

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### FINANCE AND TAXATION COMMITTEE

Wednesday, July 19, 2006  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Herb Urlacher, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Herb Urlacher, John M. Andrist, Dwight Cook, Harvey Tallackson, Ben Tollefson, Rich Wardner; Representatives Larry Bellew, Wesley R. Belter, Kari Conrad, David Drovdal, Pam Gulleason, C. B. Haas, Lyle Hanson, Craig Headland, Gil Herbel, Ronald A. Iverson, Phillip Mueller, Arlo E. Schmidt, Dave Weiler, Clark Williams

**Members absent:** Senator Michael A. Every; Representatives Kenton Onstad, Mark S. Owens, Dwight Wrangham

**Others present:** See Appendix A

Senator Cook said the minutes of the June 1, 2006, committee meeting incorrectly reflect his request on page 6. He said the minutes indicate that he requested an amendment for a statement of intent that the objective of property tax relief is to reach a maximum level of three-fourths of 1 percent of true and full value as a maximum property tax. He said his request was for a maximum level of one and one-half percent of true and full value as the maximum residential property tax. **It was moved by Senator Cook, seconded by Representative Haas, and carried on a voice vote that the minutes of the June 1, 2006, meeting be amended to reflect Senator Cook's request for an amendment to the property tax relief bill draft to reach a maximum level of one and one-half percent of true and full value as a maximum residential property tax in the intent statement and that the minutes as amended be approved.**

#### EDUCATION PROPERTY TAX RELIEF STUDY

Chairman Urlacher called on committee counsel for presentation of a memorandum entitled [Summary of Bill Draft to Provide Property Tax Relief Through Allocations to School Districts](#). Committee counsel said the bill draft [70102.0200] is attached as an appendix to the memorandum and an [analysis](#) of the effect of the bill draft for each school district in the state is also attached as an appendix to the memorandum.

Committee counsel said the bill draft would serve two primary functions by providing an appropriation of approximately \$74 million for allocation among school districts and by reducing school district property tax levy authority to reflect property tax relief received by the school district.

Committee counsel said the bill draft does not provide enhanced funding to school districts. He said school districts currently levying fewer than 185 mills have statutory authority for an 18 percent increase in levies, up to 185 mills. He said these school districts would retain authority for a levy increase but the bill draft would reduce the amount of the allowable increase from 18 percent to 2 percentage points more than the consumer price index increase.

Committee counsel said the bill draft addresses equity funding issues by providing a greater measure of property tax relief to school districts levying at higher mill rates and school districts having below average taxable valuation per student.

Committee counsel said the apparent intention of the committee in structuring the bill draft is to avoid overlapping or interfering with recommendations of the Governor's Commission on Education Improvement or the Legislative Council's interim Education Committee. He said the bill draft is not intended to provide enhanced funding for education in order to avoid conflicts with potential recommendations of the Commission on Education Improvement or the interim Education Committee.

Committee counsel said the first section of the bill draft provides an appropriation of \$74,054,859 to the Tax Commissioner to be allocated \$35,897,132 in the first year and \$38,157,727 in the second year of the 2007-09 biennium.

Committee counsel said Section 2 of the bill draft provides for allocation of appropriated funds among school districts following a six-step allocation process. He said the allocation process is somewhat complicated and a PowerPoint slide presentation was prepared to illustrate each step in the calculation process. Copies of the PowerPoint slides are attached as [Appendix B](#). He said six cities were selected for comparison in the PowerPoint examples, based on differing factors.

Committee counsel said the examples are based on computations in the same manner as contained in the Department of Public Instruction estimates for all school districts in the example based on a 60 percent adjusted mill levy cap. He said the starting point for consideration is the general fund levy in mills for each school district. He said the general fund levy in mills category includes the number of mills levied by school districts for the combined total for general fund, high school tuition, and high school transportation levies. He said the city of Emerado was included in the

example cities because Emerado has a general fund levy of approximately 138 mills but has additional levies of almost 154 mills for high school tuition and high school transportation. Committee counsel said the next step in the allocation process is to reduce the general fund levy in mills for each school district by 60 percent of the maximum number of general fund mills allowable under North Dakota Century Code (NDCC) Section 57-15-14, which is 185 mills. He said 60 percent of 185 mills is 111 mills and this amount is subtracted from consideration for each school district. He said this subtraction eliminates eight school districts from consideration to receive property tax relief because they are levying less than 111 mills.

