attorneys being given more authority to direct social services than county social service directors.

Mr. Morrissette said the working group is tasked only with developing the concepts behind the funding formula and determining the costs associated with the formula. He said the working group has not addressed any local administrative issues as those issues would fall outside the scope of the working group's directive. He said the working group has received a great deal of input from county social service directors, though possibly not as much input from individual social service staff members.

In response to a question from Representative Nathe, Mr. Morrissette said the recalculation of a county's formula payment in June would be dependent on changes to a county's caseload totals. He said the recalculation would not involve any changes to the statutorily defined payment rate per case. Even with the mid-year recalculation, he said, counties would be protected by the hold-harmless provisions limiting the minimum payment a county could receive to 102 percent of that county's adjusted base year expenditures.

In response to a question from Senator Mathern, Mr. Morrissette said the Legislative Council staff has reviewed a working document with the working group which contains draft formula language. He said the document continues to evolve as final decisions are made on conflicting concepts within the formula.

The Legislative Council staff said the language in the working document continues to be modified as the working group gathers the remainder of the information needed to complete the formula.

Chairman Dockter said the formula language will be presented to the committee once a more formal version of a bill draft has been completed and said he welcomes any comments the committee wishes to pass to the working group for its consideration.

Representative Nathe said he would like the final bill draft to contain a mechanism requiring counties to return or credit any ending fund balance exceeding specified carryforward limits to the taxpayers from which the funds were originally derived.

Mr. Morrissette said the committee discussed placing any excess amount in the county's general fund and then requiring the county to reduce its general fund mill levy for the following year by an equivalent amount.

In response to a question from Representative Mooney, Representative Nathe said whether placement of excess funds in a county's general fund would automatically result in a reduction to that county's general fund levy would depend on how the county's budget was structured. He said some political subdivisions, especially in regard to the K-12 funding formula, have found ways to spend excess funds rather than pass any resulting savings to taxpayers.

Representative Nathe said he would like to see provisions added to the final bill draft to require any amounts exceeding a county's carryforward limits to be returned to taxpayers in the form of a reduced county general fund levy in a future year.

Mr. Morrissette said he would bring this concept to the working group and work with the Legislative Council staff to have the language added to the bill draft.

Representative Headland said he wanted to remind the committee the whole purpose of transitioning the funding responsibility for social services to the state level is to effectuate property tax relief so the addition of these types of provisions are proper in regard to the committee meeting its study directive.

Chairman Dockter said the working group anticipates having another meeting in August and this committee will have at least two more meetings following that meeting to discuss the formula and review a bill draft.

Senator Mathern said he would like to review the bill draft at both of the committee's remaining meetings, even if the bill draft is a work in progress.

ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY

Chairman Dockter called on the Legislative Council staff for presentation of the bill draft [17.0077.02000] relating to a uniform definition of primary sector business. The Legislative Council staff said there are several sections of the North Dakota Century Code in which a primary sector business is defined. She said the revision to the prior version of this bill draft incorporates comments received from the Department of Commerce at a prior meeting. She said language the department deemed duplicative or redundant has been removed and a requirement for all primary sector businesses to be certified by the department has been added. She said a definition for "new wealth" also has been added to the definition of a primary sector business and is defined to mean wealth created by sales to out-of-state customers or wealth derived from sales to in-state customers of products not previously available from a source in this state.

In response to a question from Senator Cook, Mr. Paul Lucy, Director, Economic Development and Finance Division, Department of Commerce, said in regard to the percentage of a business's activities that must be serving to create new wealth, the general rule of thumb applied by the department is 70 percent of sales or up to $500,000.

Chairman Dockter called on the Legislative Council staff for a presentation of an updated copy of the *Economic Development Tax Incentive Study - Evaluation Chart*, the *Economic Development Tax Incentive Study - Angel Fund Investment Tax Credit* memorandum, the *Economic Development Tax Incentive Study - Electrical Generating Facilities Sales Tax Exemption* memorandum, the *Economic Development Tax Incentive Study - Biodiesel Fuel Credits* memorandum, the *Economic Development Tax Incentive Study - Soybean or Canola Crushing Facility Construction or Retrofit Credit* memorandum, the *Economic Development Tax Incentive Study - Wage and Salary Credit* memorandum, the *Economic Development Tax Incentive Study - Microbusiness Income Tax Credit* memorandum, and the *Economic Development Tax Incentive Study - Certified Nonprofit Development Corporation Investment Credit* memorandum. The Legislative Council staff said the evaluation chart and updated background memorandums have been provided to assist the committee in tracking its progress in evaluating the economic development tax incentives selected for review this interim. She said checkmarks have been placed on the evaluation chart based on information received by the committee at its previous meeting. She said additional checkmarks likely will be placed on the chart after the committee receives further testimony on the remaining incentives. She said the committee has been provided copies of the survey responses to the questionnaire sent out to angel fund representatives, which has also been attached as an appendix to the committee's angel fund background memorandum.

In response to a question from Representative Nathe, the Legislative Council staff said she received a list of contacts from the Department of Commerce for the representative of each angel fund certified in this state. She said the questionnaire was sent to the listed contact for all 27 angel funds provided on the list. She said she received a number of returned emails for addresses that were no longer valid and four responses to the questionnaire.

Department of Commerce

Chairman Dockter called on Mr. Justin Dever, Co-Deputy Commissioner, Department of Commerce, for a presentation (Appendix B) regarding a return-on-investment analysis of incentives selected for review by the committee. He said this return-on-investment analysis pertains to the new or expanding business income tax expedition which is a 5-year income tax exemption granted by the State Board of Equalization. He said the analysis is based on information provided by the Tax Department and Job Service North Dakota. He said the calculations in the report are based on general averages and are the most specific estimates the Department of Commerce can provide without the use of more robust software. He said the information in the analysis shows the results associated with those companies using the incentive, but does not indicate whether the existence of the incentive is what led to a company's particular results.

In response to a question from Representative Headland, Mr. Dever said the estimates provided by the Department of Commerce would be more accurate if the department had access to the model of REMI software the committee previewed at a previous meeting.

Representative Headland said a more accurate return-on-investment analysis would be helpful to the committee when attempting to evaluate the effectiveness of tax incentives.

In response to a question from Senator Mathern, Mr. Dever said the estimates he provided are based on the assumption that all the created jobs listed in the analysis will continue.

