

State of North Dakota
Office of State Tax Commissioner

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COMMISSIONER
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Testimony by Byron L. Dorgan, Tax Commissioner, State of North Dakota

Presented to - U. S. Senate Subcommittee on Intergovernmental Relations on Senate Bill 1255

Mr. Chairman & Members of the Committee:

My name is Byron L. Dorgan and I am Tax Commissioner for the State of North Dakota, a position I have held for nearly 4½ years. Because North Dakota is one of the few states in which the position of Tax Commissioner is an elective position, I, perhaps more than some other tax administrators, have made it my business to be aware of the concerns and frustrations of the taxpayers and to try and do something about them. As a man in political life and as a former instructor in economics, I have been constantly speaking out for basic reforms in our tax structure with special emphasis on real property tax reform.

As State Tax Commissioner, one of my duties is to exercise general supervision over the assessment practices in the State of North Dakota. North Dakota, a state with a population of 620,000 has nearly 1,800 property tax assessors. Of those 1,800 assessors, I would estimate that no more than 75 would pass a minimum qualification test for the position of property tax assessor if such an examination were mandatory. Despite this knowledge, and despite the fact that the property tax is the single largest tax in North Dakota, the North Dakota Legislature has consistently failed to enact legislation that would establish minimum qualifications for assessing personnel. The fragmentation of authority and the decentralization of the assessment structure spells disaster for those who are concerned about establishing good, professional assessment practices in our states.

I believe people can and should expect their government to be run in a businesslike manner and yet property tax administration in North Dakota and many other states would, by comparison, make the U. S. Postal System a model of business efficiency. We are, in many instances, using 18th Century management practices to assess a property tax that has grown to 21st Century proportions.

Many local governments insist on clinging to an assessment function they can no longer afford to perform well and state legislatures in many cases steadfastly refuse to enact the sweeping law changes necessary to make the property tax a professionally administered tax. Indeed, there is plenty of blame to go around. The track record of state taxing authorities (including myself) is not much better than that of a housekeeper in a dwelling that needs remodeling.

Published sales ratio studies, minimum qualifications for assessors, full disclosure of estimated market value to taxpayers, and adequate training programs for assessing personnel are but a few of the areas in which state and local governments are falling sadly short of the needed initiative to clean up the property tax mess.

A British economist named Adam Smith said 200 years ago that *"there are only two things wrong with property tax: (1) It is indefensible in theory and (2) it is unworkable in practice."* I believe Adam Smith overstated his case, but his second premise has proven to be partly true only because of the lack of resolve of public officials to do something about it. I believe that the property tax is a legitimate part of a governmental revenue system that utilizes income, consumption, and wealth as a basis for distributing its tax burden. Frankly, I believe that many public officials have treated property tax as the ugly sister of the tax family and have used the recent state Supreme Court decisions as an excuse to run away from the challenge of making a respectable lady out of the property tax.

It does not seem reasonable that we should totally abandon the property tax. If it is proper to tax what people earn and what people spend, then it seems equally proper to tax what people own. To leave untaxed the wealth of real property that people have accumulated would have a serious economic affect upon the free movement of real estate in the market.

One of the criteria of a *"good"* tax is its' relationship to benefits received. While it is equally true that all services relate to people, many of the services provided for by taxes, benefit people through the real property that they own. For example, a capital improvement such as a new school building in the neighborhood, a hard surfaced road by a farm, these make the real estate more valuable and hence are a proper charge against the property.

Property tax is here to stay and indeed it should be here to stay. I believe Senate Bill 1255 is responsible approach toward solving some of the administrative problems in the property tax area.

I would like to address comments to two areas of Senate Bill 1255 and relate them to experience in North Dakota. First, Senate Bill 1255 in Title IV fosters a *"right to know"* concept. That is, citizens should be able to readily determine the estimated market value of their property as established by an assessor and relate that to assessments on surrounding property to determine whether they have been treated fairly. Nearly a year ago I was petitioned by a group of taxpayers to conduct an investigation in the assessment of farmland in Richland County, North Dakota. I assigned an investigative team from our Property Tax Division to review the assessments. We found that if you owned a quarter of farmland in Richland County, the same quality of land could have had 21 different pricing schedules attached to it and the price could have varied as much as 100%, depending on where it was located in that county. Needless to say, I ordered a supervised reappraisal of all of the farmland in Richland County. This is the first time in the history of the state that this has been done. If the *"right to know"* philosophy had prevailed in North Dakota assessment practices, it wouldn't have been necessary for the State Tax Commissioner to point out and document property tax inequities in Richland County. Citizens would have been able to compare their assessments to assessments on adjacent property without making a trip to the county courthouse and trying to interpret fractional assessments. They

would have determined for themselves that those inequities existed. At that point they could have sought relief from their levels of local government through their Board of Equalization or through an application for abatement of property taxes.