Committee counsel said the next step in the allocation process is to multiply the adjusted combined education mill rate for each school district times the taxable valuation of property in the school district to determine the property taxes in dollars levied by the school district which will be considered in property tax relief calculations. He said the adjusted combined education levy amounts in dollars for each school district are totaled to determine the statewide dollar amount that will be considered in property tax relief calculations. He said the statewide dollar amount is divided into the school district adjusted combined education levy amount to derive a percentage for each school district, which is the school district's share of the property tax relief available for allocation. He said this percentage for each school district is multiplied times the amount available for allocation for the year to determine the tentative allocation amount for each school district.

Committee counsel said the next step in the allocation process is to include an adjustment factor to recognize greater reliance on property taxes in school districts with lower than average taxable valuation per student. He said the adjustment factor is determined by dividing the taxable valuation per student for the school district into the statewide average taxable valuation per student. He said this will yield a factor greater than one for a school district with a below average taxable valuation per student and will yield an adjustment factor of less than one if a school district has higher than average taxable valuation per student. He said the adjustment factor is limited by the bill draft so that it may not be less than .75 and may not be more than 1.25. He said the adjustment factor determined for a school district is multiplied times the tentative allocation of the school district to determine the adjusted property tax relief for the school district. He said one additional step is required to determine the final payment for each school district. He said use of adjustment factors with limitations makes it impossible to allocate exactly the entire amount of funds available. He said for that reason, an adjustment would be made to prorate payments to allocate the full amount available. He said the prorated amount is shown in the printout prepared by the Department of Public Instruction and in the PowerPoint presentation as final adjusted tax relief.

Committee counsel said the final adjusted tax relief for each school district can be expressed in mills by dividing the adjusted property tax relief amount for the school district by the taxable valuation of property in the school district and multiplying the result by 1,000. He said this tax relief amount in mills for each school district may be used to determine property tax relief savings for individual property. He said for a \$100,000 true and full valuation residential property, the taxable valuation is \$4,500, which can be multiplied times the tax relief in mills divided by 1,000 to determine the dollar amount reduction in the property tax bill for the property. He said property tax reduction for residential property is actually less than the property tax reduction available for commercial, agricultural, and centrally assessed properties. He said the reason the reduction is less for residential property is that taxable valuation of residential property is 9 percent of assessed value of the property while the taxable valuation for all other property types is 10 percent of assessed value of the property.

Committee counsel said a point for consideration is the provision in the bill draft that reduces the maximum levy from 185 to 165 mills in the second year of the biennium. He said reviewing the number of mills of property tax relief for school districts shows a statewide average of almost 22 mills of property tax relief but the relief is not uniform among school districts. He said school districts have two options for determining the maximum property tax levy. He said one method is based on a maximum number of mills and the other is based on the highest levy amount in dollars of the three previous taxable years. He said because this option exists, no school district would be forced to reduce its levy in dollars as a result of the reduction from 185 to 165 mills.

Committee counsel said another issue for committee consideration relates to the base year for determining the property tax relief allocation. He said the information prepared by the Department of Public Instruction uses the same number of mills as a starting point for the first year and the second year of the biennium. He said this is the basis on which the Department of Public Instruction has been providing information to the committee relating to a four-biennium plan for property tax reduction. He said the bill draft requires using the combined education mill rate for the previous year as the starting point for consideration. He said the bill draft approach would require a lower starting point in the second year of the biennium and would require reallocation of the funds available because the second year allocation would have to include sufficient funds to cover the property tax reduction from the first year and would mean that the allocation in the second year would have to be approximately double the amount of the allocation in the first year.

Senator Andrist asked whether supplemental payments would not be a more appropriate vehicle for enhancing equity of school funding. Committee

counsel said the bill draft was prepared to avoid involvement in the current school funding mechanism for state assistance because it is anticipated that the Governor's Commission on Education Improvement or the interim Education Committee will make recommendations to adjust those provisions. Representative Haas said the Governor's Commission on Education Improvement is currently addressing allocation of \$60 million in education funding enhancements and approximately half of that amount would be allocated in the form of supplemental payments.

