

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1398

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1398

### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9337

Committee Clerk Signature



Minutes:

**Chairman Wrangham** opened the hearing on HB 1398.

Rep. Kasper: Introduced the bill and why it is and isn't important. I have four separate handouts #1, #2, #3, #4). (Also handed out Kent Costins testimony #5) Discussed #1 handout from John Walstad. My bill does not change the earning on the bonds since they are tax free. Handout 3 is from the Attorney General's office in April 2008 having to do with building authority. Went over the letter opinion. I think it is important that this bill passes because in Fargo in 1988 a nonprofit building authority was formed by five individuals with the express purpose to use that as building authority to finance a school construction. In 1991 they approved the building programs. The way it was worded on the ballot it gave ongoing authority for the school board to use this building authority. Since then we have had construction in the city of Fargo of North Ben Franklin High School remodeled; South High School remodeled, Jefferson School remodeled, kindergarten Center North Colby remodeled. The remaining balance of remodeling is about \$40 millions. We also will be facing a new building in the city of Fargo of \$43 million in South Fargo through the building code. None of these projects have had a single opportunity for the citizens of Fargo to vote whether or not we wanted them. The last handout #2 from Karen Stoker. I wanted you to look at the third paragraph that states it

has been 17 years since the last public vote in 1991 for the Discovery Middle School. Since that project has been completed the Fargo School District has built four new schools, expanded a high school for \$17 million and is building a new \$45 million High School all while enrollment has declined over 1200 students. That is the problem is the fact that our citizens are frustrated in Fargo about the fact we are building new schools with a total combined debt of \$100 million that property taxes have had to pay for new schools. The argument might be that while the citizens should make the change; however, they could however, it takes a very concentrated effort for a group of citizens to band together and get an initiated measure on the ballot and have the money to allow that project a chance of passing. This house bill does it by simply saying you must have a vote of the people for new construction and you must have a 60 percent vote of the people in order to build that new structure.

**Rep. Koppelman:** Does this apply to remodeling as well or just new construction?

**Rep. Kasper:** Look at line 13 where it says in connection with acquisition, improvements, or construction of any property or structure to be used by the municipality.

**Rep. Koppelman:** I understand what you are trying to do Rep. Kasper. When you talk a about improvements or a swimming pool needs repaired or new tile in the hall way. Do we have any definition of that?

**Rep. Kasper:** As you can see it does not so I think it would be a good amendment to add some definition on improvements.

**Rep. Conrad:** Would you say the state should step in because it is cheaper than the local people to bring an initiated measure couldn't they? They voted in 1991, wouldn't they vote against it now?

**Rep. Kasper:** That would be nice if they could, but the way the ballot stated in 1991 it is that the school board and building authority needs no more the vote of the people. They just do it.

Getting this level back to the local control; there is no more local control with the people themselves and this bill says that the voters of the school district or municipality must approve the new structure before it is built so we are at the local level as lowest level.

**Rep. Kilichowski:** the citizens of Fargo are napping if they could put it on the next ballot now couldn't they?

**Rep. Kasper:** Under the current status the way it is, this bill by the way applies to every municipality in the state of ND, not just Fargo. I understand where the city of Bismarck people had to ride it out with an initialed measure or referral. I want to make it as easy as possible for the citizens to have their voice. So this reverses the procedure, if we don't have to build, the taxing levy can build buildings do whatever it wishes and nobody will stop them unless through the initiated measure that they would have to go through. I don't think we should subject our citizens to do that. I think if you are going to build a building you must go to the vote of the people first.

**Rep. Kilichowski:** Why 60% and not 50% or majority?

**Rep. Kasper:** I think we want a strong voter of the people. This impacts property taxes. The biggest concern I have heard from the people of ND is what is going on in our property taxes. They are out of control and going too high. One of the reasons in Fargo is because we have \$100 million of buildings that they people are not voting on to build.

**Rep. Jerry Kelsh:** How broad are the term municipalities? Does that include an entity in this municipality like park board and all that? Does it also include counties?

**Rep. Kasper:** The one page handout I gave you is your definition of municipalities and governing bodies. It is very broad and taxing authorities in the state of ND.

**Rep. Corey Mock:** You say this is a better principal because it forces those individuals to get the approval of the people. They are already elected and charged with the people's work to

make these decisions and then we micromanage it. It seems now municipality leaders are innocent until proven guilty. They are given the duties and obligations to decide and implement these things whether it is buildings. Isn't any local political subdivision having an elected leader potentially guilty until they can get the approval of the people? Isn't it kind of a backward system?

Rep. Kasper: Citizen's when they vote many times maybe are not as educated as they should be about the issues they have on their ballots before. Fargo is an example, we have had our encumbering school board members elected and re elected. I can't remember a time in the last 10-15 years where an incumbent was not reelected. Same token, the citizens of our city and state are saying our property taxes are out of control. They are not making the connection. I believe that we have this on the ballot, any new construction; the citizens will have a voice on whether they are going to support it. This is the time to give the citizens the right to make their voices heard.

**Rep. Kilichowski:** Does this have an effect on home rule?

**Rep. Kasper:** Absolutely. The home rule charter would not be able to override what this bill does. I would want to have that check with John Walstad because if it does not do that it is the intent that home rule could not apply.

**Rep. Klemin:** The reference to 63-20 maybe should not be in here. Those internal revenue rules are subject to change with reversal so I was wondering if it would be better not to have that reference to that.

**Rep. Kasper:** That is fine with me. John Walstad put it in so if it doesn't apply we should take it out. That is a very good point. Federal laws are subject to change.

**Rep. Kretschmar:** do you know off hand what it would cost the city of Fargo to put on an election like this?

**Rep. Kasper:** I think it says at the next election on line 17 so maybe it would have to be a special election. I don't know what the cost would be? The issue here is we want the vote of the people no matter what the cost.

**Rep. Jerry Kelsh:** I think there is a problem in Fargo. I think it has given a bad name to a lot of local subdivisions all across the state. I am concerned that you are putting the same restrictions on counties and every other municipality because of the problems in Fargo. I don't think that is proper. I have some real problems with taking this to everyone just because of Fargo. I think it is a solution looking for a problem in most cases.

**Rep. Kasper:** You can't refer a problem once the horse is out of the barn. So if the building authority decided to build a school and then issue the bonds you can't refer it anymore. This current law applies to any political subdivision in the State of North Dakota to do buildings and not have to do this. I don't think a lot of them do but they could. This does not restrict any of these municipalities from building buildings as long as they don't use the building authority.

**Rep. Conrad:** Who else is using the building authority?

**Rep. Kasper:** The city of Bismarck, I believe.

**Rep. Zaiser:** I am in support of this bill. Actually I had another bill that focuses exclusively on school districts. I am going to try to answer a number of questions that were posed to Rep. Kasper since I have been involved with this issue for a long time. It goes back to the fall of 2007 when after questioning the Fargo School District about why they continue circumvent the law and not allow the people to vote on school buildings like every other school district in the state does when there is bond involved. If the school district has money in its account this would not be involved at all. This only can be used when there is a need by a nonprofit Title III B or another third party that owns it and they lease it back to the city or school district, or the county, whatever. The question on voting, we vote on projects all the time. This simply says if

there is a lease arrangement which is set up to avoid voting, we vote anyway like we do now on new schools. This simply involves the citizens of the jurisdiction. I feel in my attorney general opinion directly dealt with school districts and was written in such a way that I think the attorney general office would not very supportive of it since this because the guy that was writing the opinion had been on the school board. There were six questions on the opinion and after one question they answered they called me up and said Mr. Zaiser we are finished and we would like to study what it says. They can build a new high school because in this case the new high school had enough money outside of their federal funds to build a new high school; other than the times when they used the building authority. So that was legal under normal procedure, but I have several other questions about the building authority and he said well, Rep. Zaiser you are going take it up with us because that is the way it is going to be. I told the attorney general's office that I had never heard of the attorney general not answering all the questions so I am going to go over the top and talk to Mr. Stenehjem, the Attorney General. I got a call on Saturday morning and this individual said we are going to answer all your questions. So I was very pleased, but the problem was there were six questions and you had to kind of serf around for all the answers. I had several accountants including Heidi Heidkamp look at it to try to discern whether all the questions were answered or not. Discussed the election and how the person that ran on this issue defeated two incumbents just on the school board so it shows you that this clearly is a movement that is not wrong. Discussed the schools having to go out and sell bond issues to the citizens involved. Sixty percent is used because that is standard for schools. I think fifty percent would work too. It is really important that this committee would look at this. This is not a Fargo issue. This is something we should have because it is going to be across the state. It was in the Bismarck Park District. I don't think it really restricts the counties or cities either if the bill is tightened up.

**Rep. Jerry Kelsh:** Rep. Kasper testified this only applies to municipalities with building authorities, but if you look on line 12 of the bill it say's municipalities to any building authority or other entity? What does that mean if this only applies to building authorities?

**Rep. Zaiser:** that is a good question. That is something I think should be dropped in my opinion. I think this bill needs some tightening up; there are no questions about it.

**Chairman Wrangham:** They incur indebtedness or other obligations. Presently, if the school board was going to incur indebtedness they would normally take it to the voters, is that correct?

**Rep. Zaiser:** they should have indebtedness. In other words they are selling their bonds.

**Lynn Bergman:** (see testimony #6). I don't think there is a problem with the crooks of this bill because normally the school districts are entities and cities that that are really abusing their powers and have enough money to do these smaller projects by use of cash. However, I would not object to this bill because we are talking about eight projects that eventually are going to come back and haunt us. Local control is supported by this legislation. They pretty much have limited power right now. Property valuations have been running in the double digits but the cost to living have been around 4.5% and yet we are seeing local budgets 8-9% or even 10% or 11% in some cases. It is everywhere in the state. The only difference is the amount of outrage by the citizens and the organizations of those citizens in starting to be combative. We bail out local officials with state funding like we are proposing with the \$300 million property tax relief bill. What will happen is state oversight of local spending. You do not throw money at projects. The feds don't throw money at the state without restrictions and that is the same thing that is going to happen on a local level. General elections are the property place to conduct elections. I think you should put in there the next general election.

**Rep. Jerry Kelsh:** I set on the county commission and we spend many hours going through every budget line item by line item. You talk about 4.5% inflation and we are 8%. But you are not taking into consideration the last 4-5 years of maintenance of roads and streets have jumped about 300%; fuel has gone up 100% and things like that that we have no control. If they are going to say we better not do that I think the committee better think again. You can't say only 4.5% when there are things you have to do within reason.

**Lynn Bergman:** If all the streets had been built in concrete instead of asphalt over the last five years we could have saved about half as much.

**Robert Harms: Taxpayer in Bismarck:** I thought it would be useful to talk about how building authority responds to work. A school board or city will contract with another entity called a building authority and then they take and sell bonds on the market. Say they sell \$20 million bonds on the open market so members of the public buy those bonds to provide cash and then that entity constructs the facility and the public entity, the school board or someone else then leases that facility back and that is the basic structure that contracts. So the school board or city commission or the county doesn't have to build the building; that is being done by another entity. It is a nonprofit and they use that as a revenue stream to lease on the school board to the public through the building authority to make a bond.

**Chairman Wrangham:** I believe building is pretty well defined in state code. Do you think if we remove the word or other entity that would affect the meaning of this bill?

**Robert Harms:** I think the language other entity goes get to another issue and I think Bismarck Park Board did use a building authority if it is a nonprofit entity. I think there is some room to improve that language whether it is a nonprofit or not. The bill before you is one tool to help control property tax growth or inflation in North Dakota and applies to all jurisdictions and municipalities. It does only to those if they are going to use this method we talked about.

If they want to use the revenues they have to build a building they are not using a building authority. You will hear complaints from the education community and the counties perhaps and cities and park boards that this is too board and you should not put this kind of restraint on those local decisions. It closes one door; it doesn't prevent them from building a buildings and going forward with a project if they want to do so. If they have the money they can do that.

**Rep. Conrad:** The state building authority has buildings all over town that were built just for us. The builders built them just to rent them to the state of ND. Isn't this where the local subdivisions limit how they do this?

**Robert Harms:** You are exactly right. The University system uses the ND building authority and the state of ND has literally hundreds of millions of dollars in bonded indebtedness.

**Rep. Conrad:** The alumni association in Minot that will build a building that we maybe could use for the university. We call it creative financing.

**Robert Harms:** I agree with the structure that you are talking about. This bill does not address those state owned buildings.

**Rep. Zaiser:** I just want to make sure this bill deals with indebtedness of those line items.

**Robert Harms:** I think it does. I was concerned about the structure of the bill. I think it does in terms of the Bismarck Park Board transactions. In that instance the Bismarck Park Board issued indebtedness as part of the structure that they would use for that facility.

**Rep. Koppelman:** You are an attorney and you understand the bonding issue that you were relating to earlier. The bonds that are issued here are, are they the same kind of bonds, I see the reference to the Internal Revenue Code that Rep. Klemin talked about earlier. Are they specific types of bonds or is it different from a bond that a public entity would issue itself if it were building the building?

**Robert Harms:** The specific type of bond called the Levin Bond and they are funded in the way I just described so a public entity enters into a lease agreement with the building authority and so the lease payment; like the Bismarck School District has a lease payment with the building authority and that lease payment to the school district to the building authority is the revenue stream that pays for it and that kind of bond is known as a Revenue Bond and that is the one Rep. Klemin was talking about.

**Rep. Koppelman:** So the full paper credit of that public entity is involved in the market of those bonds just like it would be or is it not?

**Robert Harms:** No I don't think that is not correct. What you are talking about a General Obligation Bond and that essentially is where a public entity is directly responsible for the bond so the city of Bismarck goes into the market and sells this General Obligation Bond, but the obligates the good people of Bismarck and puts their full payment of those bonds.

**Rep. Koppelman:** Say you are the entity and I am the Bismarck Library Board and I came to you and said I want to build a new library. How would you market those bonds?

**Robert Harms:** You are getting into an area of law, but my understanding that the lease agreement between the public entity and your building authority is part of the way those bonds are marketed to the public.

**Rep. Koppelman:** If you come to the market with bonds to build a library and you want to sell me a bond your saying I am going to build this library; I am not in the library business, but I have this agreement with the Bismarck Library Board that they are going to pay me over a period of 30 years of leasing a library, that is what is going to finance it and that gives me as a bond buyer confidence that your worth something in terms of my investment in the bond.

**Robert Harms:** I think that is correct. I think the distinction that needs to be made is the one of marketing the bonds and the extension in terms of the legal liability; ultimately that is responsible for paying for it.

**Opposition:**

**Bev Nielson: BDSBA:** (see testimony #7).

**Rep. Zaiser:** Discussed amendments and other entities were amended and more defined language could you support this bill?

**Bev Nielson:** We would hope you would make these bill changes on the offhand the bill would pass, but we think it would make a better defined bill. We would still oppose the bill simply because you are taking our powers away. Right now in Fargo they have a building and they have been using it. They went to the voters and got it. This bill would say they couldn't do it anymore. That takes something away from the building authority that they currently have.

**Rep. Koppelman:** I don't think the bill is aimed at anybody. We have heard several people testify that it was aimed at them. I am curious about this mechanism that we have been trying to get our heads around here. If a school district now were to decide to building a building with their own money that they didn't have cash one hand and decided to float bonds for that building it would go to the vote of the people. So what the bill would do would say that the process of the people approving the new building could not when there is not money on hand to go out and pay for it would not be circumvented by this convoluted process of a building authority or another public or nonprofit organization building it. The school district leasing it back etc which does not require a vote of the people?

**Bev Nielson:** That is true. But I don't think it is clear enough that is the only thing they are getting at.

**Rep. Koppelman:** If we could deal with some of those concerns what is wrong with that?

**Bev Nielson:** The thing the people are ignoring is we did have those and they took those away. So if you are asking me to say on the record that if you tightened this bill up we wouldn't have any objections to it and no we would still oppose the bill. We would ask you to tighten it up as much as you can if you think it might pass because the way it is now I think it is really not good.

**Warren Larson: NDCEL:** It is probably well intended, but I think it will create some undo consequences. One that comes to mind is if Bismarck Public Schools gives classes spaces leased to St. Mary's they probably couldn't do it under this bill. There is talk of people being naive when they vote. I think people are very intelligent when they vote. If school boards are not accepted by people I can tell you they are replaced. As an administrator we have to totally change our way of doing business and it happens very well. The citizens elect boards that they don't like and then they elect new people to these boards. In Fargo they just proved that.

**Rep. Koppelman:** If Bismarck Public Schools wanted to lease classroom space from St. Mary's which I understand is a private school, I don't see how the bill would affect that unless I am missing something because if I read the bill correctly, is that if they contracted with St. Mary's to go out and build a building with the intent of them leasing it back to the Bismarck Schools and they had an agreement in place to do that and then St. Mary's went out floated bonds to build that building that bill still does that.

**Warren Larson:** I don't know that. That was our concern.

Neutral Testimony: None

Hearing closed.

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1398

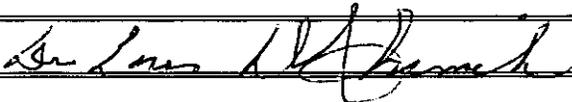
### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9415

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1398.

**Rep. Koppelman:** As you recall we had a lot of questions on this particular bill this morning.

Rep. Zaiser and I went to Legislative Council and had a conversation with John Walstad about several of the areas that were brought up in the discussion. The amendment is very brief.

There was a question about whether this involved whether this would trigger small projects etc and the answer is that it really wouldn't because the public entity would be entering into a lease arrangement with another entity to build something for them and lease it back. The second thing it would hinge on is that bonds are being let for that process so unless someone did for remodeling we did not feel that was an issue. The question of the simple majority versus the sixty percent, as we discussed it according to Legislative Council sixty percent is the standard throughout the statute for school issues. General election to special election, the bill doesn't specify so it would be up to the entity to decide. So the only provision that is in this proposed amendment that just dealt with home rule charters and whether they would overrule this and the thought was they probably could they way the bill was written. I don't think that was the intent so the proposed amendment is just to say that home rule charters could not over rule the authority regarding special elections. We asked about the section on the internal

revenue code. According to Mr. Walstad said it stands for 1963 so they have been on the books all these years and all the attorney s and bond people rely on this and it is well established.

**Motion Made by Rep. Koppelman to move the amendment. .0101. Seconded By Rep. Zaiser. Amended motion to say, get rid of notwithstanding any other provision of law, and start it would the governing body.**

**Voice vote carried.**

**Do Not Pass As Amended Motion Made by Rep. Conrad: Seconded By Rep. Kilichowski.**

**Discussion:**

**Rep. Conrad:** I have great sympathy of the people of Bismarck and Burleigh Counties problems and Fargo, but I think they need to solve this.

**Rep. Corey Mock:** If the school board does renovation, construction or acquisition of property they would have to go to the vote of the people. The question was raised that there are a lot of rural schools that may have smaller budgets. We have heard that special elections are expensive, bond issues would be forced on them and it would have to go to a vote and you simply can't wait for it. We also heard testimony that a school district, many towns don't have a large amount of population that they have in the schools. So the questions is there something worth our while and we spend as much money on state and public school boards have as their discretion and so for that reason I cannot support the bill.

**Rep. Koppelman:** I think that everything that was said does not apply in this bill. I don't see how this bill could apply to boilers repair because it applies to different structures that are built or remodeled by third parties and then leased to a school district. Seconded it applies to those projects if they are bonded. There is nothing in the bill that calls for special election it would be

at the latitude of the governing board of whatever political subdivision would do this. I am going to resist the motion for the do not pass because this seems pretty logical to me. In the ND Statues we require those elected bodies to go to the vote of the people if they are going to build a building and float bonds for that building. They have discovered that there is a loop hole approach that allows them to say, we can build our own and go to the vote of the people or we can contract with Dwight Wrangham Properties to build a building and lease it back from him and he can float the bonds because he would have a lease agreement with the school that would be the collateral to do that. This does not prohibit any school district, city, park district or whatever it might be, if it has money in the bank, from building whatever they want to without going to the vote of the people. They can do that now; they could do that under this bill. It is just that they want to float bonds either directly or indirectly to do that.

**Rep. Conrad:** I do not like this bill. We are getting between the voters and the decision they might make. The Fargo board gave the school board this authority so voters need to go back and take it away from the school board if they don't want them to have it. I think we have been asked to intervene in a local situation just like the Bismarck Park Board situation.

**Rep. Jerry Kelsh:** I still don't like line 12 because it says municipalities. It also says improvements and I agree with Rep. Conrad that this is that we are doing something that a few people in someplace and a few people are not happy with that and they are not willing to go to work there to get it straightened out so they come to the state to get it here.

**Rep. Koppelman:** I had asked Mr. Walstad if he would come into the committee to clarify some of these things.

**Rep. Zaiser:** Fargo already granted to the city or school district to do this. They have started a fraud investigation because the Fargo School District misrepresented the motion that was passed. That is why I wrote the legal opinion because there were a lot of different opinions on

how that motion was witnessed. Then about if this affects West Fargo and other cities. We deal with problems that exist in cities that might exist in other cities and potentially in other cities. Went into great a great deal of discussion on the Fargo problem.

**Rep. Klemin:** I just wanted to say when it says building authority or other entity we need to tie that into 63-20 which requires that entity to be a nonprofit corporation with specific requirements that are all set out in order for that to apply. So it is just not any entity, it has to be a nonprofit corporation.

**Rep. Kilichowski:** I am going to resist the do not pass.

**Vote: Do Not Pass As Amended 5 Yes 8 No Failed.**

**Do Pass Motion Made By Rep. Zaiser: Seconded by Rep. Koppelman:**

**Vote 8 Yes 5 No 0 Absent Carrier: Rep. Zaiser**

**Hearing closed.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1398

Page 1, line 19, after the underscored period insert "~~Notwithstanding any other provision of law,~~  
the governing body of a city or county may not supersede this subsection under home  
rule authority."

Renumber accordingly

February 12, 2009

VR  
2/12/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1398

Page 1, line 19, after the underscored period insert "The governing body of a city or county may not supersede this subsection under home rule authority."

Renumber accordingly

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1398**

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number .0101

Action Taken DO PASS DO NOT PASS **AS AMENDED**

Motion Made By Rep. Koppelman Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Carrier: \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Zaiser  
 Vote  
 Carried!*

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1398**

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Conrad Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski		✓
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser		✓
Rep. Kim Koppelman		✓			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch		✓			

Total (Yes) 5 No 8

Absent \_\_\_\_\_

Carrier: \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Failed*

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1398**

House Political Subdivisions Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Zaner Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad		✓
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh		✓
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson		✓	Rep. Corey Mock		✓
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar		✓			
Rep. Vonnie Pietsch	✓				

Total (Yes) 8 No 5

Absent 0

Carrier: Rep. Zaiser

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1398: Political Subdivisions Committee (Rep. Wrangham, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1398 was placed on the Sixth order on the calendar.

Page 1, line 19, after the underscored period insert "The governing body of a city or county may not supersede this subsection under home rule authority."

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1398

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1398

Senate Industry, Business, and labor Committee

Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: 11147

Committee Clerk Signature

Minutes:

*Troy Schuchard*

**Jim Kasper:** Representative District 46 introduced and testified in support of HB 1398. This bill basically states that if an entity wants to use the "Building Authority", they have to get a 60% affirmative vote and then you can proceed with building and issuing your bonds. You can use the Building Authority all you want; you just have to have the vote of the people first. Home rule authority cannot over-ride this statute. (See attachment #1)

Discussion continued with regard to how a building authority works dollar amount requirements, and how it circumvents the vote of the people.

**Mike Williams:** Fargo resident testified in support of HB 1398. (See attachment #2)

**Karen Stoze:** Resident of Fargo testified in support of HB 1398. (See attachment #3)

**Steve Strigie:** Resident of Fargo testified in support of HB 1398. I feel the issue is that several schools have been built without a vote of the people.

**Robert Harms:** Resident of Bismarck testified in support of HB 1398. (See attachment #4)

**Senator Wanzek:** With these building authorities and if the school didn't fulfill its obligation to lease the school, are the obligating themselves to pay the entire bond or can they take a walk?

Is it the building authority or the school district with its taxing authority that actually guarantee these bonds to be repaid?

**Robert Harms:** The bond issued to the public (that the public buys) is between the buyer and the building authority. That is where that obligation is. The build authority tells the buyer of the bond that they have a lease with a public entity.

**Chairman Klein:** Are those bonds guaranteed? The school district can't just stiff the building authority?

**Robert Harms:** That is correct; they do have an obligation, whether it is with revenue bond or general obligation bond, to pay off the bond.