Assuming the states would adopt the reforms contemplated in Title IV of this bill, Richland County taxpayers and others like them will have two distinct advantages in the future. First, they will know the market value estimate placed on their property by the assessor and they will be able to readily compare it to other properties in the county. Second, the appeal procedure will be revised in order that the taxpayer will be sure of a fair, impartial hearing on his property tax assessment. In many jurisdictions a taxpayer who feels he is overassessed must appeal to the local governing board for relief. This is the same governing board that has hired the assessor and will very likely support the assessor's estimate of market value. An analogy is the dilemma of a man who gets a speeding ticket and who shows up in court only to find that the presiding judge is the patrolman who issued him the ticket. Thus, an adequate system of disseminating information to taxpayers and an improved system of appealing an unfair tax bill are two results that I think this legislation will encourage.

The second area that I would like to make comment on is Title III in Senate Bill 1255 which provides relief to property owners whose property tax bill represents an overburdening amount of their gross income. In North Dakota we have a law that allows limited property tax relief for low income senior citizens. Our law is not inclusive enough, but it is a start. Our state is one that is losing population and while many of our young people are moving out-of-state, older North Dakotans who have worked and lived in North Dakota all of their lives are spending their retirement years there. As our citizens reach retirement age, their income decreases and their property taxes continue to increase.

After these citizens have contributed through the income tax, sales tax and property tax all of their lives, they are finding that the home they struggled to pay for is being assessed a property tax that eats away 10, 20 and even 30% of their total income. The increasing property tax coupled with our current inflationary spiral is strangling the economic lives of many of our senior citizens.

Recently I received a letter from a lady in Flasher, North Dakota. She and her husband had managed over a 25 year period to completely pay for a home that she is very proud of. She is now 75 years old and her husband passed away four years ago. Her total gross income is \$119 a month from all sources. She has not been able to pay the past two year's property tax bill and she cannot pay this year's property tax bill. This lady doesn't enjoy some of the government services that they do in other parts of the country. There is no dial-a-cab in Flasher. They don't even have meals on wheels, and even though North Dakota is full of inter-continental ballistic missiles we don't have adequate bus and train service to provide transportation to the senior citizen who so desperately needs it.

I'm sure there are millions of senior citizens and low income citizens in this country in the same predicament as the lady from Flasher. Many of them will go without adequate clothing, without adequate heat in their homes and without adequate food and nourishment in order to pay their property tax bill and hang onto their most cherished possession, their home. We can and should do more for these people.

The problem isn't limited to just senior citizens, it also affects the small farmers who have a bad crop year, a Mom and Pop business that suffers a disastrous financial year, the low income residential home owner. Many of them need a pressure relief valve to prevent property taxes from spelling their personal economic disaster.

The legislation you have introduced, Mr. Chairman, will, I believe, entice state governments to adopt meaningful programs of property tax relief for those citizens who so desperately need it. The ability to pay theory is and always will be a sound economic theory for tax purposes. As a rule I think property ownership does relate to ability to pay, but there are many exceptions to that. I believe this bill with the property tax relief feature provides the pressure relief valve that is necessary to prevent our property tax system from blowing up in our face in the coming years.

Senate Bill 1255 is a very measured response to an old plaguing problem. I have always been prepared to resist federal intervention in the property tax area. However, after studying your proposal I find that the type of limited federal help that this bill proposes represents the only meaningful way of encouraging local government to solve a problem that everyone has hoped would go away but won't.

In conclusion let me say that it is unfair if my remarks or those of other witnesses would paint with a black brush all of the efforts of property tax assessors in this country. In North Dakota, and I am sure in other parts of the country, we have some outstanding property tax administrators who I am very proud of. Also, it would be unfair to suggest that the failure of state legislatures to act is the sole cause of our property tax problems. The North Dakota legislature has enacted a law improving our appeal procedures and has just recently enacted a law requiring full disclosure of estimated market value on the property tax statement. So progress is being made, but it is not nearly rapid enough to attack those problems which are festering a tax revolt in this country.

Your legislation is substantial and will allow meaningful relief in our property tax system in the years to come. I will encourage North Dakota's Congressional delegation to support Senate Bill 1255. Senator Young, Senator Burdick and Congressman Andrews are interested, as I am, in an improved property tax system that responds to the needs and concerns of the people we serve.

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