Testimony To The
PROPERTY TAX MEASURE REVIEW COMMITTEE
Prepared August 15, 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. As requested, I will first provide some comments regarding the draft questions prepared for the Attorney General and others.

Regarding the proposed questions relating to Section 1 of the measure, counties would like to suggest an expansion of question 2.

> **Additional Language.** 2. Does the measure affect current <u>state</u> laws requiring payments in lieu of property taxes? <u>Is it likely to affect the obligations of federal agencies to continue payments in lieu of property taxes?</u>

Regarding the proposed questions relating to Section 2 of the measure, counties would like to suggest the following:

> **New Question**. Does the language; "*taxes upon real property which were used before 2012*" refer to 2010 taxes which were due January 1, 2011 and used to support CY2011 budgets; or does it refer to 2011 taxes due January 1, 2012 and supporting CY2012 budgets?

> **Additional Language**. 5. What is included in "*to fund the operations of counties, cities, townships, school districts, park districts, water districts, fire protection districts, soil conservation districts, and other political subdivisions with authority to levy taxes*"? Do these taxes include only those resulting from general fund levies or do they include special fund levies, debt service levies, <u>judgment levies, special taxes, payments in lieu of taxes,</u> special assessments, and others?

> **New Question.** If local governments can no longer levy for their emergency fund, can the Legislature provide revenues for each subdivision to hold in reserve for immediate response to local, state, and nationally declared disasters?

New Question. Does the measure require the Legislature to provide individual appropriations of replacement revenue to each political subdivision, or would the measure permit the Legislature to provide a consolidated appropriation to each county, or to specific state agencies (i.e. DPI), for their administration? If a consolidated appropriation were allowed, would the county or state agency be permitted to adjust individual political subdivision amounts?

Regarding the proposed questions relating to Section 5 of the measure, counties would like to suggest the following:

New Question. The measure would replace "*tax revenues*" with "*annual revenues*" as the permissible source of revenue for debt service. Does the elimination of the word "*tax*" prohibit a home rule political subdivision from using local sales tax revenue for this purpose?

Regarding the proposed questions relating to Section 7 of the measure, counties would like to suggest the following:

Additional Language. 24. If the measure is approved by voters in June 2012, may political subdivisions retain 2011 property tax revenues collected from January through June 2012 or must they be refunded? Will 2011 property taxes that remain unpaid after the election still be due and collectable? Will 2009 and 2010 delinquent taxes remain due and collectable?

Regarding the other proposed questions, counties would like to suggest the following:

Additional Language 27. May a political subdivision foreclose on property for nonpayment of property taxes if the taxes were due and not paid prior to the effective date of the initiated measure?

Beyond the suggestions above, comments and questions continue to come in from county officials regarding the possible response of the State Legislature, as well as that of local government, to the passage of Measure #2.

Looking at it from the county perspective, there seems to be considerable expectation that the replacement of locally collected property tax revenue with state collected and appropriated taxes will accelerate the centralization of services. In the past there has often been discussion of state assumption of county social services, and less often, public health, prosecution, veteran's services, emergency management and others. If the State Legislature is appropriating (through related state agencies) close to 100% of the funding for these services, it seems that state assumption of their delivery becomes a much stronger argument.

This is viewed by most county officials as ultimate increase in total costs while moving service control further from the citizens. It is also feared this will result in a reduction in services in the more rural counties, should the State agencies choose to regionalize delivery. While some would argue that this could reduce government spending, history does not support the premise that state government can deliver the same services at a lower cost.

This rural concern is also expressed much more broadly, in the fear that over time the "replacement revenues" appropriated to the rural counties will not keep pace with costs, and their ever-shrinking legislative representation will make addressing this issue very difficult.

The elimination of property taxation may also have the effect of promoting county home rule. Lacking their traditional local revenue source, it seems likely that more counties will turn to local sales or local income taxes as a replacement – especially if state appropriations fail to keep pace with costs.

Absent another locally collected tax source, it has been suggested that local bonding for capital improvements will become impossible in a "post measure #2" world; and local government will have to look to the legislature for funding or financing of long-term projects. Although the proposed Constitutional change retains a bonding limit based on "market values", a local government with no taxing authority to back bonds based on that value, will find it very difficult to find buyers of the bonds.

The practical aspects of moving to a state-supported local budget continue to generate considerable speculation. As included in the questions above; will each local government (down to the township level) receive an individual appropriation – requiring the submittal of a biennial budget to the Legislature by each jurisdiction? Or, will the county be expected to compile the biennial budgets of all jurisdictions into 53 appropriations – to be further distributed (like property taxes) to the various entities? In the latter case, if the request is not met, will the county commissioners have the authority and responsibility to allocate the shortfall as they see fit, or will it become a one-size-fits-all sort of recession?

Obviously there are various options that fall between these extremes as well. All school district funding could go through DPI, and all local park board funding could go through the State Park's Department, but many of the same questions and concerns about allocations arise here as well.

Once this Committee has drafted legislation addressing how the replacement revenue will be handled, county officials will be better able to assess the impacts.

It seems obvious to county officials that even on the short term, the Legislature must dramatically increase state taxes to meet its new perpetual constitutional mandate, should this measure pass. If payments in-lieu of property taxes are also eliminated, as discussed in June, an immediate biennial appropriation of $1.98 Billion dollars would be necessary. To address this broadly, it would require a doubling of sales, use, motor vehicle excise, personal income, and corporate income taxes.