19.0555.01000

FISCAL NOTE
Requested by Legislative Council
01/18/2019

Bill/Resolution No.: HB 1182

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1182 limits increases in assessed valuation of property parcels to no more than three percent each year.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1182 limits the growth in assessed valuation on any parcel to a maximum of three percent each year, except for situations where the property has been improved during the tax year.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

HB 1182 does not address the foundation aid formula payment. The foundation aid formula will deduct 60 mills multiplied by the taxable valuation except the dollars deducted may not exceed the dollars deducted the previous year by more than 12 percent.

Limiting a parcels assessed value to a three percent increase would likely cause an increase to the state aid share of the foundation aid formula payment. The increase in state aid is unknown as the Department of Public Instruction collects taxable valuation for the entire district and not by parcels of property.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Adam Tescher

Agency: Department of Public Instruction

Telephone: 701-328-3291

Date Prepared: 01/18/2019

19.0555.01000

FISCAL NOTE
Requested by Legislative Council
01/07/2019

Bill/Resolution No.: HB 1182

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1182 limits increases in assessed valuation of property parcels to no more than three percent each year.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1182 limits the growth in assessed valuation on any parcel to a maximum of three percent each year, except for situations where the property has been improved during the tax year.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1182 will result in properties reaching their true and full valuation more slowly than is likely without this bill, due to the annual three-percent limitation on growth in assessed values. The bill by itself does not cause a reduction or a limitation in property taxes; mill levies and property taxes are not limited by the provisions of this bill. The bill may cause a shift in the property tax burden among parcels within the district from those that are undervalued onto those parcels that are accurately valued.

The extent of any shift of property tax burden among property owners within a taxing district is unknown and cannot be estimated. The overall fiscal impact of the bill is zero.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328-3402

Date Prepared: 01/17/2019

2019 HOUSE FINANCE AND TAXATION

HB 1182

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1182
1/21/2019
31100

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to limitations on increases in property assessments for property tax purposes; and to provide an effective date.

Minutes: Attachment 1-7

Chairman Headland: Opened hearing on HB 1182.

Representative Kading: Introduced bill. Distributed written testimony, see attachment 1. Ended testimony at 6:20.

Chairman Headland: I know in your private life you oversee a lot of properties in other states. Are there any types of caps on assessed value in any of those other states?

Representative Kading: I'm not. I do business in Texas, Florida, and Arizona primarily. I don't follow that regulation. I believe South Dakota has caps.

Chairman Headland: I believe our law is that assessed value is 50% of true and full value. You're going to cap the assessed value and limit it to 3% increases but you don't address true and full value. Would that be in some kind of conflict with the rest of the statute?

Representative Kading: My intent is to cap however the value is calculated. If we want to look at true and full value, then that is fine. I think assessed value is a fine way to put it to. Either way you're capping the increase as to how the locals are valuing the property.

Chairman Headland: We'll take a look and get some information from the tax department. Is there testimony in support? Is there opposition?

Kevin Ternes, Minot City Assessor: Distributed written testimony, see attachment #2. Ended testimony at 13:20. It's really not the assessment going up that's the driver of the taxes, we all know it's the budgets. In Minot our values went down a few years ago on the average of about 4% but people's taxes still went up. That happened to be the year the 12% buy down went away and the city of Minot raised their mill levy in response to lower sales tax collections. Last year residential homes went down another two percent. In Minot those

folks have seen a 6% drop in the last couple years on average in valuation and everybody's taxes still went up.

Representative Ertelt: Can you define what fair share is?

Kevin Ternes: My opinion of fair share is that everybody is assessed at the same process and is taxed at the same rate. This cap says that some people will be below market and some will be at market. The unfair thing in my mind is that the popular places to live will be assessed below market. They will reap the benefits of this, not the smaller or older homes.

Representative Ertelt: Do those neighborhoods that increase faster receive more city services than those that increase slower?

Kevin Ternes: No, they get the same services. Property taxes have never been based on who receives the most services; it's based on market value, tax rate, and everybody pays the same within that formula.