In response to a question from Senator Burckhard, Mr. Dever said a 100 percent rate of return on an incentive would equate to a 1-year payback. He said this describes a situation in which the additional tax revenues generated in 1 year would essentially equal the cost of offering the incentive.

In response to a question from Senator Mathern, Mr. Dever said it would be correct to state that other variables, such as agricultural commodity prices, might have as strong an impact on factors such as job creation.

In response to a question from Chairman Dockter, Mr. Dever requested the committee provide the Department of Commerce with a list of the incentives it wishes to prioritize in regard to receiving a return-on-investment analysis. He said he will provide the committee with as in-depth of an analysis as possible, but cannot guarantee he will be able to address all the remaining incentives in the time the committee has left this interim.

In response to a question from Representative Mitskog, Mr. Lucy said this particular incentive is available in virtually every state that has a corporate income tax. He said any site-selection consultant evaluating this state as a potential location option would expect this incentive to be available because it is so prevalent across the country.

Senator Cook said Mr. Lucy's comments seem to address the committee's questions regarding whether these jobs would have been created without the incentive. He said it appears many of the jobs Mr. Dever noted would not have been created without the existence of this incentive.

In response to a question from Representative Hogan, Mr. Lucy said most states offer a 5-year exemption so the structure of North Dakota's incentive is comparable to the incentives offered in other states.

Chairman Dockter called on Mr. Lucy for a presentation (Appendix C) regarding a comparison of the agricultural commodity processing facility investment tax credit to the soybean and canola crushing facility equipment credit. He reviewed the differences between the two incentives and said a primary difference is that a company is the entity deriving the benefit under the soybean and canola crushing facility equipment credit whereas an investor investing in a qualified company is the entity receiving the benefit under the agricultural commodity processing facility investment tax credit. He said the soybean and canola crushing facility equipment serves to motivate companies to locate to this state whereas the agricultural commodity processing facility investment tax credit encourages investment in processing facilities already located in this state. He said the credits represent two distinctively different tax incentives.

In response to a question from Representative Nathe, Mr. Lucy said the state is looking at one prospective soybean processing facility locating to this state and noted another project was recently lost to South Dakota. Because North Dakota has the top soybean producing county in the country, he said, the state is in a position to see more facilities pursue opportunities in this state. He said the soybean and canola crushing facility equipment credit would enhance those opportunities.

In response to a question from Senator Mathern, Mr. Lucy said he would like to review the programs that are available before providing an opinion on whether it would be beneficial to expand these types of incentives to all agricultural products that could be processed in a facility in this state.

Representative Klemin said the lifetime limit of $250,000 on the soybean and canola crushing facility construction or retrofit credit is not very high considering the cost of some of the equipment used in these types of facilities.

Mr. Lucy said it would not be uncommon for a project to be able to use the full amount of the credit. He said both the soybean and canola crushing facility credit and the agricultural commodity processing facility investment tax credit could be claimed for the same facility.

Biodiesel Fuel Credits and the Soybean and Canola Crushing Facility Construction or Retrofit Credit

Chairman Dockter called on the Legislative Council staff for presentation of the bill draft [17.0168.01000] to repeal biodiesel fuel credits and the soybean and canola crushing facility construction or retrofit credit. She said the committee requested a bill draft to repeal these credits due to the infrequency in which the credits have been claimed. She said the soybean and canola crushing facility construction or retrofit credit has not been claimed on any income tax returns in tax years 2009 through 2014 and the biodiesel fuel credits have been claimed on very few income tax returns during the same period.

Chairman Dockter invited comments from interested persons regarding the biodiesel fuel credits and the soybean and canola crushing facility construction or retrofit credit.

Ms. Connie Ova, Chief Executive Officer, Jamestown-Stutsman Development Corporation, and President, Economic Development Association of North Dakota, spoke in favor of retaining the soybean and canola crushing facility construction or retrofit credit. She said this state exports 90 percent of its soybean crop for processing outside the state. She said a processing facility is considering locating in this state which could process approximately 42.5 million bushels of North Dakota soybeans per year. She said the facility would put an estimated $4 million into the pockets of local farmers and create 53 good-paying jobs.

In response to a question from Senator Dotzenrod, Ms. Ova said even though the credit has not been used in the past, there is the potential for a prospective facility to use the credit in the near future.

Representative Headland said the fact that this state recently lost a prospective facility to South Dakota shows there are competing incentives for these types of facilities and suggests retaining this credit.

In response to a question from Representative Klemin, Ms. Ova said she agreed the $250,000 limit associated with this credit is small in comparison to the cost of the equipment used at these facilities. She said she would suggest doubling the amount of the credit.

In response to a question from Representative Klemin, Mr. Mark Vaux, Executive Vice President, Greater Fargo/Moorhead Economic Development Corporation, said he was previously employed in South Dakota at the Governor's Office of Economic Development. He said he could speak to some of the factors that contributed to the recent loss of a processing facility to South Dakota. He said the facility that located in South Dakota was awarded financing for 45 percent of the facility's total project costs through the South Dakota Ready Loan. He said South Dakota also has a Future Fund at its disposal from which the Governor can award funds.

In response to a question from Senator Bekkedahl, Mr. Vaux said he thought state incentives would have more of an impact on these types of projects than local incentives.

Senator Bekkedahl said he agreed the $250,000 credit limit was pretty small in relation to projects of this size. He said the local property tax exemptions for which these types of facilities might qualify likely would outweigh the value of this credit.

In response to a question from Senator Mathern, Mr. Lucy said the Department of Commerce contacts companies that have decided not to locate in this state to help the department evaluate possible reasons behind the decisions. He said it is rare that the Department of Commerce will receive detailed information from companies in response to these inquiries.

Representative Mitskog said she was involved at the local level with the facility that was lost to South Dakota. She said representatives from that facility noted multiple reasons for deciding to locate in South Dakota. She said a main factor behind the decision was the availability of natural gas and rail services in South Dakota. She said the driving factor for the company's decision did not appear to be based on the availability of incentives. She said this state does not have the funds South Dakota had to offer from its Future Fund. As the committee evaluates these types of incentives, she said, it should be mindful of striving to keep as many, or more, tools in this state's toolbox as are available in neighboring states to remain competitive.

