

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER  
BEFORE THE  
EDUCATION FUNDING AND TAXATION COMMITTEE**

**JULY 26, 2011**

Chairperson Kelsch, members of the Education Funding and Taxation Committee, I am Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division for the Office of State Tax Commissioner. I am here today to provide information on property taxes and taxes levied in lieu of property taxes.

**PROPERTY TAXES LEVIED**

The State of North Dakota may levy one mill for the State Medical Center. Political subdivisions that may levy property taxes are Garrison Diversion Conservancy District, Counties, Civil Townships, Cities, City Park Districts, Rural Ambulance Service Districts, Rural Fire Protection Districts, Hospital Districts, School Districts, Recreation Service Districts, Soil Conservation Districts, and the Southwest Water Authority District. Irrigation Districts and Water Districts do not have authority to levy taxes but do levy special assessments. Table 3 of the 2010 Property Tax Statistical Report shows the amount levied by each type of district in each county for 2010. Total ad valorem and special taxes levied for 2010 are \$733,810,485.45. [Chart No. 1] Special taxes include mobile home taxes; electric generation, distribution, and transmission taxes; forest stewardship taxes, and payments in lieu of taxes under N.D.C.C. ch. 40-57.1. Table 3 also shows special assessments levied for 2010. Table 10 is a recap of Table 3 information for 2001 through 2010. [Chart No. 2]

Purposes for which each type of political subdivision may levy taxes, the maximum number of mills allowed for each levy, and the statutory reference for each levy are included in the July 2011 Schedule of Levy Limitations, available at <http://www.nd.gov/tax/property/pubs/levy-limitations.pdf>. We can provide copies to you if you wish. At this time counties may levy for 68 purposes; townships may levy for 34 purposes; cities may levy for 67 purposes; and school districts may levy for 19 purposes. Other political subdivisions also may levy for multiple purposes.

Classes of taxable North Dakota property include agricultural land, residential property, commercial property, and centrally assessed property (railroads, gas companies, power

companies, and pipeline companies). Farm buildings and qualifying farm residences are exempt from taxation.

Table 9 of the 2010 Property Tax Statistical Report shows the amounts levied on each class of property from 2001 through 2010. [Chart Nos. 3 and 4] It also shows total special taxes and special assessments levied for 2001 through 2010.

Air transportation company property is also assessed by the State Board of Equalization. The tax revenue is collected by the Tax Commissioner and allocated to cities or municipal airport authorities where air transportation companies make regularly scheduled landings.

#### **PAYMENTS IN LIEU OF PROPERTY TAX**

In addition to property taxes levied on taxable property, payments in lieu of property taxes are levied on Farmland or Ranchland Owned by Nonprofit Organizations for Conservation Purposes; National Guard Land; State Game and Fish Land; Land Owned by the Board of University and School Lands or the State Treasurer; Carbon Dioxide Pipeline; Land Acquired by the State Water Commission for the Devils Lake Project; and the Workforce Safety and Insurance Building. Those properties are valued the same as similar properties in the district and are subject to the same mill rate. Taxes levied on those properties are not reported as property taxes.

Other taxes levied in lieu of property taxes but not calculated in the same manner as property taxes include Motor Vehicle Registration (in lieu of personal property tax, so the in-lieu provision applies only to public utility companies whose personal property is subject to taxation); Payments in Lieu of Taxes for New Businesses (in addition to or instead of property tax exemptions); License Fees for Tourism or Concession Purposes; New Investor-owned Transmission Lines; Electric Generation, Distribution, and Transmission Taxes; Telecommunications Gross Receipts Tax; Oil and Gas Gross Production Tax; Mobile Home Tax; Forest Stewardship Tax; and Coal Conversion Facilities Privilege Tax.

The 2011 Legislative Assembly enacted Crew Housing Permit Fees, which are being levied for the first time during 2011. The statute does not describe the fees as in lieu of any other tax. The properties against which crew housing permit fees are levied do not qualify as real property and do not qualify as mobile homes.

## **PROVISIONS OF INITIATED MEASURE NO. 2**

### **Section 4**

The amendment to Section 4 of article X of the Constitution of North Dakota proposes to repeal property taxes but is silent on taxes levied in lieu of property taxes. It would seem reasonable to repeal payments in lieu of property tax if there were no property tax.

Subsection 1 under Section 4 replaces “[t]axes upon real property which were used before 2012 to fund operations ...” with other revenues. Taxes levied for 2011 will be collected and used during 2012. The language is confusing.