Representative Headland asked whether school districts levying fewer than 185 mills would have an opportunity to increase their property tax levies by 18 percent and thereby qualify for a greater measure of property tax relief under the bill draft. Committee counsel said that is a possibility and there would be an incentive to increase property tax levies to gain a greater measure of property tax relief. He said the bill draft anticipates that potential problem by reducing the optional 18 percent annual increase in dollars levied for school districts levying below 185 mills. He said the bill draft substitutes a maximum increase of 2 percentage points more than the percentage increase in the consumer price index. He said this would still allow an opportunity for levy increases that would gain a greater measure of property tax relief.

Senator Cook said any incentive for increased property tax levies to gain a greater measure of property tax relief could be avoided by selecting a date certain for use as the base year number of mills. He said the current mill rate could be used as the basis and there would be no further incentive for increases unless the increase is required for operation of the school district.

Senator Cook said the bill draft should be adjusted to use the current levy amounts for school districts as the starting point for computations and this would eliminate incentives for levy increases, provide certainty in allocations, and allow use of approximately equal amounts for the allocations in both years of the biennium.

Committee counsel reviewed Sections 3 through 6 of the bill draft relating to reduced property tax levy authority of school districts to reflect the property tax relief allocations received. He said the bill draft also eliminates authority for voter approval of unlimited levies for school districts. He said the bill draft would allow voter approval of increased levy authority but the maximum increase allowed would be an increase of up to 5 percent more than the maximum levy otherwise allowed by law. He said the property tax relief allocation portion of the bill draft would also exclude from consideration any excess levy authority approved by the voters after 2006, so excess levy approval would not increase the amount of property tax relief available to the school district.

Committee counsel said Section 7 of the bill draft is a section providing a statement of legislative intent and calling for future Legislative Council studies of

continued property tax relief. He said the intent statement has been amended since the previous committee meeting to eliminate references to specific dollar amounts of anticipated additional funding for future bienniums.

Committee counsel said an amendment was prepared as a result of a committee request from the previous committee meeting to alter the statement of intent. He said the amendment was prepared to include the same error that was made in the minutes about limiting property taxes to no more than three-fourths of 1 percent of true and full value of residential property. He said the correct statement should be a reduction in property tax bills to not more than one and one-half percent of the true and full value of residential property. He said Ms. Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division, Tax Department, has been requested to present an analysis of the fiscal effect of the change and she was informed that the correct amount is one and one-half percent of true and full value of residential property.

Senator Andrist said it appears that school districts will not receive any enhanced education funding through the allocations in this bill draft. Committee counsel said he understood it was the choice of the committee members working on this approach to avoid enhanced funding for education and to leave recommendations in that area to the Governor's Commission on Education Improvement and the interim Education Committee.

Chairman Urlacher called on Mr. Jerry Coleman, Assistant Director, School Finance and Organization, Department of Public Instruction, for comments on the information prepared by the Department of Public Instruction to illustrate the effects of the bill draft for school districts. Mr. Coleman said the review of the allocation formula under the bill draft and the example already presented earlier in the meeting explain the operation of the allocation formula and track with the information presented in the reports prepared by the Department of Public Instruction. He said the first run of information prepared by the Department of Public Instruction is based on a 60 percent adjusted mill levy cap, which totals 111 mills. He said the second run is based on an adjusted mill levy cap of 75 percent, which totals 138.75 mills. He said the information presented for each school district should be understandable in light of the review the committee made of the operation of the allocation formula under the bill draft. He said he would address any questions the committee might have.

In response to a question from Senator Andrist as to whether a run could be done to show the effect of adjusting payments in the current education funding formula based on taxable valuation per pupil, Mr. Coleman said it could but more specific information would have to be provided regarding the adjustments to be made.