In response to a question from Representative Headland, Mr. Lucy said a variety of factors go into a company's decision to locate in a certain state. He said everything from the availability of incentives, to access to raw commodities, to the length of time the state requires for permitting can be factored into a company's decision.

In response to a question from Representative Nathe, Mr. Vaux said South Dakota's Future Fund is funded through unemployment insurance benefits and can be used at the discretion of the Governor to close the deal on projects the state is interested in pursuing. He said there has not been any significant local pushback regarding the availability of the Future Fund in South Dakota. He said South Dakota Governor Mike Rounds awarded 587 grants, totaling more than $75 million, to various companies during his 8-year term. He said individual awards from the Future Fund ranged from $400 to $1.5 million.

Senator Cook said he would be interested in receiving more information on South Dakota's Future Fund.

In response to a question from Senator Unruh, Mr. Vaux said projects are extremely well vetted by economic development staff before they reach the Governor for a decision regarding the award of Future Fund dollars.

Mr. Scott Rising, Legislative Director, North Dakota Soybean Growers Association, presented testimony (Appendix D) in favor of retaining the soybean and canola crushing facility credit as well as other value-added agricultural economic development incentives. He also presented written testimony submitted by representatives of the North Dakota Soybean Council (Appendix E) and representatives of North Dakota Soybean Processors, LLC (Appendix F). He said the 2016 soybean crop is expected to be the largest crop this state has ever seen. He said increased soybean production makes the state ripe for development of processing facilities. At the time the original credit language was drafted, he said, the credit amount selected was based on a figure the sponsors thought would be amenable to legislators and an amount that would let processing facilities know North Dakota was open for business. He said this credit is still very relevant today despite the fact it has not been used in the past.

In response to a question from Senator Burckhard, Mr. Rising said there is an increased global demand for soybeans as it is a very versatile crop. He said a processed soybean consists of 80 percent soybean meal, which can be used as a feedstock for livestock and poultry, and 20 percent oil, which can be used in everything from biodiesel to shampoo.

In response to a question from Representative Lefor, Mr. Rising said the plant considering locating its operations in this state could process about 20 percent of this state's soybean crop. He said the state was producing about 400,000 bushels of soybeans per year in the mid-1980s and has been producing an average of 150 million bushels to 200 million bushels per year over the last 10 years.

In response to a question from Representative Lefor, Mr. Lucy said the Department of Commerce generally conducts an economic impact analysis on projects like the anticipated processing facility based on the information the department has at the time. He said the department also would conduct an economic impact analysis at the end of a project once the department receives figures regarding investment amounts and the number of jobs created.

In response to a question from Representative Nathe, Mr. Rising said he is aware of two other instances in which processing facilities have considered locating in this state. He said he is not sure whether processing facilities would locate in this state regardless of the availability of an incentive. He said there seems to be many other factors that influence a company's decision to expand or relocate.

Ms. Ova said another factor the prospective facility may be taking into account is a recent announcement by Montana Dakota Utilities that the company will be providing more natural gas to the area. She said natural gas is vitally important to a processing facility.

In response to a question from Senator Cook, Ms. Ova said soybeans would be shipped to the facility by truck and products processed at the facility--which could not be used locally--would be shipped out by rail.

In response to a question from Representative Klemin, Mr. Rising said many of the same factors come into play with the soybean credits as with the biodiesel credits. He said the difference lies in who is being targeted by the credit. In addition to producers, he said, biodiesel credits target those who blend and sell biodiesel.

Chairman Dockter called for committee discussion on consideration number 2 on the committee's incentive evaluation chart regarding whether the design and application of the soybean and canola crushing facility credit could be improved.

Representative Headland said testimony indicated the amount of the credit could be doubled.

Representative Klemin said testimony also indicated the amount of the incentive was quite small in relation to the cost of the equipment used at processing facilities. He said the committee has the option of continuing to dangle this credit as a small token or increasing the amount of the credit to make it a more substantial incentive for facilities looking to locate in this state.

Senator Cook said his concern with increasing the credit would be the potential the prospective facility might put its plans on hold in the hopes of receiving a larger credit in the future. With respect to consideration number 1 on the evaluation chart, pertaining to any unintended consequences that might arise as a result of the incentive, he said, the Department of Transportation delivered a report to a previous interim committee regarding the cost of maintaining highways, especially regarding the costs of maintaining roadways near ethanol plants, as a result of heavy truck traffic. He said some of the unintended consequences associated with incentives are not considered at the time the incentives are passed. He said the estimated 42 million bushels of soybeans that could be processed by the prospective facility could result in a large amount of truck traffic. He said incentives can always be improved, but the question is whether this incentive needs to be improved or if a facility would decide to locate to this state regardless of the incentive. He said he is comfortable leaving the soybean and canola crushing facility credit as it currently operates and continue to monitor any future impacts.

Chairman Dockter said he recalled an incentive bill from the 2015 legislative session that failed to pass due to concerns regarding increased infrastructure impact costs.

Senator Bekkedahl said in regard to consideration number 5 on the evaluation chart, pertaining to any benefits or burdens created by the incentive, he was of the opinion the testimony received on the credit illustrated more potential for positive impacts than negative impacts.

Senator Cook said in regard to consideration number 7 on the evaluation chart, pertaining to whether the incentive is an effective use of state resources, he would consider this incentive an effective use of state resources.

Senator Mathern said he wondered if there is a benefit to instituting some type of notice or reporting mechanism that would alert agencies to any impacts that might result from an incentive that is under consideration.

In response to a question from Chairman Dockter, Mr. Lucy said the Department of Commerce contacts state agencies and county and local governing bodies that would be impacted by an incentive.

In response to a question from Senator Mathern, Mr. Lucy said the Department of Commerce's decision to take these actions is the result of a management decision rather than a statutory directive.

Senator Cook said Senator Mathern raises an important issue the committee will need to continue to discuss as it moves forward in evaluating incentives. He said this is the first interim the committee has been tasked with reviewing incentives and there is a bit of a learning curve associated with this type of review. He said it would be nice if the Department of Commerce could put together a report summarizing opportunities the state has won or lost in the period prior to the 2017-18 interim evaluation of these incentives.

Mr. Lucy said the department could prepare a summary regarding opportunities of which the department is aware were won or lost.

