

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
TAXATION COMMITTEE
MAY 29, 2012**

Chairman Hogue, members of the 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 respond to your request for information on the feasibility of reconciling taxable years for mobile home taxes with residential, commercial, and agricultural property taxes.

Mobile homes, also known as manufactured homes, are taxed in one of two ways in North Dakota:

1. As real property if they are permanently attached to a foundation and the owner of the mobile home is the owner of the land on which the mobile home is located; or
2. Under provisions of N.D.C.C. chapter 57-55, which requires the mobile home owner to apply for a mobile home tax permit. The permit may be issued if the owner pays the tax in full, and is valid throughout the state during the period for which it is issued.

There are many differences between taxation of real property and mobile homes in North Dakota, as shown on Page 6 of my testimony. One difference that is causing concern is the timing of assessments and collection of taxes.

Real property and mobile homes that are assessed as real property are assessed for the calendar year, say 2012, based on their value on February 1, 2012. No adjustment is made to the assessment during the year for any change in or addition to the physical property. The taxes are due on January 1, 2013. Those taxes are identified as 2012 taxes (paid for the most recently completed calendar year). Any changes in property since the February 1, 2012, assessment are accounted for in the February 1, 2013, assessment.

Taxes paid on mobile homes assessed under ch. 57-55 as personal property and paid in January 2013 are due January 10 and are identified as 2013 taxes (paid in advance for the upcoming calendar year). A mobile home that is acquired, moved, or first brought into the state is assessed within ten days of the event and is taxed for the prorated portion of the year. 2013 mobile home taxes are calculated using the same mill rates that are used for 2012 real property taxes, because the 2013 mill rates will not be available until late 2013.

The timing differences are confusing to property owners and administrators. They create a problem when planning for property tax relief. For example, if property tax relief is intended to be implemented for taxable year 2013 (for real property), 2013 mobile home taxes will have already been levied and paid without benefit of property tax relief. The only remedy in that case would be refunds to mobile home owners, which are problematic.

When ch. 57-55 was enacted in 1963, mobile homes were purposely required to pay their property taxes for the upcoming year, probably to lessen the possibility of their skipping out of state before taxes were due for the year. That was more likely when many mobile homes were small enough to be towed by an automobile. Today most mobile homes are never moved from their original set-up location.

Having all taxable property on the same schedule - paying taxes for either the prior year or the upcoming year - would be an improvement. I have found that several other states have provisions similar to North Dakota's two methods of assessing mobile homes, but I have not yet found any that have differences in the years for which taxes are paid for mobile homes and real property. Some states' real property taxes, like mobile home taxes in North Dakota, are named and paid for the upcoming year.

In North Dakota political subdivisions receive mobile home tax payments mostly between January 10 and March 1. In January 2013 mobile home taxpayers will pay the 2013 mobile home tax at the same time owners of real property will pay the 2012 tax. Because mobile home taxpayers have already paid their taxes a year before real property taxes for the same year become due, it will not be possible just to rename any mobile home tax to the previous year to agree with the real property tax for that year without causing mobile home taxpayers to pay twice for the same year. It also will not be possible to forgive one year's mobile home tax payments because the political subdivisions are counting on that revenue.

Option 1. Real property taxes and mobile home taxes are paid for the upcoming year.

One way to reconcile the taxable years for mobile homes and real property would be to make the next real property tax payment, in name only, a two-year payment. For example, 2013 real property taxes due January 1, 2014, would be "2013-2014" taxes. Mobile home taxes for 2014 would be due at the same time. The amount of real property taxes and mobile home taxes received by political subdivisions would be the same as what they would receive in January through March 2014 under the present system. On January 1, 2015, the 2015 taxes would be due

for both mobile homes and real property. Both would be calculated using the same year's mill rates, which would be named for the year for which the tax is levied and in which the tax is due (the upcoming year). While it may appear that one year's real property tax has been lost, actually nothing but the name of the real property tax has changed for one year. The assessment date, due dates, and penalty and interest provisions for mobile homes should be changed to mirror the real property provisions. The equalization process should be made available to mobile home owners.

