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ROLL NUMBER
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DESCRIPTION

1303

2007 HOUSE FINANCE AND TAXATION

HB 1303

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 A

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1193

Committee Clerk Signature

*Micki Schmidt*

### Minutes:

Chairman Belter opened the hearing on HB 1303 and asked for testimony in support.

**Rep. Gil Herbel:** HB 1303 is a fairness issue. What it will do is require the assessors to take into consideration the usage of the land not just soil types and productivity. I think this is extremely important because in essence of the way the system is set up now, it would require you to change the way in which you are doing your farming if it is based on soil types. The valuations, they're really on land that have modifiers but one of the modifiers not be considered is the use of the land. The soil types of productivity can have a pasture land over here, a highway running across through it; over here you have cultivated land. The highway itself really doesn't change the soil types from one to the other, so consequently the pasture which has the same soil types as the cultivated land is being valued the same as the cultivated land. But at the same time on the other side of the road, that land is cash renting at probably \$35.00 an acre. On the other side of the road that land is probably being rented at \$10.00 and acre which is the going price for pastures. But yet they are both being taxed the same way presently. So I think this is a fairness issue. The usage should be a factor in determining how much that tax valuation should be. When the soil types went into effect, my taxes nearly doubled on my

ranch, southwest of Bismarck. I am presently paying based on the cash rent of \$10.00 an acre; I'm paying 30% of my income for property tax. I think this is an enormous inequity.

**Sen. Aaron Krauter:** Classifications of Ag land based upon soil types and the values of them, they can range from very low to very high in value. In reality, when county puts the soil classification, it puts some of that land that have very high classifications of soil from productivity and puts them in that high tax assessment, in the real world that ground is full of rocks, the inclines are like the Capitol Building, there's no way you could make it produce at the level of the productivity that it is out there. So the real world is it can't create that type of revenue based upon that taxable structure. When we look at it and try to work with the County to put some modifiers in there, it came upon them to tax the Counties just said no we're going to stick with the plan the way it is, based upon the soil types and we're going to try to work through it. That's when we saw an amount of individuals that owned land out there that are in a non-tillable environments that saw these huge increases in property taxes.

**Wade Moser, ND Stockman's Association:** We're here in support of the Bill. We believe in the productivity formula and we think it's workable. We do see across the table however a lot of inconsistencies for some counties that are using strictly the soils and some are using the status of the property that is setting there, they're base price, their base taxes. When soils came along, I think it's a fine opportunity to fine tune within those uses and within those classes. The better soils in pasture land are taxed at a higher level then poorer soils, same as the croplands. We think that the soils are a very valuable tool that just needs to be used in a modified way. The use needs to be taken into account. Since the basic productivity formula is based on productivity, you can see there's a wide variation. Keep in mind that this isn't unique. The State Land Dept. that sets the base minimum rates for all the State school land out there that's leased uses the soil types to determine their base rate. Those with higher, you can have

a section and they'll take each quarter separately and take the soils and set the base rate based on those. However, they do not change the classification of it and have a higher rate because the section next to it might be all farm land. So this is not unusual. Also keep in mind that in some cases you are restricted based on swamp buster or sod buster from even breaking it up if you wanted to. Any government programs that might come along that you may need to survive on your operations, so just because someone wants to value it as farmland, you may not have that opportunity to change the use and the status even if you wanted to.

**Keith Payne, Rancher in Grant County: (See attachment #1)** testified in support.

**Arthur Ten Broek, from south of Raleigh in Grant County:** testified in support. I have some maps and pictures of soil tests to show you why I feel that the soil tests really don't work. They changed it from 30% to 52% farmland and you couldn't farm that if you wanted to.

**Representative Headland:** On this map where there are some lines drawn out, I am assuming that this is determined to be productive property?

**Arthur Ten Broek:** This is a section of where I live and there's a little bit of farm land there.

**Representative Headland:** So this is not grassland today?

**Arthur Ten Broek:** This is hay land, but this is all pasture land.

**Representative Headland:** You're ability to farm this because it's small acreages?

**Arthur Ten Broek:** No, what I'm trying to show is the pasture land here; you can't tell that it is until you look at this. (Showed his pictures and explained them, didn't leave any of them.) The taxes on my pasture land have almost double. My land went up \$1600 in Grant County.

**Representative Headland:** So what you're saying is that they've changed the way they tax on the pasture portion.

**Arthur Ten Broek:** Yes, there is a hill that's 30-40 feet high and it's not level, you couldn't farm it if you wanted to.

**Jamie Haag, from south of Carson:** testified in support. In 2004, our taxes went up 20% across the board on 14,000 acres. And strictly due to grassland or pasture lands where they took out the use of the land and put in the classifications of the soil. The modifiers that were put in presently aren't working and if we go back to the classification of how the land is, we feel that would justify it better. We farm 4,000 acres of land and our cropland taxes went down but we would rather have the taxes on our cropland stay higher because there's more revenue to be made on that land than on our pasture land.

**Rod Backman, from central Burleigh County:** testified in support. My lowest valued corner which is pasture land has the highest tax on it. It's never been cultivated and can't be because of the rocks and hills. But because of the soil type, it has the highest tax. I don't think its fair the way it's structured right now.

**Sandy Clark, ND Farm Bureau: (See attachment #2)** testified in support if there is an amendment. This particular Bill does not have any impact on the productivity formula itself. What the productivity formula does is equalize property across the State. Then when you get into a particular County, then soil type and soil classification is used to equalize agricultural property across the County. So the issue is that the productivity formula is not in question here today.

**Representative Froseth:** I think your suggestion might water down the point and discretion of whoever makes the assessment. Would you object if it was actual land use of the property must be considered, instead of maybe considered?

**Sandy Clark:** There may be some cases where somebody who has some pasture land and runs a hobby farm, and they put the pasture right up to next to the place that says there's no high end pasture land or high end cropland, but they've chosen to put it in pasture for that

purpose. You might also have some cases where you have some outside investors that have purchased CRP or land and it's not marginal land and they put it into CRP.

**Representative Froelich:** I'm not sure I agree with your amendment, but, to consider the shall the may or the must. In your amendment it says maybe considered. Shouldn't it say shall be considered in conjunction?

**Sandy Clark:** We've submitted for your consideration the word "may" and if they want to change it to shall, it's not our choice.

**Casey Wells, Farmer/Rancher from Grant County:** When the new soil types came out, we were assured that there would be modifiers to take place and take care of the rocks, steep creeks. They were supposed to take care of everything that was out there, but it didn't. There are about 14 modifiers out there. Each person in each corner of the land has got a different scenario to it with these modifiers. Is farmer A getting the same modifier as farmer B? In Grant County we have a problem with slopes. We have three rivers crossing us and there's a high plateau dividing the land and you have a boundary line there and we were assured that the modifiers would take care of it and that has led to a nightmare.

**Kurt Hepper, from southern Grant County:** testified in support. I have a lot of pasture land and with this new taxation my taxes bumped up 27%. I'm being taxed too high. A lot of my property is now being used as a pasture but is being taxed as farmland. I'm in support of this Bill because we as farmers and ranchers know the best use for the land. We use our land in a very economic sense. If there's flat farmland, yes we'll farm it or we'll rent it out to someone who wants to farm it. If we have plateaus in some cases that are impossible to get to them because of the steep slopes around them and on top of these plateaus have up to 100 acres in cases and it's impossible to get farm machinery up there. As far as the "may" or "must" in that sentence, I think it "must" be considered.

**Chairman Belter:** Is there any testimony in opposition to HB 1303?

**David Munsch, from Morton County:** testimony in neutral. I wanted to point out that the soil type was passed in 1983. I think a lot of these problems could be solved by taking a satellite picture of the land and look at it and then question the landowner. Morton County made the ASCS office maps privileged information, so we can't use them. It's been a quarter of a century since the Bill was passed and we're still fooling around trying to decide what cropland is and what isn't.

**Gary Empter, Director of Tax Equalization from Mercer County:** testified in opposition. We've been using this soil survey since 1980. The first three years were very similar to what I hear today. We've worked it out. You can have as many modifiers as you possibly want...the more you have, the worse it going to get. When the soil survey was originally initiated, I don't think management was supposed to be brought into the factor. If you're going to bring it into the factor now, you're going to have to start looking at commercial property also. Maybe that individual isn't using that commercial property to its potential, or is using it way below or way high. As I see it, soil assessment is the most equitable way of taking a look at the soil for tax purposes. One problem I see with the Bill is what's going to happen if those individuals don't come into the county to tell them how they've changed the use of this property. The ones who are cropping now, they will see more increases in their taxes because there's going to be a shift from those crop acres that are going to be converted to grazing acres, and someone's got to pick up the difference and it will go to those people that are farming cropland. If not soil type, will it go back to market value which will be a lot higher? There are not very many different methods out there that we can use to value Ag. land. Right now it appears to be a one county problem.

**Representative Froelich:** You've got 20 to 50 acres of class 1 soil, good farmland. To get access to it, you're not going to get to it with machinery. It's not feasible. Yes it may be #1 cropland, but it's not going to produce 150 bushel or corn on it. How are you going to adjust that?

**Gary Empter:** We have the same thing. We don't have any class 1 soil but we have class 2 soil. We would adjust it either to the highest grazing land or something less than that.

**Representative Froelich:** Not all counties are following your procedures!! Grant County doesn't follow that. There are counties that still to this day do not use soil classification, correct? It is inaccurate to say that we are all uniform across the state.

**Gary Empter:** Yes.

**Chairman Belter:** Is there any neutral testimony?

**Sara Hewson, Property Tax Specialist for the State Tax Commissioner:** testified in neutral. We conducted a survey two years ago when similar language was presented. We were trying to find out what counties are using to value of Ag. land. We found out the 23 counties are using the detailed soil survey of evaluation. There are 12 that use the general soil survey which classifies several different soil types into a class and applies the value to that class. There are 8 who have planned to implement the detailed soil survey method by the year 2008. There are 10 counties that have no plans, 2 of them did not even respond to our survey. With change in this language that this Bill is asking for, there would be 35 counties that will have to start over. It's going to be costly for them and would take about 2-3 years to implement their language.

**Representative Froelich:** If these other counties are putting modifiers in, it isn't going to change it because they are already in place. The modifiers are not doing a lot.

