

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### TAXATION COMMITTEE

Wednesday, July 31, 2013  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Dwight Cook, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Dwight Cook, Randall A. Burckhard, Jim Dotzenrod, Ronald Sorvaag, Jessica K. Unruh; Representatives Wesley R. Belter, Jason Dockter, Glen Froseth, Patrick Hatlestad, Craig Headland, Jim Kasper, Jerry Kelsh, Scot Kelsh, Mark S. Owens, Dan Ruby, Jim Schmidt, Robin Weisz

**Members absent:** Senator Lonnie J. Laffen; Representatives David Drovdal, Mike Nathe, Steven L. Zaiser

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

Chairman Cook welcomed committee members to the first meeting of the interim Taxation Committee. He said the three-legged stool of income, sales, and property taxes is the traditional base of state and local taxes. He said for income and sales taxes, the taxpayer has options to reduce tax liability. He said for property taxes, taxpayer input in the process is of limited value to reduce property taxes for an individual. He said for this reason, property tax is of critical importance to taxpayers, and property tax relief and controlling growth of property taxes will be the focus of committee studies this interim.

Committee Counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) for the 2013-14 interim.

Chairman Cook called on Committee Counsel for presentation of a memorandum entitled [Property Tax System - Background Memorandum](#).

During a review of the portion of the memorandum relating to notices to property owners of assessment increases, Committee Counsel referred committee attention to letters from Mr. John Kautzman, Williston Auditor ([Appendix B](#)), and Mr. Brad Bekkedahl, Finance Commissioner, City of Williston ([Appendix C](#)), expressing their concerns with the huge number of notices that must be sent to taxpayers regarding assessment increases. Committee Counsel said property values in Williston have increased at a much higher rate than property in other areas of the state, resulting in a requirement that notices must be sent to a very high percentage of property owners.

Representative Kasper said he introduced legislation in 2013 intended to establish caps on the amount of property taxes that may be levied by political subdivisions. He requested the legislation be reviewed by the committee.

Senator Cook said it will be necessary to consider property tax, sales tax, state aid distribution fund, and other revenue sources of political subdivisions to gain an understanding of revenue and expenditure trends for political subdivisions if the committee undertakes consideration of caps on property tax levies.

Representative Belter asked if special assessments are included within the committee study authority on property taxes. Chairman Cook said he believes special assessments would be included in the property tax study directives because special assessments are so closely related to property taxes. He said he will check with the Chairman of the Legislative Management to see if the Chairman agrees with that interpretation.

Representative Owens reviewed the 1981 legislative restructuring of property taxes and the 1979 Supreme Court decision that led to the restructuring. He said he does not believe the Court decision required all property to be valued at 100 percent of its true value. He said he believes the decision left room for the Legislative Assembly to allow a degree of flexibility in assessments, and the current statutory provision allowing a 5 percent variation for assessments from the information available to the state on actual value is acceptable.

Representative Froseth said he understands the reasons for uniformity of assessment and that assessment increases are necessary. He said what he sees as the frustration factor for voters is when assessments increase, taxing districts could reduce mill rates and still obtain sufficient property tax revenues, but it appears to taxpayers that taxing districts are taking full advantage of assessment increases and substantially increasing property tax revenues, perhaps more than necessary.

Representative J. Kelsh said it is important to remember restrictions on levy authority may have undesirable consequences. He said he believes several school districts in the state will have no increased revenue because of restrictions on levies in the education funding property tax relief measure. He said it is an undesirable result of property tax relief if some school districts are unable to obtain revenue to provide quality education services.

Representative Ruby said consideration should be given to whether there are incentives in law for taxing districts to levy at the maximum allowable rate.

Chairman Cook said legislation on property tax issues in recent legislative sessions has touched on most areas of property tax reform. He suggested committee members should review bills that have been passed or defeated in recent legislative sessions to determine if there are ideas worth pursuing during the committee's study.

Representative Kasper said recent legislative changes have expanded the availability of the homestead credit. He said fiscal notes on these measures are based on estimates because it is unknown how many additional homeowners will qualify for the expanded credit. He said specific information should be obtained on current numbers of individuals who benefit from the credit and the actual costs to the state from the updated credit.

Senator Dotzenrod said the committee will have to obtain new numbers on the school share of property taxes compared to the state share of education funding.

Representative Headland said a determination should be made of how the committee can monitor the property tax reforms that have been enacted. He said it would be significant to monitor the zero increase number of mills notices to determine if notices are being sent and if they have any effect on attendance at budget meetings of political subdivisions.

Representative Kasper said school building funds and other sources of funding that can be used for lease payments to construct a building through a building authority or other method can avoid voter approval. He said Fargo is building a new civic center and West Fargo is building new schools without voter approval. He said the committee should identify loopholes that exist to allow building construction without voter approval.

