

**2021 SENATE FINANCE AND TAXATION**

**SCR 4006**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SCR 4006  
1/26/2021

A concurrent resolution to prohibit the unconstitutional use of property taxes to fund North Dakota's legal obligations.
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**Chair Bell** calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [9:50]

### Discussion Topics:

- Funding schools with tax dollars
- The “unconstitutionality” of using tax dollars to fund schools

**Senator Heitkamp [9:50]** presents the resolution and presents oral testimony in favor.

**Charles Tuttle [9:51]**, from Minot, ND, testifies in favor and submits testimony #3838.

**Bea Streifel [10:02]** offers oral testimony in favor.

### Additional written testimony:

**Dustin Gawrylow**, ND Watchdog Network, offers neutral testimony and submits testimonies #3334, #3335, #3336.

**Chair Bell** adjourns the meeting. [10:06]

*Joel Crane, Committee Clerk*



# #3838

## 2018/19 ND K-12 COMPENSATION PACKAGE

NO.	TITLE	FTE's	TOTAL AVERAGE FTE COMPENSATION PACKAGE	TOTAL AVERAGE COST PER CATEGORY	2019 TEACHER ADMINISTRATOR RATIO
1	Statewide Administrator(S)	643	\$ 141,013.00	\$ 90,671,359.00	14.3 / 1
2					
3	Superintendent	129	\$ 161,924.00	\$ 20,888,196.00	
4	Principal	366	\$ 135,517.00	\$ 49,599,222.00	
5	Director / Assistant Director	47	\$ 142,305.00	\$ 6,688,335.00	
6	Assistant Superintendent	15	\$ 208,088.00	\$ 3,121,320.00	
7	Assistant Principal	86	\$ 138,564.00	\$ 11,916,504.00	
8	Sub-Total K-12 2019 Administration Compensation Package	643		\$ 92,213,577.00	
9	Statewide Teacher FTE's 2019 Compensation Package	9,176	\$ 81,440.00	\$ 747,293,440.00	
10	TOTAL K-12 PERSONNEL BUDGET FOR 2018-19.		\$	839,507,017	

# 2019 PERFORMANCE OF ND K-12 SCHOOLS

School District NO.	School District Name & Grade Level <small>AVG State Student/Teacher RATIO 12:1</small>	PROFICIENCY			STUDENT TO TEACHER RATIO	NUMBER OF STUDENTS	SUPERINTENDENT ANNUAL SALARY
		State Average %					
		65%	49%	39%			
		Science	Reading	Math			
2	<b>Alexander High School</b>	n/a	58%	n/a	6 to 1	91	
2	Alexander Elementary School	63%	69%	51%	12 to 1	158	
14	<b>Anamoose High School</b>	n/a	n/a	n/a	N/A	N/A	
14	Anamoose Elementary School	85%	34%	43%	9 to 1	107	
39	Apple Creek Elementary School	n/a	62%	32%	9 to 1	56	
39	Lincoln Elementary School				17 to 1	N/A	
9	<b>Ashley High School</b>		84%	76%	9 to 1	64	
9	Ashley Elementary School	79%	50%	41%	7 to 1	86	
10	Bakker Elementary School	n/a	n/a	n/a	N/A	11	
29	Baldwin Elementary School	n/a	n/a	n/a	N/A	12	
7	<b>Barnes County N-Wimbledon/Courtenay High School</b>	n/a	69%	38%	7 to 1	84	
7	Barnes County N-Elementary School	60%	50%	52%	13 to 1	184	
3	<b>Beach High School</b>	62%	38%	67%	8 to 1	155	
3	Lincoln Elementary School	48%	37%	46%	11 to 1	147	
7	<b>Belcort - Turtle Mountain High School</b>	36%	18%	47%	13 to 1	495	
7	Turtle Mountain Elementary School	n/a	30%	31%	11 to 1	865	
7	Turtle Mountain Middle School	n/a	36%	30%	12 to 1	795	
13	<b>Belfeld High School</b>	n/a	n/a	47%	15 to 1	118	
13	Belfeld Middle School	n/a	n/a	n/a	N/A	N/A	
13	Belfeld Elementary School	58%	35%	26%	13 to 1	153	
27	<b>Beulah High School</b>	62%	46%	20%	13 to 1	201	
27	Beulah Middle School	n/a	41%	48%	11 to 1	242	
27	Beulah Elementary School	68%	41%	41%	12 to 1	300	
1	<b>Billings County Demores Elem</b>	n/a	65%	50%	6 to 1	38	
1	Billings County Prairie Elem.	n/a	64%	46%	6 to 1	38	
1	<b>Bismarck Century High</b>	70%	64%	40%	18 to 1	1252	
1	Bismarck High	63%	58%	32%	15 to 1	1145	
1	Legacy High	63%	60%	28%	14 to 1	1189	
1	Horizon Middle	73%	56%	45%	19 to 1	1034	
1	Wachter Middle	61%	49%	42%	16 to 1	908	
1	Simle Middle	56%	43%	42%	13 to 1	1010	
1	Dorothy Moses Elementary	50%	40%	36%	13 to 1	376	
1	Grimsrude Elementary School	61%	42%	40%	15 to 1	255	
1	Highland Acres	n/a	54%	57%	13 to 1	160	
1	Jeanette Elem	39%	27%	21%	12 to 1	291	
1	North Ridge Elem	n/a	51%	60%	14 to 1	436	
1	Pioneer Elem	75%	37%	31%	13 to 1	265	
1	Rita Murphy Elem	n/a	42%	44%	17 to 1	598	
1	Roosevelt Elem	35%	42%	48%	12 to 1	110	
1	Will-Moore Elem	54%	35%	34%	13 to 1	238	
1	Robert Place Miller Elem	65%	45%	41%	12 to 1	380	
1	Prairie Rose Elem	69%	48%	44%	14 to 1	160	
1	Victor Solheim Elem	n/a	56%	64%	19 to 1	534	
1	Centennial Elem	n/a	n/a	66%	17 to 1	428	
1	Sunrise Elem	n/a	62%	66%	14 to 1	641	
1	Lincoln Elementary School	n/a	34%	53%	N/A	600	
1	Liberty Elem	n/a	49%	61%	N/A	616	
1	Apple Creek Elementary School	n/a	62%	32%	9 to 1	56	
1	<b>Bottineau Jr/Sr High</b>	58%	31%	2%	11 to 1	290	



1	Bottineau Elementary	n/a	50%	52%	12 to 1	381	
<b>14</b>	<b>Bowbells High</b>	n/a	n/a	n/a	5 to 1	26	
14	Bowbells Elementary	77%	33%	29%	8 to 1	48	
<b>1</b>	<b>Bowman County High</b>	n/a	67%	29%	11 to 1	195	
1	Bowman Elementary	69%	45%	27%	10 to 1	247	
1	Bowman Rhme Elementary	n/a	29%	29%	N/A	40	
<b>36</b>	<b>Burke Central High</b>	n/a	57%	43%	8 to 1	53	
36	Burke Central Elem	n/a	18%	18%	6 to 1	46	
<b>49</b>	<b>Carrington High</b>	<b>78%</b>	<b>84%</b>	<b>58%</b>	11 to 1	228	
49	Carrington Elem	n/a	59%	62%	13 to 1	272	
<b>6</b>	<b>Cavalier High</b>	<b>61%</b>	<b>71%</b>	<b>26%</b>	8 to 1	129	
6	Cavalier Elem	64%	48%	54%	11 to 1	315	
<b>1</b>	<b>Center Station High</b>	n/a	76%	n/a	N/A	83	
1	Center Station Elem	64%	26%	27%	N/A	154	
<b>17</b>	<b>Central Cass High</b>	69%	55%	50%	9:1	227	
17	Central Cass Middle	n/a	49%	34%	21 to 1	216	
17	Central Cass Elem	n/a	55%	53%	13 to 1	451	
32	Amidon Elementary	n/a	n/a	n/a	N/A	N/A	
<b>3</b>	<b>Central Valley</b>	79%	80%	30%	10 to 1	87	
3	Central Valley Elementary	84%	67%	65%	16 to 1	125	
<b>1</b>	<b>Dakota Prairie High</b>	n/a	64%	n/a	10 to 1	127	
1	Dakota Prairie Elem	59%	51%	54%	10 to 1	163	
<b>1</b>	<b>Devil's Lake High</b>	62%	48%	43%	15 to 1	476	
1	Central Middle School	n/a	47%	44%	10 to 1	517	
1	Prairie View Elem	46%	48%	50%	13 to 1	286	
1	Sweet Water Elem1	64%	61%	58%	13 to 1	249	
<b>1</b>	<b>Dickinson High</b>	52%	43%	40%	14 to 1	945	
1	Dickinson Middle	53%	48%	50%	N/A	823	
1	A L Hagan Jr. High School	65%	53%	50%	12 to 1	483	
1	Jefferson Elem	70%	58%	60%	14 to 1	368	
1	Lincoln Elementary School	61%	56%	48%	14 to 1	374	
1	P S Berg Elem	n/a	44%	28%	15 to 1	246	
1	Roosevelt Elem	73%	61%	46%	12 to 1	268	
1	Heart River Elem	68%	49%	48%	12 to 1	284	
1	Prairie Rose Elem	n/a	52%	58%	14 to 1	516	
<b>1</b>	<b>Divide County High</b>	n/a	53%	27%	10 to 1	374	
1	Divide County Elem	58%	44%	28%	10 to 1	205	
57	Drake High	n/a	n/a	21%	12 to 1	84	
57	Drake Elem	n/a	n/a	n/a	N/A	N/A	
<b>19</b>	<b>Drayton High</b>	52%	21%	7%	10 to 1	42	
19	Drayton Elem	71%	48%	37%	11 to 1	157	
<b>1</b>	<b>Dunseith High School</b>	19%	14%	0%	10 to 1	267	
1	Dunseith Elem School	n/a	20%	20%	9 to 1	256	
<b>18</b>	<b>Earl Squaw Gap Schol</b>	n/a	n/a	n/a	N/A	0	
<b>3</b>	<b>Eggerly High</b>	n/a	77%	n/a	12 to 1	94	
	Eggerly Elem	n/a	n/a	n/a	10 to 1	121	
<b>106</b>	<b>Edinburg - Valley High</b>	n/a	56%	38%	N/A	0	
	Edinburg Elem	n/a	n/a	n/a	N/A	0	
<b>2</b>	<b>Edmor High</b>	n/a	60%	70%	9 to 1	17	
	Edmor Elementary	n/a	79%	71%	7 to 1	39	
<b>6</b>	<b>Eight Mile High</b>	n/a	n/a	10%	16 to 1	89	
	Eight Mile Elementary	34%	56%	18%	23 to 1	196	
<b>49</b>	<b>Elgin-New Leipzig Elementary</b>	64%	58%	49%	11 to 1	93	
<b>40</b>	<b>Ellendale High</b>	78%	58%	63%	11 to 1	95	
	Ellendale Elementary	73%	55%	58%	15 to 1	200	
<b>127</b>	<b>Emerado Elementary</b>	n/a	25%	9%	8 to 1	122	
<b>24</b>	<b>Enderlin Area High</b>	73%	82%	64%	10 to 1	125	
	Enderlin Area Elementary	67%	44%	40%	11 to 1	173	
<b>19</b>	<b>Eureka</b>	n/a	n/a	n/a	N/A	0	



	Fairmount Elementary	73%	49%	36%	7 to 1	48
<b>1</b>	<b>Fargo -Discovery Middle School</b>	65%	62%	55%	14 to 1	987
1	Ben Franklin Middle School	70%	57%	55%	12 to 1	807
1	North High School	75%	72%	51%	14 to 1	898
1	Fargo - Davies High School	75%	73%	47%	14 to 1	1261
1	South High School	68%	55%	41%	12 to 1	1034
1	Carl Ben Eielson Middle School	58%	49%	35%	12 to 1	1034
1	Bennett Elem	n/a	62%	70%	16 to 1	478
1	Clara Barton Elem	74%	62%	66%	13 to 1	392
1	HoranceMann Elem	73%	60%	60%	12 to 1	353
1	Jefferson Elem	43%	28%	30%	11 to 1	360
1	Lewis & Clark Elem	n/a	34%	33%	12 to 1	495
1	Lincoln Elementary School	56%	44%	41%	12 to 1	401
1	Longfellow Elem	83%	55%	70%	14 to 1	363
1	Madison Elementary	40%	25%	21%	11 to 1	126
1	Washington Elem	80%	45%	58%	12 to 1	382
1	Woodrow Wilson Alter. High	n/a	27%	12%	19 to 1	150
1	Centennial Elem	n/a	56%	67%	15 to 1	540
1	Mckinley Elem	58%	35%	48%	12 to 1	181
<b>25</b>	<b>Fessenden-Bowdon High</b>	71%	71%	79%	5 to 1	33
	Fessenden-Bowdon Elementary	95%	56%	43%	13 to 1	143
<b>19</b>	<b>Finley-Sharon High</b>	58%	n/a	n/a	7 to 1	41
	Finley-Sharon Elementary	77%	63%	54%	6 to 1	42
<b>39</b>	<b>Flasher - High</b>	36%	43%	14%	14 to 1	97
	Flasher - Elementary	62%	43%	36%	12 to 1	121
<b>5</b>	<b>Fordville-Lankin High</b>	n/a	n/a	n/a	4 to 1	12
	Fordville-Lankin Elementary	n/a	38%	20%	5 to 1	28
<b>6</b>	<b>Fort Ransom Elementary</b>	n/a	82%	n/a	9 to 1	27
<b>30</b>	<b>Fort Totten - Sitting Bull School</b>	n/a	n/a	n/a	n/a	0
<b>4</b>	<b>Fort Yates Middle School</b>	15%	10%	2%	11 to 1	200
	Standing Rock Comm. School	n/a	n/a	n/a	n/a	0
<b>56</b>	<b>Gackle-Streeter High</b>	67%	50%	25%	5 to 1	20
	Gackle-Streeter Elementary	n/a	39%	15%	8 to 1	86
<b>51</b>	<b>Garrison High</b>	56%	39%	32%	10 to 1	180
	Garrison Elementary	76%	38%	36%	11 to 1	228
<b>48</b>	<b>Glen Ullin High</b>	n/a	n/a	7%	6 to 1	35
	Glen Ullin Elementary	60%	41%	33%	6 to 1	106
<b>26</b>	<b>Glenburn High</b>	n/a	69%	42%	10 to 1	125
	Glenburn Elementary	73%	50%	35%	13 to 1	140
<b>16</b>	<b>Goodrich High</b>	n/a	n/a	n/a	4 to 1	13
	Goodrich Elementary	n/a	67%	n/a	5 to 1	10
<b>3</b>	<b>Grafton High</b>	47%	40%	14%	9 to 1	255
	Grafton Middle School	48%	39%	30%	13 to 1	118
	Centruy Elementary School	n/a	39%	41%	10 to 1	562
<b>1</b>	<b>Grand Forks - Red River High</b>	60%	39%	32%	12 to 1	1071
	Central High	71%	30%	27%	11 to 1	1020
	Phoenix Elementary	66%	42%	48%	12 to 1	235
	Ben Franklin elementary	76%	60%	59%	11 to 1	370
	J Nelson Kelly elementary	n/a	62%	67%	11 to 1	436
	Lake Agassiz Elementary	55%	40%	48%	15 to 1	430
	Lewis & Clark Elem	80%	44%	41%	12 to 1	205
	Nathan Twining elementary	80%	51%	49%	9 to 1	226
	Schroeder Middle School	n/a	57%	57%	10 to 1	463
	South Middle School	n/a	50%	47%	12 to 1	562
	Valley Middle School	n/a	34%	34%	9 to 1	585
	Viking Elementary	68%	48%	52%	11 to 1	319
	West Elementary	53%	55%	52%	13 to 1	152
	Wilder Elementary	n/a	41%	37%	15 to 1	192
	Winship elementary	32%	33%	41%	11 to 1	220
	Nathan Twining Middle School	n/a	65%	36%	6 to 1	82