**Sara Hewson:** We're trying to value property on an unbiased plane. We have one county who's using their value on their land, they had cropland and they just quite farming. They

decided that that land should be reclassified as noncropland and the value is \$35 dollars an acre. This is the confusion in the language.

**Chairman Belter:** Is there any other testimony? Hearing none, we will close the hearing on HB 1303.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 B

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1229

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1303.

**Representative Froelich:** We've seen part of this last time. I see down the road we're going to have some more problems with this the way it's set up.

**Chairman Belter:** My concern is that in my own case, I have a problem with Richland County on some land similar. It's wet land and its good land classification so it get's taxed heavy. I don't think the system is necessarily broke. I think this Bill needs some amendments. We could create a whole lot more problems by passing like it is.

**Representative Vig:** Most of this is all Grant County but on line 16; the property, with more and more people buying land for hunting, would this pertain to that as well?

**Chairman Belter:** Yes.

**Representative Froseth:** Sandy Clark's testimony from the Farm Bureau possibly would work if you replace that one paragraph that says, "actual land use of the property may be considered in conjunction." And if you change that, "must be considered" they would have to consider it but they wouldn't necessarily have to use that. That would give them some leave way, I don't know if that's the right way to go either, but...

**Chairman Belter:** Ok, committee, we'll close the hearing on HB 1303.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 C

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1595

Committee Clerk Signature

*Mickie Schmielt*

### Minutes:

Chairman Belter opened the hearing on HB 1303. This is Rep. Herbal's Bill.

**Representative Headland:** In the testimony Farm Bureau offered a possible amendment. I talked with Rep. Herbal and he would be acceptive to that amendment. The amendment would say that actual land use of the property shall be considered in conjunction with the soil type.

**Chairman Belter:** Where would you put that in?

**Representative Headland:** Right after the prevailed

**Chairman Belter:** On what line?

**Representative Headland:** The word prevail would have to come out. I thought if possible we could run this amendment, I know Legislative Council is extremely busy.

**Chairman Belter:** You wouldn't want to pull prevail out, would you?

**Representative Headland:** In talking with Rep. Herbal and the Farm Bureau, they've agreed to accept shall.

**Representative Weiler:** I believe the reason for that is because it's fowled up with be considered. All they're saying is they have to consider it, in reality, do they have to do anything with it? No.

**Chairman Belter:** On line 16, you'd leave everything the same except after property, you would insert shall.

**Representative Headland:** After looking at this, I think I need to get it to Legislative Counsel

**Chairman Belter:** OK, we'll close the hearing on HB 1303.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 D

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1597

Committee Clerk Signature

*Michael Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1303 and asked Rep. Headland to explain the amendments he brought forth.

**Representative Headland:** On line 16, after property overstrike "prevails" "over" (over is on the beginning of line 17) and replace it with "shall be considered along with."

**Representative Grande:** Will that just say that counties you must rely on your modifiers?

**Chairman Belter:** I would interpret it to mean shall use common sense.

**Representative Headland:** I would move this amendment.

**Representative Froseth:** Rather than along with the wording in here it says in conjunction with. Instead of using the word "along" use conjunction.

**Chairman Belter:** Let's have some discussion on whether we want to use "in conjunction with" or "along."

**Representative Owens:** why don't we take "prevail?"

**Chairman Belter:** I'm open for a motion for the amendment.

**Representative Weiler:** I'll move the amendments.

**Representative Headland:** Second it.

**Chairman Belter:** Any discussion? All those in favor of the proposed amendment signify by saying aye. The motion carries. What are your wishes?

**Representative Headland:** I move a Do Pass as Amended.

**Representative Weiler:** Second it.

**Chairman Belter:** Is there any discussion?

**Representative Wrangham:** This has always been a complicated issue and I think this may create more problems than we're solving, but on the other hand I think it's a discussion that needs to take place with all sides showing up, so I will support the Do Pass.

**Representative Froseth:** I think with the amendment it gives the landowner another method if he wanted to protest the assessment to prove his case.

**Chairman Belter:** Any other discussion? Will the clerk read the roll; 10-y, 3-n, 1-absent; Rep.

Schmidt will carry the Bill. We'll close the hearing on HB 1303.

70587.0101  
Title.0200

Adopted by the Finance and Taxation  
Committee

January 22, 2007

**House Amendments to HB 1303 (70587.0101) - Finance and Taxation Committee  
01/23/2007**

Page 1, line 16, replace "prevails" with "must be considered in conjunction with"

Page 1, line 17, remove "over"

Renumber accordingly

Date: 1-22-07  
Roll Call Vote #: 1303

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House \_\_\_\_\_ Finance & Tax \_\_\_\_\_ Committee

Check here for Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Rep. Headland Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		✓
Vice Chairman Drovdal	✓		Rep. Kelsh		✓
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande		✓	Rep. Vig		✓
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Schmidt

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

**REPORT OF STANDING COMMITTEE**

**HB 1303: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1303 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "prevails" with "must be considered in conjunction with"

Page 1, line 17, remove "over"

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HB 1303

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1303

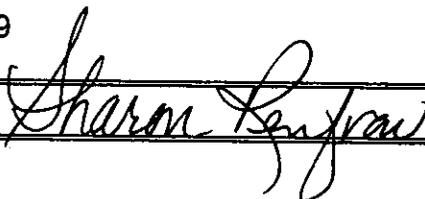
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: # 3949

Committee Clerk Signature



Minutes:

**Sen. Urlacher:** called the committee to order and opened the hearing on HB 1303.

**Rep. Herbel:** Prime sponsor of the bill appeared in support with aerial and soil maps and stating this adds 1 modifier to how we determine ag land property tax and that is the usage. This is really about a fairness issue. It's a problem throughout ND when soil testing's start coming in.

**Sen. Urlacher:** are they able by aerial photo determine the actual residue on all land.

**Answer:** I believe so, yes.

**Wade Moser:** ND Stockmen's Assoc. appeared in support stating some counties haven't adopted this whole soil profile program yet and so it's not just a one county problem. This does not have any impact at all on commercial or residential property. If there's going to be any kind of a shift its going to be from property its going to be from cropland to pasture land, or pasture land to cropland. We do support the use of soils, we do think that it does have a lot of potential to really evaluate parcels of land or specific parts of counties that has more productivity capacity than others.

**Sen. Cook:** I don't agree with your shifting theory and don't understand how you see it that way. You got residential and commercial property in a county and if you change the

classification of a certain part of agricultural land that lowers the valuation its going to be a shift of all the other classifications in that county, would it not?

**Answer:** no its not. If you shift within agriculture property, if you lower the pasture values, the cropland goes up but it does not impact the residential or commercial property in that county.

**Rep. Herbel:** I did ask that question of John Walstad in Legislative Council and he said if it has some change it would be very insignificant because of the situation he described. It could do some but it would be very insignificant.

**Sen. Triplett:** if the pasture land was taxed at a lower rate than you would expect the tax assessors would be assessing cropland higher?

**Rep. Herbel:** that is correct. They have a percentage of plus or minus 5 that they have to stay within.

**Sen. Horne:** how is it taxed now, is it all tax the same now?

**Rep. Herbel:** taxed on soils and productivity

**Art TenBroeck:** on behalf of himself appeared in support stating that the soil district has contacted him and told him to stop farming some of the stuff he is farming because of a slope and washing. Presented pictures to the Committee. (See attached) I'm still continuing to farm it because they threatened to take away the little payment that I do get which is not much because I farm it. I said "you can keep your payment" I'm always short of feed, I buy feed every year on my place because I don't have enough tillable ground. It was 30% farm ground and after you went to this soil test, now its 52% farm ground. My taxes have gone up considerably.

**Sen. Triplett:** are you saying that they are just using the soil samples? Presumed productivity of the soil without taking into consideration the geology?

**Answer:** that's right. It does not show elevation. Some of those hills are 60 feet high and away from the bottom of the buttes is about 100 feet of nothing but clay, there's absolutely no vegetation and running away from those 10 foot washes 20 feet across in probably 4 or 5 different places on the north and the south. The south side of those buttes runs from the Cedar River, the north side runs through the Cannonball River. When they took these soil tests if they are doing from the air that's fine but when they went in there and drilled them holes and test holes there's absolutely no way that they can get in there with a pick-up to do it. So I know that there was a lot that was not done.

**Sen. Horne:** are you in favor or against?

**Answer:** I'm in favor because I think then you would use what the land is used for, the way it is now their not using the right way, it really went against my property.

**Sen. Cook:** we have a process where somebody like yourself that has a problem with the way the land is being assessed and protest that and ultimately it goes to a state tax equalization board, have you followed that process and showed them the pictures.

**Answer:** I've been to the county board and its like deaf ears, they've done nothing.

**Sen. Cook:** I would encourage you to take it to the next step.

**Keith Payne:** on behalf of himself appeared in support with written testimony. (See attached)

**Sen. Cook:** so you're saying your county is assessing this as crop land, tillable land?

**Answer:** yes

**Sen. Cook:** if that's the case Mr. Chairman, maybe what we ought to do this bill is put an amendment on there that gives the State Tax Equalization officer who is responsible for training the tax assessor how to do this property, maybe its time we get a state tax equalization officer the authority to fire such a fool.

**Rod Backman**: on behalf of himself as a land owner in Burleigh County. In reference to Sen. Cook's comments, part of the issue is the fact that they aren't really valuing it on cropland or non cropland, they are valuing it based on soil type. For me, the reason I haven't pursued it much beyond going to the county, I went to the county they basically said, "well we base it on soil types". For me it wasn't worth pursuing it further because my guess is what would happen is they would simply reverse it. They'd say well, this pasture land might be valued too high, so we'll drop it \$10,000 a quarter and then we'll add it on to your cropland that is right next to it. It really doesn't have an overall impact to me but I really do believe it is a fairness issue.

**Sen. Urlacher**: so you're really looking at soil type and usage as a combination for

**Answer**: I think that's the way the bill reads now.

**Sen. Cook**: is there not in the law supposed to be modifiers for rocks, etc.

**Answer**: I really can't answer that question. I understood it to be based on productivity and that would be a factor but it seems what's happening in a practical sense is that at the local level when it gets down to your piece of property that's not what's happening. It may be the case state wide or it may be the case county wide but it doesn't seem to be the case when it gets down to your specific piece of property. My reaction is we shouldn't need a law to do it, it should be common sense.