Representative B. Koppelman: Do you believe that no matter how much your house goes up in value and you can afford the property tax that you're going to levy on that home?

Kevin Ternes: I'm a house appraiser and I'm saying the effective tax rate on the tax statements is now showing 1.58% in Minot. This is the same whether you live in a $1 million home or a $100,000 home. This will drop the $1 million home down to 1.4, 1.3, or 1.2% and the person in the older home will be at 1.58% because the value will keep going up but that person's tax will be capped at three percent. We have an opportunity to make it fair for everyone on the valuation end. Somebody will need to do some figuring with the numbers for that. If you allow a 3% cap, there will be people who will have less effective tax rate dollars paid on the value of their home than others and that is not fair.

Representative B. Koppelman: You don't believe your tax rate has gone up beyond that of inflation. Statewide our CPI has ranged between 1.5 and 2.5% depending on the year. If you look at that compounded over are you suggesting that if I paid $1,000 in property tax 10 years ago in Minot that I don't pay any more than if you had been going up 2.5% a year? That would be below this cap then if that's true.

Kevin Ternes: That could very well be. If you're looking at a cap on what is collected and if we're going to use market value as the standard it's just not fair. I don't know about the collection end of it.

Chairman Headland: We've had every type of caps bill in here. Every time you start messing with the calculation you're going to create inequity among property taxes. We understand the intent of this bill but there needs to be some work on it because it's going to create some real inequities and unfairness. Further testimony in opposition?

Terry Traynor, North Dakota Association of Counties Executive Director: Distributed written testimony, see attachment #3. Ended testimony at 25:05.

Chairman Headland: Further opposition?

Bill Wocken, Bismarck City Assessor: Distributed written testimony from himself as well as Ben Hushka, Fargo City Assessor and Mayor Phil Riely from Watford City, see attachments #4-6. Ended testimony at 27:25.

Alexis Baxley, North Dakota School Boards Association: Distributed written testimony, see attachment # 7. Ended testimony at 29:24.

Larry Severson, North Dakota Township Officers Association: One of my jobs is a tax assessor and we strive to be as accurate as possible in our assessments. This bill would simply force an inaccuracy in our assessments. I ask that you give this a do not pass recommendation.

Chairman Headland: Is there further opposition? Seeing none we will close the hearing on HB 1182.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1182
1/21/2019
31128

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to limitations on increases in property assessments for property tax purposes; and to provide an effective date.

Minutes:

No attachments

Chairman Headland: This is Representative Kading's bill. We've had these types of bills in the past. When you start messing with any part of the formula it's going to create some inequities amongst properties. I can't support the bill the way it is.

Representative Kading: I know we've looked at this over the years but people care about property tax. This is the number one thing I hear about in Fargo. We never seem to do anything about property tax. We've got to start looking at property tax a little bit differently. Theoretically, if everybody's assessment went up exactly the same assessment value that would mean absolutely nothing and wouldn't matter. People's property values are going all over the map. We already regulate the formula. Putting caps on assessed value or full and true value merely just keeps the valuation from getting out of control. I like the bill. I recognize the chairman's comments that this has come up before. I think this is a good topic to continue to look at because property tax is a major issue that needs to be addressed.

Representative Hatlestad: You say everybody is interested in property tax but then nobody shows up to the budget hearings.

Chairman Headland: That is true.

Representative Ertelt: They elect representatives to represent them and in Representative Kading's case that is what he is there to do. I don't know that the fact nobody shows up for the budget hearings carries as much weight as it is often given. This is really just another progressive tax so I think we need to avoid those. The individual really doesn't have any control over whether or not his property increases in value unless they are making home improvements. This would help a little bit to put it back in to the control atmosphere.

Representative B. Koppelman: The two things I think this bill is lacking is that it doesn't have a mechanism for a vote of the people to supersede. It also doesn't talk about eliminating

something in terms of dollars. Sometimes that can be unclear. I fundamentally like the concept. There is another bill out there that is similar to this. I believe we should support one of these bills. Maybe we need to do away with the ones that are more of a tax shift as opposed to something that is equitable for everybody across the board.

