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Interim Tax Reform and Relief Advisory Committee

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TESTIMONY OF

Rich Garman, Director, Economic Development and Finance Division

Chairman Bekkedahl and members of the committee, my name is Rich Garman, and I serve as Director of the Economic Development and Finance Division within the North Dakota Department of Commerce.

Thank you for the opportunity to discuss the angel investor tax credit and the qualified data center sales and use tax exemption from an economic development perspective.

Commerce considers whether an incentive addresses a real barrier, influences business behavior, produces measurable North Dakota benefits and is proportionate to its public cost. Incentives should support sound projects; they should not substitute for sound business fundamentals.

Angel Fund Investor Tax Credit

The Angel Fund Investor Tax Credit addresses an early-stage capital gap. Young companies often have limited revenue, little collateral, and risks conventional lenders cannot reasonably accept.

The credit is intended to encourage private investors to accept that risk and place capital into companies that can develop products, hire employees, enter markets and attract follow-on investment.

Complementary programs

The credit operates alongside Innovate North Dakota, the North Dakota Development Fund, the LIFT Fund, the North Dakota Growth Fund, Angel Match Program, and Bank of North Dakota financing programs. These tools are generally complementary rather than duplicative: they provide entrepreneurial assistance, loans, direct investment, or later-stage financing, while the angel credit encourages private equity investment. Coordination and outcome reporting remain important when a company uses more than one public tool.

Economic contribution and business behavior

Commerce believes the credit can influence investors to accept early-stage risk and organize capital that might otherwise remain on the sidelines or leave North Dakota. Its contribution should be assessed through number of unique investors, private capital invested, companies funded, company survival, and leverage ratio (total amount invested compared to the total value of tax credits issued. with a clear distinction among credits earned, claimed, and carried forward.

Qualified data center sales and use tax exemption

North Dakota law exempts qualifying enterprise information technology equipment and computer software used in a certified qualified data center. The Office of State Tax Commissioner administers and certifies the exemption; Commerce does not.

Complementary or duplicative programs

A qualifying project may also pursue generally available state or local economic development tools, depending on eligibility. Those programs may address financing, infrastructure, workforce, or local development costs, while this exemption addresses sales and use tax on qualifying data center equipment and software. Commerce is not aware of another state program that duplicates this specific exemption, but combined public support should be considered when evaluating a project's overall result.

Economic contribution and business behavior

Sales tax treatment is a threshold site-selection issue for highly mobile, capital-intensive data center projects because competing states commonly exempt this equipment. The exemption can influence whether North Dakota reaches the stage at which a company evaluates our sites, climate, workforce, infrastructure and business environment. It does not, by itself, establish that every project is beneficial.

The economic result should be evaluated using capital investment, construction activity, permanent employment and payroll, taxable real property, local revenue, telecommunications investment, purchases from North Dakota businesses and associated energy development.

Data centers may also create long-term demand supporting North Dakota natural gas production, gathering, processing, pipelines, generation, construction and data operations. Commerce evaluates that economic opportunity; it does not regulate utilities, approve generation, establish rates, or determine infrastructure cost allocation.

Potential improvements

Yes, Commerce would appreciate the opportunity to discuss potential improvements with the Legislative Assembly during the next session. That discussion could consider how the state measures outcomes, coordinates information across programs and evaluates the combined public support and durable North Dakota economic benefit associated with qualifying activity.

Conclusion

From Commerce's perspective, both incentives address identifiable economic development barriers: access to early-stage capital and competitive tax treatment for highly mobile data center investment. Each should be evaluated on whether it changes behavior, attracts private investment and produces durable North Dakota economic activity proportionate to the public benefit. Thank you. I would be happy to answer any questions.

Authorities: North Dakota Century Code sections 57-38-01.26 and 57-39.2-04.17; North Dakota Legislative Council memoranda 27.9091.01000, 27.9093.01000 and 27.9096.01000.