

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1432

2001 HOUSE FINANCE AND TAXATION

HB 1432

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1432

House Finance and Taxation Committee

Conference Committee

Hearing Date February 5, 2001

Tape Number	Side A	Side B	Meter #
1	X		70
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing and read the fiscal note.

REP. ED LLOYD, DIST. 19 Introduced the bill as the prime sponsor. See attached written testimony, plus handouts relating to raising income tax instead of property tax.

REP. HERBEL Related to a handout, stating that statistics showed there were certain areas that are even far more disproportionate in the state of North Dakota, then there is on an average of the state, I happen to live in Walsh County, and Walsh and Pembina Counties are two of those counties that I represent, that are getting much harder than what that average is that you showed.

REP. LLOYD Stated, that on that same sheet, I calculated out that if you have seventy dollar per acre rent on land, if you took away the tax, which is seventeen dollars per acre, and take away about fifteen dollars worth of income tax, which is a twenty eight percent rate, forty six percent of the money he earned, goes to taxes, not counting FICA and any other taxes he might have to pay.

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House Finance and Taxation Committee

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REP. TOM BRUSEGAARD, DIST. 19, Testified in support of the bill as a sponsor of the bill.

He felt this is a fairness issue. He related back to when he was in college they taught him two ways to evaluate taxes, benefits received and ability to pay. Property tax funding, in the context of education, meets neither of these standards. On the ability to pay standard, the amount of land owned by a patron of the school district, bears absolutely no relationship on his ability to pay taxes, especially in the last ten years. Generally, more land means more debt. In a rural school district, it is not at all unusual for over sixty to seventy percent of the kids to come from non farm families, this is in Gilby, which is a farming community. When I go home, this is the number one issue I hear. We need to fix this problem. Gave an example of a non farm family with three children who owns a nice house in Gilby, will pay about six hundred and fifty dollars to the education of their children. A farm family with a thousand acres, which is a small farmer, will pay sixty five hundred for the same education. There is something wrong here.

REP. WINRICH I agree with two of the premises, one is that property taxes are too high and the other, that income taxes are very low in this state and could well be raised. I am not sure I agree with the third premise that sales taxes are also low and could be raised. Particularly in some of our major cities, where the cities themselves, have been forced to raise taxes to avoid increasing property taxes even more. Did you consider the possibility of not raising sales taxes and just doing the income taxes?

REP. BRUSEGAARD Obviously, that was an option. Having a high rate of sales tax across the river such as East Grand Forks, is something that legislators need to be concerned about. That opens up another can of worms, at dropping that down.

REP. LLOYD Responded to the question also, I wanted to mix taxes, but I am not so much for taxing cigarettes and alcohol and that type of thing for education. Yes, we have a problem with sales taxes. That was probably a mistake by the legislature several years ago, because at that time, we should have done something like this to fix it. I am not sure that that shouldn't still be used to manipulate the input to adjust it.

REP. KROEBER Did the interim tax education committee look at this or any other proposal seriously as to what to do about this problem?

REP. LLOYD I am unaware of what they exactly looked at. They did not look at this particular proposal.

REP. CARLSON In my experience in the legislature, I am nervous about someone stating a fairness issue. In my experience, they are taking something that I have and giving it to somebody else. This is redistributing wealth. I will go back to one of Rep. Lloyd's comments, about the fairness issue, then the second one, is the monies will be distributed on the same scale as previously used. We hear every day, the problem with equity of education funding, the need for consolidation, survivable districts, but yet, we are establishing a program here whose main focus is to put the money back exactly the way it was before, that everybody said was too expensive. What are we fixing?

REP. BRUSEGAARD From my perspective, if we quit using property taxes for a funding mechanism, we eliminate the need for a mill levy deduct. So while they are receiving a dollar for dollar replacement of their property money, the money they get from the state which is the foundation aid program, which this bill doesn't touch, will change and go out on a more fair basis.

REP. CARLSON We have about five bills in this committee which deal with various levels of making sure a farmstead or farm residence is not taxed, now we are removing the land tax, but yet, we are still not addressing the issue of residents, whereas, everyone of the rest of us, who live in a residence, will still pay tax, how do you address that issue?

REP. BRUSEGAARD We are not eliminating the land tax. We are reducing the general fund, the education portion of it. If we fix the problem, I would guarantee you, you wouldn't see sideline bills that are just taking a little chink out of the armour. Without a doubt, the other bill I introduced, that is exactly what it was.

REP. DROYDAL One of the comments I know I will hear when I get home, is, if we pass these taxes and replace property taxes, what is to keep the local entities to turn around and raise property taxes up again?

REP. BRUSEGAARD The dead cat bounces, if you drop anything from high enough, it is bound to bounce back up again. If you go across the river in Minnesota, they have reformed their property tax structure four times in the last twenty years, and it keeps coming back up. This bill, as I understand it, eliminates the statutory authority for school districts to tax for the general fund. This is not reform, it is repeal.

REP. CARLSON We have another bill before us which is taking the used farm equipment and farm parts, and removing the sales tax from the farm side of the issue. I am a builder, I buy a bobcat, I pay full sales tax, I go to get it fixed, I pay full parts, but on the other side of the equation, it may well be merited, but when we talk about fairness in equity, on a hundred thousand dollar house, it will cost my homebuyer two thousand dollars more in sales tax on that house. How do I go home and tell my customer, because I am going to pass it along.

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REP. LLOYD Answered, stating this bill is not the problem. The problem is we have failed to address this issue as much as fifteen years ago. We had these other incidental type things occurring here and there. As far as I am concerned, if you reduce the property tax for the farmers, by fifty percent on all of their property, they should be paying on their house. There is no way we can address all of this in such a small bill as this.

REP. CARLSON That is why I brought up the issue of school funding, this isn't a little tiny issue. It is a great big issue. If this were to pass, and there is a nine percent sales tax on items in the city of Fargo, let me tell you, there would be some screaming and hollaring and knashing of teeth. Questioned some of the numbers which were used on the fiscal note..

REP. LLOYD Stated the fiscal note is outdated. The fiscal note I presented is four hundred seventy two on one side and four hundred seventy seven on the other, for a five million dollar difference.

REP. HERBEL Addressed one of the issues Rep. Carlson brought up, whereby, he was in business at one time, the cost of his sale went up, he was able to raise the price of the product he had and passed it on to the customer. Unfortunately, Rep. Lloyd can't raise the price of his beef, because it doesn't work that way in the farm business. So, there is a distinction between those two.

REP. CARLSON We have heard many types of bills. We have heard some that freeze property taxes, directed to the methodology of how land is valued.

REP. OLE AARSVOLD. Testified in support of the bill as a co-sponsor of the bill. He submitted and addressed handouts relating to tax dollars paid for the current years in Trail County, and per capita comparisons of individual income tax collections. He related to situations

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in 1970. He correlated stocks in the DOW versus land values. He stated we are using biblical evaluations such as using property as a measure of wealth. I think it is time we bring school finance into the twentieth century before the twenty first century is over.

REP. CARLSON In your district as your land has increased in taxable value, has your county lowered the mill levy at all?

REP. AARSVOLD Generally, I would say the increase in value has kept the schools at a par, by levying the same number of mills, they have been able to meet the inflating costs that they face. A bigger problem is, our inability as a legislature to provide foundation aid payment to offset those inflationary costs they have experienced, and also, declining enrollment.

REP. CARLSON In the last five years, has land sold for more value than it did five years prior?

REP. AARSVOLD In my observation, land in Trail County, is worth less than it was five years ago.

REP. CARLSON It would be interesting to see what the market has done.

REP. AARSVOLD My position is, we must tax whatever revenue source based on its ability to pay that tax. It seems in this day and age, we are using an outmoded tax structure to fund.

REP. RENNERFELDT How many school districts do you have in your political district?

REP. AARSVOLD Far fewer than we had when I came to the legislature twelve years ago. I believe we still have six operating school districts, and I think when I came in, we had eleven.

REP. WINRICH We obviously have a lot of problems with our tax system. I don't think anyone is happy with it. I wonder if we as committee members and as bill sponsors, might think of the possibility of combining some of these bills we have before us, maybe even to the point of

a hoghouse amendment., which deals with the problem addressed in this bill and the problems of sales tax exemptions, decoupling, etc.

REP. AARSVOLD The more you include in the tax reform measure, the more enemies you generate. On the other hand, by being more inclusive, we probably gain some support. I would not be opposed to that.

REP. WINRICH I am reminded that one definition of insanity is to keep doing the same thing and expect a different result. We really need to reform our taxes.

JOHN WALSTAD, ATTORNEY, LEGISLATIVE COUNCIL, Gave an overview of the workings of the bill. He stated one reason the numbers did not match in the fiscal note, is because there was a six month lapse, which they would have amendments drafted to address that.

REP. WINRICH You mentioned the two percent sales tax increase, would apply to natural gas, so there would be a four percent tax on natural gas?

JOHN WALSTAD That is correct.

REP. WINRICH One of the bills would replace the current two percent tax on diesel fuel with a cent and a half per gallon, if this bill does not pass, would this increase the tax on those fuels?

JOHN WALSTAD I think the bill you are referring to, is a special fuels tax change, this bill does not deal with fuel taxes at all.

RICK CLAYBURGH, STATE TAX COMMISSIONER, Testified in a neutral position. He stated they would be receiving the Tax Study Report within the next few days for their review. They have a number of proposals which we are suggesting in reforming the tax system. The tax study does talk about one area, regarding the over reliance on agricultural property. We talked about a possible offset in some type of value added tax in North Dakota. It makes sense to

spread a business tax out to all businesses in North Dakota. These are things which are difficult to do in a short period of time. The biggest problem is the reliance in K to twelve funding in rural communities. Most of it has to do with declining enrollment, and not the same dollars in foundation aid coming in. One of the concerns we had in our study is, relief from property taxes, and then property taxes could slide up again. Most North Dakotans actually support a sales tax increase, for property tax relief, and don't support an income tax increase.

REP. RENNERFELDT If you didn't use a sales tax increase, how much would you have to raise?

RICK CLAYBURGH I don't have all of the figures. I commend Rep. Lloyd and the sponsors, this is the type of debate that needs to occur in this legislative process if we are going to have significant change regarding K through twelve funding.

NEAL JOHNSON, RURAL MAYVILLE, FARMER & PRESIDENT OF THE SCHOOL BOARD, Testified in support of the bill. He agreed with the inequities which were pointed out and stated they need to be addressed. He stated as a school board members he had concerns with the bill. As proposed with the four and a half percent increase in income tax and the two percent in sales and use tax, to relieve all of the general fund levies, we may be moving too fast. If the information we received for calculating the revenue tax is accurate, we would suggest one half percent sales and use tax, which would generate approximately eighty three million dollars and a four and three quarter percent income tax, which would generate approximately, one hundred fifty three million dollars. This would fund half of the general fund, with the other half funded by the traditional property tax levy. We in the school district, would still have the flexibility and

the stability of a property tax, and the property owner has a portion of tax relief they desire and need. Gave an example of what it would do for his area.

REP. CARLSON Do you think the people in the city are paying too little real estate taxes compared to the people in the rural areas?

NEAL JOHNSON In our district, yes, I do. We are paying approximately sixty percent which goes to the school district.

JOHN KNUDSVIG, TRAIL COUNTY COMMISSIONER Testified in support of the bill. Property tax is a very negative tax. As a farmer, I have tried many years to get this changed. I hope you guys will grab the bull by the horns and make some changes. As a county commissioner, we compete with the school districts with almost the same funds through property tax. We are maxed out.

MAC HALCROW, DRAYTON, PEMBINA COUNTY COMMISSIONER, Testified in support of the bill. See attached written testimony.

REP. CARLSON We are looking at a lot of the bills you talked about and realize there is an ag crisis. In that market where there is no profit being made on the farm, therefore, there would be no income tax, or very little paid, and if there is no profit on the farm, there would be very few purchases, so sales tax would fade, so who in this system would pay?

MAC HALCROW I guess it would be like it always has been, like the start of our country. Wealth generated from the land and taxes, the people making the money pay the tax. I think that is what income tax is all about. Don't get me wrong, we are still going to pay tax, whether you make income on the farm or not, you still pay fifteen or sixteen percent.

REP. CARLSON You would agree, it is a shift?

MAC HALCROW Yes, it is part of a shift.

GERALD UGLEM, FARMER, GRAND FORKS COUNTY, Testified in support of the bill.

See attached written testimony.

LESLIE ALM, PORTLAND, FARMER, AND REPRESENTING THE

MAYVILLE/PORTLAND SCHOOL BOARD, Testified in support of the bill. He stated there is land which was purchased in his area for eight hundred and seventy five dollars per acre, five years ago, a joining eight acres just sold for eight hundred dollars, so it has taken a drop in value.

ROBERT DEUTSCH, NORTHWOOD NORTH DAKOTA, SOIL SCIENTIST AND

CROP CONSULTANT, Testified in support of the bill. See attached written testimony and a handout relating to North Dakota Ag Tax Statistics.\

RANDY UGLEM, BEGINNING FARMER, NORTHWOOD, ND, Testified in support of the bill. See attached written testimony.

