2021 HOUSE POLITICAL SUBDIVISIONS

HB 1192

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB1192
1/21/2021
House Political Subdivisions

Relating to limitations on the true and full valuation of property for tax purposes and limitations on property tax levied by taxing districts without voter approval; relating to the calculation of school district state aid payments; and to provide an effective date

Chairman Dockter: (10:00). Opens the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Property tax
- Revenue for schools
- Limits property tax levy

Rep. Kading (10:01). Introduced the bill. Testimony #2127.

Terry Tranor, Association of Counties: (10:06). Testimony#2017, in opposition.

Bill Wocken, Lobbyist ND League of Cities: (10:17). In opposition, testimony #2064.

Dr. Aimee Copas, Executive Director for ND Council of Educational Leaders: (10:24). In opposition, testimony #2126.

Mark Vollmer, Superintendent of Minot Public Schools: (10:30). In opposition, testimony #2128.

Brant Dick, Superintendent/Board President of Underwood Schools: (10:33). In opposition, testimony #2002.

Amy DeKok, North Dakota School Boards Association. (10:38). In opposition, testimony #2094.

Kent Costin, Director of Finance Fargo: (10:40). In opposition, testimony #1989.

David Lakefield, Finance Director Minot: (10:44). In opposition, testimony #2056.

Tim Godfrey, Superintendent Kenmare School District: (10:48). In opposition, testimony #2085.

Additional written testimony:
Carmen Hickle, Committee Clerk

Property Tax

Chairman Dockter and members of the committee, I am Representative Tom Kading from District 45 in Fargo.

A Fee Simple Absolute is the type of ownership most homeowners hold in real estate. There are a variety of other ownership types, but the fee simple is probably the basic one most people hold. What this means is that the owner has absolute title to land, free of any other claims against the title. There of course can be mortgages, liens, and so forth, but the owner ultimately has the right to the property. That's not necessarily true when you consider the effect of property tax.

Most Intrusive Tax

In my opinion, property tax is the most intrusive tax. As you know if you don't pay your property tax, you lose your property. This is certainly adverse to the property owner's rights. But we as state government have decided that this intrusion upon a property owners rights is acceptable because taxes are needed. With income tax or sales tax, if you do nothing you just don't have to pay them. With property tax, if you do nothing you lose your property. For that reason, I consider property tax to be the most intrusive of taxes.

People care about property tax

At the end of the day, it is property tax that people care about. When I went door to door I did not have one person complain about sales tax or income tax, but I had a ton of people tell me that they were frustrated by property tax. Property tax is by far the most important issue that people care about. Our constituents have been asking for property tax reform for years, if we fail to adopt some form of real property tax reform, such as this, we are not providing relief our constituents want.

Role of state

Well if you consider property tax intrusive and you agree that the people of North Dakota care about this tax more than any other tax, you might still wonder whether it is the role of the state. And I would say yes it clearly is.

- The state defines what type of property can and cannot be taxed
- The state exempts property such as cemeteries, charities, public hospitals, farm structures, and so forth. The state has created 43 different property tax exemptions in NDCC 57-02-08 alone.
- The state provides credits for property taxes, such as the homestead credit.
- The state caps the mils which locals can levy.

So yes the state does have a role to play in local property taxation. The state sets the frame work for property tax. It sets the constraints as to when property tax is appropriate and to what extent. That said, the state has failed to set constraints on one portion of the property tax calculation. That is how quickly your assessment valuation can increase and therefore increase your property tax. The state needs to set the bounds as to how property tax can be levied, and assessment valuation increases is one factor in the equation that needs to be reformed and constrained.

What this bill does

This bill is pretty simple. It freezes property tax where it is today.