**Senator Wanzek:** Is the school making the same obligation to the building authority that they would make in getting total repayment of the bonds when they went through the housing authority and not the voters?

**Robert Harms:** Yes, they have the contractual obligation with the building authority that provides the bonds.

**Senator Nodland:** Do you have any idea how many people vote in the school board election?

**Robert Harms:** I don't.

**Senator Nodland:** I have been on city commission and school board in Dickinson and my point is people don't care to vote. I think we got 15% voter turnout, yet when they don't vote they turn around and complain.

**Terry Traynor:** Assistant Director for the North Dakota Association of Counties testified in opposition to HB 1398. (See attachment #5)

**Kent Costin:** Director of Finance for Fargo Board of City Commissioners testified in opposition to HB 1398. (See attachment #6)

Continued discussion and comments continue with regards to fiscal management and responsibility.

**Shawn Kessler:** City Administrator for the City of Dickinson testified in opposition to HB 1398.

We in the City of Dickinson don't disagree with the premise of this bill, we just want the unintended consequences to be thoroughly evaluated because as pointed out earlier, what is considered a minor expense in the East, isn't looked at as minor in the West.

**Senator Potter:** Is the League of Cities taken a position on this bill?

**Shawn Kessler:** I don't believe they have.

**Senator Potter:** You're happy with the bill IF the language states a "simple majority"?

**Shawn Kessler:** We prefer that cities are carved out, but if they are not, then a simple majority would benefit us most.

**Jim Kasper:** 210306 is the section of law in question and the exemptions are in 210307.

**Chairman Klein:** Closed the hearing on HB 1398.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1398

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 24, 2009

Recorder Job Number: 11466

Committee Clerk Signature



Minutes:

Chairman Klein: There's been a lot of discussion on the building authority and what is included and what was exempted. If you do it outside of using the building authority the same rules apply?

John Walsted: You are right. All I see the bill doing is, if you're going to use the building authority as a financing mechanism for a project. And if you get it as a political subdivision and we're going to issue bonds, if current law says you would have to get voter approval for that bond issue than the building authority bond issue would have to have voter approval. So it would not apply to any project if a city was doing the project and bonding it and didn't have to get voter approval doing it through a building authority no voter approval. But if the city was going to build a combined law enforcement center and the law says to do that and issue bonds The city would have to get voter approval than doing it through a building authority voter approval would be required and the sixty percent vote requirement in there is the same percentage voter for bond issues stated in 21307, the section saying these bond issues have to be approved by sixty percent of the voters.

Discussion continued with questions asked about the building authority and John continued to explain the above information.

Senator Potter voted to pass the amendment.

Senator Horne seconded the motion. Vote taken: Yes: 5 No: 2

Senator Andrist moved a do pass as amended.

Senator Potter seconded the motion.

Vote taken: Yes: 7 No: 0

Floor Assignment: Senator Andrist

March 24, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1398

Page 1, line 15, replace "at least sixty percent" with "a majority"

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

HB 1398, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1398 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "at least sixty percent" with "a majority"

Renumber accordingly

2009 TESTIMONY

HB 1398

**Kasper, Jim M.**

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**From:** Walstad, John M.  
**Sent:** Wednesday, February 04, 2009 1:47 PM  
**To:** Kasper, Jim M.  
**Subject:** HB 1398

#/  
*Same given  
to Senate.*

Use of the term. "municipality" in HB 1398 includes all of the subdivisions listed in the definition for that chapter.... A copy is below:

**21-03-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Governing body" means a board of county commissioners, city council, board of city commissioners, school board of any school district, and the similarly constituted and acting board of any other municipality enumerated in subsection 3.
2. "Initial resolution" means any resolution or ordinance adopted pursuant to section 21-03-09, by which a proceeding is instituted for the purpose of authorizing a municipality to borrow money and issue bonds.
3. "Municipality" means a county, city, township, public school district, park district, recreation service district, or rural fire protection district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue.
4. "Population of a municipality" means its population according to the last officially published United States or state census, whichever was taken latest.
5. "Recorded" means copied at length in the record book required by section 21-03-17.
6. "Value of taxable property" or "the assessed valuation" of a municipality means the assessed value of all taxable property in such municipality as determined pursuant to chapter 57-02

John Walstad  
Code Revisor  
North Dakota Legislative Council  
600 E. Boulevard Avenue  
Bismarck, ND 58505

# 2  
**Kasper, Jim M.**

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**From:** Karen Stoker [karen@hoteldonaldson.com]  
**nt:** Monday, February 02, 2009 4:20 PM  
**bject:** I want to vote on schools in Fargo, please support HB 1398

Dear Representative,

Please support HB 1398 requiring a 60% voter approval for any new schools whether for purchase or lease through any entity including a Building Authority.

Having the ability to cast our vote will provide more local control and better accountability for our property taxes. I support good public education AND would also like the opportunity to vote on each new school project in the Fargo School District as is done in all the other North Dakota school districts.

Decisions by our school board have a wide affect on our entire community – not the least of which is important and expensive infrastructure needs when new schools are built in undeveloped areas outside the city limits. It's been 17 years since the last public vote in 1991 for what turned out to be Discovery Middle School. Since that project has been completed, the Fargo School District has built 4 new schools, expanded a high school for \$17 million and is building a new \$45 million High School all while enrollment has declined over 1,200 students. All of these projects have occurred without a vote on any of the new schools since Discovery Middle School. ,

Thank you for your consideration of this important issue.

Respectfully,

Karen Stoker

Owner Hotel Donaldson

#3

*Same given  
to Senate.*

**LETTER OPINION  
2008-L-05**

April 23, 2008

The Honorable Steven L. Zaiser  
State Representative  
802 7th Street South  
Fargo, ND 58103-2706

Dear Representative Zaiser:

Thank you for your letter raising several questions about financing the construction of a new high school by the Fargo Public School District ("District") and its power to form a building authority. For the reasons indicated below, it is my opinion that the District has the authority to finance construction of a new high school from the combined building fund tax levies provided in N.D.C.C. §§ 15.1-09-47, 15.1-09-49, and 57-15-16. It is my further opinion that a public school district, as a political subdivision, lacks the power to form a non-profit corporation building authority, although one or more individuals, age 18 or over, may do so. It is my further opinion that a non-profit corporation building authority as a separate legal entity is not generally subject to the same limitations on building and construction as a school district, and that the non-profit corporation building authority may issue bonds as part of a three-step transaction with a non-appropriation mechanism with the District.

**ANALYSIS**

You question the current financing practices and spending authority of the District, particularly as they relate to financing the construction of a new high school in the district. At the outset it should be noted that there are a number of provisions in state law that pertain solely to the District.<sup>1</sup> These special provisions are in addition to the powers and authority of other public school districts in the state. For example, the governing body of any school district in the state has authority to levy taxes for a school building fund not in excess of 20 mills, if authorized to do so by 60% of the qualified electors voting on the question at any regular or special election.<sup>2</sup> The District's governing body may levy an

<sup>1</sup> The District is referred to as the board of education of the city of Fargo a number of times in state law. See, e.g., N.D.C.C. §§ 15.1-09-47 through 15.1-09-52. Some of the special provisions that apply only to the District include broader powers with respect to raising revenue and dealing with real property and buildings. Id. See also N.D.C.C. § 21-03-07(7).

<sup>2</sup> N.D.C.C. § 57-15-16. See also N.D.C.C. § 21-03-07(7).

additional building fund levy of 15 mills.<sup>3</sup> The District took advantage of the latter authority and established a building fund tax levy of 15 mills a number of years ago.<sup>4</sup> The proceeds of the additional 15-mill tax levy under N.D.C.C. §§ 15.1-09-47 and 15.1-09-49 may be used for the purpose of purchasing or improving sites for schools, or building, purchasing, enlarging, improving, or repairing schools and their appurtenances.<sup>5</sup>

In addition to the 15 mills levied under N.D.C.C. §§ 15.1-09-47 and 15.1-09-49, the District also utilized the more generally available building fund levy under N.D.C.C. § 57-15-16 in the amount of 11.4 mills for the school building fund.<sup>6</sup> Under state law, the proceeds raised by the 11.4-mill building fund levy may be used generally for the "erection of new school buildings or facilities."<sup>7</sup>

Thus, the two building fund levies available to the District in the total amount of 26.4 mills may be used to finance construction of any new schools, not just the middle school construction financed in Fargo in 1991. The District is using these combined levies of 26.4 mills to fund construction of the new high school.<sup>8</sup> Although you indicate that your question may also be applicable to other schools in this state, it would be unwise to attempt to generalize what other school districts may or may not do based on what the District may or may not do because of the District's broad powers.

Your first specific question concerns whether the District may use its general funds or general fund reserve to finance a new high school. According to information supplied by the District on its website entitled "Next High School Q&A," as well as information from the District contained in its official statements for the two bond issues to be used to finance the construction of the new high school building, "[n]o General Fund or operational fund resources will be used to build the building."<sup>9</sup> Thus, in this instance, it is unnecessary to

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<sup>3</sup> See N.D.C.C. §§ 15.1-09-47 and 15.1-09-49.

<sup>4</sup> See N.D.A.G. Letter to Koppang (June 7, 1988); the 15-mill building fund levy was authorized by then N.D.C.C. §§ 15-51-11 and 15-51-13, the predecessors to current N.D.C.C. §§ 15.1-09-47 and 15.1-09-49.

<sup>5</sup> N.D.C.C. §§ 15.1-09-47 and 15.1-09-49.

<sup>6</sup> This 11.4-mill levy was authorized by a special election held on December 3, 1991, as provided for in N.D.C.C. § 57-15-16, and as reflected in the legal notice dated December 10, 1991, attached to your letter.

<sup>7</sup> N.D.C.C. § 57-15-17(1)(b)(1).

<sup>8</sup> See note 9.

<sup>9</sup> [www.fargo.k12.nd.us](http://www.fargo.k12.nd.us) (select "Parents"; select "Fargo's Next High School"; select "High School Funding Q & A"). See also Official Statement, \$10,000,000 Limited Tax School Building Bonds, Series 2007, Fargo Public School District No. 1 at p. 3, and Official Statement, \$33,000,000 Limited Tax School Building Bonds, Series 2008, Fargo Public School District No. 1 at p. 3. ("The Obligations are special obligations of the District payable from the School Building Fund Levy, which may be levied upon all taxable property located in the District at the rate of 26.4-mills.")

determine whether general funds may be so used since the District is not financing the construction of a new high school from general funds or general fund reserves.

You next ask whether the 11.4-mill building fund levy may be used to finance construction of a new high school. As indicated above, the 11.4-mill building fund levy was instituted by the District in 1991 under the authority of N.D.C.C. § 57-15-16 and the vote of the electors in the school district at that time. Once in place, the levy continues unless specifically discontinued "at the discretion of the governing body of the school district, or upon petition of twenty percent of the qualified electors who voted in the last school election . . . and, upon a favorable vote of sixty percent of the qualified electors voting, . . ." <sup>10</sup> Also as indicated above, state law provides that the building fund may be used for the "erection of new school buildings or facilities." <sup>11</sup> Consequently, the 11.4-mill building fund levy, once established, may be used to finance the erection of any new school building or facility, including a new high school, until discontinued. <sup>12</sup>

As noted above, construction of the new high school is being financed both with the 11.4 mills levied under N.D.C.C. § 57-15-16 and the 15 mills levied under N.D.C.C. §§ 15.1-09-47 and 15.1-09-49. Thus, based on the foregoing, it is my opinion that the District has the authority to finance construction of a new high school from the combined building fund tax levies provided in N.D.C.C. §§ 15.1-09-47, 15.1-09-49, and 57-15-16. <sup>13</sup>

The remaining questions you ask relate to the use of a building authority by the District. The financing of the new high school by the District does not involve a building authority structure. <sup>14</sup> Even though a building authority is not being utilized in this current financing, you indicated to a member of my staff that you wished to have this office address your remaining questions regarding the use of a building authority.

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<sup>10</sup> N.D.C.C. § 57-15-16(1). Of course, the levy may only be discontinued after payment of any obligations payable from the levy. Id.

<sup>11</sup> N.D.C.C. § 57-15-17(1)(b)(1).

<sup>12</sup> The purpose of the 11.4-mill levy was to provide money for the school building fund, not to just specifically fund the construction of the middle school in 1991.

<sup>13</sup> See note 1.

<sup>14</sup> See generally Official Statement, \$10,000,000 Limited Tax School Building Bonds, Series 2007, Fargo Public School District No. 1, and Official Statement, \$33,000,000 Limited Tax School Building Bonds, Series 2008, Fargo Public School District No. 1.

You ask whether the District has the authority to form a building authority.<sup>15</sup> School districts are political subdivisions created by the state.<sup>16</sup> "A political subdivision may not form a corporation in the absence of statutory authority."<sup>17</sup> "Before a political subdivision may act it must have specific authority to act in that subject area. 'In defining a [political subdivision's] powers, the rule of strict construction applies and any doubt as to the existence or the extent of the powers must be resolved against the [political subdivision].'"<sup>18</sup>

"The incorporation of a separate nonprofit or for-profit corporation is not merely a manner and means of exercising powers, but is instead a power in and of itself to create a separate entity which has an independent identity. . . . [Former North Dakota non-profit corporation law] neither specifically grants nor necessarily implies the authority of a political subdivision to incorporate a non-profit corporation."<sup>19</sup>

As noted above, building authorities are generally formed as non-profit corporations. Under North Dakota non-profit corporation law, only "[o]ne or more individuals age eighteen or more may act as incorporators of a corporation."<sup>20</sup> Based on the foregoing, it is my opinion that a public school district, as a political subdivision, does not generally have the power to form a non-profit corporation building authority, although one or more individuals, age 18 or over, may do so. And in this specific instance, the Fargo School District Building Authority ("Authority") was evidently incorporated by three individuals, not by the public school district.<sup>21</sup>

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<sup>15</sup> Building authorities are generally formed as non-profit corporations. Typically, a building authority will sell bonds, acquire property, construct a building, and lease the building to a political subdivision. The lease payments made to the building authority are then used to pay debt service on the building authority's bonds. If certain federal tax law requirements are met, the bonds issued by a non-profit building authority may be issued on a federally tax-exempt basis. See Rev. Rul. 63-20, 1963-1 C.B. 24. Assuming all lease payments are made as scheduled, there are often provisions allowing for the facility to be sold to or acquired by the political subdivision when the bonds are paid off and the lease expires. See also Articles of Incorporation, North Dakota Nonprofit Corporation, Fargo School District Building Authority.

<sup>16</sup> Bismarck Public School District #1 v. State of North Dakota, 511 N.W.2d 247, 251 (N.D. 1994); Azure v. Belcourt Public School District, 681 N.W.2d 816, 818 (N.D. 2004).

<sup>17</sup> N.D.A.G. 2007-L-17.

<sup>18</sup> N.D.A.G. 97-F-07 (quoting Roeders v. City of Washburn, 298 N.W.2d 779, 782 (N.D. 1980)).

<sup>19</sup> N.D.A.G. 97-F-07. See also 1996 Op. Att'y Gen. No. 101-96 (Mo. A.G.) (port authority as political subdivision can neither own nor organize non-profit corporation).

<sup>20</sup> N.D.C.C. § 10-33-05. See also N.D.C.C. § 10-33-29, requiring that directors of a non-profit corporation also be individuals.

<sup>21</sup> See Articles of Incorporation, North Dakota Nonprofit Corporation, Fargo School District Building Authority.

You next ask<sup>22</sup> whether a building authority is subject to the "same legal limitations on building and construction of new schools as the school board itself."<sup>23</sup> In N.D.A.G. 97-F-07, it was noted that

A corporation is looked upon as a separate legal entity from the individuals or corporations which incorporated the new corporation. Family Center Drug Store, Inc. v. North Dakota St. Bd. of Pharm., 181 N.W.2d 738, 745 (N.D. 1970). "A corporation is not in fact or in reality a person, but is created by statute and the law treats it as though it were a person by the process of fiction, or by regarding it as an artificial person distinct and separate from its individual stockholders." Airvator, Inc. v. Turtle Mountain Mfg. Co., 329 N.W.2d 596, 602 (N.D. 1983).<sup>24</sup>

The Authority is listed in the records of the Secretary of State's office as a non-profit corporation incorporated on May 18, 1988.<sup>25</sup> The Authority was organized to construct and improve school buildings or fixtures and to lease the facilities to the District.<sup>26</sup> Non-profit corporations have a number of powers provided by law, including the authority to: "purchase, lease, or otherwise acquire, own, hold, improve, and use and otherwise deal in and with real or personal property, or any interest in property, wherever situated"; "sell, convey, mortgage, create a security interest in, lease, exchange, transfer, or otherwise dispose of all or any part of its real or personal property, or any interest in property, wherever situated"; and "take and hold real and personal property . . . as security for the payment of money loaned, advanced, or invested."<sup>27</sup>

The Authority is currently leasing several facilities to the District.<sup>28</sup> The District's obligation to pay rent is subject to annual appropriation by the school board.<sup>29</sup> If the District fails to make an appropriation to pay the rent due, possession and rights to the buildings would revert to the Authority and the bond trustee who may re-lease the facilities or foreclose any

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<sup>22</sup> You premised your final questions on whether "the Fargo School Board does have the authority to form a building authority." Even though I have determined that it does not have that authority, I presumed you wanted your last two questions addressed.

<sup>23</sup> You do not specify what "legal limitations" to which you are referring. See, e.g., N.D.C.C. § 15.1-36-01; N.D.C.C. ch. 48-01.2. Consequently, my response is somewhat general.

<sup>24</sup> N.D.A.G. 97-F-07.

<sup>25</sup> See Articles of Incorporation, North Dakota Nonprofit Corporation, Fargo School District Building Authority.

<sup>26</sup> Id.

<sup>27</sup> N.D.C.C. § 10-33-21(4), (5), and (9).

<sup>28</sup> See note 14; id. at 16.

<sup>29</sup> Id.

mortgage.<sup>30</sup> It is my opinion that a properly incorporated non-profit corporation building authority, as a separate and distinct legal entity that acquires real property and constructs or improves buildings for lease to a school district, is not generally subject to the same limitations as a school district for the building and construction of new schools.

Finally, you ask whether a building authority may legally issue bonds to be repaid by the District's general fund or reserves or revenues from the 11.4-mill levy. As noted above, a non-profit corporation has a number of powers to deal with its property; additionally it may "make contracts and incur liabilities, borrow money, issue its securities, and secure any of its obligations by mortgage of or creation of a security interest in all or any of its property, franchises, and income."<sup>31</sup> Thus, under state law, a non-profit corporation has the authority to borrow money and issue its bonds.

Your question, however, also concerns whether the District may make payments to the Authority from its general funds and reserves or from the 11.4-mill levy. As indicated above, the District is leasing several projects from the Authority. According to the District, "[t]he lease payments of the District will be paid primarily from the General Fund of the District although the general fund levy is not pledged to the payment of the Bonds. . . . The District's obligation to pay rent is subject to annual appropriation by the School Board. There is no assurance that all such appropriations will be made."<sup>32</sup> Thus, it appears the District is not utilizing reserves or the 11.4-mill levy to make its lease payments, but rather it is making the lease payments from its general fund.

Under the law, the District "may levy taxes, as necessary for any of the following purposes: a. To purchase, exchange, lease, or improve sites for schools. b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their appurtenances."<sup>33</sup> Further, "[t]he tax for purchasing, leasing, or improving sites and the building, purchasing, leasing, . . . of schools may not exceed in any one year fifteen mills on the dollar valuation of the

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<sup>30</sup> See, e.g., Official Statement, \$23,000,000 Lease Revenue Bonds, Series 2000, Fargo School District Building Authority at p. 2.

<sup>31</sup> N.D.C.C. § 10-33-21(7). See also the purposes of the Authority set out in its Articles of Incorporation: "1. To lease land and construct improvements thereon for a lease to Board of Education of the City of Fargo for school district purposes; 2. To become indebted and to execute and deliver Bonds to accomplish such acquisition and construction."

<sup>32</sup> See Official Statement, \$23,000,000 Lease Revenue Bonds, Series 2000, Fargo School District Building Authority at p. 2. See also Official Statement, \$2,150,000 First Mortgage Revenue Refunding Bonds, Series 2004, Fargo School District Building Authority at p. 2; Official Statement, \$23,005,000 First Mortgage Revenue Refunding Bonds, Series 2005, Fargo School District Building Authority at pp. 2 and 4; and Official Statement, \$3,600,000 Lease Revenue Bonds of 2006, Fargo School District Building Authority at p. 2.

<sup>33</sup> N.D.C.C. § 15.1-09-47(1).

taxable property of the city."<sup>34</sup> In addition to the powers granted to other school boards by law, the District has the express authority to "lease houses or rooms for school purposes, lease lots or sites for schools, and fence real property" and to "build, enlarge, alter, improve, and repair schools . . . owned or leased for school purposes."<sup>35</sup> Thus, under the law, the District has the authority to lease school facilities and also to levy a building fund tax for such purpose up to 15 mills.

While the District could have chosen to finance the projects constructed by the Authority through the issuance of general obligation bonds under N.D.C.C. ch. 21-03,<sup>36</sup> there are other means of financing school construction and improvements. In 1988,<sup>37</sup> the North Dakota Supreme Court, in analyzing a three-step sale-leaseback-purchase financing transaction by a city similar to the use of a building authority,<sup>38</sup> noted that the general powers of a city do not necessarily provide the exclusive method for borrowing money.<sup>39</sup> The court noted that in addition to general obligation borrowing authority under N.D.C.C. title 21, cities also have the authority to convey, sell, or dispose of municipal property, construct public buildings, and specifically authorize a municipal governing body to acquire real property by lease or purchase.<sup>40</sup>

The financing plan in Haugland involved the improvement of a civic center, library, and a water main, the transfer of city properties to a trustee, and the subsequent leaseback of the improved property with annual lease payments sufficient to pay principal and interest on bonds issued by the trustee. The leaseback to the city was subject to cancellation under a non-appropriation clause similar to that employed in the present situation. Revenues from several city taxes were expected to be sufficient to make the annual payments but, as with the present situation, the city did not pledge these tax revenues.<sup>41</sup> The court concluded that "the three-step sale-leaseback-purchase transaction employed by the City to fund the construction of improvements to its civic center, library and a watermain, with a nonappropriation mechanism to make clear that its general taxing

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<sup>34</sup> N.D.C.C. § 15.1-09-49; see also Anderson v. City of Fargo, 186 N.W. 378, 380 (N.D. 1922) (board of education of the city of Fargo as a body corporate is exclusively charged with control and management of all the school property and has full and complete dominion over it).

<sup>35</sup> N.D.C.C. § 15.1-09-50(2) and (3).

<sup>36</sup> See N.D.C.C. §§ 15.1-36-04, 21-03-06(4), and 21-03-07(7).

<sup>37</sup> Haugland v. City of Bismarck, 429 N.W.2d 449 (N.D. 1988).

<sup>38</sup> A building authority financing also generally is a three-step transaction, except that it may be a lease-leaseback-purchase transaction or a sale-leaseback-purchase transaction. See note 15.

<sup>39</sup> Haugland at 453.

<sup>40</sup> Id.

<sup>41</sup> Id. at 450-51.

LETTER OPINION 2008-L-05

April 23, 2008

Page 8

powers are not obligated, was a reasonable exercise of the general powers granted [to the city].<sup>42</sup>

Similarly, in the present case, N.D.C.C. ch. 21-03 is not the exclusive method for financing a project. Like the city in Haugland, the District has the authority to convey, sell, and dispose of school property.<sup>43</sup> In addition, it has the authority to construct school buildings.<sup>44</sup> The District also has the authority to acquire real property by lease or purchase.<sup>45</sup> Thus, it is my further opinion that, like the city in Haugland, the Authority's three-step transaction with a non-appropriation mechanism was a reasonable exercise of the general powers granted to the District, and use of the non-pledged general fund money to make lease payments is lawful.

Sincerely,

Wayne Stenehjem  
Attorney General

jjf/pg

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>46</sup>

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<sup>42</sup> Id. at 454.

<sup>43</sup> N.D.C.C. §§ 15.1-09-52, 15.1-09-33(3), (4), (5), and (6), and 15.1-09-50(2) and (3).

<sup>44</sup> N.D.C.C. §§ 15.1-09-47(1), 15.1-09-33(4), and 15.1-09-50(3).

<sup>45</sup> N.D.C.C. §§ 15.1-09-47(1), 15.1-09-33(4) and (6), and 15.1-09-50(2) and (3).