JOE WESTBY, NORTH DAKOTA EDUCATION ASSOCIATION, Testified in a neutral position. He stated over the years, we have talked about various ways to fund education. We have introduced bills to shift some of the funding off of property tax and on to either sales or income. I have a great deal of sympathy for the stories that have been told here this morning, mostly from agricultural folks. I grew up on a little farm in western Walsh County, and still own a small piece of land there, and I know what the property tax situation is. In education, we have had lawsuits around the country on equity issues because of the over dependence on property tax for the funding of schools. We would certainly support some type of shift. This bill is rather dramatic, in that all of the property tax for schools would be repealed and we would go totally to sales and income for the general fund portion of the school budget. Maybe that is going a little

too far too fast. Studies in school finance and funding mechanisms have shown, that property tax as a funding mechanism for schools, seems to be needed for stability. One of the things you might want to consider, is taking a look at all of these taxes, and sorting out what is the most appropriate direction for the state of North Dakota.

DALE ANDERSON, PRESIDENT GNDA, Testified in opposition of the bill. He is concerned with the major shift to sales tax. He stated residents in only nine states, have higher sales taxes then we do.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-14-01, Tape #1, Side A, Meter #94

REP. LLOYD Reviewed the bill again as it had been awhile since it was heard. The bill is a shift not an increase in taxes. The purpose of the bill was to shift some of the property tax from agricultural property and other personal property in the state to the income tax and sales tax side of the equation, for a more even equation. On the property tax side, it would delete that tax that goes to the general fund of schools. About fifteen percent of that tax is there for remodeling, asbestos removal, severance pay for superintendents and those other things. The other part of the tax, which is about eight five percent of it, goes directly to the schools to support education. That is the part I deleted. That tax generated about 475 million dollars. About a four and a half percent income tax generates about 136 million dollars, and that wasn't enough, so I looked at sales tax. To get my 334 million in sales tax would require a two percent increase in sales tax, in order to get it to be equal. The fiscal note is totally wrong, it is irrelevant. The school districts revenue loss from property would be 472.2 million. The sales income would be 334.6 million and individual income tax would be 143 million. The sales and income equals 477.6 million and the school district's property loss is 472.2 million. It is about five million revenue positive. I would consider that as neutral.

There are a couple of things I wanted in the bill and I wasn't able to work it in, and that is property rich and property poor districts. I was hoping to get an equation in there that would balance that out. I actually think the bill will do that, in time. I didn't want the money to be used for sports, to me, it is for education, so I left that out. Related to a Fargo district, which was repealed from the bill.

MILES VOSBURG, SALES TAX DIVISION, STATE TAX DEPARTMENT, Appeared before the committee to answer questions. He submitted a handout relating to sales & use tax guidelines. He also presented a handout relating to exemptions from taxes.

REP. LLOYD Presented amendments to the committee and explained what they did.

REP. LLOYD Made a motion to adopt the amendments as presented.

REP. HERBEL Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. HERBEL Made a motion for a **DO PASS AS AMENDED.**

REP. SCHMIDT Second the motion. **MOTION FAILED.**

REP. DROVDAL Made a motion for a **DO NOT PASS AS AMENDED.**

REP. RENNERFELDT Second the motion. **MOTION CARRIED.**

10 YES 5 NO 0 ABSENT

REP. DROVDAL Was given the floor assignment.

FISCAL NOTE
 Requested by Legislative Council
 02/16/2001

Bill/Resolution No.:

Amendment to: HB 1432

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$477,600,000		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
					(\$472,172,000)			

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1432 First Engrossment removes the school districts' general fund mill levy and imposes additional individual income, sales and motor vehicle excise taxes for the school district levy replacement fund.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 12 of the bill imposes an additional income tax of 4.5% of taxpayers' adjusted federal tax liabilities and an equivalent amount on the long form. This is expected to generate approx. \$143 million for the school district levy replacement fund during the 01-03 biennium.

Sections 14, 18 and 19 impose additional sales and motor vehicle excises taxes of 2%. This is expected to generate approx. \$334.6 million for the school district levy replacement fund during the 01-03 biennium.

The removal of the school districts' general fund levies is expected to reduce school district property tax revenues by approx. \$472.2 million for the 01-03 biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	02/19/2001

FISCAL NOTE

Requested by Legislative Council
01/23/2001

Bill/Resolution No.: HB 1432

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$351,000,000		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
					(\$472,172,000)			

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Sections 12 and 14 of HB 1432 levy additional income and sales taxes. Other sections of the bill remove all school district general fund levies.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 12 of HB 1432 levies an income tax of 4.5% of taxpayers' adjusted federal tax liabilities and an equivalent amount on the long form. This is expected to generate approx. \$143 million for the school district levy replacement fund during the 01-03 biennium.

Section 14 of HB 1432 levies a 2% sales tax effective January 2002. This is expected to generate approx. \$208 million for the school district levy replacement fund during the 01-03 biennium.

The removal of the school districts' general fund levies would, on the average, reduced the mill rate by 189 mills, and reduce school district property tax revenue by \$236,086,000 per year.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each*

agency, line item, and fund affected and the number of FTE positions affected.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	02/01/2001

Date: 2-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1432

House FINANCE & TAXATION Committee

Subcommittee on _____
or
 Conference Committee

Failed

Legislative Council Amendment Number _____

Action Taken D P as amended

Motion Made By Rep. Herbel Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN		✓	NICHOLAS, EUGENE		✓
DROVDAL, DAVID, V-CHAIR		✓	RENNER, DENNIS		✓
BRANDENBURG, MICHAEL		✓	RENNERFELDT, EARL		✓
CLARK, BYRON		✓	SCHMIDT, ARLO	✓	
GROSZ, MICHAEL		✓	WIKENHEISER, RAY		✓
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE		✓			
LLOYD, EDWARD	✓				

Total (Yes) 5 No 10

Absent 0

Floor Assignment Rep

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-01
 Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1432

House FINANCE & TAXATION Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 10463. ~~711~~ 10104

Action Taken Do Not Pass as amended

Motion Made By Rep. Drovdal Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO		✓
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL		✓	WINRICH, LONNY		✓
KELSH, SCOT		✓			
KROEBER, JOE	✓				
LLOYD, EDWARD		✓			

Total (Yes) 10 No 5

Absent 0

Floor Assignment Rep. Drovdal

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1432: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1432 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and" and after "57-40.2" insert ", and a new section to chapter 57-40.3"

Page 1, line 3, remove "a" and replace the second "tax" with "and motor vehicle excise taxes"

Page 15, line 16, replace "Z" with "17"

Page 15, after line 16, insert:

"SECTION 19. A new section to chapter 57-40.3 of the North Dakota Century Code is created and enacted as follows:

Separate and additional excise tax. In addition to the tax otherwise imposed under this chapter, every event otherwise taxable under this chapter is subject to an additional tax at the rate of two percent of the purchase price of any motor vehicle purchased or acquired either in or outside this state for use on the streets and highways of this state. The entire revenue from the tax imposed under this section must be transmitted monthly by the director of the department of transportation to the state treasurer and deposited in the school district levy replacement fund."

Page 15, line 19, replace "19" with "20"

Page 15, line 20, remove "and" and after "18" insert ", and 19"

Page 15, line 21, replace "December 31" with "June 30"

Page 15, line 22, replace "January 1, 2002" with "for taxable events occurring after June 30, 2001"

Renumber accordingly

2001 TESTIMONY

HB 1432

FEBRUARY 5TH, 2001
FINANCE AND TAX COMMITTEE--CHAIRMAN AL CARLSON

I AM ED LLOYD

REPRESENTATIVE FOR DISTRICT 19 COVERING RURAL GRAND FORKS COUNTY.

I AM HERE TO TESTIFY IN FAVOR OF HB 1432

WHAT DOES THIS BILL DO?

IT SIMPLY REDUCES PROPERTY TAX BY ELIMINATING THE GENERAL FUND PORTION OF THE COUNTY TAX DESIGNATED FOR SCHOOLS. THE STATES INCOME AND SALES TAXES WILL BE INCREASED BY 4.5% AND 2% RESPECTIVELY TO REPLACE THE PROPERTY TAX MONEYS REDUCED.

THE PROPERTY TAX BURDEN THAT SUPPORTS EDUCATION IN ND IS DISPROPORTIONATELY LARGE. AND IT CONTINUES TO GROW AT AN ALARMING RATE. A TAX EQUITY CORRECTION MUST BE MADE.

TOTAL PROPERTY TAX PER YEAR IN ND IS \$276 MILLION. DELETED BY THIS BILL IS THE GENERAL FUND OF SCHOOL PROPERTY TAX THAT GENERATES ABOUT \$236.086 MILLION PER YEAR OR \$472.172 MILLION PER BIENNIUM. THE SPECIAL FUND FOR BUILDING RENOVATION, SUPERINTENDANTS SEVERANCE, ETC. REMAINS AND EQUALS ABOUT \$40 MILLION IN PROPERTY TAXES PER YEAR.

THE INCREASE IN INCOME TAX OF 4.5% GENERATES ABOUT \$143 MILLION. THE INCREASE IN SALES AND USE TAX OF 2% GENERATES ABOUT \$334.6 MILLION. THESE TOTAL \$477.6 MILLION PER BIENNIUM.

FEBRUARY 5TH, 2001
FINANCE AND TAX COMMITTEE--CHAIRMAN AL CARLSON

TAX ON A PARCEL OF FARM LAND IN MY AREA IS ABOUT \$1,500 PER ¼. OF THIS AMOUNT 55.66% OR \$839 IS FOR SCHOOLS.

PG 79 REDBOOK SHOWS THAT TAX IN ND ON AN \$85,000 HOUSE IS \$1,695 WHILE THE AVERAGE FOR SIOUX FALLS, BILLINGS AND MINNEAPOLIS IS \$1,350. THIS IS A \$345 HIGHER TAX IN ND.

PG 77 REDBOOK. SHOWS THAT AGRICULTURAL AND RESIDENTIAL PROPERTY TAX HAS GROWN SIGNIFICANTLY SINCE 1995.

PG 5 REDBOOK SHOWS THAT SALES AND INDIVIDUAL TAXES GREW FROM 1992 THROUGH 2000. BUT, BY COMPARISON PROPERTY TAX GREW AT AN ALARMING RATE.

PG10 REDBOOK SHOWS THAT SALES TAX AND INCOME TAX ARE CONSIDERABLY LOWER IN FARGO THAN FOR SURROUNDING CITIES IN OTHER STATES AND THE US AVERAGE. PROPERTY TAX IS CONSIDERABLY MORE IN ND.

THE TOTAL PROPERTY TAX BILL FOR A FAMILY EARNING \$50,000 WOULD BE REDUCED BY ABOUT 58% (FARM) AND 50% (NON FARM) FAMILY.

LOCAL CONTROL WILL CONTINUE. THE STATE COLLECTS INCOME AND SALES TAXES AND PLACES THESE FUNDS INTO A STATE FUND CALLED THE SCHOOL DISTRICT LEVY REPLACEMENT FUND. MONEYS WILL BE DISTRIBUTED ON THE SAME SCALE AS PREVIOUSLY USED. NO COMMINGLING OF THESE FUNDS WITH FOUNDATION AID.