Chairman Headland: Last session we passed a caps bill out of this committee but it was a cap on their overall budget which will not shift burden from one class of property to the other. That is something I supported and may very well support again. We've tried in several different ways to address the concerns of the property tax payers out there. It seems like everything we've done has just never worked in a way that we designed. This bill is going to create inequities if it's passed as is.

Representative Dockter: I think a lot of the bills we had today just shifted the burden. None of them are what we tried to do last session to cap. Representative Kasper even admitted that in his bill there was a shift. I can't support this bill or any of the bills today.

Chairman Headland: Representative Bellew's bill is similar to the bill that this committee has passed.

Representative Ertelt: There's already inequity in property tax because you're paying for the same services so those who are paying more today are being treated inequitably compared to everybody else who is paying less.

Representative Kading: You could make a case that a cap shifts but I don't necessarily agree that property tax caps on values shift the burden. It puts everyone on an equal playing field with a constraint of that 3% number.

Chairman Headland: That would be true if the market followed the 3% or whatever that increase is across the board. We know that doesn't occur when you have a free market place. There are some properties that are going to increase in value a lot faster than others.

Representative B. Koppelman: HB 1380 is not a cap on the budget but it's a property tax cap that's along the same lines as this bill. It has some of the other safeguards in place. In light of that I'm probably not going to support this bill in favor of supporting HB 1380.

Chairman Headland: Is that Representative Bellew's bill because that's not what he told me he was going to put in but I haven't read it yet. We can talk about that bill when we get to it.

Representative Dockter: MADE A MOTION FOR A DO NOT PASS

Representative B. Koppelman: SECONDED

Chairman Headland: Discussion?

ROLL CALL VOTE: 10 YES 3 NO 1 ABSENT
MOTION CARRIED
Representative Steiner will carry this bill.

Date: 1-21-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1182

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Dockter Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt		✓			
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading		✓			
Representative Koppelman	✓				
Representative Steiner	✓				
Representative Toman		✓			
Representative Trottier	A				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Steiner

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

REPORT OF STANDING COMMITTEE

HB 1182: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1182 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1182

#1
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1-21-19
p. 1

Property Tax

Chairman Headland and members of the committee, I am Representative Tom Kading from District 45 in Fargo.

A Fee Simple Absolute is the type of ownership most homeowners hold in real estate. There are a variety of other ownership types, but the fee simple is probably the basic one most people hold. What this means is that the owner has absolute title to land, free of any other claims against the title. There of course can be mortgages, liens, and so forth, but the owner ultimately has the right to the property. That's not necessarily true when you consider the effect of property tax.

Most Intrusive Tax

In my opinion, property tax is the most intrusive tax. As you know if you don't pay your property tax, you lose your property. This is certainly adverse to the property owner's rights. But we as state government have decided that this intrusion upon a property owners rights is acceptable because taxes are needed. With income tax or sales tax, if you do nothing you just don't have to pay them. With property tax, if you do nothing you lose your property. For that reason, I consider property tax to be the most intrusive of taxes.

People care about property tax

At the end of the day, it is property tax that people care about. When I went door to door I did not have one person complain about sales tax or income tax, but I had a ton of people tell me that they were frustrated by property tax. Property tax is by far the most important issue that people care about. Our constituents have been asking for property tax reform for years, if we fail to adopt some form of real property tax reform, such as this, we are not providing relief our constituents want.

Role of state

Well if you consider property tax intrusive and you agree that the people of North Dakota care about this tax more than any other tax, you might still wonder whether it is the role of the state. And I would say yes it clearly is.

- The state defines what type of property can and cannot be taxed
- The state exempts property such as cemeteries, charities, public hospitals, farm structures, and so forth. The state has created 43 different property tax exemptions in NDCC 57-02-08 alone.
- The state provides credits for property taxes, such as the homestead credit.
- The state caps the mils which locals can levy.

