



North Dakota Legislative Council

Prepared for the Taxation Committee
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PROPERTY TAX REFORM AND RELIEF - BACKGROUND MEMORANDUM

The Taxation Committee has been assigned, pursuant to a directive ([Appendix A](#)) by the Legislative Management Chairman, a study of the feasibility and desirability of providing holistic tax reform and relief, focusing primarily on property tax relief and, to a lesser extent, income tax relief. The study must include consideration of current and projected state revenues and expenditures, the stability of state revenue sources identified as a funding source for tax relief, the intended recipients of tax relief, and potential restrictions on tax relief.

This memorandum provides background for the property tax portion of the study. A separate background memorandum has been prepared for the income tax portion of the study.

PROPERTY TAX OVERVIEW

Property tax is levied in every state and provides a vital source of revenue for local governments. In North Dakota, just over \$1.13 billion in property tax was levied in 2019 for payment in 2020. Property tax is levied on real property, which generally consists of land and permanent improvements. The tax on personal property was abolished in North Dakota in 1970 through the passage of Senate Bill No. 137 (1969), and a reimbursement formula was developed to redirect a portion of sales and use tax revenue to taxing districts to compensate for lost personal property tax revenue. In 1981, the Legislative Assembly substantially restructured real property taxation by creating a new property classification system and developing procedures for establishing a property's true and full value, assessed value, and taxable value. These valuation procedures remain in use and mark the first step in the property tax cycle. The steps that follow include notifying property owners of increased valuations, hearing property owner objections, equalizing property values, holding budget hearings, completing tax lists, and mailing property tax statements.

CLASSIFICATION AND VALUATION

North Dakota Century Code Chapter 57-02 outlines the practices and procedures for property assessment and provides all property in this state is subject to taxation unless expressly exempted. The first step in calculating a property's taxable valuation is determining the property's true and full value. The methods used to determine a property's true and full value depend on the property's classification. A property is classified as either residential, commercial, agricultural, or centrally assessed. The "true and full value" of a property is determined by considering the earning or productive capacity, if any; the market value, if any; and all other matters that affect the actual value of the property. For purposes of agricultural property, this includes farm rentals, soil capability, soil productivity, and soils analysis.

Assessors use a property's true and full value to calculate the property's assessed value. The assessed value of property is equal to 50 percent of the property's true and full value. The taxable value of the property is determined as a percentage of assessed value, which is 9 percent for residential and 10 percent for agricultural, commercial, and centrally assessed property. Applying these calculations, a parcel of residential property with a true and full value of \$100,000 would have an assessed value of \$50,000 and a taxable value of \$4,500.

The true and full value of residential and commercial property is determined by local assessors and represents the assessor's estimate of the property's market value. Local assessors meet with the county auditor on or before the second Wednesday in February to discuss their assessment duties, which must be completed before April 1 of each year. Owners of locally assessed property receive notice from local assessors if the true and full value of their parcel has increased by \$3,000 or more and 10 percent or more from the previous year. The notice must be delivered at least 15 days before the meeting of the local board of equalization. If the increase is a result of action by the local board of equalization, notice of the increase must be delivered within 15 days following the meeting of the local board. If the increase is a result of action by the State Board of Equalization, notice of the increase must be delivered within 30 days following the meeting of the board.

The true and full value of agricultural property is based on productivity and is calculated by North Dakota State University using the capitalized average annual gross return of the land. Annual gross return is determined from crop share rent, cash rent, or a combination thereof. Annual gross return must be reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis. The average annual gross return for each county is determined by taking annual gross returns for the county for the most recent 10 years, discarding the highest and lowest annual gross return years, and averaging the remaining 8 years. Statistics from the most recent 10 years for prices paid by farmers are used to adjust annual gross return. Annual gross return is then capitalized using a 10-year average of the most recent 12-year period for the gross agribank mortgage rate of interest. Personnel from North Dakota State University determine an average agricultural value per acre for cropland and noncropland on a statewide and countywide basis. This information is provided to the Tax Commissioner by December 1 of each year and then provided by the Tax Commissioner to each county director of tax equalization. The county director of tax equalization provides each assessor within the county an estimate of the average agricultural value of agricultural lands within the assessor's assessment district. The local assessor determines the relative value of each assessment parcel within that assessor's jurisdiction. In determining relative values, the local assessors consider, in descending order of significance, soil type and soil classification data, a schedule of modifiers approved by the state supervisor of assessments, and actual use of the property by the owner.

The true and full value of railroad, public utility, airline, and oil or gas pipeline property is centrally determined by the State Board of Equalization. The owner of centrally assessed property files an annual report with the Tax Commissioner by May 1 and the Tax Commissioner prepares a tentative assessment for the property by June 15. Owners of centrally assessed property receive notice from the Tax Commissioner of their tentative property assessment at least 10 days before the State Board of Equalization meeting.

EQUALIZATION AND ABATEMENTS

A property owner dissatisfied with the valuation of property has the right to contest the assessment to the local, county, and state boards of equalization or through the tax abatement process. Equalization is the process provided by law to adjust property assessments to be consistent with market value or agricultural value. A property owner may present evidence to the local board of equalization to argue for a reduction in the valuation of the person's property. A property owner initially may present concerns to the local township or city board of equalization, which meets to review property valuations in April of each year. A property owner may appeal the property valuation to the county board of equalization and then the State Board of Equalization. The county board of equalization meets in June to equalize values among assessment districts within the county and the State Board of Equalization meets in July and August. The State Board of Equalization meets on the second Tuesday in July to receive testimony on the value of centrally assessed property and finalize assessments. Finalized assessments are certified by the Tax Commissioner to the counties to reflect the portion of centrally assessed property for each property owner which is taxable in that county. The board meets on the second Tuesday in August to address locally assessed property and equalize values among counties and districts within a county. The county auditor is required to adjust the valuation of each tract or lot of property in the auditor's county in accordance with the determinations made by the State Board of Equalization.

