



TAXATION COMMITTEE

Wednesday, March 27, 2024
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jared Hagert, Chairman, called the meeting to order at 9:30 a.m.

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

Members absent: Representatives Donna Henderson, Ben Koppelman, Vicky Steiner

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

Senator Dale Patten, Watford City

Levi Bachmeier, West Fargo Public Schools; Jason Bohrer, Lignite Energy Council; Stephanie Dassinger Engebretson, North Dakota League of Cities; Paul Fracassi, Cass County; Lynn Helms, Department of Mineral Resources; Brenton Holper, Horace; Shelli Myers, Tax Department; Katie Paulson, McKenzie County; and Linda Svihovec, North Dakota Association of Counties

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

* *Attended remotely*

It was moved by Representative Dockter, seconded by Representative Headland, and carried on a voice vote that the minutes of the February 6, 2024, meeting be approved as distributed.

AGRICULTURAL COMMODITY STORAGE STRUCTURE PROPERTY TAX EXEMPTION STUDY

Ms. Megan J. Gordon, Counsel, Legislative Council, presented a memorandum entitled [Property Classifications for Property Tax Assessment Purposes - Definition of Agricultural Property](#).

Ms. Linda Svihovec, Research Analyst, North Dakota Association of Counties, introduced Mr. Paul Fracassi, Tax Director, Cass County, and Ms. Katie Paulson, Tax Director, McKenzie County, to present information (Appendices [B](#) and [C](#)) regarding the process for an assessor to change the classification of a property for property tax purposes. Mr. Fracassi and Ms. Paulson noted:

- If development of an agricultural parcel of land occurs in the middle of a year, the value of the parent parcel is spread among the children parcels until the parcel is reviewed on the next assessment date.
- Assessors review the seven statutory conditions in North Dakota Century Code Section 57-02-01(1)(a) to determine whether a property platted on or after March 30, 1981, must be reclassified to a nonagricultural classification.

In response to questions from committee members, Mr. Fracassi and Ms. Paulson noted:

- When valuing an agricultural storage facility located in a city, which is owned by a private party for personal use, an assessor will consider economic factors, such as sales price, age of the structure and equipment, and whether rail lines are operational.
- Taxpayers may use the equalization or abatement process to appeal the local valuation or classification of a parcel of property.

Comments from Interested Persons

Ms. Terin Riley, representing interested persons and potato farmers from Pembina County, provided comments regarding the agricultural commodity storage structure property tax exemption study. She reiterated her clients' request to clarify the definition of "raising agricultural crops" within the definition of "agricultural property" as applied to the farm structure tax exemption.

Mr. Dave Moquist, Crystal, provided testimony related to the agricultural commodity storage structure property tax exemption study. He noted:

- The committee should amend the farm structure tax exemption to make clear property used for personal agricultural storage is exempt.
- In the past few decades, it has become more common for farms to include multiple noncontiguous parcels of land as part of a farm plant.

Mr. Pete Hanebutt, Director of Public Policy, North Dakota Farm Bureau, provided testimony relating to the agricultural commodity storage structure property tax exemption 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 committee received written testimony ([Appendix D](#)) from Mr. Andrew Mauch, President, North Dakota Corn Growers Association, regarding the agricultural commodity storage structure property tax exemption study.

Chairman Hagert noted if committee members are interested in proposing bill drafts to be considered by the committee this interim, the committee members should plan to discuss the proposals during the next two meetings.

SPECIAL ASSESSMENTS AGAINST POLITICAL SUBDIVISIONS PROPERTY STUDY

Ms. Shelli Myers, State Supervisor of Assessments, Tax Department, presented data ([Appendix E](#)) regarding property taxes levied by a political subdivision to pay special assessments levied against property owned by the political subdivision. She provided data related to taxes levied by taxing districts to pay for special assessments levied against the taxing district's property and examples of special assessments levied against property owned by political subdivisions. She noted from tax year 2019 through 2023:

- Counties levied \$165,016 to pay special assessments levied against county property.
- Townships levied \$392,140 to pay special assessments levied against township property.
- Cities levied \$4,532,591 to pay special assessments and drain assessments levied against city property.
- Park districts levied \$70,142,726 to pay special assessments levied against park property.
- School districts levied \$28,699,134 to pay special assessments levied against school property.

Ms. Svihovec provided information regarding the committee's study of special assessments levied against property owned by a political subdivision. She noted:

- For tax year 2023, counties levied over \$25,000 to pay special assessments levied against county property.
- The issue of special assessments levied on political subdivision property is more of a city, city park, and school district issue than a county issue.
- Some counties pay for special assessments out of the county's general fund rather than creating a separate mill levy for the amount owed.

Ms. Stephanie Dassinger Engebretson, Deputy Director and Staff Attorney, North Dakota League of Cities, provided information regarding the committee's study of special assessments levied against property owned by a political subdivision. She provided a general overview of the special assessment process and noted:

- Cities are the main political subdivision using special assessments for improvements.
- If a political subdivision owns property within the special assessment district, the political subdivision is assessed a benefit. The political subdivision may pay the special assessment using revenue generated from a general property tax levy against all property in the political subdivision.
- If a political subdivision owns property within a special assessment district and is not assessed a benefit to pay for the improvement, the other property in the special assessment district will be responsible for a higher share of the improvement cost.