Section 1- is clean up language to allow for such change in the funding formula

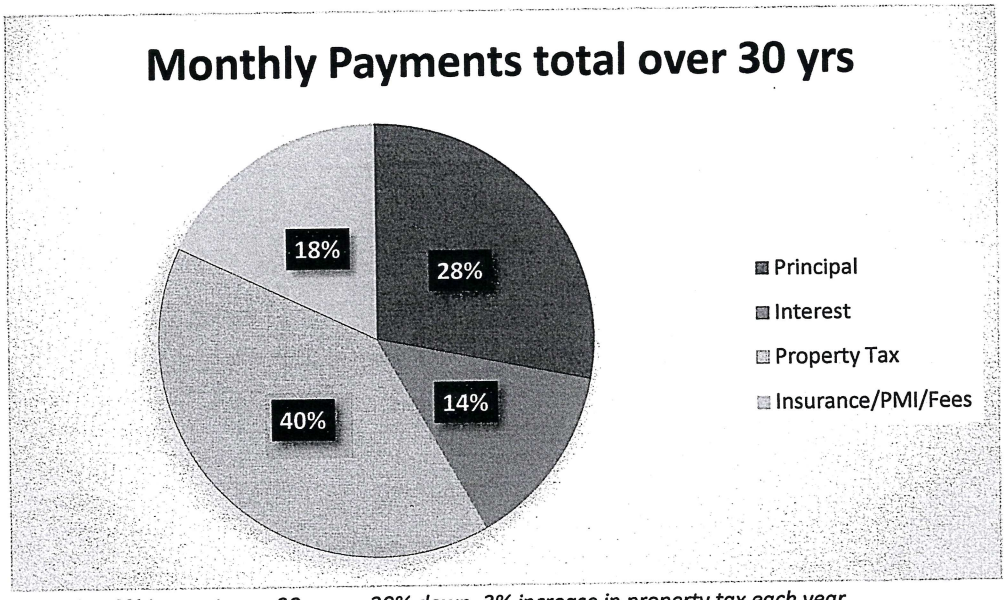
Section 2 – caps valuation except for improvements but allows for a vote to raise

Section 3 – Caps levy authority except but allows for a vote.

Section 3 also provides for exceptions for new or increased levy authority, bonds, the medical center mil, the Garrison Diversion mil, obligations, special improvements, and others.

Conclusion

The median home price in North Dakota is somewhere between 190-226K. If someone bought a home for $206,200, over 30 years you pay:



Assuming 3% Interest over 30 years, 20% down, 3% increase in property tax each year.

In this scenario your monthly payment starts $1,134. If property tax merely increased 6% per year you are paying more in property tax at the end of year 30 than the price of the home. After 30 years at a rate of 6% increase you are paying $1,3

In my opinion it is wrong when I am contacted by those in my district who have lived at their property for 30 years, paid off their home, but now pay more for property tax than their original note. There of course will be those who get up and say we can't implement this for some reason or another, but the reality is we can find a way. People bring this issue up more than any other issue I run across, and if we don't address it with real reform, we are doing a disservice to our constituents.

Thank you

Testimony Prepared for the
House Political Subdivisions Committee
January 21, 2021
By: Terry Traynor, NDACo Executive Director