**Sen. Cook**: in my county they are breaking pasture land and farming it and its still being assessed as cropland.

**Casey Wells**: Grant County farmer appeared on his own behalf in support stating there is supposed to be modifiers used in all of these and one reason we wanted the land use to be put into law, its one thing that modifiers are supposed to cover all this and one question that we had raised is that when it gets broke down to each individual, then if the assessor is modifying it, are they modifying each land or piece equally? We feel the land use even everything out

because you're not going to be, it just going to put a little more fair play into it. Another thing that going to be coming up here that I foresee is the way the ag productivity formula is figured out with the rising crop ground prices, we are going to have pasture land out there that is pasture, good grass and therefore its being called tillable but now with the ag productivity formula with the crop prices coming up we're going to see another increase next year.

**Sen. Cook:** In Grant County, is it all being assessed by the county or do you have township assessors assessing that soil.

**Answer:** our township assessors have been told that our local township assessors are being phased out because they didn't have the capability for this new program, they didn't have access to the new soil type deal.

**Curt Hepper:** on behalf of himself appeared in support stating from 2004-2006 my taxes went up 26% some of my range land went from waste land to productive land and that's a little bit of the problem of that NRCS and I asked them and they addressed it as only 1% or less than 1% of the land within Grant County so we're not going to do anything about it. So there's the little problem with NRCS and I'll agree with Rep. Herbel that this \$300 to \$600 value on the land in Grant County that's accurate I believe. That's a very good indicator as to what the actual productivity of land is because they are getting no other value of it, other than production. I believe you all got a letter from our tax assessor in Grant County and it somewhat states that she believes that both of those should be taxed the same. That's a serious problem in Grant Co. if the assessor herself doesn't know that, that should be a must before she could even hold a job.

**Harold Gaugler:** on behalf of himself appeared in support stating I'm in support of this bill because pasture needs to be and has always been pastured because it doesn't lend itself to farming techniques.

**Sen. Tollefson**: I sounds to me off hand that purchase there is an assessor problem.

Answer: it's a Grant County problem from the stand point that we are dealing with it right now these last couple of years.

**Arthur TenBroeck**: Sioux County hasn't done this yet.\

**Sen. Tollefson**: do you think you have an assessor problem?

Answer; in Grant County we do.

**Keith Payne**: I have taken this to the State level, no response, no help at the State level. We have one township assessor that is still hanging onto to her job as a township assessor, the rest have not. Grant County is over a million acres in size, we have one person doing the assessing for all of Grant County, the City of Elgin and we also have Lake Tschida that she is assessing. I think she has her plate way too full. She's trying to do this all through a computer program that reads nothing but soil types. She has implemented modifiers after I've taken it to the state level and they required her to use modifiers. Those modifiers had been capped at 25% by our commission and by our County Assessor and it needs to be way more than 25% in order to take care of some of these problems.

**Sen. Horne**: what is NSCR?

**Answer**: National Soil Conservation Research Service, they take care of the conservation programs.

**Sen. Horne**: do they provide the soil maps?

**Answer**: no, they provide the productivity of each of those soil types.

**Sandy Clark**: NDFB appeared neutral on the bill with written testimony. (See attached)

**Sen. Triplett**: the language in bill, what does "use" mean and how do I consider that and rental value isn't as reasonable way of thinking about it as anything, so if its already in the formula once and then its being put in the formula again, how does that make sense?

**Answer:** the way I would interpret it, when you get to the local level and you do these soil types then there's each of the various soil types has a value placed on it, so much an acre for each of those soil types. Its not based on rental, what these folks are asking is to be done is that if they have a soil type over here or a pasture over here and it's a high cropland soil type they are asking that it is used at land uses pasture, that it be moved over here to the high end of non cropland pricing structure.

**Sen. Urlacher:** do you know how many counties do not have soil test?

**Answer:** I'm sure I've seen those numbers in the tax dept., so do and some don't use modifiers.

**Sen. Tollefson:** you say there are counties who refuse to use, utilize modifiers, are those modifiers kind of equalizers? The county commissioners hire the assessors for the counties, isn't there a way of forcing or insisting the use of modifiers?

**Answer:** we think this is common sense. The modifiers are there and are taught in the classes that they are teaching, I've seen it, it's in their study manuals but it is not in the law. If we put in the law "land use" and not modifiers, we're going to be switching to land use, I don't really want to go there, I think there some option to utilize both of those.

**Sen. Tollefson:** that's been kind of my thought all along, it seems like as much as anything it's an assessor problem. If the assessor was using the modifier then apparently what should be done some of the problems we're seeing here today wouldn't exist, is that true?

**Sandy:** yes, I think it's an assessor problem.

**Sen. Cook:** we need the tax dept here to answer some questions.

**Sarah Hewson:** property tax specialist with the Tax Dept.

**Sen. Cook:** where are the modifiers identified and listed in code?

**Answer:** they are not listed in the code, they are not listed anywhere. Modifiers can be used to adjust between soil types and that is in the AG's opinion dated from 1987 I believe.

**Sen. Cook:** is this what leads to the flexibility amongst counties to either choose to use them or choose not to use them. Did the AG's opinion say you have to use them or did they say it's alright if a county decides to use them.

**Answer:** it does not say, you must use modifiers, it says it would be an acceptable practice to use modifiers to adjust.

**Sen. Cook:** does code not require all counties to be using soil tests, soil types.

**Answer:** yes, that is in the code, soil types and soil classifications are to be used by township assessors to value property.

**Sen. Cook:** we still have counties that are not using soil types as part of the assessment process, is that not correct?

**Answer:** that's correct, there are 10 that I know of that are not either using soil classification or soil type.

**Sen. Cook:** I'd like to get that list and for the life of me if its law I think it's about time we somehow see that the law is obeyed and followed. I think this is absolutely ridiculous that we've required that for years and we still have 10 counties that are not using it. There's too much accessibility and the tax assessor answering to our county commissioners if you got a motive to raise assessment so that you have more income you can do that very easily out there and on the other hand if you have a motive to reduce agricultural taxes, if that's the motive of the county commission they can certainly direct and see that their tax assessor who wants to keep his job follow that also.

**Sen. Urlacher:** what basis are they using on those counties that don't have soil tests, what are they using for assessment?

**Answer:** I don't think that the counties can even answer that question.

**Sen. Triplett:** could we get a copy of the AG's Opinion that you reference and also the section of the training manual that you use to provide training to the county tax assessors.

Closed the hearing.

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1303

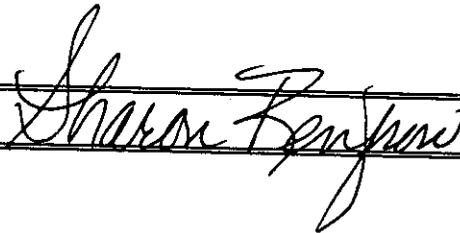
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 5, 2007

Recorder Job Number: # 4388

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order for discussion on HB 1303.

**Sen. Urlacher:** concerns with modifiers, land use and soil tests and using land use as part of consideration with modifiers.

**John Walstad:** Legislative Council appeared to give some direction and possibly doing up an amendment for the committee. Use could be one of the things considered in the classification, right now if you don't look at it, it doesn't matter. If you've got the soil survey data that's it, done. What we do is say, look at soil survey, look at modifiers and look at use and not any one of those things is the final word.

**Sen. Urlacher:** because we have extreme situations and that's when land use should come into plan, that should be a consideration. On soil tests where you have small areas that are not feasible for usage, then you have to look at the land use.

**John:** if the landowner is making a bad management choice on how he decides to use the property. If its great crop land and he doesn't want raise a crop line, it could still be assessed as crop land.

**Sen. Urlacher:** that's right, that's when soil tests would take priority. I don't think we should side step, land use above potential.

**Sen. Triplett:** contact Marcy Dickerson

**John:** her biggest problem was that the decision was going to be based on contacting the land owner and him saying "I'm doing this and that's it"

**Sen. Anderson:** there's was a report that a whole bunch of counties aren't following the detailed soil survey that was enacted that your supposed to do, I remember one of the things being brought up is aren't we being asked to solve something that wouldn't be a problem if this were enacted?

**Sen. Oehlke:** that list is from 1996, it's probably not accurate.

**Sen. Anderson:** that's my question, are we still looking at #10 on the proposed amendments?

**Sen. Triplett:** I think the use of the soil survey by itself doesn't solve the problem as the proponents see it, even with the proper use of soil surveys and the proper use of modifiers, there still saying there's an issue out there regarding use that is separate and distinct. That's what I think I heard them saying and so that's why we're agonizing whether we should put use in at some level back into the mix because they are saying you could have good soil but for whatever reason including rainfall or whatever its not good crop land.

**Sen. Urlacher:** the landowner can come back and then address the problem. The variables are so broad.

**Sen. Tollefson:** the 3 contingent items are in the hands of the assessor is the modifiers; soil survey and the land use were talking about, right? An assessor is now making a judgment call, a very important judgment call from the standpoint of that landowner. Is that completely fair or is he capable of doing that in a fair and rightful way or its very important to that land owner and he's the one that's makes the decision.

**Sen. Urlacher:** Well I think if an assessor seen that there was soil that was suitable for farming and the person was using it for grazing, the soil \_\_\_\_ would be the determining factor if

it is suitable for farming and you can flip that over to management, the management might be better not to utilize that soil tracks of good soil because there's no water and on the other flip side there might be good soil land that an operator could use it for pastures that could be used for cropland. I would think that an assessor could recognize that factor as well. Those 3 factors in determining what it should be, but its going to put some assessors in a spot.

**Sen. Oehlke**: I noticed there's reference to special assessor that the tax commissioner would appoint, who is that going to be?

**Sen. Urlacher**: the State

**Sen. Horne**: land use if that was part of the mix isn't necessarily in conflict with the other two qualifiers if that's the term so there wouldn't be any conflict in having land use in there as part of the consideration would there? Would we be creating a problem by adding that?

**Sen. Urlacher**: I don't think so because it's only on extreme variables.

**Sen. Horne**: then I think if we included, we would probably want to say that land use may be considered as part of the determination of how the land would be assessed, not required to be considered. Give the assessor flexibility unless we absolutely want it to be part of it and then we would say "shall be".

**Sen. Tollefson**: I think Bob has hit on something that is kind of important; it's a big judgment call for that assessor. He's going to take those 3 conditions into consideration and you can imagine the pressure he's going to be under if he makes a decision which is not agreeable to the land owner. I guess what I'm trying to say is, are all these assessors capable of standing up to that kind of pressure because there will be a lot.