<sup>46</sup> See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

Internal Revenue Service  
Revenue RulingTaxLinks.com sm

Rev. Rul. 63-20

1963-1 C.B. 24

## IRS Headnote

Obligations issued by a nonprofit corporation formed under the general nonprofit corporation law of a state for the purpose of stimulating industrial development within a political subdivision of the state will be considered issued on behalf of the political subdivision, for the purposes of section 1.103-1 of the Income Tax Regulations, provided each of the following requirements is met: (1) the corporation must engage in activities which are essentially public in nature; (2) the corporation must be one which is not organized for profit (except to the extent of retiring indebtedness); (3) the corporate income must not inure to any private person; (4) the state or a political subdivision thereof must have a beneficial interest in the corporation while the indebtedness remains outstanding and it must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon retirement of such indebtedness; and (5) the corporation must have been approved by the state or a political subdivision thereof, either of which must also have approved the specific obligations issued by the corporation. Interest received from such obligations is excludable from gross income under the provisions of section 103(a)(1) of the Internal Revenue Code of 1954.

Revenue Ruling 54-296, C.B. 1954-2, 59; Revenue Ruling 57-187, C.B. 1957-1, 65; Revenue Ruling 59-41, C.B. 1959-1, 13; and Revenue Ruling 60-248, C.B. 1960-2, 35, distinguished.

## Full Text

Rev. Rul. 63-20 /1/

Advice has been requested whether interest received on bonds issued by a nonprofit industrial development corporation organized under the general nonprofit corporation law of a state is excludable from gross income under section 103(a)(1) of the Internal Revenue Code of 1954.

The S corporation was incorporated as a membership corporation under the general nonprofit corporation law of a state. The corporation was organized for the general purpose of stimulating industrial development within P county. The articles of incorporation authorize the S corporation to purchase, lease and sell industrial sites and buildings and to build industrial facilities for lease or sale to new or expanding businesses within P county. The S corporation does not contemplate pecuniary gain to its members, who consist of representatives of the local chambers of commerce and other private business groups in P county, the county commissioners and officials of participating municipalities. The S corporation will have perpetual existence. The articles of incorporation further provide that upon retirement of any outstanding corporate indebtedness, or upon dissolution of the corporation, the beneficial interest of any property owned by the S corporation will be solely in P county.

Bonds for the operating expenses of the corporation are provided by P county, local chambers of commerce and manufacturing associations and the department of commerce of the state involved.

# of  
Same given  
to senate.

The S corporation purchased land in P county and erected and equipped a factory thereon which it leased to an industrial firm for a period of 2 x years under a lease agreement. The S corporation financed this project through the issuance of its interest bearing revenue bonds. The total rental to be paid by the industrial firm under the lease agreement is an amount sufficient to pay the principal of and interest on the bonds.

The indenture of trust, under which the bonds were issued, provides that the S corporation will deliver to the indenture trustee a deed of title to the land and factory, which the trustee will hold until the bonds are fully retired. In the event of a default by the S corporation in the payment of the principal and interest on the bonds, the trustee has the power to sell the property and use the proceeds to pay the bondholders.

The Internal Revenue Service holds that obligations of a nonprofit corporation organized pursuant to the general nonprofit corporation law of a state will be considered issued on behalf of the state or a political subdivision thereof for the purposes of section 1.103-1 of the Income Tax Regulations, provided each of the following requirements is met: (1) the corporation must engage in activities which are essentially public in nature; (2) the corporation must be one which is not organized for profit (except to the extent of retiring indebtedness); (3) the corporate income must not inure to any private person; (4) the state or a political subdivision thereof must have a beneficial interest in the corporation while the indebtedness remains outstanding and it must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon the retirement of such indebtedness; and (5) the corporation must have been approved by the state or a political subdivision thereof, either of which must also have approved the specific obligations issued by the corporation.

In the instant case, P county does not have a beneficial interest in the S corporation during the period the revenue bonds will be outstanding; nor will the county necessarily acquire full legal title to the land and factory upon retirement of the bonds. The articles of incorporation provide only that, upon retirement of any corporate indebtedness, or upon dissolution of the corporation, P county will have a beneficial interest in the assets of the S corporation. Therefore, there will not necessarily be a vesting of full legal title to the land and factory in P county.

Furthermore, while the fact that P county and its participating municipalities are represented among the membership of the S corporation and contribute money to its operations indicates governmental authorization of the corporation and approval of its general objectives, such activities alone are not deemed to constitute approval of the specific bonds issued by the S corporation.

Under the circumstances in the instant case, it is held that the revenue bonds issued by the S corporation are not issued on behalf of a political subdivision within the meaning of section 1.103-1 of the regulations. Therefore, the interest received on the bonds will be includible in the gross income of the bondholders under the provisions of section 61(a)(4) of the Code.

Revenue Ruling 54-296, C.B. 1954-2, 59, and Revenue Ruling 59-41, C.B. 1959-1, 13, are distinguishable from the instant case. In both of those rulings, the political subdivision involved had a beneficial interest in the nonprofit corporation prior to the retirement of the indebtedness.

In Revenue Ruling 54-296, a municipality leased to a nonprofit corporation a municipally-owned building in exchange for all its stock. The corporation proposed to issue bonds to finance improvements to the building and it was held that interest on the bonds would be excludable from gross income under section 103 of the Code. The beneficial interest of the municipality consisted in its ownership of all the stock of the corporation and its right under the lease at any time to acquire the improvements by discharging the corporation's indebtedness. Moreover, the municipality retained title to the building

which it leased to the corporation.

In Revenue Ruling 59-41, it was held that the bonds of a nonprofit corporation organized under general state law at the request of a municipality to operate the local water system would be issued on behalf of the municipality for purposes of section 103. The municipality which had the right pursuant to law to purchase the water system, waived such right and entered into a contract with the corporation ratifying and approving the purchase of the system by the corporation. The beneficial interest of the municipality consisted in its right under the contract at any time to purchase the water system for an amount equal to the indebtedness then outstanding with interest.

Also, in each of those rulings the political subdivision involved was to become absolute owner of the property in question upon retirement of the corporate indebtedness.

Revenue Ruling 57-187, C.B. 1957-1, 65, and Revenue Ruling 60-248, C.B. 1960-2, 35, are also distinguishable from the instant case. They hold that interest on bonds issued by a public corporation or corporate governmental agency organized pursuant to a special state statute providing for the creation of such corporations for the particular purpose specified therein and authorizing such corporations to issue bonds to enable them to carry out the specified purpose, is excludable from gross income under section 103 of the Code. In the instant case the corporation in question is not a public corporation or corporate governmental agency organized under such a special state statute; it is a private corporation organized under the general nonprofit law of the state.

The conclusion reached in the instant case is not inconsistent with Revenue Ruling 54-106, C.B. 1954-1, 28, which states that bonds issued by or on behalf of a municipality for the purpose of financing the acquisition or construction of municipally-owned industrial plants for lease to private industry constitute obligations of a political subdivision of a state within the meaning of section 22(b)(4) of the 1939 Code (section 103 of the 1954 Code). That Revenue Ruling did not consider the question what constitutes issuance of bonds on behalf of a political subdivision, which is the issue in the instant case.

/1/ Also released as Technical Information Release 442, dated Jan. 11, 1963.

Handed  
out #5

1 City of Fargo

2 Testimony on House of Representative Bill 1398

3 Submitted by: Kent Costin, Director of Finance

4

5 Honorable Chair Wrangham and members of the House Political Subdivision Committee, my name is  
6 Kent Costin, Director of Finance from the City of Fargo. Joining me here today is City Commissioner  
7 David Piepkorn. The City of Fargo opposes HB 1398 due to the financial constraints that it imposes  
8 upon our long term capital financing programs.

9 If this bill passes our primary concern is the inability to secure long term financing. Capital projects of  
10 local governments vary in size and scope as well as sense of urgency. For example, in Fargo's 2009  
11 approved budget we have recommended the use of building authority debt issuance for the  
12 construction of a south side fire station. The cost of this project will be about \$ 3 million, plus another  
13 \$400,000 for equipment. The debt service payment is about \$270,000 per year. If House Bill 1398 is  
14 passed it could delay this project and ultimately drive up the overall project costs. The \$270,000 per  
15 year in debt service for this fire station is manageable at four tenths of one percent of our General Fund  
16 budget. We fail to see why voters should have to weigh in on a decision of this size. Our City  
17 Commissioners have always taken a very conservative approach to debt management and we have not  
18 abused our building authority privileges.

19 House Bill 1398 creates a burdensome process to secure public financing including a super majority vote  
20 by taxpayers. We also feel that the bill is contrary to our state constitution, which specifically calls for  
21 maximum local self-government by all political subdivisions. N.D. Constitution, Article 7, Section 1. Our  
22 constitution provides that home rule cities and counties are to have even more power of self-  
23 governance than non-home-rule cities and counties. N.D. Constitution, Article 7, Section 6.

24 The use of a building authority for the financing, through sale of bonds, of public projects is a very  
25 common model that is used and recognized throughout the country. House Bill 1398 would prevent the  
26 use of the building authority financing model for acquisitions, new construction, remodeling, or  
27 expansion projects for municipalities and other political subdivisions. The City of Fargo has used the  
28 building authority financing model to build or remodel city hall and city auditorium. The City has many

29 other facilities such as public libraries, arenas, fire stations, police precincts, public works facilities,  
30 transit systems, and court functions. All of these facilities are a necessary and required part of the  
31 delivery of city services. The total investment in these facilities is approximately \$100 million. Looking  
32 forward we desire to keep the building authority model as a valuable financing tool.

33 There is a delicate balance in overall budget development in provide operating funds as well as capital  
34 funds needed to support our services.

35 The City of Fargo has always maintained a very conservative approach to the use of general obligation  
36 debt. The most recent use of building authority type debt was for the expansion and remodeling of our  
37 City Commission Chambers and the renovation of our Civic Memorial Auditorium. These facilities were  
38 originally constructed in 1959 and 1960 and had not been updated since that time. The totals cost of  
39 this project was about \$5 million and was financed over a twenty year period. The annual principal and  
40 interest payment is \$385,000 per year. City leaders recognized the need to upgrade our facilities and  
41 chose to finance this project using the building authority method. We were able to fund the debt  
42 service payment from our General Fund and this decision was stacked up against all other budget  
43 requests during the budget development process.

44 We recognize that this financing method is just one of several ways to construct facilities. The City has  
45 used "pay as we go financing" (cash) for many projects. While this has worked for us successfully in the  
46 past, there is no assurance that this will work in the future as economic conditions change over time--we  
47 need to be able to use a building authority model to continue meeting the growth needs of our city.

48 The sponsor of this bill has suggested the need for public scrutiny. We understand that large scale  
49 multi-million dollar projects should be scrutinized and taxpayers should know that their tax dollars are  
50 being spent wisely, however, the North Dakota Constitution clearly gives that authority to political  
51 subdivisions to make those decisions locally.

52 We urge a DO NOT pass vote on this bill.

53 I would be happy to answer any questions you may have about my testimony.

54 Thank for allowing me to speak at this hearing.

## **Testimony of Lynn Bergman, taxpayer on HB 1398**

### ***Municipal Industrial Development Act (MIDA) revenue bonds***

In 1990, \$2.75 million in MIDA bonds issued for the purchase and redevelopment of the Black Building at 118 Broadway in Fargo were declared in default, prompting an investigation by North Dakota's securities commissioner. Bondholders said they thought the investment was solid because the city lent its name to the bonds.

### ***The "Ralph" and the "Betty"***

The Ralph Engelstad Arena and Betty Engelstad Sioux Center in Grand Forks (Opened in October 2001 and August 2004) were designed by Icon Architectural Group and constructed with \$111+ Million in private donations.

### ***The "UP Center"***

Phase I of Fargo's Urban Plains Center and Tournament Facility (Opened in fall 2008), also designed by Icon Architectural Group, was constructed by the non-profit Metro Sports Foundation with \$25 Million borrowed from local banks at 7% interest.

Groundbreaking for the UP Center was held on June 27, 2007. A local bank committed \$2 Million in financing to the project in August 2007. The MSF receives tax-exempt status from the IRS in December 2007. Complete financing was not in place until April, 2008, 10 months after groundbreaking and only 6 months prior to its first event on October 30<sup>th</sup>, 2008. University of North Dakota hockey coach Dean Blais was hired by the MSF for a reported five year contract at \$1 Million.

Fundraising began in October 2008 for Phase II of the UP Center with hopes that construction on the \$12 million project can begin in late 2009. The Metro Sports Foundation, hired Fargo fundraising firm GivingPoint to seek private funding for the arena's second construction phase. Phase II, the project's "tournament" facility, will be four ice sheets totaling 130,000 square feet to be utilized by youth hockey in the Fargo area. Phase II construction will begin when \$6 million in private donations are secured.

### ***Developer Ace Brandt***

Fargo area developer Ace Brandt announced plans to build a \$34 Million hockey arena in southwest Fargo on March 22, 2007 on 15 acres just north of 32nd Avenue South at about 51st Street in Urban Plains by Brandt, a 328-acre development. The main users of the UP Center are be Fargo youth hockey, Fargo Public Schools, Fargo Shanley hockey, and the Fargo Force USHL junior hockey team. Brandt owns the USHL franchise, having

paid a \$750,000 USHL membership fee and expects to have a \$1 million operating budget, which is the average for USHL teams. The 15-acre plot of land for the facility will be donated by Brandt.

### ***The UP Center / Ralph Connection***

The compressor that regulates the UP Center's single ice sheet is larger than the compressor that runs two sheets of ice at the Ralph Engelstad Arena, said General Manager Lance Johnson, the former Director of Event Services at the Ralph. Todd Berning, Metro Sports Foundation President, was formerly the General Manager of the Ralph Engelstad Arena. Sommer Lockhart, Marketing Director for the UP Center, held the position of Marketing Manager during her last three years at the Ralph. Johnson, Berning, and Lockhart likely received significant salary increases to leave the Ralph for the UP Center.

### ***My Questions:***

1. How long will Ace Brandt's "Fargo Force" USHL franchise remain in Fargo?
2. Who will repay the loans for \$25 Million facility if Ace Brandt's franchise fails?
3. Why wouldn't the banks seek repayment of the loans by Fargo Public Schools (deepest pockets), the Fargo Park District, and private Fargo Shanley High School in the event of the demise of the Fargo Force franchise?
4. Why is the Metro Sports Foundation paying the USHL coach's salary? Did Ace Brandt actually pay the \$750,000 franchise fee or did MSF pay it for him?
5. How much extra did the design and construction management of the facility cost because the architectural and engineering services were not publicly bid?
6. How much extra did the facility cost to construct because the construction was not publicly bid?
7. How much more will the facility cost to operate because of the salaries of its staff recruited away from the Ralph Engelstad Arena?
8. How much more interest will be paid over the term of the loan(s) because the project was started before all financing was in place?
9. Why was the Bank of North Dakota interested in funding the project?
10. Why did the state allow the mechanisms of the DONATED Ralph Engelstad Arena to be used for a BANK FINANCED quasi-public non-profit project?

### ***Summary:***

I urge the enactment of legislation that will eliminate the possibility of the public entities becoming involved in any further projects such as the UP Center without a public vote indicating 60% approval. If the public is subject any undue risk we must vote to accept it.

## HB 1398

#7

Opposition:

**Bev Nielson: NDSBA:** My concern however, is that we have singular incidents that have the legislatures and constituent upset. It could be handled at the local level but it was brought to the state level. Way back when we had the years when the state intervened in the Fargo, West Fargo incident and we haven't really recovered from that whole thing. What happens is we made it so broad bill that really impacts all the municipalities probably in unintended ways. We have some questions on how this arrangement will impact our arrangements we make with other political subdivisions; the Park Board and bonding facilities we have and shared facilities. I don't think you want to impact those since they work well for shared facilities in the city limited. The recreational facilities, pools and other entities. This bill is wording in such a way that other entities that actually need; and even government entities, there is some confusion there from our standpoint, not that it would affect our vote only, but every city, state relationship. We have a concern about that. We also have a concern about the 60% vote for anything. We have a resolution on that topic. Saying all elections should be majority rules and they do not think they should require a 60% vote of the legislature to make property tax reform. North Dakota's population that has school age children is not high. When it gets to be 60% of the vote for something the school may need it is very difficult task. We believe even if there are elections required; that they should always be majority of the voters. I think some of my other questions were answered by some of the testimony that we are not taking on issues where you have the money in the building fund or in your general fund to do these things so I was happy to hear that as long as everyone agrees. If you intend to pass this bill out we would hope that you work on the language so you are getting at the problem you want to get at.

#2

**Jim Kasper**

---

**From:** "Jim Kasper" <jmkasper@amg-nd.com>  
**To:** "Jim Kasper" <jmkasper@amg-nd.com>  
**Sent:** Sunday, April 27, 2008 2:20 PM  
**Subject:** Fw: FARGO HIGH SCHOOL CONSTRUCTION

----- Original Message -----

**From:** Kasper, Jim M.  
**To:** jmkasper@amg-nd.com  
**Sent:** Saturday, April 26, 2008 11:07 AM  
**Subject:** FW: FARGO HIGH SCHOOL CONSTRUCTION

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**From:** Brocker, Liz  
**Sent:** Wed 4/23/2008 1:32 PM  
**To:** NDAG News Release  
**Subject:** FARGO HIGH SCHOOL CONSTRUCTION

A new Attorney General's Opinion has been issued:

Opinion #: 2008-L-05  
Date issued: April 23, 2008  
Issued to: Representative Steven J. Zaiser  
Request: Does the Fargo Public School District have authority to finance construction of a new high school? What authority does the Fargo Public School have to form a building authority?

**Conclusion:** The Fargo Public School District has special authorities in addition to the general statutory authorities of other school districts. Under its special statutory authority, the District has authority to finance construction of a new high school from the combined general building fund tax levy and additional District building fund tax levy. Although a district lacks the power to form a non-profit corporation building authority, any adult individual may do so. A non-profit building authority is not generally subject to the same limitations on building and construction as a school district.

You can view this opinion at: <http://www.ag.nd.gov/documents/2008-L-05.pdf>

And on the website at: [www.ag.nd.gov](http://www.ag.nd.gov)

**FARGO HIGH SCHOOL CONSTRUCTION**

The Fargo Public School District has statutory authority to use combined building fund levies to finance construction of a new high school, concluded Attorney General Wayne Stenehjem. His opinion also concluded that a non-profit building authority is not generally subject to the same limitations on building and construction as a school district.

North Dakota Office of Attorney General  
Wayne Stenehjem Attorney General

#1

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**From:** Mark Pederson [mailto:mpederson@ccgrain.com]  
**Sent:** Thursday, February 12, 2009 8:55 AM  
**To:** Bill Perius  
**Subject:** FW: The Jamestown Sun Article: Letter to the editor: People of N.D. showing the way for the rest in the U.S.

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Letter to the editor: People of N.D. showing the way for the rest in the U.S.

Eric Anderson

The Jamestown Sun - 02/07/2009

The other day I ran across a news article on the Internet about North Dakota's \$1 billion state budget surplus. Sitting in my home state of Michigan, I wondered, "What are North Dakotans doing that we aren't?" Of course, there are many practical answers to that question, including your energy and agricultural revenues. But I settled on a more emotional answer — and the answer lies with the people of North Dakota themselves.

Thirty-eight years ago, I was a young airman stationed at Minot Air Force Base. In the 14 months that I was assigned there, I grew to know and love the people of North Dakota. In a time when those in the military were not shown appreciation in other parts of America, North Dakotans took a different stance — they treated us with respect and appreciation. I've always remembered that, and to this day I have a warm place in my heart for the people of North Dakota.

But it goes deeper than that. In my time at Minot, I grew to understand how proud and how hard working the people of North Dakota are. Perhaps it's the love of the land, the harshness of the winters or the spirit that binds people of the Plains together. Whatever it is, you North Dakotans are a breed apart. I'm just glad I had a chance to live there so many years ago and become acquainted with the people.

Yes, all of us in America face grave challenges in the days ahead. I understand that despite your budget surplus, North Dakotans face the same uncertainties as the rest of the country. Education, job growth, health care and infrastructure needs are concerns for all of us. Yet, I believe that if the rest of the nation had the same resolve, spirit and work ethic of North Dakotans, we would not fear the future, but embrace its possibilities.

May the people of North Dakota continue to show the way for the rest of the United States. Perhaps, someday soon, we'll take notice and follow your lead.

Eric Anderson

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Checked by AVG.

Version: 7.5.552 / Virus Database: 270.10.19/1939 - Release Date: 2/7/2009 1:39 PM

#1

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Kasper, Jim M.

#1

To: Michael Williams  
Kasper, Jim M.; jmkasper@amg-nd.com  
Subject: FW: Building Authority  
Attachments: Attach0.html

Thanks, Mike

**From:** Michael Williams [mailto:gofargo@msn.com]  
**Sent:** Friday, March 13, 2009 11:55 AM  
**To:** Kasper, Jim M.  
**Subject:** FW: Building Authority

Hi Jim,  
Here's that list I told you about. Thanks again for carrying this bill forward I hope in it's original form.  
I'll be there with some other residents on Tuesday!  
Mike

---

From: Dan Huffman

Sent: Monday, March 02, 2009 9:54 AM  
To: Cabinet; Board Members  
Subject: FW: Building Authority

Cabinet and Board Members

FYI

Dan

From: Larry Nybladh [mailto:larry.nybladh@gfschools.org]  
Sent: Friday, February 27, 2009 11:25 AM  
To: Dan Huffman

Cc: Rick Buresh; Bill Hutchison

Subject: Fwd(2): Building Authority

Here is the list of Building Authority registered at the Secretary of State's office. If you have any other questions please feel free to contact our office.

