



**DEPARTMENT OF COMMERCE TESTIMONY REGARDING ECONOMIC DEVELOPMENT TAX  
INCENTIVES**

**JANUARY 13, 2016, 9:25 A.M.**

**POLITICAL SUBDIVISION TAXATION COMMITTEE  
REPRESENTATIVE JASON DOCKTER, CHAIRMAN**

**JUSTIN DEVER – CO-DEPUTY COMMISSIONER, ND DEPARTMENT OF COMMERCE**

Good morning, Mr. Chairman and members of the committee, my name is Justin Dever and I serve as a Co-Deputy Commissioner for the North Dakota Department of Commerce. I have been asked to present on three items:

- The costs and benefits associated with various economic development tax incentives to determine an estimated return on investment
- Information pertaining to indirect or induced economic impacts
- Information relating to any complementary or duplicative government programs available to taxpayers qualifying for incentives selected by the committee for review

The focus of my remarks will be the three investment tax credits that you are reviewing today including the Angel Fund, Seed Capital and Agricultural Commodity Processing Facility investment tax credits. The tax incentives that are part of the bill draft to repeal are those incentives that have less than five taxpayers benefitting in a given year and thus information cannot be provided by the Tax Department due to taxpayer confidentiality.

Cost and Benefits

The Tax Department has provided Commerce with information relating to the Angel Fund, Seed Capital, and Agricultural Processing Facility investment tax credits. We have not yet received job information from Job Service North Dakota, so we are not able to determine the benefits and an estimated return on investment of the tax credits at this time.

The information provided by the Tax Department includes the amount of tax credits earned or allowed based upon the investments. This is not directly comparable to the amount claimed in a given tax year due to the ability to carryforward unused tax credits. Due to the large number of tax returns involved with the individual investors, the Tax Department was not able to provide a breakdown of claimed credits broken down by Angel Fund, Seed Capital company, or Agricultural Commodity Processing Facility company. So it is possible that we will be overestimating the cost when calculating a return on investment.

*Angel Fund Investment Tax Credit*

There are 21 Angel Funds that have been certified by Commerce. Since 2011, these angel funds have received \$41,364,505 in investment eligible for credit in which investors earned \$16,680,982 in credits. These angel funds have invested in a total of 116 companies, of which 60 are listed as having North Dakota as the principal state of businesses, 54 as listed as being outside of the state, and 2 that are listed both ways. These numbers have been unduplicated as several companies have received investments from more than one angel fund. I should also note that some of the out-of-state companies may have a relationship with a contract manufacturer in the state which adds economic impact to the state.

There is a gap in the information available for 2007 through 2010, as the reporting requirement was not put in place until 2011. Also, it is difficult to determine the full extent of the incentive's benefit that flows to out-of-state concerns because the reporting requirement does not include the amount of investment into the companies.

#### *Seed Capital Investment Tax Credit*

Since 2002, the 70 companies that have been certified for the Seed Capital Investment Tax Credit received \$37,053,534 in investment eligible for credit which equates to \$14,530,233 in allowable credits for investors. Of these 70 companies, 47 are currently in operation in North Dakota.

#### *Agricultural Processing Facility Tax Credit*

The 23 companies that have been certified for the Agricultural Processing Facility Tax Credit received \$41,659,564 in investment eligible for credit which equates to \$12,497,869 in allowable credits for investors. Of these 23 companies, 12 are currently in operation in North Dakota.

#### Indirect or Induced Economic Impacts

Our method of determining indirect and induced economic impacts is to use information we've gathered from the Tax Department and Job Service North Dakota to input data into an input-output model in order to estimate the impact. We have encountered two issues that have hampered our ability to do so in preparation for this meeting.

The first issue was mentioned earlier, in that we haven't received job information from Job Service ND. The second issue is that Commerce had taken a break from REMI as we explored alternative options for economic and fiscal impact. We encountered some procurement issues when we decided to later renew our license, and these issues have since been resolved.

Once we receive the jobs information we will work on preparing economic impact reports related to companies that have received investments as part of the investment tax credits. We will

compile the information and can either provided it to this committee at a future meeting or can send an electronic report.