So yes the state does have a role to play in local property taxation. The state sets the frame work for property tax. It sets the constraints as to when property tax is appropriate and to what extent. That said, the state has failed to set constraints on one portion of the property tax calculation. That is how quickly your assessment valuation can increase and therefore increase your property tax. The state needs to set the bounds as to how property tax can be levied, and assessment valuation increases is one factor in the equation that needs to be reformed and constrained.

What this bill does

#1
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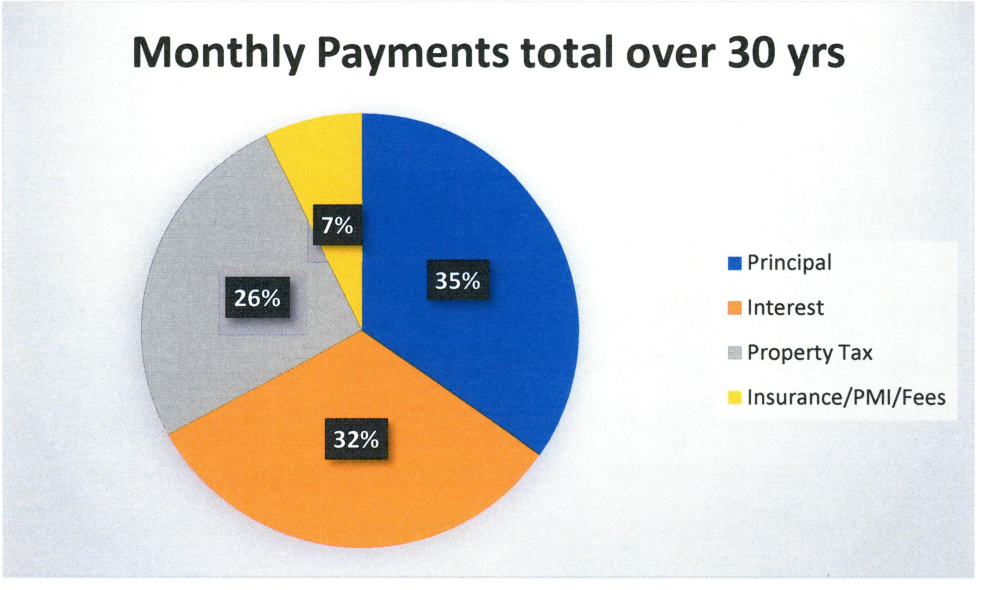
This bill is pretty simple. It limits that your assessment valuation cannot increase more than 3% per year barring an improvement. If there is an improvement it can go up by more.

Conclusion

The median home price in North Dakota is $206,200. Over 30 years you pay:



Assuming 5% Interest, 20% down, 3% closing costs, 3% increase in property tax each year.

In this scenario your monthly payment starts $1,160.47. If property tax merely increased 6% per year you are paying more in property tax at the end of year 30 than your initial payment. If property tax increases by 6% the property tax portion increases to 38% of your total.

In my opinion it is wrong when I am contacted by those in my district who have lived at their property for 30 years, paid off their home, but now pay more for property tax than their original note. There of course will be those who get up and say we can't implement this for some reason or another, but the reality is we can find a way. People bring this issue up more than any other issue I run across, and if we don't address it with real reform, we are doing a disservice to our constituents.

Thank you

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p. 1

North Dakota House of Representatives
Finance and Taxation Committee
Chairman Craig Headland
January 21st, 2019

By: Kevin Ternes
Minot City Assessor
kevin.ternes@minotnd.org
701.721.6839

HB 1182

Chairman Headland and members of the House Finance and Taxation Committee, thank you for accepting my testimony in opposition to House Bill No. 1182.

The proposal outlined in HB 1182 has been discussed in past legislative sessions and the concerns are always the same. As I understand the intent of the bill, it would be to keep an assessed valuation from going up more than 3% compared to the prior year, with one exception.