**Comparison of Income, Sales and Property Taxes
For Typical Farm and Non-Farm Family
Current Law, and HB 1432**

	<i>Farm Family</i>	<i>Non-Farm Family</i>
Current Law:		
Income Tax	\$ 677	\$ 749
Sales Tax	616	616
Property Tax	4,721	1,974
Combined	\$ 6,014	\$ 3,339
 HB 1432:		
Income Tax	895	990
Sales Tax	821	821
Property Tax	1,983	987
Combined	\$ 3,699	\$ 2,798
Net Change	(2,315)	(541)

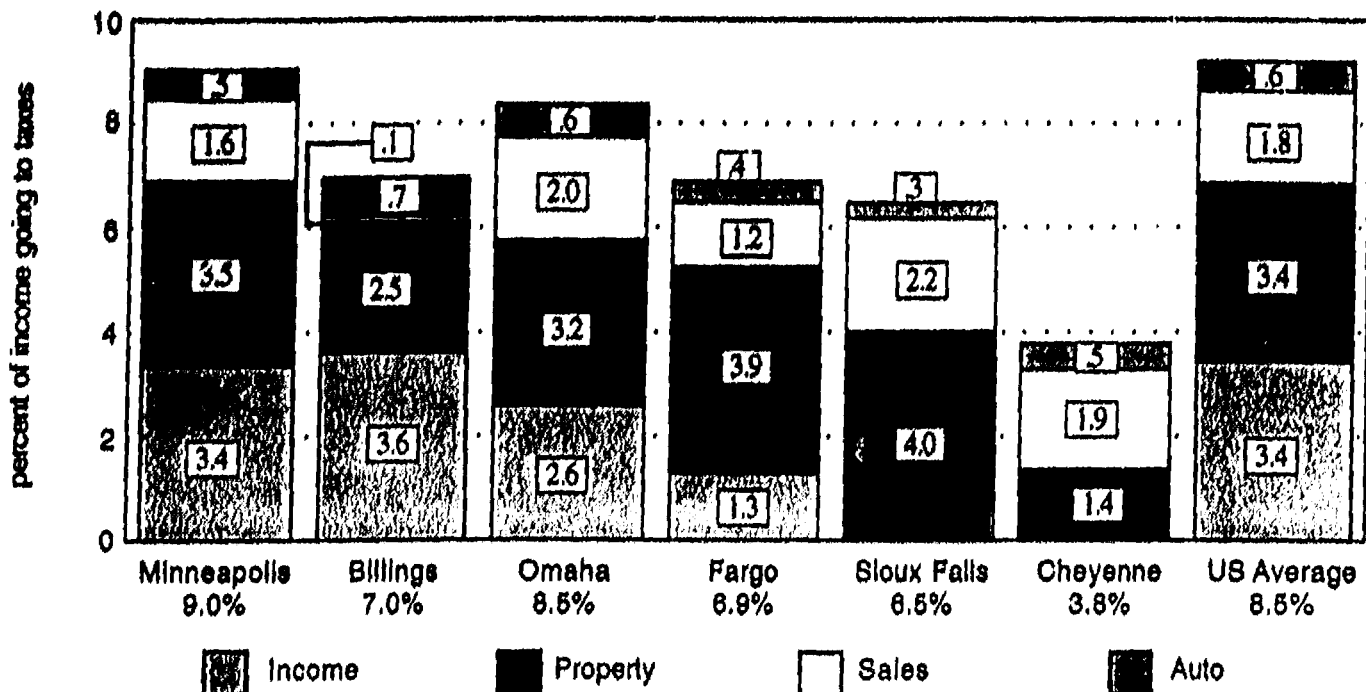
Sources: Current law income tax statistics are the average amounts paid by Income Source Code 01 (farm) and all income source codes (non-farm) for tax year 1999

Sales tax amounts are published by District of Columbia; average sales tax burden for family of four earning \$50,000

Current law property tax amounts for non-farm family are published by District of Columbia; average property taxes in ND for family of four earning \$50,000. For farm family, the property tax assumes 1290 acres (97 Census of Ag. average) at \$3.66 per acre (Tax Dept. estimate). Under HB 1432, property taxes are assumed to be reduced 50% for non-farm family and 58% for farm family.

Major Taxes As A Percent Of Income

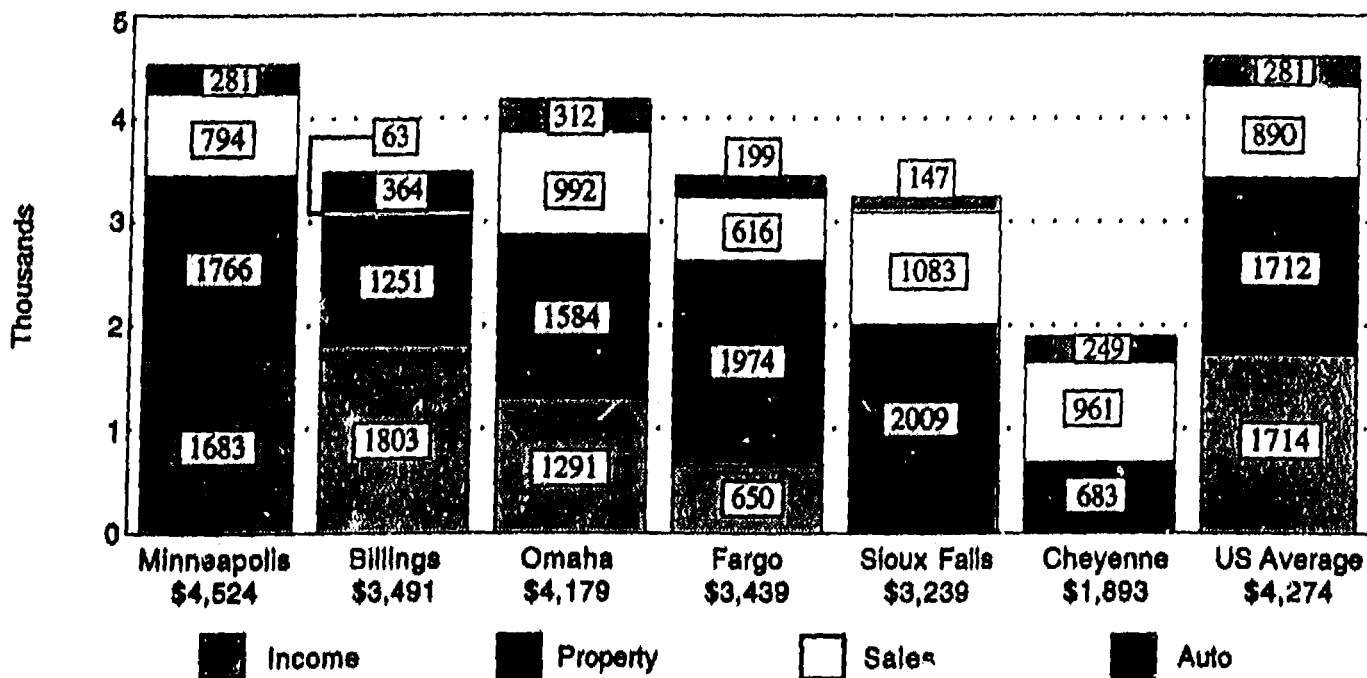
Family of 4 - \$50,000 per year



SOURCE: Tax Rates and Tax Burdens in the District of Columbia - A Nationwide Comparison, 1998.

Major Tax Burden For Family Of Four

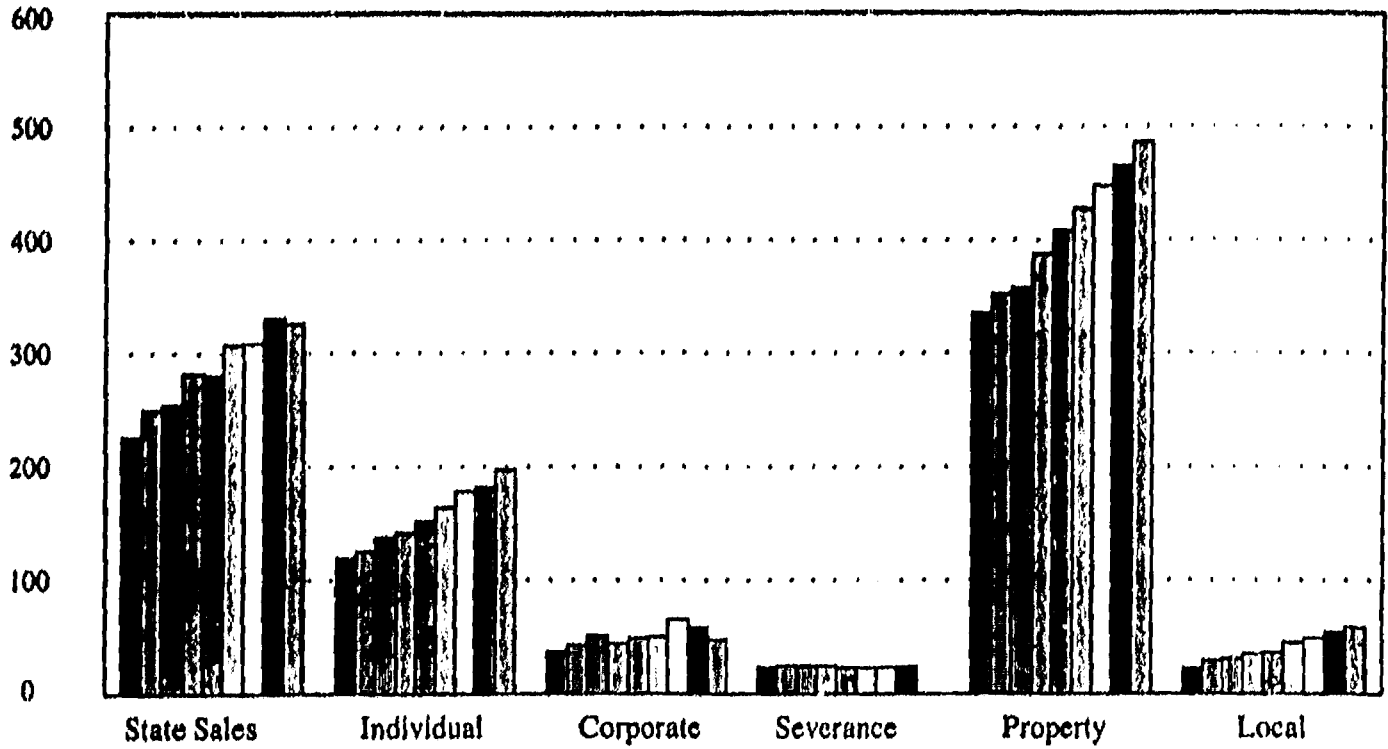
Earning \$50,000 per year



SOURCE: Tax Rates and Tax Burdens in the District of Columbia - A Nationwide Comparison, 1998.

Source of Total State and Local Taxes 1992-2000

Millions



■ 1992	□ 1994	▨ 1996	□ 1998	▩ 2000
▨ 1993	▩ 1995	▩ 1997	■ 1999	

**Property Taxes on an
Owner Occupied Home in North Dakota
Payable in 2000**

\$70,000 Home

<u>City</u>	<u>Tax Amount*</u>
Bowman	\$950
Carrington	\$1,170
Grafton	\$1,675
Kenmare	\$1,330
Lisbon	\$1,245
Rugby	\$1,275
Washburn	\$860

\$85,000 Home

<u>City</u>	<u>Tax Amount*</u>
Bismarck	\$1,695
Devils Lake	\$1,700
Dickinson	\$1,720
Fargo	\$1,650
Grand Forks	\$1,820
Jamestown	\$1,575
Mandan	\$1,770
Minot	\$1,410
Valley City	\$1,780
Wahpeton	\$1,760
West Fargo	\$1,456
Williston	\$1,840

* Calculations assume taxes are paid by February 15, allowing the taxpayer a 5% discount.

SOURCE: Survey by North Dakota Office of State Tax Commissioner, Property Tax Division, July 2000.

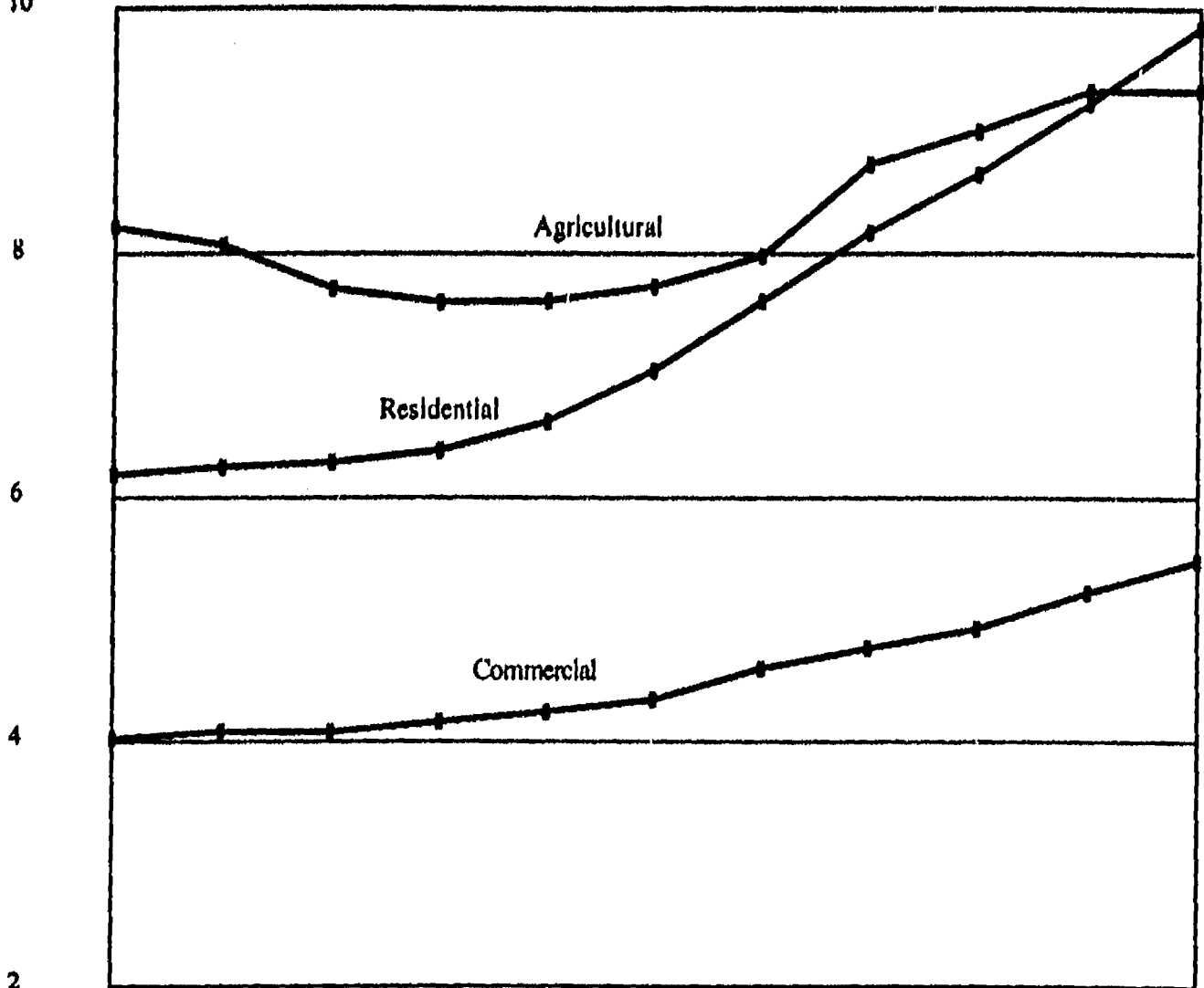
**Property Taxes on an \$85,000 Owner
Occupied Home in Neighboring States
Payable in 2000**

SOUTH DAKOTA		MONTANA		MINNESOTA	
City	Tax Amount	City	Tax Amount	City	Tax Amount
Aberdeen	\$ 1,510	Miles City	\$ 1,750	Bemidji	\$ 1,250
Rapid City	1,520	Great Falls	1,390	St. Cloud	1,060
Sioux Falls	1,360	Billings	1,380	Minneapolis	1,310

SOURCE: Survey by North Dakota Office of State Tax Commissioner, Property Tax Division, July 2000.