A drawback to this proposal is that it would affect special assessments and bond levies. All those would have to be extended for one additional year, because one year's payment would be missed in the "2013-2014" tax payment. Any obligation for which a predetermined number of annual payments has been set up would be affected.

Another drawback is the assessment date for both real property and mobile homes under this proposed system. To avoid disruption of the equalization process that is currently in place for real property, the assessment date would become February 1 of the year prior to the year for which the tax is levied. That does not seem reasonable. It would be possible to do away with the equalization process for real property, which does not exist for mobile homes, and allow only the abatement process that is now available for both real property and mobile homes. However, I do not recommend that.

Option 2. Mobile home taxes and real property taxes are paid for the prior year.

To reconcile real property taxes and mobile home taxes so all are paid for the prior year, the way real property taxes are paid now, consider the option of the State's replacing one year's mobile home taxes. For example, in January 2014, when 2013 real property taxes and 2014 mobile home taxes are due, the State could assume the cost of the 2014 mobile home tax payment to political subdivisions as a "mobile home tax timing adjustment payment" (approximately \$4 million). That would provide anticipated revenue to political subdivisions without requiring mobile home owners to pay the tax twice for the same year (they will have already paid the 2013 mobile home tax in January 2013). Mobile home taxes and real property taxes would then be on the same schedule. In January 2015, both 2014 real property taxes and 2014 mobile home taxes would be due, both calculated using 2014 mill rates. The assessment date, due dates, and penalty and interest provisions for mobile homes should be changed to

mirror the real property provisions. The equalization process should be made available to mobile home owners.

Examples of the options I have proposed are shown on Page 7 of my testimony. They could be considered to favor either real property owners or mobile home owners. Option 1 seems to give real property taxpayers a one-year tax break. Really, it does not. They do not miss a payment. Option 2 actually gives mobile home owners a one-year tax break, but only because they will have already paid their 2013 tax in January 2013. Option 2 would cost the State approximately \$4 million.

I think Option 2 is preferable to Option 1. The changes to mobile home assessment and taxation would be easier to accomplish and would involve fewer properties than Option 1. The changes in Option 2 would apply only to mobile homes that are not presently assessed as real property. For 2011, counties reported a total of \$3,845,442.62 levied on 16,294 permit-based mobile homes.

Related Information.

I personally lived in two mobile homes over a period of 20 years in New York State, Connecticut, Wisconsin, South Dakota, and North Dakota, from 1963 to 1983. At the time I lived in each state, New York and Connecticut had no mobile home tax; Wisconsin charged only a school tax, based on the size of the mobile home and collected monthly by the owner of the mobile home court; South Dakota had property tax on mobile homes, which I was told was for the prior year; and North Dakota had the old mobile home decal tax (similar to today's permit system).

The National Conference of Commissioners on Uniform State Law is currently drafting a Manufactured Housing Act. [Prefatory Note] "The act's primary focus is the proper classification of manufactured homes (also commonly called mobile homes) as real property or personal property. The act is intended to modernize the law in this area, bring uniformity and clarity into a chaotic area of state law, to increase the supply of affordable housing by making financing more available and affordable, and to provide manufactured homeowners with many of the same legal protections as owners of site-built homes."

The most recent draft of the proposed legislation from the National Conference of Commissioners on Uniform State Law appears to be less controversial than earlier versions.

The 2011 Legislature enacted N.D.C.C. § 47-10-27, which sets out procedures for conversion of a manufactured home to real property by means of an affidavit of affixation. Requirements are similar to those in § 57-55 10(2)(c). Reconciling the existing differences between taxation of mobile homes and taxation of real property would be a step toward desired uniformity.