According to state law now, the local assessor estimates the market value of the property and that calculation is called True and Full Value. Then the Assessed Value is calculated at 50% of the True and Full Value. Then the Taxable Value is calculated at a certain percentage of the Assessed Value depending on whether the property is commercial or residential. Then the mill levy is applied to that Taxable Valuation to arrive at a property's tax bill. It's a rather complicated process as mandated by state law now. This bill requires several additional calculations to be made on each property's assessment without simplifying the already cumbersome process.

HB 1182 is going to require that somewhere in this process of calculating three different values, and a resulting property tax amount, a 3% cap is going to have to be calculated for each parcel. That's after considering what exceptions to the cap are allowed under this proposal.

I am not sure how the local assessor would code various exceptions to the proposed 3% cap for individual properties, as they would be uploaded to the county's billing system. This bill proposes the cap would take effect for this year's assessments, but nobody budgeted any money to do software programming to handle it.

#2
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1-21-19
p.2

Arriving at an annual True and Full Value, as estimated by the local assessor, is the culmination of many things, including:

- new construction
- a total or partial remodel of a building
- a real estate market that is increasing or decreasing in value (depending on the economy)
- a lost or expired exemption or credit, or
- a new updated rental or lease agreement for commercial property that is replacing an old rent agreement from years ago.

Sometimes the market indicates certain houses or groups of neighborhoods or styles of homes are more popular than the prior year. It would be cumbersome for some software programs to somehow code the various reasons why an assessment would have gone up and to group the exceptions as it is uploaded to a county's property tax billing software; and, further, what the "cap" applied would be in the 4-step calculation process that currently has to take place.

At the very minimum, I don't think software could be readied or re-written by the end of 2019 for the 2019 assessments. And I'm not certain how an automated system would work to fully comply with this bill or if each parcel would have to be handled separately.

What about a home that had previously had a wheelchair, blind, renaissance zone or new house construction exemption that has expired? The bill doesn't seem to address these circumstances.

If you decide to further this bill, I would ask that the committee give us some guidance on what types of "improvements" we should consider as exceptions. Would it include new repairs or construction type remodeling that requires a local building permit or not? Would a new kitchen count as an improvement or would the taxpayer say it's not an improvement but rather just a repair?

We would probably all agree that new decks, porches, garages and living area additions are considered improvements. But is new siding and windows, completely new floor covers and kitchen, which always changes the condition and therefore market value of a home, also considered an improvement? I'm afraid an adequate list of examples of what is an improvement or not is going to be very important to facilitate a 3% cap program with certain exceptions on an already complicated 4-step calculation process.

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In addition, a house can go up in market value for various reasons. For instance, a new $5,000 deck or new roof, siding and windows, plus the neighborhood market change, might have changed, on average, by 5%. Now the assessor looks at the finished product and compares that to other comparable sales in the assessor's database or model. If HB 1182 were to pass, would this now require the assessor to somehow decide how much was a market increase, how much was a result of repairs (non- improvements), how much was new improvements, calculate all that somehow within their software, add what can be allowed, and cap at 3% what can't be allowed? I'm quite perplexed at how the calculations would be made and further how to explain it to the taxpayer.

These are just a few of the questions raised as to how to administer this bill. Other questions include:

- Does the assessor provide an actual True and Full Value to the County Auditor AFTER improvements, or before, and then add additional True and Full Value for improvements?
- Does the assessor provide an actual True and Full Value without improvement, then a total True and Full Value with improvements?
- Does the assessor provide an actual True and Full Value, code the property as having been improved, then the County Auditor applies the Assessment rate, then the Taxable Value rate, and then Mill Levy rate to the parcel based on the code that it is to be frozen or not to be frozen?

Beyond our uncertainty as to how to administer the process, property tax increase caps also do in fact create inequities among dollars paid as a percentage of the actual market value. That is an accepted fact and has been studied for years.