In place of the more informal equalization process, a property owner may elect to use a more formal appeal process in contesting a property tax assessment. A property owner may commence the abatement process by filing an application for abatement and refund of taxes. Several layers of review are involved in the abatement process, which may culminate in appeal of the decision of the board of county commissioners to the district court and then to the North Dakota Supreme Court. Several statutory grounds exist for granting an abatement, including invalid, inequitable, or unjust assessments. Other grounds for abatement include erroneous computation of the tax, assessment of improvements that did not exist on the assessment date, assessment of exempt property, assessment of damaged or destroyed improvements, and assessment of the same parcel more than once.

TAXING DISTRICT BUDGETS

Once valuations are finalized following the equalization process, each taxing district prepares a preliminary budget based on anticipated expenditures for the upcoming year. Preliminary budgets must be delivered to the county auditor by August 10, along with notice of the date, time, and location of the taxing district's public budget hearing. The county treasurer provides written notice of taxing district budget hearings to property owners on or before August 31. The written notice also contains information regarding the location at which a property owner may view the taxing district's preliminary budget, the estimated true and full value of the owner's property, the dollar amount of tax levied against the property in the immediately preceding taxable year and the estimated amount to be levied for the current taxable year, the difference between the prior year levy and current year estimated levy in dollars, information regarding state-provided property tax savings, and notice that citizens may present oral or

written comments regarding each taxing district's property tax levy. Taxing district budget hearings must be scheduled for no earlier than September 7, and no later than October 7.

A taxing district's preliminary budget may be adjusted based on input received at the public hearing and is further adjusted by deducting all nonproperty tax revenue, including state aid and the taxing district's unobligated cash balances. The amount remaining after adjustments and deductions equals the amount of property tax revenue required by the taxing district (the taxing district's levy in dollars). The deadline for taxing districts to amend budgets and send copies of the levy and budget to the county auditor is October 10.

PROPERTY TAX DETERMINATION

The amount budgeted by a taxing district may not result in a tax levy exceeding levy limitations established by statute. The Tax Commissioner prepares a Schedule of Levy Limitations, which is available on the Tax Commissioner's website. The Schedule of Levy Limitations outlines the maximum number of mills a taxing district may levy for specified purposes. Senate Bill No. 2144 (2015), substantially revised taxing district levy authority by consolidating various individual levies for counties, cities, townships, and other political subdivisions and repealing unused levies. Following a phased transition period, the bill limits counties to levying no greater than 60 mills for county general fund purposes, cities to levying no greater than 105 mills for city general fund purposes, and park districts to levying no greater than 38 mills. Though the maximum number of mills a taxing district may levy is uniform, the amount of revenue generated per mill varies between taxing districts.

One mill is equal to one-tenth of one cent, or \$1 for each \$1,000 of taxable value. Thus, a levy of one mill will raise more property tax revenue in a taxing district with a higher taxable value than it will raise in a taxing district with a lower taxable value. For instance, one mill levied in a taxing district containing properties totaling \$100,000 in taxable value will raise only \$100 in property tax revenue while one mill levied in a taxing district containing properties totaling \$200,000 in taxable value will raise \$200 in property tax revenue. To raise the same dollar amount of property tax revenue, the taxing district with the lower taxable value would have to levy twice the number of mills as the taxing district with the higher taxable value.

To determine the overall mill rate for a taxing district, the county auditor verifies the amounts levied are within statutory levy limitations and divides the total amount of property tax revenue required by the taxing district by the total taxable value of all property in the taxing district. The resulting mill rate is multiplied by the taxable value of a property owner's parcel to determine the amount of property tax owed by the property owner.

The tax due on airline property is calculated in a slightly different manner by averaging the mill levies in all of the cities served by the airline and then multiplying the average levy amount by the taxable valuation of the airline property.

The deadline for the county auditor to deliver property tax lists to the county treasurer is December 10. The county treasurer has until December 26 to mail a property tax statement to the owner of each parcel of real property. Property statements must include the true and full value of the property; the total mill levy applied to the property; the amount of tax levied in dollars against the parcel by the county, school district, city, and township for the current year and the 2 immediately preceding taxable years; and the dollar amount of property tax savings realized by the property owner in the form of legislative tax relief.

PAYMENT OF TAX AND PAYMENTS IN LIEU OF TAXES

Property taxes are due January 1 following the year of assessment and are payable without penalty until March 1 of the year in which due. If property taxes are paid in full by February 15, the property owner is entitled to a 5 percent discount. Penalties begin to accrue if property taxes are not paid by March 1. A property owner has the option of paying property taxes in installments. All locally assessed property taxes are collected by the county and distributed among appropriate taxing districts. Taxes imposed on an airline are collected by the Tax Commissioner and remitted to the State Treasurer for distribution to the cities in which the airline operates.

State law provides some enterprises make payments in lieu of taxes rather than paying property taxes. Mutual or cooperative telephone companies and investor-owned telephone companies pay a tax of 2.5 percent of adjusted gross receipts on property used in two-way communications service. This tax is paid to the Tax Commissioner and allocated among counties. Coal conversion facility taxes and oil and gas gross production taxes also are paid in lieu of property taxes. These taxes are allocated by state law and provide revenues to affected taxing districts.

Through 2009, rural electric cooperatives paid a 2 percent gross receipts tax in lieu of property taxes for all property except land. Beginning in 2010, Senate Bill No. 2297 (2009) changed taxation of rural electric cooperatives

from a gross receipts tax to a transmission line mile tax of \$50 to \$600 per mile and a distribution tax of \$0.80 per megawatt-hour for retail sales to consumers in this state. Revenues from the tax are considered payments in lieu of taxes and are allocated to political subdivisions based on location of transmission lines and, for distribution lines, based on location of distribution lines and sales from those lines. Rural electric cooperatives with generating facilities are subject to a transmission line tax of \$300 per mile in lieu of property taxes on transmission lines of 230 kilovolts or more.