True and Full Value by Classification For Taxes Payable in 1990 - 2000

Billions of Dollars
10



Year Payable	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Agricultural	8.217	8.070	7.712	7.600	7.612	7.731	7.983	8.729	8.998	9.324	9.329
Residential	6.187	6.251	6.289	6.389	6.625	7.041	7.610	8.175	8.645	9.223	9.840
Commercial	4.025	4.083	4.082	4.163	4.246	4.349	4.602	4.768	4.928	5.225	5.483

1432
Rep. Garibold

TAXES FOR THE YEAR 2000
MILL COUNTY

00003044



CITY/TWP #	ADDITION #	PARCEL #	SPLIT #	ACRES
13	0000	01979	000	160.00
TRUE AND FULL VALUE		TAXABLE VALUE		MILL LEVY
80,154		4,008		378.26
TAX DOLLAR SHARE				
COUNTY				434.19
TOWNSHIP				101.32
SCHOOL				936.47
FIRE				40.08
STATE				4.01
TOTAL CONSOLIDATED TAX				1,516.07
002.00				80.00
TOTAL TAX				1,596.07
5% DISCOUNT IF PAID BY FEB. 15, 2000				75.80
TAX DUE IF PAID BY FEB. 15, 2000				1,520.27

TAXES FOR THE YEAR 2000
MILL COUNTY

00003045



CITY/TWP #	ADDITION #	PARCEL #	SPLIT #	ACRES
13	0000	01980	000	160.00
TRUE AND FULL VALUE		TAXABLE VALUE		MILL LEVY
80,154		4,008		378.26
TAX DOLLAR SHARE				
COUNTY				434.19
TOWNSHIP				101.32
SCHOOL				936.47
FIRE				40.08
STATE				4.01
TOTAL CONSOLIDATED TAX				1,516.07
002.00				80.00
TOTAL TAX				1,596.07
5% DISCOUNT IF PAID BY FEB. 15, 2000				75.80
TAX DUE IF PAID BY FEB. 15, 2000				1,520.27

2
 TAXES FOR THE YEAR 2000
 ILL COUNTY

00004885

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TAXES FOR THE YEAR 2000
 ILL COUNTY

00004946

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CITY/TWSP #	ADDITION #	PARCEL #	SPLIT #	ACRES		
20	0000	03213	000	158.37		
TRUE AND FULL VALUE		TAXABLE VALUE		MILL LEVY	HOMESTEAD CREDIT	
64,294		3,215		359.60		
TAX DOLLAR SHARE						
COUNTY				348.28		
TOWNSHIP				89.41		
SCHOOL				697.65		
FIRE				17.55		
STATE				3.22		
TOTAL CONSOLIDATED TAX				1,156.11		
TOTAL TAX				1,156.11		
5% DISCOUNT IF PAID BY FEB. 15, 2000				57.81		
TAX DUE IF PAID BY FEB. 15, 2000				1,098.30		

CITY/TWSP #	ADDITION #	PARCEL #	SPLIT #	ACRES		
20	0000	03269	000	160.00		
TRUE AND FULL VALUE		TAXABLE VALUE		MILL LEVY	HOMESTEAD CREDIT	
69,684		3,484		359.60		
TAX DOLLAR SHARE						
COUNTY				377.42		
TOWNSHIP				96.90		
SCHOOL				756.03		
FIRE				19.02		
STATE				3.48		
TOTAL CONSOLIDATED TAX				1,252.85		
TOTAL TAX				1,252.85		
5% DISCOUNT IF PAID BY FEB. 15, 2000				62.64		
TAX DUE IF PAID BY FEB. 15, 2000				1,190.21		

3 - Levy on 960 acre Farm (Trail County)
 Family Pays \$4836.94 for school - Total Levy 8103.92 - 60% for schools

TAXES FOR THE YEAR 2000
 TRAIL COUNTY

00004947

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CITY/TWSP #	ADDITION #	PARCEL #	SPLIT #	ACRES	TRUE AND FULL VALUE	TAXABLE VALUE	MILL LEVY	HOMESTEAD CREDIT
20	0000	03270	000	157.78	72,026	3,601	359.60	
					TAX DOLLAR SHARE			
COUNTY					390.10			
TOWNSHIP					100.14			
SCHOOL					781.42			
FIRE					19.66			
STATE					3.60			
TOTAL CONSOLIDATED TAX							1,294.92	
TOTAL TAX							1,294.92	
5% DISCOUNT IF PAID BY FEB. 15, 2000							64.75	
TAX DUE IF PAID BY FEB. 15, 2000							1,230.17	

TAXES FOR THE YEAR 2000
 TRAIL COUNTY

00004942

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CITY/TWSP #	ADDITION #	PARCEL #	SPLIT #	ACRES	TRUE AND FULL VALUE	TAXABLE VALUE	MILL LEVY	HOMESTEAD CREDIT
20	0000	03267	000	157.78	67,180	3,359	359.60	
					TAX DOLLAR SHARE			
COUNTY					363.88			
TOWNSHIP					93.42			
SCHOOL					728.90			
FIRE					18.34			
STATE					3.36			
TOTAL CONSOLIDATED TAX							1,207.90	
TOTAL TAX							1,207.90	
5% DISCOUNT IF PAID BY FEB. 15, 2000							60.40	
TAX DUE IF PAID BY FEB. 15, 2000							1,147.50	

4 Levy on Resident's property in midsize town

AXES FOR THE YEAR 2000
MILL COUNTY

00007987

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CITY/TWP #	ADDITION #	PARCEL #	SPLIT #	ACRES
27	0011	07557	000	
TRUE AND FULL VALUE		TAXABLE VALUE	MILL LEVY	HOMESTEAD CREDIT
68,600		3,087	455.57	
TAX DOLLAR SHARE				
COUNTY			333.06	
CITY			305.46	
SCHOOL			651.35	
PARK			113.38	
STATE			3.09	
TOTAL CONSOLIDATED TAX			1,406.34	
TOTAL TAX			1,406.34	
5% DISCOUNT IF PAID BY FEB. 15, 2000			70.32	
TAX DUE IF PAID BY FEB. 15, 2000			1,336.02	

← School Levy (46% of total)
Family pay: 651.35 for schools

← Total Levy

Per Capita Comparison of Individual Income Tax Collections *

Fiscal Year 1989

State	Rank	Per Capita
Massachusetts	1	\$1,301
New York	2	\$1,131
Oregon	3	\$1,119
Minnesota	4	\$1,111
Connecticut	5	1,100
Delaware	6	\$1,023
Wisconsin	7	\$983
California	8	\$927
Hawaii	9	\$902
Virginia	10	\$886
North Carolina	11	\$861
Maine	12	\$814
Maryland	13	\$808
New Jersey	14	\$777
Rhode Island	15	\$770
Michigan	16	\$750
Indiana	17	\$736
Georgia	18	\$731
Colorado	19	\$692
Utah	20	\$686
Idaho	21	\$677
Missouri	22	\$663
Vermont	23	\$646
Nebraska	24	\$643
Kansas	25	\$639
Kentucky	26	\$639
Ohio	27	\$639
Oklahoma	28	\$617
Illinois	29	\$598
Iowa	30	\$598
Arkansas	31	\$562
Montana	32	\$547
Pennsylvania	33	\$534
South Carolina	34	\$511
West Virginia	35	\$509
New Mexico	36	\$465
Arizona	37	\$439
Alabama	38	\$437
Mississippi	39	\$355
Louisiana	40	\$351
NORTH DAKOTA	41	\$287
New Hampshire	42	\$53
Tennessee	43	\$28

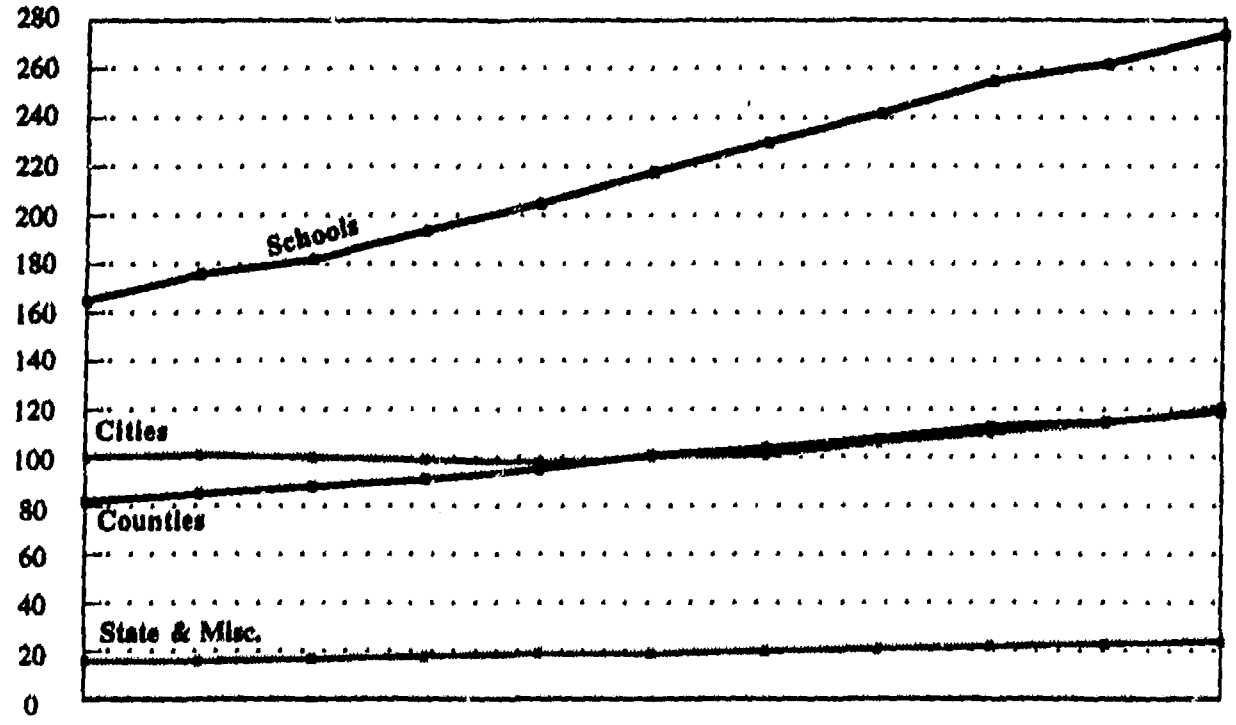
* Seven states levy no individual income tax: Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming.

SOURCE: U.S. Department of Commerce, Bureau of the Census.