#1

CITY OF DEVILS LAKE BUILDING AUTHORITY  
CASS COUNTY BUILDING AUTHORITY  
FARGO SCHOOL DISTRICT BUILDING AUTHORITY  
LAW ENFORCEMENT CENTER BUILDING AUTHORITY  
MINOT SCHOOL DISTRICT BUILDING AUTHORITY  
RUGBY BUILDING AUTHORITY  
WEST FARGO PARK DISTRICT BUILDING AUTHORITY  
DICKINSON RECREATION BUILDING AUTHORITY  
GRAND FORKS PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
ELENBURN BUILDING AUTHORITY  
SOUTH HEART GOLF COURSE BUILDING AUTHORITY  
MORTON COUNTY BUILDING AUTHORITY  
DEVILS LAKE PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
ENDERLIN BUILDING AUTHORITY  
HANKINSON PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
NEDROSE SCHOOL DISTRICT BUILDING AUTHORITY  
FT. YATES PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
BERTHOLD SCHOOL DISTRICT BUILDING AUTHORITY  
NAPOLEON PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
WEST FARGO PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
BISMARCK PARK DISTRICT BUILDING AUTHORITY  
SOUTH PRAIRIE SCHOOL DISTRICT BUILDING AUTHORITY  
GRAND FORKS COUNTY BUILDING AUTHORITY  
GRIGGS COUNTY CENTRAL SCHOOL DISTRICT BUILDING AUTHORITY  
CITY OF FARGO BUILDING AUTHORITY  
CENTRAL CASS PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
KINDRED PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY  
NORTHERN CASS PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

**Linda Gregoryk**

Data Processing Information Center Specialist  
ND Secretary of State  
E-mail: lgregory@nd.gov  
Phone: (701) 328-3086  
Toll Free: (800) 352-0867 ext 83086  
Fax: 701-328-1690

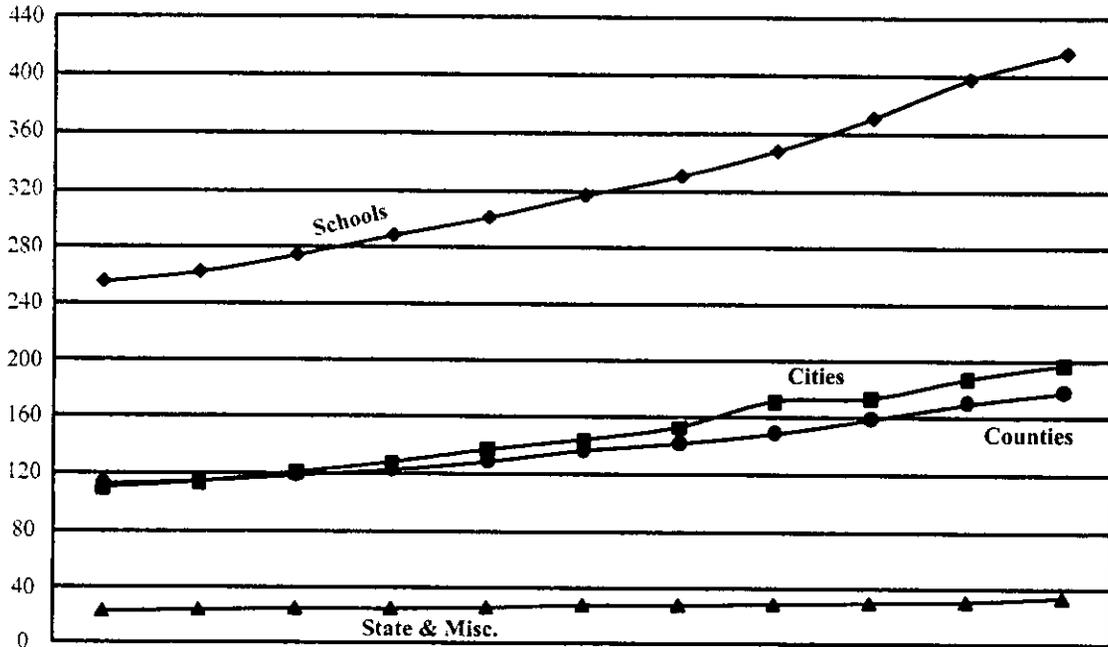
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#1

## General and Special Property Taxes by Taxing Districts Payable in 1998 - 2008

Millions of Dollars

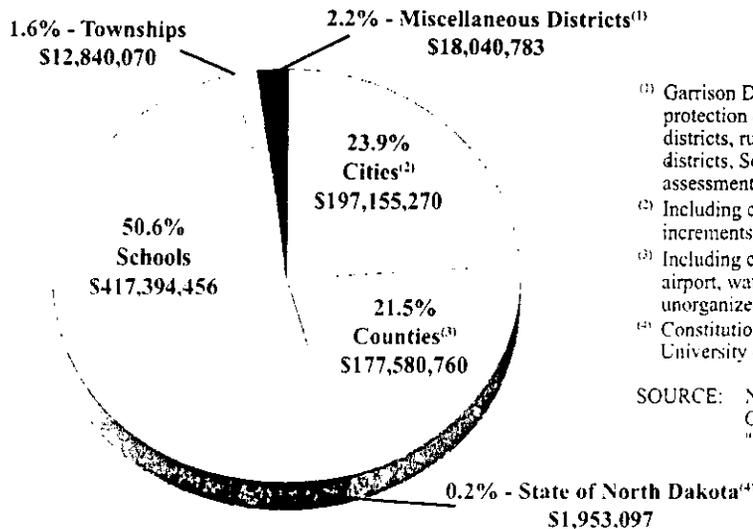


Year Payable	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Schools	255	262	274	288	301	317	331	349	372	399	417
Cities	110	114	121	128	137	144	153	171	173	187	197
Counties	113	115	119	123	129	137	142	149	159	170	178
State & Misc.	22	23	24	24	25	27	27	28	29	30	33

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

## Percent of Property Taxes by Taxing District Levied in 2007 - Payable in 2008

GRAND TOTAL - \$824,964,436



<sup>(1)</sup> Garrison Diversion Conservancy District, rural fire protection districts, hospital district, soil conservation districts, rural ambulance districts, recreation service districts, Southwest Water Authority and all special assessments for rural districts.

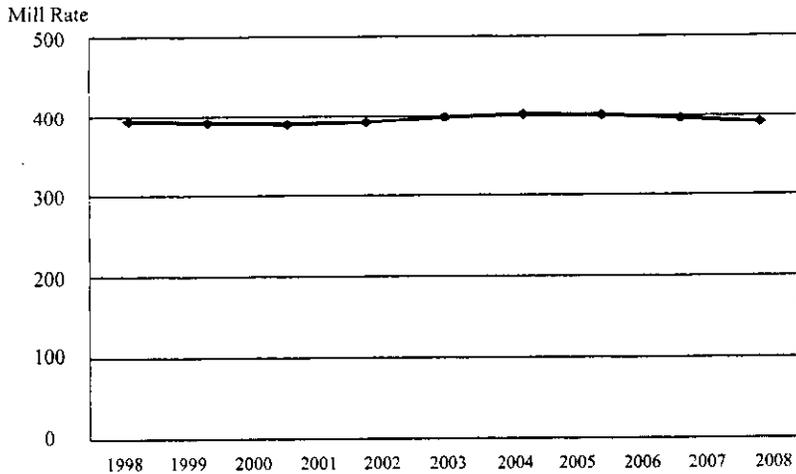
<sup>(2)</sup> Including city park districts, special assessments, and tax increments.

<sup>(3)</sup> Including county park districts, county library, county airport, water management districts, vector control, unorganized townships and board of county parks.

<sup>(4)</sup> Constitutional one mill levy for medical center at the University of North Dakota.

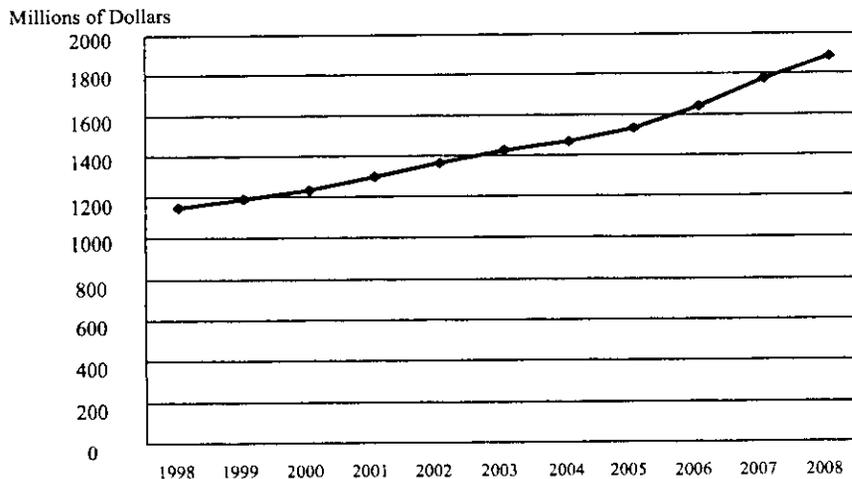
SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

### Statewide Average Mill Rates - For Taxes Payable in 1998-2008



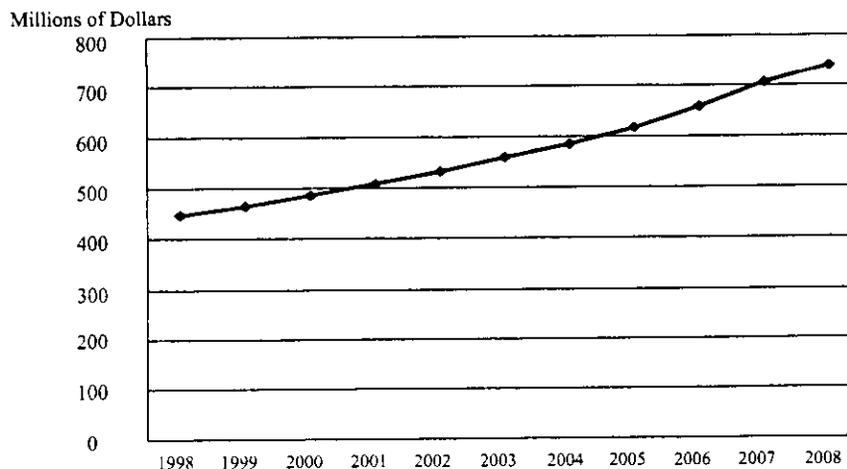
Year Payable	Average Mill Rate
1998	389.32
1999	390.74
2000	394.10
2001	392.07
2002	390.33
2003	392.78
2004	399.24
2005	402.70
2006	401.66
2007	397.41
2008	392.15

### Statewide Property Taxable Valuations - For Taxes Payable in 1998-2008



Year Payable	Taxable Value
1998	1,149,656,119
1999	1,190,563,319
2000	1,233,682,014
2001	1,298,333,166
2002	1,364,577,713
2003	1,427,642,584
2004	1,468,874,722
2005	1,534,816,263
2006	1,642,672,714
2007	1,777,593,059
2008	1,888,388,390

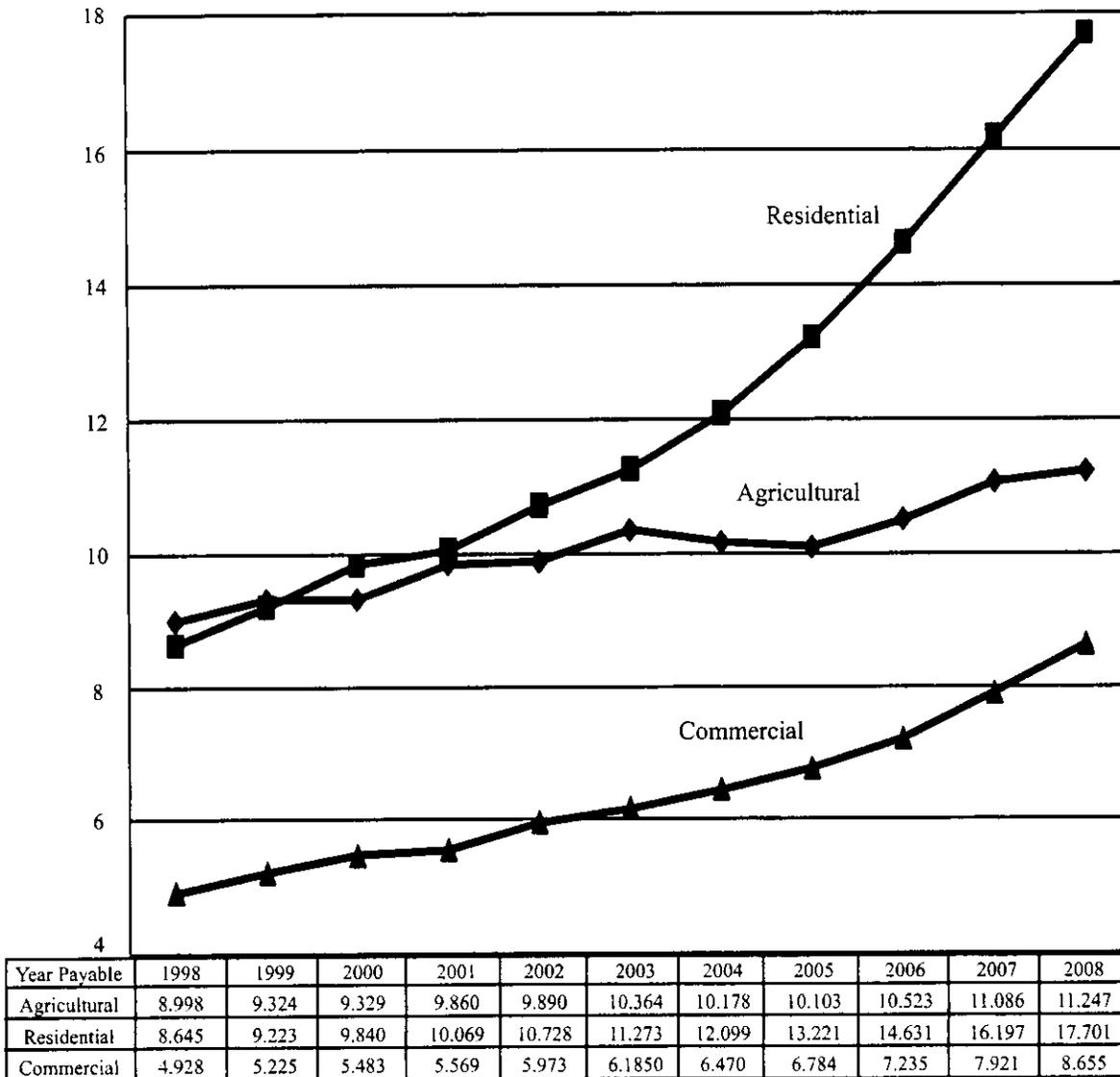
### Ad Valorem Property Taxes Levied - For Taxes Payable in 1998-2008



Year Payable	Taxes
1998	447,582,274
1999	465,203,396
2000	486,194,264
2001	509,032,721
2002	532,629,675
2003	560,751,909
2004	586,412,017
2005	618,065,693
2006	659,789,374
2007	706,427,621
2008	740,540,738

## True and Full Value by Classification For Taxes Payable in 1998 - 2008

Billions of Dollars



### Explanation of Terms and Trends

**True and full value.** For residential and commercial property "true and full value" is the local assessor's estimate of the market value of the property. For agricultural property, true and full value is based on agricultural production and is typically less than its market value or selling price.

**Effective Rates.** An annual sales ratio study measures how close "true and full values" are to actual selling prices for property. The results may be used to calculate an effective tax rate for each classification. The effective rate is the total tax divided by the total indicated selling price (see table on page 94).

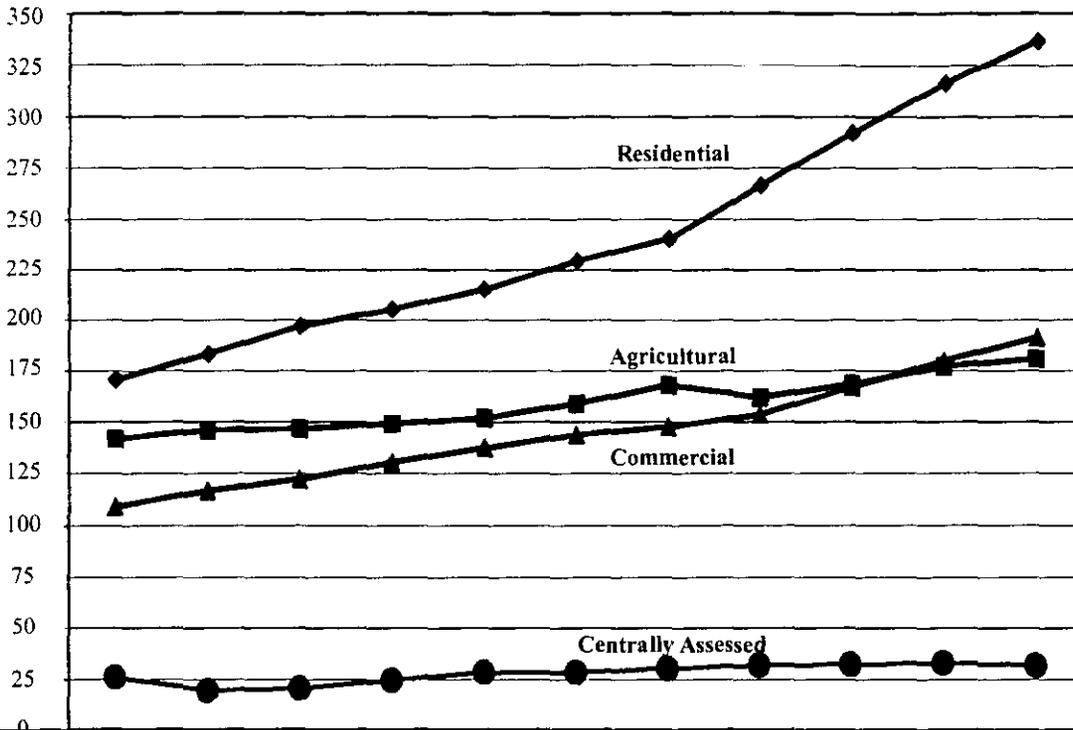
**Trends.** During the first six years of the past 11 years, mill rates were fluctuating and total taxable valuations were increasing (see

preceding page). For the next three years, the statewide average mill rate increased while values increased. For the last three years, mill rates have been decreasing. The table above shows how the total true and full value for each classification has been increasing at an accelerating pace. Agriculture values tend to go up when production and commodity prices are increasing. Other property values tend to go up when employment is high. Another factor is that total values of residential and commercial property include a rising number of properties. The number of acres classified as agricultural land is down slightly.

Charts in this section show statewide data. Please note that values and taxes for individual properties will depend on local economic conditions and other factors. The table above includes values for taxes payable in 2008.

## Ad Valorem Property Taxes by Classification Payable in 1998- 2008

Millions of Dollars



Year Payable	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Residential	170.7	183.1	196.9	205.3	215.1	229.6	240.4	266.5	292.0	316.4	336.6
Agricultural	141.7	145.9	146.6	149.0	151.9	158.9	168.1	162.0	168.5	177.2	180.9
Commercial	109.1	116.6	122.1	130.1	137.2	143.7	147.5	153.5	167.0	179.8	191.2
Central	26.1	19.6	20.6	24.6	28.5	28.5	30.4	31.9	32.3	33.0	31.8
<b>Total</b>	<b>447.6</b>	<b>465.2</b>	<b>486.2</b>	<b>509.0</b>	<b>532.6</b>	<b>560.7</b>	<b>586.4</b>	<b>613.9</b>	<b>659.8</b>	<b>706.4</b>	<b>740.5</b>

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

### Effective Rates by Classification Payable in 2006, 2007, and 2008

Property Classification	Effective Rate		
	2006	2007*	2008*
Residential	1.81%	1.79%	1.77%
Agricultural	0.94%	0.81%	0.74%
Commercial	2.17%	2.26%	2.20%
Centrally Assessed	1.64%	1.68%	1.64%
<b>Total</b>	<b>1.51%</b>	<b>1.43%</b>	<b>1.37%</b>

### Ad Valorem Property Taxes Percent of Total by Classification Payable in 2006, 2007, and 2008

	<u>2006</u>	<u>2007</u>	<u>2008</u>
Residential	44.3%	44.8%	45.5%
Agricultural	25.5%	25.0%	24.4%
Commercial	25.3%	25.5%	25.8%
Centrally Assessed	4.9%	4.7%	4.3%

The effective rate on centrally assessed wind turbine electric generation units is overstated because of their reduced taxable value percentage. That causes the effective rate on the centrally assessed property to be slightly understated.

## General Property Taxes by County - Payable in 2004-2008

County	2004 Total		2005 Total		2006 Total		2007 Total		2008 Total	
	Ad Valorem Property Taxes	Percent Change								
Adams	2,593,335	1.2	2,734,585	5.4	2,849,899	4.2	2,872,219	0.8	2,881,080	0.3
Barnes	11,804,754	8.4	12,136,002	2.8	13,006,449	7.2	13,988,767	7.6	13,815,659	-1.2
Benson	3,998,165	1	4,037,188	1	4,207,168	4.2	4,489,324	6.7	4,671,291	4.1
Billings	672,161	8.5	695,602	3.5	708,361	1.8	749,987	5.9	673,348	-10.2
Bottineau	6,998,204	5.2	7,314,910	4.5	7,733,987	5.7	8,164,022	5.6	8,497,958	4.1
Bowman	2,055,826	-12.7	2,262,577	10	2,410,615	5.6	2,608,784	8.2	3,064,359	17.5
Burke	2,437,398	9.5	2,469,023	1.3	2,543,429	3	2,625,609	3.2	2,664,482	1.5
Burleigh	66,114,984	4.4	70,397,362	6.5	75,189,184	6.8	82,183,660	9.3	86,440,051	5.2
Cass	134,352,710	6.9	146,680,991	9.2	160,111,503	9.2	173,786,741	8.5	185,184,307	6.6
Cavalier	6,134,509	2.8	6,267,022	2.2	6,295,726	4.6	6,899,948	9.6	7,079,996	2.6
Dickey	5,672,799	2.4	5,562,646	-1.9	6,035,845	8.5	6,420,789	6.4	6,614,973	3.0
Divide	2,798,728	4.6	2,821,071	0.8	2,869,787	1.7	2,920,948	1.8	2,797,213	-4.2
Dunn	3,887,738	2.8	4,059,219	4.4	4,163,603	2.6	4,213,242	1.2	4,257,953	1.1
Eddy	2,493,299	6.7	2,568,714	3	2,675,769	4.2	2,644,943	-1.2	2,729,578	3.2
Emmons	3,964,980	4.9	4,060,378	2.4	4,278,121	5.4	4,430,847	3.6	4,696,460	6.0
Foster	3,936,415	-0.3	4,057,362	3.1	4,023,851	-0.8	4,220,290	4.9	4,354,791	3.2
Golden Valley	1,666,695	-3.8	1,705,977	2.4	1,740,429	2	1,796,314	3.2	1,922,637	7.0
Grand Forks	59,810,282	5.3	63,722,135	6.5	67,910,543	6.2	73,458,194	8.2	78,676,347	7.1
Grant	2,684,087	-1.4	2,757,056	2.7	2,839,060	3	3,012,447	6.1	3,160,288	4.9
Griggs	3,349,623	-1.5	3,368,117	0.6	3,481,082	3.4	3,694,244	6.1	3,749,729	1.5
Hettinger	2,755,938	2.4	2,944,898	6.9	3,045,246	3.4	3,270,755	7.4	3,505,884	7.2
Kidder	2,946,209	8.5	3,133,865	6.4	3,246,844	3.6	3,378,315	4.0	3,213,929	-4.9
LaMoure	4,687,088	6.4	5,178,623	10.5	5,459,978	5.4	5,758,371	5.5	5,840,213	1.4
Logan	2,062,281	2	2,039,302	-1.1	2,087,612	2.4	2,231,891	6.9	2,396,395	7.4
McHenry	5,204,674	6	5,504,780	5.8	5,875,339	6.7	6,380,010	8.6	6,735,314	5.6
McIntosh	3,016,185	3.6	3,094,297	2.6	3,225,455	4.2	3,323,398	3.0	3,528,970	6.2
McKenzie	3,555,472	3.5	3,663,983	3.1	3,750,757	2.4	3,913,769	4.3	3,808,607	-2.7
McLean	6,464,448	9.2	6,733,947	4.2	7,012,645	4.1	7,549,468	7.7	7,922,664	4.9
Mercer	6,088,203	3.5	6,179,492	1.5	6,556,798	6.1	6,815,946	4.0	6,992,218	2.6
Morton	22,778,415	7.6	24,265,120	6.5	27,069,645	11.6	28,061,273	3.7	29,505,772	5.1
Mountrail	5,133,848	-0.4	5,169,726	0.7	5,477,741	6	6,054,008	10.5	6,210,285	2.6
Nelson	4,235,371	1.4	4,264,052	0.7	4,364,556	2.4	4,375,901	0.3	4,414,113	0.9
Oliver	1,490,833	1.5	1,533,527	2.9	1,670,890	9	1,791,381	7.2	2,100,146	17.2
Pembina	9,824,330	-0.9	9,903,240	0.8	10,212,016	3.1	10,637,304	4.2	10,955,808	3.0
Pierce	4,758,652	3.9	4,824,718	1.4	4,902,987	1.6	5,043,876	2.9	5,038,897	-0.1
Ramsey	9,637,229	3	10,338,870	7.3	10,893,268	5.4	11,508,222	5.6	11,827,297	2.8
Ransom	6,206,508	3.5	6,341,653	2.2	6,607,588	4.2	6,753,955	2.2	6,860,789	1.6
Renville	2,903,250	4.1	3,052,269	5.1	2,970,044	-2.7	3,087,512	4.0	3,277,035	6.1
Richland	18,802,477	2.6	19,368,866	3	19,969,815	3.1	20,734,879	3.8	21,490,744	3.6
Rolette	3,491,704	-0.7	3,577,888	2.5	3,728,001	4.2	3,791,782	1.7	3,868,329	2.0
Sargent	5,455,585	4.8	5,620,577	3	6,040,508	7.5	6,458,903	6.9	6,581,767	1.9
Sheridan	1,882,775	4.5	1,968,628	4.6	2,056,936	4.5	2,103,464	2.3	2,204,370	4.8
Sioux	734,520	10.8	765,886	4.3	678,900	-11.4	759,173	11.8	793,684	4.5
Slope	1,067,638	5.4	1,095,729	2.6	1,123,248	2.5	1,014,570	-9.7	1,080,828	6.5
Stark	15,085,650	5.4	16,242,993	7.7	17,207,491	5.9	18,709,133	8.7	20,127,540	7.6
Steele	3,588,789	0.8	3,595,623	0.2	3,814,357	6.1	3,995,194	4.7	4,171,407	4.4
Stutsman	19,396,865	3.9	20,090,708	3.6	21,283,299	5.9	22,437,840	5.4	23,000,545	2.5
Towner	3,812,907	5.7	3,728,715	-2.2	3,719,070	-0.3	3,819,700	2.7	4,054,042	6.1
Traill	8,804,445	3.1	9,125,117	3.6	9,977,250	9.3	10,684,721	7.1	11,172,238	4.6
Walsh	12,189,558	0.8	12,099,288	-0.7	12,382,781	2.3	13,078,199	5.6	13,108,348	0.2
Ward	39,888,318	3	41,693,206	4.5	46,080,122	10.5	50,167,348	8.9	52,354,626	4.4
Wells	5,767,738	7.4	5,629,904	-2.4	5,762,976	2.4	5,933,766	3.0	6,201,699	4.5
Williams	15,267,423	2.8	15,618,268	2.3	16,460,801	5.4	17,622,072	7.1	18,263,736	3.6
<b>Total</b>	<b>586,412,017</b>	<b>4.6</b>	<b>618,065,693</b>	<b>5.4</b>	<b>659,789,374</b>	<b>6.8</b>	<b>706,427,621</b>		<b>740,540,738</b>	

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

## STATE COMPARISONS

North Dakota's property taxes are relatively moderate compared to those in other states, whether measured per capita or per \$1,000 of personal income. In recent years, property values have increased significantly resulting in a corresponding increase in property tax assessments. In response, many states have implemented various property tax relief initiatives in an effort to reduce the property tax burden. The tables compare the property taxes on equally valued homes in similar size North Dakota cities as well as from neighboring states. Neighboring states' property taxes on similarly valued residences appear less than North Dakota's because those states provide a homestead

credit for all owner-occupied residential property. North Dakota's homestead credit is available only to elderly and disabled persons with limited income.