Representative Headland said the Advisory Commission on Intergovernmental Relations has been assigned studies on property taxes. He said one study is to examine making political subdivision budget information accessible on the state budget database. He said the committee should receive periodic reports on the progress of those studies.

Chairman Cook said the committee should obtain and review available information on costs of local services. He said there is an inflation factor with maintaining the level of services. Committee Counsel said it may be feasible to examine categories of local spending to see what areas of local costs drive the increases that result in growth in property taxes.

Representative Froseth said the state has become involved in a growing cost of providing property tax relief. He said consideration should be given to how the state might extract itself from property tax buydowns at some point. He said there are reasons for political subdivisions to hold money in reserve, but holding funds in reserve may result in increased property tax levies. He said the committee should determine if the auditor monitors reserve funds and whether funds held in reserve are reflected in levy determinations.

Committee Counsel provided a memorandum to the committee entitled [Property Tax Year Significant Dates](#). He said the memorandum sets out the chronology of events during the property tax year. He said the memorandum was prepared as a reference for committee members because questions frequently arise about timelines for assessments, equalization meetings, tax due dates, and other events relating to property taxes.

## **STUDY OF CONTROLLING GROWTH OF PROPERTY TAX LEVIES**

Chairman Cook called on Committee Counsel for presentation of a memorandum entitled [Controlling Growth of Property Tax Levies - Background Memorandum](#).

Chairman Cook called on Mr. Jerry Hjelmstad, North Dakota League of Cities, for presentation of information ([Appendix D](#)) prepared by the North Dakota League of Cities on 2012 taxable valuation and tax levies in North Dakota cities. Mr. Hjelmstad said the tables in the memorandum show 2012 taxable valuation and mill levies for each city in the state. He said the information shows the state and county levies, school district levy, city levy, park district levy, and other levies plus the total consolidated mill rate within each city.

Senator Cook said it appears from the information presented that mill rates are declining, but it appears taxes collected have increased. Mr. Hjelmstad said a lot of new property has been added to the tax rolls which tends to reduce the mill rate but increase property tax collections.

Representative Kasper asked if the League of Cities can prepare this chart showing dollars collected rather than mill rates. He said he would like the information over a period of five years. Mr. Hjelmstad said he believes that can be done.

Senator Cook asked when this chart could be updated to include 2013 data. Mr. Hjelmstad said by the first of January, the 2013 information should be incorporated.

Senator Sorvaag asked if the League of Cities can split value of new property from the assessment increases of existing property in the information. Mr. Hjelmstad said that has not been gathered before but should be available.

Chairman Cook called on Mr. Terry Traynor, North Dakota Association of Counties, for comments on the committee's study. Mr. Traynor said the data for the report described by Mr. Hjelmstad is provided by county auditors. He said the representatives of the Association of Counties have discussed the need for property tax data with Chairman Cook. He said he has discussed the data collection request with county auditors, and they would appreciate a single request for data rather than two separate requests for the information. He said he agrees it would be important to distinguish new property from increased assessments of existing property. He said he would guess the majority of property tax increases occurring in the state is attributable to new property on the tax rolls. He said he will see if county auditors can identify valuation increases attributable to new property.

Senator Dotzenrod said the committee received letters from Williston city officials expressing concern with the large number of property tax notices being sent to property owners. Mr. Traynor said the association has discussed the issue. He said it is important to notify taxpayers of assessment increases and public hearings on budget issues, but these efforts do not seem to have increased taxpayer attendance at budget hearings.

Representative J. Kelsh said he believes it is important for the committee to receive more information on budget increases and how much of the increase is due to new property in the taxing district.

Chairman Cook said the revised provisions of the notice to taxpayers laws are something the committee can examine to see if adjustments are appropriate.

Chairman Cook called on Ms. Annette Bendish, Counsel, North Dakota School Boards Association, who said the School Boards Association has been requested by Chairman Cook to gather information as soon as possible on the change in school district levies from 2012 to 2013. Ms. Bendish distributed copies ([Appendix E](#)) of the proposed format for collection of information from school districts on 2012 and 2013 school district levies. She said after hearing the committee discussion, she thinks perhaps the School Boards Association should include a request for information to identify new property included in the 2013 taxable valuation.

Chairman Cook called on Mr. Kevin Ternes, City Assessor, Minot, for comments on the committee's study. Mr. Ternes said the expansion of the homestead credit through 2013 legislation will increase homestead credits in Minot from 130 in 2012 to perhaps double that number for 2013.