For instance, in Minot there were several years since 2011 until 2015 where certain parts of the city simply showed a greater market appreciation then other parts of town. In other cities it's not uncommon for certain newer, more modern neighborhoods, to show a greater market value increase then the older neighborhoods with the smaller homes. If one neighborhood appreciates 2% in one year, while across town another neighborhood appreciates 4% or 5% a year, it won't take long for a 3% cap on assessment valuation cap to benefit one class of homes or neighborhood over the other. You most certainly will have some cities in one county that might show a growth rate of more than 3% in some years over another city which will give the more valuable or popular city a lower effective tax rate then the non-growth city or area of the county.

#2
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p.4

This inequity will be front and center for taxpayers to see as it will appear at the bottom of the current tax statement that indicates an effective tax rate. In Minot now, every taxpayer who owns a residential home has an effective tax rate of 1.58% as listed on their tax statement. That rate is the same for everybody who owns a residential property if they are in the Minot School District. The first year a 3% cap or any percentage cap is attempted, that effective tax rate will differ and will be lower for owners of more popular, faster market value appreciating houses or neighborhoods than in the older neighborhoods with smaller older homes.

I wonder if this will be harder to explain to taxpayers as they compare their property tax bills than the explanation now: which is everybody is assessed at market value and the tax rate is the same.

The final line on the tax statement, the net effective tax rate, will be lower for the newer, more popular homes then the older, smaller homes. When people start paying different effective tax rates on their property, I don't see how we can explain and sustain that as fair and equitable.

In addition, you could have a home or neighborhood that was frozen at 3% caps that could, over several years of growth, for instance, be 10% below the market. Then a year comes along where the market levels off or drops a few percentage points. In that immediate year of a slowdown, the neighborhood reaping the benefit of a 3% growth cap would still be going up (because ND assesses at market value) in taxes while everybody is level or dropped off because the higher growth neighborhoods are still in the process of trying to catch up to the actual market value at 3% increments and were paying tax on an artificially low assessment. That will be another tough phone call to explain to taxpayers why their assessment is going up when the market leveled or dropped off.

To summarize, as an assessor, if you further this bill, I would ask for additional clarification on the exception of "improvements", additional time to implement the software to sort through all the calculations, and also ask that you consider the unintended result of different effective tax rates listed on property tax statements, namely lower for those folks whose properties are more popular and generally newer than older homes in older neighborhoods that will benefit as much under a cap.

#3
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1-21-19
p. 1

Testimony Prepared for the
House Finance & Taxation Committee
January 21, 2019
By: Terry Traynor, NDACo Executive Director

RE: Opposition to House Bill 1182 – Property Tax Value Freeze

Good morning Chairman Headland and committee members. Thank you for this opportunity to provide testimony in opposition to House Bill 1182 on behalf of our 53 counties and our county officials that are charged with the fair and equitable administration of our property tax system.

These county officials, from across the State, agree with the goal they understand the sponsors are seeking in this bill – that of a reduction in property tax growth that is equitable for all taxpayers. Unfortunately, this bill would not be fair to taxpayers and would likely conflict with statutory and constitutional requirements.

Article X, Section 5 of our state's Constitution begins by stating: "*Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax*." Clearly, this law will force property taxes to gradually become less and less uniform as the value used for taxation drifts further and further from its true market value – more for some than other properties. Newer property will be closer to reality, while older property will be less accurate. Taxes will shift toward the slower appreciating and new property and away from the rapidly appreciating but older property.

Between property classes one could anticipate shifts as well. Currently the contribution that agricultural property makes to the overall tax collection has gradually decreased with the more rapidly increasing total value of residential and commercial property (Tax Dept. Redbook page 66). While much of this is due to new property, it is also due to the disparate valuation methodologies for agricultural land versus all other property, which moderates the growth in taxable value of agricultural land. One would anticipate this bill would shift, over time, a greater share of the tax burden away from the currently appreciating residential and commercial parcels toward agricultural parcels.

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As a number of states have gone down this road, there is an increasing body of research on this topic, and I cite a conclusion from probably the most recent by the Tax Foundation – an organization that is characterized as conservative and business-oriented that is *"generally critical of tax increases and high taxation"*.