## TAX DEPARTMENT INFORMATION

Chairman Urlacher called on Ms. Dickerson for testimony in response to questions previously asked by the committee. A copy of Ms. Dickerson's prepared testimony is attached as Appendix C. Ms. Dickerson said at the previous committee meeting she presented information requested by the committee relating to valuation of agricultural property within city limits. At that meeting, the information indicated unusually high value per acre for agricultural property within the cities of Bismarck, Fargo, and Minot. She said further investigation disclosed that in Bismarck the computer program used to report the information did not correctly pick up the agricultural acreage. She said using updated acreage information, the value per acre within the city limits of Bismarck for agricultural property is \$275, which is in line with the certified cropland value per acre for 2005. She said a similar computer problem was discovered with the Fargo information. She said the average value per acre for agricultural land within the city of Fargo is approximately \$573, which is in line with the certified cropland value per acre for 2005. She said within Minot city limits there are 12 agricultural parcels that were initially assessed many years ago and probably continue to be assessed at a commercial property assessment rate.

Ms. Dickerson said the other information requested by the committee is an estimate of the fiscal effect for each county if total property taxes levied were reduced to not more than one and one-half percent of true and full value for residential property only and for all property types combined. She said attached to her testimony is a table showing these calculations for each county. She said if residential property taxes were reduced to not more than one and one-half percent of true and full value of property, residential property taxes would be reduced by approximately \$72.5 million, which amounts to a reduction of approximately 25 percent. She said if all property were reduced to a tax rate of not more than one and one-half percent of true and full value, total property tax collections would be reduced by more than \$150 million, which would be a reduction of 22.75 percent.

## NORTH DAKOTA ASSOCIATION OF COUNTIES

Chairman Urlacher called on Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, for presentation of information on out-of-state ownership of property in North Dakota. Mr. Traynor distributed a copy of a table showing the results of a survey conducted by the North Dakota Association of Counties with information provided by county officials. A copy of the table is attached as Appendix D.

Mr. Traynor said the results of the survey indicate nonresident ownership of 14 percent of agricultural acreage, 5 percent of residential parcels, and 25 percent of commercial property. He said the

survey results are based on the mailing address of the property tax statement for the property, which is not conclusive as to residency of the owner. He said using the mailing address for property tax statements is not a perfect method to determine residency of the property owner but is the best means available for survey purposes.

## SEVENTY PERCENT STATE FUNDING FOR EDUCATION INTENT STATEMENT

Chairman Urlacher called on committee counsel to review the history of the statement of legislative intent in state law setting a level of 70 percent state funding for the educational cost per pupil of elementary and secondary education.

Committee counsel said the November 1980 initiated measure No. 6 approved by the voters of North Dakota created a 6.5 percent oil extraction tax. He said the measure allocated revenue from the new tax 45 percent to the state school aid program, 10 percent to a special trust fund, and 45 percent to the state general fund. He said the portion of the allocation dedicating 45 percent of revenue to state school aid contained a statement that legislative appropriations plus this new revenue was intended to provide at least 70 percent of the educational cost per pupil for elementary and secondary education. He said the oil extraction tax allocation formula was revised by 1981 legislation to dedicate 60 percent to the state school aid program, 10 percent to a special trust fund, and 30 percent to the state general fund. He said the 1981 legislative amendments retained the language that appropriations and oil extraction tax revenues should provide at least 70 percent of elementary and secondary education funding but if the oil extraction tax share of funding exceeds the 70 percent level by itself, any excess would go to the state general fund. Committee counsel said 1983 legislation revised the oil extraction tax allocation to eliminate allocations for the state school aid program and dedicate the oil extraction tax revenues 90 percent to the state general fund and 10 percent to the resources trust fund. He said the statement of intent regarding the level of funding for education was moved to NDCC Section 57-51.1-08, where it remains, and the statement was revised slightly to state the intent to fund public elementary and secondary education at the level of 70 percent of the educational cost per student. The statement of intent no longer contains any designation of where the funding for this level of state funding for education is to come from.

## TESTIMONY

Mr. David Straley, Greater North Dakota Chamber of Commerce, said his organization has followed the committee study closely and members have been discussing the committee's approach in the bill draft. He said some concerns have surfaced among business owners. He said two comments that are frequently heard are what would this approach mean

three to five years down the road and is there a tax increase in the future to fund continuation of this property tax relief.

Representative Gulleon asked whether the Chamber of Commerce membership has had concerns and complaints with the impact of rising property taxes. Mr. Straley said that has been a concern of members and the Chamber of Commerce appreciates the need for property tax relief. He said Chamber of Commerce members are leery about future funding for property tax relief.