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

Comparison of North Dakota Mobile Home Taxation with Real Property Taxation

	Mobile Homes	Real Property
Ad Valorem (based on value)	Yes	Yes
Year Legislation Enacted	1963	1897
Person Responsible for Assessment	County Director of Tax Equalization	City or Township Assessor
Assessment Date	Within 10 days after the mobile home is acquired, moved, or first brought into the state.	February 1 of each year
Tax Calculation	Taxable value multiplied by the prior year's mill rate	Taxable value multiplied by the assessment year mill rate
When Taxes Become Due	January 10 of each year, or 10 days after the home is purchased or first moved into the state.	January 1 of the following year
When Taxes Become Delinquent	If not paid within 40 days after home is purchased or moved into the state, 1% penalty and 1/2% interest per month	If first installment is not paid by Mar 1, or if second installment is not paid before Oct 15
Delinquent - 1st Installment	Mar 1 - 2% penalty Apr 1 - 2% penalty May 1 - 2% penalty Jun 1 - 2% penalty	Mar 2 - 3% penalty May 1 - 3 % penalty Jul 1 - 3% penalty Oct 15 - 3% penalty
Amount remaining delinquent on Jan. 1		12% interest per annum
Delinquent - 2nd Installment	Jul 1 - 2% penalty Aug 1 - 2% penalty Sep 1 - 2% penalty Oct 1 - 2% penalty	
Amount remaining delinquent on Jan. 1	1/2 % interest per month	Oct 16 - 6% penalty 12% interest per annum
Discount for Early Payment	5% if paid in full by February 15, or 5% if paid in full within 30 days after purchased or moved into this state.	5% if paid in full by February 15
Equalization process	Not available	City or township board of equalization, county and state boards of equalization
Abatement process	Available	Available

Suggestions for reconciling taxation of Mobile Homes with taxation of Real Property.**Existing System - Example****Mobile Homes pay taxes for the upcoming year; Real Property pays taxes for the prior year.**

<u>Payment Due</u>	<u>Paid by Mobile Homes</u>	<u>Amount</u>	<u>State Pays</u>	<u>Paid by Real Property</u>	<u>Amount</u>	<u>Total</u>
January 1, 2011	2011 tax	\$100,000	0	2010 Tax	\$1,000,000	
January 1, 2012	2012 tax	\$100,000	0	2011 tax	\$1,000,000	
January 1, 2013	2013 tax	\$100,000	0	2012 tax	\$1,000,000	
January 1, 2014	2014 tax	\$100,000	0	2013 tax	\$1,000,000	
January 1, 2015	2015 tax	\$100,000	0	2014 tax	\$1,000,000	
January 1, 2016	2016 tax	<u>\$100,000</u>	<u>0</u>	2015 tax	<u>\$1,000,000</u>	
6-year total		\$600,000	0		\$6,000,000	\$6,600,000

Option 1.**Mobile Homes and Real Property pay taxes for the upcoming year beginning January 1, 2014.**

<u>Payment Due</u>	<u>Paid by Mobile Homes</u>	<u>Amount</u>	<u>State Pays</u>	<u>Paid by Real Property</u>	<u>Amount</u>	<u>Total</u>
January 1, 2011	2011 tax	\$100,000	0	2010 Tax	\$1,000,000	
January 1, 2012	2012 tax	\$100,000	0	2011 tax	\$1,000,000	
January 1, 2013	2013 tax	\$100,000	0	2012 tax	\$1,000,000	
January 1, 2014	2014 tax	\$100,000	0	2013-2014 tax	\$1,000,000	
January 1, 2015	2015 tax	\$100,000	0	2015 tax	\$1,000,000	
January 1, 2016	2016 tax	<u>\$100,000</u>	<u>0</u>	2016 tax	<u>\$1,000,000</u>	
6-year total		\$600,000	0		\$6,000,000	\$6,600,000

Option 2**Mobile Homes and Real Property pay taxes for the prior year beginning January 1, 2014.**

<u>Payment Due</u>	<u>Paid by Mobile Homes</u>	<u>Amount</u>	<u>State Pays</u>	<u>Paid by Real Property</u>	<u>Amount</u>	<u>Total</u>
January 1, 2011	2011 tax	\$100,000		2010 Tax	\$1,000,000	
January 1, 2012	2012 tax	\$100,000		2011 tax	\$1,000,000	
January 1, 2013	2013 tax	\$100,000		2012 tax	\$1,000,000	
January 1, 2014	No tax	\$0	\$100,000	2013 tax	\$1,000,000	
January 1, 2015	2014 tax	\$100,000		2014 tax	\$1,000,000	
January 1, 2016	2015 tax	<u>\$100,000</u>		2015 tax	<u>\$1,000,000</u>	
6-year total		\$500,000	\$100,000		\$6,000,000	\$6,600,000