	Century Elementary School	n/a	n/a	40%	14 to 1	449
	Discovery elementary School	n/a	57%	52%	12 to 1	495
<b>99</b>	<b>Grenora High</b>	45%	n/a	25%	7 to 1	76
	Grenora Elementary	60%	55%	41%	14 to 1	107
<b>18</b>	<b>Griggs County Central High</b>	n/a	62%	38%	10 to 1	62
	Griggs County Central Elementary	76%	66%	50%	10 to 1	191
<b>19</b>	<b>Halliday elementary</b>	n/a	n/a	21%	5 to 1	30
	Halliday High	n/a	n/a	n/a	3 to 1	2
	Twin Butes Elementary	n/a	33%	10%	9 to 1	39
<b>8</b>	<b>Hankinson High</b>	76%	76%	53%	11 to 1	120
	Hankinson Elementary	58%	46%	43%	12 to 1	134
<b>38</b>	<b>Harvey High</b>	68%	55%	50%	15 to 1	193
	Bm Hanson Elementary	70%	61%	44%	10 to 1	219
<b>7</b>	<b>Hatton High</b>	69%	46%	31%	8 to 1	90
	Hatton Elementary	68%	45%	37%	10 to 1	88
<b>6</b>	<b>Hazelton-Moffit-Braddock High</b>	92%	68%	59%	6 to 1	53
	Hazelton-Moffit-Braddock Elem	84%	43%	25%	9 to 1	73
<b>3</b>	<b>Hazen High School</b>	78%	74%	57%	14 to 1	257
	Hazen Middle School	n/a	70%	66%	n/a	115
	Hazen Elementary	n/a	34%	49%	14 to 1	312
<b>13</b>	<b>Hebron High</b>	n/a	69%	64%	8 to 1	65
	Hebron Elementary	n/a	50%	41%	14 to 1	104
<b>13</b>	<b>Hettinger High</b>	52%	n/a	19%	9 to 1	114
	Hettinger Elementary	84%	57%	39%	12 to 1	200
<b>9</b>	<b>Hillsboro High</b>	80%	53%	21%	12 to 1	222
	Hillsboro Elementary	n/a	46%	53%	15 to 1	272
<b>10</b>	<b>Hope High</b>	91%	82%	n/a	7 to 1	61
<b>32</b>	<b>Horse Creek</b>	n/a	n/a	n/a	n/a	11
<b>1</b>	<b>Jamestown High</b>	69%	65%	48%	14 to 1	665
	Jamestown Middle	n/a	58%	54%	14 to 1	557
	Lincoln Elementary School	84%	52%	45%	14 to 1	230
	Roosevelt Elem	87%	61%	52%	11 to 1	239
	Washington Elem	78%	53%	39%	12 to 1	108
	Willian S Gussner Elementary	76%	56%	44%	14 to 1	245
	Louis L'amour Elementary	62%	63%	42%	15 to 1	120
<b>28</b>	<b>Kenmare High</b>	33%	56%	28%	6 to 1	77
	Kenmare Elementary	78%	40%	32%	14 to 1	230
<b>19</b>	<b>Kensal Elementary</b>	n/a	50%	n/a	7 to 1	47
<b>1</b>	<b>Kidder Country 1 High</b>	90%	15%	15%	12 to 1	161
	Steele-Dawson elementary	62%	37%	33%	10 to 1	177
	Tappen elementary	n/a	58%	45%	8 to 1	46
	Tappen High	n/a	n/a	n/a	6 to 1	15
<b>16</b>	<b>Killdeer High</b>	71%	76%	34%	10 to 1	209
	Killdeer Elementary	n/a	38%	36%	11 to 1	305
<b>2</b>	<b>Kindred High</b>	89%	68%	50%	12 to 1	304
	Kindred Elementary	n/a	59%	63%	14 to 1	485
<b>7</b>	<b>Kulm High</b>	61%	n/a	n/a	4 to 1	34
	Kulm Elementary	64%	43%	42%	9 to 1	106
<b>66</b>	<b>Lakota High</b>	75%	n/a	n/a	7 to 1	73
	Lakota Elementary	74%	47%	58%	7 to 1	88
<b>8</b>	<b>Lamoure High</b>	n/a	86%	36%	9 to 1	92
	Lamoure Elementary	86%	59%	64%	11 to 1	183
	Lamoure Colony School	n/a	27%	n/a	12 to 1	30
<b>23</b>	<b>Langdon Area High</b>	52%	42%	17%	14 to 1	174
	Langdon Elementary	63%	40%	26%	9 to 1	225
<b>44</b>	<b>Larimore High</b>	76%	74%	43%	9 to 1	168
	Larimore Elementary	64%	41%	33%	13 to 1	238
<b>6</b>	<b>Leeds High</b>	42%	27%	n/a	6 to 1	42



<b>161</b>	<b>Lewis &amp; Clark - Berthold High</b>	n/a	n/a	27%	12 to 1	67
	Berthold Elementary	76%	71%	60%	13 to 1	173
	North Shore Elementary	n/a	n/a	n/a	n/a	n/a
	North Shore High	n/a	73%	n/a	9 to 1	36
	Plaza Elementary	n/a	66%	62%	15 to 1	130
<b>28</b>	<b>Lidgerwood High</b>	53%	42%	37%	11 to 1	88
	Lidgerwood Elementary	74%	40%	42%	9 to 1	103
<b>36</b>	<b>Linton High</b>	61%	56%	39%	9 to 1	86
	Linton Elementary	73%	61%	41%	10 to 1	177
<b>19</b>	<b>Lisbon High</b>	61%	73%	31%	12 to 1	178
	Lisbon Elementary	81%	49%	31%	12 to 1	232
	Lisbon Middle	61%	51%	38%	10 to 1	193
<b>46</b>	<b>Litchville-Marion High</b>	80%	n/a	n/a	8 to 1	37
	Litchville-Marion Elementary	82%	70%	50%	9 to 1	88
<b>4</b>	<b>Little Heart Elementary</b>	n/a	n/a	n/a	5 to 1	21
<b>6</b>	<b>Lone Tree 6 Elementary</b>	n/a	56%	44%	9 to 1	32
<b>9</b>	<b>Maddock High</b>	85%	69%	46%	7 to 1	32
	Maddock Elementary	n/a	49%	42%	10 to 1	95
<b>1</b>	<b>Mandan High</b>	73%	54%	31%	13 to 1	1033
	Mandan Middle	67%	43%	45%	14 to 1	888
	Brave Center Academy	n/a	n/a	n/a	n/a	36
	Ft Lincoln Elementary	n/a	52%	48%	13 to 1	449
	Custer Elementary	65%	30%	36%	10 to 1	147
	Lewis & Clark Elem	n/a	55%	48%	14 to 1	405
	Mary Stark Elem	n/a	35%	36%	n/a	217
	Roosevelt Elem	77%	66%	59%	11 to 1	275
	Red Trail Elementary	70%	52%	48%	12 to 1	325
<b>36</b>	<b>Mandaree High</b>	n/a	n/a	n/a	7 to 1	74
	Mandaree Elementary	18%	16%	9%	12 to 1	144
<b>45</b>	<b>Manning Elem</b>	n/a	64%	73%	7 to 1	14
<b>125</b>	<b>Manvel Elementary</b>	58%	59%	65%	8 to 1	172
<b>4</b>	<b>Maple Valley High</b>	n/a	n/a	31%	7 to 1	87
	West Elementary	n/a	64%	54%	11 to 1	67
	Oriska Elementary	87%	65%	66%	7 to 1	51
<b>7</b>	<b>Mapleton Elementary</b>	n/a	64%	64%	8 to 1	104
<b>12</b>	<b>Marmarth Elementary</b>	n/a	30%	30%	7 to 1	15
<b>50</b>	<b>Max High</b>	n/a	n/a	27%	10 to 1	95
	Max Elementary	70%	43%	32%	12 to 1	108
<b>14</b>	<b>May-Port High</b>	71%	70%	37%	9 to 1	153
	May-Port Middle	75%	54%	33%	16 to 1	105
	May-Port Peter Bow Jr. Elementary	70%	53%	27%	9 to 1	230
<b>19</b>	<b>Mcclusky High</b>	100%	n/a	n/a	8 to 1	38
	Mcclusky Elementary	n/a	35%	21%	8 to 1	59
<b>1</b>	<b>Mckenzie - Watford City High</b>	57%	44%	23%	13 to 1	387
	Watford City Elementary	n/a	40%	29%	14 to 1	953
	Watford City Middle	n/a	43%	39%	n/a	221
<b>3</b>	<b>Medina High</b>	92%	70%	20%	9 to 1	63
	Medina Elementary	89%	55%	44%	7 to 1	101
<b>33</b>	<b>Menoken Elementary</b>	n/a	71%	54%	10 to 1	37
<b>7</b>	<b>Midkota High</b>	n/a	60%	60%	10 to 1	74
	Midkota Elementary	81%	67%	48%	11 to 1	96
<b>128</b>	<b>Midway High</b>	36%	50%	n/a	7 to 1	53
	Midway Elementary	60%	59%	50%	11 to 1	123
	Midway Middle School	n/a	n/a	n/a	n/a	n/a
<b>2</b>	<b>Milnor High</b>	n/a	56%	38%	7 to 1	92
	Milnor Elementary	50%	39%	30%	7 to 1	106
	Sundale Colony School	n/a	50%	27%	7 to 1	31
<b>5</b>	<b>Minnewaukan High</b>	n/a	18%	n/a	11 to 1	67



	Minnewaukan Elementary	18%	10%	7%	11 to 1	202
<b>1</b>	<b>Minot - Jim Hill Middle</b>	69%	46%	50%	14 to 1	766
	Magic City Campus High School	62%	n/a	n/a	12 to 1	900
	Souris River Campus Alt High School	n/a	53%	33%	4 to 1	60
	Belair Elementary	76%	61%	50%	15 to 1	308
	Central Campus School	n/a	45%	32%	12 to 1	963
	Dakota Elementary (Air Force)	78%	51%	39%	14 to 1	278
	Edison Elementary	n/a	52%	48%	12 to 1	380
	Erik Ramstad Middle School	69%	47%	51%	17 to 1	651
	Longfellow elementary	n/a	53%	54%	12 to 1	447
	Mckinley Elementary	n/a	46%	40%	20 to 1	110
	Memorial Middle School	80%	56%	53%	12 to 1	184
	Lewis & Clark Elementary	n/a	44%	41%	13 to 1	516
	North Plains Elementary (Air Force)	91%	66%	59%	13 to 1	283
	Perkett Elementary	81%	53%	44%	16 to 1	390
	Roosevelt Elem	62%	38%	36%	14 to 1	121
	Sunnyside Elementary	58%	35%	29%	11 to 1	300
	Washington Elem	82%	47%	37%	13 to 1	357
	Bell Elementary	80%	75%	70%	16 to 1	87
	John Hoeven Elementary	66%	46%	39%	n/a	457
<b>20</b>	<b>Minto High</b>	57%	63%	42%	8 to 1	69
	Minto Elementary	75%	33%	28%	14 to 1	199
<b>1</b>	<b>Mohall-Lansford-Sherwood High</b>	75%	75%	62%	10 to 1	155
	M-L-S Elementary	72%	72%	52%	12 to 1	178
<b>14</b>	<b>Montpelier High</b>	n/a	n/a	17%	9 to 1	60
	Montpelier Elementary	55%	29%	28%	6 to 1	67
<b>1</b>	<b>Mott-Regent High</b>	n/a	65%	13%	9 to 1	97
	Regent Elementary	n/a	n/a	n/a	n/a	n/a
	Mott-Regent Elementary	72%	48%	42%	9 to 1	127
<b>4</b>	<b>Mt Pleasant High</b>	n/a	67%	n/a	8 to 1	98
	Mt Pleasant Elementary	n/a	48%	38%	11 to 1	163
<b>19</b>	<b>Munich elementary</b>	n/a	70%	41%	14 to 1	62
	Munich High	69%	69%	69%	10 to 1	33
<b>2</b>	<b>Napoleon High</b>	n/a	58%	26%	13 to 1	116
	Napoleon Elementary	76%	41%	34%	10 to 1	134
<b>51</b>	<b>Nash Elementary</b>	n/a	n/a	n/a	n/a	n/a
<b>25</b>	<b>Naughton Elementary</b>	n/a	n/a	n/a	2 to 1	9
<b>4</b>	<b>Nedrose High</b>	44%	37%	19%	11 to 1	136
	Nedrose Elementary PK-3	n/a	58%	55%	5 to 1	206
	Nedrose Elementary 4-8	67%	49%	34%	n/a	210
<b>2</b>	<b>Nesson - Ray High</b>	53%	24%	30%	11 to 1	82
	Ray Elementary	63%	34%	22%	17 to 1	257
<b>8</b>	<b>New - Round Prairie Elementary</b>	n/a	55%	22%	10 to 1	67
	Stony Creek Middle	n/a	37%	22%	12 to 1	120
	Garden Valley elementary	41%	27%	22%	13 to 1	304
<b>9</b>	<b>New England High</b>	50%	53%	47%	4 to 1	113
	New England Elementary	75%	37%	43%	7 to 1	171
<b>2</b>	<b>New Rockford-Sheyenne - High</b>	87%	67%	33%	19 to 1	135
	New Rockford-Sheyenne - Elementry	64%	45%	41%	16 to 1	176
<b>7</b>	<b>New Salem High</b>	n/a	n/a	n/a	n/a	n/a
	New Salem Elementary	n/a	n/a	n/a	n/a	n/a
<b>49</b>	<b>New Salem-Almont -High</b>	75%	75%	26%	10 to 1	146
	Prairie View Elementary	69%	39%	34%	14 to 1	189
<b>1</b>	<b>New Town High</b>	29%	48%	13%	8 to 1	261
	Edwin Loe Elementary	n/a	27%	8%	12 to 1	498
	New Town Elementary	n/a	17%	10%	14 to 1	231
<b>54</b>	<b>Newburg-United High</b>	80%	70%	70%	6 to 1	31
	Newburg-United elementary	n/a	57%	29%	8 to 1	45
<b>100</b>	<b>North Border - Pembina High</b>	n/a	n/a	54%	4 to 1	36
	North Border - Walhalla High	60%	n/a	27%	6 to 1	74



	North Border - Walhalla Elementary	69%	50%	56%	9 to 1	126
28	North Central High	n/a	n/a	n/a	n/a	16
	0.25	n/a	n/a	n/a	n/a	9
3	North Sargent High	93%	79%	n/a	8 to 1	69
	North Sargent Elementary	77%	55%	35%	9 to 1	145
10	North Star High	64%	70%	n/a	15 to 1	75
	North Star Elementary	69%	50%	40%	13 to 1	220
97	Northern Cass High	57%	50%	32%	15 to 1	162
	Northern Cass Elementary	80%	60%	51%	12 to 1	324
	Northern Cass Middle	57%	56%	44%	24 to 1	152
129	Northwood High	n/a	63%	32%	9 to 1	114
	Northwood Elementary	93%	53%	40%	10 to 1	175
41	Oaks High	63%	44%	15%	12 to 1	210
	Oaks Elementary	n/a	59%	63%	13 to 1	290
16	Oberon Elementary	n/a	1%	50%	11 to 1	59
	Ojibwa Indian School District	n/a	n/a	n/a	n/a	283
80	Page School District - elementary	90%	55%	51%	11 to 1	104
78	Park River High(37)	77%	85%	85%	n/a	37
	Park River Elementary (39)	78%	87%	92%	n/a	39
8	Park River HIGH (131)	89%	79%	76%	14 to 1	131
	Park River Elementary (312)	82%	61%	49%	11 to 1	312
3	Parshall High	25%	23%	n/a	11 to 1	105
	Parshall Elementary	38%	29%	19%	10 to 1	180
10	Pingree High	40%	53%	20%	8 to 1	52
	Pingree Elementary	87%	43%	35%	8 to 1	89
27	Powers Lake High	n/a	77%	n/a	6 to 1	49
	Powers Lake Elementary	73%	56%	47%	13 to 1	138
34	Richardton-Taylor HIGH	70%	50%	35%	13 to 1	140
	Richardton-Taylor Elementary	62%	37%	31%	11 to 1	200
44	Richland Jr. Sr. High	53%	71%	53%	11 to 1	114
	Richland Elementary	70%	81%	62%	10 to 1	159
29	Rolette High	100%	83%	n/a	8 to 1	45
	Rolette Elementary	50%	38%	28%	9 to 1	113
18	Roosevelt Elementary	n/a	28%	6%	7 to 1	51
5	Rugby High	81%	60%	54%	8 to 1	166
	Rugby Ely elementary	n/a	53%	49%	?	454
6	Sargent Central High	n/a	17%	8%	7 to 1	88
	Sargent Central elementary	n/a	33%	35%	8 to 1	97
16	Sawyer High	n/a	36%	36%	?	20
	Sawyer Elementary	n/a	38%	14%	9 to 1	29
33	Scranton High	n/a	n/a	17%	8 to 1	55
	Scranton Elementary	n/a	83%	67%	8 to 1	84
8	Selfridge High	n/a	1%	n/a	8 to 1	43
	Selfridge Elementary	33%	21%	6%	5 to 1	42
	Sitting Bull School	n/a	n/a	n/a	n/a	79
3	Solen HIGH	25%	9%	1%	7 to 1	75
	Cannon ball Elementary	4%	11%	3%	9 to 1	116
9	South Heart HIGH	57%	74%	70%	12 to 1	146
	South Heart Elementary	56%	57%	52%	13 to 1	204
70	South Prairie High	63%	54%	17%	5 to 1	111
	South Prairie Elementary	n/a	62%	48%	16 to 1	336
3	St John High	41%	45%	14%	11 to 1	121
	St John elementary	43%	25%	15%	13 to 1	270
43	St Thomas High	n/a	60%	60%	13 to 1	21
	St Thoman Elementary	n/a	25%	8%	17 to 1	40
2	Stanley High	57%	50%	5%	12 to 1	303



