



600 East Boulevard Avenue, Bismarck, ND 58505

## TAXATION COMMITTEE

Wednesday, December 15, 2021

Room 327B, State Capitol  
Bismarck, North Dakota

Senator Dale Patten, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Dale Patten, Scott Meyer\*, Merrill Piepkorn\*, Mark F. Weber; Representatives Dick Anderson\*, Jason Dockter, Patrick Hatlestad\*, Tom Kading\*, Jim Kasper\*, Ben Koppelman, Vicky Steiner\*

**Members absent:** Representatives Craig Headland, Wayne A. Trottier

**Others present:** See [Appendix A](#)

\*Attended remotely

**It was moved by Representative Koppelman, seconded by Senator Weber, and carried on a voice vote that the minutes of the September 21, 2021, meeting be approved as distributed.**

### MOTOR VEHICLE EXCISE TAX CREDIT STUDY

Ms. Shannon Fleischer, Associate Director, Tax Department, provided information ([Appendix B](#)) regarding the history of motor vehicle excise tax and the application of a trade-in credit for retail motor vehicle sales. She noted:

- Through the passage of House Bill No. 740 (1963), the state enacted a motor vehicle excise tax to be assessed on motor vehicles in lieu of personal property tax;
- House Bill No. 692 (1965) amended the motor vehicle excise tax laws to ensure casual motor vehicle sales were subject to the motor vehicle excise tax and to add a motor vehicle trade-in allowance credit; and
- House Bill No. 184 (1969) expanded the trade-in allowance credit to include additional trade-in items that would be subject to sales or use tax.

### Comments by Interested Persons

Mr. Matthew Larsgaard, President and Chief Executive Officer, Automobile Dealers Association of North Dakota, provided information ([Appendix C](#)) regarding potential expansion of the motor vehicle excise tax credit. He noted:

- There are several items for the committee to take into account when considering the expansion of the motor vehicle excise tax credit to include private motor vehicle sales, including consumer protection issues, increased potential for tax fraud, lost tax revenue, and adverse effects on child support enforcement;
- An alternative to a private motor vehicle sale that would allow a consumer to claim the motor vehicle excise tax credit is an "in and out" or "paper trade" sale, which is available under current law; and
- In this type of sale, a dealer purchases a trade-in vehicle from the consumer at the price the consumer was going to sell the vehicle to the third party and then immediately sells the vehicle to the third party at cost without any fees.

In response to a question from a committee member, Mr. Larsgaard noted past correspondence from Mr. Jim Fleming, Director, Child Support Enforcement Division, Department of Human Services, indicated over 870 child support payments are made each year as a result of the child support lien registry and an increase in private motor vehicle sales likely would have a negative impact on child support collections.

## **ECONOMIC DEVELOPMENT TAX INCENTIVES STUDY**

Ms. Emily Thompson, Legal Division Director, Legislative Council, presented memorandums entitled:

- [Economic Development Tax Incentive Study - Manufacturing and Recycling Sales Tax Exemption;](#)
- [Economic Development Tax Incentive Study - Automation Tax Credit;](#)
- [Economic Development Tax Incentive Study - Soybean or Canola Crushing Facility Construction or Retrofit Credit;](#)
- [Economic Development Tax Incentive Study - Agricultural Commodity Processing Facility Investment Tax Credit;](#)
- [Economic Development Tax Incentive Study - Research Expense Tax Credit;](#)
- [Economic Development Tax Incentive Study - Seed Capital Investment Tax Credit;](#)
- [Economic Development Tax Incentive Study - New or Expanding Business Exemptions;](#) and
- [Economic Development Tax Incentive Study - New Jobs Credit from Income Tax Withholding.](#)

Mr. Joseph Becker, Auditor III, Tax Department, provided fiscal information (Appendices [D](#) and [E](#)) pertaining to the economic development tax incentives selected for study. Mr. Becker provided information regarding:

- The estimated reduction in tax for tax years 2006 through 2020 attributable to the economic development tax incentives selected for study;
- The number of individual and corporate income tax returns on which the economic development tax incentives selected for study were claimed;
- The total income tax withholding dollars transferred from the general fund to the new jobs credit from withholding fund since the inception of the new jobs training program in 1993; and
- The number of claimants and the amount exempted in relation to the manufacturing and recycling equipment sales tax exemption.

In response to a question from a committee member, Mr. Becker noted he is not aware of any companies that submitted automation tax credit reporting information to the Tax Department but did not meet the increased job quality or productivity requirement during the 2019 tax year.

In response to questions from committee members, Mr. Becker noted the department has not implemented reporting requirements beyond those required under statute. He noted he does not believe the department has authority to implement additional reporting requirements through administrative rulemaking procedures.

### **Comments from Interested Persons**

Ms. Jennifer Greul, Executive Director, Economic Development Association of North Dakota, noted the Economic Development Association of North Dakota supports of all eight economic development tax incentives selected for study.

Mr. Nathan Schneider, Vice President, Bismarck Mandan Chamber Economic Development Commission and board member, Economic Development Association of North Dakota, provided testimony ([Appendix F](#)) in support of the economic development tax incentives selected for study. He noted:

- All eight of the economic development tax incentives selected for study support economic diversification and workforce recruitment;
- Maintaining the manufacturing sales tax exemption is important for North Dakota to stay competitive with other states and to attract businesses to the state;
- The automation tax credit encourages manufacturers to be innovative in their equipment investments in an effort to increase job quality and capacity;
- The new or expanding business exemptions are used successfully across the state to attract and retain businesses; and
- The new jobs credit from income tax withholding is being successfully used by many companies in the Jamestown area, including manufacturers and value-added agricultural companies.

The committee received written testimony ([Appendix G](#)) from Mr. Jim Murphy, Executive Director, Traill County Economic Development Commission, in support of the new jobs credit from income tax withholding.

## **COMMITTEE DISCUSSION AND DIRECTIVES**

The committee discussed the difficulty of evaluating the impact and effectiveness of the economic development tax incentives selected for study without access to a broad range of relevant data and testimony from interested parties.

The committee expressed interest in the Department of Commerce's perspective regarding driving factors for new businesses when deciding where to locate, particularly comparing North Dakota and South Dakota, and whether the incentives selected for study are valuable to the future of the state's economy.

The committee indicated a desire to review the reporting requirements applicable to the economic development tax incentives selected for study and to discuss the potential for streamlined or uniform reporting requirements for economic development tax incentives.

The committee discussed additional items, including the income tax credits passed during the 2021 special legislative session, recent legislation providing funding for the development of a natural gas pipeline and continued water development, a desire to discuss incorporating more value-added agriculture and energy projects in the state, eliminating or reducing income tax, and reviewing the gas tax.

No further business appearing, Chairman Patten adjourned the meeting at 12:05 p.m.

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Emily Thompson  
Legal Division Director

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Megan J. Gordon  
Counsel

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