Subsection 2 under Section 4 directs alternative funding for the “share of elementary and secondary education not funded through state revenue sources before 2012.” That apparently means the share that was funded by property tax. Property taxes levied for 2011 will be collected and used for funding education in 2012. The language is confusing.

### **Section 14**

The amendment to subsection 2 of Section 14 changes the bonding capacity of the state from 5 percent of the full and true value of all of the taxable property in the state to 5 percent of the market value of all of the property in the state, to be ascertained by the last assessment made for state and county purposes.” This raises the following questions:

1. Does “market value of all of the property in the state” include property exempt from property tax but required to be valued under N.D.C.C. § 57-02-14? Does it include other exempt property? Does it include property that makes payments in lieu of taxes? If so, how is market value of that property to be estimated? Does it include personal property?
2. Is it intended that assessment personnel will continue to determine market value of property annually, even though property tax is eliminated?
3. If not, is the bonding capacity based indefinitely on the last assessment made for state and county purposes? Is that the last assessment that was made for property tax purposes? Can it ever be updated to reflect changes in property and market value?
4. Market value of agricultural property is not determined for assessment purposes, because agricultural property is valued on its agricultural (productivity) value, not market value. Where will market value of agricultural property be obtained?

## **Section 15**

The amendment to Section 15 changes the debt limit for a political subdivision from 5 per centum upon the assessed value of the taxable property therein to 5 per centum upon the market value of the property therein. Additional special provisions currently exist for school districts, counties, and cities. The only change to those provisions is replacement of the word "assessed" with "market."

1. The same questions concerning the amendment to Section 14 apply to Section 15.
2. Changing "assessed" value to "market" value doubles the bonding capacity of political subdivisions. Assessed value defined in § 57-02-01(3) is 50 percent of true and full value (agricultural value for agricultural property and market value for all other property). If a political subdivision's bonding capacity is now \$500,000, this provision will increase it to \$1 million.

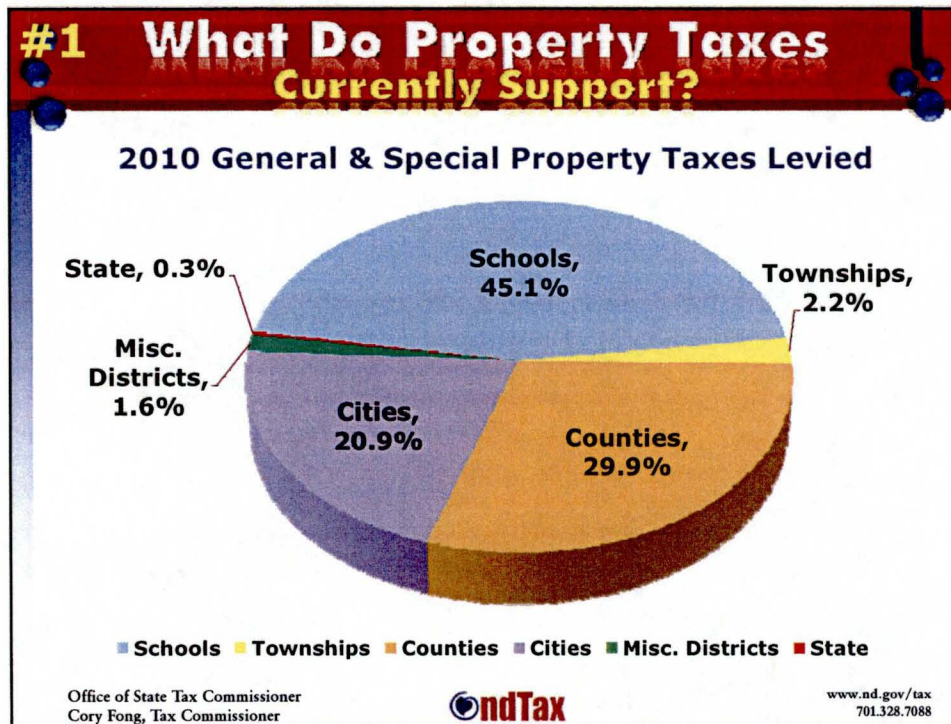
## **Effective date**

This measure was intended to be on the 2011 ballot. The effective date of January 1, 2012, in Section 7 will have passed six months prior to the June 12, 2012, primary election. This creates concern as to how and when these provisions could be implemented. There appear to be timing issues that would have to be resolved.