	Stanley Elementary	n/a	44%	25%	13 to 1	389
44	<b>Starkweather High</b>	n/a	n/a	n/a	5 to 1	14
	Starkweather Elementary	n/a	50%	46%	7 to 1	35
35	<b>Sterling elementary</b>	n/a	43%	7%	4 to 1	22
15	<b>Strasburg High</b>	n/a	n/a	27%	?	67
	Strasburg Elementary	67%	31%	22%	?	57
41	<b>Surrey High</b>	62%	56%	41%	11 to 1	165
	Surrey Elementary	n/a	36%	21%	11 to 1	244
17	<b>Sweet Briar School</b>	n/a	n/a	64%	8 to 1	20
60	<b>TGU 60 Towner High School</b>	n/a	21%	8%	9 to 1	52
	Granville Elementary	75%	33%	27%	4 to 1	89
	Granville High	n/a	64%	36%	7 to 1	36
	Towner Elementary	78%	39%	30%	6 to 1	147
61	<b>Thompson High</b>	80%	92%	58%	13 to 1	218
	Thompson Elementary	n/a	59%	53%	13 to 1	307
15	<b>Tioga - High</b>	61%	65%	35%	11 to 1	185
	Central Elementary	n/a	39%	29%	15 to 1	255
72	<b>Turtle Lake-Mercer High</b>	n/a	73%	36%	11 to 1	74
	Turtle Lake-Mercer Elementary	61%	38%	37%	12 to 1	103
	<b>Turtle Mountain Elem School</b>	n/a	n/a	n/a	n/a	745
	<b>Turtle Mountain High</b>	n/a	n/a	n/a	n/a	534
	<b>Turtle Mountain Middle School</b>	n/a	n/a	n/a	n/a	327
37	<b>Twin Buttes Elementary</b>	n/a	33%	10%	9 to 1	39
8	<b>Underwood High</b>	n/a	64%	14%	4 to 1	88
	Underwood Elementary	80%	51%	35%	7 to 1	144
7	<b>United Des Lacs-Burlington High</b>	70%	40%	45%	9 to 1	175
	Burlington Elementary	n/a	54%	50%	9 to 1	468
12	<b>Valley High</b>	n/a	n/a	n/a	n/a	n/a
	Valley Elementary	n/a	n/a	n/a	n/a	n/a
2	<b>Valley City High</b>	67%	67%	37%	27 to 1	339
	Jefferson Elem	n/a	62%	55%	15 to 1	300
	Valley City Jr. High	84%	68%	50%	14 to 1	199
	Washington Elem	n/a	44%	47%	14 to 1	225
118	<b>Valley Edinburg High</b>	n/a	56%	38%	8 to 1	71
	Valley Edinburg -Hoople	n/a	43%	61%	6 to 1	57
	Valley Edinburg - Crystal	n/a	38%	19%	9 to 1	57
1	<b>Velva High</b>	70%	59%	47%	10 to 1	221
	Velva Elementary	n/a	52%	53%	12 to 1	255
37	<b>Wahpeton - High</b>	73%	70%	43%	14 to 1	333
	<b>Central Elem</b>	n/a	36%	37%	18 to 1	454
	Zimmerman Elementary	n/a	n/a	n/a	15 to 1	96
	Wahpeton Middle School	n/a	48%	39%	11 to 1	314
29	<b>Warwick High</b>	n/a	27%	8%	6 to 1	106
	Warwick Elem	16%	10%	2%	7 to 1	131
4	<b>Washburn High</b>	71%	54%	32%	10 to 1	140
	Washburn Elementary	67%	42%	34%	7 to 1	185
6	<b>West Fargo High School</b>	58%	49%	30%	12 to 1	1458
	Cheney Middle	64%	54%	52%	11 to 1	1148
	Sheyenne 9th Grade Center	64%	66%	48%	11 to 1	1285
	Liberty Middle	56%	54%	49%	12 to 1	1193
	Clayton a Lodoen K- Center	n/a	n/a	n/a	11 to 1	450
	Eastwood Elem	n/a	n/a	43%	11 to 1	485
	Harwood Elem	82%	73%	76%	13 to 1	137
	Sheyenne 9th Grade Center	64%	66%	48%	11 to 1	1285
	Horace Elem	78%	64%	60%	13 to 1	244
	South elem	n/a	58%	60%	11 to 1	388
	Westside Elementary	n/a	56%	62%	12 to 1	557
	L E Berger Elem	n/a	55%	48%	10 to 1	409
	Osgood K-Center	n/a	37%	34%	11 to 1	482

	Aurora Elem	n/a	57%	64%	12 to 1	517	
	Freedom Elem School	n/a	53%	63%	13 to 1	492	
	Independence Elem	n/a	54%	58%	12 to 1	521	
	Legacy Elem	n/a	56%	68%	13 to 1	553	
	Brooks Harbor Elem	n/a	n/a	n/a	n/a	247	
	Willow Park Elem	n/a	n/a	n/a	n/a	n/a	
<b>17</b>	<b>Westhope - High</b>	n/a	53%	40%	5 to 1	52	
	Westhope - elementary	63%	55%	55%	5 to 1	89	
<b>85</b>	<b>White Shield High</b>	20%	n/a	n/a	7 to 1	44	
	White Shield Elementary	25%	-1%	7%	7 to 1	81	
<b>1</b>	<b>Williston - High</b>	61%	42%	17%	16 to 1	1166	
	Lewis & Clark Elem	45%	36%	32%	13 to 1	263	
	Rickard Elementary	60%	43%	29%	17 to 1	271	
	Wilkinson elem	40%	28%	25%	14 to 1	272	
	Williston - Middle School	63%	38%	26%	15 to 1	578	
	Hagan Elem School	51%	37%	24%	16 to 1	496	
	Del Easton Alternative High School	n/a	n/a	n/a	14 to 1	18	
	McVay elem	56%	38%	28%	16 to 1	390	
	Bakken Elem	n/a	35%	29%	n/a	627	
<b>1</b>	<b>Wilton - High</b>	n/a	53%	32%	10 to 1	89	
	Wilton - Elementary	63%	47%	43%	13 to 1	158	
<b>28</b>	<b>Wing - High</b>	n/a	30%	10%	8 to 1	30	
	Wing - Elem	n/a	41%	41%	6 to 1	60	
<b>19</b>	<b>Wishek - High</b>	n/a	63%	38%	16 to 1	77	
	Wishek - Elemn	83%	45%	37%	13 to 1	117	
<b>1</b>	<b>Wolford - High</b>	n/a	n/a	n/a	9 to 1	13	
	Wolford - Elem	n/a	80%	n/a	4 to 1	31	
<b>42</b>	<b>Wyndmere - High</b>	n/a	87%	67%	10 to 1	101	
	Wyndmere - Elem	82%	78%	80%	15 to 1	138	
<b>14</b>	<b>Yellowstone - East Fairveiw Elem</b>	84%	76%	52%	10 to 1	77	
<b>4</b>	<b>Zeeland - High</b>	n/a	91%	91%	3 to 1	17	
	Zeeland - Elem	n/a	15%	23%	1 to 1	17	
<b>TOTAL NUMBER OF K-12 STUDENTS</b>						<b>114381</b>	



## ARTICLE VIII EDUCATION

**Section 1.** A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

**Section 2.** The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

**Section 3.** In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

**Section 4.** The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

**Section 5.** All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

### **Section 6.**

1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:
  - a. The state university and school of mines, at Grand Forks, with their substations.
  - b. The state agricultural college and experiment station, at Fargo, with their substations.
  - c. The school of science, at Wahpeton.
  - d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.
  - e. The school of forestry, at Bottineau.
  - f. And such other state institutions of higher education as may hereafter be established.
2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.

The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two

persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

- b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.
  - c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.
3. The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the governor by impeachment proceedings.
  4. Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member's office. All members shall receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.



5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.
6.
  - a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.
  - b. The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.
  - c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.
  - d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.
  - e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

7.
  - a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.
  - b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.
  - c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.
8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.



## ARTICLE X FINANCE AND PUBLIC DEBT

**Section 1.** The legislative assembly shall be prohibited from raising revenue to defray the expenses of the state through the levying of a tax on the assessed value of real or personal property.

**Section 2.** The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporation shall be a party.

**Section 3.** No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied. Notwithstanding the foregoing or any other provisions of this constitution, the legislative assembly, in any law imposing a tax or taxes on, in respect to or measured by income, may define the income on, in respect to or by which such tax or taxes are imposed or measured or may define the tax itself by reference to any provision of the laws of the United States as the same may be or become effective at any time or from time to time, and may prescribe exceptions or modifications to any such provision.

**Section 4.** All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in a manner prescribed by such state board or commission as may be provided by law. But should any railroad allow any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway, while so used shall be assessed in a manner provided for the assessment of other real property.

**Section 5.** Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. The legislative assembly may by law exempt any or all classes of personal property from taxation and within the meaning of this section, fixtures, buildings and improvements of every character, whatsoever, upon land shall be deemed personal property. The property of the United States, to the extent immunity from taxation has not been waived by an act of Congress, property of the state, county, and municipal corporations, to the extent immunity from taxation has not been waived by an act of the legislative assembly, and property used exclusively for schools, religious, cemetery, charitable or other public purposes shall be exempt from taxation. Real property used for conservation or wildlife purposes is not exempt from taxation unless an exemption is provided by the legislative assembly. Except as restricted by this article, the legislative assembly may provide for raising revenue and fixing the situs of all property for the purpose of taxation. Provided that all taxes and exemptions in force when this amendment is adopted shall remain in force until otherwise provided by statute.

**Section 6.** Repealed.

**Section 7.** The legislature may by law provide for the levy and collection of an acreage tax on lands within the state in addition to the limitations specified in article X, section 1, of the

(The Legislature has the authority to define the powers and duties of the Superintendent of Public Instruction pursuant to Article V, Section 13 of the North Dakota State Constitution.)

## **A BILL RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

**BE IT ORDAINED BY THE LEGISLATURE OF THE STATE OF NORTH DAKOTA:**

**SECTION 1. Purpose.** The legislature of the State of North Dakota recognizes its responsibility to set forth goals to direct the continued evaluation and improvement of our public primary and secondary education system.

The legislature of the State of North Dakota recognizes the responsibility of the legislature to insure our primary and secondary education system focus its efforts and taxpayers' dollars on providing fundamental academic education for our children.

The legislature of the State of North Dakota recognized that the most effective education is that which is closest to the parent of the child being educated.

The legislature of the State of North Dakota recognizes that the vast majority of parents are caring, competent, capable and concerned about the education of their children.

**SECTION 2. Authority granted to local school districts and local school boards.** The legislature of the State of North Dakota directs that all instructional programs offered in the primary and secondary schools, other than those teaching basic and fundamental academic curriculum, shall be offered only if approved by the local school board.

Determination of all curriculum content and school programs shall rest with the school board of each school district, including that of electives, if any.

**SECTION 3. Duties and limitations.** The Department of Public Instruction shall have no authority to mandate that any curriculum or school instructional program be adopted by any school board for their school district.

The Department of Public Instruction is prohibited from encouraging or discouraging any school district or school boards adoption or non-adoption of any program or curriculum through the use of sanctions, withholding of revenue or any other measure which results in an involuntary compliance.

The Department of Public Instruction shall offer assistance to school boards and school districts when requested and only to the extent the Department of Public Instruction has been funded by the legislature to offer the particular assistance so offered.

**SECTION 4. Scope and objectives of public primary and secondary education.** The legislature recognizes that it has a duty to define the scope and objectives of public primary and secondary education and provide direction to the Superintendent of Public Instruction in carrying out that scope and those objectives. Therefore the legislature sets forth the following primary and secondary public school objectives and directs the Superintendent of Public Instruction to insure they are attained:



- (1) Control of schools shall reside with parents and be delegated by parents to the local school or school board.
- (2) It shall be the responsibility of all public schools to teach basic academic curricula. Academic curricula shall be defined as:

<b>GRADE 1</b>	<b>GRADE 2</b>	<b>GRADE 3</b>
<ul style="list-style-type: none"> <li>- Phonics</li> <li>- Language Arts: Reading Writing Mechanics Spelling</li> <li>- Arithmetic: Concepts of Numbers (Computation) Number Appreciation (Work Problems)</li> <li>- Science/Health (hygiene)</li> <li>- History</li> <li>- Geography</li> <li>- Music / Art / P.E.</li> </ul>	<ul style="list-style-type: none"> <li>- Phonics</li> <li>- Language Arts: Reading Writing Mechanics Spelling</li> <li>- Arithmetic: Concepts of Numbers (Computation) Number Appreciation (Work Problems)</li> <li>- Science/Health (hygiene)</li> <li>- History</li> <li>- Geography</li> <li>- Music / Art / P.E.</li> </ul>	<ul style="list-style-type: none"> <li>- Phonics</li> <li>- Language Arts: Reading Writing Mechanics Spelling</li> <li>- Arithmetic: Concepts of Numbers (Computation) Number Appreciation (Work Problems)</li> <li>- Science/Health (hygiene)</li> <li>- History</li> <li>- Geography</li> <li>- Music / Art / P.E.</li> </ul>

<b>GRADE 4</b>	<b>GRADE 5</b>	<b>GRADE 6</b>
<ul style="list-style-type: none"> <li>- Math: Computation, Applications</li> <li>- English: Spelling, Vocal, Poetry, Mechanics, Composition</li> <li>- History Of Lands &amp; People</li> <li>- Geography Of Lands &amp; People</li> <li>- Science (General)</li> <li>- Logic</li> <li>- Music / Art / P.E.</li> </ul>	<ul style="list-style-type: none"> <li>- Math: Computation, Applications</li> <li>- English: Spelling, Vocal, Poetry, Mechanics, Composition, Complete Research Paper</li> <li>- Reading: Literature, Reading &amp; Comprehension</li> <li>- History Research Paper</li> <li>- Geography: Old Word Geography, Map Study</li> <li>- Science</li> <li>- Logic</li> <li>- Music / Art / P.E.</li> </ul>	<ul style="list-style-type: none"> <li>- Math: Computation, Applications</li> <li>- English: Spelling, Vocal, Poetry, Mechanics, Composition, Complete a Research Paper</li> <li>- Reading: Literature, Reading &amp; Comprehension</li> <li>- History: Research Paper</li> <li>- Geography Of Lands &amp; People</li> <li>- Science</li> <li>- Logic</li> <li>- Music / Art / P.E.</li> </ul>

GRADE 7	GRADE 8	GRADE 9
<ul style="list-style-type: none"> <li>- Math: Computation, Applications or Pre-Algebra</li> <li>- English: Mechanics, Poetry, Spelling, Vocabulary, Complete Research Paper</li> <li>- Reading: Literature, Reading &amp; comprehension</li> <li>- New World History and Geography</li> <li>- Science, Research and Science Project</li> <li>- Music / Art / P.E.</li> <li>- Logic</li> </ul>	<ul style="list-style-type: none"> <li>- Math: Pre-Algebra or Algebra I</li> <li>- English: Mechanics, Spelling, Vocabulary, Poetry</li> <li>- History (ND State)</li> <li>- Sciences, Science Project</li> <li>- Geography</li> <li>- Logic &amp; Philosophy</li> </ul>	<ul style="list-style-type: none"> <li>- Algebra I or II</li> <li>- English: Literature Themes Composition, Grammar</li> <li>- History: from beginning To present</li> <li>- Geography</li> <li>- Physical Science</li> <li>- Logic &amp; Philosophy</li> <li>- Music / Art / P.E.</li> <li>- Foreign Language</li> </ul>

GRADE 10	GRADE 11	GRADE 12
<ul style="list-style-type: none"> <li>- Algebra II or Geometry</li> <li>- English II: Composition, World Literature, Grammar</li> <li>- World History</li> <li>- Biology</li> <li>- Logic &amp; Philosophy</li> <li>- Music / Art / P.E.</li> <li>- Foreign Language</li> </ul>	<ul style="list-style-type: none"> <li>- Geometry or Advanced Math</li> <li>- English III: American Literature, Composition, Grammar</li> <li>- U.S. History</li> <li>- Chemistry</li> <li>- Logic &amp; Philosophy</li> <li>- Music / Art / P.E.</li> <li>- Foreign Language</li> </ul>	<ul style="list-style-type: none"> <li>- Advanced Mathematics or Calculus</li> <li>- English IV: Composition English Literature, Grammar</li> <li>- Economics</li> <li>- History</li> <li>- Logic &amp; Philosophy</li> <li>- Music / Art / P.E.</li> <li>- Foreign Language</li> </ul>

(3) All teachers shall be fully trained and knowledgeable in their academic subject area when they enter the classroom.

(4) All children shall be tested by standardized testing and that standardized testing shall be solely based upon academic criteria or other academic criteria evaluations as determined by the parents assisted by appropriate diagnostician of parents' choice. Tests are to assess proper academic progress, as based on the highest academic benchmark year of 1963.

(5) Education will be right-sized by requiring that 80 percent of all K-12 expenditures are spent in the classroom.

(6) The State of North Dakota shall accept no Federal Funding that carries mandates except for food service programs, further provided said funding provides each recipient school more funds for its food service program than it is required to spend but for the mandates.

(7) All schools shall be authorized to permanently remove any student disruptive to the learning process.

(8) Barring provable criminal neglect or abuse, the control of a child's emotional development, psychological welfare, medical care, sex education, and moral and ethical training belong to

parents. Under no circumstances shall the K-12 public education system intervene in these areas. If such intervention in these areas is deemed necessary such intervention shall be undertaken by an entity unrelated to the K-12 education system of the State of North Dakota. It is the intent of the legislature that our education system does not become entangled with provision of health care or psychological care. If these services are to be provided by the state they shall be provided apart from our education system.

**SECTION 5. Implementation.**

- (1) All laws inconsistent with this bill are hereby repealed.
- (2) The Superintendent of Public Instruction shall annually prepare a written report for presentation to the State Legislature detailing the status of meeting the objectives set forth in this enactment.
- (3) The legislature directs all public school districts in North Dakota to annually inform the legislature in writing how they can better be assisted by the legislature and the Superintendent of Public Instruction in attaining the objectives set out in this enactment.
- (4) The full cost of provision of each school's core academic curriculum shall be funded through Foundation Aid payments.

revenues, total gross receipts tax revenues of almost \$6.3 million per year, and sales tax revenues from interstate calls of approximately \$2.2 million per year.

Although the proposal was intended to be revenue neutral statewide, elimination of property taxes, expansion of the gross receipts tax, and changes in its allocation would make it extremely difficult to provide each political subdivision with the same revenue it had under previous law prior to the sale of the exchanges. Groups representing political subdivisions suggested that allocation within counties should be on the same basis as property tax revenues. Representatives of political subdivisions opposed exemption of real property of telecommunications carriers on the grounds that services provided by political subdivisions to owners of real property justify retaining local assessment and taxation of that property.