General and Special Property Taxes by Taxing Districts

Payable in 1990 - 2000

Millions of Dollars

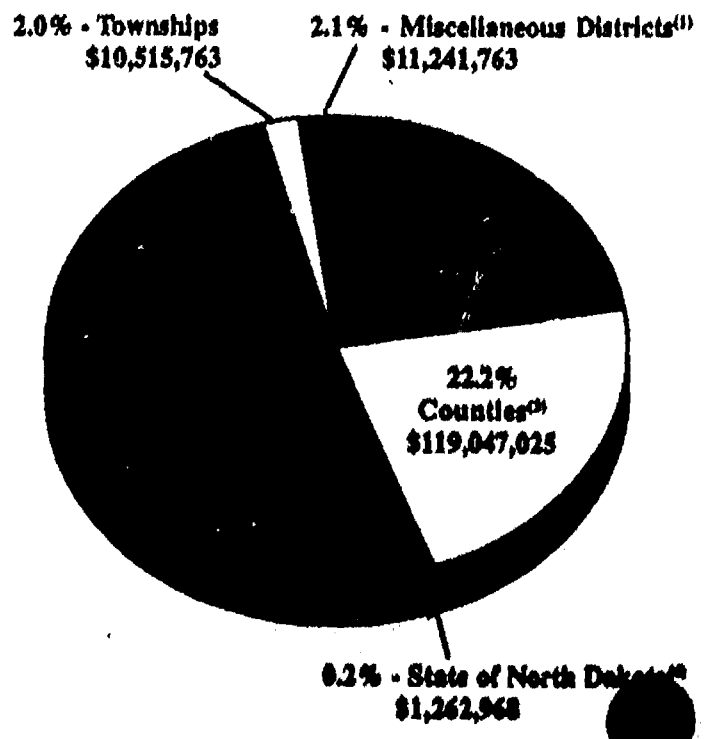


Year Payable	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Schools	165	176	182	194	205	218	230	242	255	262	274
Cities	100	101	100	99	98	100	101	106	110	114	121
Counties	82	85	88	91	95	101	104	108	113	115	119
State & Misc.	16	16	17	18	19	19	20	21	22	23	24

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Valuations and Property Taxes Levied in North Dakota."

Percent of Property Taxes by Taxing District Levied in 1999 - Payable in 2000

GRAND TOTAL - \$536,713,609



- ⁽¹⁾ Garrison Diversion Conservancy District, rural fire protection districts, hospital district, soil conservation districts, rural ambulance districts, recreation service districts, Southwest Water Authority and all special assessments for rural districts.
- ⁽²⁾ Including city park districts, special assessments, and tax increments.
- ⁽³⁾ Including county park districts, county library, county airport, water management districts, vector control, unorganized townships and board of county parks.
- ⁽⁴⁾ Constitutional one mill levy for medical center at the University of North Dakota.

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "1999 Property Valuations and Property Taxes Levied in North Dakota."

TESTIMONY

Good Morning Mr. Chairman and committee members. My name is MAC HALCROW. I am from Drayton, North Dakota, which is located in Pembina County. I am a farmer and the Chairman of the Pembina County Commission.

I spent over ten (10) years of my life either living or travelling overseas. During that time, I never went more than a few days without thanking the Lord that I was born and raised in North Dakota. The inherent work ethic, sense of community, charity, and fair play that is prevalent in this state does not exist anyplace I have ever been. I am calling on these attributes that you possess when you examine the reasons that have led to Representatives Herbel and Lloyd submitting their bills and why they need to be passed.

For the first two hundred years of this country's existence the vast majority of wealth was derived from the ground. By necessity, the taxes that were collected also were generated from that source. About twenty five (25) years ago that source of wealth began to dramatically change. It now emanates from such things as intellectual property, stocks, bonds, dot.coms, etc and some I don't understand. What I do understand, however, is that the tax structure has not changed with the switch in wealth generation. I think a classic example of this can be seen in Seattle, Washington. You can drive by Microsoft and see it would fit in Lincoln out east of here and then drive by Boeing which wouldn't fit in the confines of Bismarck. One is making huge piles of money, one isn't. One pays thousands of dollars in property tax while the other pays millions.

Last week I gave you some charts that show how unfairly Walsh and Pembina Counties have been treated with the current system. Commissioner Flanders talked about the dramatic increase of valuations and taxes in Cavalier County. Bill Gorder talked about the staggering amount of unpaid taxes his county is experiencing while the Pembina County Auditor showed you how the sales ratio figures in AG land reinforced our thesis that the current system is badly flawed. I believe this is one of those times in which imagination is baffled by the facts!

What I did not cover last week is some of the end results of this inequity. My county currently has as many as 1150 out of its 8350 people on social welfare programs. The social service budget has grown to a staggering 9.9 million dollars. People working at the Bank of ND have told us we are the most depressed area in North Dakota. Last year, three (3) of the seven (7) schools in our county were borrowing money at banks to pay expenses and salaries before the end of the year. This year, it looks like that number may be five (5). Some only need money for a month, while some need it for two (2) months. When it becomes three (3), things will really get grim. The other day when I was out here, I noticed there are some bills giving schools incentives for consolidation. This has been and is currently happening in my home county. We share superintendents, principals, teachers and programs between schools. Co-opting sports, speech, drama, plays and Title programs is a way of life. Additionally, Walsh, Pembina and Cavalier counties share programs, supervisors, and people on a daily basis. We often go to the contractors association for permission to use county equipment to help out unincorporated towns that do not have the wherewithal to help themselves. At the county level, we have started to buy our police cars from the State surplus pool. We also buy used computers, equipment, and whatever we can through this system. When we replaced our 1960 vintage snowplow trucks, it was not with new, but with 1985 models. The same can be said about mower tractors and the like. We continually look at ways to cut our costs and taxes. One of the best bills that you passed was the "tool chest bill" that enables us to combine elected offices. We are now in the process of implementing some of its provisions.

Farm auctioneers need to be booked months in advance. Many days, there are as many as three (3) farm auctions going on. Many of you have probably seen the huge new auction building at Buxton. This building was constructed so that multiple auctions could occur at one time.

Mr. Chairman, the size of your hometown newspaper's green section is testimony enough as to how bad things have become. Mr. Chairman, last week you asked about rental rates on AG land. I will give you the most recent example of land located within a mile of my home farm. Last year, land that had previously rented for \$70.00 was down to \$25.00 per acre. This year that land is not rented.

Four things come to my county each spring. They are FLOODS, FEMA, FLOWERS, and FORECLOSURES (80 some already this year). Unfortunately, only one of them can be appreciated.

After I testified last Tuesday, I was reminded by a friend of mine about how this People's House Leader, 35 years ago, would handle situations like we are currently experiencing. He basically told the members that, although they might not slow the train down, they could move the people off the crossing and out of harm's way. I think that advice needs to be followed again.

Government's ultimate responsibility is to protect the lives and property of its citizens. Unless we get this tax structure fixed, I am afraid we will fail at both. Every time I personally vote on taxes, I think about the John Marshall saying, "that the power to tax involves the power to destroy." The production engine that drives our state's economy must be preserved for it to dramatically grow.

Thank you.

HB 1432
Rep. Lloyd

INTRODUCTION

For many years prior to 1994 the property tax burden in Michigan, compared with the average property tax burden in the United States, had been among the highest in the nation. Of the annual property tax levy, approximately 67% had been used by schools for school operations. The heavy reliance on local property taxes to fund K-12 education, coupled with inequities in levels of per-pupil funding among school districts, resulted in numerous unsuccessful attempts to reform the system. In August 1993 the Legislature and the Governor took decisive action by enacting Public Act 145, which eliminated local property taxes as a source of K-12 and intermediate school district (ISD) school operating funding beginning in the 1994-95 school fiscal year. Because this action eliminated approximately 64% of the \$10.2 billion total funding for schools statewide, it became necessary for the State to adopt a new system to fund the schools. In the following months the Legislature debated several proposals to restructure K-12 finances, resulting in the December 24th passage of a comprehensive package.

HB 1432
Rep 1/10/40

MAILBAG

CS Dodd
Dec 30, 00

From:

Re p.
Ed Wagoner

Fulfill promises by raising income, not property, taxes

GRAFTON, N.D. — It's been known for some time that North Dakota teachers get smaller salaries, on average, than almost all other teachers in the country. It also has been said that judges need an increase in pay. I think that both groups need a raise. But who should pay it?

Property tax has been the steady leg of the tax stool. It is always there to support the needs of various agencies. It is based on property value, which, in turn, is based on prospective earnings over a relatively long period.

The property tax has gone too far in the case of farmland. Unlike stock in the stock market, farmland cannot be sold at a profit when land values go up because the farmer needs it to make a living. The increase in the value of farmland only means this tax base will go up.

At the present time, only sugar beets are near the break-even point. All other crops are below that point. Land earning capacity is way down, and prospects are that farm prices may go even lower. Land taxes should be lower or at least, not higher.

How are land prices established? There are some farmers who did quite well in the 1900s and 1970s, during the Golden Age of farming. To square out a farming unit, they often will pay a premium price for land that is near or otherwise special to them.

Certainly, there is no young man who can compete in a market like that to start farming. I know of four of them who went bankrupt in the Grafton area. They didn't have a rich dad to help them. At present prices, farmland can't produce enough to pay for itself. In time, the price of farmland will have to go down, and the tax base will go down with it.

There needs to be far less dependence on the property tax base. The state income tax should be raised. When Gov. George Sinner was in office, he said that his personal income was good, but what he paid in state income tax was a joke.

And, of course, there is always the sales tax.

My taxes on a quarter of land in the Grafton area are: \$1,789.63 for schools, \$702.75 for Walsh County, \$177.15 for Farmington Township, plus incidentals, totaling \$2,708.41 and due Feb. 15.

Ernest Ebert

Ernest was a Senator in late '70's. He is 91 years old.

2000 Tax Bill on 1/4 of land

\$ 2,708.41	Total Tax
- 177.15	County - Walsh
- 702.75	County - Walsh
- 38.83	Incidentals
<u>\$ 1,789.63</u>	Schools

$\frac{\$ 2,708.41}{160 \text{ Ac}} = \$ 16.93 / \text{Ac}$

$\frac{\$ 1,789.63}{\$ 2,708.41} = 66.08\% \text{ for Schools}$

Income Example for Land Owner

Cash Land Rent \$70 / Ac

\$ 16.93 / Ac Tax

\$ 53.07 Net Before

\$ 15.00 Income Tax

\$ 38.07

} = 24.19% Property Tax

} = 28% for Income Tax

Total Tax
45.71%

My name is Gerald Uglem. I farm in the southwest corner of Grand Forks County, outside of the Red River Valley. My wife and I farm about 2000 acres .

I own 2 quarters of land and my children own 3 quarters of land. The rest is rented land. However I pay the real-estate taxes on the rented land through my rent payments. At The present time, taxes in our township vary from \$500 to \$1000 per quarter. 57.3% of the real-estate tax is school tax or \$286.50 to \$573. The total school tax paid on the land I farm would be about \$5370. I believe this is an unfair tax burden on my farming operation.

When our system of real-estate tax funding of education was established, a high percentage of our states residents lived on subsistence farms. They had little or no income to pay tax on. Thus real estate tax funding of education was the only way for everyone to pay their fair share toward education. That is not the world we live in today!!! Many farmers today are experiencing serious financial problems, and they are no longer a high percentage of our population.

The fair way to fund education today would be for everyone who earns a income and everyone who spends money on consumer goods to contribute to education. House Bill 1432 is a big step toward bringing funding of education into the 21st Century. It may also be a good start toward solving our problem of low teacher salaries, and equality in funding between school districts.

My name is Robert Deutsch. I live in Northwood, North Dakota. I am not a farmer, but have worked with North Dakota farmers for the last 24 years as a soil scientist and crop consultant. I strongly feel that the property tax burden paid by North Dakotan's, especially farmers, towards education is not fair.

I recently spent some time reviewing the average property tax burden paid on agricultural property in North Dakota. My source for the following information is the year 2000 edition of North Dakota Ag. Statistics. In 1991 there were 26,900 farmers in North Dakota with sales of \$10,000 or more. By 1999 there were 22,100 farmers left in North Dakota with sales of \$10,000 or more. In this time frame the average per acre tax on agricultural land went from \$2.74 an acre to \$3.72 an acre. The property taxes paid on agricultural land have increased from an average of \$3,966 per farm in 1991 to \$6,048 per farm in 1999.

We are placing an unfair tax burden on a sector of our economy that is not healthy. By shift the education tax burden to a sales tax and or an income tax at least the taxpayer has the resources to pay the tax. The correlation between real estate ownership and income (the ability to pay taxes) is not as strong as it was a hundred years ago. The fair way to fund education in North Dakota would be tax individuals that have the resources to pay taxes. An increase in either the sales tax and/or the income tax would seem to fit these criteria. Placing an ever-increasing tax burden on a declining farm population that is suffering financially does not make common sense.