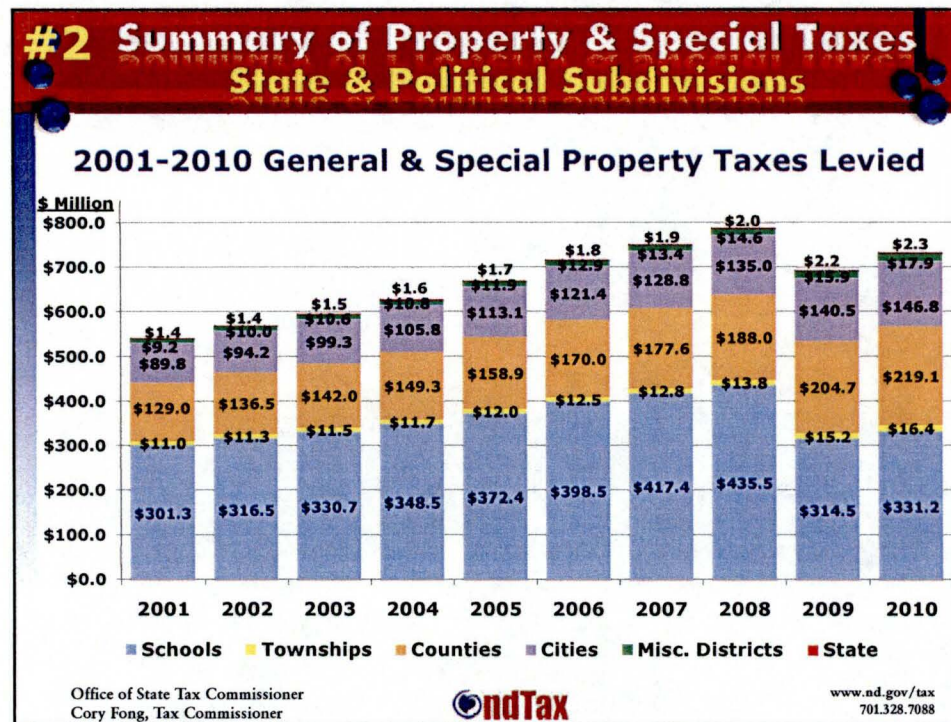
This concludes my prepared testimony. I will be glad to try to answer any questions.



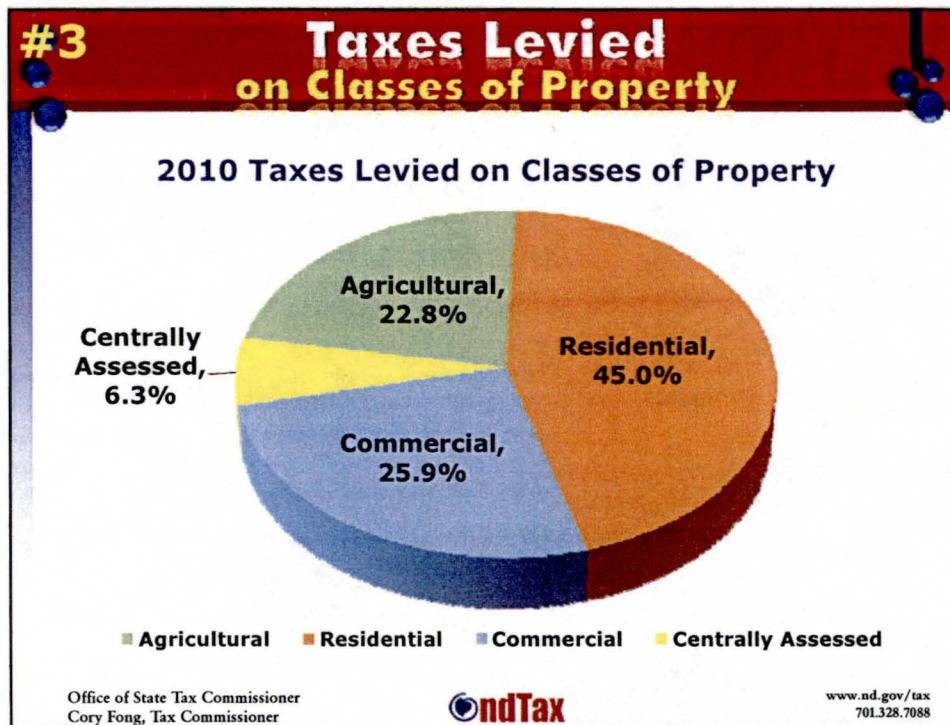
# Chart #1



# Chart #2



# Chart #3



# Chart #4