Representatives of an economic development association opposed imposing sales taxes on interstate calls. They said taxing these calls would have a chilling effect on business location and expansion decisions for businesses having a high volume of interstate calls. Committee members also expressed concerns about the impact of gross receipts taxes on businesses having high usage of telecommunications services.

Telecommunications carrier representatives asked that gross receipts taxes not apply to universal service fund collections mandated by federal law and transferred to the universal service fund.

At its final meeting, the committee received conflicting estimates of the fiscal effect of the proposal. By some estimates, it appeared the proposal would have a revenue gain of \$1 million per year. Committee members stated opposition to having a proposal with a net increase in taxes and approved a motion to eliminate the provision imposing sales taxes on interstate calls.

#### **Committee Recommendation**

The committee recommends House Bill No. 1068 to restructure taxation of the telecommunications industry. The bill eliminates central assessment of telecommunications carrier property, eliminates personal property taxes for telecommunications carriers, and retains real property taxes on telecommunications carriers, subject to local assessment and levies. The bill imposes a tax of two percent of the adjusted gross receipts of any telecommunications carrier doing business in the state. Adjusted gross receipts means the gross receipts of the carrier from telecommunications service charges minus state and local taxes on those charges and minus amounts paid by the carrier to another carrier for directory assistance. Telecommunications service includes transmitting for consideration of any two-way communication, including interstate telecommunications service billed to a station in this state. Taxable telecommunications service charges include the charge for the content of the transmission. A hospital, hotel, motel, or similar place of

accommodation selling telecommunications service is subject to gross receipts taxes to the extent it imposes separately stated charges for the service. Amounts collected for or from the universal service fund are not included in gross receipts.

The bill requires telecommunications carriers to file gross receipts tax returns with the Tax Commissioner. The Tax Commissioner is to review the return and report to the State Board of Equalization, which is to assess the tax after consideration of any protest by the taxpayer.

The bill limits gross receipts taxes imposed upon any customer to \$20,000 per calendar year. Any charges for that customer beyond that amount are exempt and the gross receipts from exempt sales of the providing telecommunications carrier are exempt.

The bill entitles a telecommunications carrier to a credit against gross receipts taxes in the amount of real property taxes paid during the calendar year on property directly used in telecommunications operations. This credit may be fully or partially transferred between a parent and subsidiary telecommunications carrier.

The bill allocates revenue from the gross receipts tax to counties in the proportion that telecommunications property tax and gross receipts tax revenues within the county bears to all such revenues statewide in 1997. The purpose of this allocation is to assure each county the same proportion of all telecommunications taxes that it received before the changes made by the bill. The bill provides a continuing appropriation to the Tax Commissioner for allocation to counties to avoid the need for biennial legislative appropriations to distribute the revenues. Revenues received at the county level must be allocated within the county on the basis on which general property tax revenues are apportioned and distributed in the county. The bill becomes effective in taxable year 1998.

### **PROPERTY TAX ASSESSMENT SYSTEM STUDY**

#### **Background**

Property tax liability is determined by multiplying applicable taxing district mill rates times the taxable value of the property. All locally assessed property taxes are collected by the county and distributed among taxing districts according to their interests in the revenues. Property taxes are due January 1 following the year of assessment and are payable without penalty until March 1 of the year they are due. If property taxes are paid in full by February 15, the taxpayer is entitled to a five percent discount. Penalties begin to accrue if property taxes are not paid by March 1 but taxpayers have the option of paying property taxes in installments.

The mill rate for a taxing district is established through the budget process. Each taxing district prepares a proposed budget based on anticipated expenditures for the upcoming fiscal year. Hearings are held on the budget and adjustments may be made. The deadline for amendments to



budgets and for sending copies of the levy and budget to the county auditor is October 10. From October 10 to December 10 the auditor prepares tax lists, which must be delivered to the county treasurer by December 10 and mailed to property owners by December 26.

The amount budgeted by a taxing district may not result in a tax levy exceeding the levy limitations established by law. Since 1981, the Legislative Assembly has provided optional authority to levy a percentage increase in dollars over a base year levy dollar amount. This method is an alternative to the use of statutory mill levy limitations. Most taxing districts in the state use this optional method of determining the maximum levy. Under Senate Bill No. 2081 (1995), taxing districts may elect to levy two percent more in 1995 and two percent more in 1996 than the amount that was levied in the base year. The bill provides that for taxable years after 1996, taxing districts may elect to levy the amount levied in dollars in the base year, but without a percentage increase.

To determine the mill rate for a taxing district, the county auditor determines whether the amount levied is within statutory limitations on the amount levied in dollars and divides the total property taxes to be collected for the taxing district by the taxing district's total taxable valuation. This results in a percentage that is the mill rate for the district.

Real property must be assessed with reference to its value on February 1 of each year. All property must be valued at its true and full value. True and full value is defined as the value determined by considering any earning or productive capacity, the market value, and all other matters that affect the actual value of the property. For agricultural property valuation is determined by a productivity formula. The assessed valuation of property is 50 percent of the true and full value. Taxable valuation of property is nine percent of assessed valuation for residential property and 10 percent of assessed valuation for agricultural, commercial, and centrally assessed property. Taxable valuation is the amount against which the mill rate for the taxing district is applied to determine tax liability for individual parcels of property.

True and full value of residential and commercial property is established by local assessors. True and full value of railroad, public utility, and airline property is centrally determined by the State Board of Equalization.

True and full value of agricultural property is based on productivity as established through computations made by the North Dakota State University Department of Agricultural Economics based on the capitalized average annual gross return of the land. Annual gross return for rented land is determined from crop share or cash rent information and for other land is 30 percent of annual gross income for cropland used for growing crops other than sugar beets or potatoes, 20 percent of annual gross income for cropland used for growing sugar beets or potatoes, and

25 percent of gross income potential based on animal unit carrying capacity of the land for land used for grazing animals. Average annual gross return for each county is determined by totaling annual gross returns for the county for the most recent six years, discarding the highest and lowest annual gross returns from those years, and dividing the resulting figure by four. Average annual gross return is then capitalized using a 10-year average of the most recent 12-year period for the gross Farm Credit Services mortgage rate of interest. Personnel from North Dakota State University determine an average agricultural value per acre for cropland and noncropland on a statewide and countywide basis. This information is provided to the Tax Commissioner by December 1 of each year and then provided by the Tax Commissioner to each county director of tax equalization. The county director of tax equalization provides each assessor with an estimate of the average agricultural value of agricultural lands within the assessor's district. The assessor must determine the relative value of each assessment parcel within that district. In determining relative values, local assessment officials are to use soil type and soil classification data whenever possible.

Property of railroads, public utilities, and airlines is assessed by the State Board of Equalization. The assessment process for centrally assessed property differs from the procedure for locally assessed property. The owner of centrally assessed property must file an annual report with the Tax Commissioner by May 1. The Tax Commissioner prepares a tentative assessment for the property by July 15. Notice of the tentative assessment is sent to the property owner at least 10 days before the State Board of Equalization meeting on the first Tuesday in August. At the State Board of Equalization meeting, testimony is received on the value of centrally assessed property and assessments are finalized. The Tax Commissioner certifies the finalized assessments to the counties, to reflect the portion of centrally assessed property for each property owner which is taxable in that county.

Airlines serving North Dakota cities pay a property tax computed by averaging mill levies in all the cities served by an airline and applying the average levy against the taxable valuation of the property of the airline in North Dakota. Taxes imposed on an airline are collected by the State Treasurer and distributed to cities in which the airline operates, to be used exclusively for airport purposes.

Some enterprises make payments in lieu of taxes. Cooperative telephone companies pay a gross receipts tax at a rate based on the number of telephones per mile of line. This tax is paid to counties and the revenue is allocated entirely to school districts.

Rural electric cooperatives pay a gross receipts tax in lieu of property taxes for all property except land. The tax rate is one percent in the first five years of operation and two percent thereafter.

Rural electric cooperatives with generating facilities are subject to a transmission line tax of \$225 per mile on transmission lines of 230 kilovolts or more.

Coal conversion facility taxes are paid in lieu of property taxes. These taxes are allocated according to state law and provide revenues to affected taxing districts.

Property owned by certain state agencies and by certain federal agencies is subject to payments in lieu of property taxes.

Equalization is the process provided by law to adjust property assessments to be consistent with market value or agricultural value. Property owners who are dissatisfied with assessment levels may initially present their concerns for review by the township board of equalization or the city board of equalization in April. The board of county commissioners meets in June to equalize among assessment districts in the county. The State Board of Equalization meets in August to equalize among counties and districts within a county.

### **Association of Counties Study**

Senate Concurrent Resolution No. 4015 directed the Legislative Council to receive the report on the study conducted by the North Dakota Association of Counties regarding improving technology to improve the property tax assessment system and allow sharing of information and resources among state and local governments. The resolution stated that grant funding was received by the association to conduct a study on improving technology and sharing of resources among state and local governments. The association sought committee members to serve on its task force to study this topic. The request was denied by the Legislative Council chairman. No further action was reported by the association.

### **Assessing Officers' Concerns**

Under Senate Bill No. 2081 (1995), assessment officials in the state must establish assessed valuations for all tax-exempt property in the state by 1998. Assessment officials expressed a number of concerns about this requirement, including a shortage of staff and budget among assessment officials, opposition of city and county governing bodies to paying the increased costs of these assessments, fear of property owners that assessment of exempt property is the first step toward taxing that property, and problems with assessing highway rights of way and other governmental property for which assessors perceive no benefit in determining values.

Association of Assessing Officers representatives agreed that association members could establish valuations for exemptions of limited duration. Association representatives opposed assessing all exempt property but agreed that it would be useful to determine values for property exempted by cities or counties under discretionary authority provided by law for specific purposes. Assessments were conducted by local assessors and survey results were compiled by the Tax

Commissioner. The association survey focused on exemptions allowed by law for new residential property, property used for day care, pollution abatement improvements, residential and commercial property improvements, and exemptions and payments in lieu of taxes for new and expanding businesses. Forty-seven counties and 11 cities responded to the survey request. From these responses, it was estimated that more than \$261 million of property is exempt under these exemptions, which totals about 1.4 percent of all valuation in the state.

Association of Assessing Officers representatives said the requirement of assessing all exempt property is more extensive than necessary. Association representatives said this would include establishing values for all federal, state, and political subdivision land and buildings, churches, all farm buildings, Indian reservation land and buildings, hospitals, day cares, streets, alleys, state and federal highways, county and township roads and rights of way, and other property. Association representatives said asking local assessors how they would accomplish these assessments yielded responses from many that they would quit before going through conflicts with their neighbors to establish values, especially for farm residences and buildings.

Committee members discussed with assessment officials possibilities of eliminating some exempt property from the property that must be assessed under the law. It was also discussed whether there is a possibility of establishing estimated valuations for property without onsite assessment.

### **Agricultural Property Valuation**

The 1996 valuations for agricultural lands statewide increased by more than 12 percent under the agricultural property valuation formula, causing considerable concern and causing many people to question why the increase was so substantial. The effect of the increase was softened somewhat during actual assessments as finalized by the State Board of Equalization, but actual assessments of agricultural land still increased over nine percent statewide in 1996.

Representatives of the North Dakota State University Department of Agricultural Economics reviewed the computation of agricultural property valuations under the statutory formula. The formula requires use of six years of agricultural production statistics from which the high and low production years are dropped and the remaining four years are averaged. For 1996 assessments, the 1988 drought year was replaced by 1994, which was a good crop year. The capitalization rate for agricultural property is an average of 10 of the most recent 12 years of the former Farm Credit Services mortgage rate of interest for North Dakota. The high and the low years are dropped from consideration and in this assessment year a high interest rate year dropped out of the formula and was replaced by a low interest rate year. The combination of a reduced capitalization rate and increased production averages yielded substantial

increases in valuations for 1996.

Comparing valuations for property classifications shows that during the late 1980s and early 1990s residential and commercial property valuations statewide increased while agricultural property values decreased. In 1994 and 1995, increases in agricultural values were less than half of the increases in residential and commercial property values. Shifts in property tax burden among classifications of property occur if all property does not increase uniformly in valuation. When agricultural property valuations were falling and residential and commercial property valuations were increasing, the tax burden shifted away from agricultural property. The 1996 increase in agricultural property valuation caused a shift of some of that burden back toward agricultural property.

Examination of agricultural property valuation changes in each county indicates that the lowest agricultural value increases per acre occurred in eastern North Dakota and the highest increases occurred in western North Dakota. The reason for this difference is that the drought of 1988 was more severe in western North Dakota and that drought year has now worked through and dropped out of the computation of values.

An increase in assessed value of taxable property does not translate into an increase in property taxes. The level of tax is determined by the political subdivision's budget and levy. The committee examined data indicating that a 12 percent increase in agricultural property valuation does not translate into a 12 percent increase in taxes. Depending upon the mix of property types within the taxing district, an increase of 20 percent or more in agricultural property valuation may translate into an increase of less than one percent in property tax liability or may amount to a more substantial increase, but it is very unlikely that the increase in taxes would exactly match the percentage increase in valuation.

The committee reviewed assessments of agricultural property for Richland County. Since 1972, Richland County has used a soils committee to assist in agricultural property valuation. The soils committee has nine members, each representing four townships. The soils committee serves in an advisory capacity to the board of county commissioners and has the primary duty of reviewing soil type valuations and recommending necessary changes. Use of modifiers to adjust the value of cropland within a soil classification was said to be important to establishing fair valuations for certain properties.

The committee reviewed the use of modifiers for valuing agricultural property under state law and guidelines. The Tax Commissioner encourages assessment officials to use modifiers when needed to account for unusual conditions such as wet areas, saline, rocks, wooded areas, inaccessibility, nonconformance, or unusable tracts.

## Assessment Automation

Property appraisal relies on analysis of a variety of property characteristics and their effects on sales prices. Use of an automated system allows uniform application of these factors. The committee reviewed automation of assessments in Fargo. The Fargo city assessor uses computer applications to produce the assessment roll, maintain and track exemptions and value trends, prepare the sales ratio study, produce automated appraisals, track building permit work and appeals, and provide the public with responses to information requests. The Fargo city assessor is developing software for local assessment officials after finding no suitable prepackaged software assessment systems on the market.

## Suggestions to the Committee

The committee received requests from several township officials to limit the annual increase in statewide agricultural property valuations. The committee considered a bill draft that limited the increase or decrease in valuation of agricultural property in any year.

Representatives of the North Dakota Farm Bureau opposed limiting agricultural property valuation changes on the grounds that this would distort the valuation formula. They suggested that the extent of valuation changes could be reduced by expanding the number of years of data used in the valuation formula from six to eight or 10 years.

The committee obtained estimates that use of an eight-year average would have decreased 1996 cropland valuation by 4.36 percent and decreased noncropland valuation by 1.55 percent, and use of a 10-year average would have decreased 1996 cropland valuation by approximately five percent and decreased noncropland valuation by approximately seven percent. These changes would have lessened the 12 percent valuation increase for agricultural property that occurred in 1996.

The committee obtained information on how these suggested changes and resulting decreases in agricultural valuations would affect shifting of taxes among property classifications. Using eight years of data would shift over \$700,000 of annual property taxes from agricultural land to other property classifications and using 10 years of data would shift more than \$900,000 of annual property taxes from agricultural land to other property classifications.

The data used for these computations using eight or 10 years of data brought the 1988 drought year back into the computation, which had the effect of substantially reducing agricultural valuations statewide. Committee members expressed concern about going to a 10-year average if it meant pulling years back into the formula which caused the recent fluctuation in valuations when they were dropped from the computation. Committee members suggested that bringing years back into the computation could be avoided by

phasing in future years' data by adding one year of data to the computation each year until 10 years of data is used in the formula.

### **Recommendation**

The committee recommends House Bill No. 1069 to extend the number of years of production data used in the agricultural property valuation formula from six years to 10 years and retain the provision that the highest and lowest production years are discarded and the remaining years are averaged. The bill makes this change in increments by use of seven years' data in 1997, eight years' data in 1998, nine years' data in 1999, and 10 years' data after 1999. This means 1989 will be the first year used in the valuation formula through the 2000 valuation.

The committee makes no recommendation regarding the suggestion of the North Dakota Association of Assessing Officers that the requirements of assessing all exempt property be eased or removed from law.

## **IRRIGATED LAND ASSESSMENT STUDY**

### **Background**

True and full value of agricultural property is the capitalized average annual gross return as determined by the North Dakota State University Department of Agricultural Economics. The formula is described under **PROPERTY TAX ASSESSMENT SYSTEM STUDY** in this report. The county director of tax equalization, whenever possible, is required to use soil type and soil classification data from detailed and general soil surveys to establish values for assessment districts. Each local assessor adjusts the relative values of assessment parcels.

Agricultural property valuation concerns arose before the 1995 legislative session primarily in Sargent and Barnes counties, where recent sharp increases in agricultural property valuations occurred. In Sargent and Barnes counties, soil conditions exist which allow property that would otherwise have very low productivity to produce substantial returns from irrigated crops, particularly potatoes. The production from irrigated land is used to determine the countywide gross return for the year, which is used in the valuation formula to determine the countywide agricultural property valuation. This valuation, increased by production from irrigated land, is applied to all property in the county. Use of only soil survey information in determining values would produce a relatively low value for the poor quality soils of the irrigated lands. The statutory provision requires use of soil surveys to establish valuations for soil types and there is no statutory provision requiring increased valuations to recognize the existence of irrigation. Countywide average agricultural property values are increased by production from irrigated lands and when the increase is not directly assessed against irrigated acreage, nonirrigated agricultural property is given a higher taxable valuation. Irrigated land is

some of the most productive in the county and increases county valuations but it is valued among the least productive properties in the county. This results in a shifting of tax burden to nonirrigated farmland. This is the subject of controversy that was intended to be addressed by Senate Bill No. 2524 (1995).