> Assessment limits range from the highly restrictive, such as California's cap of 2 percent or the rate of inflation, whichever is less, to the broadly permissive, like Minnesota's 15 percent limit. When caps are low enough to be effective, they can introduce a number of perverse consequences. Most obviously, they increase the cost of newly purchased homes and of new construction, both relative to existing housing stock and in absolute terms. Moving from one home to another generally involves surrendering preferential tax treatment built up over years of undervaluation, creating a "lock-in effect" where homeowners have a disincentive to relocate.
>
> Due to assessment limits, an ever-increasing share of property tax revenue must be generated from newer properties, or those which have changed ownership more recently. This often (but not exclusively) penalizes younger and lower-income homeowners, even though property tax limitations are often designed to benefit those with limited resources.
>
> Assessment limits may also injure these classes of homeowners or would-be homeowners in another, more subtle way. Over the course of their lives, people frequently upgrade to larger and more expensive homes as they gain additional financial security, in the process selling their old, more affordable homes. When the lock-in effect keeps such individuals in their more modest homes longer, this decreases the stock of starter homes and other more affordable housing on the market, to the detriment of those with fewer financial resources.

For the preservation of our state's economy, and to avoid the cost of litigating the constitutionality of the changes proposed in this bill, our Association urges a Do Not Pass recommendation on House Bill 1182.

#4
HB 1182
1-21-19

Testimony in Opposition to House Bill 1182
January 21, 2019
House Finance and Tax Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Finance and Tax Committee. For the record, my name is Bill Wocken and I am appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1182.

House Bill 1182 requires that no parcel of taxable property may increase in assessed valuation by more than three percent from one tax year to the next unless improvements have been made to the parcel. This concept has been discussed in previous sessions. It's major problem is that it destroys the *ad valorem* tax system upon which real estate taxes are based.

The principle of the *ad valorem* system is that real estate taxes are assessed based on the market value of the property. If the market value is adjusted for non-market value considerations, such as this bill proposes, then the system no longer functions as designed.

It is very likely that not all properties in the community will maintain the same market values from year to year. Properties in developing neighborhoods may well increase more in value than properties in the central area of a city. A new retail development or roadway in a neighborhood may increase or decrease property values there by different degrees. There are many other things that affect the market value of a property that would be blunted by this measure. It would create an artificial market value for properties and tax on the basis of this artificial value.

Mr. Chairman and committee members, the *ad valorem* real estate tax system works only if it is related to the market value of properties. House Bill 1182 obstructs market value considerations and the North Dakota League of Cities therefore must ask for a Do Not Pass recommendation on this bill.

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NORTH DAKOTA HOUSE OF REPRESENTATIVES
FINANCE AND TAXATION COMMITTEE

House Bill 1182
Testimony of Ben Hushka
Fargo City Assessor
January 21, 2019

Mr. Chairman and members of the House Finance and Taxation Committee, my name is Ben Hushka. I am the City Assessor for Fargo.

There are concerns I have with this bill and I will briefly address them as they relate to the good of the taxpayers in this state. This bill calls for placing a cap on increases in value at no more than three percent of the previous year assessment value.

At the very least, impeding an accepted, industry-wide standard of valuation methodology will lead to more confusion for the taxpayer. Most people have an understanding of the concept of market value as it relates to properties. It is the standard measure by which properties are exchanged. For instance, if someone purchases a property for $250,000 and the assessment valuation is at, over, or under $250,000, they know whether or not they are being fairly assessed. And, they know that without needing to understand any more about appraisal or assessment.

With the valuations set by a method detached from market value, it would be very difficult for taxpayers to know the fairness of an assessment as it relates to the value of other properties in the same class. The taxpayer's ability to understand, predict, and afford the property tax is at the heart of good property tax policy.

Also, with any type of tax, there will be discussions of fair distribution of the tax burden. Property tax valuation caps have predictable consequences that affect the distribution of

the property tax burden. One group of property owners will have to pay an increased tax burden if another is allowed to pay less than they would have had to pay if there was no cap.