### Government Programs Available to Taxpayers Qualifying for Selected Incentives

Businesses that receive investments made as part of the Angel Fund, Seed Capital, or Agricultural Commodity Processing Facility tax credits may also have access to the following state programs.

- The Bank of North Dakota's (BND) Partnership in Assisting Community Expansion (PACE) can buy down the interest rate for qualified businesses and is matched by the local community.
- BND Biofuels PACE can buy down the interest rate on loans to biodiesel and ethanol production facilities.
- The North Dakota Development Fund, Inc. provides gap financing through debt and equity investments for new or expanding primary sector businesses. This has included financing to companies that have benefited from the Angel Fund, Seed Capital and Agricultural Commodity Processing Facility tax credits.
- The BND New Venture Capital Program provides financing through debt and equity investments for new or expanding businesses.
- The New Jobs Training Program allows a primary sector business to secure funding to help offset the cost of training new employees for business expansion or start-up. This funding is repaid through the capture of state income tax withholding for a period of up to ten years.
- The Agricultural Products Utilization Commission (APUC) provides grants to projects that add value to a raw North Dakota agriculture commodity.
- Innovate North Dakota assists entrepreneurs in launching and growing their innovative companies. Participants pay an entry fee and gain access to coaching and mentoring from entrepreneurial centers; online education and boot camps; and may qualify for vouchers and grants.
- Ethanol Production Incentive Program provides counter-cyclical payments to ethanol plants based upon the relative price of corn and ethanol.

### *Other Tax Incentives*

In addition to benefitting from an investment tax credit, a business may also qualify for one or more of the following tax incentives.

- New or Expanding Business Income Exemption – the State Board of Tax Equalization may grant an income tax exemption of up to five years for primary sector or tourism businesses.

- Research Expense Income Tax Credit – a company conducting qualified research expenses may receive a tax credit.
- Sales Tax Exemptions – exemptions include manufacturing equipment, computer & telecommunications equipment for primary sector businesses, and construction materials used to construct an agricultural commodity processing facility.
- Local Property Tax Incentives – a city or county may grant a property tax exemption of up to five years for a primary sector business and may grant an additional five years for an agricultural processor. Also, a city or county may negotiate payments in lieu of taxes for up to 20 years.

### Conclusion

The Department of Commerce remains committed to provide this committee with the information and analysis that it seeks and I apologize for any inconvenience caused by not having the full information available for you today.

Mr. Chairman and members of the Political Subdivision Taxation Committee, thank you for allowing me to visit with you today. That concludes my testimony and I am happy to entertain any questions.

# Angel Fund Investment Tax Credit Program

## Summary of Investment and Credit Activity by Certified Angel Funds

For Investments Made During The Period January 1, 2011, through December 22, 2015