Senate Bill No. 2524 provided that 50 percent of the annual gross income from irrigated cropland must be considered additional expense of production and may not be included in computation of average agricultural value per acre for cropland for the county as determined by the North Dakota State University Department of Agricultural Economics. The 1995 legislation is effective only for taxable years 1995 through 1997 and then becomes ineffective.

### **Committee Consideration**

Although Sargent and Barnes counties were the source of debate leading to 1995 legislation, this study was of statewide interest because every county in the state has issued irrigation permits and has irrigated cropland in production. The amount of cropland and soil conditions determine the impact irrigation has on countywide agricultural valuations. Williams County placed higher valuations on irrigated land before the productivity method of valuing agricultural lands became law and still follows that practice. Most counties have not adjusted property valuations to recognize irrigation effects, under the premise that irrigation is a management decision, like fertilization or tillage practices, and is not a component of property valuation.

The committee discussed using the availability of water for irrigation as a means of determining values for agricultural lands. This approach was characterized as unfair to a farmer who does not wish to irrigate. It was suggested that the issuance of a water permit might be a fairer basis to trigger valuation changes attributable to irrigation because the property owner initiates issuance of a permit.

Farmers with acreage under irrigation informed the committee that their net income does not exceed that of dry land farmers but, because of added cost of irrigation, their risk of loss is greater. They said the adjustments from the 1995 legislation seemed to end complaints that were heard about agricultural valuations before the 1995 adjustment.

Representatives of the North Dakota State University Extension Division and Agricultural Economics Department reviewed a report on the economics of irrigation. The report contained an estimate that 55 percent of increased production is eaten up in irrigation costs for dry beans and potatoes. Authors of the report stated that the 50 percent exclusion for income from irrigated land in the 1995 legislation was close to the correct level of exclusion.

Senate Bill No. 2524 reduced agricultural property valuations in 32 of 53 counties, with maximum decreases of 3.3 percent in Benson and



Cass counties.

The median sale price of land with irrigation potential was 23 percent higher than the price of land with no irrigation potential. Land under irrigation had a median sale price 55 percent higher than land with no irrigation potential. Median taxable value for land with irrigation potential was 11 percent higher than land without irrigation potential but the taxable value of irrigated land was 29 percent below the true and full value of land without irrigation potential. The lower taxable value for irrigated land may result because land under irrigation is generally of a poor soil quality, which under the assessment formula receives a lower valuation.

### **Recommendation**

The committee recommends House Bill No. 1070 to make permanent the changes enacted by Senate Bill No. 2524 (1995). The bill eliminates 50 percent of the annual gross income from irrigated land from consideration in computing average agricultural value per acre for cropland for the county as determined by the North Dakota State University Department of Agricultural Economics. This would extend the application of Senate Bill No. 2524 to taxable years after 1997.

## **TAX PREFERENCES AND ECONOMIC DEVELOPMENT IMPACT STUDIES**

### **Background**

The committee conducted its studies of tax preferences and impact of large economic development projects jointly because the studies involved consideration of many of the same issues. With respect to property taxes, economic development incentives are exemptions or payments in lieu of taxes that may be granted for new industries, new residential property, residential or commercial building improvements, and tax increment financing. With respect to income taxes, preferences exist allowing credits or deductions to encourage seed capital investments, Myron G. Nelson Fund investments, venture capital corporation investments, nonprofit development corporation contributions, and sale or lease to a beginning farmer or business.

Under NDCC Section 40-57.1-03, payments in lieu of taxes on a new industrial project are to be apportioned in the same manner as property taxes. This section was amended by House Bill No. 1275 (1995) to allow a school district and any other taxing district to agree with the city or county on a different allocation of revenues. This section was also amended by Senate Bill No. 2322 (1995) to require a city or county considering a property tax exemption or payments in lieu of taxes for a new industry to include a representative appointed by each affected school district and township as nonvoting ex officio members of its governing body. Senate Bill No. 2322 is effective only through July 31, 1997.

House Bill No. 1520, enacted during the 1994 special legislative session, substantially revised

NDCC Chapter 40-57.1 and created a payments in lieu of taxes option that could be used in combination with, or in place of, property tax exemptions for new industry projects. Payments in lieu of taxes may be allowed by a city or county governing body for any revenue-producing enterprise in lieu of the ad valorem taxes that would otherwise be due on buildings, structures, fixtures, and improvements used in operation of the project. The amount of annual payments in lieu of taxes from a project may be set at any amount by the governing body of the city or county. The right to make payments in lieu of taxes may be granted for up to 20 years from the date of commencement of project operations.

The valuation of property subject to payments in lieu of taxes is not to be considered in valuation of the taxing district in which the project is located for purposes of determining the mill rate for the district. Payments in lieu of taxes must be subtracted from the taxing district's budget before the remaining amount is certified as a tax levy to be spread against valuation of property in the district. Thus, revenue from payments in lieu of taxes cannot be used as "off budget" revenues and any amount received must be used to offset budgeted expenditures of the governing body of the city or county and any other political subdivision receiving the revenue. The occasions of the greatest property tax impact of a project making payments in lieu of taxes upon other taxpayers would be when payments in lieu of taxes received by the political subdivision are substantially more or less than budgeted expenditures that are attributable to services provided to the project.

### **Committee Consideration**

The committee reviewed a November 1994 Tax Commissioner report on income and property tax exemptions. The report reviewed a survey of businesses with property or income tax exemptions in 1992, regarding the reasons for locating in North Dakota. The most frequent responses as to why a business located in North Dakota included quality of life, market, work force, expansion, raw materials, and location. Eight percent of respondents cited business climate or tax structure as a location factor and six percent cited tax incentives as a location factor. Committee members pointed out that when factors relating to taxation are combined, they appear to be more significant to location decisions than the individual responses would indicate. Economic development officials pointed out that if all other location factors are equal, having the ability to match tax incentives available in other states becomes critical to attracting new businesses.

The committee reviewed a survey conducted by the Fargo-Cass County Economic Development Corporation on economic development incentive usage. Representatives of the corporation said granting of tax incentives will not make a bad economic project into a good one but there are occasions when tax incentives can be judiciously used to influence location of good economic

projects. Once selection of sites is narrowed to a few candidates, tax incentives can play a role in the final location decision for the business. It is at this level of location decisions when it becomes important for economic development officials to be able to match the tax climate or incentives available in competing states. Corporate representatives said the economic development incentives made available by the Legislative Assembly are useful, workable tools.

The Fargo-Cass County Economic Development Corporation is working on computer software that could be used by political subdivisions to measure potential cost and benefit of tax incentives for a new business. This software is intended to give political subdivisions an opportunity to quantify revenue losses from proposed tax incentives versus long-range benefits to the community and state of establishing a new business.

The committee reviewed a Tax Department report on usage and revenue losses for each income tax credit or deduction intended as an economic development incentive.

The committee reviewed information on the extent and amount of property exempted from property taxes under statutory provisions intended to promote economic development. The information is described under **PROPERTY TAX ASSESSMENT SYSTEM STUDY** in this report.

The committee reviewed a report presented by the Department of Economic Development and Finance analyzing real and personal property taxes, workers' compensation insurance rates, state and local sales taxes, unemployment insurance, and corporate income taxes for Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. North Dakota has a very low property tax burden compared to the other states in the survey. North Dakota workers' compensation rates are higher than most of the states compared but are lower than the rates in South Dakota and Montana. Workers' compensation rates compared in the report were for agricultural manufacturers and rates for other industries may differ. North Dakota unemployment insurance rates are among the highest of the states compared. North Dakota sales and use tax burdens are relatively low compared to the states in the comparison, especially when consideration includes the sales tax exemption for new manufacturing machinery. Combining all of the categories considered, North Dakota compares favorably to the other states. Tax incentives were described as very important in efforts to attract and retain businesses.

The committee reviewed a study on the impact of the ProGold facility on Wahpeton and Richland County which was prepared by a faculty member from the North Dakota State University Department of Agricultural Economics before the decision to locate the facility in Wahpeton. The report estimated direct new expenditures in several economic sectors totaling approximately \$113 million per year during plant construction and \$76 million per year during plant operation.

The report estimated secondary employment from the facility will total approximately 2,700 jobs beginning in 1997. The report estimated approximately \$250 million per year in economic development impact will be attributable to existence of the facility. The report estimated a net gain of about \$3.2 million per year in state tax revenues during operation of the facility. The report estimated Richland County finances would have a net gain of about \$30,000 per year. The report did not include estimates of property taxes from the facility because the report was prepared before it was known what tax status the plant would have.

A Richland County official said the ProGold facility has agreed with the county to make payments in lieu of taxes over a period of 20 years. For two years, no payments will be made on the facility and for a period of 18 years annual payments of \$299,000 will be made. The tax payments were determined by estimating the taxes that would be due over the second 10 years of operation of the facility and spreading that amount of taxes over a period of 18 years. Taxes of \$88,000 per year will also be paid on the land on which the facility is located.

Committee members toured the ProGold facility with representatives of Richland County. The committee received information on road improvements that have been made and will be necessary in connection with the facility. The committee received a briefing on operation of the facility including a description of the process for production of high fructose corn syrup and of the truck and train traffic into and out of the facility. The facility will use 2.6 million gallons of water per day but will recycle more than 50 percent of its water consumption to reduce the amount drawn from the Red River. The facility will have its own water treatment facility which the operators believe will return water to the river as good in quality as the water taken from the river.

The committee received a report from the Bismarck city assessor on all exempt property within the city. The two-year residential property exemption in Bismarck was discontinued in 1995. Exemptions for improvements to commercial and residential property totaled more than \$200,000 in property tax revenue lost for 1992, more than 90 percent of which was for commercial property improvements. Use of the exemption for new businesses varies from year to year.

A representative of the North Dakota School Boards Association informed the committee that the association approved a resolution to seek legislation allowing school district property tax levies to be unaffected by city or county decisions to grant property tax exemptions for new businesses.

### Conclusion

The committee makes no recommendation with regard to its studies of tax preferences and the impact of major economic development projects on political subdivisions. The committee received no

suggestions for legislation regarding either study.

## FARM BUILDINGS EXEMPTION STUDY

### Background

Farm residences and farm buildings other than residences are exempt from property taxes under NDCC Section 57-02-08(15). The provision relating to farm residences is much more detailed than the provision relating to farm buildings other than residences and provides criteria to determine what is a farm and who is a farmer and imposes income limitations on persons who qualify for the exemption for their residence. The exemption for farm buildings other than residences does not apply to any structure or improvement used in connection with a retail or wholesale business other than farming, any structure on platted land within the corporate limits of a city, or any structure located on railroad-operating property. It is the exemption for farm buildings other than residences that the committee was directed to study.

A 1968 Attorney General's opinion indicated that raising animals may not always qualify as farming for purposes of the farm buildings exemption. The opinion attempted to differentiate between traditional farming and industrial operations such as livestock feeder operations. The opinion stated that the source of feed for animals may determine whether an operation is a farm or an industrial operation.

The North Dakota Supreme Court decision in *Butts Feed Lots v. Board of County Commissioners*, 261 N.W.2d 667 (1977) concluded that a feedlot operation was an industrial activity and the property did not qualify for the farm buildings exemption. The Supreme Court found that contract feeding of cattle not owned by the owner of the facility is an industrial activity and that raising cattle owned by the owner of the facility is an industrial activity if the feed for the cattle is not grown onsite. The Supreme Court also said an operation may be industrial if replacement animals are not raised onsite. The Tax Commissioner adopted guidelines that are intended to follow the 1968 Attorney General's opinion and the 1977 Supreme Court decision. The guideline for animals raised and owned by the operator provides that the feed must be primarily grown by the person raising the animals and the enterprise must be operated in connection with or incidental to an ordinary farming operation.

### Committee Considerations

This study arose because of events that have transpired in Richland County, although the topic is of application in each county in the state. In 1995, a large turkey-raising operation was established on a section of land in Richland County. The operator has constructed 35 large turkey barns on the property. Richland County officials assumed that the property would not qualify for the farm buildings exemption under the *Butts* analysis. During consideration of this issue,

however, Richland County officials recognized that several existing operations that raise turkeys, cattle, or pork would also become taxable under the Tax Commissioner's guidelines adopted to implement the *Butts* decision. Several issues arose regarding application of these guidelines in specific instances and Richland County officials decided to seek a legislative solution to clarify when the farm buildings exemption applies.

North Dakota Turkey Federation representatives said most of their members make the majority of their income from raising turkeys. North Dakota turkey growers produce about 1.5 million turkeys per year, not including the production from the new Richland County operation, which will produce an additional one million turkeys per year. Some members of the federation raise turkeys exclusively and other members raise turkeys and corn or grain. Federation members said in some cases grinding one's own feed is the best management decision but most often purchased feed yields the best profits. Federation representatives recommended that all turkey-raising operations should qualify for the farm buildings exemption. They indicated there does not appear to be any reasonable basis to distinguish among operations for exemption purposes.

North Dakota Corn Growers Association representatives recommended that feedlots and poultry operations should qualify for the farm buildings exemption without limitation.

The committee toured Richland County turkey-raising operations. One operator said his farm has the capacity to grow and process feed for turkeys but it is more economical to buy processed feed. Finishing barns for raising turkeys are capable of holding approximately 10,000 turkeys and cost approximately \$200,000 to construct.

The committee toured the new Richland County turkey-raising operation, which is composed of approximately 35 turkey barns, each approximately 660 feet by 60 feet. The operation does not grow corn or grain and the operator does not reside onsite, although trailer homes are onsite for employees.

Richland County officials said the impact to Richland County's road budget for maintenance of the road to the new turkey facility exceeds normal costs of maintenance for a county road by approximately \$28,000 per year. The road in question is subjected to high-volume truck traffic due to the existence of the turkey-raising operation. Committee members asked whether granting county authority to levy special assessments for road damages would alleviate the problem. Richland County officials said levying special assessments in the situation at hand would not resolve the problem because several properties under different ownership abut the road but traffic attributable to only one property is responsible for road deterioration.

The committee considered several factors to distinguish industrial or commercial operations from agricultural operations, but none of the

factors appears suitable. Basing the exemption upon whether the farm owner owns the animals that are being fed would require monitoring ownership of animals. Basing qualification for the exemption on the source of feed, as was done by the Supreme Court in the *Butts* decision, requires monitoring feed and may force operators to grow their own feed when it could be a better management decision to purchase feed from off the farm. Basing the exemption on whether the owner lives on the site might interfere with domestic situations and unduly restrict a person's freedom to choose where to live. Limiting the number of paid employees could result in loss of jobs for employees above the limit. Limiting the value of farm buildings to be exempt would require assessment of all farm buildings. Causing excessive road repairs for the county or township could involve arbitrary decisions on who is responsible for road damage. Limiting the number of animals raised would require establishment of an accurate count of animals at any time of year and different limitations would be required for different kinds of animals. Basing the exemption on whether replacement animals are raised on the farm, as was discussed by the Supreme Court in *Butts*, was described as inappropriate for some kinds of animals.

The committee discussed eliminating the farm buildings exemption and offsetting the property tax increase by a corresponding reduction in taxes

against agricultural land. This would eliminate the need to determine who qualifies for the farm buildings exemption. However, this would reduce the tax burden for persons who own agricultural land but have few or no buildings or do not actively farm the land, including nonresident landowners.

Richland County officials urged the committee to seek a legislative solution to the farm buildings exemption problem. Richland County officials conducted a survey of all 53 counties and found several cattle feeding operations and operations producing hogs, chickens, eggs, bees, llamas, emus, and turkeys that have buildings that are subject to property taxes. They reported that many county tax officials agree that many more operations would be considered industrial enterprises and subjected to taxes on farm buildings if the *Butts* rationale were strictly observed.

### **Conclusion**

The committee makes no recommendation on the farm buildings exemption study. The committee found no workable, fair suggestion that would improve on the criteria established under the Supreme Court's *Butts* decision. Committee members expressed preference for retaining the current law, with flexibility for application by local governing bodies, over establishing statutory criteria that might be excessively rigid and unfair in some situations.

The Education Finance Committee was assigned three responsibilities. Sections 9 and 6 of 1995 Senate Bill No. 2519 directed a study of the financing of elementary and secondary education and the availability of state support for school construction, a review of formulas used to equalize state aid in the areas of transportation and special education, a review of funding sources that could be alternatives to property taxes, and a review of supplemental payments to high school districts. The Legislative Council also directed the committee to monitor implementation of the special education block grants as provided for by Senate Bill No. 2063 (1995). The committee incorporated this directive in its study of the financing of elementary and secondary education. The Legislative Council chairman instructed the committee to review the report on the performance audit of the Department of Public Instruction.

Committee members were Senators Layton W. Freborg (Chairman), Tony Grindberg, Jerome Kelsh, Rolland W. Redlin, Steven W. Tomac, Terry M. Wanzek, and Jim Yockim and Representatives Ole Aarsvold, James Boehm, Jack Dalrymple, David Drovdal, Tom D. Freier, William E. Gorder, Lyle L. Hanson, Ruth E. Holm, Dennis Johnson, Joe Kroeber, Richard Kunkel, David Monson, Ronald Nichols, Catherine Rydell, and Dennis J. Schimke. Representative Andy Hagle was also a member of the committee until his death in March 1996.