<u>Year</u>	<u>Property Taxes on Ag. Land</u>	<u>Acres of Land in Farms</u>	<u>Property Tax per Acre</u>	<u>Acres of Farm Land with (Sales>\$10,000)</u>	<u>Acres of Farm Land with (Sales>\$10,000)</u>
1991	\$ 110,800,000	40,400,000	\$2.74	1,500,000	38,900,000
1992	\$ 113,700,000	40,400,000	\$2.81	1,000,000	39,400,000
1993	\$ 117,600,000	40,300,000	\$2.92	3,100,000	37,200,000
1994	\$ 121,700,000	40,200,000	\$3.03	3,300,000	36,900,000
1995	\$ 128,700,000	39,900,000	\$3.23	3,300,000	36,600,000
1996	\$ 136,200,000	39,900,000	\$3.41	3,400,000	36,500,000
1997	\$ 141,700,000	39,700,000	\$3.57	3,500,000	36,200,000
1998	\$ 146,800,000	39,500,000	\$3.72	3,400,000	36,100,000
1999	\$ 146,700,000	39,400,000	\$3.72	3,500,000	35,900,000

Source: North Dakota Agricultural Statistics (2000)

**Median Acres of
North Dakota Farms
(Sales > \$10,000)**

**Property Taxes
on Ag Land
(Sales > \$10,000)**

**Number of
ND Farms
(Sales > \$10,000)**

**Property Taxes
per Farm
(Sales > \$10,000)**

1446	\$	106,686,139	26,900	\$	3,966
1433	\$	110,885,644	27,500	\$	4,032
1414	\$	108,553,846	26,300	\$	4,128
1419	\$	111,709,701	26,000	\$	4,297
1419	\$	118,055,639	25,800	\$	4,576
1484	\$	124,593,985	24,600	\$	5,065
1574	\$	129,207,557	23,000	\$	5,618
1583	\$	134,164,051	22,800	\$	5,884
1624	\$	133,668,274	22,100	\$	6,048

Randy Uglem (House Bill 1432)

I farm around 4000 acres with my dad, brother, and sister in Grand Forks country. I am a beginning farmer with interest in two quarters of land, which have taxes that are \$835.34 (61.79% for education) to \$1408.76 (59.8% for education). School land tax affects our whole operation greatl in our land we own and through higher rents on the land we rent.

This tax system was set up in a much different economical time in our state. North Dakota was mostly agricultural back then and the land tax supported education made sense. Times have changed since then, and I believe our tax system should change to encompass these differences. Farmers are paying for an unfair percentage of our education, during a time when they are struggling to survive in the world market.

Education is an essential part of our society and it's funding should not be taken lightly. It is time that everyone paid their fair share for education.

I do not think the increase in sales tax is a good solution for making up for lost funding. I would rather see a little more of an increase in the income tax and leave out the sales tax increase in this bill. I am in favor of the fundamentals of House Bill 1432 and hope that the land tax funded education is eliminated.

**1999 Tax Collections by Farm and Non-Farm
and Estimated One-Year Impact of HB 1432
(Based on Forecasted Revenues 01-03 Biennium)**

	Tax Year 1999 Actual Collections		Forecasted One-Year Impact of HB 1432	
Individual Income Taxes				
Farmers & Ranchers	\$ 16,020,815	8.61%	\$ 6,156,765	8.61%
All Others Income Sources	<u>170,032,793</u>	91.39%	<u>65,343,235</u>	91.39%
Total	186,053,608	100.00%	71,500,000	100.00%
Property Taxes				
Ag Property	146,637,400	30.16%	(84,990,960)	36.00%
All Other Classifications	<u>339,556,864</u>	69.84%	<u>(151,095,040)</u>	64.00%
Total	486,194,264	100.00%	(236,086,000)	100.00%
Sales and Motor Vehicle Taxes				
Farm Machinery	8,142,710	2.07%	8,143,000	4.87%
All Other	<u>385,775,855</u>	97.93%	<u>159,157,000</u>	95.13%
Total	393,918,565	100.00%	167,300,000	100.00%
Net One Year Change HB 1432			2,714,000	

Prepared by:

Office of Tax Commissioner
Kathryn L. Strombeck
2/7/01

**Examples of How HB 1399
May Affect Hypothetical Taxpayers**

2000 Federal Stats:

Personal Exemption:	2,800
Standard Deduction - MFJ	7,350
Standard Deduction - Single	4,400
HB 1399 Deduction - MFJ	8,000
HB 1369 Deduction - Single	4,000

Note: Only 15% of ND taxpayers itemize deductions
Therefore, the standard deduction is used in these examples

Married Joint - 2 children:

Income	20,000	40,000	50,000	60,000	70,000	80,000	100,000	250,000	500,000
Personal Exemptions	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)
Standard Deduction	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)
Federal Taxable Income	1,450	21,450	31,450	41,450	51,450	61,450	81,450	231,450	481,450
Federal Tax	219	3,221	4,721	6,221	8,713	11,513	17,113	66,371	163,322
37-S Tax	31	451	661	871	1,220	1,612	2,396	9,292	22,865
HB 1399 Tax	-	404	704	1,004	1,304	1,604	2,204	6,704	14,204
Difference	(31)	(47)	43	133	84	(8)	(192)	(2,588)	(8,662)

Single - No Dependents:

Income	10,000	20,000	25,000	30,000	35,000	40,000	50,000	125,000	250,000
Personal Exemptions	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)
Standard Deduction	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)
Federal Taxable Income	2,800	12,800	17,800	22,800	27,800	32,800	42,800	117,800	242,800
Federal Tax	422	1,924	2,674	3,424	4,379	5,779	8,579	31,199	75,459
37-S Tax	59	269	374	479	613	809	1,201	4,368	10,564
HB 1399 Tax	-	264	414	564	714	864	1,164	3,414	7,164
Difference	(59)	(5)	40	85	101	55	(37)	(954)	(3,400)

Approximate Number of
Taxpayers in Category

108,000

148,000

42,000

Approximate Tax Liabilities
in Category - Current Law

\$8.6 million

\$104.3 million

\$69.6 million

Rep Carlson
Submitted during
Action on the bill

HB 1432

TABLE 7
Comparison of Taxable Sales and Purchases
By Industry, Calendar Years 1988 and 1989

INDUSTRY	TAXABLE SALES AND PURCHASES		PERCENT CHANGE
	CALENDAR YEAR 1988	CALENDAR YEAR 1989	
Mining and Oil Extraction			
Coal Mining	\$4,482,084	\$4,279,801	-4.51%
Oil & Gas Extraction	26,991,671	17,872,047	-33.79%
Other Mining	6,765,279	8,934,722	32.07%
TOTAL	\$38,239,034	\$31,086,570	-18.70%
Construction	\$223,617,882	\$410,728,462	83.76%
Manufacturing	\$328,133,103	\$341,365,107	4.03%
Transportation, Communication and Public Utilities			
Transportation	\$49,274,984	\$24,944,264	-49.38%
Communication	275,858,469	303,998,808	10.20%
Electric, Gas & Sanitary Services	189,072,942	186,094,665	-1.56%
TOTAL	\$514,206,395	\$515,038,737	0.16%
Wholesale Trade			
Farm Machinery & Farm Repair Parts	\$341,081,033	\$344,226,254	0.92%
Remaining Wholesale Trade	932,448,865	983,586,079	5.48%
TOTAL	\$1,273,529,898	\$1,327,812,333	4.26%
Retail Trade			
Building Materials, Hardware, Glass, Garden Supply & Mobile Home Dealers	\$475,151,386	\$497,216,654	4.64%
General Merchandise Stores	803,319,586	823,048,039	2.46%
Food Stores	192,653,755	192,488,110	-0.09%
Automotive Dealers & Gas Service Stations	368,987,417	387,484,026	5.01%
Apparel & Accessory Stores	180,857,679	203,527,541	12.53%
Furniture, Home Furnishings & Equipment Stores	251,917,921	259,992,730	3.21%
Eating & Drinking Places	596,314,737	608,868,569	2.11%
Miscellaneous Retail Stores	518,394,018	546,379,236	5.40%
TOTAL	\$3,387,596,497	\$3,519,004,905	3.88%
Services			
Hotels, Motels, Rooming Houses, Camps and Other Lodging Places	\$138,202,016	\$142,922,936	3.42%
Personal Services	43,170,352	40,508,048	-6.17%
Business Services	177,388,365	181,251,731	2.18%
Repair Services	142,810,115	142,097,196	-0.50%
Entertainment Services	112,054,699	113,801,338	1.38%
Health Services	30,874,307	32,748,413	6.07%
Membership Organizations	10,026,063	10,388,220	3.61%
Miscellaneous Services	7,356,050	9,913,876	33.41%
TOTAL	\$661,801,967	\$673,331,758	1.73%
Miscellaneous	\$52,559,926	\$45,492,709	-13.45%
GRAND TOTAL	\$6,479,664,682	\$6,863,857,581	5.93%

NOTE: Classification by industry is based on 1987 Standard Industrial Classification Manual.
Consolidated SIC returns, combined returns and in-state and out-of-state returns are included in the above analysis.

HB 1432
State Tax Dept



RICK CLAYBURN
TAX COMMISSIONER

North Dakota
Office of State Tax Commissioner

SALES AND USE TAX REQUIREMENTS

Sales and Use Tax Guideline

In order to promote a better understanding of the North Dakota sales and use tax laws, the Office of State Tax Commissioner provides the following general information. Special guidelines for certain types of businesses also are available and may be obtained by contacting the Sales Tax Compliance Section, of the Office of State Tax Commissioner or by viewing the guidelines on our web site on the internet.

Imposition and Rates

Sales tax is paid by the purchaser and collected by the retailer.

Sales tax is levied at the following rates:

- 1½ percent on the gross receipts from retail sales of *used* farm machinery, *new and used* farm machinery repair parts and *used* irrigation equipment.
- 2 percent on the gross receipts from retail sales of natural gas.
- 3 percent on the gross receipts from retail sales of *new* farm machinery, *new* irrigation equipment used exclusively for agricultural purposes and sales of *new* mobile homes.
- 7 percent on the gross receipts from retail sales of alcoholic beverages sold for consumption either on or off the premises.
- 5 percent on the gross receipts from all other taxable retail sales of tangible personal property and services.

Permits and Reporting

Any business or institution making taxable retail sales of tangible personal property or services is required to hold a North Dakota sales and use tax permit. An application to obtain a permit must be submitted to the Sales Tax Compliance Section of the Office of State Tax Commissioner. When a business or institution has a permit, a sales and use tax return is sent to the taxpayer each calendar quarter (or each assigned reporting period) to report and remit the sales and use tax. *These returns must be filed each period whether tax is due or not.* If no tax is due, the return must be filed indicating that no taxable sales or reportable purchases were made for that period. If the return is not filed, the Sales Tax Compliance Section will notify the permit holder that the return is delinquent and that a penalty is due.

Sales tax applies to sales of tangible personal property and certain services to a final user and consumer. Use tax is complimentary to sales tax and is imposed on the use, storage or consumption of tangible personal property in this state unless the goods already have been subjected to sales tax.

If a business or institution purchases materials, supplies or equipment for resale, the business or institution should not pay the tax to the supplier. Instead, the business or institution should collect tax from the customer when the item is sold and remit the tax to the Office of State Tax Commissioner.

If a business or institution purchases materials, supplies or equipment for use in its business, the business or institution is required to pay sales tax to the supplier of these items. If the supplier does not hold a North Dakota sales and use tax permit, the tax should not be remitted to the supplier, but should be remitted as a use tax directly to the Office of State Tax Commissioner.

Penalties

For returns filed late, a minimum penalty of 5 percent of the tax due or \$5.00, whichever is greater, will be added to the tax due for the first month the return is late, plus 1 percent interest for each month or fraction of a month thereafter. Multiple delinquencies will result in the following increased penalty assessments:

Number of Delinquencies		Penalty Greater of
Monthly Returns	Non-Monthly Returns	
1-6	1-3	5% of tax due or \$5
7-14	4-8	10% of tax due or \$25
15 or more	9 or more	15% of tax due or \$100

Retail Sales-Sales For Resale

A "retail sale" is the sale of tangible personal property to a person who is the final user and consumer of the goods. The seller or supplier in this instance is required to collect sales tax on the sale to the final user.

A "sale for resale" is made when a dealer or supplier sells to another bona fide retailer for resale. The seller or supplier is not required to collect sales tax from the individual or company making the purchase for resale provided the seller obtains a signed certificate of resale from the purchaser.

If a person submits a false certificate of resale to a seller, the person submitting the false certificate is liable for any tax and penalties which may become due. Certificates of resale should be obtained from retailers at least every two years.

The following certificate of resale is prescribed by the State Tax Commissioner:

CERTIFICATE OF RESALE

I hereby certify that I hold North Dakota Sales and Use Tax Permit Number _____, I am engaged in the business of selling, leasing or renting _____, and that the tangible personal property purchased from _____ is purchased by me for resale.

I further certify that I will report and remit any sales or use tax and any penalties which become due as a result of purchases made from the above seller which are used or consumed by me.

Business Name

Business Address

Authorized Signature

Date

These certificates are not to be sent to the Office of State Tax Commissioner, but must be retained in the supplier's files to substantiate sales claimed as sales for resale.

