Testimony Prepared for the

House Political Subdivisions Committee

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By: Terry Traynor, NDACo Executive Director

RE: Opposition to House Bill 1192 – Property Value and Tax Limits

Good morning Chairman Dockter and committee members. Thank you for this opportunity to provide testimony in opposition to House Bill1192 on behalf of our 53 counties and our county officials that are charged with the fair and equitable administration of our property tax system.

These county officials, from across the State, agree with the goal they understand the sponsors are seeking in this bill – that of a reduction in property tax growth that is equitable for all taxpayers. Unfortunately, this bill would not be fair to taxpayers and would likely conflict with statutory and constitutional requirements.

Unlike a somewhat similar bill (HB1200) heard this week by the House Finance & Taxation Committee, this bill limits valuation as well as taxation. Both are problematic, but for slightly different reasons. I would first like to address the valuation limitations of Section 2.

Article X, Section 5 of our state's Constitution begins by stating: "*Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax.*" Clearly, this law will force property taxes to gradually become less and less uniform as the value used for taxation drifts further and further from its true market value – more for some than other properties. Newer property will be closer to reality, while older property will be less accurate. Taxes will shift toward the slower appreciating and new property and away from the rapidly appreciating but older property.

Between property classes one could anticipate shifts as well. Currently the contribution that agricultural property makes to the overall tax collection has gradually decreased with the more rapidly increasing total value of residential and commercial property (2018 Tax Dept. 'Redbook' page 66). While much of this is due to new property, it is also due to the disparate valuation methodologies for agricultural land versus all other property, which moderates the growth in taxable value of agricultural land. One would anticipate this bill would shift, over time, a greater share of the tax burden away from the currently appreciating residential and commercial parcels toward agricultural parcels.

As several states have gone down this road, there is an increasing body of research on this topic, and I cite a conclusion from the Tax Foundation – an organization that is characterized as conservative and business-oriented that is "generally critical of tax increases and high taxation".

> Assessment limits range from the highly restrictive, such as California's cap of 2 percent or the rate of inflation, whichever is less, to the broadly permissive, like Minnesota's 15 percent limit. When caps are low enough to be effective, they can introduce a number of

> perverse consequences. Most obviously, they increase the cost of newly purchased homes and of new construction, both relative to existing housing stock and in absolute terms. Moving from one home to another generally involves surrendering preferential tax treatment built up over years of undervaluation, creating a “lock-in effect” where homeowners have a disincentive to relocate.
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> Due to assessment limits, an ever-increasing share of property tax revenue must be generated from newer properties, or those which have changed ownership more recently. This often (but not exclusively) penalizes younger and lower-income homeowners, even though property tax limitations are often designed to benefit those with limited resources.
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> Assessment limits may also injure these classes of homeowners or would-be homeowners in another, more subtle way. Over the course of their lives, people frequently upgrade to larger and more expensive homes as they gain additional financial security, in the process selling their old, more affordable homes. When the lock-in effect keeps such individuals in their more modest homes longer, this decreases the stock of starter homes and other more affordable housing on the market, to the detriment of those with fewer financial resources.

For the preservation of our state’s economy, and to avoid the cost of litigating the constitutionality of the changes proposed in this bill, our Association urges the legislature not to go down the road of value limitations.

I would now like to focus my remarks on the budgetary limitations of the rest of the bill.

The first point regarding this bill raised immediately by county officials was ‘why are the state medical school and garrison diversion – essentially state agencies – allowed to automatically raise property taxes (a tax constitutionally reserved for local government) but local political subdivisions are not?’

As with value limits, there is a wealth of research regarding the effect of property tax caps. Again, to quote the Tax Foundation:

> Property taxes also come closer to passing the benefit test, whereby taxes paid roughly correlates with benefits received. However imperfect, the value of one’s property is a better proxy for the value of local services received than most alternative tax bases. … If, therefore, aggressive property tax limitations drive localities to shift to alternative revenue options, the net economic effect may be negative. <u>For these and other reasons, governments may wish to exercise caution in adopting any regime of property tax limitation.</u>