Wind turbine electric generation units not taxed under Chapter 57-06 are subject to a tax of \$2.50 per kilowatt times the rated capacity of the wind generator and a tax of one-half of one mill per kilowatt-hour of electricity generated by the wind generator during the taxable period. Grid-connected generators that are part of a project with generation capacity of 100 kilowatts or more, not produced from wind or produced from coal not subject to the coal conversion taxes under Chapter 57-60, are subject to a tax of \$0.50 per kilowatt times the rated capacity of the generation unit and a tax of one mill per kilowatt-hour of electricity generated by the production unit during the taxable period.

Property owned by certain state agencies, nonprofit entities, and agencies and instrumentalities of the federal government also are subject to payments in lieu of property taxes. Mobile homes, certain pipelines, certain transmission lines, and certain forest lands are subject to payments in lieu of property taxes. New and expanding business may be granted the right to make payments in lieu of property taxes under Section 40-57.1-03.

PROPERTY TAX STATISTICS

The Tax Department provides a variety of property tax statistics in its biennial report *State and Local Taxes: An Overview and Comparative Guide* (the Red Book). Attached is a summary ([Appendix B](#)) included in the Tax Department's 2020 Red Book, which provides a detailed accounting of the amount levied in each county in taxable years 2016 through 2019, payable in years 2017 through 2020. The summary indicates that \$1,133,974,223 in property tax was levied in 2019 for payment in 2020. This amount represents a 5 percent increase over the total amount levied for payment in 2019. An additional summary ([Appendix C](#)) from the 2020 Red Book provides a breakdown of the percentage of property tax levied by each taxing district in relation to the total amount levied. This summary indicates the majority of the property tax levied in 2019 was levied by school districts, followed by the amount of property tax levied by cities, counties, smaller miscellaneous taxing districts, and townships.

TRADITIONAL CONTROLS ON GROWTH OF PROPERTY TAX LEVIES

North Dakota has traditionally relied on three kinds of restricting factors to limit property tax burdens:

1. State law - Constitutional and statutory provisions impose mill levy limits, voter approval requirements, and debt limits. Statutory provisions have provided for property tax relief and state assumption of program costs for some local government functions.
2. Governing body self-restraint - Local elected officials are presumed to act in the best interests of the political subdivision and its taxpayers. Political considerations relating to being elected or reelected exist to restrain local spending to a level deemed acceptable by the majority of voters. Local elected officials are taxpayers of the taxing district they serve and do not want an excessive property tax levy any more than other taxpayers.
3. Taxpayer and citizen participation - This factor is closely related to governing body restraint. It is a premise of the property tax that the taxpayers subject to the tax will inform their elected officials by direct communication or by voting, either for officeholders or on ballot measures regarding taxing and spending issues, of the desired level of services and the amount of tax burden they find acceptable to provide the desired services.

SIGNIFICANT PROPERTY TAX REFORM AND RELIEF LEGISLATION 2007 Legislation

Overview of Senate Bill No. 2032 (2007)

Senate Bill No. 2032 was the first legislative venture into direct property tax relief and was the subject of extensive discussion and amendments. The bill contained various provisions regarding property taxes and income taxes. The bill provided a homestead income tax credit for individuals for taxable years 2007 and 2008 in the amount of 10 percent of property taxes or mobile home taxes that became due during the tax year and had been paid on the individual's homestead. For purposes of the credit, "homestead" meant the dwelling occupied as a primary residence in this state and any residential or agricultural property owned by the individual in this state. The amount of the homestead income tax credit for a year could not exceed \$1,000 for married persons filing a joint return or \$500 for a single individual or married individuals filing separate returns.

The amount of the homestead income tax credit exceeding the taxpayer's income tax liability could be carried forward for up to 5 years or the taxpayer could request that the Tax Commissioner issue the taxpayer a certificate in the amount of the excess. A certificate issued to a taxpayer could be used by the taxpayer against property or mobile home tax liability during the ensuing taxable year by delivering the certificate to the county treasurer of the county in which the taxable property or mobile home is subject to taxes. The county treasurer was to forward certificates redeemed in payment of tax obligations to the Tax Commissioner, who issued payment to the county in the amount of the certificates.

Persons owning property together were entitled to only one credit for that parcel of property, so the credit could be shared between or among them. Persons owning property together were each entitled to a percentage of the credit for a single individual equal to their ownership interests in the property. There was no limit on the number of parcels of taxable property for which an individual could claim the credit.

A commercial property income tax credit also was provided for an individual or corporation for taxable years 2007 and 2008 in the amount of 10 percent of commercial property taxes or commercial mobile home taxes that became due during the income tax year and had been paid. The amount of the credit for commercial property for a year could not exceed \$1,000 for any taxpayer and was limited to \$1,000 for married persons filing a joint return or \$500 for a single individual or married individuals filing separate returns. Persons owning property together were entitled to only one credit for that property, so the credit could be shared between or among them. Persons owning property together were each entitled to a percentage of the credit equal to their ownership interests in the property. There was no limit on the number of parcels of taxable property for which a corporation or individual could apply.

Senate Bill No. 2032 also increased the maximum income to qualify for the homestead property tax credit from \$14,500 to \$17,500 and increased the maximum amount of property covered by the exemption from \$67,511 to \$75,000 of true and full valuation. The bill also reduced the amount of an assessment increase required to trigger written notice be provided to a property owner from a 15 percent increase to a 10 percent increase. The bill increased the amount of advanced notice a property owner must receive for assessment increases from 10 to 15 days before the meeting of the local board of equalization. The bill limited the duration for which voter-approved unlimited or increased school district general fund levies could extend to no more than 10 years. The bill reduced the number of petition signatures required to place the question of discontinuing increased or unlimited school district general fund levy authority on the ballot from 20 percent of the persons in the school census to 10 percent of the number of electors who cast votes in the most recent school district election. The bill also required real estate and mobile home tax statements to include three columns showing the property tax levied in dollars against the property by the county and school district and any city or township that levied taxes against the property for the year of the tax statement and the 2 preceding tax years.