Purchases Subject to Use Tax

Individuals and businesses that purchase supplies and equipment for use in running a business or for personal use must pay a sales or use tax on these purchases, based on the cost of the items being purchased. If these items are purchased from a firm that does not collect North Dakota sales tax, the purchaser must report the purchase on line 4 of the sales and use tax return and pay a use tax on the purchase price. Examples of taxable purchases include office supplies, office equipment, samples, fixtures, display cases, maintenance items, cleaning supplies, delivery equipment, special installation tools and equipment, etc.

Rentals of Tangible Personal Property

The term "sale" also includes the leasing or renting of tangible personal property leased or rented for final use or consumption within this state. However, it does not include motor vehicles licensed by the North Dakota Motor Vehicle Registrar because vehicles are subject to the motor vehicle excise tax imposed by North Dakota Century Code ch. 57-40.3.

Delivery To Out-Of-State Residents

Delivery to a customer out-of-state constitutes a sale in interstate commerce and is not a taxable sale in North Dakota. For example, if a retailer in North Dakota sells merchandise to an out-of-state resident and, as a condition of the sale, agrees

to deliver the merchandise or to have the merchandise delivered to the customer at a point in another state, North Dakota sales tax does not apply. However, the North Dakota retailer may be obligated to collect and remit the tax for the state into which the retailer delivers if the retailer's activities in that state are sufficient to obligate the retailer to that state's tax law.

On sales to out-of-state residents, retailers must be certain that their records contain proof of delivery, such as truck records, bills of lading, statement by the customer, etc. These conditions apply to deliveries into any state or Canadian province.

Delivery Charges Taxable

As a normal part of their business, many retailers are required to deliver the items they sell to the customer. If there is a delivery charge to the customer, the sales tax must be charged on the total selling price, including any charges for delivery or setup.

For example: A furniture retailer sells a bedroom set to a customer living in another city. The retailer agrees to deliver the new bedroom set and set it up in the customer's home for \$25 over and above the agreed selling price of the furniture. The \$25 charge is subject to sales tax even if it is billed separately to the customer. The proper billing would be as follows:

New bedroom set	\$600.00
Delivery charge	25.00
Less trade-in of used bedroom set	(100.00)
Total	\$525.00
5% tax	\$26.25

Sales to Nonprofit Organizations Are Taxable

The gross receipts from sales of tangible personal property to nonprofit organizations for their own use are subject to sales tax. Such organizations include Boy Scouts, Girl Scouts, P.P.A., Chambers of Commerce, Lions Clubs and other civic organizations, as well as churches and religious groups.

Sales to Residents of Montana

North Dakota sales tax law contains an exemption for residents of Montana from paying sales tax when purchasing tangible personal property within North Dakota. A resident of Montana can take delivery of tangible personal property in North Dakota and can purchase this property without paying the North Dakota sales tax provided the following conditions are met:

1. The sale is in excess of \$50.00.
2. The personal property will be taken out of the state of North Dakota and used exclusively outside this state.
3. The resident of Montana is in North Dakota to make a specific purchase and not as a tourist.
4. The resident of Montana must sign a certificate of purchase form certifying Montana residency and that the goods will be used outside of North Dakota.

The prescribed certificate of purchase for use in making sales to Montana residents may be obtained from the Office of State Tax Commissioner.

Goods purchased by Montana residents must be taken from North Dakota and used entirely outside this state in order to qualify for the exemption. Accordingly, tax must be paid on lodging accommodations, meals, entertainment and similar goods and services which are consumed in this state.

Sales to Canadian Residents

Sales to residents of Canada are not exempt from North Dakota sales tax, however, in some cases the Canadian buyer may obtain a refund of North Dakota sales tax paid.

The refund is available under the following conditions:

1. The Canadian resident must be in North Dakota to make a purchase and not as a tourist or temporary resident.
2. The goods must be removed from North Dakota within 30 days of purchase and permanently used outside of North Dakota.
3. The Canadian resident must apply for a refund to the Tax Commissioner on a form prescribed by the Tax Commissioner. Refund forms may be obtained from the Tax Commissioner's office or off our web site.
4. The qualifying purchases (each invoice) must equal or exceed twenty-five dollars before sales tax.
5. The refund must be fifteen dollars or more. To reach the fifteen dollar limit, qualifying purchases may be accumulated for a period not to exceed one calendar year.

Goods purchased by Canadian residents must be taken out of North Dakota and used entirely outside this state in order for the refund to be allowed. Accordingly, tax paid on lodging accommodations, meals, entertainment, etc. is not subject to refund since these purchases are used in North Dakota.

Sales to Contractors

North Dakota sales and use tax law regards any contractor who incorporates tangible personal property into real property as the final user and consumer of the property. As a final user and consumer, the contractor is liable for sales or use tax on the purchase price of that property.

If a contractor furnishes the seller of construction materials with a completed contractor certificate containing the contractor's license number assigned under the provisions of N.D.C.C. ch. 43-07 and the contractor's sales and use tax number assigned by the State Tax Commissioner, the seller is not required to collect tax on the sale. Any contractor furnishing such a certificate must report those purchases on the sales and use tax return for the reporting period in which the purchases are made and pay the tax to the Office of State Tax Commissioner with that return. Reporting the purchases and paying the tax on a completed job basis is not permitted.

The following constitutes the Contractor's Certificate as prescribed by the State Tax Commissioner:

CONTRACTOR'S CERTIFICATE

I, the undersigned, am a construction contractor holding North Dakota Contractor's License No. _____ issued by the North Dakota Secretary of State and North Dakota sales and use tax account number _____ assigned to me by the North Dakota Tax Commissioner.

I certify that as a construction contractor, I will report and remit any sales or use tax due directly to the Office of the North Dakota State Tax Commissioner as a result of purchases made by me from _____ (Seller)

Dated this _____ day of _____, 19____ at _____

(Contractor)

(Address)

If a contractor or subcontractor also is engaged in retail trade and part or all of the machinery, equipment, material or supplies used in carrying out a construction contract are taken from stock that was purchased for resale, the contractor must pay a use tax on his cost of the materials. The purchase price or value of the machinery, equipment, materials or supplies used or consumed in carrying out the construction contract must be reported on Line 4 of the sales and use tax return.

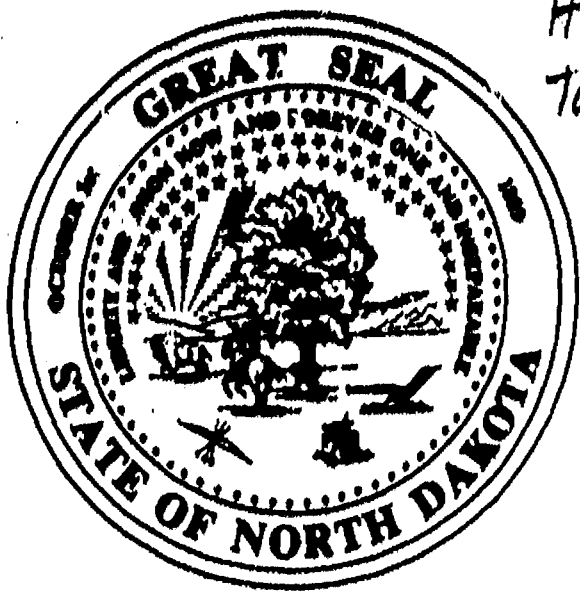
Local Sales and Use Tax

In addition to state sales and use taxes, various cities and counties also impose local option sales and use taxes. Most locations that impose a local option sales tax also impose a local option use tax, with the exception of Cass County and the cities of Cando, Hettinger, Regent and Richardton. These locations impose a sales tax only. See the Local Option Guideline by Location for details about local option sales and use taxes.

Because Cass County, Cando, Hettinger, Regent and Richardton do not impose a local option use tax, a business must be located within these cities and counties to be affected by the local taxes. However, for locations that impose a use tax, businesses not located within the city or county may be required to collect the local option tax if they maintain an office or warehouse in that location, have any employees or representatives working or stationed in that location, deliver goods into the city or county in company owned delivery vehicles or have some other type of presence within the location.

Although local option taxes are imposed locally, the Office of State Tax Commissioner administers the taxes. Please contact the Office of State Tax Commissioner for additional information regarding the local taxes which may affect you.

Sales and Special Taxes Division - 600 East Boulevard Ave. - Bismarck, ND 58505-0599
Phone (701)328-3470 or toll free within North Dakota 1-800-638-2901, option 4
Hearing/speech impaired TTY users may call us through Relay North Dakota at 1-800-366-6888
(ask for 1-800-638-2901, option 4 or 1-701-328-3470)
Internet address: <http://www.state.nd.us/taxdpt>



HB 1432
Tax dept.

North Dakota
Sales and Use Tax Guideline
For:

EXEMPTIONS

Prepared By
**OFFICE OF
STATE TAX COMMISSIONER**
RICK CLAYBURGH
COMMISSIONER

APRIL 1997

EXEMPTIONS

I. Products which are Exempt from Sales Tax

A. Prescription Drugs: The gross receipts from sales of drugs which are sold under a doctor's prescription for human consumption or use are not subject to North Dakota sales tax. Medicines which can be purchased without a prescription are subject to North Dakota sales tax. (The sale or rental of medical equipment is generally taxable, even if prescribed by a doctor unless exempted by a specific sales tax statute.)

B. Oxygen and Anesthesia Gases: The gross receipts from the sales of oxygen to any person for medical purposes are exempt if sold under a doctor's prescription. Sales of anesthesia gases to hospitals, clinics, and similar institutions are also exempt since these gases are administered under the order of a doctor. Sales or rentals of supplies and equipment necessary for the administration of oxygen or anesthesia gases are subject to North Dakota sales tax unless made to organizations which are exempt from sales and use tax.

C. Newspapers - Newsprint and Printers Ink: The gross receipts from sales of newspapers are exempt from North Dakota sales tax. Newsprint and printers ink used in the publication of a newspaper are also exempt from sales tax when purchased by the newspaper publisher.

D. Commercial Fertilizer: The gross receipts from the sale of commercial fertilizers are exempt from North Dakota sales tax when sold to a farmer, to a rancher or to a commercial vegetable garden grower. Sales of commercial fertilizer for lawns, for landscaping or for a householder's garden are subject to sales tax.

E. Livestock and Poultry Feed: The gross receipts from the sale of feed for livestock or poultry and the sale of feed for draft or fur bearing animals are not subject to North Dakota sales tax. The word feed shall include generally recognized animal feeds as well as drugs which are used as part of a feed ration for animal health purposes.

Dog food, cat food, bird seed, fish food and other foods normally sold as pet foods are not livestock feed and are subject to North Dakota sales tax.

F. Seeds for Planting: The gross receipts from sales of seeds, roots, bulbs and small plants to users or consumers for planting or transplanting commercial vegetable gardens or for agricultural purposes are not subject to sales tax. Sales of flower seeds, vegetable garden seeds as well as roots, bulbs and small plants to householders for personal gardens are subject to North Dakota sales tax.

G. Fungicides, Herbicides and Insecticides: The gross receipts from sales of fungicides, seed treatments, inoculants, fumigants, herbicides, insecticides, and chemicals used to protect or preserve agricultural crops are exempt from North Dakota sales and use tax when sold to commercial applicators or agricultural or commercial vegetable producers. Adjuvants necessary for the application of exempt chemicals are also exempt from tax.

H. Gasoline and Combustible Fuels: Gross receipts from the sale of gasoline, heating fuel, diesel fuel, propane, kerosene, aviation fuel, jet fuel and other similar combustible fuels subject to either a motor fuels or special fuels tax are not subject to North Dakota sales and use tax.

I. Containers: The gross receipts from the sale of containers, labels, cartons, packing cases, wrapping paper, wrapping twine, bags, bottles, shipping cases and similar articles and receptacles are not subject to North Dakota sales tax provided that the charge made for the merchandise sold includes the container and title to the container passes to the purchaser along with the merchandise sold.

Receipts from the sale of containers, labels, cartons, packing cases, wrapping paper, twine bags, shipping cases and similar articles and receptacles sold to businesses that render service, such as dry cleaners, laundries and similar businesses, are subject to sales tax, since these businesses are the final users of such items.

J. Food and Food Products: Gross receipts from sales of food and food products for human consumption are exempt from North Dakota sales tax unless such products are purchased by consumers for consumption on or near the premises where purchased. This exemption normally applies to food and food products purchased in grocery stores. It does not include candy, chewing gum, carbonated beverages, fruit drinks which contain less than 70% pure fruit juice, powdered drink mixed, coffee, tea, cocoa beverages and mixes, and bottled water when sold in containers of less than one gallon (3.79 liters) which are subject to sales tax. Receipts from coin-operated vending machines and sales of food products in a bar, tavern, bowling alley, auditorium or ball park are subject to sales tax since the products being purchased at those places are products purchased for immediate consumption.

All food or food products, including otherwise taxable soft drinks and candy, purchased for human consumption with food coupons issued by the United States Department of Agriculture are exempt from tax. Qualifying Department of Agriculture coupons include food stamps and purchase vouchers issued by the Women, Infant, and Children (WIC) Program.