Representative Mueller asked what it is about the bill draft that the Chamber of Commerce does not like. Mr. Straley said it is not the bill draft itself that concerns Chamber of Commerce members but the continuation of a program for property tax relief and how it will be funded in the future.

In 1983, Representative Williams said about 60 percent of education costs came from the state and the state's share is now down to about 40 percent. He asked if the Chamber of Commerce would prefer the status quo. Mr. Straley said he is not sure he can answer that question for the entire membership of the Chamber of Commerce. He said he is just expressing concerns the organization has heard from members.

Representative Belter said business owners need to keep in perspective that high taxes are always a problem. He said if there is a failure of state government to adjust the balance within the tax system, businesses will pick up the tab. He said businesses should be alert to maintaining balance within the tax system. He said the bill draft is intended to restore tax system balance that has been lost over a number of years.

Senator Tollefson said he has the same concerns expressed by some members of the Chamber of Commerce that the bill draft does not address adequately the source of future funding for property tax relief.

Representative Herbel said from 1994 to 2004 the state appropriations for elementary and secondary education are up substantially but property taxes for elementary and secondary education have risen approximately twice as fast. He said he believes the bill draft approach would move the state back to an appropriate share of funding for elementary and secondary education.

Senator Wardner said he understands the concerns of Chamber of Commerce members but he is a little more optimistic about the process. He said as we look to the future, Chamber of Commerce members are concerned we will be looking for tax increases. He said he does not believe that is going to happen. He said he does not foresee the Legislative Assembly pushing this forward if the state does not have the funds. He said the school stabilization fund is the result of legislative foresight to avoid tax increases when there is a shortfall in funding. He said he believes the Legislative Assembly is very sensitive to tax increases. He said

this bill draft will be adjusted during the legislative session to mesh with recommendations from the Governor's Commission on Education Improvement and he thinks the end result will be appropriate for what the state can afford to fund.

Representative Mueller said business owners should also recognize that if the state puts \$75 million back in taxpayers' pockets through the bill draft approach, that will have a positive impact for businesses.

Representative Iverson said he does not believe the bill draft's approach is appropriate. He said the bill draft does not do anything to limit property valuation increases for property tax purposes. He said he believes the reduction of school district property taxes will also encourage other political subdivisions to increase taxes.

Senator Tollefson said it is appropriate that property taxes are the main source of funding for education. He said property taxes are the basis of public education in all states. He said there are reasons for relying on property taxes because property is always there and is a dependable funding source.

Representative Gulleon said she has spoken to a large number of citizens and local government officials around the state and escalating property taxes are always a concern of citizens and local government officials. She said rising property taxes are perhaps the number one concern for the Legislative Assembly to resolve in many peoples' opinions. She said for housing, high property taxes create a burden that pushes the cost of housing beyond the means of many people. She said high property taxes also create a burden on agricultural and business property.

Ms. Bev Nielson, North Dakota School Boards Association, Bismarck, said the association has a standing resolution opposing efforts to eliminate school district taxing authority without significant net gains in revenue for all school districts. She said schools need adequate revenues to meet mandated functions imposed by federal and state law. She said the association believes that adequacy and equity funding issues for school districts are primary concerns that should be pursued before property tax relief.

In response to a question from Senator Tollefson as to whether the state would have more power in education decisions if the state funds 70 percent of education costs, Ms. Nielson said they say power follows money but control of education decisions is a matter of intent and good will. She said if local or state control of education decisions is the issue, the School Boards Association would favor local decisionmaking.

Representative Belter asked if the School Boards Association has any concerns with additional strings that might be attached to increased state funding. Ms. Nielson said local control of education decisions is always a concern of the School Boards Association.

Ms. Nancy Sand, North Dakota Education Association, Bismarck, commended the committee for its work on property tax relief through funding allocations to school districts. She said the association has followed state support for the cost of education for many years. She said the intent of the bill draft is laudable in trying to reduce reliance on property taxes. She said the association has concerns with the ability of schools to meet their funding needs within the limits on property taxes. She said adequacy and equity of school funding are the primary concerns of the North Dakota Education Association. She said the North Dakota Education Association also believes that the \$60 million education enhancement commitment made by the Governor is the starting point for education funding enhancements.