Mr. Ternes said the real estate market valuation increases in Minot have leveled off. He said for 2013, Minot has experienced an increase of 29 percent in taxable value. He said over half of that increase is attributable to new construction. Senator Cook asked if the city of Minot will have budget changes this year. Mr. Ternes said he is not sure at this point, but he hopes the city will cut the mill levy.

Mr. Ternes said 13,000 letters were mailed to property owners in Minot last year to alert them of budget hearings for the city. He said 12 people showed up for the hearing. He said it does not appear the mailing had a significant effect on attendance at budget hearings.

Representative Headland asked if the 13,000 people receiving notice did not show up because they feel powerless to get an assessment adjusted. Mr. Ternes said the city always gives property owners information on the determination of the assessment and informs them they can bring to the meeting any evidence that the assessment should be a different amount.

Representative Froseth asked the extent to which Minot has granted property tax exemptions for new businesses. Mr. Ternes said hardly any five-year exemptions have been approved in Minot. Representative Froseth said perhaps legislative consideration should be given to the need for the exemption for new businesses.

### **EFFECTIVENESS OF PROPERTY TAX EXEMPTIONS STUDY**

Chairman Cook called on Committee Counsel for presentation of a memorandum entitled [Measuring Effectiveness of Property Tax Exemptions Granted by Cities and Counties](#). He described laws providing discretionary authority for cities and counties to provide property tax exemptions for new or expanding businesses, improvements to property, new single-family residential or townhouse or condominium property, early childhood services property, pollution abatement improvements, builder-owned property, renaissance zone property, and tax increment financing district property.

Committee Counsel said evaluating property tax incentives is an inexact science. He said the Department of Commerce will report during the interim on state-granted incentives, but local option incentives are not required to be evaluated. He said political subdivisions are required to compile an annual grantor report on any business incentive granted by the political subdivision. He said there is no requirement for compilation of the political subdivision grantor reports. He said some efforts have been made to evaluate local incentives, and perhaps testimony can be obtained on what has been done. He said the Pew Center on the States released a 2012 report on evaluation of state tax incentives. He said the report concluded North Dakota is "trailing behind" in evaluation of effectiveness of tax incentives for economic development. He said perhaps input can be obtained from the center on perceived improvements that could be made in North Dakota.

Senator Cook said he heard a presentation of the Pew Center on the States report at a conference. He said he would like input from the center to describe for the committee what evaluation tools they see as effective in other states.

Senator Sorvaag said he would also like the committee to review what is being done now to evaluate local economic development incentives.

In response to a question from Senator Cook, Representative Froseth said different sizes of communities have different needs for property tax exemptions for economic development purposes. He said he believes the largest cities have reduced use of these incentives. He said smaller communities probably have a greater need for these incentives. He said for a smaller community, attracting a business to increase employment can be very important.

Chairman Cook said the committee should obtain information from local governments to explain how much they use the property tax exemption incentives. He said political subdivisions are required by law to file annual grantor reports. He said a request should be made to obtain and review some of these reports and asked Committee Counsel to work with the North Dakota League of Cities to develop information for the committee on current usage and need for property tax exemption incentives.

Mr. Jon Godfread, North Dakota Chamber of Commerce, suggested obtaining information to back out the state property tax relief amounts from current tax levies to illustrate what the property tax for property would be without the relief.

### **PROPERTY TAX RATES AGAINST TRUE AND FULL VALUE OF PROPERTY STUDY**

Chairman Cook called on Committee Counsel for presentation of a memorandum entitled [Property Tax Rates Applied Against True and Full Value of Property](#). He said the Constitution of North Dakota requires use of assessed value of property to determine the debt limitation for political subdivisions. He said the assessed value of property could remain at 50 percent of the true and full value as determined by law, but other changes could be made that would make taxable value equivalent to true and full value for agricultural, commercial, and centrally assessed property and equal to 90 percent of true and full value for residential property. He said this would be a 20-fold increase. He said this would require the current one-mill tax rate to be reduced to one-twentieth of one mill. He said the illustration provided in the memorandum shows a one-mill tax (.001) would convert to a tax of .00005. He said this an extremely small percentage, but at the statewide average consolidated mill rate of approximately 300 mills, the consolidated tax rate would be .015, which would be expressed as a 1.5 percent tax

and also an effective tax rate of 1.5 percent. He said the taxable valuation reduction for residential property would mean a 300-mill tax would provide an effective tax rate of 1.35 percent.

Representative Froseth said information should be obtained on the method of imposing property tax by other states that levy a property tax without using mills. Representative Owens said he has been gathering information on that question and will work with Committee Counsel to provide information to the committee.

Senator Sorvaag said when the information on other states is obtained, it will be necessary to look deeper into the system in those states to be sure how the tax rate works.