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

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

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

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

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

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

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

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

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

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

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

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

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

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

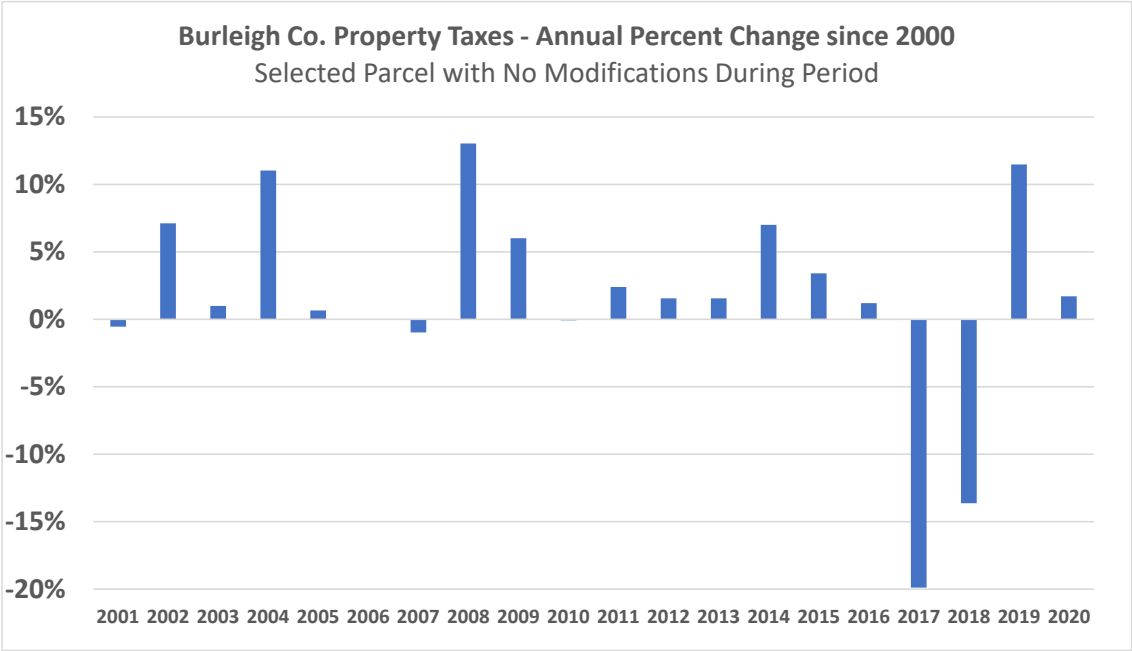
With the removal of social service costs from county property taxes, the benefit of county levies in North Dakota are much more clearly aligned with the value of property, as so many of the services funded – law enforcement, courts, roads, land records, etc. – have a clear nexus with property value.

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

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

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

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



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

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

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

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

Testimony in Opposition to House Bill 1192
January 21, 2021
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1192.

The bill seeks to limit the assessed valuation of any parcel of property to the value that parcel had in the previous year. It also seeks to limit any property tax levy to the levy imposed in the previous year. Either or both restrictions could be superseded for one year only by a majority vote in a special election. These concepts have been considered by the Legislature in several previous sessions. The North Dakota League of Cities does not favor this legislation for several reasons.

Requiring the assessed valuation of any parcel, let alone every parcel of land, to remain the same as in the previous year, as required by Section 2 of this bill, destroys the concept of *ad valorem* taxation on which the property tax system is built. The *ad valorem* system taxes property based on its worth. Worth is determined by the real estate market and the many market forces that determine the value of a parcel. Higher priced properties will normally pay more in taxes than lower priced parcels. Taxes are assessed based on the value of the property, not only on its color, style location or ownership.

It is very likely that not all properties will maintain the same market values from year to year. New, developing areas may appreciate at a different rate than central core properties. The state Board of Equalization polices local valuations to ensure that all the factors that bring value to a parcel are considered when the value of each property is set each year. Requiring valuations to remain the same will restrict the valuation of individual parcels and result in values, and taxes, based on criteria other than worth. It would create an artificial market value upon which real estate taxes would be based.

Imposing a cap of any amount on annual increases in the property tax levy, as required in Section 3 of the bill, is quite possibly counterproductive. If a taxing entity can produce a budget that requires less than the capped value it will be tempted to take the maximum amount so that it will be advantaged for the following year. There is no incentive to reduce the amount of the annual increase. The blame for this increase might be placed on the state.

A second problem is the variability of forces on the city budget. One only needs to recall past winters to know that snow removal costs can vary greatly as can other municipal expenses. One cannot budget for all extreme situations so state law allows taxing jurisdictions to set aside a contingency amount or emergency fund. If that fund is diminished it needs to be replenished up to the statutory maximum balance in case another unusual event (snow, flooding, cyber attack, catastrophic building failure, etc.) occurs in the following year. This bill affects that provision of law. In a time in which all levels of government are facing a great number of uncertainties and recovery from the effects of the COVID 19 virus, this legislation may be crippling. We know that there will be a “new normal” after COVID is controlled but none of us know what that will look like.

A further potential complication is the normal increase in unavoidable costs. Floods, breakdowns of major equipment, pipeline protest or other unanticipated events may occur and a taxing jurisdiction would have to respond. Less headline provoking, but of equal concern, are opening of a new fire station and the added staffing requirements of that new station or the increase in a county jail fee or a state ordered property reassessment. These events impact a budget in a single year. A zero increase would not likely handle these types of issues. In a smaller city with a smaller tax base the impacts are more likely to be magnified by a budget limitation of this type.