Chairman Dockter said in light of the comments received on this credit, it appears the committee is comfortable holding off on taking any action on a bill draft.

Certified Nonprofit Development Corporation Investment Tax Credit

Chairman Dockter called on the Legislative Council staff for presentation of the bill draft [17.0167.01000] to repeal the certified nonprofit development corporation income tax credit. She said the committee requested a bill draft to repeal this credit due to the infrequency in which the credit has been claimed. She said the credit is available only to corporate income taxpayers and has not been claimed on any corporate income tax returns in tax years 2006 through 2014.

Chairman Dockter invited comments from interested persons regarding the certified nonprofit development corporation investment tax credit. No comments were received.

In response to a question from Representative Klemin, the Legislative Council staff said the reference to an expiration date rather than an effective date on page 3 of the bill draft is a typographical error. She provided the committee with a corrected version of the bill draft [17.0167.02000] following the committee's luncheon recess.

Chairman Dockter said based on the lack of use and lack of testimony or additional information regarding this credit, the committee can check off consideration numbers 2, 3, and 7 on its incentive evaluation chart.

Representative Headland said the fact that no one has appeared to speak to the effectiveness or use of this credit is telling enough to move forward with a recommendation to repeal the credit.

Chairman Dockter said he would agree with Representative Headland's statements.

In response to a question from Senator Bekkedahl, the Legislative Council staff said she contacted the Secretary of State's office and received confirmation that eight nonprofit development corporations have been certified in this state. She said the presence of eight existing certifications is the reason the entirety of Section 10-33-124 was not repealed. She said only the provisions relating to this type of entity's ability to claim the tax credit have been removed from this section.

Senator Mathern questioned whether there would be a way to streamline the existing incentive and asked if the eight certified nonprofit development corporations had been individually notified regarding an opportunity to provide comments.

The Legislative Council staff said she had not individually reached out to the eight certified nonprofit development corporations to speak to the effectiveness of the incentive as none of the eight entities have claimed the credit.

Chairman Dockter said an agenda item calling for testimony from interested parties in relation to this credit has been placed on several prior agendas and no interested parties have appeared to provide testimony.

Wage and Salary Credit

Chairman Dockter called on the Legislative Council staff for a presentation of the bill draft [17.0162.01000] to repeal the wage and salary credit. She said the committee requested a bill draft to repeal this credit due to the infrequency in which the credit has been claimed. She said the credit is available only to corporate income taxpayers and has not been claimed on any corporate income tax returns in tax years 2011 through 2014.

Chairman Dockter invited comments from interested persons regarding the wage and salary credit. No comments were received.

In response to a question from Senator Cook, the Legislative Council staff said the inability of a corporation claiming a property or income tax exemption as a new or expanding business to also claim this credit has been discussed as a factor contributing to this credit's lack of use.

Chairman Dockter said the fact that this incentive may be getting passed up for other incentives addresses consideration numbers 2 and 3 on the committee's evaluation chart regarding complimentary or duplicative effects of other incentives and whether the design and application of this incentive could be improved. He said the lack of use of this credit addresses consideration number 7 regarding whether the availability of the credit is an effective use of state resources.

Microbusiness Income Tax Credit

Chairman Dockter called on the Legislative Council staff for a presentation of the bill draft [17.0163.01000] to repeal the microbusiness income tax credit. She said the committee requested a bill draft to repeal this credit due to the infrequency in which the credit has been claimed. She said the credit has not been claimed on any corporate income tax returns in tax years 2007 through 2014 and has been claimed on fewer than five individual income tax returns per year during the same period.

Chairman Dockter invited comments from interested persons regarding the microbusiness income tax credit. No comments were received.

Chairman Dockter said the lack of use and lack of information received regarding this credit allows the committee to address consideration numbers 2, 3, and 7 on the evaluation chart. He said it is unknown how this incentive could best be improved to constitute a more efficient use of state resources as taxpayers using the incentive have not appeared to provide testimony.

Agricultural Commodity Processing Facility Investment Tax Credit

Chairman Dockter called for comments by interested persons, in addition to the comments the committee already received, regarding the agricultural commodity processing facility investment tax credit. No additional comments were received.

Geothermal, Solar, Wind, and Biomass Energy Device Tax Credit

Chairman Dockter called for comments by interested persons regarding the geothermal, solar, wind, and biomass energy device tax credit and said he had received notice that some of the interested parties wishing to testify on this credit could not be in attendance at today's meeting. He said interested parties would have a chance to comment on this credit at a future meeting.

Internship Program Credit

Chairman Dockter called for comments by interested persons regarding the internship program credit. No comments were received.

Automation Tax Credit

Chairman Dockter called for comments by interested persons regarding the automation tax credit.

Ms. Ova provided testimony (Appendix G) on behalf of the Economic Development Association of North Dakota (EDND) in favor of the automation tax credit and the angel fund investment tax credit. She said EDND would be in favor of expanding the automation tax credit from the $2 million dollar limit to the credit limit available in the previous biennium. She said EDND does not support the elimination of the angel fund investment tax credit, but believes discussion regarding possible changes to the credit are warranted to address some of the committee's concerns. She said EDND supports eliminating the certified nonprofit development corporation investment tax credit, the microbusiness income tax credit, and the wage and salary credit due to the lack of use and limited scope of each credit. She said EDND supports reviewing and extending those incentives set to expire, including the sales and use tax exemption for wind-powered electrical generating facilities, the automation tax credit, and the telecommunications infrastructure sales tax exemption. She said EDND also is supportive of the funding and use of an evaluation tool, such as REMI, to help future interim committees evaluate economic development tax incentives.

Senator Cook said he agreed with Ms. Ova's argument regarding why the Legislative Assembly should not have lowered the cap on the automation credit during the 2015 legislative session.

In response to a question from Representative Headland, Ms. Ova said it is her opinion economics drive a company's decision to automate.

Mr. Vaux said a combination of economics and the availability of tax incentives drive a company's decision to automate.

Representative Headland said he believes economics drive a company's decision to automate more than the availability of a tax incentive. He said it is hard to know whether a company would have decided to automate despite the availability of an incentive.

Mr. Vaux said the credit does not result in individuals being replaced with equipment, but rather enhances an individual's current position. He said in some cases the credit may be incentivizing actions a company would have taken otherwise, but in other cases it is a driving factor behind a company's actions.