Rankings (as shown on the following page) based on collections offer insight into overall tax levels. However, further analysis is needed to see the details of how state tax systems differ. Property taxes may vary by property classification and different types of property may be taxed or excluded. Some states, such as Wyoming, use the property tax to tax mineral wealth while states like North Dakota levy separate severance taxes. In Alaska, because of its oil reserves fund, residents receive annual payments of about \$1,000 per person.

### Property Taxes on an Owner Occupied Home in North Dakota Payable in 2008

#### \$70,000 Home

City	Tax Amount*
Bowman	\$1,018
Carrington	\$1,308
Grafton	\$1,533
Kenmare	\$1,092
Lisbon	\$1,481
Rugby	\$1,306
Washburn	\$953

#### \$100,000 Home

City	Tax Amount*
Bismarck	\$1,752
Devils Lake	\$2,263
Dickinson	\$1,905
Fargo	\$1,962
Grand Forks	\$2,072
Jamestown	\$2,215
Mandan	\$2,158
Minot	\$1,795
Valley City	\$1,988
Wahpeton	\$2,062
West Fargo	\$1,911
Williston	\$1,957

\* Calculations assume taxes are paid by February 15, allowing the taxpayer a 5% discount.

SOURCE: Survey by North Dakota Office of State Tax Commissioner, Property Tax Division, August 2008.

### Property Taxes on a \$100,000 Owner Occupied Home in Neighboring States Payable in 2008

SOUTH DAKOTA <sup>1</sup>		MONTANA <sup>2</sup>		MINNESOTA <sup>3</sup>	
City	Tax Amount	City	Tax Amount	City	Tax Amount
Aberdeen	\$ 1,687	Miles City	\$ 2,200	Bemidji	\$ 1,019
Rapid City	1,419	Great Falls	1,391	St. Cloud	883
Sioux Falls	1,789	Billings	1,230	Minneapolis	1,062

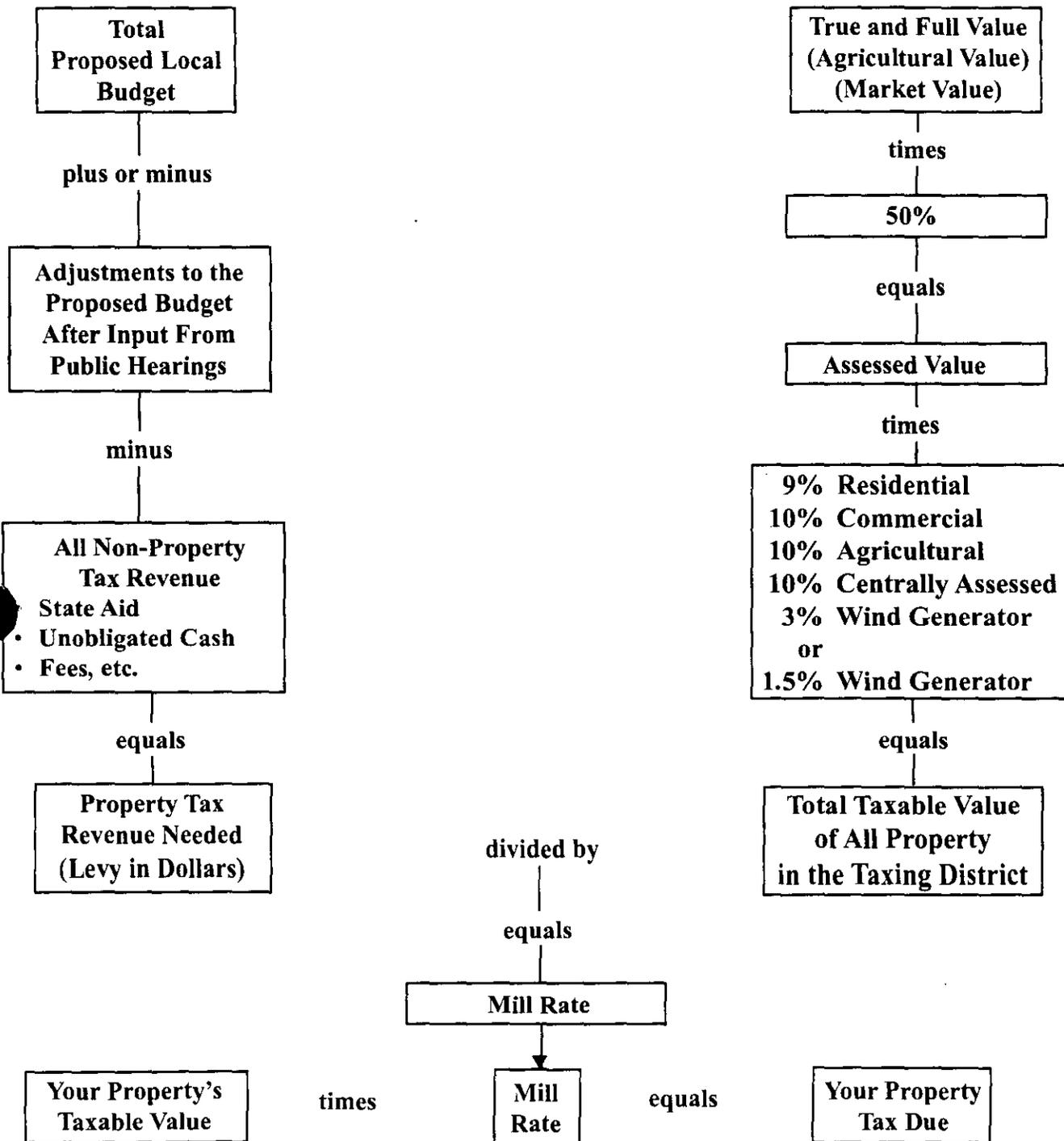
<sup>1</sup> Owner-occupied residences receive a 30% tax reduction.

<sup>2</sup> 34% homestead credit for all residential property

<sup>3</sup> After \$282 homestead credit.

SOURCE: Survey by North Dakota Office of State Tax Commissioner, Property Tax Division

# North Dakota Property Tax System



All property in North Dakota is subject to property tax unless it is specifically exempted. Except for a one-mill levy for the State Medical Center, property taxes are administered, levied, collected and expended at the local level for the support of schools, counties, cities, townships and other local units of government. The State does not levy a property tax for general government operations.

The property tax is an "ad valorem" tax, that is, it is based on the value of the property subject to tax. The other element of the property tax is the amount of revenue that needs to be raised.

Kasper, Jim M.

HB 1398

#1

From:  
To:

[REDACTED]  
Sunday, February 22, 2009 1:45 PM  
Kasper, Jim M.; Thoreson, Blair; Zaiser, Steve L.  
House bill 1398

Subject:

I want to thank you for sponsoring this bill and would like to let you know you have my full support. I am an educator and certainly value the excellent education that is provided in the Fargo school district. However, I believe that the building that has taken place in my 14 years of living in Fargo has not all been necessary, and I do not feel that I have had an adequate chance to voice my concern through the method that currently exists in the school board building authority.

While construction of new schools may be necessary in some instances, there are times where it appears that other solutions would allow the money to be used in direct support of our students' education. I read the editorial in the Fargo Forum today with interest. It appears that someone is afraid that the voters would vote against some of the building that continues to go forward if we actually had that chance. The absence of logic in the argument for not passing the bill is astounding. If the majority of people were truly represented by our school board, they wouldn't need to worry about a vote going against their building proposals.

One of the primary planned building projects that I believe would have been voted down is the new high school that is going to be built. If the dividing lines for Fargo South and Fargo North had just been adjusted to balance their enrollments when all the renovation took place in these buildings, there would have been no need for more space. However, to make it appear that the space is needed, the 9<sup>th</sup> graders were shifted into the high schools.

Unfortunately, I am afraid that I am going to have to move out of the Fargo area after I retire, because I will not be able to justify paying such a significant part of my retirement income towards the extremely high property taxes that exist. Thank you for doing your part to represent those us that elected you and thank you for being willing to serve in this capacity.

[REDACTED]  
[REDACTED]  
Fargo, ND 58104

Kasper, Jim M.

HR 1398

From:

Tuesday, February 24, 2009 6:55 AM

Cc:

Thoreson, Blair; Kasper, Jim M.

Subject:

Flakoll, Tim

Fargo property taxes are out of control. We need a voice in Government. Our voice to the city of Fargo has fallen on deaf ears

Sorry to see the **only meaningful bills, 1422, & 1473** did not pass! We have no control over our local Government! Our school board thinks it is reasonable to spend 30k per locker room to: 1.)Paint, 2.) Apply Floor covering, 3.)Install the lockers themselves. This is for 5 total Hockey locker rooms in the New arena in south fargo, total 150k. Do the hockey playing kids of Fargo really need 150k in locker rooms?

I am having trouble hiring employees because everyone knows about the outrageous property taxes! Who wants to move to Fargo and have to lower your standard of living because the property taxes are so high.

I have lost two employees to South Dakota in the last year. They can move to SD for less pay and still enjoy a higher quality of life with zero income taxes, and low property taxes!

**Bill 1324 is a complete Joke!** It is a one-time Feel good bill to quiet the masses. Everyone gets a check, goes to Walmart buys a big screen and nothing is solved!

**Bill 1268 is a waste of time!** How much clothes do people buy? Will I save \$10. A year? Wow!

real problem is my property taxes are \$3,800. And they should be \$1,600. ! I live in a modest house with 9 yrs left on a 15 year mortgage. The small house built in 1940's sits on a 50ft lot in north Fargo.

Sorry for the strong email, but I have lived in Fargo 40 yrs, and have been a home owner since 1997. Every year the increases in property taxes outreach any salary increases so I am left with less! Why do I live here?



Fargo ND

**Kasper, Jim M.**

---

**From:**

[REDACTED]  
Tuesday, January 27, 2009 6:02 PM

Kasper, Jim M.; Thoreson, Blair

**Subject:**

House Bill 1398

Congratulations! I read the article in today's Fargo Forum about House Bill 1398 you are both sponsoring. I fully support this bill.

I believe most Fargo voters are like me, and didn't realize that authority was passed to the "District Building Authority" years ago. I absolutely cannot understand how and why we continue to spend money on new (and remodel) schools in Fargo while enrollment drops. Especially during times like these – the private sector is cutting back, and cutting projects.

What concerns me is the opposition to your bill. If the new construction projects are such a good idea, then the public should easily pass them. The fact the Fargo School Board is "afraid" of the 60% mandate, tells me they are circumventing the will of the majority of Fargo citizens – AND realize it.

Thank you for your work on this bill!!!

[REDACTED]  
[REDACTED]  
Fargo, ND 58103

Kasper, Jim M.

HB 1398

From:

[REDACTED]

Sunday, February 22, 2009 1:13 PM

Kasper, Jim M.; Thoreson, Blair; Zaiser, Steve L.

Subject:

Bill Targeted at the Fargo School District

Representatives Kasper, Thoreson, and Zaiser,

I saw the editorial by the Forum in today's newspaper. I can imagine that you will get complaints resulting from that editorial.

I want to thank for leading this effort. Our property taxes in Fargo are terrible. I am 58 years old. I have reached the conclusion that I will not retire in Fargo because I can't afford to live here if not fully employed. I believe that an unbridled school board is primarily the reason for my excessively high property tax (\$6,000/year for a 2200 square foot home).

I have yet to understand why we have to build new buildings in this town when our school aged population is declining.

The editorial stated that voters have a voice because of the frequent school board elections. That is only partial true. Generally speaking, I think the school board probably does a good job. I don't hear anyone complaining about the quality of the education in Fargo; however, I hear lots of people complaining about property taxes. **Expenditure of money needs special attention.** This is one issue that rises above all other. It impacts everyone that owns property in the city. Most of the issues that are being addressed by the school board are procedural and narrowly focused on education. The expertise of that body is needed for that narrow focus. Tax increases is a broader subject than just education. It broadly affects the people in this town. The school board should not have the authority to have this impact on the community without a separate vote.

Please keep driving on this issue. **You have my support.**

Sincerely,

[REDACTED]  
Fargo, ND 58102

**Kasper, Jim M.**

---

**From:** Jim Kasper [jmkasper@amq-nd.com]  
**Date:** Wednesday, February 04, 2009 11:32 PM  
**To:** Kasper, Jim M.  
**Subject:** Fw: City of Bowman Increases Property Taxes 40% In One-Year

#2

----- Original Message -----

**From:** North Dakota Taxpayers' Association  
**To:** jmkasper@amq-nd.com  
**Sent:** Tuesday, February 03, 2009 1:16 PM  
**Subject:** City of Bowman Increases Property Taxes 40% In One-Year

Having trouble viewing this email? [Click here](#)

Question: How will a state bailout of school districts prevent cities, counties, and park districts from raising property taxes?

City of Bowman Increases Property Taxes by 40% In One Year

from the January 31st Dickinson Press

There was not a seat to be found Thursday night in Bowman's City Hall, with more than 100 people sitting in the designated chairs within the meeting room. More than 50 spilled out into the hallway, hoping to hear the reasoning behind the Bowman City Commission raising property taxes more than 40 percent. Members of the commission, along with President Lyn James, were on hand to present information regarding the raise in taxes, the city's involvement with major projects, along with answering any questions and concerns during Thursday's public meeting.

James said a lot of rumors have circulated regarding the increase.

"Much of the conversation has taken place in coffee shops, bars, restaurants, and yet the commission has not had a single property owner ask to be put on the agenda or even attend a meeting to discuss questions," James said. "As the city has grown, the demands have grown as well. Due to increased costs, we felt it necessary to raise your taxes." James also discussed the various projects the city has helped by contributing funds, such as the Four Seasons Pavilion and library.

City attorney Steve Wild moderated the event, and prefaced the question and answer session with specific information on the tax increase.

"In 2007, the city mills were 340.12, in 2008 the city mills were 437.75," Wild said. "That is an increase of 28.7 percent. Also, your taxable valuation went up nine percent, which is pretty much a dictate from state law."

Wild went on to say with the mill increase along with the valuation increase, through a formula, new taxes are now 40.278 percent higher.

"If you have commercial property it would not have gone up that much because you did not get a nine percent increase in your valuation, it only applied to residential property," Wild said. "A letter, sent out in December to the residents of Bowman, informed citizens of the tax increase."

James said over the past decade, the city was told they could not raise mill levies, but after research, found they could.

"From the structure of the home-rule charter, we found out we did in fact have the authority to raise the mill levy," James said. "That brought on a short moment of relief among the commissioners as we were facing some serious budget cuts without that increase."

Projects, along with requests from various entities, strain the monies received from oil and gas revenue, which totaled \$620,037 in 2008, said Judy Pond, Bowman city Auditor.

"That money went into the general fund," Pond. "The general fund takes care of the street department and all the rest that runs the city. When there has not been a raise in the general fund in 11 years, and when you range from \$128,000 to \$130,000 in general revenue, you can't run the city on that."

The Bowman Police Department's budget alone for 2008, Pond said, totaled approximately \$227,570, while the street department's budget totaled approximately \$190,000, although those budgets did not necessarily reflect what each department received.

"When you look at our budget, we budget higher than we hope we ever have to use," Pond said. "I think that you can see that \$620,000 doesn't go as far as it did."

Water, sewer and garbage are self-sustaining funds, Pond said. A little money is put away for future projects or potential equipment replacements, including water, which provides \$1 for every 1,000 gallons sold, quarterly, she said.

Pond estimated the increased levy will generate approximately \$312,000. Vivian Hernandez, Bowman resident, had some harsh words for the commission.

"As a home owner, I want to have the best of everything too, but I have to budget," Hernandez said. "I think it was poor planning to have the meeting in here. There are 50 people standing out in the hallway and they have just as much of a right to be in here as these people do."

Hernandez, who received a round of applause after her comments, was among many who posed questions to the commission, ranging from changing the water rates to accommodate the needs of the city, to cutting the budgets of departments to decrease taxes.

James said the 2010 budget will be examined next summer, along with each department's budget.

"There are some areas that have come to light that could be adjusted in order to have a substantial mill levy decrease," James said. "Those areas will involve in-depth study by commission members and area officials by different entities and the community."

James, along with other members of the commission encouraged community members to attend commission meetings to voice any questions or concerns they might have.

"This gathering is very important to the commission," James said. "We appreciate the input and we appreciate the concern. I feel confident you will see a difference."

**Forward email**



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North Dakota Taxpayers' Association | 1720 Burnt Boat Drive | BISMARCK | ND | 58503

Email Marketing by



**Kasper, Jim M.**

---



Kasper, Jim M.  
Wednesday, January 21, 2009 11:35 AM  
[REDACTED]  
Cc: jmkasper@amg-nd.com; Kasper, Jim M.  
Subject: RE: Property Tax--REPLY FROM REP. JIM KASPER--JAN 21, 2009

Eric:

I have two bills on Property Tax introduced.

HB 1422 reforms the formula on how property taxes are calculated and puts caps on the increase in property tax on individual property at no greater than 2% over your previous year's tax, in actual dollars. It also caps the budget increases of all political sub-divisions at no more than 4% over their previous year's budget. It does a number of other good things. Please print the bill off and read it.

HB 1423 is a Homestead Tax bill that increases the credit for people over age 65 and those who are disabled. Please print that one as well.

Thanks for staying in contact.

Rep. Jim Kasper

**From:** [REDACTED]  
**Date:** Wednesday, January 21, 2009 10:13 AM  
Kasper, Jim M.  
**Subject:** Property Tax

You were quoted in the Forum about your plans to reform our property taxes when you were elected. How is that going in Bismarck. There is no more pressing #1 issue for homeowners in our State. Let me know what is being discussed.  
Best regards, [REDACTED]

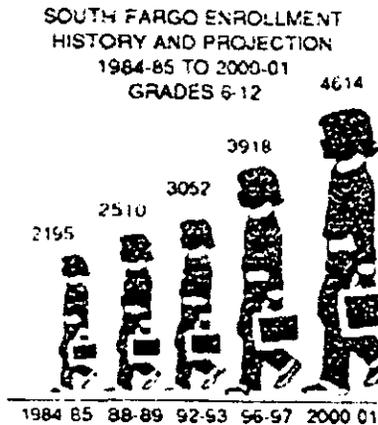


### WHY IS A NEW SCHOOL NEEDED?

Fargo is a growing city. By the year 2000, the city's population is expected to reach 80,000. This represents a thirteen percent increase in a ten-year period.

Fargo public school enrollment has already increased by 1,541 students during the past five years. This equates to an average annual gain of 308 students. Predictions indicate that enrollment will rise by an additional 1,500 students over the next five years.

Students in grades 6-12 in south Fargo will number more than 3,400 by 1994-95. Without a new school, Agassiz Junior High and South High would each need to house about 1,700 students. This is well above their capacities. Such overcrowding creates a poor environment for learning.



### WHAT IS A NEW SCHOOL PLAN?

The new school, to be opened in the fall of 1994, will reduce enrollments at both Agassiz and South by moving one grade from each building to a new school for 8th and 9th graders. South High will then house grades 10, 11 and 12. Agassiz will serve grades 6 and 7. Land has been purchased in the area of 40th Avenue and 18th Street South for the new school.

### WHAT WILL THE NEW SCHOOL COST?

The new school will cost about \$12,200,000 including equipment. Based on a bond consultant's projection, the School Board will need to levy approximately 11.4 mills over a 20-year period to repay the bonds used to build the school.

### WHAT QUESTION WILL BE ON THE BALLOT?

Your ballot will read, "Shall Fargo Public School District #1 issue up to 11.4 mills for school building funds pursuant to Section 57-15-16 of the North Dakota Century Code?"

Yes     No



### WILL A "YES" VOTE AUTHORIZE CONSTRUCTION OF THE NEW SCHOOL?

It is the first step. If a "Yes" vote is secured, the School Board will continue the process required to construct the new school. The School Board will need to publish its intent to dedicate 11.4 mills of the building construction authority toward construction of the new school. A protest period must elapse prior to the sale of bonds for the project.

A fifteen-member Citizen Information Committee unanimously advised the School Board to secure voter approval for the 11.4 mill authority.

### WHAT IS A BUILDING CONSTRUCTION LEVY?

State law permits school districts to levy up to 20 mills, with voter approval, for a Building Construction Fund. The fund may be used only for construction, school building improvements or for the purchase of future school sites. A "Yes" vote will authorize the School Board to levy only up to 11.4 mills for these purposes.

#7

## HOW WILL CONSTRUCTION OF THE NEW SCHOOL AFFECT PROPERTY TAXES?

The tax increase will depend on the value of your property and the assessed value of the district. The 11.4 mills needed to finance the new school would increase annual taxes as follows:

TYPE OF PROPERTY			
PROPERTY'S VALUE:	Residential \$50,000	Residential \$100,000	Commercial \$150,000
TAX INCREASE:	\$25.65	\$51.30	\$85.50

### POLLING PLACES

7:00 a.m. - 7:00 p.m.

- |                                |                       |
|--------------------------------|-----------------------|
| 1. Lincoln                     | 2120 9th St. S.       |
| 2. Metropolitan Baptist Church | 2812 25th St. S.      |
| 3. Centennial School           | 4201 25th St. S.      |
| 4. Riverview Place             | 5300 12th St. S.      |
| 5. Lewis and Clark School      | 1729 16th St. S.      |
| 6. North Dakota Job Service    | 1350 32nd St. S.      |
| 7. Clara Barton School         | 1417 6th St. S.       |
| 8. Bethany Homes               | 201 S. University Dr. |
| 9. Fargo High Rise             | 101 2nd St. S.        |
| 10. Madison School             | 1040 29th St. N.      |
| 11. Fargo Public Library       | 192 3rd St. N.        |
| 12. Rosewood on Broadway       | 1351 Broadway         |
| 13. New Horizons Manor         | 2525 Broadway         |
| 14. Longfellow School          | 20 29th Ave. NE       |

Each qualified elector residing within those areas which have been attached by order of the Board of County Commissioners to the school district under the jurisdiction of the Board of Education of the City of Fargo may vote at any of the polling places designated above, which is conveniently accessible to that elector.

## MESSAGE TO THE VOTERS

Fargo public schools are crowded. It is imperative that construction begin soon to provide adequate space for our growing student population. Quality education has been a major factor in the economic and general strength of our community. Our award-winning school district relies on an excellent faculty and a public committed to education. Our future depends directly on the investment we make today in our young people. No greater responsibility exists than equipping our youth to meet the challenges ahead. Adequate facilities are vital in meeting that responsibility. Education is the key to our children's future and to ours.

### CITIZEN INFORMATION COMMITTEE

Laura Carney, Co-Chairman  
Steve Swiontek, Co-Chairman

Dave Anderson	Russ Freeman	Gary Secor
Julie Bamer	Bruce Furness	Debbie Tight
Mike Bullinger	James Garvey	Ene Vogel
Deb Dillon	Tom Hansen	Carl Wall
	Terry Lunde	



Fargo Public Schools  
1104 2nd Avenue South  
Fargo, ND 58103

## VOTER INFORMATION

### SCHOOL CONSTRUCTION AUTHORITY

DECEMBER 3, 1991



#1

#2

**Jim Kasper**

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**From:** "Denise Anderson" <DLAnderson@cityoffargo.com>  
**To:** <jmkasper@amg-nd.com>  
**Cc:** <jkasper@nd.gov>  
**Sent:** Tuesday, February 24, 2009 11:25 AM  
**Attach:** DOC022309.pdf  
**Subject:** FW: Ballott Question - 1991

Mr. Kasper

Attached is the brochure e-mailed to Mr. Sprague, City of Fargo Auditors Office regarding Fargo School voter information 1991.