Ms. Sandy Clark, North Dakota Farm Bureau, Bismarck, said at some point there will have to be a blending of the bill draft and the recommendations of the Governor's Commission on Education Improvement. She said the Farm Bureau concurs with concerns that enactment of the bill draft would be a commitment to future tax increases. She said the Farm Bureau likes the idea of property tax relief but has some concerns that property rich districts get reduced relief under the bill draft and they also get reduced funding from the state because of the operation of the mill deduct factor in the foundation aid formula.

Representative Herbel said equality of property tax relief is not the objective. He said those who have been paying less than average property taxes should not receive the same measure of property tax relief. He said property tax relief should be targeted to provide more relief to those who have been paying more than average property taxes to support education.

Mr. Steve Swiontek, Devils Lake Schools Superintendent, said an argument has been raised that other political subdivisions will increase property taxes if school district property taxes are reduced. He said that argument places no faith in local government. He said he does not believe local government would unnecessarily increase taxes.

Representative Conrad said she would like to hear from people in Fargo regarding the property tax relief bill draft. She said property tax relief seems to be a topic of major concern in Fargo. Chairman Urlacher said he would welcome any comments from Fargo citizens. Representative Conrad said she would like to have a committee meeting in Fargo if possible. Representative Belter said he does not think the city of Fargo is more concerned with property tax issues than other communities in the state. He said he believes there is an equal stake in property tax relief across the state.

Senator Cook said he thinks committee counsel should be available to the Governor's Commission on Education Improvement and the interim Education Committee to explain the bill draft approach the

committee is pursuing. Chairman Urlacher said he is not sure of the meeting schedules for those groups but it would be useful to brief those groups on the committee deliberations on the bill draft.

Senator Andrist said he thinks it is important for this committee to work together with the other groups looking at education funding issues. He said it appears there is likely to be a combined call for \$134 million in new state funding for school districts and he is not sure that is affordable.

Senator Cook said he requested preparation of an [amendment](#) to the statement of intent in the bill draft stating the objective of the bill draft and future legislative action to reduce annual property tax bills to not more than one and one-half percent of true and full value of any parcel of residential property. He said he believes it is important to set a goal for property tax reduction over the next few years. **It was moved by Senator Cook, seconded by Senator Tollefson, and carried on a roll call vote that the committee amend the bill draft by adoption of the amendment offered to the statement of intent section in the bill draft.** Voting in favor of the motion were Senators Urlacher, Andrist, Cook, Tallackson, Tollefson, and Wardner and Representatives Bellew, Belter, Conrad, Drovdal, Gulleeson, Haas, Hanson, Headland, Herbel, Iverson, Mueller, Schmidt, Weiler, and Williams. No negative votes were cast.

Senator Cook said the bill draft contains a blank on page 1 that must be filled in with an appropriate percentage of the statutory maximum mill levy that is to be subtracted from school district levies to determine allocations among school districts. He said he believes 60 percent is the appropriate amount after reviewing the information provided on 60 percent and 75 percent reductions. **It was moved by Senator Cook, seconded by Representative Herbel, and carried on a voice vote that the bill draft be amended to include 60 percent as the amount to be subtracted on page 1 of the bill draft in the initial step of determining property tax relief allocations.**

## **ELECTRIC UTILITY PROPERTY TAXES**

Chairman Urlacher called on Mr. Harlan Fuglesten, North Dakota Association of Rural Electric Cooperatives, for testimony relating to electric utility taxation issues. A copy of Mr. Fuglesten's prepared testimony is on file in the Legislative Council office.

Representative Drovdal said he heard a presentation in response to testimony presented by the Utility Shareholders of North Dakota on behalf of the Association of Rural Electric Cooperatives during a meeting of the Electric Industry Competition Committee. He said he was disappointed in that presentation because it seemed to be a personal attack on the presenter of testimony from the Utility Shareholders of North Dakota. He said he believes that was inappropriate and he hopes this presentation will not take that approach.

After Mr. Fuglesten's testimony, Senator Cook asked if the bill draft the Association of Rural Electric Cooperatives supports would solve the problems of equality of taxes in the electric industry. Mr. Fuglesten said enactment of the bill draft would help to place electric industry providers on the same tax footing.