The committee submitted this report to the Legislative Council at the biennial meeting of the Council in November 1996. The Council accepted the report for submission to the 55th Legislative Assembly.

## FINANCING OF ELEMENTARY AND SECONDARY EDUCATION STUDY

### Background

#### Initiation of the Foundation Aid Program

A foundation aid program designed to provide financial assistance to local school districts has been in effect in North Dakota since 1959, when the Legislative Assembly enacted a uniform 21-mill county levy and provided a supplemental state appropriation to ensure that school districts would receive 60 percent of the cost of education from nonlocal sources. This initial program was adopted in part because the Legislative Assembly recognized that property valuations, demographics, and educational needs varied from school district to school district. The Legislative Assembly embraced the broad policy objective that some higher cost school districts in the state "must continue to operate regardless of future school district reorganization plans." Taking into account the financial burdens suffered by the low valuation, high per student cost school districts, the Legislative Assembly forged a system of weighted

aid payments that favored schools with lower enrollments and higher costs. This initial program also allocated higher weighting factors to districts that provided high school services.

#### The 1970s

For the next several years, the foundation aid program remained essentially unchanged. However, federal and state courts were beginning to address issues of spending levels for elementary and secondary education and whether those levels should be dependent upon the wealth of the school district in which a student resides. The Legislative Assembly, in an attempt to preempt the issue in North Dakota, responded by amending the foundation aid program in a way that evidenced a higher level of sophistication. The state more than doubled the per student payments and replaced the flat weighting factor with one that recognized four classes of high schools. Elementary weighting factors were altered as well. Adjustments continued to be made during the mid-1970s. A new category encompassing seventh and eighth grade students was created and fiscal protection for schools experiencing declining enrollments was instituted. This latter provision ensured that no school district could receive less in foundation aid payments for a current year than that district would have received based on its enrollment during the previous school year. For the 1975-77 biennium, the foundation aid appropriation was \$153.4 million. In 1979 the Legislative Assembly appropriated \$208.4 million for the foundation aid program and added an additional appropriation of \$1 million to pay for free public kindergartens.

#### The 1980s

The next major development affecting education finance occurred with the approval of initiated measure No. 6 at the general election in November 1980. This measure imposed a 6.5 percent oil extraction tax and provided that 45 percent of the funds derived from the tax must be used to make possible state funding of elementary and secondary education at the 70 percent level. To meet this goal, the 1981 Legislative Assembly allocated 60 percent of the oil extraction tax revenues to the school aid program. Initiated measure No. 6 also provided for a tax credit that made the 21-mill levy inapplicable to all but the owners of extremely high value properties. The Legislative Assembly eliminated the 21-mill county levy and increased state aid to compensate for the revenues that would otherwise have been derived from the levy.

During the early 1980s, discussions continued to center around purported funding inequities. Districts spending similar amounts per student and having similarly assessed valuations were not levying similar amounts in property taxes to raise the local portion of education dollars. It was alleged that the system encouraged some districts to levy much smaller amounts than their spending

levels and assessed valuations would seem to justify.

In response, the Legislative Council's Education Finance Committee, during the 1981-82 interim, examined a method of funding education known as the "70-30" concept. This proposal was a significant departure from the existing foundation aid formula in that it took into account the cost of providing an education in each school district. The formula required determination of the adjusted cost of education, and then required the computation of a 30 percent equalization factor to arrive at each district's entitlement. It was contemplated that a local mill levy would be employed to raise the district's local share of the cost of education.

Proponents touted this approach as one that included a comprehensive equalization mechanism and which recognized local variances in the cost of education. Opponents argued it did nothing more than award high spending districts and penalize those that had been operating on restricted budgets. The interim committee did not recommend the concept.

Discussions regarding the many aspects of education finance continued through the 1980s. Legislative Council interim committees explored weighting factors, considered the effects of increasing the equalization factor, and explored the excess mill levy grant concept. During the 1987-88 interim, the Education Finance Committee established specific goals and guidelines to guide its deliberations on matters of education finance. While the interim committees have articulated the need to alter the state's education funding system, they could reach little agreement beyond recommending increases in the level of per student aid.

### State Litigation

In 1989 legal action was initiated for the purpose of declaring North Dakota's system of public school finance unconstitutional. The complaint in *Bismarck Public School District No. 1 v. State of North Dakota* charged that disparities in revenue among the school districts had caused corresponding disparities in educational uniformity and opportunity which were directly and unconstitutionally based upon property wealth.

On February 4, 1993, after hearing 35 witnesses and examining over 250 exhibits, the district court issued 593 findings of fact and 32 conclusions of law. The court listed these "constitutionally objectionable" features of the school financing system:

- Disparities in current revenue per pupil are the result of variations in school district taxable wealth.
- The 22-mill equalization factor in the foundation aid formula fails to equalize for variations in district wealth because the equalization factor is below the state average school district tax rate for current revenue and leaves much of the school millage outside the foundation formula.
- The low level of foundation educational

support fails to ensure substantial equality of resources for children in similarly situated school districts.

- The use of cost weightings that are inaccurate unjustifiably benefits districts with large amounts of taxable wealth.
- The flat grant allocation of tuition apportionment ignores the vast differences in taxable wealth among school districts and operates as a minimum guarantee for wealthy districts.
- The transportation aid program exacerbates existing resource disparities by reimbursing some, often wealthy, districts for more than the actual cost of transportation to the district and require other, often poorer, districts to fund a substantial share of transportation costs from other revenue sources.
- The special education funding program exacerbates existing resource disparities by giving higher spending districts an advantage in obtaining state reimbursement of special education costs and requiring school districts to fund a large share of the excess costs of special education programs from the disparate tax basis of school districts.
- The state aid for vocational education exacerbates existing resource disparities.
- The state system for funding school facilities relies on the unequal taxable wealth of school districts.
- The payment of state aid to wealthy districts maintains large ending fund balances.
- The failure of the state to ensure that resource differences among school districts are based on factors relevant to the education of North Dakota children rather than on the unequal taxable wealth of North Dakota school districts.

The district court declared the North Dakota school financing system to be in violation of Article VIII, Sections 1 and 2, and Article I, Sections 21 and 22, of the Constitution of North Dakota. The Superintendent of Public Instruction was directed to prepare and present to the Governor and the Legislative Assembly, during the 1993 session, plans and proposals for the elimination of the wealth-based disparities among North Dakota school districts.

### Response to the Litigation

In response to the district court's order, the Superintendent of Public Instruction presented the following recommendations to the 1993 Legislative Assembly:

- Raise the per student payment to \$3,134.
- Fund special education by dividing the 13 disabilities categories into three broad categories and assigning weighting factors to each.
- Fund vocational education by assigning weighting factors to high cost and moderate cost programs.
- Provide transportation reimbursements based

- on six categories of density.
- Provide state funding of education at the 70 percent level.
- Establish a uniform county levy of 180 mills.
- Distribute tuition apportionment in the same manner as foundation aid.
- Provide that federal and mineral revenues in lieu of property taxes and districts' excess fund balances be part of a guaranteed foundation aid amount.
- Allow districts the option of levying 25 mills above the 180-mill uniform county levy.
- Require that all land be part of a high school district and that districts having fewer than 150 students become part of a larger administrative unit.
- Provide \$25 million for a revolving school construction fund.

As introduced, House Bill No. 1003 (1993) was the appropriations bill for the Superintendent of Public Instruction. As it progressed through the legislative process, it became the principal 1993 education funding enactment. The bill:

- Set the state support for education at \$1,572 per student for the first year of the 1993-95 biennium and at \$1,636 for the second year.
- Raised the equalization factor from 21 to 23 and then to 24 mills.
- Set weighting factors at 25 percent of the difference between the prior statutory amount and the five-year average cost of education per student, as determined by the Superintendent of Public Instruction, for the first year of the biennium and at 50 percent of the difference for the second year of the biennium.
- Capped state transportation payments at 100 percent for the first year of the 1993-95 biennium and at 90 percent for the second year of the biennium and directed that any savings resulting from imposition of the 90 percent cap during the second year of the biennium be used by the Superintendent of Public Instruction to increase the per student transportation payments available under North Dakota Century Code (NDCC) Section 15-40.1-16.
- Reiterated the existing statutory requirement that school districts admitting nonresident students charge tuition but exempted school districts that admit nonresident students from other districts offering the same grade level services.
- Directed the Legislative Council to conduct another study of education finance and appropriated \$70,000 for purposes associated with the study, including necessary travel and consultant fees.

### 1993-94 Interim Study

The Legislative Council's interim Education Finance Committee began its efforts during the 1993-94 interim before an appeal of *Bismarck Public School District No. 1* was taken to the North Dakota Supreme Court. The committee was

aware that many of the issues addressed by the trial court had been the subject of interim studies and legislative deliberations for many years. However, the committee also realized that the requisite number of Supreme Court justices (four) might not necessarily agree with the lower court's determination that the state's system of funding education was unconstitutional.

The North Dakota Supreme Court issued its decision on January 24, 1994--*Bismarck Public School Dist. No. 1 v. State of North Dakota*, 511 N.W.2d 247 (N.D. 1994). Only three of the five justices held that the state's education funding system was unconstitutional.

A majority of the Supreme Court indicated that there were three principal areas in need of attention--in lieu of revenues, equalization factors, and transportation payments. The Supreme Court did not, however, mandate specific legislative action. The court indicated the areas of concern and then left it up to the Legislative Assembly to determine how those areas should be addressed. In a dissenting opinion, Chief Justice VandeWalle stated:

[T]he present funding system is fraught with funding inequities which I believe have not yet transgressed the rational-basis standard of review but which appear to me to be on a collision course with even that deferential standard.

The Supreme Court decision was issued midway through the 1993-94 interim. By the time the Education Finance Committee had completed its work, it had considered 35 bill drafts and three resolution drafts. Twenty-seven pieces of legislation were recommended to the Legislative Council for introduction during the 1995 legislative session.

The committee's recommendations included increases in the minimum high school curriculum; establishment of an additional Governor's school; appropriation of funds for elementary summer school programs, professional development programs, professional development centers, and refugee student assistance; placement of all land in a high school district; alteration of the weighting categories; a variable equalization factor; reclassification of special education categories; distribution of tuition apportionment according to average daily membership; an increase in transportation payments from 28 cents to \$1 per day for all students transported by schoolbuses; and an \$80 million increase in the level of foundation aid over that appropriated during the 1993-95 biennium.

### Response by the 1995 Legislative Assembly

Although the 1995 Legislative Assembly enacted a variety of bills dealing with education and education finance, the most significant provisions were found in three bills--Senate Bill No. 2059, Senate Bill No. 2063, and Senate Bill No. 2519.

Senate Bill No. 2059 dealt with the funding of



transportation. The bill maintained the per mile payment of 25 cents for small buses and 67 cents for large buses and it added a payment for in-city transportation of 25 cents per mile. The per head payment for in-city students riding schoolbuses or commercial buses was increased from 17.5 cents to 20 cents per one-way trip. The 90 percent cap on payments, which was instituted by the 1993 Legislative Assembly, was left in place.

Senate Bill No. 2063 dealt with the funding of special education. The bill provided that \$10 million must be used to reimburse school districts for excess costs incurred on contracts for students with disabilities, for low-incidence or severely disabled students, and for certain boarding care. The bill also provided that \$400,000 must be used to reimburse school districts for gifted and talented programs approved by the Superintendent of Public Instruction and \$500,000 must be used to reimburse school districts with above-average incidence of moderately or severely disabled students. Any amount remaining in the special education line item must be distributed to each school district in accordance with the number of students in average daily membership. The line item for special education was \$36,850,000. The bill also provided that during the 1995-96 school year, no district or special education unit may receive less than 95 percent of the amount it received during the 1993-94 school year, excluding reimbursements for student contracts, boarding care, and gifted and talented programs. During the 1996-97 school year, no district or special education unit may receive less than 90 percent of that amount.

Senate Bill No. 2519 provided an increase in the per student payment for small but necessary elementary and high schools and increased by 20 percent the weighting factors applied to students attending school out of state. The bill raised the equalization factor from 24 mills to 28 mills for the first year of the biennium and to 32 mills for the second year of the biennium, and provided that thereafter the equalization factor would be tied by a mathematical formula to increases in the level of foundation aid. The equalization factor would not fall below 32 mills nor rise above 25 percent of the statewide average school district general fund mill levy. Weighting factors, which had been set at 50 percent of the difference between the factor stated in statute and the five-year average cost of education per categorical student, were left at 50 percent of the difference for the first year of the biennium and then raised to 65 percent of the difference for the second year. High school districts whose taxable valuation per student and whose cost of education per student are both below the statewide average are entitled to receive a supplemental payment, again based on a mathematical formula. The sum of \$2,225,000 was appropriated for supplemental payments. The payments, however, are effective only through June 30, 1997. Per student payments were set at \$1,757 for the first year of the biennium and at \$1,862 thereafter.

The 1995 Legislative Assembly appropriated \$517,598,833 for foundation aid, transportation aid, supplemental payments, tuition apportionment, and special education. That figure exceeds the 1993-95 appropriation by \$41,561,941.

### **School Construction - Testimony and Conclusion**

Before 1964, there were only five court cases in which the constitutionality of school finance was challenged. The generic profile of school districts, however, was being replaced by a variety of characteristics. Some districts became larger, while others became smaller. Some were left with a declining agricultural tax base, while others were able to take advantage of urban sprawl. The resulting diversity in the ability to access dollars prompted charges of inequity and an onslaught of court cases across the nation. The court cases addressed issues of equity and adequacy in terms of general operating revenues--dollars necessary to pay teachers and to purchase supplies and equipment. The committee was told that future court cases are expected to extend their focus to issues of equity and adequacy in terms of capital construction.

North Dakota, like similarly situated states, has experienced the development of new programs, increased demand for teacher inservice activities, increased demand for technological updating, declining student numbers in the rural areas, and a reluctance on the part of taxpayers to accept additional taxes on state and local levels. School districts have responded by prioritizing their financial requirements. Because facility maintenance and construction do not have the same actual or perceived significance as instructional needs do, the result, the committee was told, has been a deterioration of the state's school buildings and facilities.

The Superintendent of Public Instruction commissioned a study of the state's school facilities. The resulting report indicated that 40 percent of the state's 21 million plus square feet of school buildings is located in the eight largest school districts. Over 50 percent of the state's 21 million plus square feet of school buildings is more than 30 years old. The report indicated that even though a facility might be structurally sound, it probably suffers from educational obsolescence in that it was not designed to appropriately accommodate many of the educational programs or instructional activities we now have.

The report stressed that school buildings, like any other physical plants, deteriorate if timely maintenance and renovation efforts are not undertaken. In the case of North Dakota schools, needed maintenance and renovation includes paving parking lots; lighting sites; repairing or replacing windows, doors, exterior walls, and roofs; making classrooms, washrooms, drinking fountains, and elevators handicapped accessible; updating teaching and noninstructional areas; and repairing or replacing heating, plumbing, and electrical services and systems. The estimated cost



of doing such work is \$421,367,366. Testimony indicated that these costs traditionally increase by five percent a year.

It was suggested to the committee that some long-term responses might include:

- Developing a state role in which school facilities are funded in the same proportion that the foundation aid received by a district bears to the total amount of foundation aid appropriated by the state.
- Guaranteeing a level of valuation perhaps equal to the statewide average valuation.
- Implementing a system of grants to support multidistrict construction and renovation efforts.

The committee makes no recommendation relating to school construction.

### **Transportation - Testimony and Committee Considerations**

The state has played a role in the funding of school district transportation services since 1972. Rates are set by the Legislative Assembly and payments are made by the Superintendent of Public Instruction, taking into account factors such as miles traveled, number of students, vehicles used, and one-way and return trips. In past years, some school districts received transportation reimbursements in excess of their transportation expenditures. In 1993 the Legislative Assembly limited transportation payments to 90 percent of a district's current transportation operating cost plus the eight-year average cost of transportation equipment.

Districts affected by the cap complained that reported transportation costs were not uniform among the districts. Superintendents from smaller districts said they spend considerable time on busing--time that is not reflected in the cost calculations. Other districts charge costs to other users of transportation services on an ability-to-pay basis. For example, an extracurricular program not having a budget for transportation may be subsidized by the regular transportation program in one district and not reported at all in another. Recognizing these inconsistencies, the Legislative Assembly, in 1995, directed the Superintendent of Public Instruction to develop and require that school districts use a uniform cost accounting system for the transportation reimbursement program.

The document *Guidelines for Student Transportation Costs* was issued in April 1996 and presented to the committee. The guidelines address contracted services, bus drivers, fuel, family transportation, repairs, maintenance, insurance, equipment costs, the district superintendent's allocation, business office and school board costs, and time allocation.

The committee was told that the Superintendent of Public Instruction believes that the 1995 formula, together with the uniform cost accounting system now in place, must be given time to work and must be adequately assessed before legislative changes are made. The

Superintendent of Public Instruction does not intend, therefore, to seek any changes in the transportation funding formula.

The committee, however, did consider a bill draft relating to contracted transportation services. According to testimony presented to the committee, if a school district switches from contracting for transportation services to providing its own transportation services, there is a problem in determining actual costs for reimbursement purposes. The bill draft provided that in such a situation a school district may use the higher of its own transportation operating expenditures or the statewide average cost of transportation during that first year. The committee determined that contracted costs include capital expenditures and therefore it is reasonable that school districts switching from contracting for services to providing their own services be given a factor they can use when applying for transportation reimbursements. This is not a widespread problem, but very significant to the affected school districts. Approximately 20 percent of all school districts contract for transportation services.