Denise Anderson  
City of Fargo Auditor's Office  
701-241-8108

---

**From:** Steve Sprague  
**Sent:** Tuesday, February 24, 2009 11:07 AM  
**To:** Denise Anderson  
**Subject:** FW: Ballott Question - 1991

This is what I got from Mary Ann, her number is listed below

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**From:** Mary Ann Smith [mailto:smithma@fargo.k12.nd.us]  
**Sent:** Monday, February 23, 2009 3:11 PM  
**To:** Steve Sprague  
**Subject:** Ballott Question - 1991

Hi Steve – here is the brochure we talked about earlier – I hope this answers your question.

**Mary Ann Smith**  
**Admin. Assistant - Business**  
**Fargo Public Schools**  
**Phone: 701-446-1027**  
**Fax: 701-446-1200**

#1

**21-03-07. Election required — Exceptions.**

No municipality, and no governing board thereof, may issue bonds without being first authorized to do so by a vote equal to sixty percent of all the qualified voters of such municipality voting upon the question of such issue except:

1. As otherwise provided in section 21-03-04.
2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by subdivision e of subsection 1 of section 21-03-06, subdivision g of subsection 2 of section 21-03-06, and subsections 4.1 and 7 of section 21-03-06 without an election.
3. The governing body of any municipality may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any federal-aid highway project undertaken under an agreement entered into by the governing body with the United States government, the director of the department of transportation, the board of county commissioners, or any of them, including the cost of any construction, improvement, financing, planning, and acquisition of right of way of a bridge eligible for federal matching funds, federal-aid highway routed through the municipality and of any bridges and controlled access facilities thereon and any necessary additional width or capacity of the bridge or roadway thereof greater than that required for federal or state bridge or highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and streetlights. The portion of the total cost of the project to be paid by the municipality under the agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, may not exceed a sum equal to thirty percent of the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right of way to be acquired in connection therewith. The initial resolution authorizing issuance of bonds under this subsection must be published in the official newspaper of the municipality. Within sixty days after publication, an owner of taxable property within the municipality may file with the auditor or chief fiscal officer of the municipality a written protest against adoption of the resolution. A protest must describe the property that is the subject of the protest. If the governing body finds protests have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property in the municipality, as most recently finally equalized, all further proceedings under the initial resolution are barred. Nothing herein may be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed may not be included in computing the portion of the project

cost payable by the municipality, within the meaning of this subsection, unless the work is actually called for by the agreement between the municipality and the other governmental agencies involved.

4. The governing body of any city may also by resolution adopted by a two-thirds vote authorize and issue general obligation bonds of the city for the purpose of providing funds to pay the cost of any improvement of the types stated below, to the extent that the governing body determines that such cost should be paid by the city and should not be assessed upon property specially benefited thereby; provided that the initial resolution authorizing such bonds must be published in the official newspaper, and any owner of taxable property within the city may, within sixty days after such publication, file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution are barred. This procedure is authorized for the financing of the following types of improvements:

a. Any street improvement, as defined in subsection 2 of section 40-22-01, to be made in or upon any federal or state highway or any other street designated by ordinance as an arterial street.

b. The construction of a bridge, culvert, overpass, or underpass at the intersection of any street with a stream, watercourse, drain, or railway, and the acquisition of any land or easement required for that purpose.

c. Any improvement incidental to the carrying out of an urban renewal project, the issuance of bonds for which is authorized by subsection 4 of section 40-58-13.

Nothing herein may be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such improvement, in the manner and to the extent otherwise permitted by law.

5. The governing body of any city may also by resolution adopted by a two-thirds vote dedicate the mill levies as authorized by sections 57-15-42 and 57-15-44 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public buildings or fire stations; provided, that the initial resolution authorizing the mill levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the city may, within sixty days after publication, file with the city auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the

#7

assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

6. The governing body of any county may also by resolution adopted by a two-thirds vote dedicate the tax levies as authorized by sections 57-15-06.6 and 57-15-06.9 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of regional or county correction centers, or parks and recreational facilities; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the county may, within sixty days after publication, file with the county auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the county, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

7. The governing body of any public school district may also by resolution adopted by a two-thirds vote dedicate the tax levies as authorized by section 15.1-09-47, 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public school buildings or for the construction or improvement of a project under section 15.1-36-02 or 15.1-36-03. The initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper of the school district, and any owner of taxable property within the school district may, within sixty days after publication, file with the business manager of the school district a protest against the adoption of the resolution. Protests must be in writing and must describe the property that is the subject of the protest. If the governing body finds the protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the school district, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

8. The governing body of any city having a population of twenty-five thousand persons or more may use the provisions of subsection 3 to provide funds to participate in the cost of any construction, improvement, financing, and planning of any bypass routes, interchanges, or other intersection improvements on a federal or state highway system which is situated in whole or in part outside of the corporate limits of the city; provided, that the governing body thereof shall determine by resolution that the undertaking of such work is in the best interest of the city for the purpose of providing access and relieving congestion or improving traffic flow on municipal streets.

#1

9. The governing body of a municipality or other political subdivision, located at least in part within a county that is included within a disaster or emergency executive order or proclamation of the governor under chapter 37-17.1, may by resolution adopted by a two-thirds vote authorize and issue general obligation bonds of the political subdivision without an election for the purpose of providing funds to pay costs associated with the emergency condition. The political subdivision may dedicate and levy taxes for retirement of bonds under this subsection and such levies are not subject to limitations as otherwise provided by law.

10. The governing board of any county, city, public school district, park district, or township may by resolution adopted by a two-thirds vote dedicate the tax levy authorized by section 57-15-41 and authorize and issue general obligation bonds to be paid by the dedicated levy for the purpose of providing funds to prepay outstanding special assessments made in accordance with the provisions of title 40 against property owned by the county, city, public school district, park district, or township.

**Source.** S.L. 1927, ch. 196, § 5; 1933, ch. 170, § 1; R.C. 1943, § 21-0307; S.L. 1947, ch. 192, § 1; 1947, ch. 195, § 1; 1951, ch. 171, § 1; 1957, ch. 179, § 1; 1957 Supp., § 21-0307; S.L. 1967, ch. 192, § 1; 1967, ch. 323, § 43; 1969, ch. 247, §§ 1, 2; 1971, ch. 251, § 2; 1975, ch. 217, § 1; 1975, ch. 218, § 1; 1975, ch. 219, § 1; 1977, ch. 375, § 1; 1983, ch. 82, § 44; 1983, ch. 149, § 3; 1985, ch. 281, § 1; 1989, ch. 145, § 6; 1989, ch. 209, § 8; 1989, ch. 290, § 1; 1989, ch. 291, § 1; 1993, ch. 186, § 7; 1993, ch. 241, § 1; 1995, ch. 239, § 1; 1997, ch. 222, § 1; 2001, ch. 161, § 23; 2003, ch. 48, § 19.

# Additional Mills Tax Fargo

## 15.1-09-49. Board of education of city of Fargo — Taxes for buildings.

The amount to be raised for teacher salaries and contingent expenses must be such only as together with the public money coming to the city from any source is sufficient to establish and maintain efficient and proper schools for students in the city. The tax for purchasing, leasing, or improving sites and the building, purchasing, leasing, enlarging, altering, and repairing of schools may not exceed in any one year fifteen mills on the dollar valuation of the taxable property of the city. The board of education may borrow, and when necessary shall borrow, in anticipation of the amount of the taxes to be raised, levied, and collected.

**Source.** S.L. 1999, ch. 196, § 9.

Applies to All Schools in North Dakota

**57-15-16. Tax levy for building fund in school districts.**

Every School District  
in ND has a Building  
Fund.

1. The governing body of any school district shall levy taxes annually for a school building fund, not in excess of twenty mills, which levy is in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the qualified electors voting upon the question at a regular or special election in any school district. The governing body of the school district may create the building fund by appropriating and setting up in its budget for an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law. If a portion or all of the proceeds of the levy have been allocated by contract to the payment of rentals upon contracts with the state board of public school education as administrator of the state school construction fund, the levy must be made annually by the governing body of the school district until the full amount of all such obligations is fully paid. Any portion of a levy for a school building fund which has not been allocated by contract with the state board of public school education must be allocated by the governing body pursuant to section 57-15-17. Upon the completion of all payments to the state school construction fund, or upon payment and cancellation or defeasance of the bonds, the levy may be discontinued at the discretion of the governing body of the school district, or upon petition of twenty percent of the qualified electors who voted in the last school election, the question of discontinuance of the levy must be submitted to the qualified electors of the school district at any regular or special election and, upon a favorable vote of sixty percent of the qualified electors voting, the levy must be discontinued. Any school district, executing a contract or lease with the state board of public school education or issuing general obligation bonds, which contract or lease or bond issue requires the maintenance of the levy provided in this section, shall immediately file a certified copy of the contract, lease, or bond issue with the county auditor or auditors of the county or counties in which the school district is located. The county auditor or auditors shall register the contract, lease, or bond issue in the bond register in substantially the manner provided in section 21-03-23. Upon the filing of the contract, lease, or bond issue with the county auditor or auditors, the school district may not discontinue the levy and the levy must automatically be included in the tax levy of the school district from year to year by the county auditor or auditors until a sufficient sum of money has been collected to pay to the state treasurer for the retirement of all obligations of the school district with the state board of public school education or to pay to the custodian of the bond sinking fund all amounts due or to become due on the bonds.

2. The school board of any school district, in levying taxes for a school building fund as provided for in subsection 1, shall specify on the ballot the number of mills to be levied and may in its discretion submit a specific plan for which such fund shall be used. The plan shall designate the general area intended to be served by use of such fund. The area intended to be served shall

be described in the plan but need not be described in the building fund ballot. After approval of the levy and the plan no change shall be made in the purpose of expenditure of the building fund except that upon a favorable vote of sixty percent of the qualified electors residing in any specific area intended to be served, material changes may be made in such plan as it affects such area to the extent such changes do not conflict with contractual obligations incurred. The provisions of this section and of subsection 1 of section 57-15-17 in regard to the purpose for which the building fund may be expended shall not apply to expenditures for major repairs.

**Source.** S.L. 1929, ch. 235, § 7, subs. 5; 1931, ch. 252, § 1, subs. 5; 1931, ch. 297, § 2, subs. 5; R.C. 1943, § 57-1516; S.L. 1945, ch. 311, § 1; 1947, ch. 351, § 1; 1955, ch. 319, § 1; 1957 Supp., § 57-1516; S.L. 1963, ch. 203, § 2; 1975, ch. 518, § 1; 1977, ch. 184, § 3; 1983, ch. 82, § 142; 1985, ch. 235, § 99; 1993, ch. 186, § 9.

## HOW WILL CONSTRUCTION OF THE NEW SCHOOL AFFECT PROPERTY TAXES?

The tax increase will depend on the value of your property and the assessed value of the district. The 11.4 mills needed to finance the new school would increase annual taxes as follows:

TYPE OF PROPERTY	Residence	Residence	Commercial
PROPERTY VALUE	\$50,000	\$100,000	\$150,000
TAX INCREASE	\$25.00	\$50.00	\$75.00

## MESSAGE TO THE VOTERS

Fargo public schools are crowded. It is imperative that construction begin soon to provide adequate space for our growing student population. Quality education has been a major factor in the economic and general strength of our community. Our award-winning school district relies on an excellent faculty and a public committed to education. Our future depends directly on the investment we make today in our young people. No greater responsibility exists than equipping our youth to meet the challenges ahead. Adequate facilities are vital in meeting that responsibility. Education is the key to our children's future and to ours.

## VOTER INFORMATION

## SCHOOL CONSTRUCTION AUTHORITY

DECEMBER 3, 1991

### POLLING PLACES 7:00 a.m. - 7:00 p.m.

1. Lincoln	2120 9th St. S.
2. Metropolitan Baptist Church	2612 25th St. S.
3. Centennial School	4201 25th St. S.
4. Riverview Place	5300 12th St. S.
5. Lewis and Clark School	1729 16th St. S.
6. North Dakota Job Service	1350 32nd St. S.
7. Clara Barton School	1417 6th St. S.
8. Bahany Homes	201 S. University Dr.
9. Fargo High Rise	101 2nd St. S.
10. Madison School	1040 29th St. N.
11. Fargo Public Library	102 3rd St. N.
12. Rosewood on Broadway	1351 Broadway
13. New Horizons Manor	2525 Broadway
14. Langfellow School	20 29th Ave. NE

Each qualified elector residing within those areas which have been attached by order of the Board of County Commissioners to the school district under the jurisdiction of the Board of Education of the City of Fargo may vote at any of the polling places designated above, which is conveniently accessible to that elector.

### CITIZEN INFORMATION COMMITTEE

Laura Carney, Co-Chairman  
Steve Switzer, Co-Chairman

Dave Anderson	Huss Freeman	Gary Secor
John Barner	Bruce Furness	Debbie Light
Mike Bunting	James Garvey	Ene Vogel
Deb Dillon	Tom Hanson	Carl Wall
	Terry Lunde	



Fargo Public Schools  
1104 2nd Avenue South  
Fargo, ND 58103



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The new school will cost about \$12,200,000 including equipment. Based on a bond consultant's projection the School Board will need to levy approximately 11.4 mills over a 20-year period to repay the bonds used to build the school.

### WHAT QUESTION WILL BE ON THE BALLOT?

Your ballot will read: "Shall Fargo Public School District #1 issue up to 11.4 mills for school building funds pursuant to Section 52-15-16 of the North Dakota Century Code?"

Yes  No



### WILL A "YES" VOTE AUTHORIZE CONSTRUCTION OF THE NEW SCHOOL?

It is the first step. If a "Yes" vote is secured, the School Board will continue the process required to construct the new school. The School Board will ever publish its intent to authorize 11.4 mills of the building construction authority toward construction of the new school. A protest period must elapse prior to the sale of bonds for the project.

A fifteen-member Citizen Information Committee unanimously advised the School Board to secure voter approval for the 11.4 mill authority.

### WHAT IS A BUILDING CONSTRUCTION LEVY?

State law permits school districts to levy up to 20 mills with voter approval for a Building Construction Levy. The fund may be used only for construction or for building improvements or for the purchase of other school sites. A "Yes" vote will authorize the School Board to levy only up to 11.4 mills for these purposes.

SOUTH FARGO ENROLLMENT HISTORY AND PROJECTION 1984-85 TO 1992-93 GRADES 6-12



...mises to be sold as aforesaid, pur- judgment and decree and to said its notice are situated in the County State of North Dakota, and are de- lows, to-wit:

(E1/2) of Section Seven (7), Hundred Thirty-seven (137) y-two (52) West, 2nd day of December, 1991. Donald Rudnick Sheriff of Cass County, North Dakota LUNDBERG, ERICKSON, LEAN, LTD. Plaintiff Dakota 16, 23, 1991) 8755

**NOTICE OF SALE**  
...hereby given that by virtue of a Judge- decree of foreclosure rendered and District Court in and for the County the State of North Dakota, and office of the Clerk of said Court on of November, 1991, in an action Bank of North Dakota was Plaintiff McDonald, Diane McDonald, Russell a A. Craft Windows, United States cling through the Internal Revenue let of Minnesota, Anchor Gas and re Defendants, adjudging that there ayable of the Real Estate Mortgage Plaintiff's Complaint the sum of for- and eight hundred sixty-seven and s (\$43,867.20), which Judgment and g other things, directed the sale by estate hereinafter described to au- of the Judgment with interest he costs and expenses of such sale hereof as the proceeds of the sale re to will satisfy, and by virtue of a sued out of the Office of the Clerk e Seal of the Court, directing me to property pursuant to said Judgment Donald Rudnick, Sheriff of Cass a, and the person appointed e the sale, will sell the here- al estate to the highest bidder- ublic auction at the front door of the e City of Fargo and the County the State of North Dakota on the anuary, 1992, at the hour of 2:00 afternoon of that day to satisfy the red due and payable in said Jud- interests and costs thereon and the penses of such sale or so much e proceeds of such sale applicable atisfy. The premises to be sold pur- Judgment and Decree and said us Notice are located in Cass Coun- and are described in the Jud- and Writ as follows, to-wit:

...ion of Lot Five (5), in Block Three d on the West by the West bound- Lot Five (5), and bordered in the line with a bearing of N 32 de- intersecting the North boundary line (5) at a point 62.998' East of the corner of Lot Five (5), and bor- he North and South by the North boundary lines of Lot Five (5), all- kyard's Corner Addition to the City

29th day of November, 1991. Donald Rudnick The person to hold such sale and as the Sheriff of Cass County, North Dakota. h Dakota path- eral. Attorney General 16, 23, 1991) 8748

...bids for a period of twenty days after the date set for the bid opening, reject any or all the bids and waive technicalities, as may be deemed best for the interest of the public.

All bidders are invited to be present at the public opening of the bids.

**PUBLIC SERVICE COMMISSION**  
Bruce Hagen President  
Leo M. Reinbold Commissioner  
Dale V. Sandstrom Commissioner  
Attest: Janet A. Elkin Secretary (Dec. 9, 16, 23, 30, 1991, Jan. 6, 1992) 8747

**INITIAL RESOLUTION FOR THE ISSUANCE OF SCHOOL BUILDING FUND GENERAL OBLIGATION BONDS**

BE IT RESOLVED by the Board of Education of the City of Fargo, North Dakota, that it is necessary and expedient for the Fargo School District to issue its School Building Fund General Obligation Bonds as hereinafter described

1. The maximum amount of bonds proposed to be issued is \$12,200,000.
2. The proposed purpose for which the bonds are proposed to be issued is to provide funds, to construct, furnish and equip a new middle school in South Fargo.
3. The assessed valuation of all taxable property in the school district for the year 1991, as defined in Section 21-03-01 of the North Dakota Century Code is \$971,337,244.
4. The outstanding General Obligation bonded indebtedness of the District is \$17,145,000, of which \$4,950,000 is short-term debt due November 13, 1992.
5. The outstanding first mortgage revenue bonded indebtedness of the Fargo School District Building Authority is \$3,475,000.
6. The District has outstanding General Obligation Bonds issued for a similar purpose in the amount of \$9,445,000.
7. Pursuant to Section 57-15-16, North Dakota Century Code, and a special election held on December 3, 1991, the Fargo School District, has the authority to levy 11.4 mills for a school building fund.

BE IT FURTHER RESOLVED by the Board of Education of the City of Fargo that the District issue one or more series of School Building Fund General Obligation Bonds in a total amount not to exceed \$12,200,000 for the purpose of constructing, furnishing and equipping a new middle school in South Fargo. The District will dedicate for the payment of the bonds 11.4 mills of the building fund levy for the payment of interest and principal on the bonds.

BE IT FURTHER RESOLVED that any owner of taxable property within the School District may within 60 days after publication of this Resolution file with the School District Business Manager a protest against the adoption of the Resolution. Protests must be in writing and must describe the property which is the subject of the protest. The address of the Business Manager is 1104 Second Avenue South, Fargo, North Dakota 58103. The Board of Education of the City of Fargo shall meet after the 60-day period to determine the sufficiency of any protests so filed and to take any such further action with respect to the Initial Resolution as they deem necessary and expedient.

BE IT FURTHER RESOLVED that the Business Manager is hereby authorized and directed to cause this Resolution to be published in the official newspaper of the School District.

Dated this 10th day of December, 1991.  
Bov Nielson President  
ATTEST: Business Manager (December 16, 23, 1991) 8799

#2  
BE IT FURTHER RESOLVED.

That area of Block 7, Barrett's Addition and Lot 12, Block 3, Kirkham's Addition lying between the following described lines:

Line One Beginning at a point on the North Line of Block 7, Barrett's Addition a distance of seventy nine and seventy six hundredths (79 76) feet Easterly of the Northwest corner of said Block 7; Thence extending Southwesterly to a point on the West line of said Block 7, one hundred fifty (150) feet Southerly of the Northwest corner of said Block 7. Line Two: Beginning at a point on the Northern line of Lot 12, Block 3, Kirkham's Addition twenty two and fifty four hundredths (22 54) feet Westerly of the Northeast corner of said Lot 12; Thence extending Southwesterly to a point on the South line of said Lot 12, one hundred twenty eight and eighty eight hundredths (128 88) feet Westerly of the Southeast corner of said Lot 12. Said area comprises of .152 acres more or less.

BE AND THE SAME IS HEREBY DEDICATED

BE IT FURTHER RESOLVED, That the Plat entitled "Vacation & Dedication-That Area of Block 7, Barrett's Addition and Lot 12, Block 3, Kirkham's Addition."

BE AND THE SAME IS HEREBY APPROVED.

AND THAT THE Mayor of the City of Fargo and the appropriate City officials are hereby directed to endorse their approval on the Plat, and then instruct Polition to file same record in the office of the Register of Deeds of Cass County, North Dakota, and that a copy of this Resolution be published one time in the official newspaper for the City of Fargo, North Dakota.

CERTIFICATE  
STATE OF NORTH DAKOTA } ss.  
County of Cass

I, Jon G. Lindgren, the duly elected, qualified and acting Mayor of the City of Fargo, North Dakota, and

I, Mark Thelen, the duly appointed, qualified and acting Deputy City Auditor of the City of Fargo, North Dakota.

DO HEREBY CERTIFY:

That the foregoing is a full true and correct copy of the original Resolution and the whole thereof, vacating and dedicating that area of Block 7, Barrett's Addition and Lot 12, Block 3, Kirkham's Addition, which Resolution was duly adopted by the Board of City Commissioners of the City of Fargo, North Dakota, at the Regular Meeting of the Board held on December 2, 1991, at which meeting all members present voted in favor of the adoption of the Resolution, and

That such Resolution is now a part of the permanent records of the City of Fargo, as such records are filed in the office of the City Auditor.