Mr. Brenton Holper, City Administrator, City of Horace, provided information regarding the committee's study of special assessments levied against property owned by a political subdivision. He noted:

- The main concern for the City of Horace is to ensure the Century Code is respected and special assessments are levied fairly and equitably.
- Political subdivision property should be treated in the same manner as other property in the special assessment district to ensure the special assessment burden is not disproportionately shifted to other property owners.

Mr. Levi Bachmeier, Business Manager, West Fargo Public Schools, provided information ([Appendix F](#)) regarding the committee's study of special assessments levied against property owned by a political subdivision. He noted:

- When a special assessment improvement district includes property owned by a political subdivision other than the political subdivision levying the special assessments, property taxes in the political subdivision in which the property is situated generally increase because the cost of the special assessments may be passed through to the taxpayers within the political subdivision.
- Policy exploration considerations may include requiring special assessment agreements between political subdivisions or implementing a mechanism to empower counties and school districts to opt-out of or deny special assessment projects.

ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY

Ms. Gordon presented a bill draft [\[25.0095.01000\]](#) to expand the requirement under Section 57-01-02(17) to require the Tax Commissioner to disclose the amount of a tax exemption claimed or earned by a taxpayer upon receiving a written request from the Chairman of the Legislative Management or the chairman of a standing committee of the Legislative Assembly.

It was moved by Representative Grueneich, seconded by Representative Motschenbacher, and carried on a roll call vote that the bill draft [\[25.0095.01000\]](#) to require the Tax Commissioner to disclose the amount of a tax exemption claimed or earned by a taxpayer upon receiving a written request from the Chairman of the Legislative Management or the chairman of a standing committee of the Legislative Assembly be approved and recommended to the Legislative Management. Representatives Hagert, Dockter, Grueneich, Hatlestad, Headland, Kasper, Motschenbacher, and Schobinger and Senators Gerhardt, Kannianen, Lemm, Piepkorn, and Weber voted "aye." No negative votes were cast.

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix G](#)) regarding the oil and gas production outlook for the state. He also provided comments regarding the oil and gas production and oil extraction tax incentives selected for study. He noted:

- Approximately 160 million cubic feet of gas is issued per day on lease to provide processed heat, which is exempt from the gross production tax under Section 57-51-02.
- Two city landfills have claimed the gross production tax exemption for shallow gas through the use of methane recovery wells to capture methane to send to industrial boilers. At least three counties have the potential to produce shallow gas which may qualify for the shallow gas exemption under Section 57-51-02.4.
- The oil extraction tax exemption under Section 57-51.1-03(2) for production from stripper wells helps stripper wells remain economical and supports, on average, 1 to 1.2 jobs while paying royalties and production tax for the life of the well.
- In addition to the projects that qualify for an enhanced oil recovery exemption under Section 57-51.1-03(3), there also are a number of pilot projects underway that may become eligible for an exemption. If additional carbon dioxide is made available in the state, the number of claimants for the enhanced oil recovery exemptions that require use of carbon dioxide likely will increase.
- The exemption for incremental production from a tertiary recovery project from a horizontal well under Section 57-51.1-03(3) is adequate because the optimum project is about 12 square miles and takes about 3.5 years to process.
- About 2.6 percent of permitted drilling wells are non-Bakken wells, which may be eligible to claim the partial exemption under Section 57-51.1-03(4).
- He is aware of three restimulation wells on which the partial exemption under Section 57-51.1-03(5) is claimed and anticipates hundreds of restimulation wells are forthcoming.

- Three projects are actively capturing and injecting carbon dioxide and may have taken advantage of the sales and use tax exemption under Sections 57-39.2-04.14 and 57-40.2-03.3. Dozens of similar projects are anticipated, which may cost an estimated \$1 billion to \$2 billion for each system to become operational.

Mr. Jason Bohrer, President and Chief Executive Officer, Lignite Energy Council, provided information ([Appendix H](#)) regarding the status of the coal industry in the state and the coal severance and conversion tax exemptions selected for study. He noted:

- The lignite industry supports approximately 13,000 direct and indirect jobs, contributes \$100 million in state and local tax revenue, and plays a crucial role in powering a reliable electricity grid.
- Concerns exist regarding the impact of recent United States Environmental Protection Agency rules on the reliability of the electric grid.
- Though most energy policy is set at the federal level, the state could help the lignite industry by advocating for positive regulatory outcomes and analyzing taxes and incentives to enhance economic stability for the industry.
- The lignite industry invested the tax relief provided during the 2021 legislative session in the future of the lignite industry by developing additional uses for lignite, including carbon capture.

No further business appearing, Chairman Hagert adjourned the meeting at 2:25 p.m.

Megan J. Gordon
Counsel

ATTACH:8