In a community that is growing there will be costs associated with growth that will not coincide with tax base growth advantages resulting from that growth. For example, streets and utilities need to be installed in a subdivision to allow homes to be built. It is

rare for the increased tax base to occur in the same year as the infrastructure investment is made yet, without the infrastructure, growth and tax base expansion would not be possible. If there is no growth the only other option is decline.

The bill allows for an expensive election if a local government needs to exceed the two percent increase cap. Preliminary budgets must be provided to the county auditor by August 10 each year. Prior to 2017, preliminary budgets needed to be complete by the end of September. We often hear from city auditors and city finance directors that the move to August has created a lot of issues with putting together an accurate budget. In order to use the election process allowed by this bill, a city would need to have a preliminary budget completed in March to comply with all the statutory timeframes, as it takes a minimum 64 days to call an election. Additionally, elections are not cheap and this would likely be an expense that was not budgeted in the previous budget. Local elected officials are responsible for their city's annual budget and the mill levy resulting from it. This legislation would tie their hands unnecessarily. There are few local elected officials who enjoy raising property taxes. If any exist, they are usually relieved of their elected office in short order. Voters have sharp pencils and long memories. House Bill 1192 is not needed to hold the line on property taxes. The North Dakota League of Cities respectfully asks for a DO NOT PASS recommendation on this bill.

On Tuesday of this week, the House Finance and Tax Committee heard HB 1135 (a taxable valuation freeze for elderly and handicapped persons) and the sponsor, recognizing the unanswered questions and possible unintended consequences, amended the bill into a study of the property tax system. I am also aware that this morning you will hear HB 1167 which proposes a study of the property tax system. The North Dakota League of Cities supports a robust study of the entire property tax system and looks forward to participating in this discussion.

1 HB1192 – Property Tax limitations on school districts –

2 NDCEL Testimony in opposition 1/21/2021

3 Good morning Chairman Dockter and members of the House Political Subdivisions committee.
4 For the record, my name is Dr. Aimee Copas. I am the Executive Director for the ND Council of
5 Educational Leaders. NDCEL works with our ND School leaders and administrators such as -
6 Superintendents, Business Officials, Principals, Technology Leaders, and most all others in the
7 school building except our teachers and school board members.

8 We are here today to express concern about HB 1200 and to share with your committee information
9 that may make you agree with this position regarding the negative position this would put school
10 districts in and the state in from a fiscal standpoint.

11 HB 1192 is bringing to this committee a similar bill that this legislative body has seen for several
12 sessions as well as being very similar to HB 1200 which was heard in House Finance and Tax
13 earlier this week and received a do not pass recommendation. While I understand full well the
14 positive intent of this bill to save taxpayers money, the reality is that it may – or may NOT do just
15 that. Furthermore, it erodes the authority of another group of elected officials that have a very real
16 duty and job to perform, and that is our locally elected school boards, as well as eroding voter
17 approved levies already in place. This bill effectively limits the boards rightful authority to
18 establish their local tax request with their patrons. School budget hearings are noticed and take
19 place annually and the opportunity is very appropriate to allow those local communities work out
20 the amount they wish to invest in their school.

21 When we think about conservative ideals – we must consider how we manage through decisions.
22 It is possible that sponsors of this bill feel they are answering to the needs of their constituents or
23 of their own beliefs to put a desire to control taxable rates in front of local decision making. In an
24 effort to center more control in the capital, state lawmakers are restricting local elected officials'
25 ability to make local quality of life decisions. At the same time in policy committees there is a

deluge of bills before education each session (this one being no different) that often have a claim to **not** have a fiscal note, but which ultimately do cost school districts money upon their application. Local school boards must be able to respond and ensure those laws are applied and that they can be afforded.