In response to a question from Senator Cook, Mr. Vaux said the adjustments made to the corporate income tax apportionment factor during the 2015 legislative session may reduce the need for larger corporations to access incentives, but smaller corporations that do not have a global presence would not gain the same benefit.

In response to a question from Representative Headland, Mr. Vaux said the incentive may lead a facility to expand in this state rather than expand through the placement of satellite branches in other states. He said he is not sure if more companies would choose to automate if the cap on the credit were removed.

In response to a question from Representative Headland, Mr. Lucy said purchases of replacement equipment that does not serve to replace or modify a manual process would not qualify for the credit.

Ms. Ellen Huber, Business Development Director, City of Mandan, and Vice President, Economic Development Association of North Dakota, said the automation tax credit is used by primary sector businesses that create new wealth and good jobs in our communities. She said the credit is particularly important in times during which businesses have faced challenges recruiting and retaining the type of skilled workforce required to remain competitive. She said the Cloverdale Foods Company in Mandan has used the automation incentive twice. She said TrueNorth Steel also has expressed an interest in using the automation credit. She said the cap on the automation credit causes some concern for businesses regarding certainty that the incentive will be available. She said the credit is important to encourage investments in innovation and encourage companies to expand or locate in this state. She said she encourages the committee to support the continued availability of this credit.

Renaissance Zone Income Tax Credits and Exemptions

Ms. Huber said renaissance zone credits and exemptions have been important in helping breathe life into some of the older buildings in Mandan. She said Mandan had a later start in its participation in the renaissance zone program due to issues related to an underground oil spill in the downtown area. She said the private sector has either invested, or committed to invest, nearly $17 million in rehabilitation or new construction costs for 32 buildings in Mandan's 28 block renaissance zone. She said the amount of the estimated property tax and state income tax reduction resulting from Mandan's renaissance zone is $2.6 million. She said she believes this amount is overstated because the estimated 5-year value of the property tax exemption submitted to the Department of Commerce is based on the prevailing mill rate at the time the report is submitted. She said recent property tax relief efforts have resulted in actual figures being lower than estimated figures. She said the value of the properties in the renaissance zone in Mandan have increased from an initial base value of approximately $3.9 million to a value of roughly $15 million. She said she encourages the committee to maintain the availability of renaissance zone credits and exemptions.

In response to a question from Senator Mathern, Ms. Huber said there is a learning curve for incentive programs. She said a business development director was not employed in Mandan until 2006.

In response to a question from Representative Nathe, Ms. Huber said EDND has not formally discussed how these situations in which political subdivisions disagree regarding the extension of a renaissance zone might be remedied in the future. Ideally, she said, the extension of a renaissance zone would be unanimously supported by all taxing entities. She said one possible solution would be to exempt only the portion of a renaissance zone project's property tax related to the taxing entities in support of extending the duration of a renaissance zone.

Senator Bekkedahl said he would agree with that approach as a potential solution. He said any taxing entity that has revenue at stake should have a say in whether its revenues are impacted by a renaissance zone.

Senator Cook said he would be interested in hearing from the Department of Commerce regarding any intentions the department has to address this issue during the upcoming legislative session. He said he is not sure whether the committee has adequate time remaining in this interim to fully study the issue.

Chairman Dockter said since three interims have been provided to complete the study of the incentives listed in statue, this incentive could be addressed more thoroughly by a future interim committee. He requested the Legislative Council staff to invite a representative from the Department of Commerce to provide comments regarding renaissance zone extensions at the committee's next meeting.

Chairman Dockter called for any additional comments by interested persons regarding renaissance zone income tax credits and exemptions. No additional comments were received.

Research and Expense Tax Credit

Chairman Dockter called for comments by interested persons regarding the research and expense tax credit. No comments were received.

New Jobs Credit From Income Tax Withholding

Chairman Dockter called for comments by interested persons regarding the new jobs credit from income tax withholding. No comments were received.

New or Expanding Business Income Tax Exemption

Chairman Dockter called for comments by interested persons regarding the new or expanding business income tax exemption. No comments were received.

Telecommunications Infrastructure Sales Tax Exemption

Chairman Dockter called for comments by interested persons regarding the telecommunications infrastructure sales tax exemption and said the committee has received written testimony (Appendix H) from Ms. Cheryl Riley, President, Northern Plains States, AT&T, in support of extending the sales tax exemption.

Mr. Todd Kranda, Kelsch Kelsch Ruff & Kranda Law Firm, appearing on behalf of Verizon Wireless, provided testimony (Appendix I) in support of the sales tax exemption. He said this incentive assists in the deployment of resources to facilitate business operations across the state as well as citizen's use of the Internet. He said included in his testimony is a resolution from the National Conference of State Legislatures (NCSL) which supports this type of program for telecommunication networks. He said Verizon Wireless supports the incentive in its present form and believes the incentive has done wonders for the industry and the state and will be appearing before the 2017 Legislative Assembly to provide more details regarding the benefits of this incentive.

Senator Cook said he recalled the discussion that resulted in the NCSL resolution and it was made clear during that discussion telecommunication companies budget only so much for infrastructure, so if a state chooses to tax that infrastructure it will effectively be reducing the amount of technology invested. He said this state has an increasing need for high-speed Internet and this incentive assures the state receives that technology. He said

NCSL has referred to this state as the poster child on which other states should model a sales tax exemption. He said the only way this exemption could be improved is by removing the sunset, which he would support.

In response to a question from Senator Bekkedahl, Mr. Kranda said a study conducted after the incentive was first created showed a three-fold wireless investment increase in 1 year as a result of the exemption. He said it is worth noting the state benefits from the taxes collected on all the additional products and services promoted by high-speed Internet so the state gains back the sales tax revenue it gives up by providing the incentive.

Senator Bekkedahl said it would be helpful for the committee to receive any additional information Verizon Wireless can provide.

In response to a question from Senator Bekkedahl, the Legislative Council staff said five taxpayers claimed the incentive in fiscal year 2011 at a cost of $1.25 million, no taxpayers claimed the incentive in fiscal year 2012 and fiscal year 2013, seven taxpayers claimed the incentive in fiscal year 2014 at a cost of $1.77 million, and fewer than five taxpayers claimed the incentive in fiscal year 2015 so the amount claimed in that year cannot be disclosed.