**Sen. Urlacher**: well doesn't he have the soil tests for proof?

**Sen. Tollefson:** I was thinking of the land use part. Now he may think the land use is this and the owners say no that's not true and now he's in a quandary unless he's a very decisive individual.

**Sen. Oehlke:** my question would be if they were subject to special assessor that came out from the State, they probably wouldn't be nearly as understanding about it as the local county is about that situation in MN, is the county going to be able to adjust to what a special assessor says to or not or are they going to be stuck, can they yank some of these exceptions?

**Sen. Triplett:** the reference to this special assessor from the State is only if they refuse to use the soil survey. The larger question is if you had what part of priority to give to the soil surveys vs. the modifiers vs. the use piece of it and what to say. I liked your notion of saying that the use piece may be used.

**Sen. Urlacher:** we are only getting at those that haven't been following the rules and that's about 10 counties from the 1996 list.

**Sen. Horne:** if we really mean to convey the idea that the soil survey is to be the first consideration, can we indicate somehow that when assessing rural land, first to be assessed based on the extending order, the first consideration to be soil sample, second the modifiers and the third would be land use so it would give more weight, the largest amount of weight with soil conditions and a lesser amount and so on, so it would give some guidance, is there any value in giving some guidance to the assessors so they understand, a descending order of importance.

**Sen. Urlacher:** it might create some confusion

**Sen. Triplett:** It's a good compromise.

**Sen. Urlacher:** to John Walstad, amendments with "land use may be used as a factor". If we use "must" then we over ruled the soil \_\_\_ it would be the third category.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1303

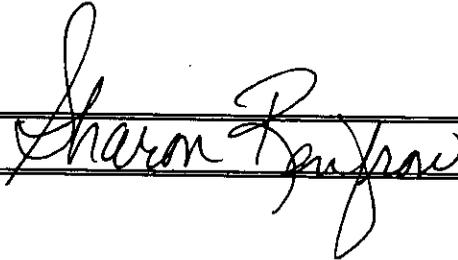
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 6, 2007

Recorder Job Number: # 4474

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order for discussion and action on HB 1303.

**Sen. Horne**: We talked about whether we should give rank if you will of value but we also talked about, the shall is in there, if we keep that look up #8 in determining the relative value of each assessment parcel the local assessor "shall" by following consideration so if we leave this we're saying this is the order of importance.

**Sen. Urlacher**: I think we started out with possibly may and I think Marcy probably shall might be more appropriate. I have no problem with it.

**Sen. Oehlke**: I did have somebody tell me that oh this is going to cost so much to implement to the counties \$100,000 for this soft ware. I said I remembered something in my testimony that it only cost \$400 a year. That kind of shocked them. Farm Bureau said that

**Sen. Urlacher**: if it's within the realm of implications with only 10 counties, this might encourage them.

**Sen. Oehlke**: the only other thing, I was talking to Rep. Hofstad who is a farmer from my district and he said there should be a category for recreational use.

**Sen. Anderson**: I know we were talking about giving them some time to implement this, it says 2008, is that too quick its only a year and a half.

**Sen. Oehlke**: has anyone had any experience with a special assessor being appointed by the Tax Commissioner? So you would be able to know that costs to do that?

**Sen. Triplett**: this would encourage people not to get to that point.

**Sen. Urlacher**: would the State Tax Equalization send a special out?

**Sen. Oehlke**: it says the Tax Commissioner shall appoint a qualified individual as a special assessor, they could probably appoint me to be an assessor or you or anyone if they think your special enough you could do that.

**Sen. Triplett**: may they would appoint somebody from a different county or whatever who would come take a leave from their own job or something to, I don't know how they'd do it. Mr. Chairman I would Move the 0202 Amendments, seconded by Sen. Horne.

**Sen. Horne**: if there's a flaw in this, won't this have to go back to the House will there be a conference committee on this.

Voice vote: 6-0-1 Amendment carries.

**Sen. Triplett**: made a **Motion for DO PASS as Amended**, seconded by Sen. Horne

Roll call vote: 6-0-1 Sen. Triplett will carry the bill.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1303

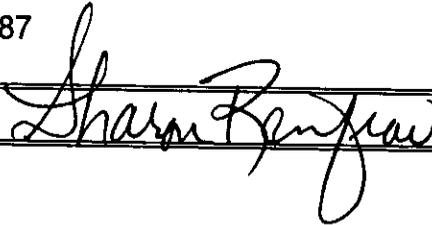
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: # 4987

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order for discussion on amendments for HB 1303.

**John Walstad**: Legislative Council appeared to explain that the new amendments presented only change the date on second page in subsection 10 is the implement date for use of soil surveys by counties is pushed back to 2010 tax year. That was after some discussion about how long it will take to implement I believe a 3 year lead time is required for implementation and that's why its back 1 year from what it was before.

**Sen. Triplett**: this is already on today's calendar so do we do it as a floor amendment or is it in the system so it will just pop up correctly on the system?

**John Walstad**: my understanding was it was still in committee and not on the floor, am I wrong?

**Sen. Triplett**: that was the case on Friday, I think we lost it yesterday, we had a substitute clerk yesterday and I think we missed something.

**John Walstad**: then it would have to be a floor amendment is what I would advise and would be the easiest thing at this point. It's the tax years after 2009.

End of discussion.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1303

Page, line 1, after "Act" insert "to create and enact subsections 9 and 10 of section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment;"

Page 1, line 2, remove "actual", after the first "of" insert "soil surveys in assessment of", and remove "as a basis for determination of the"

Page 1, line 3, remove "status of property as cropland or noncropland"

Page 1, line 15, overstrike ", whenever possible,"

Page 1, line 16, remove "However, actual use of the property must"

Page 1, remove lines 17 through 19

Page 1, line 20, remove "actual use of the property occurs for purposes of this subsection.", overstrike "When", and remove "soil"

Page 1, line 21, remove "type and classification" and overstrike "data cannot be used, the county director of tax equalization"

Page 1, overstrike line 22

Page 1, after line 22, insert:

**"SECTION 2.** Subsections 9 and 10 of section 57-02-27.2 of the North Dakota Century Code are created and enacted as follows:

9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
10. For any county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for any taxable year after 2008, the tax commissioner shall appoint a qualified individual as a special assessor who shall make a reassessment of all of the agricultural property in the county using soil type and soil classification data from detailed and general soil surveys. The board of county commissioners shall pay any costs of the reassessment under this subsection. If the board of county commissioners has not paid the cost of the reassessment within thirty days after completion of the reassessment, the state tax commissioner shall certify to the state treasurer the cost of the reassessment and that amount must be withheld by the state treasurer from the county general fund allocation from the state aid distribution fund to that county under subsection 1 of section 57-39.2-26.1 in the next ensuing allocation and each ensuing allocation until the cost of the

reassessment is fully paid. The state treasurer shall pay the withheld amount to the special assessor."

Renumber accordingly

*[Handwritten signature]*  
3-6-7  
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1303

- Page 1, line 1, after "Act" insert "to create and enact subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment;", replace "subsection" with "subsections", and after "7" insert "and 8"
- Page 1, line 2, after "to" insert "use of soil surveys, modifiers, and" and remove "as a basis for determination of the"
- Page 1, line 3, remove "status of property as cropland or noncropland"
- Page 1, line 6, replace "Subsection" with "Subsections" and after "7" insert "and 8"
- Page 1, line 7, replace "is" with "are"
- Page 1, line 15, overstrike ", whenever possible,"
- Page 1, line 16, remove "However, actual use of the property must"
- Page 1, remove lines 17 through 19
- Page 1, line 20, remove "actual use of the property occurs for purposes of this subsection.", overstrike "When", and remove "soil"
- Page 1, line 21, remove "type and classification" and overstrike "data cannot be used, the county director of tax equalization"
- Page 1, overstrike line 22
- Page 1, after line 22, insert:

- "8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:
  - a. Soil type and soil classification data from detailed and general soil surveys.
  - b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.

2052

- c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

**SECTION 2.** Subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code are created and enacted as follows:

- 9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
  
- 10. For any county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for any taxable year after 2008, the tax commissioner shall appoint a qualified individual as a special assessor who shall make a reassessment of all of the agricultural property in the county using soil type and soil classification data from detailed and general soil surveys. The board of county commissioners shall pay any costs of the reassessment under this subsection. If the board of county commissioners has not paid the cost of the reassessment within thirty days after completion of the reassessment, the state tax commissioner shall certify to the state treasurer the cost of the reassessment and that amount must be withheld by the state treasurer from the county general fund allocation from the state aid distribution fund to that county under subsection 1 of section 57-39.2-26.1 in the next ensuing allocation and each ensuing allocation until the cost of the reassessment is fully paid. The state treasurer shall pay the withheld amount to the special assessor."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1303

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Page 1, line 2, after "to" insert "use of soil surveys, modifiers, and" and remove "as a basis for determination of the"

Page 1, line 3, remove "status of property as cropland or noncropland"

Page 1, line 6, replace "Subsection" with "Subsections" and after "7" insert "and 8"

Page 1, line 7, replace "is" with "are"

Page 1, line 15, overstrike ", whenever possible,"

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- a. Soil type and soil classification data from detailed and general soil surveys.
- b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.

- c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

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10. For any county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for any taxable year after 2009, the tax commissioner shall appoint a qualified individual as a special assessor who shall make a reassessment of all of the agricultural property in the county using soil type and soil classification data from detailed and general soil surveys. The board of county commissioners shall pay any costs of the reassessment under this subsection. If the board of county commissioners has not paid the cost of the reassessment within thirty days after completion of the reassessment, the state tax commissioner shall certify to the state treasurer the cost of the reassessment and that amount must be withheld by the state treasurer from the county general fund allocation from the state aid distribution fund to that county under subsection 1 of section 57-39.2-26.1 in the next ensuing allocation and each ensuing allocation until the cost of the reassessment is fully paid. The state treasurer shall pay the withheld amount to the special assessor."

Renumber accordingly

Date: 3-6-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1303

Senate Finance & Tax Committee

Check here for Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Sen. \_\_\_\_\_ Seconded By Sen. \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook			Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Senator Triplett

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

**REPORT OF STANDING COMMITTEE**

**HB 1303, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1303 was placed on the Sixth order on the calendar.**

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Renumber accordingly

2007 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1303

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 30, 2007

Recorder Job Number: 5647

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

## Conference Committee:

Chairman Drovdal called the Conference Committee order and had the clerk take the roll: everyone was present.