Jon G. Lindgren Mayor of the City of Fargo, North Dakota

ATTEST: Mark Thelen Deputy City Auditor

On this 2nd day of December, 1991, before me, Carol J. Kraft, a Notary Public in and for Cass County in the State of North Dakota, personally appeared Jon G. Lindgren, known to me to be the Mayor of the City of Fargo, North Dakota, and Mark Thelen, the Deputy City Auditor of the City of Fargo, a municipal corporation under the laws of the State of North Dakota, and they acknowledged to me that they executed the foregoing instrument

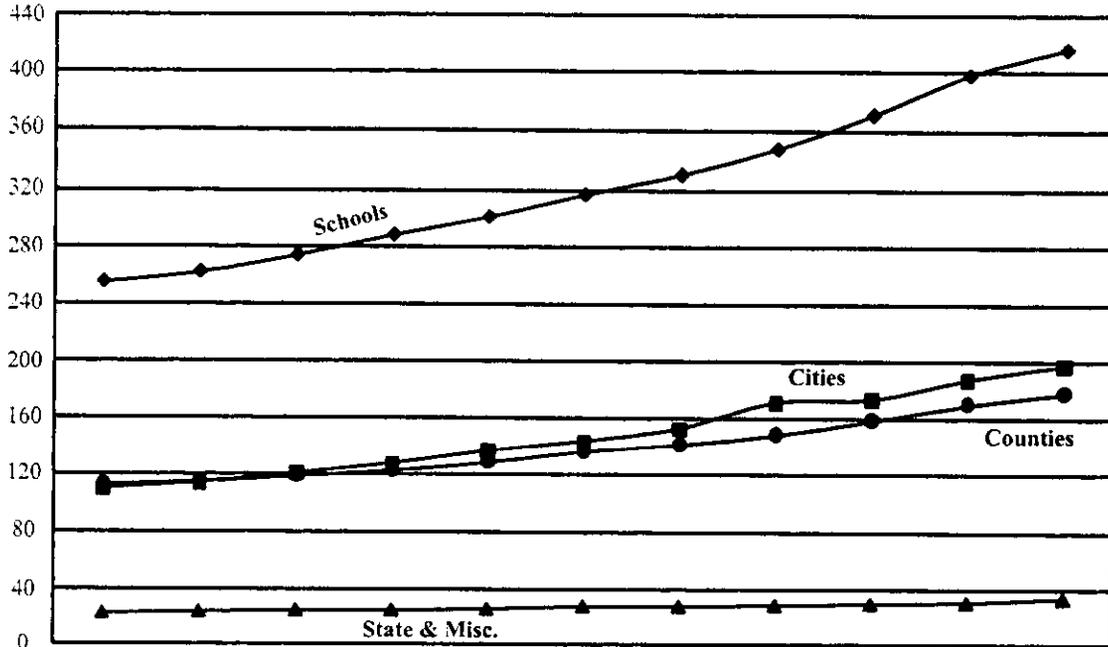
Carol J. Kraft Notary Public Cass County, North Dakota

My Commission Expires: September 11, 1991 (December 16, 1991) 8790

# General and Special Property Taxes by Taxing Districts Payable in 1998 - 2008

# 2

Millions of Dollars

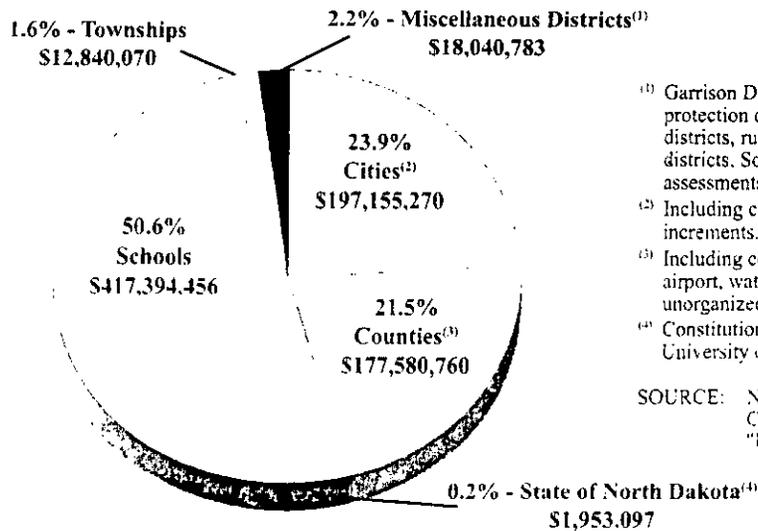


Year Payable	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Schools	255	262	274	288	301	317	331	349	372	399	417
Cities	110	114	121	128	137	144	153	171	173	187	197
Counties	113	115	119	123	129	137	142	149	159	170	178
State & Misc.	22	23	24	24	25	27	27	28	29	30	33

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

## Percent of Property Taxes by Taxing District Levied in 2007 - Payable in 2008

GRAND TOTAL - \$824,964,436

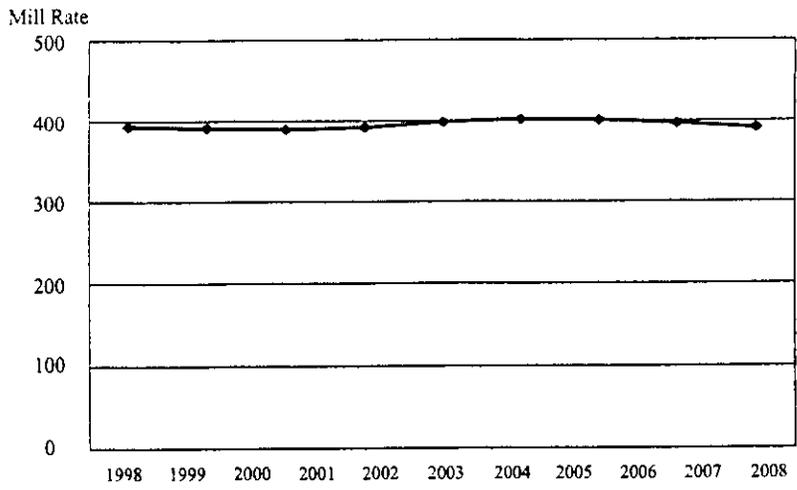


- <sup>(1)</sup> Garrison Diversion Conservancy District, rural fire protection districts, hospital district, soil conservation districts, rural ambulance districts, recreation service districts, Southwest Water Authority and all special assessments for rural districts.
- <sup>(2)</sup> Including city park districts, special assessments, and tax increments.
- <sup>(3)</sup> Including county park districts, county library, county airport, water management districts, vector control, unorganized townships and board of county parks.
- <sup>(4)</sup> Constitutional one mill levy for medical center at the University of North Dakota.

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

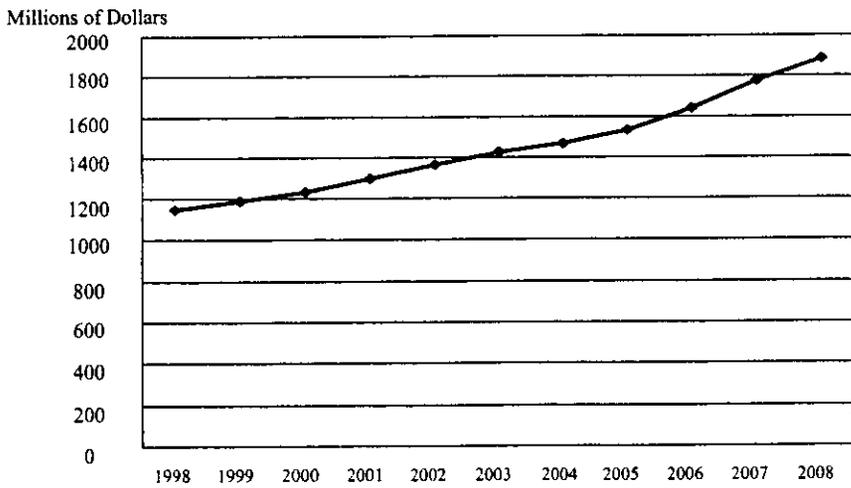
# 2

**Statewide Average Mill Rates - For Taxes Payable in 1998-2008**



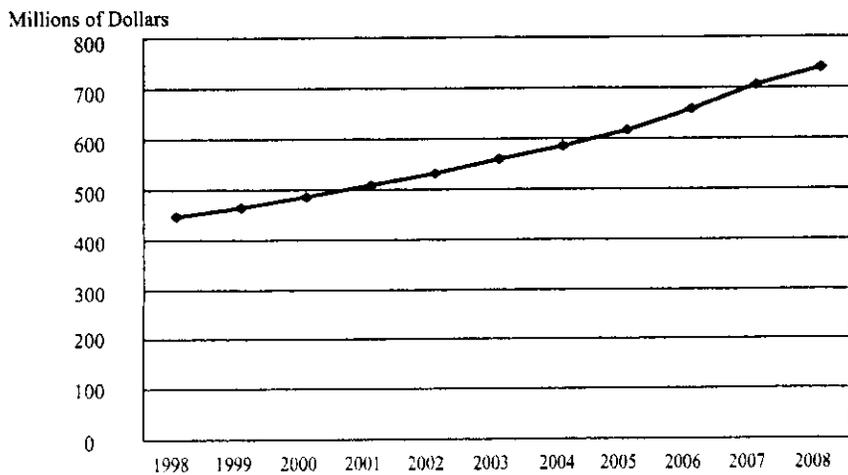
Year Payable	Average Mill Rate
1998	389.32
1999	390.74
2000	394.10
2001	392.07
2002	390.33
2003	392.78
2004	399.24
2005	402.70
2006	401.66
2007	397.41
2008	392.15

**Statewide Property Taxable Valuations - For Taxes Payable in 1998-2008**



Year Payable	Taxable Value
1998	1,149,656,119
1999	1,190,563,319
2000	1,233,682,014
2001	1,298,333,166
2002	1,364,577,713
2003	1,427,642,584
2004	1,468,874,722
2005	1,534,816,263
2006	1,642,672,714
2007	1,777,593,059
2008	1,888,388,390

**Ad Valorem Property Taxes Levied - For Taxes Payable in 1998-2008**



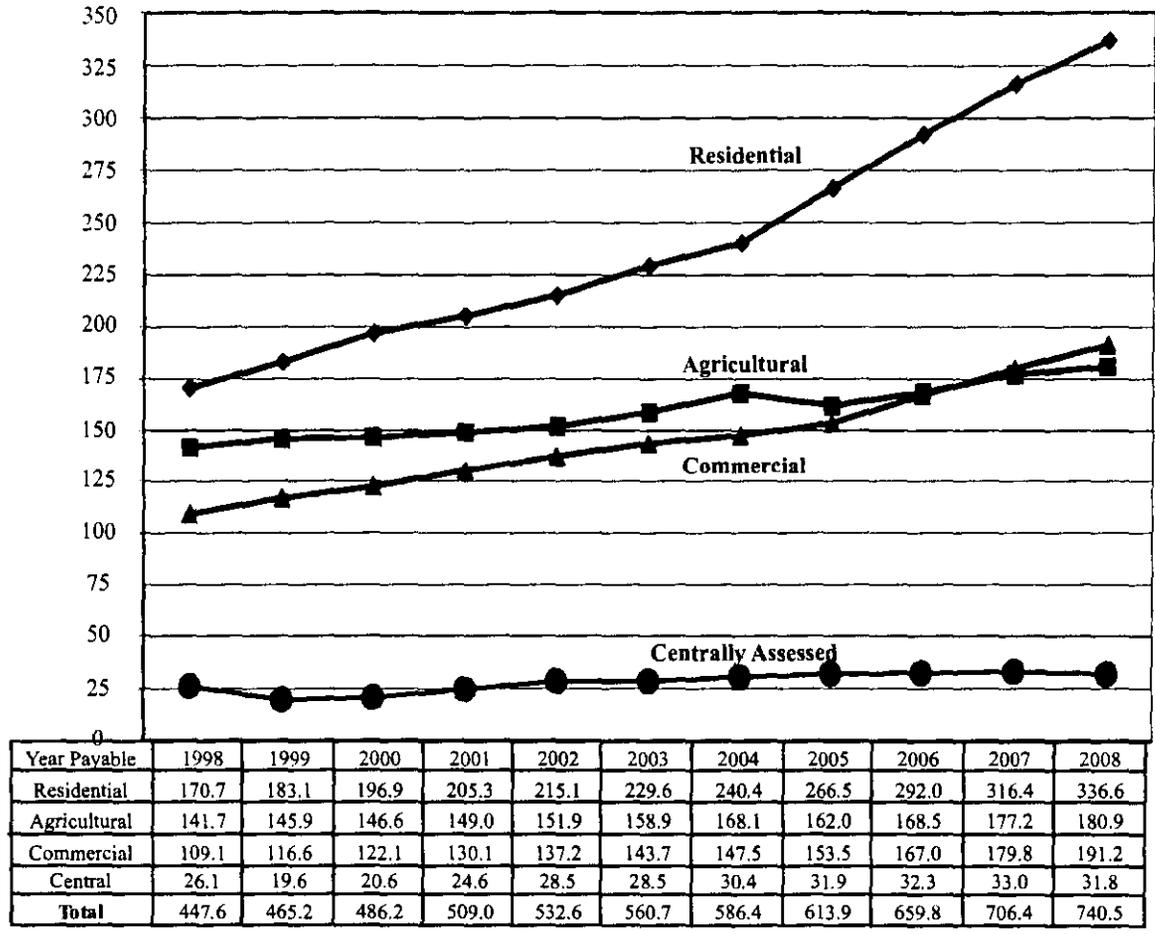
Year Payable	Taxes
1998	447,582,274
1999	465,203,396
2000	486,194,264
2001	509,032,721
2002	532,629,675
2003	560,751,909
2004	586,412,017
2005	618,065,693
2006	659,789,374
2007	706,427,621
2008	740,540,738

# Ad Valorem Property Taxes by Classification

Payable in 1998- 2008

#2

Millions of Dollars



SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

## Effective Rates by Classification

Payable in 2006, 2007, and 2008

Property Classification	Effective Rate		
	2006	2007*	2008*
Residential	1.81%	1.79%	1.77%
Agricultural	0.94%	0.81%	0.74%
Commercial	2.17%	2.26%	2.20%
Centrally Assessed	1.64%	1.68%	1.64%
<b>Total</b>	<b>1.51%</b>	<b>1.43%</b>	<b>1.37%</b>

## Ad Valorem Property Taxes Percent of Total by Classification

Payable in 2006, 2007, and 2008

	2006	2007	2008
Residential	44.3%	44.8%	45.5%
Agricultural	25.5%	25.0%	24.4%
Commercial	25.3%	25.5%	25.8%
Centrally Assessed	4.9%	4.7%	4.3%

The effective rate on centrally assessed wind turbine electric generation units is overstated because of their reduced taxable value percentage. That causes the effective rate on the centrally assessed property to be slightly understated.

#2

## General Property Taxes by County - Payable in 2004-2008

County	2004 Total		2005 Total		2006 Total		2007 Total		2008 Total	
	Ad Valorem Property Taxes	Percent Change								
Adams	2,593,335	1.2	2,734,585	5.4	2,849,899	4.2	2,872,219	0.8	2,881,080	0.3
Barnes	11,804,754	8.4	12,136,002	2.8	13,006,449	7.2	13,988,767	7.6	13,815,659	-1.2
Benson	3,998,165	1	4,037,188	1	4,207,168	4.2	4,489,324	6.7	4,671,291	4.1
Billings	672,161	8.5	695,602	3.5	708,361	1.8	749,987	5.9	673,348	-10.2
Bottineau	6,998,204	5.2	7,314,910	4.5	7,733,987	5.7	8,164,022	5.6	8,497,958	4.1
Bowman	2,055,826	-12.7	2,262,577	10	2,410,615	5.6	2,608,784	8.2	3,064,359	17.5
Burke	2,437,398	9.5	2,469,023	1.3	2,543,429	3	2,625,609	3.2	2,664,482	1.5
Burleigh	66,114,984	4.4	70,397,362	6.5	75,189,184	6.8	82,183,660	9.3	86,440,051	5.2
Cass	134,352,710	6.9	146,680,991	9.2	160,111,503	9.2	173,786,741	8.5	185,184,307	6.6
Cavalier	6,134,509	2.8	6,267,022	2.2	6,295,726	4.6	6,899,948	9.6	7,079,996	2.6
Dickey	5,672,799	2.4	5,562,646	-1.9	6,035,845	8.5	6,420,789	6.4	6,614,973	3.0
Divide	2,798,728	4.6	2,821,071	0.8	2,869,787	1.7	2,920,948	1.8	2,797,213	-4.2
Dunn	3,887,738	2.8	4,059,219	4.4	4,163,603	2.6	4,213,242	1.2	4,257,953	1.1
Eddy	2,493,299	6.7	2,568,714	3	2,675,769	4.2	2,644,943	-1.2	2,729,578	3.2
Emmons	3,964,980	4.9	4,060,378	2.4	4,278,121	5.4	4,430,847	3.6	4,696,460	6.0
Foster	3,936,415	-0.3	4,057,362	3.1	4,023,851	-0.8	4,220,290	4.9	4,354,791	3.2
Golden Valley	1,666,695	-3.8	1,705,977	2.4	1,740,429	2	1,796,314	3.2	1,922,637	7.0
Grand Forks	59,810,282	5.3	63,722,135	6.5	67,910,543	6.2	73,458,194	8.2	78,676,347	7.1
Grant	2,684,087	-1.4	2,757,056	2.7	2,839,060	3	3,012,447	6.1	3,160,288	4.9
Griggs	3,349,623	-1.5	3,368,117	0.6	3,481,082	3.4	3,694,244	6.1	3,749,729	1.5
Hettinger	2,755,938	2.4	2,944,898	6.9	3,045,246	3.4	3,270,755	7.4	3,505,884	7.2
Kidder	2,946,209	8.5	3,133,865	6.4	3,246,844	3.6	3,378,315	4.0	3,213,929	-4.9
LaMoure	4,687,088	6.4	5,178,623	10.5	5,459,978	5.4	5,758,371	5.5	5,840,213	1.4
Lincoln	2,062,281	2	2,039,302	-1.1	2,087,612	2.4	2,231,891	6.9	2,396,395	7.4
McHenry	5,204,674	6	5,504,780	5.8	5,875,339	6.7	6,380,010	8.6	6,735,314	5.6
McIntosh	3,016,185	3.6	3,094,297	2.6	3,225,455	4.2	3,323,598	3.0	3,528,970	6.2
McKenzie	3,555,472	3.5	3,663,983	3.1	3,750,757	2.4	3,913,769	4.3	3,808,607	-2.7
McLean	6,464,448	9.2	6,733,947	4.2	7,012,645	4.1	7,549,468	7.7	7,922,664	4.9
Mercer	6,088,203	3.5	6,179,492	1.5	6,556,798	6.1	6,815,946	4.0	6,992,218	2.6
Morton	22,778,415	7.6	24,265,120	6.5	27,069,645	11.6	28,061,273	3.7	29,505,772	5.1
Mountrail	5,133,848	-0.4	5,169,726	0.7	5,477,741	6	6,054,008	10.5	6,210,285	2.6
Nelson	4,235,371	1.4	4,264,052	0.7	4,364,556	2.4	4,375,901	0.3	4,414,113	0.9
Oliver	1,490,833	1.5	1,533,527	2.9	1,670,890	9	1,791,381	7.2	2,100,146	17.2
Pembina	9,824,330	-0.9	9,903,240	0.8	10,212,016	3.1	10,637,304	4.2	10,955,808	3.0
Pierce	4,758,652	3.9	4,824,718	1.4	4,902,987	1.6	5,043,876	2.9	5,038,897	-0.1
Ramsey	9,637,229	3	10,338,870	7.3	10,893,268	5.4	11,508,222	5.6	11,827,297	2.8
Ransom	6,206,508	3.5	6,341,653	2.2	6,607,588	4.2	6,753,955	2.2	6,860,789	1.6
Renville	2,903,250	4.1	3,052,269	5.1	2,970,044	-2.7	3,087,512	4.0	3,277,035	6.1
Richland	18,802,477	2.6	19,368,866	3	19,969,815	3.1	20,734,879	3.8	21,490,744	3.6
Rolette	3,491,704	-0.7	3,577,888	2.5	3,728,001	4.2	3,791,782	1.7	3,868,329	2.0
Sargent	5,455,585	4.8	5,620,577	3	6,040,508	7.5	6,458,903	6.9	6,581,767	1.9
Sheridan	1,882,775	4.5	1,968,628	4.6	2,056,936	4.5	2,103,464	2.3	2,204,370	4.8
Sioux	734,520	10.8	765,886	4.3	678,900	-11.4	759,173	11.8	793,684	4.5
Slope	1,067,638	5.4	1,095,729	2.6	1,123,248	2.5	1,014,570	-9.7	1,080,828	6.5
Stark	15,085,650	5.4	16,242,993	7.7	17,207,491	5.9	18,709,133	8.7	20,127,540	7.6
Steele	3,588,789	0.8	3,595,623	0.2	3,814,357	6.1	3,995,194	4.7	4,171,407	4.4
Stutsman	19,396,865	3.9	20,090,708	3.6	21,283,299	5.9	22,437,840	5.4	23,000,545	2.5
Towner	3,812,907	5.7	3,728,715	-2.2	3,719,070	-0.3	3,819,700	2.7	4,054,042	6.1
Trail	8,804,445	3.1	9,125,117	3.6	9,977,250	9.3	10,684,721	7.1	11,172,238	4.6
Walsh	12,189,558	0.8	12,099,288	-0.7	12,382,781	2.3	13,078,199	5.6	13,108,348	0.2
Ward	39,888,318	3	41,693,206	4.5	46,080,122	10.5	50,167,348	8.9	52,354,626	4.4
Wells	5,767,738	7.4	5,629,904	-2.4	5,762,976	2.4	5,933,766	3.0	6,201,699	4.5
Williams	15,267,423	2.8	15,618,268	2.3	16,460,801	5.4	17,622,072	7.1	18,263,736	3.6
	586,412,017	4.6	618,065,693	5.4	659,789,374	6.8	706,427,621		740,540,738	

SOURCE: North Dakota Office of State Tax Commissioner, Property Tax Division, "Property Tax Statistical Report."

#1

## STATE COMPARISONS

North Dakota's property taxes are relatively moderate compared to those in other states, whether measured per capita or per \$1,000 of personal income. In recent years, property values have increased significantly resulting in a corresponding increase in property tax assessments. In response, many states have implemented various property tax relief initiatives in an effort to reduce the property tax burden. The tables compare the property taxes on equally valued homes in similar size North Dakota cities as well as from neighboring states. Neighboring states' property taxes on similarly valued residences appear less than North Dakota's because those states provide a homestead

credit for all owner-occupied residential property. North Dakota's homestead credit is available only to elderly and disabled persons with limited income.

Rankings (as shown on the following page) based on collections offer insight into overall tax levels. However, further analysis is needed to see the details of how state tax systems differ. Property taxes may vary by property classification and different types of property may be taxed or excluded. Some states, such as Wyoming, use the property tax to tax mineral wealth while states like North Dakota levy separate severance taxes. In Alaska, because of its oil reserves fund, residents receive annual payments of about \$1,000 per person.

### Property Taxes on an Owner Occupied Home in North Dakota Payable in 2008

#### **\$70,000 Home**

City	Tax Amount*
Bowman	\$1,018
Carrington	\$1,308
Grafton	\$1,533
Kenmare	\$1,092
Lisbon	\$1,481
Rugby	\$1,306
Washburn	\$953

#### **\$100,000 Home**

City	Tax Amount*
Bismarck	\$1,752
Devils Lake	\$2,263
Dickinson	\$1,905
Fargo	\$1,962
Grand Forks	\$2,072
Jamestown	\$2,215
Mandan	\$2,158
Minot	\$1,795
Valley City	\$1,988
Wahpeton	\$2,062
West Fargo	\$1,911
Williston	\$1,957

\* Calculations assume taxes are paid by February 15, allowing the taxpayer a 5% discount.

SOURCE: Survey by North Dakota Office of State Tax Commissioner, Property Tax Division, August 2008.

### Property Taxes on a \$100,000 Owner Occupied Home in Neighboring States Payable in 2008

SOUTH DAKOTA <sup>1</sup>		MONTANA <sup>2</sup>		MINNESOTA <sup>3</sup>	
City	Tax Amount	City	Tax Amount	City	Tax Amount
Aberdeen	\$ 1,687	Miles City	\$ 2,200	Bemidji	\$ 1,019
Rapid City	1,419	Great Falls	1,391	St. Cloud	883
Sioux Falls	1,789	Billings	1,230	Minneapolis	1,062

<sup>1)</sup> Owner-occupied residences receive a 30% tax reduction.

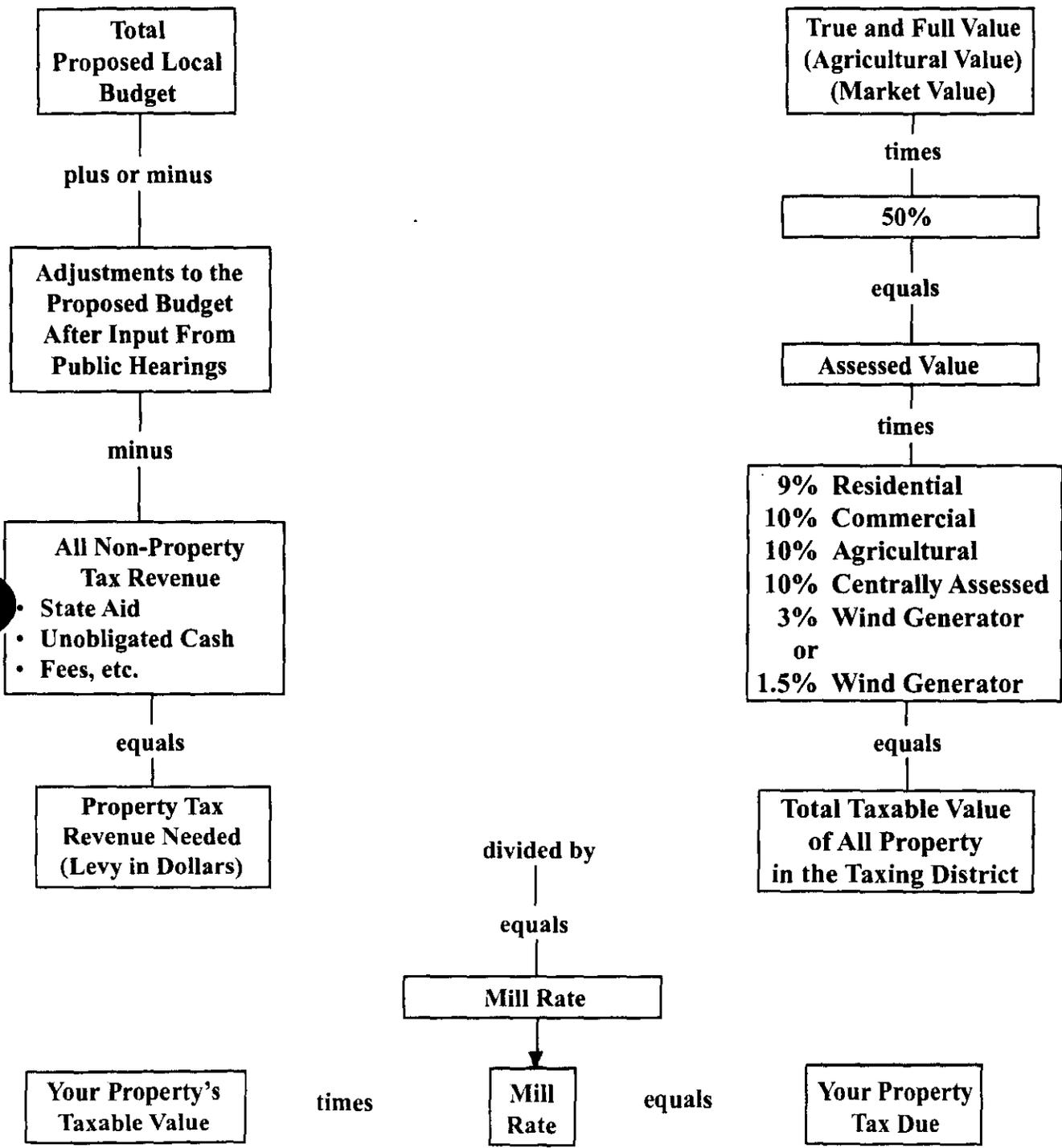
<sup>2)</sup> 34% homestead credit for all residential property

<sup>3)</sup> After \$282 homestead credit.