In response to a question from Senator Mathern, Mr. Kranda said the expenditure of funds by a telecommunications company would go further in this state than in South Dakota.

Mr. David Crothers, Executive Vice President, North Dakota Association of Telecommunications Cooperatives, provided testimony (Appendix J) in support of the sales tax exemption and submitted testimony (Appendix K) on behalf of Mr. Kent Blickensderfer, North Dakota and South Dakota Director of Legislative and Regulatory Affairs, Century Link, in support of the sales tax exemption. Mr. Crothers said the sales tax exemption has been widely used and tremendously helpful. He said the exemption remains necessary because the activity of expanding telecommunications infrastructure is highly capital intensive. He said the demand for broadband grows every year. He said it is not uncommon for four individuals to use four separate connections in a single home. In addition to customer's demands, he said, federal policy also dictates increased standards for broadband. He said the state's decision to invest in this incentive has paid off as North Dakota is now widely recognized for the deployment of fiber to homes.

In response to a question from Representative Mooney, Mr. Crothers said he could not speak to other providers' intentions of expanding broadband services to certain areas of the state.

Ms. Deana Wiese, Executive Director, Information Technology Council of North Dakota, provided testimony (Appendix L) in favor of the sales tax exemption. She said one of the goals of the Information Technology Council of North Dakota is to achieve affordable access to voice, video, and data services for all North Dakotans. She said allowing for permanency of the sales tax exemption has received broad support from both broadband providers and users. She said the incentive is fulfilling the intent for which it was created by expanding wireless data coverage across the state. She said the Information Technology Council of North Dakota would appreciate the committee's consideration in removing the sunset date on the sales tax exemption.

Workforce Recruitment Credit

Chairman Dockter called for comments by interested persons regarding the workforce recruitment credit. No comments were received.

Angel Fund and Seed Capital Investment Tax Credits

Chairman Dockter called on the Legislative Council staff for a presentation of a bill draft [17.0158.01000] to repeal the angel fund investment tax credit and expand the seed capital investment tax credit and a bill draft [17.0110.01000] to modify certification and reporting requirements related to the angel fund investment tax credit. She said the first bill draft [17.0158.01000] eliminates the ability of a taxpayer to claim an angel fund investment tax credit for any investment made in an angel fund after December 31, 2017. She said angel funds could still exist, but would be receiving tax credits as a result of investments made under the seed capital investment tax credit program. She said the reporting requirements for angel funds also would be expanded to require angel funds to report the amount of its investment in each enterprise. She said the bill draft amends portions of the seed capital investment tax credit by increasing the maximum amount of the credit allowed for all claimants from $3.5 million to $15 million per calendar year. She said the maximum amount that may be claimed per taxpayer is increased from $112,500 to $225,000 per year and the carryforward period for any unused credits expanded from 4 years to 7 years. She said the maximum amount of qualified investments that may be received by a qualified business for all tax years is increased from $500,000 to $4 million and additional reporting requirements imposed on a qualified business to ensure the business continues to meet certain requirements in the 5-year period following the receipt of an investment qualifying for the tax credit. She said the changes to credit and investment amounts are loosely based on the amounts associated with Minnesota's angel fund credit, after adjusting for differences in the percentage of the credit available in each state and the fact that Minnesota's angel fund allows for a refundable credit.

In response to a question from Senator Dotzenrod, the Legislative Council staff said the bill draft would allow the Tax Commissioner to disclose to the Legislative Management the amount an angel fund has invested in each enterprise.

In response to a question from Senator Bekkedahl, the Legislative Council staff said the Tax Commissioner may disclose information contained in reports filed by angel funds upon the request of the Legislative Management. She said the word "may" could be replaced with "shall" if the committee wishes to remove any discretion on the part of the Tax Commissioner in disclosing that information.

Representative Nathe said he would be more comfortable using the term "shall" rather than "may."

Senator Cook said he was comfortable leaving the language as is.

In response to a question from Representative Hogan, the Legislative Council staff said the language in the bill draft does not mirror the language in Minnesota's angel fund credit as that credit contains much more extensive reporting requirements.

The Legislative Council staff said the second bill draft [17.0110.01000] relates to investments in a qualified business for purposes of the angel fund investment tax credit. She said this bill draft seeks to remedy aspects of the credit for which the committee expressed discomfort, including nondisclosure of amounts being invested by angel funds in individual businesses, angel funds investing in out-of-state businesses with no connection to this state, and lack of transparency regarding whether angel funds were investing available funds within a certain period of time. She said the bill draft remedies these concerns by restricting angel funds to investing in qualified businesses for the purpose of an investment qualifying for the credit. She said angel funds also are required to report the amount the fund invested in each qualified business and file reports with the Tax Commissioner verifying the initial investment amount an angel fund received from a taxpayer qualifying for the credit was invested by the angel fund in a qualified business within 3 years of the fund receiving the taxpayer's investment. She said the bill draft allows for an awarded credit to be recaptured if the angel fund does not meet the new requirements outlined in the bill draft. She said the bill draft also requires the Department of Commerce to make publicly available a list of all qualified businesses certified by the department. She said the bill draft addresses the main issues highlighted by the committee. She said additional options for modifying the credit as it is amended in this bill draft also have been provided.

The Legislative Council staff reviewed a memorandum entitled *Additional Provision Options for Bill Draft [17.0110.01000]* and said the memorandum compares the provisions of the second bill draft to four key areas of Minnesota's angel fund program. She said the committee has the option of incorporating into the bill draft any of Minnesota's provisions it finds appealing.

Angel Fund Panel Discussion

Chairman Dockter invited Mr. Lucy and Mr. Dever, Mr. Ryan Rauschenberger, Tax Commissioner, and Mr. Tommy Kenville, Chair, Valley Angel Investment Fund, LLC, to participate in a panel discussion regarding the angel fund investment tax credit.

Mr. Rauschenberger said the operation of the angel fund credit is fairly open and operates somewhat on an honor system. He said Minnesota's credit program is on the other end of the spectrum and is laden with intensive reporting requirements and requires a large amount of resources to administer. He said he is concerned the second bill draft allows the credit to be claimed at the time the investment is received by the angel fund as opposed to when the investment is received by a qualified business. He said allowing the credit upfront can create issues for the Tax Department in regard to clawing back the claimed credit if certain requirements are not met within the applicable 3-year period.