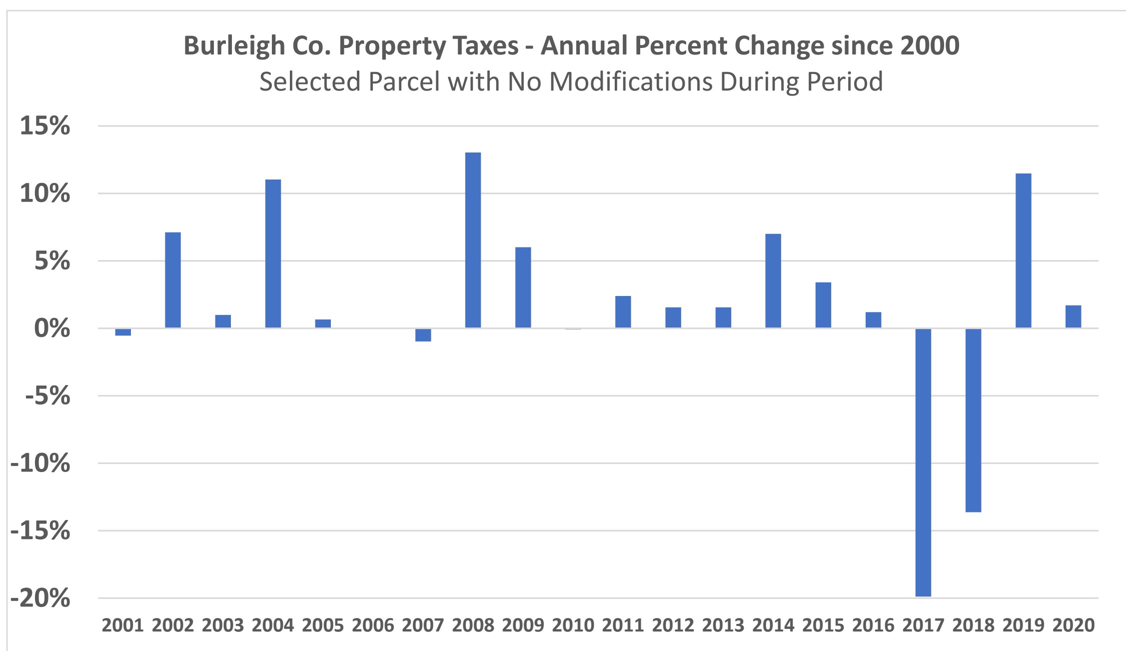
With the removal of social service costs from county property taxes, the benefit of county levies in North Dakota are much more clearly aligned with the value of property, as so many of the services funded – law enforcement, courts, roads, land records, etc. – have a clear nexus with property value.

We believe everyone agrees that reducing the growth in property taxes is important. However, as stated by a Purdue University economist in speaking of the property tax caps imposed several years ago in Indiana: "*The tax cap credit system is just a few hundred words [in law]. But once you start overlaying that on the whole rest of the budgeting and taxing system, then you get these sometimes strange and unexpected results*." And, Bill Sheldrake, president of Policy Analytics is cited in the Indianapolis Business Journal that *rental property – rather than farmers – probably benefited the most* (from the Indiana property tax caps).

Increased state control of local finances was identified as a negative unintended consequence of property tax caps in one of the most recent comprehensive papers on the subject prepared for New York's consideration of the issue in 2014. This paper is available online here: http://bit.ly/2U1t5vp

This same paper looked at the New York property tax cap and cited the result as "However, local governments are now more reliant on state aid and budgets are less stable because of it." Probably the most concerning consequence is the dramatic impact to the state's economy. An economic analysis by the Perryman Group (a consultant for most major energy companies operating in North Dakota) of a Texas proposal for a 3% valuation and/or a 3% property tax limitation concluded with the statement: "*By restricting the capacity of local governments to provide services; appraisal caps, revenue limits, and expenditure limits lead to a reduction in the quality of life and economic performance of the state*." A summary report of this can be found here: http://bit.ly/capscolumn

Our State's county officials also don't believe there is a great need for this bill – when looking at taxes over the long term. The chart below depicts the percentage change in the actual county taxes paid in Burleigh County (within Bismarck – often considered a high tax jurisdiction) for a parcel that has not had a significant change in valuation due to additions or remodeling.



When you compare the annual percentage changes – you see that some years the county needed to make a significant adjustment, and many years taxes increased by little, or even decreased. Clearly the county commission has been adjusting taxes to meet the very specific budgetary needs of each particular year. As the actual dollar amount of county tax paid on this parcel for 2020 is LESS than what was paid in 2008, it seems that holding a county election six or seven times in fifteen years would ultimately cost this taxpayer more.

And finally, county officials truly believe that this bill would just mandate no tax decrease – ever. In four of the last 17 years, county taxes have gone down on this parcel. As an elected official could not know if the next year, or the year after, would involve a snow emergency, a flood, or a protest, it would only be prudent to never lower taxes to ensure that any potential need three, five, or fifteen years down the road could be met and the county board had not jeopardized their citizens.

As a legislature, you have shifted significant school and social serve costs off the property tax, you have increased the notices of value and tax adjustment – providing more opportunity for informed citizen input. Ultimately, control of property taxes is a local responsibility of the governing boards and the citizens. Adequate information and active participation are the key – not artificial limitations that may cause unknown and unintended results.

Citizens within home rule counties and cities can refer governing board actions, just as the citizens can refer legislative actions. Other jurisdictions can "refer" their elected leaders at the ballot box if they are unsatisfied with budget and taxation decisions. This has happened and will happen when needed. Arbitrary controls will only increase the citizen's view that the Legislature controls property taxes. Please give House Bill HB1192 a Do Not Pass recommendation.