The exemption does not include alcoholic beverages or any mixed drinks made from alcoholic beverages nor does it include medicines or preparations which are sold as dietary supplements or products for nonhuman consumption such as pet food or bird seed.

The exemption does not extend to the sale of meals or other sales of food products which are prepared for immediate consumption on or near the premises of the seller.

K. Bibles, Hymnals, Textbooks, and Prayerbooks: The gross receipts from sales of bibles, hymnals, textbooks, and prayerbooks are exempt from sales tax when made to a nonprofit religious organization. This exemption extends to churches and nonprofit groups within the church as well as other religious organizations as long as they are nonprofit. It does not apply to individual clergy or other individual purchasers of these same items.

L. Artificial Medical Devices - Individually Designed: The gross receipts from sales of artificial medical devices individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, are exempt from sales tax. This same provision of law exempts artificial limbs, artificial eyes, hearing aids and other equipment worn as a correction or substitute for any functioning portion of the body. It also exempts artificial teeth when sold by a dentist, eyeglasses when prescribed or designed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser and crutches and wheelchairs for the use of invalids and crippled persons.

M. Coal: Coal mined in North Dakota which has been subjected to North Dakota coal severance tax is exempt from sales tax. Coal sold for heating is not subject to coal severance tax; therefore, sale of coal for heating purposes are subject to sales tax when sold in this state. Coal used for processing agricultural products is exempt from both coal severance tax and state sales tax. Sales of beneficial coal are also exempt from tax.

N. Electricity: The gross receipts from sales of electricity are exempt from sales tax.

O. Money: The gross receipts from the sale of domestic or foreign legal tender coins and currency are exempt from North Dakota sales tax.

P. Water: Sales of water, including bottled water in containers of one gallon (3.79 liters) or more, or ice for commercial, industrial, or household use are exempt from sales and use tax. Sales of carbonated water, soda water, and other bottled water sold in containers of less than one gallon (3.79 liters) are subject to North Dakota sales and use tax.

Q: Used Mobile Homes: Used mobile homes are not subject to North Dakota sales tax. Because of this exemption, no trade-in allowance may be made for a used mobile home traded in on a new mobile home.

R. Magazine Subscriptions: The gross receipts from sales of magazine subscriptions are not subject to North Dakota sales tax. However, magazines sold at news stands and over the counter are taxable.

S. Diabetic and Bladder Dysfunction Supplies: Gross receipts from sales of diabetic supplies and bladder dysfunction supplies are exempt from North Dakota sales tax.

T. Agricultural By-products for Manufacture or Generation of Steam or Electricity: Sales of agricultural by-products for use in the manufacture or generation of steam or electricity are not subject to North Dakota sales tax.

U. Ostomy Devices and Supplies: Sales of ostomy devices and supplies are exempt from North Dakota sales tax.

V. Equipment Used to Modify Articles for Use by Physically Disabled Persons: Equipment used to modify a motor vehicle for use by a permanently physically disabled person in that person's principal dwelling, or equipment, including manual control units, for attaching to or modifying motorized farm implements is exempt from North Dakota sales tax.

II. Services Which are Exempt From Sales Tax

A. Transportation Services: The receipts from the sale, furnishing or service of transportation are exempt from sales tax. Public transportation companies such as buses, trains, air lines and taxis providing passenger service are not required to collect and remit sales tax on the receipts from these services. Transportation companies such as truck lines, railroads, air freight, or moving vans are engaged in the business of transporting personal property and their charges for such service are not subject to sales tax.

This exemption does not extend to freight and delivery charges which are rendered in connection with the sale of a product. For further information regarding the taxability of freight and delivery charges, please contact the Office State Tax Commissioner.

B. Hospital and Nursing Home Services: The gross receipts from the sale of services furnished by any hospital, infirmary, sanitarium, nursing home or home for the aged to any patient or occupant are exempt from sales tax.

C. Repair Services: Persons engaged in the business of repairing, altering, restoring or cleaning tangible personal property which belongs to others are rendering service, and the receipts from that service are not subject to sales tax. A person who is engaged exclusively in such work is the final user of all property which he purchases to be used in the rendering of such service and therefore, the service person is liable for sales tax on such purchases.

If a person who is engaged in repairing, altering, restoring or cleaning tangible personal property is also engaged in selling tangible personal property at retail, then that person must hold a retail sales tax permit.

D. Furnishing Steam: The gross receipts from furnishing steam which is used to process agricultural products are exempt from North Dakota sales tax.

III. Organizations or Institutions which are Exempt from Sales Tax:

A. State and Local Fairs: The receipts from sales of tickets or admissions to state, county, district and local fairs, are exempt from sales tax during fair week. This exemption does not apply to any concessionaire or to any activities which are not directly and entirely controlled by the fairboard association or to fairboard activities conducted outside of fair week.

B. Private and Parochial Schools: Private and parochial schools are exempt from sales tax when purchasing items to be used exclusively in the operation of their school. These items include textbooks, yearbooks, school supplies and items purchased by the school for use in classrooms, gymnasiums, athletic fields and offices. It also includes items such as office supplies, equipment, school supplies furnished but not sold to students, utilities services, janitorial supplies, building maintenance supplies, ground maintenance supplies and so forth.

C. Public Schools: Public schools are regarded as instrumentalities of state government and as such are entirely exempt from North Dakota sales and use tax on all purchases made by them. Retailers are cautioned that exempt sales to a public school must be sales which are purchased by a school district check or warrant and may not simply be purchases by a teacher or other representative of the school. The purchase must be paid for by district warrant or check to enjoy this exemption.

D. Exemption for Governments:

1. Federal Government: Sales of tangible personal property or the furnishing of any taxable service made directly by or to the United States Government or its agencies, departments or instrumentalities are not subject to sales tax. Sales, for example, to a United States Post Office, a United States Veteran's Hospital, United States Army Engineers and similar agencies, are exempt.

2. State and Local Government: The gross receipts from sales of tangible personal property or for the furnishing of taxable services to the State of North Dakota, or any of the subdivisions, departments, agencies or institutions thereof are specifically exempt from sales tax.

E. Federal Corporations: The federal statutes which create federal corporations contain provisions which have been construed by the United States Supreme Court to exempt them from any imposition of retail sales or use tax in connection with their purchases. These federal corporations include: Farm Credit Service Corporation, Federal Deposit Insurance Corporation, Commodity Credit Corporation, Federal Home Loan Banks, American National Red Cross and Federal Credit Unions.

F. Hospitals, Nursing Homes, Intermediate Care Facilities, Boarding Homes for Aged and Infirm: Hospitals, nursing homes, intermediate care facilities licensed by the North Dakota Health Department and boarding homes for the aged and infirm licensed by the Social Service Board of North Dakota are exempt from sales tax on all purchases of goods and services for the use or benefit of patients or occupants.

Purchases of goods or service for recreational or promotional purposes are subject to tax as are purchases made for any commercial purposes other than patient or occupant care.

G. Nonprofit Music or Dramatic Arts Organizations: The gross receipts from admissions charged for public performances by a nonprofit music or dramatic arts organization are exempt whether the performance is held in a publicly supported facility or in a privately owned facility.

IV. CONDITIONAL EXEMPTIONS

A. Receipts from Vending Machines: The gross receipts from coin-operated amusement devices are also subject to tax, however, tax is due only on eighty percent (80%) of the gross receipts.

B. Interstate Commerce: When tangible personal property is sold and, as an essential part of the sale, the seller is obligated to and actually does deliver such property from a point in North Dakota to the purchaser at a point in another state and if those goods are not to be returned to this state, the sale is made in interstate commerce and is not subject to North Dakota sales tax. This is true regardless of whether or not the seller, in transporting the goods, does so by means of his own employees or vehicles, whether he places them in possession of a common carrier or with the United States Postal Service for delivery outside this state.

Caution: Any North Dakota retailer who claims an exemption on a sales and use tax return for sales made in interstate commerce must have documentation in the company books and records which will verify the interstate nature of that sale.

C. Motor Vehicles: Receipts from the sale of any motor vehicle to be used on the streets and highways of North Dakota are not subject to North Dakota sales tax provided that the vehicle has been subjected to the Motor Vehicle Excise Tax.

D. Rental of Hotel and Motel Accommodations: Hotel, motel, and tourist court accommodations occupied by the same individual or individuals for residential housing for periods of thirty or more consecutive days are exempt from tax.

E. Rental of Mobile Homes: Lease or rental receipts from leasing or renting mobile homes for residential purposes is exempt under North Dakota sales and use tax law. Leases or rentals of mobile homes which are used for offices or purposes other than residential housing are taxable sales.

F. Film Rental: The lease or rental of motion picture film is not subject to sales tax provided that the film is to be exhibited and provided that tickets or admissions are charged to the exhibition of the film. The tickets and admissions are subject to sales tax; therefore, the lease of the film is exempt.

G. Casual Sales: Sales made by those who are not engaged in the business of selling at retail, that is, the occasional or casual sales made by an individual, are not subject to North Dakota sales tax.

H. Sales for Processing or Resale: Tangible personal property is exempt from sales tax when sold for processing. This exemption applies only when it is intended that such property, by means of fabrication, compounding, manufacturing, producing or germination, shall become an integral or ingredient or component part of other tangible personal property intended to be sold ultimately at retail.

The gross receipts from the sale of tangible personal property for the purpose of "resale" by the purchaser are not subject to sales tax provided that the buyer has furnished a resale certificate which the seller has accepted in good faith.

In applying the exemption for processing and resale, a certificate is required of the buyer indicating that the buyer is in fact purchasing the tangible personal property either for processing or for resale purposes.

I. Sales to Residents of Montana: Residents of the state of Montana are exempt from North Dakota sales tax on purchases made in this state provided the following conditions are met:

1. Purchases must equal or exceed \$50 in taxable merchandise.

2. The resident of Montana must be in North Dakota for the express purpose of making a purchase and not as a tourist or temporary resident.

3. The property purchased must be removed from the state of North Dakota for use exclusively outside this state.

4. The purchaser must provide to the North Dakota retailer a certificate of purchase exemption form (Form 21854) containing sufficient facts establishing the exempt status of the sale. These certificates are available upon request from the Office of State Tax Commissioner.

(Note - Canadian residents are not longer exempt from North Dakota sales tax. However, for some purchases, Canadian residents may apply to the Tax Commissioner for a refund of sales tax paid. Contact the Office of State Tax Commissioner for additional information on the refund available to residents of Canada.)

J. Sales to Indians: Under a ruling by the North Dakota Supreme Court, the State of North Dakota may not impose a sales tax on American Indians living on an Indian reservation. The Court decision has the following effects on sales tax transactions with Indians:

1. An Indian retailer whose place of business is located within the boundaries of an Indian reservation in this state cannot be required to hold a North Dakota sales tax permit and cannot be required to collect North Dakota sales tax on sales to any customer - Indian or non-Indian.

2. A non-Indian retailer whose place of business is located within the boundaries of an Indian reservation may not collect sales tax on sales to Indian customers, but must continue to collect and remit North Dakota sales tax on sales to non-Indian customers.

3. Any retailer, Indian or non-Indian, whose place of business is outside the boundaries of an Indian reservation, but who makes deliveries to Indian customers living within the boundaries of an Indian reservation, may exempt those sales provided that he maintains adequate records supporting the exempt status of each sale.

(Note - American Indians are subject to sales or use tax when taking possession of goods or using goods outside an Indian reservation.)

K. Admission Receipts: Educational, religious, and charitable purposes: When the "net receipts" from admissions to entertainment, amusement, or athletic events are expended entirely for educational, religious or charitable purposes, and the event is held in a facility which is not publicly owned, the receipts are exempt from North Dakota sales tax. The gross receipts from educational, religious, or charitable activities are taxable if the activities are held in a publicly owned facility or if the activity is in direct competition with other taxable retailers.

L. Auctions: Auctioneers are retailers if they conduct a sale at which tangible personal property owned by another retailer is sold. Sales of property submitted to the auction by disclosed nonretailers are casual sales and are not subject to sales or use tax. Casual sales include household, estate, and farm auctions provided the owner of the goods is disclosed on all promotional material.

Sales of goods normally defined as casual sales are taxable when made through consignment auctions unless the principals and their specific consigned property are disclosed on all promotional material. Casual sales of consigned goods that were not part of any promotional material may be exempted from tax provided a verbal disclosure of the owner is made at the time of the sale and provided the auction was not promoted as a consignment sale.

M. Finance Leasing Agreements: Gross receipts from the leasing or renting of any tangible personal property under a finance leasing agreement upon which a North Dakota sales or use tax has been paid or is payable are exempt from sales tax.

N. Recreational Travel Trailers: Gross receipts from all sales of recreational travel trailers not exceeding eight feet in width or thirty-two feet in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers are exempt from North Dakota sales tax.

O. Manufacturing, Processing and Recycling Equipment: Manufacturing or processing equipment purchased by new or expanding manufacturers or agricultural processors is exempt from tax. Recycling machinery or equipment used directly in recycling of tangible personal property is also exempt from sales or use tax.

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