

**Testimony To The
PROPERTY TAX MEASURE REVIEW COMMITTEE
Prepared June 22, 2011 by the
North Dakota Association of Counties**

CONCERNING EFFECTS ON COUNTY REVENUES

Thank you, Mr. Chairman for the invitation to speak on behalf of county government regarding initiated constitutional measure #2 to prohibit imposition of property taxes. You have asked that we present regarding the potential effects of this measure on county revenues, and I would very much like to provide you with definitive information. However, county officials have raised a number of questions for which the answers will have significant bearing on the overall effects of the measure. These questions include the following:

1. The ballot measure indicates that the constitutional change is effective January 1, 2012, which is six months before the vote. If the measure is approved:
 - a) Are the property taxes already levied in Dec. 2011, but collected in 2012, still valid and due?
 - b) Can property taxes to be levied Dec. 2012 and collected in 2013, be levied and collected? If not, what funds local government beginning Jan. 1, 2013? -
 - c) Are all unpaid property taxes levied in prior years still due and collectable – and is property forfeiture still a penalty for non-payment of past due property taxes? -
2. If local government in North Dakota no longer levies ad valorem property taxes, what would be the status of the approximately \$250 million in state & federal payments in lieu of ad valorem taxes?
 - a) Would oil & gas gross production tax, which is defined as an “in-lieu of property tax”, still be collectable? -
 - b) Would other “in-lieu taxes” (coal conversion, electric coop., rural telecomm., etc.) still be collected?
 - c) Would the state (Land Board, Game & Fish, Bank of ND, etc.) continue to make payments in lieu of property taxes on state-owned land?
 - d) Would the federal programs that make PILT and PILT-type payments in lieu of property taxes continue to make those payments (PILT, Refuge Revenue

Sharing, Forest Service Receipts, Bankhead-Jones, Taylor Grazing, Mineral Management, Secure Schools, Federal Flood Control, etc.)?

- e) If any or all of these are not collected, will the state legislature also appropriate funds to offset the loss?

When the state legislature repealed personal property taxes in 1969, it wasn't long before the taxation of railroad rolling stock was declared unconstitutional due to equal protection concerns. It is feared that in-lieu of property tax revenue could have a similar fate should property taxation be eliminated. (A preliminary listing of these PILT payments to counties is attached)

3. The proposed changes to Section 16 of Article X suggest that "*indebtedness*" shall no longer be paid with "*tax revenues*", but by "*annual revenues*".
 - a) Does this change the funding of existing bonded indebtedness relying on property tax revenues?
 - i. If not, can local government continue to collect property taxes to fulfill those prior obligations?
 - ii. If it does, will state revenue repay the bondholders?
 - b) Does this language prohibit local government from funding bonds with sales "tax" or other non-property "tax" revenues, because the word "tax" has been eliminated?
4. The proposed changes to Sections 14 and 15 of Article X limit the State and local jurisdictions' indebtedness to "*market value of all of the property ... ascertained by the last assessment made*". Since Section 4 of Article X, providing for the valuation of property is repealed by the measure, does that freeze the debt limit at 2012 levels? If not, on what basis will market value be established for debt limit purposes at both the state and local level?
5. The new language proposed for Section 4 of Article X states that "*taxes upon real property which were used before 2012 to fund the operations of counties, cities.....must be replaced with revenues from the proceeds of state ...resources.*"
 - a) Does this require the state legislature to only contribute funding at the CY2011 ("before 2012") property tax level?
 - b) Does this mean 2010 property taxes due and collected in CY2011 or 2011 property taxes due and collected in CY2012?

- c) Does this limit the state's constitutional obligation in future years to a fixed amount and the increasing costs of government that would have been funded through property taxes need not to be funded by the state?
 - d) Will each political subdivision be provided an individual appropriation and be required to prepare and present a biennial budget to the Legislature?
6. Special assessments are not ad valorem taxes and the proposed changes to the constitution do not specifically address the use of specials. This raises several questions.
- a) Could special assessments still be used within the parameters of existing state law – particularly the use of jurisdiction-wide special assessments?
 - b) If no property tax statement is issued by the county, is each jurisdiction that imposes a special assessment responsible for billing and collecting? -
7. Numerous statutory responsibilities of landowners (mowing, obstruction removal, abandoned building removal, etc.) are currently enforceable by placing the cost on the landowners' property taxes. If there is no property tax billing, what enforcement tools will be available?

It would be simple to state that passage of the constitutional amendment would eliminate \$57 million in property tax revenue for county general funds, \$35 million for county & unorganized township roads, \$36 million for county social services, \$12 million for water boards, and \$87 million for everything else from jails, senior programs, libraries, and ambulances to weed control, mosquito spraying, public health and economic development. However, the \$219 million in total property taxes levied in 2010 for CY2011 budgets by counties may not be all that is in jeopardy – depending upon the answers to the questions posed.

It may be that counties would see a reduction in some costs if they no longer assess property and levy taxes, although a CY2006 study of county costs indicated that these functions cost only about \$5 million statewide per year – and, depending upon the answers to the questions, some of these functions may remain necessary.

In summary, the individual counties and our association remain dedicated to assisting this committee in its examination of this proposed measure, and with further clarification of some of these questions, may be able to be more definitive in its effects on counties.

Partial Listing of Payments in Lieu of Property Taxes

Current Biennium Estimates

State Established Payments in Lieu of Ad Valorem Taxes

Mobile Home Taxes	57-57-05	6,300,000
Telecommunications	57-34-11	16,800,000
Elec. Generation & Transmission	57-33.2-05	7,000,000
Coal Conversion	57-60.06	5,700,000
Rural Elec. Coop. Gross Receipts	57-33-04	885,000
Carbon Dioxide Pipeline Property	57-06-17.2	960,000
Pipeline Authority Property	57-06-17.4	-
Oil & Gas Gross Production	57-51-03	125,800,000
Financial Institutions Tax	57-35.3-04	18,000,000
State Land Board - In Lieu	57-02.3-02	160,000
Forest Stewardship Tax	57-57-06	40,000
State Game & Fish - In Lieu	57-02.1-02	?
Bank of North Dakota - In Lieu	57-02.3-02	?
Concession fees in lieu of Prop. Tax	57-02-08.7	?
		<hr/> 181,645,000

Federally Established PILT & PILT-like Payments

BLM PILT	2,800,000
Taylor Grazing	14,000
Fed. Flood Control	34,900,000
U.S. Forest Service	1,000
Fed. Mineral Royalty	20,800,000
Bankhead-Jones	11,700,000
U.S. F&WS Refuge	1,000,000
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	68,415,000

Other State Payments Generated by Ad Valorem Taxation

Homestead Tax Credit	57-02-08.1	2,900,000
Disabled Veteran's Tax Credit	57-02-08.8	1,400,000
State Land Board - Road & Bridge	15-04-23	200,000
Senior mill levy match	57-15-56	2,700,000
		<hr/> 7,200,000

Grand Total (Partial)	<hr/> <hr/> \$ 257,260,000
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