Funding for Senate Bill No. 2032

The funding for Senate Bill No. 2032 included:

1. An appropriation of \$3,604,000 to the Tax Commissioner for enhanced funding for the expansion of the homestead tax credit for the 2007-09 biennium.
2. An appropriation of \$1.1 million to the Tax Commissioner for the administrative costs related to the property tax and income tax changes made by the bill.
3. A transfer of \$115 million from the permanent oil tax trust fund to the state general fund to offset the anticipated revenue loss to the state general fund from the income tax credits provided by the bill for the 2007-09 biennium.

Administrative Difficulties Related to Senate Bill No. 2032

The 2007-08 interim Taxation Committee monitored the delivery of property tax relief under Senate Bill No. 2032. The Tax Department was given the responsibility of administering the income tax credits. During the interim, the Tax Department expressed the opinion that the department does not believe income tax is the proper vehicle to provide property tax relief. The Tax Department identified the following difficulties:

1. Property tax was restricted to individuals with a primary residence in North Dakota. Residential and agricultural property held by a trust, estate, corporation, or other entity other than an individual was ineligible for relief. The homestead income tax credit did not provide statutory language to allow owners or members of a passthrough entity to claim a credit. Many property owners in the farming industry did not receive property tax relief for agricultural property because partnerships, S corporations, or limited liability companies owning agricultural property were ineligible for the credit.

2. Individuals residing outside North Dakota were not eligible for the property tax relief even though they owned residential or agricultural property in this state, paid property taxes, and paid income taxes in this state. Many negative comments were received from nonresidents. A nonresident was allowed to claim the credit for commercial property in North Dakota.
3. For individuals not subject to a North Dakota income tax filing requirement or whose income tax liability is exceeded by the property tax relief credit, certificates had to be developed to be redeemed by the county treasurer. This certificate was available only for residential or agricultural property owners and not for commercial property owners. Administration of the certificate and redemption process was complicated, and for property consisting of a combination of commercial and agricultural or residential property, eligibility for the credit was uncertain.
4. Property owned by joint owners created difficulty because property tax statements are mailed to only one of the owners of jointly held property. As a result, one or more owners may not have had access to the information they needed to claim the credit for their share of the property taxes.
5. Property tax classification issues created confusion for taxpayers and administrators of the credit.
6. Tax Department efforts to notify taxpayers of potential eligibility for the homestead credit were complicated for those individuals owning property in the state and paying property taxes but not subject to an income tax filing requirement. Because these individuals had not filed income tax returns in the recent past, they were not in the Tax Department "system," so the Tax Department was unable to advise these individuals directly of the possible eligibility for the credit.

The 2007-08 interim Taxation Committee made no recommendation regarding extending the property tax relief, in part, due to the Governor's announcement regarding his intention to introduce legislation to provide \$200 million or more for statewide school district mill levy reductions in 2009-11. In addition, providing property tax relief through an income tax credit was complicated by an initiated measure on the 2008 general election ballot which sought to reduce individual income tax rates.

2009 Legislation

Senate Bill No. 2199 (2009) was not introduced at the request of the Governor, but was the product of the Governor's previously announced intention to introduce legislation to provide funding from the state for statewide school district mill levy reductions. The bill provided property tax relief by appropriating \$295 million for the 2009-11 biennium for allocation to school districts to reduce school district property taxes. The bill provided for a reduction of up to 75 mills in school district property tax levies and replaced the revenue to school districts through mill levy reduction grants. The bill eliminated authority for unlimited levy approval for school districts. The bill established a deadline of 2015 for school districts with existing voter-approved excess levies or unlimited levies to obtain voter approval for continuation of a levy of up to a specific number of mills. Those school districts unable to secure voter approval by 2015 would have a levy limitation subject to statutory provisions allowing a levy based on the number of dollars levied by the school district in the highest of the most recent 3 years or the 185-mill general fund levy limitation. The bill also provided a transfer of \$295 million in 2010 from the permanent oil tax trust fund to the property tax relief sustainability fund to be used for property tax relief allocations after the 2009-11 biennium.

2011 Legislation

The 2009-10 interim Taxation Committee recommended extension of the 2009 property tax relief legislation, and the recommendation was introduced as House Bill No. 1047 (2011). The bill was amended by the Legislative Assembly to incorporate income tax and financial institution tax relief provisions. The bill provided property tax relief by appropriating \$341,790,000 for the 2011-13 biennium for allocation to school districts to reduce school district property taxes. The bill provided for a reduction of up to 75 mills in school district property tax levies and provided for replacement of the revenue to school districts through mill levy reduction grants. The bill limited the grant to a school district from exceeding the grant in the preceding school year by more than the percentage increase in statewide taxable valuation. The bill also provided for recognition and adjustment for certain property types that were not subject to traditional property taxes, but which provided revenue to school districts, and made clear a school district that did not receive voter approval for extension of authority to levy in excess of statutory mill levy limitations could retain the authority to levy based on the highest dollar amount levied in the most recent 3 previous years.

2013 Legislation

House Bill No. 1013 (2013) provided a substantial expansion of state funding for elementary and secondary education. The funding enhancement included a property tax relief component to provide for state payment of up to 50 mills of school district property tax levies. The bill also provided funding to incorporate the previous mill levy

reduction grant property tax relief program, which provided a reduction of up to 75 mills in school district property tax levies. The result of combining the relief programs was estimated to provide more than \$650 million in property tax relief for the 2013-15 biennium. The bill reduced school district general fund levy authority to 60 mills, allowed 12 mills for miscellaneous expenses, and allowed a 12 percent increase in dollars per year, to a maximum combined levy of 82 mills.

Senate Bill No. 2036 (2013) created a new approach to property tax relief funding by providing a state-paid credit against property taxes and mobile home taxes in the amount of 12 percent of the taxes levied by all taxing districts against the property. It was estimated the bill would provide \$200 million in property tax relief for the 2013-15 biennium. The bill also required the Tax Commissioner to prescribe the form of notice of increased assessments for property owners and the form of the property tax statement. The bill provided an individual who previously received notice of increased assessments also must be provided mailed notice to inform the individual of a public property tax levy hearing if the taxing district was considering a property tax increase.