Furthermore, allow me to highlight a few key issues and legislator approved pieces of the education formula that this bill removes…

- Although it allows to tax up to the 60 mills – that is the full amount that is deducted from the state, it removes the other "available" mills that are board approved and or voter approved. This is how districts locally handle things such as increases in health insurance cost, transportation costs not covered by state (state only covers about 40% of transportation costs), students that cost above the state reimbursed amount when they have special needs, as well as the full cost of new students coming into our students (state only covers 50% of these special needs student cost at this time).
- Voter approved safety levy authority that was approved by this legislature last session (5-year approval) has been removed.
- Furthermore, any other voter approved excess levy authority (which is a voter approved authority) would be removed in this bill as would sinking and interest saying that the votes of those communities would be null.
- The current formula came out of a result of the last lawsuit in our state regarding equitable education. This could potentially walk our districts and state back to a place of inequities and could set us up for possible further lawsuits.
- The cost of the annual vote to provided needed district funds would be a costly consequence of this bill as well.

Last session we worked to partner with the legislature to put in place a plan that would bring ALL districts onto the formula within 7 years. We must stay the course on this pathway to ensure equity. Adjusting critical functions within the formula such as this one could derail the work done last session. We strongly encourage this committee to recommend a do-not-pass on this bill.

House Political Subdivisions Committee
Chairman Jason Dockter
January 21, 2021

HB 1192

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Mark Vollmer. I proudly serve as Superintendent of Minot Public School District #1 and Minot Air Force Base #160. I stand in front of you today to offer my opposition to HB 1192.

First, let me offer my thanks on behalf of educators throughout our state. The willingness of the State of North Dakota to pay the "Lions share" of educational costs has been a wonderful gift to the students of North Dakota. This generous effort has eased financial challenges at the district level, and undoubtedly, provided district payers with much needed tax relief.

While the current school funding formula is not perfect, it does provide an opportunity for the public to be involved in the financial considerations through the budget hearing process. Ultimately, these local budgetary decisions are made by the school board – a group of peers, duly elected by eligible voters in the school district. They are elected to make local decisions. The amount of tax levied, up to a determined cap, has been left to the authority of the local school board.

A percentage cap on the amount of annual tax levy can cripple a local school district, and place limits on a duly elected board to make local decisions that can impact our students.

Please let me share the story of Minot Public Schools: One could say, we've been through it all . . . unprecedented growth from 2008-2012, a devastating flood, a decrease in taxable valuations, and now a pandemic.

From 2008 – 2012, MPS noted drastic increases in student enrollments. In fact, our district has grown from 6,100 students in 2008 to nearly 7,700 students today. From 2008 – 2012, the district saw hundreds of additional students, but never once qualified for rapid enrollment dollars. Since schools are funded on the

previous year's ADM, we were required to increase local tax revenues to pay for the cost of education for hundreds of new students. *This bill would have crippled our school district.*

After the flood and subsequent recovery, we depended on the flexibility of our local tax base to support education as we waded through FEMA rules and requirements. *This bill would have crippled our school district.*

When oil exploration slowed in western North Dakota, we saw a 10% decrease in our taxable valuation followed by an increase in tax levies to offset the loss of valuation and a temporary dip in student enrollment. *This bill would have crippled our school district.*

In Minot, the school board has served as an excellent steward of the tax payers dollars. When needed, they have raised taxes, and when possible, they have lowered taxes . . . like a good school board ought to. They have listened to the people – the very people who have elected them. The very people who can choose to not re-elect them at the voting booth.

As a legislature, you have provided a generous per pupil payment, you have placed a cap on the number of mills that can be levied by a school district, and you have set forth a requirement for patrons to have a voice via the budget hearing process.

Limiting the school board's ability to raise the local levy from the previous year to a patron vote, erodes local control. Our patrons elect our school board members, and entrust them with these important decisions.

I encourage you to let local school boards evaluate their current reality and make decisions for the good of the community, and within existing funding formula perimeters.

Therefore, I encourage a "Do Not Pass" recommendation on HB 1192, I thank you for your time, and will stand for any questions you may have.

HB 1192 Testimony

Chairman Dockter and members of the committee, for the record my name is Brandt Dick, Superintendent of Underwood School District, North Dakota Small Organized Schools's Board President, and North Dakota Association of School Administrators Legislative Focus Group finance chair. I am here to speak in opposition of HB 1192.