**Chairman Drovdal:** We're here because the House has not concurred on the Senate amendments, so I'll ask the Senate to explain their amendments and the testimony that brought them forward.

**Sen. Cook:** First off, when we listened to the testimony we recognized that there was a problem. We heard a lot of testimony from the residents of Grant County. I recall them showing photo's of land that was covered with rocks that was getting assessed basically based on soils. I think the real problem was they were only using the 25% modifier because of the rocks which put the tax of course assessment value considerably higher than what it probably should have been. We have recognized that problem. I think what we looked at was the solution and maybe created other problems, so we tried to find another solution and that's where you come with these amendments. An of course if we took a look and used the use of the land as the primary justification for classification as the Bill came to us as, you could have some land that certainly is very good tillable land and should be taxed as tillable land and is put into pasture land. So

we wanted to make sure that the amendments do two things; they take into consideration the modifiers, they set into place that if the tax equalization officer for the County does not seem to be using the modifiers correctly, which I think is the case in Grant County, the State has a role to play and see to it that they are changed, that they are being used and the modifiers put in place are correct. And then the actual use of the land becomes the third factor in determining how it is assessed. The first factor is the soil type classification, the second is the modifier and the third is actual use. And then the next thing we did was we tag in the fact that we still have Counties that have not gone to soil testing and it's been the law for sometime and sooner or later that we see to it that the laws obeyed so I think we have an amendment in there that's 2009. That's basically what we did and we formed a sub committee, the three of us, and we spent considerable time working with the Counsel and the State Equalization Officer (SEO) to try to come up with this language.

**Chairman Drovdal:** We didn't have any testimony on this so this is fairly new to us. Did you have testimony on this, recommending this procedure or is this something that just came out of the sub committee?

**Sen. Cook:** This is the result of the brilliant work of the sub committee after identifying the problem and trying to find a solution to it, that's our job.

**Sen. Triplett:**

**Rep. Headland:** We did have some testimony from Marcy Dickerson who got us moving in this direction, where she talked about the history of the modifiers and some of us didn't realize that they have never been codified in law, that it was route that they put into the Tax Assessors value book for local folks as a result of the Attorney General's opinion back there in 90's. We just thought that needed to be codified in law. We thought this would be a good thing to make it clearer and that there was more direction.

**Sen. Cook:** I was surprised when I found out that it wasn't in law. It is a result of the Attorney General's opinion.

**Sen. Urlacher:** We wanted some unification in the classifications and modifiers really weren't being used and so this just puts it into place.

**Rep. Headland:** If my memory serves me right, current law does not mandate these modifiers, isn't it optional? And we changed it in our House Bill that they had to use modifiers, did we not? Or they shall use modifiers.

**Sen. Cook:** That's the whole purpose; current law says it's silent to modifiers. Your Bill as it came to us was silent in the use of modifiers.

**Chairman Drovdal:** My understanding was that we put it in as a modifier as a suggestion that they "may". One of the comments you made earlier you said that the local people do not have an option to be able to use this as a modifier currently, but in fact don't they currently petition for reconsideration and can actually go to the State Equalization Board (SEB) through our process that is currently in place on property tax?

**Sen. Cook:** That might be a question you want to ask Marcy Dickerson but I'll give you my answer; yes, if they don't like the way their tax is assessed in Grant County or any County they can protest and it can go to the Township, to the County and eventually the State Tax Equalization Officer or the Board where it's going to be heard. To what degree that board can say, you are not using modifiers and you should, or you are using modifiers but you're not using them right. I don't think they have that authority. And that's what we're trying to accomplish with this Bill. We believe the problem in Grant County that we'd seen was modifiers were being used but they weren't being used correctly.

**Sen. Triplett:** With Marcy Dickerson's analysis that the problem that developed in Grant County was because a rush through too quickly to get sort of on the system and if they had

taken a little more time they might have done a better job of that. She just seemed like she was suggesting that it was the process in Grant County that kind of got messed up somehow. And that's where the concern came from. Maybe we as a State policy board and the Tax Dept. can provide direction for them.

**Sen. Urlacher:** I don't think this is necessarily a Grant County problem. This is State wide and probably more so in the west because of the terrain. We have area's where there are top notch soils that's hardly accessible for property use. They can always go to the SEB for adjustments on anything that they might think are irregular. But this simply puts modifiers into that category. Some Counties don't use soil tests or haven't used them. We don't have a unified method of valuation.

**Rep. Headland:** Back when they first started using soil types to determine classifications for taxation purposes, who footed the cost of implementing the programs? Was it the Political Subdivisions? So the way I understand your amendment and you're just going to force that upon them now by 2009 basically?

**Sen. Cook:** The law says it already.

**Sen. Urlacher:** It's already there but they haven't, I think there's 10 Counties that haven't followed that, so when you put soil classification in the formula, based on production, and there's no active soil test, you don't have anyone following it and applying the production the way I see it.

**Rep. Headland:** For what reason are they not doing it? Is it because of the cost of the implementing it?

**Sen. Cook:** I would suggest so that question gets answered correctly have the Clerk for the next meeting get the minutes and the testimony from our senate hearing on this Bill. I know that we have testimony that was given that shows all of the Counties, their status regarding soil

testing, which ones who've not done it yet, when they plan to do it and I think there's two Counties that will stick out.

**Chairman Drovdal:** Committee, the goal of the House, if I remember right wasn't pointed out; we wanted to put it in as a modifier. We felt that's what we had done. We looked at this and tried to understand it was that this a mandate that we're kind of stepping on toes and taking over the area and the way it's worded, it appears to be that way. Now if reading the testimony might change that thought but we're a little concerned about that and it steps on local control, if you start mandating things. Can you get testimony from the Senate and House?

**Clerk:** Yes, I can do that.

**Sen. Urlacher:** This was a requirement from way back and was left up to the Counties to implement. Some of them haven't and some of those other Counties paid for their soil testing. Some of that happened way back in the 60's.

**Chairman Drovdal:** Well you've been here a lot longer than I have and of course you were in the House for quite a while, and you've got a lot of wisdom but every session we get some Bills on assessment from one County or the other and I'm sure we'll continue no matter what we do with this thing too. But it seems to be a local issue so by just putting on modifiers, can't that...

**Sen. Urlacher:** It was mandated way back then and it's still mandated but left up to the Counties and they haven't followed the mandate. Now as far as cost factor or imposing one that's already been there, it just hasn't been enforced.

**Sen. Triplett:** I want to respond to your comment about local control. I think the entire Finance and Tax Committee are serious fans of local control and we didn't see that that is the State taking over something or doing something in violation of local control. I think that the State obviously has the authority to make the broad policy and we took it from the perspective that the broad policy was stated decades ago and has been in place for a long time, but

unfortunately without any kind of a deadline or control mechanism. There was no penalty for not getting on board with them so apparently some Counties have just ignored that language whenever possible and it certainly now is long since the point and time when it's possible for Counties to do these soil surveys and what I took from Marcy's testimony is that the Tax Dept. tends to be quite lenient about whether they would make the Counties use the general soil surveys or in the detailed ones and that they would be quite happy if people would just get on board with the general soil surveys.

**Chairman Drovdal:** It seems like this problem in Grant County came when they implemented this soil survey and they didn't take it the exception in use and then maybe that's why it has not been implemented. There may be other cases where we need to put modifiers in and we do not quite recognize that and by putting this in a date like this, we're probably not giving time to have them bring those modifiers forward.

**Sen. Triplett:** I don't think any of us are hung up on the date too much. We've changed it twice already.

**Rep. Headland:** Your original intent for this Bill is still here I understand the way it looks is in that's the use of the properties, and that is still there?

**Sen. Urlacher:** There's two points that I see in there as modifiers. And it's also bringing up the soil testing with the modifiers being the third category of concern within that system of assessed. And there are variables as to what Counties can do to what extent a survey they can accept.

**Chairman Drovdal:** I don't think we're in any hurry, I think we'll be here for a couple more weeks.

**Sen. Cook:** Just a comment on the date; I think when you see the testimony if I recall, it comes from the Association of Counties (NDAC). You'll see that all of those who are not on it

have a plan to get on it and will be on it by 2009 and those who are just sort of like I don't really care if I ever go on it, they're the only ones that are going to have to be maybe persuaded.

**Chairman Drovdal:** Well I think that testimony would be helpful to the Committee and we'll share our testimony with you and we'll reschedule this. Is there any more questions? If not we will adjourn this meeting.

## 2007 HOUSE STANDING COMMITTEE MINUTES

### Bill No. HB 1303

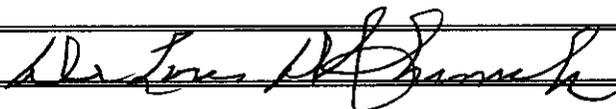
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 4, 2007

Recorder Job Number: 5715

Committee Clerk Signature



Minutes:

**Chairman Drovdal** opened the conference committee hearing on HB 1303. Took the roll call: Rep. Drovdal, Rep. Headland, Rep. Vig, Senator Cook, Senator Triplett, Senator Urlacher all present. When I reviewed the minutes and I see we did make a strong modifier and then I looked at the Senate there were a lot of concerns, which we seem to have every session. I did look at your amendments and in Section 2, 9 where you required the Director of Tax Equalization to provide that and put it right up front so people could understand it. After visiting with our committee we do still have heartburns on number 10 that you put in section 2, which is the one that says you are going to modify it. We have a problem putting that mandate in there with the price tag that is somewhere around three million dollars is the closest figure I could come up with. We think it is a positive step in the right direction in listing those modifiers. We don't want to accept 10.

**Senator Urlacher:** There are different memo's of different levels on the planned usage portion and still satisfy what we are attempting to do. We are trying to identify lot boundaries and all that. There seems to be some question as to what qualifies and what wouldn't.

**Senator Triplett:** One way of dealing with your concerns on #10 would be to use detail or general soil surveys so they are fully implemented and detailed or general soil survey. That would soften it up quite a bit, I think.

**Rep. Drovdal:** Part of the problem is we did not have the hearing on this particular part of it. I feel very uncomfortable with mandating at this time.

**Senator Triplett:** There are many things that don't get heard after amendments are put on in this process.

**Senator Cook:** You are using the word mandated. Is it not mandated today? Does the law not require every county to be using the soil typing?