As a result of changing economic conditions, real property market value changes are not uniform across all properties in a jurisdiction. Even within the same class of property. Over time, for a large number of properties, assessment value caps can result in the unintended consequence of adversely affecting the tax burdens that the caps were intended to assist them with. This is a result of the fact that not all properties increase in value the same due to external market forces. Some increase at a rate greater than the cap; others increase at a rate below the cap; others may decrease in value.

Properties that increase greater than the cap receive favorable treatment, while properties that increase at a rate less than the cap or decrease in value, receive unfavorable treatment.

Placing any kind of cap or limit on value increases will cause inequities in the assessments and ultimately taxes on the same class of property. This is not just theoretical. This is fact. There have been several decades of real life case study in this across several states.

Not only would properties within the same classification be assessed at different effective tax rates, generally more desirable properties, often at the higher value range, would be assessed at lower rates than other properties. That is because they tend to inflate more in up markets. The properties whose real inflation in value is closer to the percentage of the cap will be assessed closer to their real market value. Those that inflate more, would be assessed at a lower percentage of real value, thereby shifting the tax burden to the others.

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Article X, Section 5 of the Constitution of North Dakota says, "Taxes shall be uniform on the same class of property…". Capping assessment values assures that would not be the case.

Finally, the role of valuation in the property tax process does not determine the level of taxation. It determines and affects the uniform distribution of the property tax. Altering or arbitrarily lowering the value will not lower the taxes. Budgets determine the amount or level of taxation.

This concludes my testimony. Thank you for your consideration.

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1/21/2019

9:00 AM – Fort Totten Room

Urge a DO NOT Pass recommendation on HB 1182

Chairman Headland and Committee members of House Finance and Taxation,

The City of Watford City opposes the proposed addition to NDCC chapter 57-02. In recent history, the Legislature has prioritized creating North Dakota law that provides for tax equalization throughout the state. In doing so, the Legislature has set certification standards, comparable sales ratio requirements, and penalty for not complying with NDCC 57-02.

Not only would this additional section to NDCC chapter 57-02 undo that recent legislative priority, but also in rapid growth communities such as Watford City and McKenzie County, it would make any "catch up" to sales ratios impossible. The failure to catch up would cause our community to fail to maintain mandated sales ratios of values between 90% and 110% of comparable sales while maintaining equalization. Because Local Political Subdivision budget in dollars, not mills, as values increase, mills should decrease. For that reason, the importance of equalization is essential to each constituent paying his or her fair and equalized share of property tax liability.

Again, the **City of Watford City urges a DO NOT PASS recommendation for HB 1182**.

Thank you for your time and consideration of our concerns.

Mayor Phil Riely, Watford City
(701) 570-4338
phil_riely@yahoo.com

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1-21-19

NDSBA
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HB 1182
Testimony of Alexis Baxley
House Finance & Taxation Committee
January 21, 2019

Chairman Headland and members of the House Finance and Taxation Committee, my name is Alexis Baxley. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 178 North Dakota public school districts and their boards. I am here today in opposition to HB 1182.

As you've heard my political subdivision colleagues speak to, HB 1182 would limit the increase in valuation on a piece of property from year to year without actual improvements to the property. Unfortunately, the bill does not address the effects this would have on the state foundation aid formula. Currently, that formula multiplies the number of mills a district is levying, a maximum of 60, by the assessed valuation. That amount is then subtracted from the total baseline funding for a district. The remaining amount is the portion contributed by the state.

However, the formula also caps the amount the 60 mills x assessed valuation can increase from one year to the next at 12 percent. In rare instances, when property valuations spike at a rapid rate, this cap protects property owners, but devalues the mills levied by a district. This situation is not common, but has happened.

By capping the amount a property's assessed valuation can increase, you will be increasing the state's share of education funding. With the state already contributing a majority of the funding, NDSBA discourages limiting a district's ability to raise local funds.

For this reason, NDSBA stands in opposition to HB 1182 and encourages this committee to give it a do not pass recommendation. I would be happy to answer any questions the committee may have.