This bill limits local authority's ability to increase the taxes, and limits growth of the taxable valuation without a yearly vote of the people of that school district. School Districts would be subject to the decreased amount from the current 12% to 0. School districts currently have limitations in the total amount they can levy in their general fund—70 mills of their taxable valuation, and a cap of 12 mills in the Miscellaneous Levy. Once a school district is levying at these caps, the only way to go above these caps is by the vote of the people.

The first reason I oppose this bill is that locally elected school board members should have the authority to set their budget as needed to effectively run their local school districts. The present 12% is accepted and decreasing the limit to 0 would further erode the authority of locally elected school boards.

On line 18 of page one, this bill references section 15.1-27-04.3. This part of code was put into law this past legislative session to deal with the inequities that a 12% cap caused school districts across the state. These statistics are from the 2020 Finance Facts. For example, McKenzie County School District (Watford City) is at 37 general fund mills, while Underwood is at 64 general fund mills. This difference is because Watford City grew much faster than the 12% cap for many years. A 0 increase would have made that difference so much greater than the current 27 mill difference.

As an example, in Underwood, I provide a revenue forecast of what authority the local school district has in asking for additional local tax dollars. I have been at Underwood School District since 2011, and the board has yet to levy the maximum amount the law would have allowed them to. Local school boards are accountable to local taxpayers, and they need the authority to be able to levy what is needed to adequately fund their schools. Local control is what is needed for school district budgets.

The second and more pressing need for 94 school districts in the state is the reality that cuts in revenue from the state are forthcoming. There are 94 school districts that are considered transition minimum schools, and receive $49.2 million dollars in additional revenue. These schools, due to hold harmless clauses, baseline funding levels set, etc. are receiving more revenue than the school funding formula generates. The 66th Legislative Assembly adjusted this for these school districts so that beginning in 2021-22, these districts would see an annual 15% cut in the amount of excess dollars they are currently receiving from the state. Underwood is a transition minimum school district in that we receive an additional $345,536 than if we were on the formula. This next school year, that amount will be cut by 15%, then an additional 15% until we are on the formula in seven years. While we know this is coming, we have tried to make sure we do not ask for these dollars until the cuts happen. This bill would hurt our ability to ask for these dollars we are being cut to maintain our present budget, not even accounting for the cost-of-living increases needed.

In conclusion, I feel the present 12% limit, as well as other caps and limitations are sufficient, and further reductions are not needed. Also, is the state willing to pay the additional $37 million fiscal note that is associated with this bill to pay for the loss of the 60-mill contribution by local property taxes? I will stand for questions.

HB 1192
Testimony of Amy DeKok
House Political Subdivisions Committee
January 21, 2021

Chairman Dockter and members of the Committee, my name is Amy DeKok. I am in-house Legal Counsel for the North Dakota School Boards Association. NDSBA represents all 178 North Dakota public school districts and their boards. I am here today in opposition to HB 1192.

HB 1192 would remove a school district's ability to increase its mill levy without going to a vote. Currently, the number of dollars a district can raise each year – mills levied multiplied by assessed valuation – cannot increase by more than 12 percent each year. Additionally, the formula caps the number of general fund mills a district can levy. This provides protection to property owners. If districts are forced to go to a vote each time they hope to raise their mill levy – if they are not already at the max - and assessed valuations can never increase, it will be absolutely devastating. The costs school districts incur are not stagnant – electricity, food, transportation costs, teacher salaries – the cost of these things increase every year.

Additionally, capping the number of dollars a district can raise at the current levels is only going to push more of the burden to fund K-12 education on the state. The fiscal note attached to HB 1192 estimates the state's increased share to be around $37 million this biennium. I can only imagine those totals will continue trending upward. Locking local contributions in at 2021 levels and requiring the state to pick up the tab for the rest going forward is incredibly dangerous. Sooner or later, our state will be tapped out and we will unable to provide an equitable education to all students as required by our constitution.

This change could also create considerable inequities between districts. One district's patrons may be willing to increase their mill levies regularly, while another district's may not ever be willing to approve an increase. Requiring the state to pony-up the extra dollars without local skin in the game would likely lead us to litigation like we saw in 1989 and 2005.