SOURCE: Survey by North Dakota Office of State Tax Commissioner, Property Tax Division

#1

# North Dakota Property Tax System



All property in North Dakota is subject to property tax unless it is specifically exempted. Except for a one-mill levy for the State Medical Center, property taxes are administered, levied, collected and expended at the local level for the support of schools, counties, cities, townships and other local units of government. The State does not levy a property tax for general government operations.

The property tax is an "ad valorem" tax, that is, it is based on the value of the property subject to tax. The other element of the property tax is the amount of revenue that needs to be raised.

# BISMARCK

## School District

2006-2007

#1

Fast Facts		
<u>District</u>		
Grades Served		PK-12
Number of Schools		22
Headquarter County		BURLEIGH
<u>Grade Level</u>	<u>Enrollment</u>	<u>FTE Classroom Teachers</u>
K-3	5520	265
7-8	1661	88.01
9-12	3469	168.72
Total K-12	10650	521.73
<u>Full-time Equivalent Staff in School District</u>		
		<u>FTE</u>
Admin/Superintendents, Principals		31.22
Classroom Teachers		521.73
Other Licensed Staff		248
Support Staff		545.9
Total FTE Staff		1350.85

#1

# School District Profile

## Fast Facts

Fargo Public School District # 1  
09001

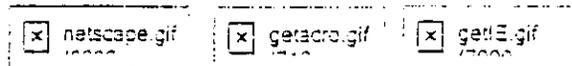
*Vernon Bennett, Superintendent*  
*Sue Andrews, School Board President*  
1997-98 Data

- District Profile Home
- District Environment
- District Resources
- District Programs
- District Performance
- District Information

District	
Grades Served	K-12
Number of Schools	23
Headquarter County	Cass

Grade Level	Enrollment	FTE Classroom Teachers
K-6	6433	277.85
7-8	1817	81.88
9-12	3446	177.17
Total K-12	11696	536.90

Full-Time Equivalent Staff in School District	FTE
Admin/Superintendents, Principals	35.00
Classroom Teachers	536.90
Other Certified Staff	243.17
Support Staff	311.20
Total FTE Staff	1126.27



Send mail to [dgjweb@mail.dpi.state.nd.us](mailto:dgjweb@mail.dpi.state.nd.us) with questions or comments about this web site.  
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Last modified: March 30, 1999



#1

Tuesday, March 17, 2009

Citizen Testimony to Senate Industry, Business, and Labor Committee

Honorable Chairman Klein and Senators,

Good morning!

Thank you for your good work as on this Senate Industry, Business, and Labor Committee.

Please support HB 1398. It requires a 60% voter approval for any new schools whether for purchase or lease through any entity including a Building Authority.

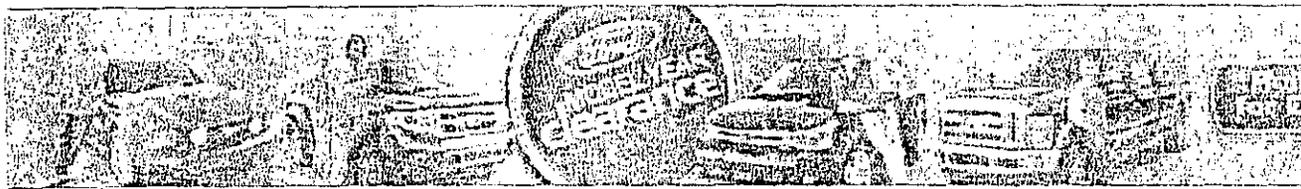
I support good public education and would also like the opportunity to vote on each new school project in the Fargo School District as is done successfully in other North Dakota School Districts. This bill will help provide **more local control and better accountability for our residents to have a say on property taxes**. The mill chart shows Fargo Public Schools levy rose almost 100 mills from 1990 - 2000, up almost 10 mills a year, all while property was appreciating at a 7% - 9% annually. Today Fargo School mill levy is 50 mills higher than West Fargo Schools with the same number of students per class and teacher pay.

It's been 17 years since the last public vote in 1991 for what turned out to be Discovery Middle School . Since that project has been completed, the Fargo School District has built 4 new schools, expanded a high school for millions (now they say it's too big) and is building a new \$40 million High School all while enrollment has declined over 1,200 students since 1998. All without a vote on any of the new schools since Discovery in 1991.

Thank you for your kind consideration.

Mike Williams (testimony on behalf of my family, friends, and neighbors)  
1529 5th St S  
Fargo, ND 58103  
701-293-8346

#1 #2



[Return to Previous Page](#)

## Many N.D. cities growing

Many western North Dakota cities posted gains in the latest census population estimates. A glance:

City	POPULATION		CHANGE 2000-2007		PERCENT CHANGE 2000-2007	
	July 1, 2007	July 1, 2000	Number	%	Number	%
Fargo	90,860	90,914	2,061	2.3%	843	0.9%
Bismarck	69,503	66,767	3,971	7.2%	920	1.8%
Grand Forks	51,740	49,250	2,419	4.9%	70	0.1%
Minot	36,281	36,570	-1,286	-3.5%	18	0.1%
West Fargo	23,061	18,540	8,141	54.6%	681	6.0%
Mandan	17,736	16,777	1,018	6.1%	497	2.9%
Dickinson	15,916	15,956	-84	-0.6%	286	1.8%
Jamestown	14,680	15,523	-847	-5.5%	-164	-1.1%
Williston	12,303	12,448	-119	-1.0%	211	1.7%
Wahpeton	7,702	8,561	-663	-10.3%	-149	-1.9%
Devils Lake	6,675	7,216	-547	-7.6%	-8	-0.1%
Valley City	6,300	6,794	-526	-7.7%	-42	-0.7%

Source: U.S. Census Bureau, N.D. State Data Center

The Forum

Graphic: Census

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## 2007 Mill Levy

The mill levy is calculated each year by the County Auditor, usually in late September. That levy appears on the tax bill that most property owners receive in December of the same year. The most recent bill is 2007 and the mill levies in Fargo were 459.04 in School District #1, 407.81 in School District #6, and 346.53 in School District #2. For the most part, School District #6 is the area west of I-29. See the map on page 11 for the location of the school districts in Fargo. The following illustrates how that levy is broken down:

### **2007 MILL LEVY BREAKDOWN**

	<u>School Dist #1</u>	<u>School Dist #6</u>	<u>School Dist #2</u>
State/Other	3.35	3.35	3.35
Cass County	61.00	61.00	61.00
City of Fargo	58.25	58.25	58.25
Park District	31.85	31.85	31.85
School District	299.99	248.76	187.48
Water District	4.60	4.60	4.60
<b>TOTAL</b>	<b>459.04</b>	<b>407.81</b>	<b>346.53</b>

### **Mill Levy History School District #1 1997-2007**

<u>YEAR</u>	<u>CITY</u>	<u>COUNTY</u>	<u>PARK</u>	<u>SCHOOL</u>	<u>OTHER</u>	<u>TOTAL</u>
1997	61.53	65.00	31.84	314.21	7.34	479.92
1998	61.53	69.26	32.38	322.66	7.39	493.22
1999	60.24	67.37	33.07	320.24	7.60	488.52
2000	60.31	65.37	32.67	327.40	8.00	493.75
2001	60.13	62.69	32.76	327.88	7.98	491.44
2002	60.30	65.05	32.87	323.84	7.96	490.02
2003	60.24	65.00	32.73	320.20	8.41	486.58
2004	58.73	65.00	32.46	319.55	8.32	484.06
2005	59.25	62.00	32.58	318.62	8.31	480.76
2006	57.25	61.00	32.07	309.02	7.91	467.25
2007	58.25	61.00	31.85	299.99	7.95	459.04

Karen  
testimony  
letter  
read.

#2  
#3

**Mike Williams**

**From:** "Mike Williams" <gofargo@msn.com>  
**To:** "Mike Williams" <gofargo@msn.com>  
**Sent:** Monday, March 16, 2009 9:02 PM  
**Subject:** Votes for schools

----- Original Message -----

**From:** George Sinner  
**To:** Michael Williams  
**Sent:** Monday, March 16, 2009 8:51 PM  
**Subject:** Re: Enough winter?

Mike.....you may read this to the committee if you wish:

Sadly, there are devious ways to obtain funding for a school project.....ways that the public is never informed of....In 1991 when the Fargo School District presented a property tax increase to the people the voters were told that it was to pay for the already constructed Discovery School. That is what everyone who was here believed. I am told that not even the 'official language of explanation' on the measure explained that the board could keep right on levying the tax long after Discovery School was paid for.

And that is what the board did.

So the people had no opportunity to vote knowingly on either the new school that was eventually built with the extra money or on the 'perpetual property tax levy that has been in place ever since.

The people should be able to expect transparency from all levels of government.....including, certainly, from their school government.

A vote by the people for both a project and it's financing should be elementary policy. Every one of the people who were here in 1991 and that I have spoken to had no clue what the school board had planned. Their opportunity to vote on either the project or its funding were removed shamefully, by the use of ambiguous and devious language.

I hope that the legislature can make certain that this does not happen again.

George A. Sinner

#4

March 17, 2009

SUPPORT: HB 1398

Senate IBL Committee

ND Senate

State Capitol

Bismarck, North Dakota 58505

Chairman Klein and Members of the Senate IBL Committee:

My name is Robert W. Harms of Bismarck, North Dakota. I am urging your support of HB 1398, a bill which will prohibit the use of building authorities or other entities that contribute pressure on local property taxes.

This Session you will be faced with a host of proposals to address property taxes, the biggest of which is SB 2199, which calls for \$300 million to be taken from the permanent oil tax trust fund and distributed to schools for property tax relief (not reduction). The question Legislators face is what if anything will you do to prevent or slow property tax inflation? Will you provide \$300 million with no conditions, or with some conditions or take any steps to slow the growth of property taxes?

Property taxes have risen 59% from 98-07 (26% adjusted) and are driven by a host of factors:

- increased assessed valuation (property tax inflation), and decisions by local elected officials to spend a budget based upon valuation increases.
- increased spending (conscious choice to increase mill levy, or spend valuation increase)
- construction/acquisition of new facilities (that require operation/maintenance budgets)

HB 1398 is one tool that will help slow the growth in property taxes in North Dakota by not allowing the acquisition of new facilities without at least asking the voters to consider it.

I ask for your SUPPORT for HB 1398 and would be happy to discuss the bill, its merits and implications with the Committee.

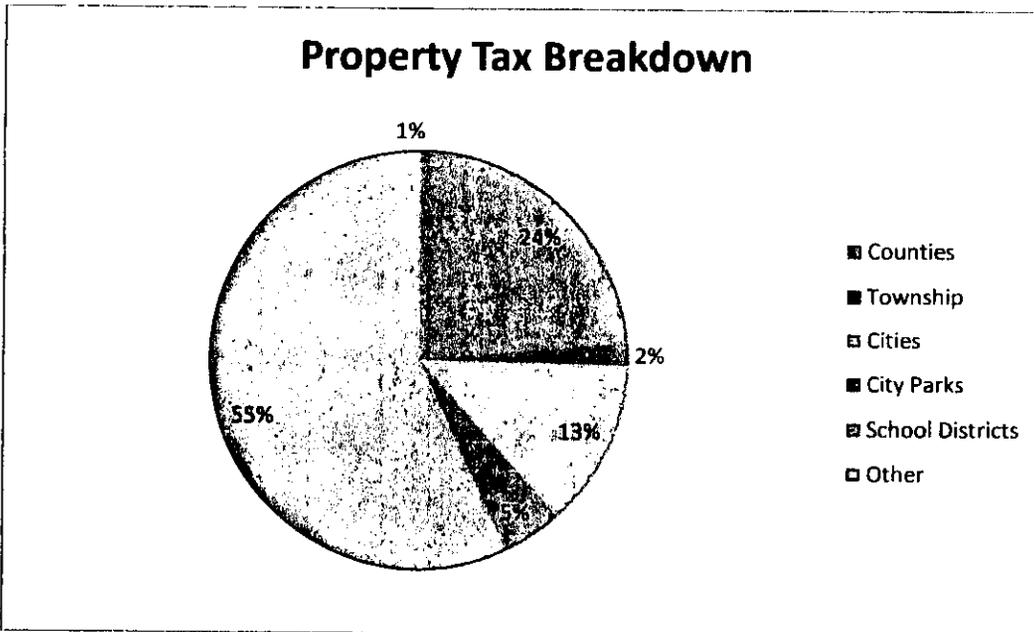
Thank you.

Robert W. Harms

# Property Taxes Facts and Figures

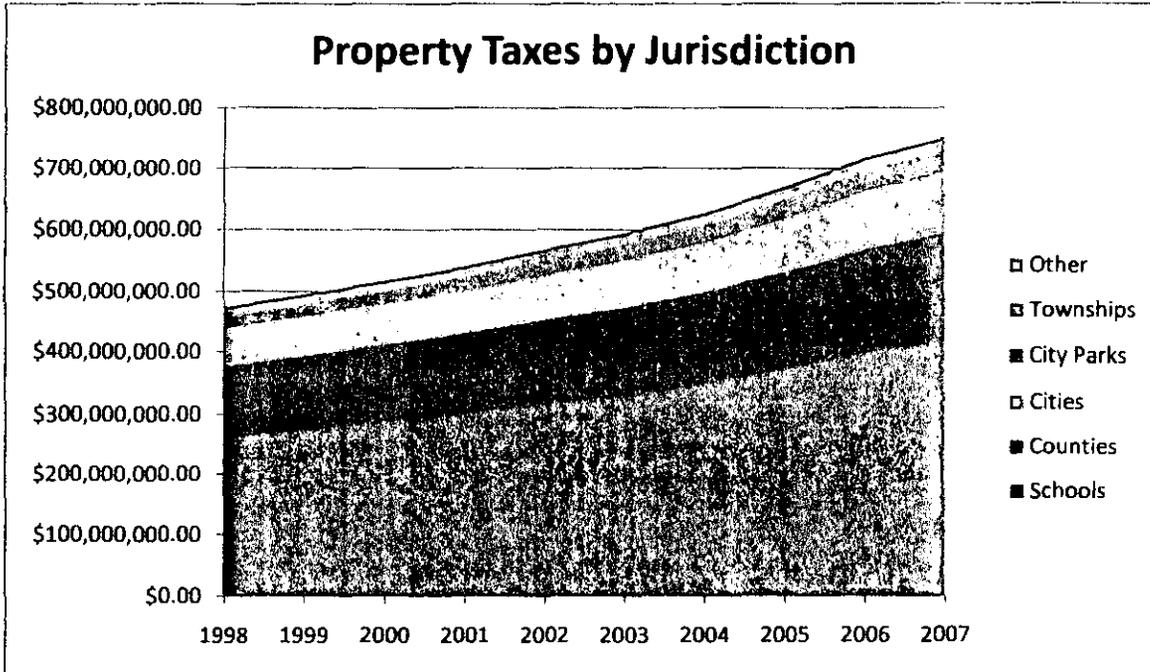
## Key Trends in Property Taxes (1998 - 2007)

- Property Taxes – Increased 59% (26% adjusted)
- City Parks – Increased 89% (49% adjusted for inflation)
- Other Entities- Increased 63% (29% adjusted for inflation)
- School Districts – Increased 59% (26% adjusted for inflation)
- Cities – Increased 59% (26% adjusted)
- Counties – Increased 55% (22% nominally)
- Townships – Increased 25% (-2% adjusted for inflation)



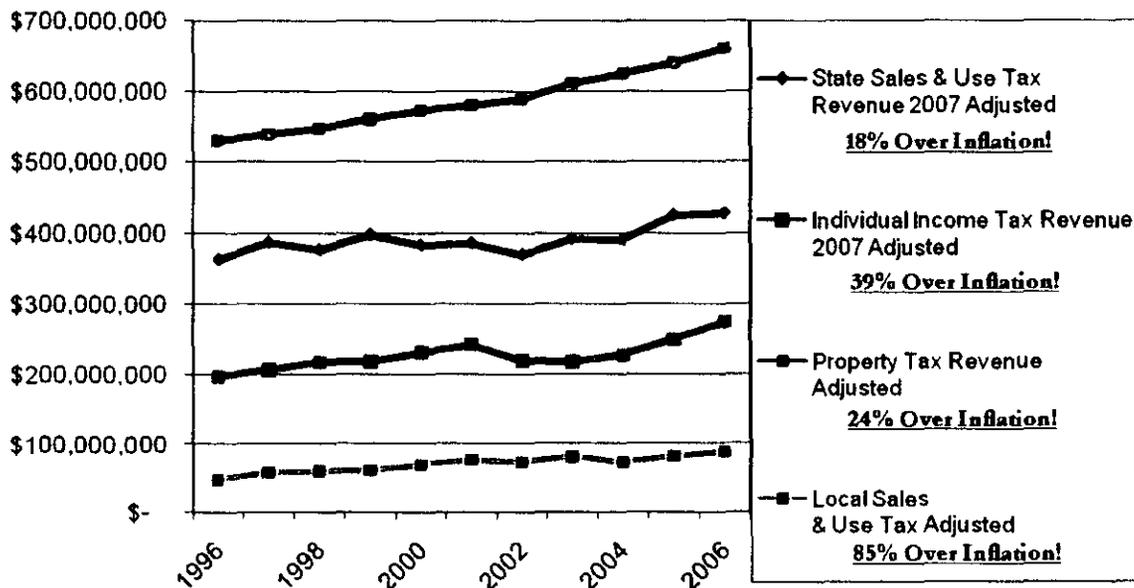
This chart shows the entity breakdown for all property tax revenue collected.

# 4



This chart shows the growth in property tax revenue collected and breaks it down by entity.

## State and Local Tax Revenue Inflation Adjusted



This chart shows the increase in state and local tax revenue.

#5

**Testimony To  
THE SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE  
Prepared March 17, 2009 by  
Terry Traynor, Assistant Director  
North Dakota Association of Counties**

**REGARDING ENGROSSED HOUSE BILL No. 1398**

Chairman Klein and members of the Committee; county government opposes Engrossed House Bill 1398.

While the lease-purchase form of financing of public buildings has historically been little-used by counties, the trend toward consolidation and multi-use structures argues against its limitation.

Cass County is currently discussing with city government and state agencies the development of a law enforcement complex that may only be possible through a lease-purchase arrangement. HB1398 raises barriers and complexities for multi-agency ownership, particularly as to whether all local entities and state government would need to hold multiple elections.

Similarly our border counties are looking increasing toward multi-jurisdictional collaborations with local governments of other states. Developing a joint dispatch center across state lines will be much more difficult with questions about who must vote on its development.

In addition, many county officials have raised concerns about the unclear language of HB1398. Specifically, on lines 16 and 17, the bill requires a vote for the "acquisition... of any property". Almost all counties currently or in the recent past have used a lease-purchase agreement for the acquisition of road maintenance equipment. The broad interpretation of this language would require a citizen vote for each and every motor grader.

Mr. Chairman and committee members, county government urges you to return a "do not pass" recommendation on Engrossed House Bill 1398.

#6

1 City of Fargo

2 Senate Industry, Business, and Labor Committee Testimony on House Bill 1398

3 Submitted by: Kent Costin, Director of Finance

4

5 Honorable Chairman Klein and members of the Senate Industry, Business and Labor Committee, my  
6 name is Kent Costin, Director of Finance representing the Fargo Board of City Commissioners. We  
7 oppose HB 1398 due to the financial constraints that it imposes upon our long term capital financing  
8 programs and additional expenses associated with elections.

9 Capital projects of local governments vary in size and scope as well as sense of urgency. This bill creates  
10 a burdensome process to secure financing including a super majority vote by taxpayers. Our primary  
11 concerns with HB 1398 are:

12 ➤ **The bill does not have any provisions for "small bond issues".** The heart of the bill is directed at  
13 taxpayer control over borrowing money, especially for larger projects. We agree that taxpayers  
14 should have some control however, it seems logical that small issues should be exempted from  
15 this requirement. City officials have been duly elected by our citizens and they should be  
16 capable of making sure that essential facilities can be financed when necessary as part of our  
17 long term capital plans. We think that an effective threshold would be to exempt all issues less  
18 than \$10-15 million. This creates the desired control, but does not tie the hands of our local  
19 officials on smaller projects. The federal internal revenue code commonly has exemptions for  
20 small issuers for various compliance provisions associated with bond issues. We think that this  
21 is good fiscal policy because it does not introduce burdensome compliance issues for  
22 government officials.

23 ➤ **The bill contains overly restrictive provisions regarding remodeling and expansion projects.**  
24 We have concerns about the language that prevents remodeling and expansion of municipal  
25 facilities without a vote. It is a generally accepted practice in governmental finance to borrow  
26 for these types of projects. Examples within our City include city halls, city auditoriums, public  
27 libraries, arenas, fire stations, police precincts, public works facilities, transit systems, and court  
28 functions. All of these facilities are a necessary and required part of the delivery of our services.

29 Our investment in City buildings is significant and needs to continue over time. Remodeling and  
30 expansion is often the best solution, and would not likely be as costly as land acquisition and  
31 new construction.

32 ➤ ***This bill may drive up costs of compliance due to expensive elections.*** The cost of a special  
33 election in Fargo is about \$40,000. This cost is significant, especially if it is related to a small  
34 bond issue. The cost benefit of the special election seems wasteful.

35 The City of Fargo has always maintained a very conservative approach to the use of general obligation  
36 debt. The most recent use of building authority type debt was for the expansion and remodeling of our  
37 City Commission Chambers and the renovation of our Civic Memorial Auditorium. These facilities were  
38 originally constructed in 1959 and 1960 and had not been updated since that time. The totals cost of  
39 this project was about \$5 million and was financed over a twenty year period. The annual principal and  
40 interest payment is \$385,000 per year. City leaders recognized the need to upgrade our facilities and  
41 chose to finance this project using the building authority method. We were able to fund the debt  
42 service payment from our General Fund and this decision was stacked up against all other budget  
43 requests during the budget development process.

44 We recognize that this financing method is just one of several ways to construct facilities. The City has  
45 used "pay as we go financing" (cash) for many projects. While this has worked for us successfully in the  
46 past, there is no assurance that this will work in the future as economic conditions change over time.

47 In our 2009 approved budget we have recommended the use of building authority debt issuance for the  
48 construction of a south side fire station. The cost of this project will be about \$ 3 million, plus another  
49 \$400,000 for equipment. The debt service payment is about \$270,000 per year. If this bill is passed it  
50 could delay this project and ultimately drive up the overall project costs. The \$270,000 per year in debt  
51 service is manageable at four tenths of one percent of our General Fund budget. We fail to see why  
52 voters should have to weigh in on a decision of this size. Our City Commissioners has always taken a  
53 very conservative approach to debt management and we have not abused our building authority  
54 privileges.

55 We understand that large scale multi-million dollar projects should be scrutinized and taxpayers should  
56 know that their tax dollars are being spent wisely; however, we feel that the bill in present form is overly  
57 restrictive and does not provide flexibility at the local jurisdictions.

58 We urge a DO NOT pass vote on this bill.

59 I would be happy to answer any questions you may have about my testimony and thank you for allowing

60 me to speak today.