**Rep. Drovdal:** There is no deadline where you can dictate that kind of thing. It recommends a soil test as they get on board with their assessors. It doesn't put a date or the fact the state of North Dakota is going to come in and do it for them and bill them for it.

**Senator Cook.** Let's be sure so we understand where the difference is. It is required today that they do it. That is the law to get a soil test done and available and they are available for all counties so the law says they should do it today. We still have a lot of counties who are not so all we are trying to do is to let them know that they have to follow the law. Would you propose that we change the law so that it is clear that they don't have to do it so at least we don't have a break in the law?

**Rep. Drovdal:** I think they are moving; maybe not as fast as we want to, but they are moving toward that direction. There are 23 that are doing it and putting several on board. So it is not that they are moving toward full compliance.

**Senator Cook:** Did you read the whole testimony?

**Rep. Drovdal:** I did not. I thought I read the whole testimony, but I guess I did not.

**Senator Cook:** Discussed the area map. There are about 6-7 pages staples together. I looked at this and there are quite a few counties that say they are going to have it done in 2008; but there are quite a few like Cavalier County that said it is not in their future. Foster County has no plans; Gregg's County and Morton County don't know. Ramsey County has no immediate plans. Rollette County would like to. Sioux County says we talked about it. Steele County no plans. Towner County no answer. The question for our colleges on the House is what do we say to these counties that are suppose to be doing it by the law as far as, they don't even show any interest in following the law. That is what my concern is.

**Senator Urlacher:** Soil tests were taken way back in the 60's and 70's and if the county doesn't do it how much time do they need? Sooner or later you are going to have to put in some type of penalty in order to enforce it. I am assuming they had to pay for their soil tests years back so why should we do anything different now. I assume that the price has gone up, but they did not follow the law.

**Rep. Headland:** I would suggest we adjourn and research what the current law states.

**Senator Triplett:** I would like to say something from the perspective of County Commissioner and I was County Commissioner for 14 years in Grand Forks County. I think that the law says that they are suppose to use the soil surveys wherever possible and that was written so it says whenever possible and so it has not been cleared so maybe there is some responsibility on the part of the legislature for not being quite clear enough. When I see one or two counties doing something poorly, the history is eventually the state comes in and takes over and decides to run the whole show. I like local control and local government, but if the counties don't do what they are told and do what the requirements of the law are, then eventually they will come in and do this project for them too.

**Rep. Drovdal:** Looking over the amendments leading up to #10, all of that dictates that and mandates them to do it.

**Senator Triplett:** I don't have a problem with changing the language and extending the years out, I just want to be really clear what the roll is and then get it done.

**Senator Urlacher:** It is just catching up.

**Rep. Drovdal:** The way the state may come in and do it may be a lot different than the way they could implement it themselves and they could control the costs if they would do it themselves which is a preferable method, of course. I am a fan of hometown government too.

**Senator Cook:** How can you have a consistent taxation when some of them aren't following what every one else is going and that affects every body?

**Rep. Drovdal:** Senator you have been on finance and tax longer than I have and it seems like there is another modifier on. I am going to have some problem moving through the House. Right now we have to take Rep. Headland's advice and go back and reconsolidate or we can take a motion and see how it comes out?

**Senator Cook:** It is obvious that this handout here on the status of counties right now is certainly what drove our decision on section 10. You folks have just seen it now for the first time. The other point before we adjourn; my county is their answer is don't know. I can tell you another quote that comes right from our county commissioners. We are not going to get any more money when we do this. Property tax is all about equalization. It is a fairness thing and the county is right. They go through and do this and they are not going to get any more revenue because their budgets are build on dollars, but it is going to equalize who is paying the tax to the county. That is the issue we have to keep in mind here. It is about money and we are making it about money.

Hearing closed.

# 2007 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1303

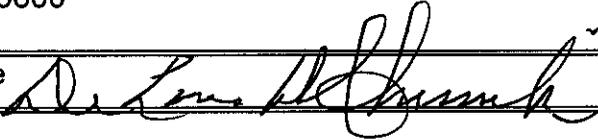
House Finance and Taxation Committee

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Hearing Date: April 6, 2007

Recorder Job Number: 5800

Committee Clerk Signature



Minutes:

**Rep. Drovdal** reconvened the hearing on HB 1303. Roll Call: Present: Rep. Drovdal, Rep. Headland, Rep. Vig, Senator Cook, Senator Triplett, and Senator Urlacher.

**Rep. Drovdal:** I read the testimony and I am still very uncomfortable with #10 simply because it was an amendment that was put on after the main hearing was held. We agree that yes it is state law and we need to figure out why it is not being done. It is just a process to get done and we need to work with the counties. With that I will open it up to comments. (See proposed amendment)

**Senator Triplett:** I took a look at the proposed amendments.

**Rep. Drovdal:** I would like to amend it to take out number 10 and put section 3 in place of it, which is the study resolution. Then they would have an ample opportunity to see why this is not done and work with them.

**Senator Urlacher:** I would guess there is some body in this room that already knows the answer of why these counties have not done the soil tests and have communicated with them.

**Rep. Drovdal:** I think we should consider this. I think some county commissioners did they give their testimony?

**Senator Cook:** I think we do know why they haven't done it. I know why my county hasn't done it. There is no new revenue for them and it is going to cost them money to do and they get no more dollars for it. It some down to what land owners pay what amount of taxes in the county so it is a fairness issue among the property tax payers. The counties budget is going to be the same in dollars whether they do this correctly and follow the law or whether they do not. The only thing is if we are ever going to get it done and it should be done, it has to be put in place that it is gong to cost them money if they don't do it. This has been handing around so long so there should be a date to get it done. I believe it is the right and fair thing to do.

**Senator Triplett:** I agree with everything that has been said. I think we should agree to extend the date and so the study. I do not think this is unreasonable. I think they will pass the word onto the counties that they have to get it done. I think it would be a good compromise.

**Rep. Drovdal:** I can't understand why the counties have not gone to soil testing. Any county that has not done their soil test by 2009; they would have to file a report in detail of why they are not done.

**Senator Cook:** I was going to bring forth another compromise. I would suggest we leave what we have in the bill, but that we further amend to make it mandatory that during the next interim that the counties who do not have it done report to the interim committee as to what they think their chances of getting it done by the date of the deadline are and what are the reasons that they might not be able to meet that deadline so that we can consider legislation in 2009 to extend the deadline for those particular counties.

**Rep. Drovdal:** Would we take #10 off of there?

**Senator Cook:** No I think we should leave that in. I know you have some concerns about bringing in the state tax assessor and if that is a concern then we need to adjust that because I

don't believe we are creating any state tax assessor here where the state is coming in and doing what the counties are suppose to do. We are not creating any state tax assessor here I would like to see this left in; otherwise, it doesn't go into affect until after the next session and we have a lot of counties that are going to do this and get it done. There will be some that will come in and tell us why they can't.

**Rep. Drovdal:** When they come in with their explanations I have a feeling we could put something like this in at that time.

**Senator Cook:** The only reason I want to leave it in is if we take it out we are doing no more than what this is, but we are going to delay 2010 to 2012. It is going to take a period of time. The first decision they have to make out there; we are going to do it. Once they make that decision then the clock starts ticking on the time to get it done. If we delay this then that decision is not going to be made until after 2009. We know it that is the problem.

**Rep. Headland:** We have time I think, so I would suggest that we talk about the crooks of the amendment then come back one more time.

**Rep. Drovdal:** That is good advice. I know perception is reality and if we have some body coming from the state that is a state assessor; that is our perception, whether we like it or not.

**Senator Urlacher:** It has been ling around for years and we have to do something. I would not want to take away the penalty if it is already in there. It is a fairness issue, not only to the economy of the state it is something we don't have uniformity assessment. I have to agree with my colleagues, if we put this study in and leave the language in those counties that are not participating now are going to tell us why and they are going to ask for more time, if they don't think they can get it done. They will have to come to the table. If we don't leave the hammer in there what is going to bring them to the table on the study?

**Rep. Drovdal:** We have adjourned.

## 2007 HOUSE STANDING COMMITTEE MINUTES

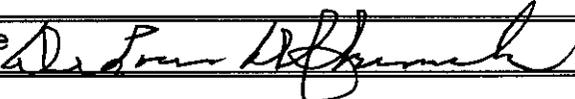
### Bill No. HB 1303

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 9, 2007

Recorder Job Number: 5824

Committee Clerk Signature 

Minutes:

**Rep. Drovdal reopened the hearing on HB 1303. Roll call taken with all present: Rep. Drovdal, Rep. Headland, Rep. Vig, Senator Cook, Senator Triplett and Senator Urlacher.**

**Re. Drovdal:** We were kind of deadlocked on whether we should have a standing resolution or pass it as presented; whether we should amend other motions to the bill. I did call former speaker of the House, Ron Anderson, and current county commissioner of McKenzie County and asked him why McKenzie County was not on the soil test and he said they haven't gotten the results. I said I find that hard to believe. Call the former assessor who just retired last fall. I got a hold of her and she said you can look on the internet and read it, but you can not download it to get the report because they are still changing it and they just showed four more adjustments to McKenzie County. Until they get that report on front of them where they can set and work on it, they have not been able to put the soil tests in on McKenzie County and that was one of her goals before she walked out of the office last fall. So I was just about convinced you were right, but that puts me back to where I was before. I think we need to talk to the commissioners and ask them what the problem is and she said the problem is USDA, whatever they call that new soil conservation service. I know because of working with Game & Fish that it is a problem working with the new FCS agency.

**Senator Urlacher:** Is the problem with the local offices or higher up?

**Rep. Drovdal:** I can only speak for McKenzie County and I did when I was working with Game & Fish on another program that it sounded like it is a bigger problem rather than just a local problem because of personalities.

**Senator Cook:** According to the list McKenzie County shows they are in the list of those who have completed it. They used a general soil survey.

**Rep. Drovdal:** They used a 1920 soil survey and I don't think that is the one that is suppose to be updated. They don't feel that they are done with it.

**Senator Cook:** Yes or no. I suppose we have to find out the truth in that. You talked to some people off the record. Let's get some people on the record as to what is honored. This survey, which I believe was done by the Association of Counties, but it says they are on it, but regardless of whether they are on it or not I still say it has been the law for some time and I have no problem with making sure there is a club out there and that is all we are trying to do is find out a mechanism to motivate these people to obey the law. I am certainly able to require all counties who are not obeying the law to report on their progress on meeting the goals we set from here. I thought we were down to needing to figure out what that club was going to be. If I understand I was suppose to come with amendments. I did not have a lot of time to do that. I started this morning, but I have a couple of questions yet I wanted to discuss before I draft the amendments.