### **Special Education Funding and the Monitoring of Special Education Block Grants - Testimony and Conclusion**

The 1995-97 appropriation for special education was \$36.8 million--an increase of \$3.35 million over the previous biennium. With that increase, the Legislative Assembly also revised the parameters within which the Superintendent of Public Instruction could distribute the funds. In the past, the Superintendent of Public Instruction distributed special education appropriations in accordance with language found in NDCC Section 15-59-06.2:

If allowable costs for special education and related services for a child with disabilities in a special education program, as determined by the Superintendent of Public Instruction, exceed the reimbursement provided by the state, the school district is liable to pay for each such student an amount over the state reimbursement up to a maximum each school year of two and one-half times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department. The two and one-half times amount includes the amount the school district is required to pay in section 15-59-06. The state is liable for one hundred percent of the remainder of the cost of education and related services for each such student with disabilities.

Under that method of distribution, the amount appropriated for special education was first devoted to the excess costs and then any remaining dollars were devoted to noncontract costs such as teacher-student units and new program initiatives. The reimbursement of costs in excess of the two

and one-half times amount were guaranteed. Other reimbursements were not.

The guaranteed amount was generally associated with costs for student contracts, i.e., the costs for students placed in a school district for reasons other than education. This tends to occur as a result of placements by other state agencies such as the Division of Juvenile Services or foster care entities. It also applies to costs incurred by students placed in private care facilities inside or outside the state for purposes of education. The problem was that the cost of student contracts continued to rise at an exponential rate. During the 1990-91 school year, 14.4 percent of a \$12 million annual allotment for special education was used for student contract reimbursements. During the 1995-96 school year, the cost of student contracts was \$5.7 million. The committee was told that without changes there was no reason to expect that this growth rate would have slowed down.

In an attempt to curb this growing cost, and perhaps force districts to consider alternative placements for the contract students, the 1995 Legislative Assembly reverted from guaranteeing the excess amount of student contracts to capping the amount allocated for student contracts at \$10 million, and, in effect, guaranteeing the personnel side of special education reimbursement. Personnel reimbursement had been tied to a complex formula involving student-teacher units, but the new reimbursement system is based on average daily membership. In addition, the Superintendent of Public Instruction clearly defined the components of a student contract, including how costs are calculated and what qualifies as an excess cost. Before this effort, each school district and special education unit engaged in somewhat different forms of calculations, resulting in inequitable reimbursements. As a result of these changes, some school districts, which had been advantaged by the former reimbursement system, received fewer dollars. However, the majority of the school districts received two-thirds of their special education dollars through a mechanism that equalizes the special education dollars in the same fashion as foundation aid dollars.

School districts receive \$109 for each student in average daily membership and have available to them certain safety features that were built into the revised distribution method, including a set-aside of \$500,000 for above-average incidences of moderately or severely disabled students. During the 1995-96 school year, districts and special education units were guaranteed a special education funding level of no less than 95 percent of the amount they received for the 1993-94 school year, excluding reimbursements for student contracts, boarding care, and gifted and talented programs. For the 1996-97 school year, the guarantee was lowered to 90 percent of the amount received for the 1993-94 school year, excluding reimbursements for student contracts, boarding care, and gifted and talented programs.

Because Section 1 of Senate Bill No. 2063 (1995) provided that \$10 million must be used to reimburse school districts for excess costs incurred on student contracts, the committee questioned what would happen if school districts and special education units, working under the new reimbursement system, claimed or were allowed to claim an amount less than the \$10 million. Testimony offered to the committee indicated that if any portion of the \$10 million set aside for student contracts was not so distributed, it would be prorated on a per student basis.

The committee determined that this new reimbursement mechanism, also referred to as a block grant distribution, had been thoroughly studied during the 1993-94 interim and implemented on that committee's recommendation by the 1995 Legislative Assembly. Even though there is continuing controversy about the distribution of special education appropriations, the committee determined that the controversy stems less from the actual method of distribution than from the fact that the special education needs of North Dakota students exceed the funds available to accommodate those needs.

The committee makes no recommendation relating to special education funding and the monitoring of special education block grants.

#### **Supplemental Payments to High School Districts - Testimony and Conclusion**

In Senate Bill No. 2519, the Legislative Assembly appropriated \$2,225,000 for supplemental payments to high school districts whose taxable valuation per student and whose cost of education per student are both below the statewide average. The payments, however, are effective only through June 30, 1997. Future payments were conditioned upon a review of the provision by an interim committee and a favorable recommendation for continuation.

Districts receiving supplemental payments during the 1995-97 biennium include:

Belfield	\$ 27,111
Beulah	\$ 45,792
Bismarck	\$322,620
Bottineau	\$ 16,321
Center	\$ 6,609
Devils Lake	\$126,582
Dickinson	\$251,629
Edinburg	\$ 3,673
Flasher	\$ 5,419
Grafton	\$ 48,045
Grand Forks	\$190,414
Granville	\$ 33
Hankinson	\$ 4,182
Hazen	\$100,704
Jamestown	\$126,826
Larimore	\$ 2,091
Lisbon	\$ 1,448
Mandan	\$ 92,379
Milnor	\$ 2,011
Minnewaukan	\$ 7,779
Minot	\$147,789

Montefiore	\$ 6,372
Mt. Pleasant	\$ 762
Newport	\$ 49
New Salem	\$ 5,027
Park River	\$ 4,861
Rugby	\$ 269
Sawyer	\$ 1,675
Sheyenne	\$ 3,055
Southern	\$ 1,104
South Heart	\$ 23,079
Stanley	\$ 5,674
Surrey	\$ 21,449
Thompson	\$ 12,212
Underwood	\$ 3,661
United	\$ 5,901
Valley City	\$ 62,868
Velva	\$ 13,180
Wahpeton	\$ 40,628
Washburn	\$ 40,118
West Fargo	\$ 47,450
White Shield	\$ 28,119
Williston	\$362,874

Testimony indicated that the supplemental funding provision was included in the 1995 education funding package so that the effects of the implemented equity provisions would be found more palatable by those districts negatively impacted.

With respect to whether the supplemental payment provision should be maintained, it was suggested that rather than creating a formula and adding a supplemental payment provision because the foundation aid formula is deemed to be inequitable, inadequate, or both, an attempt should be made to arrive at a funding package that is equitable and adequate when standing on its own. The committee discussed whether income should be included as a factor in determining eligibility for supplemental payments. The committee determined that because income taxes are not levied locally, they should not be equalized locally.

The committee considered a bill draft that would have removed the sunset provision on the section of law providing for supplemental payments to certain high school districts. Some committee members were concerned that, at this point, they did not know the specifics of the foundation aid package and that it was therefore premature to assume a supplemental payment provision would be necessary. It was also stated that while districts falling within the parameters of the statutory eligibility criteria clearly needed the additional funding provided by the supplemental payment mechanism, there were also districts falling just outside the eligibility parameters and those districts were in equal need of additional money. Others argued that even if the concept of the supplemental payment is not perfect, it should be considered during the legislative session as a part of the overall funding package.

While the committee, by motion, articulated its support for the concept of supplemental payments and the use of such payments, if necessary, to ensure a greater level of adequacy and equity in

the 1997-99 foundation aid package, the committee makes no recommendation relating to supplemental payments to high school districts.

### Property Tax Relief - Testimony and Conclusion

The school districts of this state receive revenues from two primary sources--the state general fund and local property taxes. Property taxes traditionally have been favored as a significant component of school funding because of the stability of that funding source. Unlike income taxes, energy taxes, or sales taxes, property taxes are not greatly affected by economic fluctuations. The ability to pay property taxes and the reliance of the education sector on property taxes, however, have brought the issue of property tax relief to the forefront.

### Proposal by the Superintendent of Public Instruction

The Superintendent of Public Instruction presented to the committee a proposal that would have placed a two percent tax on North Dakota taxable income, thereby raising \$100 million a year. The local source of the income tax revenue would be identified and \$3 of every \$4 raised by the tax would be returned to the local districts so that property taxes could be lowered and the remaining funds would be left with the state for redistribution through the foundation aid formula. The school district mill levy cap would be reduced from 185 mills to 110 mills in the process. Proponents of this concept indicated it would greatly reduce dependence on local property taxes; it would replace property taxes with equalized dollars; it would allow school districts flexibility to meet their individual needs in that they could still levy up to 110 mills, or if they were unlimited taxing districts, they could levy any amount deemed necessary locally; and it would provide options to the Legislative Assembly in that decisions could be made to provide less property tax relief, but use the income tax assessment for additional education revenues.

The proponents cited these advantages of the proposal:

- Issues regarding the regressivity of a sales tax increase would be avoided.
- Income taxes, unlike sales taxes, can for the most part be attributed to a specific district.
- Cities levying sales taxes would not be as opposed to an income tax hike as they would to a sales tax increase.
- The state is ranked higher nationally with respect to its sales tax rates than its income tax rates.

Approximately 46 percent of all school district revenues come from property taxes and 42 percent of all school district revenues come from state sources. The two percent income tax proposal was advanced as potentially reducing the local share to 26 percent and raising the state share to 62 percent of the cost of education (assuming that \$25 million of new money is included as a result of

the rise in income taxation). Per student payments would be increased to \$2,560.

The committee, however, was concerned that a subsequent reduction in local property taxes would not be applicable to those districts having unlimited taxing authority. The committee also was concerned that there is no guarantee future Legislative Assemblies would be inclined to filter the new dollars generated by the increased income taxes to education funding. It was stated that the end result could in fact be an increase in income taxes with no perceivable long-term reduction in property taxes. Moreover, concern was expressed that if in the future the Legislative Assembly found itself needing to raise revenue for a purpose other than education, it would be unlikely that the electorate would support a further increase in the state's income tax rates.

The committee took no action on the proposal by the Superintendent of Public Instruction.

### **Proposal by the North Dakota Stockmen's Association**

Representatives of the North Dakota Stockmen's Association presented to the committee a proposal that would have increased the personal income tax rate from 14 percent to 22 percent of federal liability and increased the taxes on all corporate income over \$50,000 from 10.5 percent to 15.5 percent, thereby raising approximately \$100 million annually. The proposal included a provision whereby 20 percent of the amount raised would be considered new money for education and 80 percent of the amount raised would be returned in the form of property tax relief. School districts would have their mill levies lowered by the property tax replacement funding and then be allowed to increase their mill levies by only two percent each year.

The committee determined that this proposal would shift the burden of taxation from those who own property to those who are generating income. The committee was concerned about capping school district mill rates and even considered a proposal whereby the cap would be instituted only if the 1997-99 appropriation for foundation aid exceeded the 1995-97 appropriation for the same purpose by \$40 million. The proposal to implement a conditional mill levy cap was not favored because of the theory that \$20 million in new funding during each year of the biennium would alleviate the districts' need to generate more local revenue. However, the committee also found that while the proposal addressed property tax issues related to school districts, nothing in the proposal limited other local taxing entities from raising their levies.

The committee determined that a proposal such as this, if enacted, would provide a readily available avenue for future tax increases for education or other purposes. The committee also determined that the proposal did not require property tax reductions by school districts having unlimited taxing authority.

The second part of the proposal offered by representatives of the North Dakota Stockmen's

Association involved the equalization factor. During the 1995 legislative session, the equalization factor was set at 32 mills for the 1996-97 school year and thereafter would be raised according to a mathematical formula based on the amount of foundation aid actually appropriated. The equalization factor cannot fall below 32 mills nor rise above 25 percent of the state average school district general fund mill levy. The association's proposal reduced the equalization factor to 16 mills and factored in .21 of one percent times the total adjusted gross income of school district residents.

Proponents of the proposal indicated that .21 percent of income approximates 16 mills and, as a result, the proposal substituted an income value for property value. Opponents questioned how income would be identified and how it would be attributed to a particular school district, especially if an individual lives in a bedroom community, and earns income in a neighboring city located in another school district, or if an individual lives in one school district and farms in another school district. Even though income tax forms require identification of a school district, opponents contended penalties for misidentifying or not identifying school districts would have to be considered.

The committee determined that while there were legitimate concerns regarding implementation of the concept, inclusion of income in the financing formula precipitates additional equity discussions that should be shared with all members of the Legislative Assembly.

### **Other Property Tax Relief Measures**

As discussions ensued regarding the merits of the proposals offered by the Superintendent of Public Instruction and by representatives of the North Dakota Stockmen's Association, the committee considered two bill drafts that were variations of the prior proposals and a third bill draft that related to the state average school district general fund mill levy.

The first bill draft would have raised personal and corporate income taxes to provide for a combined annual increase of \$80 million, all of which would be dedicated to property tax relief. The combined biennial tax increase would set personal income tax rates at 20.4 percent of federal liability and corporate rates at 14.5 percent.

Proponents of the bill draft hailed it as being truly neutral in that it did not raise additional taxes for education, but merely shifted the tax burden from the present system favoring property taxes to one placing greater reliance on income taxes. Opponents argued that a mere replacement of tax dollars through a shift in revenue sources does not address the continued need for additional education funding. Opponents also argued that the bill draft contained the same concerns articulated with respect to the proposal by the North Dakota Stockmen's Association. Specifically, the bill draft imposed a cap on school districts that do not have unlimited taxing authority but relied

on the good faith of school districts with unlimited mill levy authority to maintain reduced property tax levels.

The second bill draft would have provided for an increased short-form income tax rate, changed the basis of the tax from tax liability to taxable income for the purpose of raising approximately \$100 million during each year of the biennium, and provided that 80 percent of the amount raised be returned in the form of property tax relief. The bill draft would have used the federal rate tables, as they are adopted by the federal government each year and would have established a rate of 22 percent of whatever the federal rate is for income in that bracket. Although the rates would generate the same revenue, they would look lower because they would apply to taxable income.

Proponents stated that the reference to taxable income would in fact make the tax increase appear more palatable both to North Dakota taxpayers and to citizens in other states seeking to move to the state or invest in the state. Opponents argued that the bill draft might be thought of as being deceptive. Even though the rates look lower, the fact that they are being applied to taxable income rather than being a percentage of federal liability does not change the reality of an income tax increase of \$100 million per year.

The committee considered a bill draft that would have provided that the calculation of the state average school district general fund mill levy could not include school districts having unlimited taxing authority. Proponents testified that the state average school district general fund mill levy is 209.4 mills. If the school districts with unlimited taxing authority are eliminated from the calculation, the state average school district general fund mill levy drops to 170.98. This bill draft would have reduced the equalization factor for school districts and consequently allowed some school districts to obtain increases in state aid.

Opponents suggested that if the top six taxing districts are removed from the calculation, perhaps the six lowest taxing districts should also be removed. That would, however, present a skewed figure in that the top six taxing districts have a huge valuation while the bottom six districts have very little valuation. The committee determined that this bill draft would result in less local effort and consequently amount to a move away from equity.

#### **Committee Recommendations**

The committee recommends Senate Bill No. 2031 to provide that if a school district has contracted for transportation services and then proceeds to provide its own transportation services, the school district may use the higher of its own transportation operating expenditures or the statewide average cost of transportation during the first year for which it seeks transportation reimbursement from the Superintendent of Public Instruction. The committee determined that it was important to statutorily establish a base cost so that districts switching from contracted services to

their own services can obtain reimbursement during the first year in which they provide their own services.

The committee recommends House Bill No. 1050 that reduces the equalization factor to 16 mills and requires that .21 of one percent times the total adjusted gross income of school district residents be factored into the calculation of the equalization factor. The committee determined that while property ownership is not necessarily an accurate measure of wealth, income is an accurate measure.

#### **Miscellaneous Matters - Testimony and Committee Recommendation**

##### **Computer Programming Error**

During the 1993-95 biennium, a computer programming error resulted in a miscalculation in the number of students attending alternative high schools in Bismarck, Devils Lake, Fargo, Grand Forks, Jamestown, and Minot. The error was not discovered until after the close of the 1993-95 biennium. Using current biennial appropriations, adjustments were made to the 1995-97 payments. Because the Superintendent of Public Instruction could not use current appropriations to correct errors applicable to the previous biennium's payments, the question of addressing the loss suffered by these school districts during the 1993-95 biennium came before the committee. The unadjusted amount of the error is \$426,000.

The committee considered a bill draft that used funds remaining in the foundation aid - transportation line item at the end of the 1995-97 biennium to first reimburse the six school districts for the losses they suffered during the 1993-95 biennium. Upon completion of that distribution, the Superintendent of Public Instruction would distribute any remaining funds to all school districts as a separate and contingent per student payment on a weighted basis. Previous appropriations to the Superintendent of Public Instruction for the foundation aid program traditionally included language allowing for the separate and contingent distribution of any funds remaining in the line item at the end of the biennium. The committee was told that such authorizing language was omitted from the 1995 appropriation because if a statute sets forth a specific dollar appropriation, and those dollars are available and distributed, any funds remaining should be returned to the state general fund. The Superintendent of Public Instruction estimated that there will be approximately \$2.5 million in excess funds at the end of the 1995-97 biennium.

While the committee was concerned with how an error of this magnitude could have occurred, the members were in agreement that the six affected school districts should not bear the financial burden of the error and should be reimbursed out of any excess funds remaining in the foundation aid - transportation line item at the end of the biennium. There was not, however, a consensus that the tradition of distributing a separate and contingent per student payment at the end of the

biennium should be maintained, if legislatively authorized payment amounts are met. Doing so was labeled a poor accounting practice, even though it may have become an expectation on the part of school boards when determining district budgets.

The committee determined that the concept of reimbursement for the six school districts having alternative high school students and the concept of maintaining separate and contingent per student payments should be viewed independently and therefore recommends separate bills.