In addition, 2013 House Bill Nos. 1015 and 1306 and Senate Bill No. 2171 provided property tax relief through the homestead credit and disabled veterans' homestead credit in an amount estimated to exceed \$27 million for the 2013-15 biennium. Senate Bill No. 2171 expanded eligibility and qualifying income limits for the homestead property tax credit for individuals 65 years of age or older or permanently or totally disabled. The bill increased the maximum income to qualify for the credit from \$26,000 to \$38,000. The bill increased the amount of assets of an applicant for eligibility for the credit from \$75,000 plus \$100,000 of the unencumbered value of the homestead to combined total assets of \$500,000. House Bill No. 1015 added an additional income category to qualify for the homestead property tax credit, to allow individuals with income from \$38,000 to \$42,000, which entitled the owner to a reduction of 10 percent of taxable valuation up to a maximum reduction of \$450 of taxable valuation. House Bill No. 1306 increased the amount of the credit for the homestead of a disabled veteran from \$5,400 to \$6,750 of taxable valuation.

House Bill No. 1107 (2013) provided the withholding of state aid distribution fund allocations from counties as a penalty for failure to implement soil type and soil classification data in assessments continues until the Tax Commissioner certifies to the State Treasurer that the county has fully implemented use of soil type or soil classification data.

2015 Legislation

Senate Bill No. 2005 (2015) extended the 12 percent state-paid property tax credit through tax year 2016 and appropriated \$250 million for allocations of state-paid property tax relief credit funds for the 2015-17 biennium. House Bill No. 1059 (2015) also addressed the 12 percent state-paid property tax credit, extending the credit indefinitely.

House Bill No. 1059 provided an equivalent credit for rural electric cooperatives, modified the transmission line per mile tax rate, and allowed certain transmission line tax payments to qualify for the state-paid property tax relief credit. The bill also replaced the various types of property tax assessors with two classes of assessors requiring a Class I assessor to obtain 180 hours of education and a Class II assessor to obtain 80 hours of education. The bill required that all assessors be certified under the new training requirements within 2 years of appointment, or by July 31, 2017, whichever is later.

Senate Bill No. 2144 (2015) combined various levies for counties, cities, townships, and other political subdivisions and repealed unnecessary or consolidated levy provisions. The bill consolidated multiple levies into a combined levy for county general fund purposes and city general fund purposes. The county general fund levy was limited to a rate not exceeding 60 mills per dollar of taxable valuation of property and the city general fund levy was limited to a rate not exceeding 105 mills. For cities and counties that levied more than these amounts for taxable year 2015, a transitional period was provided to allow the counties and cities to phase down to the new limits. The bill also reduced the number of special fund levies that were available in addition to the consolidated levy for county, city, and township general fund purposes. The bill modified the levy authority for park districts and limited the levy to a rate not exceeding 38 mills per dollar of taxable valuation of the property of the district, subject to certain exceptions. The bill also limited the duration of a variety of levies for which voter-approved excess levy authority, granted after January 1, 2015, may extend to a maximum period of 10 taxable years. The maximum duration for township general fund levies and excess township road levies were restricted further to extend for a period of no more than 5 taxable years.

Senate Bill No. 2206 (2015) provided for state assumption of a significant share of county social service costs beginning in 2016 and required the 2016 county social service board budget be reduced by the amount of costs to be assumed by the state, with an allowable increase for county employee salary and benefits. The bill also provided

for property tax levy restrictions intended to pass the property tax relief provided by state assumption of a portion of county social service costs on to taxpayers. It was estimated that the bill would result in property tax savings for counties in the amount of \$23,212,165 for the 2015-17 biennium.

Senate Bill No. 2031 (2015) provided property tax relief through state funding of a portion of elementary and secondary education. The bill included a 3 percent increase in the state's per-student payment in each year of the 2015-17 biennium and continued the provision for state funding of up to 115 mills of local property tax. The bill also repealed Chapter 57-64 relating to mill levy reduction allocations and grants.

House Bill No. 1057 (2015) relocated the statutory provision mandating that property owners receive notice if the assessment on the owner's property increased by 10 percent and \$3,000 from the assessment in the prior year. The bill provided for uniform notice requirements to apply to city, township, and county boards of equalization and provided the entity making the increase was the entity that must notify the owner. The bill also required local boards of equalization to provide reasonable advance notice to a property owner and opportunity for that property owner to appear if the board is considering increasing the assessment on the property by 15 percent or more over the prior year's assessment.

Senate Bill No. 2217 (2015) required any taxing entity authorized to levy property taxes, or have property taxes levied on its behalf, to file a financial report with the city or county auditor in the year for which the levy will apply showing the ending balances of each fund or account held by the taxing entity during the preceding calendar year.

2017 Legislation

Senate Bill No. 2206 (2017), as part of a bill that created a 2-year pilot program for the state-payment of county-funded economic assistance and social service costs, suspended a county's ability to levy up to 20 mills for human service purposes for taxable years 2017 and 2018. The bill required savings realized by suspending county social service mill levy authority be reflected on property tax statements and created a credit to provide comparable savings to centrally assessed companies that make payments in lieu of taxes. The bill also repealed the 12 percent state-paid property tax credit effective for taxable years beginning after 2016.

Senate Bill No. 2288 (2017) made various changes to property tax levy increase notice and public hearing provisions and assessment dates. The bill repealed Section 57-15-02.1, related to levy increase notice and public hearings requirements, and created a new section relating to consolidated notice requirements. The bill required the governing body of a taxing district to provide the county auditor with a preliminary budget statement and the date, time, and location of the taxing district's public hearing on its property tax levy. The bill required the county treasurer to provide a written notice to the owner of each parcel of taxable property containing the date, time, and location of the budget hearings for all applicable taxing districts; the true and full value of the property owner's property; the amount levied against the parcel by each taxing district in the preceding year; the estimated tax, in dollars, which will be levied in the current year; the difference between the prior and current year levy in dollars; information pertaining to estimated property tax savings; and notification that citizens may provide oral or written comments regarding each taxing district's property tax levy.