Mr. Kenville said he is not excited about either bill draft, but would be less opposed to the second bill draft as the draft does not place a sunset on the angel fund investment tax credit program. He said the 701 Angel Fund would be negatively impacted by a sunset on the program. He said pushing the sunset date in the first draft back by about 4 years would remedy the issues that would arise for the 701 Angel Fund. He said his concerns regarding the first bill draft relate to the necessity to arrange for a private placement for every investment. He said this places a burden on the entrepreneur seeking the funds and the angel fund making the investment.

Mr. Dever said angel funds could still participate in the seed capital investment tax credit program under the first bill draft. He said funds could do so through a passthrough mechanism. He said the difference between the two drafts comes down to the timing during which a taxpayer would receive the tax credit. Under current statute, he said, a taxpayer receives the credit when the taxpayer invests in an angel fund. He said under the first bill draft, the taxpayer would receive the tax credit when the angel fund in turn invests in a qualified business. He said this structure is similar to what is seen in most other states that offer angel fund investment tax credits.

In response to a question from Representative Nathe, Mr. Lucy said seed capital requirements regarding a qualified business having the majority of its business activities performed in this state are reviewed by the Department of Commerce. He said a qualified business must have its principal office in this state; the majority of its business activities, with the exception of sales activities, performed in this state; or have a significant operation in this state that has or is projected to have more than 10 employees or more than $150,000 in annual sales in order to meet this requirement. He said defining a majority of a business's activities in this manner allows the seed capital credit to be applied in situations in which an investment might be made in a company that has headquarters in a different state, and may have operations in various other states, to receive investment dollars qualifying for the credit if that company is looking to expand its operations into this state.

In response to a question from Senator Cook, the Legislative Council staff said the administrative costs associated with Minnesota's angel fund program were nearly $370,000 in 2015 and the program maintained 3 full-time equivalent staff members to administer the program. She said neither of the angel fund bill drafts presented today contain administrative fees.

In response to a question from Senator Cook, Mr. Rauschenberger said he does not think a fee would be required for the Tax Department to process the reports it would be receiving. He said the department's audit staff would be busier on the backend verifying that the requirements for the credit have been met according to the provisions in the second bill draft.

In response to a question from Mr. Rauschenberger, the Legislative Council staff said the second bill draft provides the credit would be received at the time the investment is placed in the angel fund. She said additional clawback provisions, aside from the Tax Commissioner's existing ability to conduct an audit and require a taxpayer to file an amended return, have been provided in the supplemental memorandum associated with the second bill draft.

In response to a question from Senator Cook, Mr. Rauschenberger said the workload of the department's individual income tax auditors potentially would need to be reprioritized if the provisions contained in the second bill draft were to result in increased workloads. He said there is less chance for increased workloads under the provisions contained in the first bill draft.

Representative Klemin said an angel fund program that only allows a credit to be granted once the funds are transferred to a qualified business would be easier to administer. From a policy standpoint, he said, it would be beneficial for angel funds to continue to exist as a way of attracting capital to this state, but the program should be structured to provide for accountability and transparency.

In response to a question from Senator Mathern, Mr. Kenville said he would prefer the first bill draft over the second bill draft as the provisions in the second bill draft contain more onerous reporting requirements.

In response to a question from Senator Bekkedahl, Mr. Kenville said, even factoring in the 45 percent credit, the investors in his angel fund have not realized a positive return on their investments.

In response to a question from Representative Mooney, Mr. Kenville said his concerns with the second bill draft relate to the annual reporting requirements for each investment. He said individuals who manage angel funds provide their services on a volunteer basis and do not receive compensation.

Mr. Dever said the main difference when comparing the credit amount offered in Minnesota to the credit amount offered in North Dakota is that Minnesota's credit is refundable.

In response to a question from Representative Nathe, Mr. Kenville said a notable difference between the seed capital investment credit and the angel fund investment credit is the necessity for private placements under the seed capital investment credit. He said if a business is looking to raise more than $10 million in capital, the business only may receive investments from an accredited investor. He said the legal requirements and costs associated with this process can become burdensome for smaller entrepreneurs.

Representative Nathe thanked Mr. Kenville for participating in the panel discussion and responding to the questionnaire sent out by the Legislative Council staff. He said he was surprised at the lack of response from other angel funds regarding the information requested in the questionnaire. He said he also is disappointed that more angel fund representatives did not appear today, especially considering the fact the credit is costing taxpayers in this state millions of dollars.

Senator Cook said his only concern with the first bill draft is the effective date which is still quite a ways out. He said a large amount of tax credits could be earned for investments placed in an angel fund before January 1, 2018, which might never ultimately be invested in a business.

Chairman Dockter thanked the panel members for their participation in the discussion.

Committee Discussion and Directives

Chairman Dockter called for committee discussion and directives on the bill drafts.

Senator Mathern said it would be helpful if there was some type of evidence-based evaluation that could be applied to evaluating incentives, similar to the evidence-based evaluation methods used to evaluate human service programs. He said he is not sure how evidence-based the committee's evaluation has been regarding some of the incentives being reviewed. He said he wondered if it would be more beneficial for the committee to focus its attention on developing methods or acquiring tools that would assist in evaluating incentives.

Representative Klemin said the committee is relying somewhat on evidence-based methodology by collecting data and inviting those using incentives to present facts and evidence regarding the benefits of an inventive. He said the lack of data or testimony regarding certain incentives also is evidence to some degree of the ineffectiveness of an incentive. He said the committee's evaluation may not be as thorough as studies conducted on psychiatric issues or drug and alcohol programs, but the committee is doing its best with the information at its disposal.

Chairman Dockter said many states are struggling with the evaluation of incentives which is becoming a more common practice as states deal with mounting budgetary constraints.

Senator Cook said there is a learning curve associated with the most effective manner in which to study incentives. He said of the various states reviewing economic development incentives, North Dakota is the only state using a legislative committee to conduct the review as opposed to a state agency or professional consultant. He said he agreed with Senator Mathern's earlier suggestion to give deference to the recommendations provided by EDND to repeal the three incentives that have seen little to no use.