Chairman Cook called on Ms. Sara Meier, Property Tax Division, Tax Department, to review the *2012 Property Tax Statistical Report* prepared by the Tax Department. Ms. Meier said the property tax statistical report is prepared from information contained in abstracts of tax lists filed by county auditors with the department.

Chairman Cook said the information in the property tax statistical report is very useful. He said the report has just been completed, about seven or eight months after the property tax levies were finalized. He said it is important to interim committee studies and will be important during the 2015 legislative session to receive information on property tax levies much sooner. He asked if the statistical report could be completed closer to the time levies are final. Ms. Meier said the Tax Department receives the abstracts of tax lists from most counties by the end of January. She said the department staff then spends a great deal of time reviewing and compiling the necessary information to complete the report.

### COMMITTEE DISCUSSION

Chairman Cook invited committee discussion of issues related to property tax studies that should be considered by the committee.

Chairman Cook said a bill was considered that would have allowed imposition of a reduced percentage of tax for entities having property tax exemptions. He said he believes the committee should review the consideration of that bill draft.

Chairman Cook said it would be useful to have a representative of a city or county walk the committee through how budget calculations are made, what factors are considered, and how the property tax levy is determined.

Chairman Cook said the property tax restructuring that occurred in 1981 has been referenced in much of the discussion of property tax issues. He said the committee should be briefed on the causes of the restructuring and the lingering effects from the 1981 legislation.

Representative J. Kelsh said it would be useful to provide the committee examples from other states of whether the systems have been changed from use of mill rates to some other tax rate and how long such states may have used a substitute tax rate.

Chairman Cook said it may be feasible to apply the 90 percent factor for residential property earlier in the equation, and that possibility should be considered. He said this may make the calculation clearer for taxpayers.

Representative Headland said North Dakota Century Code Section 57-15-01.1 was the subject of discussion during the 2013 legislative session. He said it is not clear how this section, which was created in 1981, still serves a useful function or if it has evolved into a mechanism to keep property taxes at a higher level.

Representative Kasper said he thinks having local government representatives walk through their budget and levy process is important. He said there are differences among counties, cities, school districts, and park districts and asked if the committee would receive a true cross-section of circumstances for political subdivisions building a budget and determining a levy.

Chairman Cook said one example of how a budget is established and translated into property tax levies should be sufficient for the next meeting. He said after one example is considered, the committee may want to seek information from other political subdivisions.

Representative Owens requested background information on levy consolidation that has been approved by the Legislative Assembly in the past. He said this would be useful for consideration of whether levy consolidation results in efficiency or increased spending.

**FORESTRY STEWARDSHIP TAX STUDY**

Chairman Cook called on Committee Counsel for presentation of a memorandum entitled [Forestry Stewardship Tax Study](#).

Representative Froseth expressed surprise forested land 60 feet wide can qualify for the forestry stewardship tax. He asked if a shelterbelt could qualify. Chairman Cook said the State Forester will be invited to discuss the qualification of property with the committee.

Chairman Cook called on Mr. Duane DeKrey, Game and Fish Department, for comments on the forestry stewardship tax study. Mr. DeKrey said farming has changed and it appears the feeling of landowners now is, if they have to pay higher taxes for forested lands, they would remove the trees and farm the area. He said the tax benefit of the forestry stewardship tax and the department program are important to preserving these forested areas. He said Canada seems to have retained forested acreage, and the department could look at how Canada encourages retention of those acres. He said the department supports efforts to encourage retention of woodlands.

Representative Schmidt said there are many kinds of woodlands in the state. He said some are grazed, and some may be planted for various purposes. He said valuation of these properties could be difficult, and strict use of soil survey data removes discretion of local assessors.

Chairman Cook requested Committee Counsel to invite the State Forester to address the committee on this issue and request a representative of the North Dakota Association of Counties to share the views of the association.

Senator Dotzenrod asked Ms. Meier if the Tax Department removes trees from assessed acreage. She said trees are removed from agricultural property classification if they are under the forestry stewardship tax. She said trees that are not in the forestry stewardship tax program can obtain a reduced assessment by application of modifiers but would still be classified as agricultural property. Senator Dotzenrod asked if the county can just modify wooded acres to a value of \$50 per acre. Ms. Meier said the most significant modifier reduction used by a county which she is aware of regarding wooded land is a 35 percent reduction.

Mr. DeKrey said the Game and Fish Department has to notify the board of county commissioners of the proposed purchase of wooded land in a county. He said people who own wooded acreage are asking the department to purchase that acreage rather than facing the choice of paying the tax on the forest or removing the forest.

No further business appearing, Chairman Cook adjourned the meeting at 2:00 p.m.

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John Walstad  
Code Revisor

ATTACH:5