House Bill No. 1015 (2017) required each county auditor, in addition to transmitting a complete abstract of the tax list of the county, to submit a report to the Tax Commissioner providing each taxing district's property valuation, property tax levy, and any other information requested by the Tax Commissioner. The bill repealed the requirement the county auditor certify the tax list prepared by each taxing district or municipality in the county, as a result of the new reporting requirements. The bill required the Tax Commissioner to prepare a statewide report of property tax increase using the information submitted by the county auditors. The bill provided the report prepared by the Tax Commissioner must include the annual increase in property taxes levied by each taxing district and must be provided to the Legislative Management by April 1 of each year.

2019 Legislation

House Bill No. 1041 (2019) provided for an adjustment to the total amount of special assessment credits allowed against a property that qualified for the homestead tax credit. The bill provided the total amount of credits allowed for any one property must not exceed \$6,000 per property, adjusted annually on January 1 of each year after December 31, 2019, by the consumer price index, excluding any interest charged by the body levying the special assessment. The bill provided the adjustment would apply to special assessment credits granted after December 31, 2018.

House Bill No. 1174 (2019) provided the full amount of an individual's Social Security benefits remain part of income for purposes of calculating income for the homestead property tax credit even if the benefits are excluded for purposes of calculating income tax liability.

House Bill No. 1268 (2019) increased the maximum amount a county may levy for emergency medical service purposes from 10 to 15 mills.

Senate Bill No. 2052 (2019) provided the board of a school district the ability to levy up to 5 mills for purposes of developing a school safety plan upon approval by a majority of the qualified electors voting on the question. The bill provided approval or reauthorization of the levy authority may not be effective for more than 5 taxable years.

Senate Bill No. 2124 (2019) provided the manner in which legislative property tax relief associated with the state takeover of social service costs must be calculated and displayed on property tax statements. The bill also changed references to county social service boards to human service zones, eliminated the county's 20 mill levy authority for human services purposes, and removed base year property tax adjustment language relating to state-paid social service costs.

Senate Bill No. 2265 (2019) phased school districts levying less than 60 mills to a uniform 60 mill deduction by 2025 for purposes of calculating state aid payments. The bill allowed a school district to increase its property tax levy by an amount equivalent to the increased deduction amount during the phase-in period. The bill eliminated the increased levy authority and reverted school districts to levying a tax not exceeding the amount of dollars levied in the prior year, plus 12 percent, not to exceed a levy of 70 mills, for taxable years beginning after December 31, 2024.

2021 Legislation

House Bill No. 1157 (2021) allowed a township to levy the number of mills necessary to address natural disasters or other emergency conditions upon approval of a majority of electors of the township voting on the question. The bill provided the increased levy authority may be effective for up to 5 taxable years.

Senate Bill No. 2213 (2021) increased the value to which the property tax credit for disabled veterans may be applied from the first \$6,750 of taxable valuation to the first \$8,100 of taxable valuation.

PROPERTY TAX INTERIM STUDIES

2011-12 Interim

Section 3 of Senate Bill No. 1322 (2011) directed the Taxation Committee to study use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available, with emphasis on imposition and relative rate of special assessments against agricultural property. The study also required examination of agricultural property tax classification and assessment issues, with emphasis on these issues within and near city boundaries. The committee made no recommendations for legislation related to this study.

Section 2 of Senate Bill No. 2356 (2011) directed the Taxation Committee to study use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available and possible processes and procedures that would facilitate a transition to any recommended alternative funding mechanisms. The committee made no recommendations for legislation related to this study.

Section 15 of House Bill No. 1047 (2011) directed the Taxation Committee to continue the study originally directed pursuant to Section 13 of Senate Bill No. 2032 (2007) regarding the feasibility and desirability of property tax reform and providing property tax relief to taxpayers of the state, with the goal of reducing each taxpayer's annual property tax bill to an amount that is not more than 1.5 percent of the true and full value of property. The study required examination of the proper measure of education funding from local taxation and state resources and the variability of funding resources among taxing districts. The study required examination of improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty. The study required consideration of the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable valuation increases. Following this study, the committee recommended the following legislation:

- Senate Bill No. 2036 (2013) to provide property tax relief by appropriating \$403 million for the 2013-15 biennium for allocations to school districts to reduce school district property taxes. The bill provided for a school district levy reduction of up to 75 mills based on 2008 mill rates, restriction on school district property tax levies, and state revenue replacement to school districts.
- Senate Bill No. 2037 (2013) to provide property tax relief by appropriating \$403 million for the 2013-15 biennium for allocations to school districts to reduce school district property taxes. The significant difference

between the previous mill levy reduction grant legislation and this bill was that this bill allowed school districts that were levying fewer than 185 mills in 2008 to increase levies by a portion of the mills by which the district was under 185 mills and to obtain state matching funds for one-half of the increased number of mills.

- House Bill No. 1044 (2013) to provide a residential property tax credit for an individual's primary residence. The bill provided for state payment of property taxes on the first \$75,000 of true and full valuation of the residence. The bill provided the credit would be increased to cover taxes on the first \$125,000 of true and full valuation of the residence for an individual 65 years of age or older, and the credit would be in addition to any homestead or disabled veterans credit. The bill appropriated \$384 million for allocation of residential property tax credit funds to counties for the 2013-15 biennium. The bill failed to pass.
- House Bill No. 1045 (2013) to provide property tax relief by appropriating \$200 million for the 2013-15 biennium for allocation to counties to provide a 10 percent reduction in property taxes levied against all property by all taxing districts. The bill failed to pass.
- Senate Bill No. 2038 (2013) to synchronize taxable years for mobile homes and real property. The bill provided delinquent mobile home taxes would be enforced under the provisions of law that apply to real property. The bill required the application for a moving permit for a mobile home to be moved outside the state to show that taxes have been paid. The bill failed to pass.
- House Bill No. 1046 (2013) to allow a city or county to reduce or revoke a previously granted property tax exemption for new or expanded business property if the city or county found the property was not being used as intended when the exemption was granted.