**Senator Triplett:** (could not hear).

**Marcy Dickerson:** All I know about is what they have reported on their tax department survey. We asked them how many were on the general soil survey and how many were on the other survey. To my knowledge all the general soil surveys are available, but maybe there don't have the software necessary to download that information. That is what Morton County told us

when the State Board of Equalization ordered a reappraisal of their agricultural land and they said they did not have a good report. The information is out there, but they did not have the necessary hardware or software. That might be McKenzie County's problem.

**Rep. Drovdal:** When we are talking about the general soil survey are we talking about the oil 1941 or the newer one.

**Marcy Dickerson:** Yes that is correct.

**Rep. Drovdal:** For your information, what she said at the bottom there is a note about manuscript being reviewable, but not downloadable. They will not allow it to be down loaded. That is from the NRCS agency.

**Marcy Dickerson:** The detail soil survey is available for every county.

**Rep. Vig:** Marcy, why are some eastern counties, Nelson and Steele, of not using the survey?

**Marcy Dickerson:** Why are some western counties not using it? I don't know. We have no problem why do we need to do anything.

**Senator Cook:** This has been the law for some time. How come the tax department does not know why particular counties are not on soils testing?

**Marcy Dickerson:** I don't know if we have really asked them why? Since there is no penalty for not doing it I guess they don't feel they have to tell us any more than what they have already told us.

**Senator Cook:** It is the law and your particular office is responsible. I know there is no teeth for you to get any body out there to obey this law, but I would expect you to at least know as to why they don't have it done. Do we need to put something in here for a club for them or a club for both of you?

**Marcy Dickerson:** We have never asked them why? We encourage them to do it and tell them it is the law. We teach them how to use the soil samples. If they don't do it, I guess we have not said, why aren't you doing it? Also there is no penalty.

**Rep. Drovdal:** It sounds like you are assuming that is the law.

**Senator Urlacher:** How did the rest of the counties get the information that these don't have?

**Marcy Dickerson:** A lot of these counties went back in 1981 when this law was enacted.

Mercer and McClain County, they just started from scratch and that is before we had all the soil surveys published. Some counties did have them published and some did not. When they had sufficient information, in those days they were county agents, but they managed to do it. I am sure with technology they can do a better job as they get into it. They did technically follow the law and did the soil survey when it was directed they should do so.

**Senator Urlacher:** Isn't it the same method to do it now?

**Marcy Dickerson:** It is available to them if they want to do it the old fashion way, if they don't have the new technology they still could do it. Probably a lot less expensive. I am sure the GIS is a lot better, but the old way was following the law.

**Rep. Headland:** With what we talked about as a penalty I am somewhat in agreement with Senator Cook, then we can leave that language in as long as the date is specific enough that it will allow us to go into session and make changes after we gather the information through the study. The date I am suggesting would be somewhere in the 2009 after the session.

**Senator Cook:** I would agree but let me make two comments if I may. First off I think when we talk about language for a study, I think it is language to put some responsibility on both the tax department and the counties to report as to their status on this. That I think we ought to require that instead of studying it. I think we should require them to report to us. Now I don't know if we should require all the counties or just those who are not on that list? I have

McKenzie on the good list and you are raising the question that they are not. So maybe we need to have all the counties report. The second thing is we have the language classification from detailed and general soil survey and we were talking about changing that to and/or? I think we could have a discussion as to whether or not general should be removed? Ultimately our goal is to not be using general. Our goal is to be using detailed. I guess or would be alright with me. Then I have another list of what do we mean with modifiers and what does it mean in the minds of those who are going to implement it. To what degree does land use play? If it is definitely tillable land and there are no rocks in it; do you go to that first modifier and you go no further, even if it is pasture land is it going to be classified as tillable?

**Rep. Drovdal:** I thought they started out with soil testing and then they do modifiers like rock, a location where they can't be assessable by machinery. Unless we are out there with the assessor how will we know?

**Senator Cook:** Tillable land is assessed at \$500 for McKenzie County. You do soil testing and it shows that it is good soil to be assessed at the tillable price of \$500. Then you have some rocks on there so you do a modifier for rocks and you determine that the modifier for rocks should be 40% so now that brings it down to \$300. The land owner has decided to put it into grass and have pasture on it and pasture is assessed at \$150. What you get is the play on the assessment. Is it assessed at \$300 tillable with the modifier of rocks or does that factor that it is actually used as pasture bring it to \$300-\$350?

**Rep. Drovdal:** I think is that it would be \$300.

**Senator Urlacher:** I think the soil testing is for the productivity of the soil. Then you move into the modifiers as they said, rocks, hilly etc. So they only come into play afterwards.

**Senator Cook:** So what is the purpose of subsection C use? Give me an example of where subsection C would change the assessed value of the land.

**Rep. Drovdal:** A couple examples I can think of that were presented in the committee was one that it was on top of a butte and they could not get machinery up to it and could not farm it. The second one was it was such a small area and they applied for 10 acres down there, but would modern machinery you just don't farm 5, 10 or 15 acres. So practicality will come into play with the usage of it.

**Rep. Headland:** So in that case if you have 160 acre spread and you have 10 acres of this bottom land that is hard to access by machinery, those 10 acres are going to be prorated at the percentage just like they would be on the second modifier if you have 40% of rock you only have 10% of this section that is really farmable it would be prorated in the third modifier as well?

**Rep. Drovdal:** Say it was inaccessible it would be taxed at the pastureland and the rest would be assessed at the cropland prices.

**Rep. Headland:** Isn't that the way Grant County is doing it now? Isn't that the argument that those 5-10 acres taxed as farmland?

**Rep. Drovdal:** They would be taxed as farmland now and they thought they should be taxed as hay land or pasture land.

**Senator Triplett:** What about a creek bed? Can they be handled with modifiers?

**Senator Urlacher:** You can't farm it or fence it out so it is really wasteland.

**Marcy Dickerson:** Yes all of them can be handled with modifiers? Use is caused by conditions and can be handled with modifiers.

**Senator Triplett:** If someone simply chose to plant grass because they like it; how is that situation productive or handled?

**Senator Cook:** My question and I know you gave me some answers I would think also and that is under what conditions under Subsection C actually change the value of a piece of

property? I think we do need some language from the tax department as to what their answer is to that question. We need it here in black and white that we can redo it and make it part of the testimony as to what they would view subsection C as actually conditions and I think it is important we do that.

**Rep. Drovdal:** Could you provide that for us next time Marcy? If someone has amendments I hope they would bring them forward. Hearing closed.

# 2007 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1303

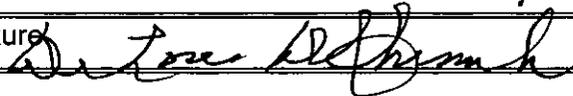
House Finance and Taxation Committee

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Hearing Date: April 11, 2007

Recorder Job Number: 5905

Committee Clerk Signature



Minutes:

**Rep. Drovdal opened the hearing on HB 1303. Roll call taken: Rep. Drovdal, Rep.**

**Headland, Rep. Vig, Senator Cook, Senator Triplett, and Senator Urlacher all present.**

**Motion Made by Senator Cook that the Senate recesses and further amends as printed the amendments we have before us 0207. Seconded by Rep. Headland.**

**Senator Cook:** Explained the amendments. They are what we discussed the other day.

There is a report to the legislative counsel those counties who are not on detail on the general soil survey tests will report as to why they are not. The challenges they will be meet with and also we have taken out the club that the state would come in and do this assessment. The club now is simply if it is not done by the year 2010 the state would withhold \$100,000 from the counties allocation of the state aide distribution fund. It makes it clear that the \$100,000 comes out of the counties share. That the other political subs that get the share in that county distribution. It is \$100,000 per year.

**Discussion:**

**Senator Cook:** Keep in mind we will have a legislative session before this takes affect to

further work on this should they study or report show need to. So section 3 gives us the ability to change this next session.

**Senator Triplett:** I have a concern, I thought Senator Cook was going to change the word and to or in terms of the general surveys. Did you change your mind on that?

**Senator Cook:** To be honest with you when I got the amendments I saw that and I questioned whether Mr. Walstad forgot to do that? I looked at it and tried to call him. I am comfortable either way. I think I visited with Rep. Headland and he would be comfortable with it either way. The key to this legislation is 2009 session. We have to find out why it is not being done. I would be OK with changing it to an or if that is what it took to get this thing in.

**Senator Triplett** offered an amendment to the proposed motion to change the and on the second line of 10 to or; Senator Cook seconded that. I also have a concern about the \$100,000 given it is such a different impact on different counties. A \$100,000 for a small rural county is allot. The penalty seems disproportioned and I was wondering if we could think of a different way of dividing it. A percentage or something. I don't question the need, but I think it is pretty unfair to the rural counties.

**Senator Vig:** Section 10, it might be good to get our counties rolling on the same page here, but the down side is we are going to be scrambling pretty fast to implement something that they don't have in their budget to implement. Then to give them a \$100,000 penalty on top of all of that will be a real hit to some of the counties in my district since they don't have the budgets like the urban counties. I am not sure where this could be going.

**Senator Cook:** I am certainly open to changing that so it would be a percentage of their funds.

**Rep. Headland:** I certainly could agree to changing it to a percentage however, as stated earlier, it is just a tool to get them to move off dead center. I don't think our intent here is to withhold any money from any county. We want them to move so. It could become an issue should a county chose not to move.

**Senator Triplett:** I think there might be some counties where the commissioners really are stubborn about this. But the penalty ends up being with the tax payers and then it might take them a while to figure it out and gets to be a long process and so I think if it is not our intention, then we should define a penalty that is proportionate.

**Rep. Drovdal:** I don't want to open a hearing again. Just listening to the debate and tells me we don't have enough information and we are trying to band aid stuff together and I don't like that type of legislation and I think we are putting the horse before the cart. The date bothers me still so I am going to resist the amendment at this time.

**Senator Cook:** I have some questions. How long has this been the law? Do you think the counties should follow the law and if this is not the right solution to get them to follow the law, the Mr. Chairman is what you would suggest we do to get them to follow the law? or are you comfortable seeing that the law is not followed.