Senator Cook said the committee has debated how to provide property tax relief among rich and poor school districts. He said one of the factors in rich versus poor districts is taxable valuation per student. He said in school districts in which an investor-owned utility is present, there will be a higher taxable valuation per student. He said in school districts in which substantial rural electric cooperative property is located, there is no reflection of that property in taxable valuation per student calculations because that property is not subject to property taxes. He said the existence of rural electric cooperative property in a school district makes the school district appear poorer than it really is. He asked how that property should be reflected in these deliberations. Mr. Fuglesten said Senator Cook is correct that rural electric cooperative property is not reflected in taxable valuation per student comparisons and the association would welcome legislative efforts to find a better method to determine taxable valuation per student for comparison purposes.

Mr. Rod Backman, Covenant Consulting Group, Bismarck, said he stands behind the report he gave the committee at the previous committee meeting. He said there is clearly disagreement among participants in the electric industry. He said it appears there is a need for independent analysis of the tax status of investor-owned utilities and rural electric cooperatives. He said the issue to be determined is what is a fair level of taxation and if fairness does not exist, it affects all property taxpayers.

## **BILL AND RESOLUTION DRAFTS**

Committee counsel said Representative Owens presented two bill drafts and two resolution drafts for constitutional amendments at the previous committee meeting. He said Representative Owens is unable to attend this meeting but he suggested the committee review the bill and resolution drafts to determine whether further action or information is required for the next committee meeting.

Committee counsel said one bill draft [\[70110.0100\]](#) would limit the combined sales, use, and gross receipts taxes imposed by counties or cities under home rule authority to not more than a 2 percent combined rate on any taxable sale. He said the second bill draft [\[70112.0100\]](#) would eliminate the farm residence property tax exemption. He said the second bill draft was amended after the previous committee meeting to be contingent upon approval by the voters of the constitutional measure to provide a homestead credit against agricultural property. Committee counsel said one concurrent resolution [\[73013.0100\]](#) would create a constitutional provision

to allow the owner of a homestead to claim a property tax credit against the total amount of property taxes due or the entire amount levied on the homestead by school districts, whichever amount is less. He said the amount of the credit would be up to 10 percent for taxable year 2009, 20 percent for taxable year 2010, 30 percent for taxable year 2011, and 40 percent for taxable years after 2011. He said the measure provides that a homestead is a dwelling occupied by the owner as a primary dwelling place plus up to one acre of land surrounding the dwelling. He said a homestead could consist of part of a structure containing multiple dwellings or part of a structure containing a dwelling and used in part for other purposes. He said farm or ranch property occupied as a residence would be subject to the credit and the credit would also apply to all agricultural land in a single tract or contiguous tracts on which the residence is located, without any acreage limitation.

Committee counsel said Ms. Kathryn Strombeck, Research Analyst, Tax Department, is unable to attend today's meeting. He said Ms. Strombeck provided information relating to the bill draft to limit combined county and city home rule sales tax rates and a copy of Ms. Strombeck's memorandum is attached as Appendix E. Ms. Strombeck's memorandum indicates that a 2 percent combined rate limit would affect the city of Medora, which has a city sales tax rate of 2.5 percent; the city of Park River, which has a city rate of 2 percent and Walsh County has an additional rate of one-fourth of 1 percent; and possibly the city of Williston, which has a current rate of 2 percent and there is a pending proposed Williams County sales tax at a rate of one-half of 1 percent. The memorandum states it is not possible at this time to estimate potential revenue loss for these communities if rates are limited to 2 percent.

Chairman Urlacher called on Ms. Dickerson for testimony relating to the fiscal effect of bill and resolution drafts presented to the committee at the previous committee meeting. Ms. Dickerson said it is not possible to estimate the fiscal effect of eliminating the property tax exemption for farm residences. She said eliminating the exemption would not necessarily result in an increase in property tax revenue because political subdivisions could use the increased valuation to reduce mill rates rather than generate more tax dollars. She said it is not possible to estimate the amount of increased valuation from eliminating the farm residence exemption because most counties do not value those properties for assessment purposes. She said county officials have testified in the past that valuing and assessing all farm residences would take considerable time.