Section 40 of Senate Bill No. 2150 (2011) directed the Education Funding Committee to examine short-term and longer-term state and local involvement in funding elementary and secondary education. The committee made no recommendations for legislation related to this study.

2013-14 Interim

Section 10 of Senate Bill No. 2036 (2013) directed the Taxation Committee to study controlling the growth of property tax levies, with emphasis on consideration of whether the level of property tax relief received by taxpayers had been commensurate with the amount of state funds distributed to benefit political subdivisions and provide property tax relief to taxpayers; the additional cost to the state of state assumption of funding for some social service functions previously funded by counties compared to the actual reduction in property taxes passed through to taxpayers in each county; whether voter approval through referral or levy and budget restrictions should play a greater role in local taxing decisions; and the feasibility of establishing more restrictive statutory property tax limits to manage the growth of property taxes. Following this study, the committee recommended the following legislation:

- Senate Bill No. 2056 (2015) to provide uniform language in provisions pertaining to levies requested by unelected governing bodies. The bill clarified levies requested by unelected governing bodies would be subject to adjustment by the approving entity. The bill also provided authority for boards of county commissioners and city governing bodies to request financial information from unelected governing bodies requesting approval of property tax levies.
- House Bill No. 1056 (2015) to require rural fire districts to receive a majority vote by mail ballot election before increasing its levy authority.
- House Bill No. 1057 (2015) to provide notice to property owners if the assessment on the owner's property increased by 10 percent and \$3,000 from the assessment in the prior year. The notice requirements in the bill applied to city, township, and county boards of equalization and provided that the entity making the increase is the entity that must notify the owner. The bill required local boards of equalization provide reasonable advance notice to a property owner and opportunity for that property owner to appear if the board is considering increasing the assessment on the property by 15 percent or more over the prior year's assessment.
- House Bill No. 1058 (2015) to provide notice of the time and place for public budget hearings to each owner of property in a political subdivision if the political subdivision was considering a property tax levy increase in a greater number of mills than a zero increase number of mills. The bill provided for consolidated notices to be sent to property owners owning more than one parcel of property in the taxing district. The bill eliminated the previous requirement for newspaper publication of budget hearings. The bill failed to pass.
- House Bill No. 1059 (2015) to extend the 12 percent state-paid property tax credit. The bill provided for a \$230 million appropriation for allocation of state-paid property credit funds for the 2015-17 biennium. This bill was also reviewed and recommended by the Advisory Commission on Intergovernmental Relations.

Section 2 of Senate Bill No. 2314 (2013) directed the Taxation Committee to study methods to assure that an accurate and reliable means was developed to measure effectiveness and accountability of property tax exemptions and other economic development incentives granted by cities and counties and to determine whether other taxpayers in the city or county ultimately derived a measurable benefit from granting of the incentives. The committee made no recommendations for legislation related to this study.

Pursuant to Senate Concurrent Resolution No. 4030 (2013), the Taxation Committee was directed to study applying property tax rates against true and full value of property. Following this study, the committee recommended House Bill No. 1055 (2015) to eliminate the use of mills in calculating property taxes. The bill converted the numerous references within the Century Code regarding use of a number of mills for property tax determinations into use of a number of cents per \$1,000 of true and full value. The bill provided the conversion would take place in January 2016. The bill failed to pass.

Pursuant to House Concurrent Resolution No. 3019 (2013), the Taxation Committee was directed to study the property tax system and examine options for improvements that could reduce the property tax burden and enhance the fairness and uniformity of the property tax system. Following this study, the committee recommended the following legislation:

- Senate Bill No. 2054 (2015) to replace existing assessor classifications with a single status of certified assessor. The bill required all assessors to be certified and imposed the same 180 hours of training requirements for all certified assessors. The training requirements in the bill represented an increase in the amount of training required for township assessors and assessors of cities under a 5,000-person population. The bill provided the deadline for assessors to receive certification under the new training requirements was 2017 to allow time for assessors to complete additional training. This bill was also reviewed and recommended by the Advisory Commission on Intergovernmental Relations. The bill failed to pass.
- House Bill No. 1054 (2015) to restrict use of modifiers in agricultural property assessments to those contained in a single schedule of modifiers adopted by the State Supervisor of Assessments. The bill provided that the single schedule of modifiers would be provided to all assessors as well as a copy of guidelines regarding how modifiers must be applied and instructions on how to use available soil survey resources. The bill required a site inspection be conducted to confirm the existence of any conditions warranting a modification prior to an approved modifier being applied to reduce the soil type valuation of an area. The bill failed to pass.
- Senate Bill No. 2055 (2015) to provide reporting requirements for electric transmission, distribution, and generation companies. The bill included requirements for electric generation company reports for location and rated capacity of wind generators and grid-connected generators within counties. The bill required the reports be filed at the same time transmission and distribution company reports are required to be filed. The bill provided the reporting requirements would take effect starting in 2016. This bill was also reviewed and recommended by the Advisory Commission on Intergovernmental Relations.

Pursuant to Senate Concurrent Resolution No. 4023 (2013), the Advisory Commission on Intergovernmental Relations was directed to study whether political subdivisions could become more efficient and effective to reduce costs to taxpayers. Following the study, the commission recommended Senate Concurrent Resolution No. 4002 (2015) to examine statutory references to political subdivisions to determine the feasibility of distinguishing elected and unelected governing boards and clarifying lines of authority among political subdivisions. The resolution failed to pass.

2015-16 Interim

Section 12 of Senate Bill No. 2206 (2015) directed the Political Subdivision Taxation Committee to conduct a study to develop a proposed transition plan for transferring the costs of operating social services programs from county property tax levies to general fund appropriations. The development of a proposed transition plan was to include a timeline for the major milestones of the transition plan, considerations for the transition, estimated costs, a plan to require a property tax reduction for the amount of the budgeted savings brought about by the transfer of county social services costs to the state, a plan resulting in the elimination of the county social services levy under Section 50-06.2-05, and potential legislation to implement recommended changes. The study also required consideration of the feasibility of implementing the proposed transition plan. The committee made no recommendations for legislation related to this study.