We believe protections for property owners are already written into the formula and state law. Our school boards are responsible stewards of public funds and are constantly under pressure to keep their levies low. However, citizens have the opportunity to vote out anyone who they believe is not being prudent with

taxpayer funds. To halt property valuations at the amount they are now – never allowing them to increase – is foolhardy, and will lead to the demise of school districts and other political subdivisions.

For this reason, NDSBA stands in opposition to HB 1192 and encourages this committee to give it a do not pass recommendation. I would be happy to answer any questions the committee may have.

City of Fargo
Political Subdivisions Committee Hearing
HB 1192- 0% Property Tax Cap
1/21/2021 10:00 a.m.

Chairman Dockter and members of the House Political Subdivisions Committee, thank you for the opportunity to testify on HB 1192. I am Kent Costin, Director of Finance of the City of Fargo.

We have testified in previous legislative sessions on the strategy of this bill and wanted to provide a variety of reasons that placing a 0% cap on one of our major revenue sources will have a negative impact on ability to meet the needs of our community.

There are many variables that go into development of municipal budgets and in the end of what can be a difficult process, City leaders need to balance budgets, just like State Legislators. Over my past thirty-four years of managing and reporting City finances, I think of many categories of expenditures that cannot and should not be restrained by placing a 0% property tax cap. Bear in mind that our property tax levy is a major revenue source representing about 32% of our General Fund budget.

Factors that most directly impact our budgets include national, State, and local economic conditions, city growth, federal and state revenue sharing levels, taxation, interest rates, commercial and residential building growth, wage inflation and workforce availability, additional staffing for a growing community, health care and pension benefits, equipment and facility needs, and new debt service on our capital assets investments. All these issues will affect budgets that are partially supported by property taxes. There can be significant volatility in these costs as well as volatility in our revenue sources as well, often greatly more than 0%. Many of these items are uncontrollable and are an essential part of our operating and capital budgets. We manage them diligently and have been able to balance out budgets on a consistent basis without raising property taxes.

that can be raised through property taxes could result in reduced services in the impacted departments including public safety.

Minot's 2021 Budget includes a total appropriation of $45,694,436 for the General Fund. Of that, $19,793,770 or 43.3% is funded by property taxes. The remainder of the costs are supported by other revenue sources such as fees for services, sales tax, grants, and Federal and State funds. The cost of salaries and benefits for General Fund Departments is $28,358,748. Public Safety (Police and Fire) accounts for more than half of these costs. Limiting the ability to raise revenues received through property taxes would likely have a negative impact on services provided by the City including Public Safety.

The requirement to put any increase to the voters on an annual basis creates an expensive and burdensome process. The timing of the election process and the budget creation process could present a situation where an increase is requested at a regular election that may not actually be needed because it is so early in the process of developing a budget (June election and budget completion in October). This could also result in a special election every other year that would again add costs.

City elected officials are elected to represent the best interests of their constituents. They are tasked with balancing the need for services to be provided with the cost of those services and

are responsible to the electors of the City for their decisions. The citizens have the opportunity to elect a different representative if they feel that their needs are not be addressed. The current election process accommodates this.

Thank you for your time today. I would urge you to give HB 1192 a “do not pass” recommendation.

House Political Subdivisions
Chairman Jason Dockter
January 21, 2021

By: David Lakefield
Finance Director, City of Minot
701-857-4784

HB 1192

Chairman Dockter and Members of the House Political Subdivisions Committee, my name is David Lakefield and I am the Finance Director for the City of Minot. I would like to thank you for your time to address this bill this morning.

The ability to develop a budget that is responsive to the needs of our community is a critical component of local government. The imposition of limits that freeze the true and full valuation of parcels and the amount of funds that can be raised through the tax levy without approval of the voters creates a tremendous burden on those developing the budget.

The bulk of funds raised through property taxes goes to fund the General Fund. The bulk of General Fund spending goes to provide public safety services and administrative services. The bulk of these costs are related to employee salaries and benefits. Over time, these costs tend to escalate with the market. Freezing the true and full valuation as well as limiting the dollars

We have experienced fuel prices that spiked as much as 60%, health care premiums that trend in double digits, (21% in 2021) and an almost total loss of investment income in recent years. Returns on cash reserves have declined in the past years from 6% - 7% a few years ago to now less than 1%. Our local sales tax collections that have historically produced steady growth declined in 2016 through 2018 and are slowly returning to 2015 levels.