It was moved by Senator Mathern, seconded by Senator Cook, and carried on a roll call vote that the bill draft [17.0077.02000] relating to a uniform definition of primary sector business be approved and recommended to the Legislative Management. Representatives Dockter, Dosch, Headland, Hogan, Klemin, Lefor, Mitskog, Mooney, Muscha, Nathe, and Toman and Senators Bekkedahl, Burckhard, Cook, Dotzenrod, Mathern, and Unruh voted "aye." No negative votes were cast.

It was moved by Senator Cook, seconded by Representative Nathe, and carried on a roll call vote that the bill draft [17.0163.01000] relating to the repeal of the microbusiness income tax credit be approved and recommended to the Legislative Management. Representatives Dockter, Dosch, Headland, Hogan, Klemin, Lefor, Mitskog, Mooney, Muscha, Nathe, and Toman and Senators Bekkedahl, Burckhard, Cook, Dotzenrod, Mathern, and Unruh voted "aye." No negative votes were cast.

It was moved by Senator Mathern, seconded by Representative Toman, and carried on a roll call vote that the bill draft [17.0162.01000] relating to the repeal of the wage and salary credit be approved and recommended to the Legislative Management. Representatives Dockter, Dosch, Headland, Hogan, Klemin, Lefor, Mitskog, Mooney, Muscha, Nathe, and Toman and Senators Bekkedahl, Burckhard, Cook, Dotzenrod, Mathern, and Unruh voted "aye." No negative votes were cast.

It was moved by Representative Headland, seconded by Senator Bekkedahl, and carried on a roll call vote that the bill draft [17.0167.02000] relating to the repeal of the certified nonprofit development corporation income tax credit be approved and recommended to the Legislative Management. Representatives Dockter, Dosch, Headland, Hogan, Klemin, Lefor, Mitskog, Mooney, Muscha, Nathe, and Toman and Senators Bekkedahl, Burckhard, Cook, Dotzenrod, Mathern, and Unruh voted "aye." No negative votes were cast.

Representative Nathe said he would be supportive of advancing the bill draft to repeal the angel fund investment tax credit and expand the seed capital investment tax credit. He said this bill draft allows individuals with disposable income to invest in businesses that might benefit the state. He said the seed capital investment tax credit was the state's primary vehicle for raising investment capital prior to the existence of the angel fund investment tax credit and he likes the transparency associated with the seed capital credit.

Senator Cook said he would also be supportive of advancing the bill draft to repeal the angel fund investment tax credit and expand the seed capital investment tax credit. He said recommending the bill draft move forward would send a message to interested parties that they should begin formulating their testimony regarding any changes they may want to see to the credit for discussion during the 2017 legislative session.

Representative Mooney said if the credit amount in the bill draft expanding the seed capital investment tax credit is to stay at an increased rate of 45 percent, she also would like to see provisions added to the bill draft which requires a business receiving investment dollars linked to the credit to be required to pay wages of at least 175 percent of the federal poverty level. She said if the state is going to support incentivizing businesses in this state, those businesses also should be required to propel prosperity from the bottom up.

Senator Cook said he is not as concerned with the wages these types of businesses will be paying as positions created by these types of businesses are usually higher-paying positions. He said if the committee is interested in requiring a primary sector business to pay wages of at least 175 percent of the federal poverty level in relation to a primary sector business benefiting from one type of economic development incentive, the committee may want to consider a separate bill draft linking this type of provision to the requirements associated with a primary sector business receiving any type of economic development incentive.

Representative Klemin said he would like to request amendments to the second bill draft modifying the certification and reporting requirements related to the angel fund investment tax credit. He said he would like subdivisions j and k on page 3 of the second bill draft to mirror the language in subdivision j on page 3 of the first bill draft. He said he would like the word "may" on page 3, line 26, of the second bill draft to be replaced with "shall, upon request of the legislative management." He said he would like the language in subsection 5 on page 6 of the first bill draft inserted after page 7, line 9, of the second bill draft. He said he also would like the angel fund credit provisions amended to provide the credit may not be received until the investment for which the credit was earned is invested in a qualified business.

Chairman Dockter said he agreed with Representative Klemin that receipt of the credit should not occur until the business receives the investment for which the credit was earned.

Representative Klemin said the two angel fund bill drafts are mutually exclusive, especially when incorporating the amendments he suggested for the second bill draft which modify angel fund certification and reporting requirements. He said he would be supportive of recommending both bills be advanced to the Legislative Management for approval. Ultimately, he said, his preference would be for an amended version of the second bill draft which preserves the angel fund process as a means of raising investment capital.

Chairman Dockter said there have been several instances in which the Legislative Assembly has considered two competing bills addressing the same issue and one bill ultimately falls by the wayside. He said he would have no issue with recommending both bill drafts be advanced to the Legislative Management for approval.

Representative Mooney said if the second bill draft modifying angel fund certification and reporting requirements will be amended for the committee's review at the next meeting she also would like to see the credit amount in the bill draft reduced from 45 percent to 25 percent.

Senator Unruh said she would be more comfortable reducing the credit amount in that draft from 45 percent to 35 percent because Minnesota's 25 percent credit is refundable.

Representative Mooney said she would be agreeable to setting the credit amount at 35 percent.

In response to a question from Senator Dotzenrod, Chairman Dockter said the increased amounts listed in the first bill draft are somewhat based on the credit amounts offered in Minnesota, but account for various adjustments.

It was moved by Representative Nathe, seconded by Senator Burckhard, and carried on a roll call vote that the bill draft [17.0158.01000] relating to the repeal of the angel fund investment tax credit and the expansion of the seed capital investment tax credit be approved and recommended to the Legislative Management. Representatives Dockter, Dosch, Headland, Hogan, Klemin, Lefor, Mooney, Muscha, Nathe, and

Toman and Senators Bekkedahl, Burckhard, Cook, Dotzenrod, and Unruh voted "aye." Representative Mitskog and Senator Mathern voted "nay."

Chairman Dockter said the next incentives on which the committee will focus are those incentives subject to a sunset date. He said the committee also will receive information regarding renaissance zones incentives at the next meeting; however, the committee many not have sufficient time to fully review the incentives and provide a recommendation to the Legislative Management. He reminded the committee three interims have been allotted to study the incentives designated for review under Section 54-35-26 and said any incentives the committee does not have time to review can be addressed by a future interim committee.

No further business appearing, Chairman Dockter adjourned the meeting at 4:45 p.m.

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Emily L. Thompson
Counsel

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