2017-18 Interim

Three of the studies assigned to the Taxation Committee during the 2017-18 interim pertained to the property tax system:

- Section 18 of Senate Bill No. 2206 (2017) directed a study of the property tax system, with emphasis on the feasibility and desirability of providing property tax reform and relief. The study required consideration of all property classifications and taxing districts and evaluation of historical fluctuations in property values, the transparency of the property tax system, the processes and procedures available to taxpayers to contest valuations and assessments, the manner in which property tax information is provided to taxpayers, the process of determining taxing district budgets, and taxpayer participation and input in the property tax system.
- Section 6 of Senate Bill No. 2166 (2017) directed a study of how city growth and infill development affects property taxes, and an evaluation on the return on investment for state and community projects. The study required an examination of various policies affecting city development patterns, including the impact of transfer payments between state and local governments; the cost of government services and infrastructure, including future liability; the amount of tax revenue generated per increment of assumed liability for downtown areas; and whether certain areas of a city generate more revenue than expenses while other areas generate more expenses than revenue.
- Section 7 of Senate Bill No. 2166 (2017) directed a study of the duplicative application of property tax incentives. The study required consideration of benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives.

Following the Taxation Committee's studies pertaining to the property tax system, the committee recommended the following legislation:

- House Bill No. 1041 (2019) to increase the amount of the homestead tax credit for special assessments and tie the interest rate applied to the credit to a moving index.
- Senate Bill No. 2040 (2019) to exclude property owned by a political subdivision from consideration in protests against the formation of a special improvement district.
- Senate Bill No. 2041 (2019) to allow park districts to issue bonds without an election and to provide for a formal protest period.

Section 35 of House Bill No. 1015 (2017) directed the Government Finance Committee to study the volatility of state revenue sources. The study required consideration of the volatility of the tax base and revenue sources, including ongoing expenditures. The study required consideration of the volatility and sustainability of elementary and secondary education funding, including the general fund, common schools trust fund, and foundation aid stabilization fund. The study required an assessment of the ending fund balances in the general fund, budget stabilization fund, and foundation aid stabilization fund, the adequacy of the foundation aid stabilization fund relative to revenue sources, and an analysis of the other trust funds. The study required historical revenue for all years for which quality data are available. The committee made no recommendations for legislation related to this study.

2019-20 Interim

Section 1 of House Bill No. 1474 (2019) directed the Taxation Committee to study options for replacing revenue generated by special assessments with revenue from an alternative local funding source. The study required a review of the purposes for which special assessments are imposed, the revenue generated from the imposition of special assessments, local revenue sources that could be used as an alternative to imposing special assessments, and the manner in which fees for an alternative local revenue source would be calculated and imposed as compared to the manner in which special assessments are calculated and imposed. The committee made no recommendations for legislation related to this study.

Section 32 of Senate Bill No. 2015 (2019), created the Legacy Fund Earnings Committee to study the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education. The committee was permitted to consider public input on the use of legacy fund earnings and review the operation of other funds, such as Norway's sovereign wealth fund. Following the study, the committee recommended the following legislation:

- House Bill No. 1037 (2021) relating to the establishment of a percent of market value method for determining the amount of legacy fund earnings available to be spent each biennium and the creation of a legacy earnings fund. The bill failed to pass.

- House Bill No. 1038 (2021) relating to the Legacy Fund Earnings Committee. The bill draft provides for the continuation of the Legacy Fund Earnings Committee for the 2021-22 interim with the same committee membership and study purpose.

2021-22 Interim

Section 6 of House Bill No. 1380 (2021) directs the Legacy Fund Earnings Committee to study potential uses of legacy fund earnings, including the use of earnings to provide tax relief, research and technological advancements, innovation, economic growth and diversification, and workforce development. The committee may consider input from representatives of economic development entities, agricultural organizations, research entities, the Innovation Loan Fund to Support Technology Advancement Committee, workforce development entities, higher education institutions, and the Parks and Recreation Department. As part of the study, the committee is required to consider the establishment of a statutory committee to award grants for university research programs and workforce enrichment initiatives; define the use of university research, innovation, and workforce enrichment funding that may include efforts to stimulate economic activity across the state through innovation of new technology, concepts, and products; to promote job creation and career and wage growth; to enhance health care outcomes; and to provide experiential learning opportunities for students; and develop reporting requirements for entities receiving funds from the clean sustainable energy fund and from grants awarded for university research, innovation, and workforce enrichment initiatives. The committee has not completed its study to date.

Section 14 of House Bill No. 1388 (2021) directs the Education Funding Committee to study K-12 school funding, including transition minimum reduction impacts to reorganized and consolidated school districts. The study must include a review of school districts that have multiple buildings in the district and districts that have built a new building without using traditional bonding methods as a result of a multidistrict reorganization; an analysis of high-cost students, including students who are high cost due to special education needs, medical reasons, agency placements, or any other reasons that increase the cost to educate the students beyond the state threshold; an ongoing review of the impacts of school districts that are off of the funding formula as they transition onto the formula; an analysis of human resource allocation and the duties and needs in elementary and secondary school buildings with a targeted focus on student academic health, behavioral health, and social and emotional health; and a review of student performance data relevant to students participating in virtual learning. The committee has not completed its study to date.

POSSIBLE STUDY APPROACH

The following is a proposed study plan for the committee's consideration in its study of the feasibility and desirability of providing property tax reform and relief:

1. Receive information from Legislative Council staff regarding current and projected state revenues and expenditures and the stability of state revenue sources identified as a potential funding source for tax relief.
2. Receive testimony from a representative of the Department of Public Instruction regarding the education funding formula and projected costs under the current formula.
3. Receive testimony from a representative of the Department of Mineral Resources regarding the oil production outlook.
4. Receive input as necessary from representatives of the Tax Department and taxing districts regarding administration of proposed legislation considered by the committee.
5. Develop recommendations and any bill drafts necessary to implement the recommendations.
6. Prepare a final report for submission to the Legislative Management.

ATTACH:3