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## **TAXATION COMMITTEE**

Tuesday, February 6, 2024  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Jared Hagert, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Representatives Jared Hagert, Jason Dockter, Jim Grueneich, Patrick Hatlestad\*, Craig Headland, Donna Henderson, Jim Kasper\*, Ben Koppelman, Mike Motschenbacher, Randy A. Schobinger\*, Vicky Steiner\*; Senators Justin Gerhardt, Jordan L. Kannianen, Randy D. Lemm, Merrill Piepkorn, Mark F. Weber

**Members absent:** None

**Others present:** Senators Brad Bekkedahl, Williston, and Janne Myrdal, Edinburg, members of the Legislative Management

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

*\*Attended remotely*

**It was moved by Representative Headland, seconded by Representative Dockter, and carried on a voice vote that the minutes of the October 5, 2023, meeting be approved as distributed.**

## **GENERAL INFORMATION**

Mr. Brian Kroshus, Tax Commissioner, provided information ([Appendix B](#)) pertaining to the Tax Department, including information regarding the agency's mission, composition, annual workload, and performance, and the status of the primary residence credit.

## **AGRICULTURAL COMMODITY STORAGE STRUCTURE PROPERTY TAX EXEMPTION STUDY**

Ms. Terin Riley, representing interested persons and potato farmers from Pembina County, provided information ([Appendix C](#)) regarding the agricultural commodity storage structure property tax exemption study. She noted:

- Disparate tax treatment has resulted from inconsistent application of the farm structure tax exemption.
- Legislative changes to clarify the farm structure tax exemption could include defining the terms "platted" and "raising agricultural crops" within the definition of "agricultural property."
- The United States Department of Agriculture (USDA) good agricultural practices audit program provides helpful information applicable to potato growers.

Mr. Brian Vculek, farmer and representative of the Northland Potato Growers Association, provided information ([Appendix D](#)) regarding good agricultural practices related to potato farming and storage and the agricultural commodity storage structure property tax exemption study. He noted:

- The USDA good agricultural practices include food safety protocols, such as proper field selection; irrigation and drinking water testing; traceability; employee training; separation requirements; and inspection of equipment and buildings for cleanliness.
- Providing a property tax exemption for privately owned farm structures classified as commercial property and used to store agricultural products for personal use might extend the life of the structures in rural areas and keep farmers interested in purchasing rural real estate.

Ms. Donnell Preskey, Government/Public Relations Specialist, North Dakota Association of Counties, provided information ([Appendix E](#)) regarding the agricultural commodity storage structure property tax exemption study. She noted:

- Caution should be exercised when considering the expansion of property tax exemptions.
- New or expanded property tax exemptions shift the property tax burden to owners of taxable property within the taxing district.
- Property owners receiving property tax exemptions receive the services that property taxes support, such as law enforcement, fire protection, and maintenance of public roads.

In response to a question from a committee member, Ms. Preskey noted legislation enacted in a past legislative session to require uniform assessor training sought to reduce inconsistencies in the assessment process.

Mr. Edward Sevigny, Tax Equalization Director, Walsh County, provided information regarding the agricultural commodity storage structure property tax exemption study. He noted:

- Many agricultural storage structures are rented to other individuals, which may lead to administrative difficulties for an assessor seeking to verify personal use status for purposes of the exemption.
- Many agricultural storage structures were built within city limits to take advantage of amenities not offered on a farm, including roads, railway, utilities, and infrastructure.
- If the property tax exemption was expanded, an estimated \$2.66 million of true and full value would be eliminated from the taxable base in Walsh County. Based on 2023 valuations and property taxes levied, an expanded exemption would result in an estimated \$53,400 in consolidated tax dollars being shifted to other taxpayers in the county.
- Recent sales in Walsh County indicate a strong demand for existing agricultural storage structures, leading to some structures selling for more than the assessed value of the property. Some of the structures have been used for continued agricultural storage purposes and others have been used for alternative purposes.

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

- Agricultural storage structures within city limits are considered commercial land and therefore not exempt under the farm structure exemption.
- A property's zoning classification does not always align with how the property is classified for property tax assessment purposes.

Mr. Bill Wocken, representative of the North Dakota League of Cities, provided information ([Appendix F](#)) regarding the agricultural commodity storage structure property tax exemption study. He noted:

- The North Dakota League of Cities has opposed many property tax exemption proposals because exempting property from taxation shifts the revenue generating burden to taxable property.
- The impact of an exemption for privately owned farm structures classified as commercial property and used to store agricultural products for personal use would have the largest impact on the remaining taxable property in small cities and townships.
- The threat of potato warehouses and grain elevators becoming abandoned is not a significant enough threat to justify the ongoing cost of a property tax exemption.

Mr. Stu Letcher, Executive Vice President, North Dakota Grain Dealers Association, provided information ([Appendix G](#)) regarding the use of grain elevators in the state. He noted since 1980, the number of elevators is decreasing, but the average capacity of the elevators is increasing.

In response to a question from a committee member, Mr. Letcher noted:

- If a grain elevator is used for private purposes, rather than commercial use, the elevator is not required to be licensed and is not tracked by the North Dakota Grain Dealers Association.
- A notable difference between a grain elevator and a traditional potato warehouse is the location, because grain elevators often are centrally located in a city.
- Most grain elevators are located on a railroad right of way and might be under a lease.

### Comments by Interested Persons

Mr. Loren Estad, Crystal, provided testimony related to the study. He noted:

- Storage is an important part of raising a crop, and should be included in a definition of "raising agricultural crops" for purposes of the farm structure tax exemption.
- Property used for agricultural storage should qualify for the farm structure tax exemption regardless of whether the property is located within city limits.