The committee recommends House Bill No. 1051 to use funds from any amount remaining in the foundation aid - transportation line item at the end of the 1995-97 biennium to reimburse the six school districts in Bismarck, Devils Lake, Fargo, Grand Forks, Jamestown, and Minot for the losses they suffered during the 1993-95 biennium as a result of a computer programming error that miscalculated the number of students those districts had in their alternative high schools.

The committee recommends House Bill No. 1052 to authorize the Superintendent of Public Instruction to distribute any funds remaining in the foundation aid - transportation line item at the end of the 1995-97 biennium to all eligible school districts as a separate and contingent weighted per student payment.

## **REVIEW OF THE PERFORMANCE AUDIT OF THE DEPARTMENT OF PUBLIC INSTRUCTION**

### **Background and Testimony**

Section 11 of Senate Bill No. 2013 (1995) directed the State Auditor to conduct a performance audit of the Department of Public Instruction. The audit was presented to the Legislative Audit and Fiscal Review Committee. Because many of the issues addressed in the audit pertained to the administration of education programs and issues within the purview of the interim Education Finance and Education Services committees, the Legislative Audit and Fiscal Review Committee requested the Legislative Council chairman to reassign review of the audit to one of those committees. The Legislative Council chairman directed the interim Education Finance Committee to review the audit and to make appropriate recommendations.

Created in 1889, the office of Superintendent of Public Instruction is charged with enforcing state statutes and federal regulations pertaining to the establishment and maintenance of public schools and related programs. The Superintendent of Public Instruction is responsible for the general supervision of the common and secondary schools of this state.

Within the Department of Public Instruction there are eight separate divisions--the Executive Operations Management Council Division; the Instructional Services Support Division; the Operations and School District Support Services Division; the Adaptive Services Support Division;

the Division of Independent Study; the North Dakota State Library; the Vision Services Division; and the North Dakota School for the Deaf.

The performance audit of the department was designed to:

- Assess the effectiveness and efficiency of the school approval and state accreditation programs by evaluating the accomplishment of legislative intent, evaluating the laws and policies, and by evaluating the programs' resources;
- Determine if department personnel meet the Office of Management and Budget's qualifications;
- Determine if the department is in compliance with the supplanting clause of the federal contract for the safe and drug-free schools program; and
- Determine whether a more efficient monitoring process could be used through development of a consolidated team monitoring process.

### **Audit Recommendations Regarding Approval and Accreditation Programs**

The audit recommended that the Superintendent of Public Instruction take appropriate steps to clarify statutory criteria regarding the approval of schools and to ensure that only schools meeting the statutory criteria are designated as "approved" schools. The Superintendent of Public Instruction should develop a coordinated system for the inspection of schools seeking approval or maintenance of the approval standards, should include a visual inspection of the schools' calendars, and should verify that the schools are meeting all statutory health, safety, and fire requirements.

The audit recommended that the Superintendent of Public Instruction should take appropriate steps to ensure that only those schools meeting all accreditation standards are designated as "accredited" schools. The Superintendent of Public Instruction should combine the elementary and secondary education units; should review accreditation on a two-year cycle rather than annually to ensure that more indepth reviews are conducted; should conduct and document onsite monitoring of schools before determining approval and accreditation status; should review the *Accreditation Standards, Criteria, and Procedures for the Classification of Elementary, Middle Level/Junior High, and Secondary Schools* to ensure it reflects procedures being followed; and should follow a formal procedure for the reduction of state aid to schools that do not meet approval or accreditation standards.

The audit recommended that the Superintendent of Public Instruction review NDCC Title 15, as it relates to elementary and secondary education, to ensure that departmental personnel are appropriately implementing or enforcing the statutory provisions, and to seek the amendment or repeal of those sections no longer necessary or appropriate. The audit found that the



Superintendent of Public Instruction has exceptional controls to determine compliance with teacher qualification standards, but has implemented only limited reviews of curriculum requirements, kindergarten plans, and compliance with health, fire, and safety requirements.

#### **Audit Recommendations Regarding Personnel Issues**

The audit cited several employees of the Superintendent of Public Instruction who do not meet the Office of Management and Budget's qualifications for the positions they hold. The audit recommended that the Superintendent of Public Instruction reclassify, promote, transfer, and hire individuals for positions only if those individuals meet the minimum qualifications established by the Office of Management and Budget and that the Superintendent of Public Instruction review current personnel to ensure that all are in compliance with the statutory and administrative requirements.

#### **Audit Recommendations Regarding the Safe and Drug-Free Schools Program**

The audit found that the department is not in violation of the supplanting clause contained in the grant agreement for the safe and drug-free schools program. The department was found, however, to be in violation of certain state laws as they relate to the procurement and awarding of funds for the chemical abuse and prevention program. The audit recommended that the Superintendent of Public Instruction make an effort to identify additional sources of funding and to secure funding through the appropriation process so that the chemical abuse and prevention program can be administered in accordance with the requirements of NDCC Chapter 15-21.1. If funding cannot be obtained, the Superintendent of Public Instruction should take appropriate steps to amend or repeal the chapter.

#### **Audit Recommendations Regarding the Combined Monitoring Functions**

The audit found that the Superintendent of Public Instruction is responsible for administering 12 programs that require monitoring at the elementary, middle, and high school levels to ensure compliance with federal laws and regulations and to evaluate the effectiveness of the programs. Local administrators questioned the need for so many different individuals from the department coming to their schools at different times. They complained about the interruptions this has caused in their schools. The audit recommended that the Superintendent of Public Instruction conduct a comprehensive review of the safe and drug-free schools program, Title I programs relating to the operation of basic programs by local education agencies, Title II programs relating to professional development, Title VI programs relating to innovative education strategies, migrant education, the education of the homeless, and Goals 2000 to determine how the

monitoring functions could be consolidated to provide more efficient and effective services. This should include the development of a master matrix of all entities administering the different programs, the development and implementation of a plan for coordinating efforts as appropriate, the determination of specific expertise needed to monitor and evaluate the different programs, and the development of a cross-training program so that individuals can conduct multiple monitoring functions.

#### **Committee Considerations**

The committee was particularly concerned that one of the statutory criteria for the approval of schools--fire safety--was not well-defined. The North Dakota Century Code makes no specific provision for the timely inspection of schools, the correction of noted defects, and the criteria to be employed in determining when a school should be deemed unsafe and subsequently closed. The issue of school fire inspections and school safety was addressed by the 1993-94 interim Education Finance Committee, which recommended House Bill No. 1038. However, the bill encountered difficulty when concerns were raised about revenue sources to assist with potentially costly repairs and when concerns were raised about state versus local responsibility in ensuring a safe environment for North Dakota schoolchildren. The bill failed to pass.

The committee considered a bill draft that required the State Fire Marshal to inspect each public and private elementary and secondary school in the state at least once every three years. An inspection report is to be prepared and deficiencies are to be categorized. With respect to correction schedules, the bill draft provided that if a deficiency is related to a school's design, it is to be remedied when any construction, repair, improvement, renovation, or modernization is undertaken. If the deficiency is related to fire safety, the building principal is to remedy the deficiency within a time period acceptable to the State Fire Marshal or to submit a plan of correction to the State Fire Marshal. If the deficiency is an imminent fire hazard, the State Fire Marshal may require that the principal take immediate remedial action or may recommend to the Superintendent of Public Instruction that some or all of the school be closed until the hazard is eliminated. If a school is closed under these circumstances, the bill draft directed the Superintendent of Public Instruction to work with the school's authorities to make arrangements for the interim education of all affected students.

Unlike House Bill No. 1038 (1995), this bill draft contained no provision for the withholding of financial aid or the imposition of any financial penalty. The committee determined that a financially strapped school district will be in no better position to make needed repairs or corrections if additional funds are withheld.

Proponents of the bill draft indicated that it focused on education--on ensuring that people

understand why certain conditions create serious fire hazards and it relied on reasonableness to correct noted deficiencies. The committee determined that many fire safety issues can be addressed through alternative means. Sometimes, rather than remodeling an entire wing of a school building, installation of early warning systems such as smoke detectors or the installation of a sprinkling system can serve as adequate and cost-effective options.

The committee also was concerned that issues regarding the approval and accreditation of schools were indicative of a larger, more pressing need to review all the provisions of Title 15 that relate to elementary and secondary education. The committee determined that the irrelevant, duplicative, inconsistent, illogically arranged, and unclear sections in the title needed to be examined and addressed. Because of the scope of such a project, the time factor, and the need for legal and educational expertise, the committee determined that the most desirable approach would be to ask that an interim legislative committee be directed to undertake the task.

### **Recommendations**

The committee recommends Senate Bill No. 2032 to require the State Fire Marshal to inspect each public and private elementary and secondary school in the state at least once every three years, to prepare an inspection report, to categorize deficiencies, and to work with school staff to appropriately correct noted deficiencies. The committee determined that through education, reasonableness, and cooperation among state and local fire and school officials, all North Dakota schoolchildren can be assured of a safe educational environment.

The committee recommends Senate Concurrent Resolution No. 4002 to direct the Legislative Council to study those provisions of NDCC Title 15 which relate to elementary and secondary education and to subsequently recommend changes to those portions of the title found to be irrelevant, duplicative, inconsistent, illogically arranged, or unclear in their intent and direction.

# #3336

## **HCR 4006 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network**

The debate over using property taxes for education is at least a 40 year old debate, if not longer.

Back in the 1980's, Democratic Party members argued that the phrase "shall provide for" clause in Section 1 of Article VIII of the state constitution meant the state should pay for K-12 education – possible all of it.

At the same time, Republicans argued that "shall provide for" meant that the state will let local school boards levy taxes to raise funds for education.

I encourage legislators to seek out this particular study – I have included it in my testimony documents, as it is a fascinating guide to why property taxes have gone up so much since the late 90's – it was no accident.

Key Points from 1997 Study (Highlighted Sections are interesting):

During the 1993-94 interim, the Legislative Council's Taxation Committee contracted with a consultant for preparation of a study of tax burden comparisons within the state and with neighboring states during the period from 1960 to 1992. The study converted tax collections to "real" dollars for comparison. Comparison of tax trends over time can be misleading unless adjustments for inflation are made. For example, a \$300 tax per capita in 1960 would have reduced a person's disposable income more than a \$1,400 tax per capita did in 1992. All tax collections reported in nominal dollars were converted into real 1994 dollars using the consumer price index. Updating the statistics in the study would require analysis by the consultants who prepared the 1994 study because figures were converted to 1994 dollars by the consultants.

In 1960 local tax collections accounted for 55 percent of all state and local taxes in North Dakota, but in 1992 state taxes accounted for 66 percent of all state and local taxes in North Dakota. During the period from 1960 to 1984, the local share of the overall tax burden decreased steadily. The state and local tax burdens were about equal in 1970. By 1984 the state share of tax collections was at 73 percent, a maximum for the period from 1960 through 1992. Since 1984 the trend has reversed and the local portion of tax collections is increasing.

The relative share of collections among tax types also shifted over the period from 1960 to 1992. The most notable change is that the proportion of property taxes in total tax collections fell during the years 1960 through 1984. The steepest decline in property tax collections occurred after 1969 when personal property was exempted and eliminated from the local property tax base. Increases in the sales tax rate and a business privilege tax were used to offset the loss of tax revenue resulting from exemption of personal property. Energy tax collections had a sharp peak in 1982 due to high energy prices. The loss in energy tax revenues after 1982 was replaced by increasing sales tax and individual income tax revenues. Local sales taxes became a factor in the overall tax structure during the 1980s. In 1992 state sales and use taxes accounted for about 37 percent of all state and local tax collections in North Dakota and property taxes accounted for approximately 34 percent.

State shares of all state and local taxes for the study states range from 56 percent in South Dakota to 68 percent in Minnesota. North Dakota, with 66 percent of state and local tax revenues collected at the state level, is slightly above the six-state average of 63 percent.

Differences in tax balance were identified among the six study states. North Dakota and South Dakota rely most heavily of these states on sales tax revenues, and South Dakota also has relatively heavy reliance on property taxes. Minnesota relies approximately even on sales and income taxes. Montana relies most heavily on income taxes, and Wyoming and Nebraska rely on property taxes more than the other states in the region.

In North Dakota the share of the overall property tax burden on different classes of property has changed over the past three decades. Shares of the total property tax burden for agricultural and centrally assessed property have remained steady or declined slightly, while

shares for residential and commercial properties have increased. In 1960 residential and commercial property represented 10 percent and 11 percent, respectively, of all taxable value in the state. By 1992 their shares of statewide taxable value had increased to 28 percent and 20 percent, respectively.

Comparisons were made of county, township, school district, and city property tax revenues. Taxes levied by school districts increased 37 percent between 1960 and 1969, but by 1981 school tax levies fell 39 percent from the 1969 level and were approximately the same in real dollars as they had been in 1960. Township taxes declined by 60 percent between 1960 and 1991. County and city levies increased by 16 percent and 14 percent, respectively. Special assessments levied by local governments have become an increasingly important part of local government revenues, rising to about \$50 million per year.

North Dakota has relied heavily on stable tax sources such as sales and property taxes. This policy maintains tax collections in times of a stable or declining economy but does not capture benefits of a growing economy as would occur with heavier reliance on an income tax, which grows with the economy. For a time, North Dakota placed a heavy reliance on energy taxes, which are subject to the state of the world economy and the vagaries of the international oil market. This reliance diminished the degree of reliability of the tax system to generate a reliable flow of revenue.

The study pointed out that the effect of state and local taxes on federal income tax liability affects the total impact of taxes on taxpayers. For example, a Minnesota taxpayer would pay less in federal income taxes than a North Dakota taxpayer with the same income and deductions, credits, and exemptions and equal property valuation. This is because a greater share of Minnesota's state and local tax burden consists of property taxes and income taxes, which are deductible for federal income tax purposes. In Minnesota a taxpayer is able to deduct approximately 68 percent of state and local taxes while a North Dakota taxpayer is able to deduct only 46 percent. Reliance on taxes that are deductible for federal income tax purposes allows a taxpayer to "export" a part of his state and local tax burden to other federal taxpayers through federal income tax deductions.

The study points out that taxes as a percentage of personal income do not differ substantially among the six study states, especially when factors such as federal tax liability and energy tax shifting are considered. The difference among the tax systems is mainly in the perception of the burden, based on the type of tax. For example, income taxes are highly visible and most taxpayers realize exactly how much they pay in income taxes each year. Sales taxes may be perceived as less onerous, because few taxpayers know precisely how much sales taxes they pay each year and the taxes are collected from taxpayers in relatively small increments. Even less visible to taxpayers are energy, commercial property, and corporate income taxes, which may be part of the prices of products or passed on to shareholders.

Total state and local tax collections in North Dakota rose from about \$1,100 per capita in 1960 to about \$1,800 per capita in 1992. The 1992 per capita tax burden in North Dakota is approximately four percent lower than the national average. Comparison of North Dakota with neighboring states shows that North Dakota falls in the middle of the range of tax per capita. Minnesota, Wyoming, and Nebraska collect more state and local taxes per capita while Montana and South Dakota collect less. On a regional basis, current state and local tax collections as a percentage of personal income ranged from eight percent in South Dakota to 13 percent in Wyoming. As a percentage of personal income, North Dakota state and local taxes fell from 11.7 percent in 1960 to 11.2 percent in 1991. The only other state in the study that had a similar reduction of taxes as a percentage of personal income during the study period was South Dakota.

The study concluded that North Dakota relies on sales taxes more than the other states considered in the study except South Dakota. North Dakota's sales and use taxes paid by a typical family of four are the highest of any state in the study. However, local sales taxes were not included in these computations and many South Dakota cities impose a two percent local sales tax.

The study concluded that North Dakota's reliance on property tax is the lowest of the six states in the study, even though North Dakota has shown a recent increased reliance on property tax revenues. Some of the burden of North Dakota property taxes has shifted from agricultural and centrally assessed property to residential and commercial property. Notwithstanding the study conclusion, the committee received testimony indicating that recent increased reliance on property tax revenues has been too extensive. Whether this is a result of what was described to the committee as "taxation by referral" is debatable, but several groups and individuals suggested that tax policy should reverse the trend to increased reliance on property tax revenues.

The study concluded that assessment of the size of the tax bite, its burden on taxpayers, and its adherence to principles of public finance depend in large part on perspective. North Dakota's tax burden has shifted from local to state sources while increasing in real terms and, at the same time, decreasing relative to income. Personal income has grown faster than the cost of government in North Dakota, causing taxes as a percentage of personal income to decline. Compared to neighboring states, North Dakota's tax structure is about average in the amount collected and distribution of the tax burden.

Copies of the 1994 study have been distributed to committee members. Attached as Appendix "B" are copies of several pages from the State Tax Department publication *State and Local Taxes in North Dakota, An Overview and Comparative Guide*, published in April 1996, to illustrate more recent comparisons and trends. The Tax Department will be updating this information during the interim and will share information with the committee as requested.



# 2021 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SCR 4006  
1/27/2021

A concurrent resolution to prohibit the unconstitutional use of property taxes to fund North Dakota's legal obligations.

**Chair Bell** calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [11:00]

### Discussion Topics:

- Property tax constitutionality
- Availability of unallocated funding sources

**Senator Kannianen [11:00]** provides oral information on the constitutionality of property taxes.

**Senator Patten** moves DO NOT PASS  
**Senator Meyer** second

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passed 7-0-0

**Senator Kannianen** carries

**Chair Bell** adjourns the meeting. [11:07]

*Joel Crane, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SCR 4006: Finance and Taxation Committee (Sen. Bell, Chairman) recommends DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4006 was placed on the Eleventh order on the calendar.