The COVID-19 pandemic of 2020 has affected our revenue base including our major revenue sources from the State aid and highway funds. Major downward adjustments were approved mid-year 2020 anticipating a decline in State and local revenue sources. We anticipate a recovery could occur once our communities are fully vaccinated, however, there is no way to predict the long-term impact of the pandemic and how many years an economic recovery might take. Cities will need to carefully evaluate their revenue base and adjust as needed to maintain service levels. If Federal and State COVID-19 support dwindle, local leaders may need more flexibility in raising revenues in the future.

Despite the difficulty in managing our budgets, our City Commission has reduced our tax rate by about 6% over the past six years. We believe that we have been good stewards of taxpayer money and do not feel that a property tax cap is necessary. Our conservative approach to budgeting our resources is evident when looking at our spending growth patterns that have declined in recent years.

If our City is spending beyond our ability to sustain our operations, it will eventually affect our services to the Community. Voters are in control of electing City Commissioners and if they feel they are not being served well or if we are not doing a good job of managing our financial affairs they will vote for change. Recently, Fargo instituted approval voting that gives more power to the people when electing our City Commissioners

The City of Fargo opposes this bill as it will unnecessarily restrict and constrain our ability to manage our financial affairs and serve our citizens in healthy manner. We support a DO NOT PASS vote on this bill.

Thank you for the opportunity to submit our testimony.

Dear Chairman and members of the committee, thank you for the privilege to speak today pertaining to House Bill 1192. My name is Tim Godfrey and I'm the superintendent of Kenmare Public Schools.

I'd like to start by saying I feel many districts across the state of North Dakota, especially smaller rural districts, already have the dismay of funding their operations. Many of those schools are not even on the funding formula due to their inability to levy taxes in the amount necessary to meet their annual expenses. Without the ability to adjust mill levies in accordance with the fluctuation of taxable valuation, more schools may fall into this situation in the future, thus costing the State more money.

Kenmare School District is going into a season of contract negotiations with our teaching staff. Each time this happens, we struggle to meet the needs of our staff in providing an adequate increase to their salaries and benefits to meet the costs of inflation. Two years ago, our health insurance costs increased by 18% causing us to begin the school year in a deficit. If HB 1192 were in place, I feel confident there is no way we would be able to meet our obligations of paying staff the amount they deserve and having the ability to attract and retain high caliber teachers.

Currently, by law, we are required to seek voter feedback each year pertaining to taxes levied by the school district. While we do so, begrudgingly at times, we accept that feedback and attempt to accommodate the needs of our stakeholders. This is good business and helps us maintain the relationships we need to support our success. HB 1192 would become costly to our district by causing us to hold a vote of the people each time we would need an increase our revenue from taxes.

There are already mechanism in place to provide property tax relief for the citizens of North Dakota. Since the inception of these mechanisms, the system has worked for both the taxpayer and the school district. I respectfully ask that you vote no on this bill so that school districts can continue to provide the revenue necessary to operate their schools and provide the education to our children needed to support their success in the future. Thank you.

Respectfully yours,

Dr. Tim Godfrey

Superintendent

Kenmare Public Schools

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB 1192
1/21/2021

Relating to limitations on the true and full valuation of property for tax purposes and limitations on property tax levied by taxing districts without voter approval; relating to the calculation of school district state aid payments; and to provide an effective date

Chairman Dockter: (3:05pm). Opens the hearing.

Representatives	Attendance
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

All members present

Discussion Topics:

- Caps on property tax
- Local control of property tax

Rep. Pyle (3:05pm). Made a motion to do not pass.

Rep. Adams (3:05pm). Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	N
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y

Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Luke Simons	N
Representative Nathan Toman	N

Do not pass 11-3-0

Floor assignment **Rep. Longmuir.**

Chairman Dockter: 3:07pm hearing closed

Carmen Hickle, Committee Clerk by Anna Fiest

REPORT OF STANDING COMMITTEE

HB 1192: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1192 was placed on the Eleventh order on the calendar.