Mr. Pete Hanebutt, Director of Public Policy, North Dakota Farm Bureau, provided testimony relating to the study. He noted:

- Facilities owned and used by farmers for the storage of agricultural products, such as warehouses, should be subject to the same agricultural exemptions as farm storage structures used for the same purpose.
- The agricultural property tax exemption should be available to agricultural production structures on plotted lands in unincorporated municipalities.

In response to a question from a committee member, Mr. Hanebutt noted it might be challenging to draft legislation that addresses each situation that might arise related to taxation of agricultural storage property.

The committee received written testimony from the following individuals:

- Ms. Karen Anderson, Chairman, Walsh County Commission ([Appendix H](#));
- Chris West, Mayor, City of Grafton ([Appendix I](#)); and
- Dan Stenvold, Mayor, City of Park River ([Appendix J](#)).

### Committee Discussion

Some committee members expressed support for modification of the farm structure tax exemption. They noted proposing a bill draft to clarify language within the farm structure tax exemption may help provide uniform administration of the exemption and solve certain issues presented to the committee. Other committee members expressed concern regarding modification of the farm structure tax exemption, particularly if modifying the language results in expansion of the exemption. They noted concerns exist regarding the potential shift in property tax burden which would result from expanding the exemption.

Committee members discussed advantages and disadvantages of exempting all privately owned farm structures used to store agricultural products for personal use in the state. Committee members also discussed potential challenges related to drafting legislation to account for each situation that might arise related to taxation of agricultural storage property.

## ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY

Ms. Megan J. Gordon, Counsel, Legislative Council, presented memorandums entitled:

- [Economic Development Tax Incentive Study - Coal Severance and Conversion Tax Exemptions](#);
- [Economic Development Tax Incentive Study - Oil and Gas Gross Production and Oil Extraction Tax Exemptions](#);
- [Economic Development Tax Incentive Study - Fuel Tax Refunds for Certain Users](#);
- [Economic Development Tax Incentive Study - Biodiesel Fuel Credits](#);
- [Economic Development Tax Incentive Study - Carbon Dioxide Capture and Injection Sales Tax Exemption](#);
- [Economic Development Tax Incentive Study - Workforce Recruitment Credit](#); and
- [Economic Development Tax Incentive Study - Internship Program Credit](#).

Mr. Bryan Bittner, Research Analyst, Tax Department, provided fiscal information ([Appendix K](#)) pertaining to the economic development tax incentives selected for study. Mr. Bittner noted:

- The total amount of coal conversion tax and coal severance tax exemptions claimed for the last 5 fiscal years was approximately \$51.3 million.
- The total amount of oil and gas gross production tax and oil extraction tax exemptions claimed for the last 5 fiscal years was over \$1.2 billion.

- The total amount of fuel tax refunds for all fuel types, including motor vehicle fuel, special fuel, and aviation fuel, for the last 5 fiscal years was over \$2.3 million.
- The carbon dioxide capture and injection sales and use tax exemption was not claimed in fiscal years 2019, 2020, and 2022. The Tax Department declined to disclose the number of claimants and amount claimed for fiscal years 2021 and 2023, citing a Tax Department policy prohibiting disclosure of exemptions claimed by five or fewer claimants.
- The biodiesel fuel blending credit has been claimed by 16 corporate income taxpayers and 20 individual income taxpayers over the last 5 tax years, with credits totaling over \$3.8 million and \$526,000, respectively. The biodiesel fuel equipment costs credit has been claimed by seven individual income taxpayers over the last 5 tax years, with credits totaling over \$88,000. The biodiesel facility construction credit has not been claimed in the last 5 tax years.
- The workforce recruitment credit has been claimed by 11 individual income taxpayers over the last 5 tax years, with credits totaling under \$5,000.
- The internship program credit has been claimed by 4 corporate income taxpayers and 139 individual income taxpayers over the last 5 tax years, with credits totaling approximately \$5,600 and \$42,000, respectively.

In response to a question from a committee member, Mr. Bittner noted:

- North Dakota Century Code Section 57-01-02(17) authorizes disclosure of tax credits or deductions with five or fewer claimants upon request by the Chairman of the Legislative Management.
- The law does not reference the disclosure of tax exemptions; thus, Tax Department policy prevents disclosure of the number of claimants and amount claimed for tax exemptions, including the carbon dioxide capture and injection sales and use tax exemption, if the exemptions were claimed by five or fewer claimants.

Mr. Matt Marshall, Economic Development Manager, Minnkota Power Cooperative, and Secretary/Treasurer, Economic Development Association of North Dakota, provided information ([Appendix L](#)) related to the economic development tax incentives study. He noted:

- The association supports the continued use of all incentives selected for study.
- The workforce recruitment credit and internship credit are of particular interest because workforce challenges are consistently the primary issue preventing growth for companies in North Dakota.
- The workforce recruitment credit and internship program credit are essential tools for attracting new employees to the state.
- The committee should consider modifying the limitations of the internship credit to encourage more internship opportunities in the state.

### Committee Discussion

Committee members:

- Expressed frustration regarding the difficulty of receiving information related to the utilization of the incentives selected for study with five claimants or fewer and indicated a desire to consider proposed legislation to require disclosure of this information.
- Discussed the goal of the economic development tax incentive study and whether it is appropriate to repeal incentives with few to no claimants.
- Noted it is important to allow industry representatives and interested persons to provide comments before the committee makes recommendations related to the incentives.

No further business appearing, Chairman Hagert adjourned the meeting at 3:15 p.m.

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Megan J. Gordon  
Counsel

ATTACH:12