Ms. Dickerson said the resolution draft calling for a homestead credit of 10 percent in 2009 would reduce property taxes by almost \$28 million and for the 20 percent reduction in 2010 the reduction would be almost \$56 million. She said the 30 percent reduction for 2011 would result in an estimated revenue loss of almost \$84 million and the 40 percent reduction for

years after 2011 would result in annual revenue decreases of almost \$112 million. She said these estimates are based on all residential property because there is no reason for assessors to know whether a residence qualifies as a person's primary residence.

Ms. Dickerson said another resolution draft presented to the committee would limit annual property tax increases to not more than 5 percent or the consumer price index change plus three-fourths of 1 percent, whichever is less. She said these limitations would allow an increase of approximately \$19.3 million in the first year and \$20.1 million in the second year of the upcoming biennium. A copy of Ms. Dickerson's prepared testimony is attached as Appendix F.

Senator Cook said the two bill drafts and two resolution drafts presented for committee consideration by Representative Owens represent major tax policy changes and rather delicate political issues. He said proper consideration of these drafts would require a substantial opportunity for public comments. He said it appears the committee is nearing the conclusion of its studies and will not have additional time for further meetings for necessary testimony, debate, and changes to these drafts. **It was moved by Senator Cook, seconded by Representative Haas, and carried on a voice vote that the Finance and Taxation Committee table consideration of the two bill drafts and two resolution drafts initially presented for consideration at the June 1, 2006, committee meeting.**

### PROPERTY TAXES IN MILLS STUDY

Chairman Urlacher called on committee counsel to review a bill draft [[70035.0200](#)] relating to statutory requirements for information to accompany property tax statements. Committee counsel said the bill draft was reviewed by the committee at the previous meeting and has been amended as a result of a motion approved at that meeting. He said the bill draft now would require the property tax statement to include true and full value of the property and the total mill levy for the taxable year. He said the bill draft would also require the property tax statement to either include, or be accompanied by, information showing for each taxing district levying against the property the taxes levied in dollars and the taxes expressed in dollars of taxes per \$1,000 of true and full valuation of the property. He said the amendment removed the requirement of providing the information for the previous tax year.

Chairman Urlacher called on Mr. Traynor for comments on the bill draft. Mr. Traynor said the North Dakota Association of Counties has reviewed with county officials and county software vendors the effect of the bill draft as revised. He said it appears the bill draft as revised would not create major programming problems or costs. He said software vendors indicated the information required by the bill draft

could be incorporated during annual software updates without additional programming costs.

Mr. Traynor said most counties provide a tax statement containing more information than the statutory provision in the bill draft would require. He said counties provide additional information with tax statements as suggestions for improvements are received from citizens.

Mr. Traynor said perhaps a better solution than the bill draft approach would be to allow the Tax Department authority to control information provided with tax statements. He said this would allow greater flexibility and consideration of available computer software for tax statements. He said this would also provide the Tax Department authority to require uniform information to be provided to taxpayers.

Senator Cook said if the bill draft is approved and introduced for consideration in the 2007 legislative session, the Association of Counties and county officials could offer suggestions as needed for improvement of the statutory requirements to address county concerns. Mr. Traynor said that is correct.

Representative Mueller asked whether there is anything required to be provided by this bill draft that a taxpayer could not obtain by requesting information at the county courthouse. Mr. Traynor said the bill would not provide information that county officials could not otherwise provide upon request.

Representative Drovdal said he believes it will be worthwhile to further consider this issue during the next legislative session. **It was moved by Representative Drovdal, seconded by Senator Cook, and carried on a roll call vote that the bill draft making changes in the information required to be provided with property tax statements be approved and recommended to the Legislative Council.** Senators Urlacher, Andrist, Cook, Tallackson, Tollefson, and Wardner and Representatives Belter, Drovdal, Gulleeson, Haas, Hanson, Headland, Herbel, Iverson, Mueller, and Williams voted "aye." Representatives Bellew, Conrad, and Schmidt voted "nay."

Senator Urlacher said the August calendar is rather full with legislative meetings and other business. After discussing options for meeting dates with committee members, Chairman Urlacher said the next meeting of the committee would be scheduled for Wednesday, August 2, 2006, unless it becomes apparent there will be conflicts on that date.

The meeting was adjourned at 2:00 p.m.

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John Walstad  
Code Revisor

[ATTACH:6](#)