Name of Angel Fund	Number of Investors <sup>1</sup>			Amount Invested <sup>2</sup>			Tax Credits Earned <sup>3</sup>			Tax Credits Transferred To Another Taxpayer <sup>4</sup> (Only applied to the 2011-12 tax years)			Location and Number of Enterprises In Which Angel Fund Has Invested Its Funds		
	In-State Investors	Out-of-State Investors	Total	In-State Investors	Out-of-State Investors	Total	In-State Investors	Out-of-State Investors	Total	In-State Investors	Out-of-State Investors	Total	In North Dakota	Outside North Dakota	Total
1 Arthur Ventures Growth Fund LLC	6	4	10	\$ 2,273,856	\$ 2,028,141	\$ 4,301,997	\$ 321,405	\$ 238,773	\$ 560,178	\$ 0	\$ 0	\$ 0	4	3	7
2 Arthur Ventures LLC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3 Arthur Ventures Growth Fund II LP	2	0	2	240,000	0	240,000	108,000	0	108,000	0	0	0	0	10	10
4 Aurora Angel Fund LLC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5 Edgewood Angel Fund LLC	6	0	6	1,395,000	0	1,395,000	627,750	0	627,750	0	0	0	4	0	4
6 Flickertail Capital Ventures LLC	85	5	90	8,795,170	700,000	9,495,170	3,753,077	270,000	4,023,077	130,000	45,000	175,000	11	0	11
7 FM Angel Investment Fund LLC	22	3	25	435,000	60,000	495,000	175,500	27,000	202,500	0	0	0	2	12	14
8 Grow Dakota Angel Fund LLC	5	0	5	315,000	0	315,000	141,750	0	141,750	0	11,764	11,764	10	0	10
9 Harvest Fund I LLLP	23	9	32	340,000	180,000	520,000	153,000	81,000	234,000	0	0	0	1	4	5
10 Leading Edge Angel Fund LLC	27	0	27	3,575,000	0	3,575,000	1,563,750	0	1,563,750	42,000	0	42,000	0	2	2
11 Legendary Investments LLC	87	2	89	4,665,488	107,000	4,772,488	2,097,895	48,150	2,146,045	0	0	0	2	0	2
12 Linn Grove Angel Fund LP	33	2	35	2,155,000	100,000	2,255,000	947,250	45,000	992,250	0	67,500	67,500	3	2	5
13 ND Capital Ventures LLC	41	2	43	4,040,350	400,000	4,440,350	1,818,158	180,000	1,998,158	0	0	0	4	3	7
14 Northern Plains Investments LLC	0	0	0	0	0	0	0	0	0	0	0	0	1	6	7
15 Rain Venture 1 LLC	14	1	15	660,000	10,000	670,000	297,000	4,500	301,500	0	0	0	9	1	10
16 Rain Venture 2 LLC	43	1	44	1,824,000	10,000	1,834,000	820,800	4,500	825,300	0	0	0	15	6	21
17 Rain Venture 3 LLC	36	0	36	1,611,000	0	1,611,000	724,950	0	724,950	0	0	0	7	4	11
18 Rain Venture 4 LLC	44	1	45	1,699,500	10,000	1,709,500	764,775	4,500	769,275	0	0	0	0	0	0
19 Southern Valley Angel Fund LLC	15	3	18	305,000	70,000	375,000	130,500	31,500	162,000	0	0	0	2	10	12
20 Springfield Group Angel Fund LLC	25	0	25	2,360,000	0	2,360,000	1,030,500	0	1,030,500	0	0	0	2	0	2
21 Valley Angel Investment Fund LLC	0	0	0	0	0	0	0	0	0	0	0	0	2	10	12
22 Wilbar Holdings LLC	5	1	6	800,000	200,000	1,000,000	225,000	45,000	270,000	0	0	0	2	2	4
<b>Totals—</b>															
<b>In-State Investors</b>	519			\$37,489,364			\$15,701,059			\$ 172,000			81	75	156
<b>Out-of-State Investors</b>		34			\$ 3,875,141			\$ 979,923			\$ 124,264				
<b>All investors</b>			553			\$41,364,505			\$16,680,982			\$ 296,264			

**Notes**

<sup>1</sup> The total number of investors will reflect an investor more than once if that investor made an investment in more than one fund.

<sup>2</sup> Investment amounts shown reflect the total amount invested. They do not reflect the following statutory limitations: (1) Annual limit—Only the first \$100,000 invested in a tax year by a taxpayer is eligible for the credit. (2) Lifetime limit—For tax years 2011 and 2012, a taxpayer was allowed no more than \$150,000 in total credits (equivalent to \$333,333 of eligible investments). For tax years 2013 and after, a taxpayer is allowed no more than \$500,000 in total credits (equivalent to \$1,111,111 of eligible investments). (3) Lifetime limit per angel fund—For investments made on or after January 1, 2009, no more than \$5,000,000 in total credits is allowed for total investments made in each angel fund, which is equivalent to \$11,111,111 of eligible investments.

<sup>3</sup> Tax credit amounts shown take into account the statutory limitations on the credit, which are set out in Note 2 above.

<sup>4</sup> For credits based on investments made in the 2011 and 2012 tax years only, credits could be transferred or sold to another taxpayer under certain conditions. The transfer feature expired at end of 2012 tax year.