**Rep. Headland:** Doesn't Section 3 telling them they have to report to the legislative counsel why they have not implemented. I suppose that and should be changed on there too. I just think that that report should tell us why they won't or can't adhere to the law.

**Senator Triplett:** I also want the or to be changed on Section 3, 3<sup>rd</sup> line.

**Rep. Drovdal:** That is acceptable it be in both places. So I will call for a voice vote on the amendment of changing and to or in those two places. Voice vote carried.

**Senator Triplett:** Rep. Headland you were thinking this amendment would be acceptable to you if we just deleted paragraph 10.

**Rep. Drovdal:** I think that is my thought on this, but that is not necessarily true.

**Rep. Headland:** No, that was not my intention. If you take out section 10 the county that aren't doing it will have no motivation to move off dead center where they seem to be.

**Senator Triplett:** What you are saying it is OK to leave it in there because we are meeting again and it may not mean anything because it could be changed before it goes into affect. Is that what you are saying?

**Rep. Headland:** I think that it would get them to move and to start and at least it will force them to find out what the real cost is of implementing it. It will give them the ability to come back and say way they can't do it rather than just refusing to do it.

**Senator Cook:** You know there is a reason why we do not have every county doing this already. Quite frankly we had some counties that went out and did it and some who have not and they can have whatever excuse they want for not. But the real reason is we have always accepted the excuse. We have never said this is going to have to be done. There is no reason for them ever to take us serious because whatever length it has been on the books now they have no need to take us serious. We put it in place with obviously no intention of enforcing it. That is all we need to do. The key to putting Section 10 in is that it makes it clear and it is going to bring some attention to this issue where they are going to have to take it serious because they are going to now have to come with a reason why we should not fine them. If we don't want to do this then let's just take it out and say they don't have to.

**Rep. Drovdal:** I want to ask you a question Senator Triplett. I should have asked this before we voted. They can use either the soil test or the general test. The general test is the 1940 test, which is not very accurate according to most people, but much easier to implement though, but if we won't have any equity with the 1940 test, are we really going to accomplish what we want to?

**Senator Triplett:** At least it would move it in the right direction. If there are money or implementation issues we would hear about that in the study and those who have nothing they could maybe get this figured out with the reports we are asking for.

**Rep. Vig:** I was thinking on that \$100,000 about reducing that to 5%? Could that be an alternative, by looking at some of the rural counties there and their tight budgets they have.

**Senator Cook:** I am open to a percentage, but I am not going to pick one out of the blue until we see something more.

**Rep. Drovdal:** Are we ready to vote on it as is or are there further amendments?

**Senator Cook:** Vote on it as is.

**Rep. Drovdal:** Let's call a vote on 0207 as amended.

**Roll call vote: 2 Yes 3 No 1 Absent Motion Failed.**

**Rep. Vig made a motion to move the amendment 0206.**

**Rep. Drovdal:** They were presented earlier and they have my name on them. They remove the penalty and put the mandated study in. Seconded By Senator Triplett.

**Rep. Vig:** I think this 0206 would be a good one. We are going to be meeting again for next session, but if we tell the counties to really consider doing this and working on the detailed and general soil survey and the legislature work with them and the state work with the counties and asking them why they are not doing it now and asking that they get things in order so they do so and I think the Legislative Counsel Study is one way the state and counties can be working together in the next interim. I like this amendment a little better and there is not the threat of taking state aid away from them.

**Rep. Drovdal:** Should we change that language to read the legislative counsel will study during the interim instead of shall consider studying? Is there a motion to amend that?

**Senator Triplett:** I would make a motion to amend and replacing that with the work study.

**Seconded by Rep. Vig.**

**Rep. Drovdal:** I will take a voice vote. Ruled amendment failed.

So we are back to the motion to consider 206 as presented. Any other discussion?

Vote: 3      Yes 2      1      Absent

**Rep. Drovdal:** Made decision the motion failed since the rules on conference committees require 2 and 2. Any other discussion?

**Rep. Headland:** Since we were short one Senator I think we maybe should just adjourn and make sure we get every one here at the next meeting.

**Senator Triplett:** I would be willing to consider Senator Cook's version, but there are some modifications to make on the penalty so it is more equitable between counties.

Hearing recessed.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 CC

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 12, 2007

Recorder Job Number: 5952

Committee Clerk Signature

*Mickey Schmidt*

Minutes:

## Conference Committee:

Chairman Drovdal called the conference committee to order on 1303 and asked the clerk to take the roll; everyone was present.

**Chairman Drovdal:** Sen. Cook, do you have something for us?

**Sen. Cook:** We concede to the discussion that we had in the last conference committee and the amendments you have before you show that concession. Sub section 10, the penalty is now 5% at that Counties allocation. State Aide Distribution, the report to the Legislative Counsel's the same, everything else is the same.

**Chairman Drovdal:** There's one discussion that we had and I don't remember what we ended up with this, we had changed the word "classified data" from "detailed and general soil survey" plus by "or" again general soil surveys. We talked about it, I don't know if we did anything.

**Sen. Cook:** We had come to the conclusion that that should be "or". Why isn't that or?

**Chairman Drovdal:** We did talk after that and our goal was to get into the detailed, is that the reason why it's still an "and"

**Sen. Cook:** I would prefer it the way it is but I think we had a discussion and I think we agreed that it should be "or". Is that not correct?

**Sen. Triplett:** I think the word "or" is a lot better.

**Rep. Headland:** I'm looking at it and wondering if the and between or is in the wrong place.

**Sen. Cook:** I've been looking for that because I think you're right.

**Rep. Headland:** In line 1, there's soil type or soil classification, I think that used to be and I think what we wanted to change was between detailed and general, isn't it?

**Sen. Cook:** That's exactly where Walstad changed it, because I called him and he says, no, I did that and you are right.

**Chairman Drovdal:** So the "or" should be "and". And the "and" should be "or". Is that in more than one place, it was down below also. That should be "and" below because that's a study. Any other comments on the amendments?

**Rep. Vig:** It still has a penalty in there and I don't like it. But if this is a way of coming out, it should be more acceptable to our Counties out there on a percentage basis. The penalty is still in there.

**Sen. Cook:** Yes it is still in there, but I think after the conversation, I thought that I was being extremely agreeable with Rep. Vig's concern. **I would recede from the Senate amendments and move the amendments 0210 with the changes of replacing the "or" to the "and", and the "and" to "or".**

**Rep. Headland:** I'll second it.

**Chairman Drovdal:** Is there any other discussion? I will try a voice vote on the amendment.

**All in favor signify by saying aye. The motion was unanimous; 6-y; 0-n; 0-absent.**

**Rep. Vig:** Is that just on the words?

**Chairman Drovdal:** The whole thing. Is that acceptable?

**Rep. Vig:** Yes.

**Chairman Drovdal:** We now have an amended 1303. So we are done. Any other things we need to do? I'll adjourn this conference.

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1303 (, as (re)engrossed):

Date: 3-30-07

Your Conference Committee House Finance & Tax

**For the Senate:**

**For the House:**

Roll	YES / NO	YES / NO	Roll
✓ Sen. Cook		Rep. Drovdal	✓
✓ Sen. Triplett		Rep. Headland	✓
✓ Sen. Urlacher		Rep. Vig	✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT    \_\_\_ YES    \_\_\_ NO    \_\_\_ ABSENT

*\* No Action taken!*

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1303 (, as (re)engrossed):

Date: April 4, 2007

Your Conference Committee: House Finance & Tax

**For the Senate:**

**For the House:**

Roll:	YES	NO	YES	NO	Roll:
✓					✓
Sen. Cook			Rep. Drovdal		
✓					✓
Sen. Triplett			Rep. Headland		
✓					✓
Sen. Urlacher			Rep. Vig		

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

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((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT    \_\_\_ YES    \_\_\_ NO    \_\_\_ ABSENT

Revised 4/1/05

*\* NO ACTION today!*

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1303 (, as (re)engrossed):

Date: April 6<sup>th</sup> 2007

Your Conference Committee: House Finance & Tax

Roll:	For the Senate:		For the House:		Roll:
	YES	NO	YES	NO	
✓					✓
Sen. Cook			Rep. Drowdal		
✓					✓
Sen. Triplett			Rep. Headland		
✓					✓
Sen. Urlacher			Rep. Vig		

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

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((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT    \_\_\_ YES    \_\_\_ NO    \_\_\_ ABSENT

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1303 (, as (re)engrossed): Date: 4-9-07

Your Conference Committee House Finance & Tax

**For the Senate:**

**For the House:**

Roll:	YES / NO	YES / NO	Roll:
✓			✓
Sen Cook		Rep. Drovdel	
✓			✓
Sen. Triplett		Rep. Headland	
✓			✓
Sen. Urlacher		Rep. Vig	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

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((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT    \_\_\_ YES    \_\_\_ NO    \_\_\_ ABSENT

#1

cc 1303  
4-11-07  
70587.0207  
Title.

Prepared by the Legislative Council staff for  
Conference Committee  
April 10, 2007

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1303

That the Senate recede from its amendments as printed on pages 1025 and 1026 of the House Journal and pages 778 and 779 and 820 of the Senate Journal and that Engrossed House Bill No. 1303 be amended as follows:

- Page 1, line 1, after "Act" insert "to create and enact subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment;"; replace "subsection" with "subsections", and after "7" insert "and 8"
- Page 1, line 2, after "to" insert "use of soil surveys, modifiers, and" and remove "as a basis for determination of the"
- Page 1, line 3, remove "status of property as cropland or noncropland" and after "purposes" insert "; to provide for a report to the legislative council"
- Page 1, line 6, replace "Subsection" with "Subsections" and after "7" insert "and 8"
- Page 1, line 7, replace "is" with "are"
- Page 1, line 15, overstrike ", whenever possible,"
- Page 1, line 16, remove "However, actual use of the property must"
- Page 1, remove lines 17 through 19
- Page 1, line 20, remove "actual use of the property occurs for purposes of this subsection.", overstrike "When", and remove "soil"
- Page 1, line 21, remove "type and classification" and overstrike "data cannot be used, the county director of tax equalization"
- Page 1, overstrike line 22
- Page 1, after line 22, insert:
- "8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:
    - a. Soil type and soil classification data from detailed and general soil surveys.

- b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.
- c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

**SECTION 2.** Subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code are created and enacted as follows:

- 9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
- 10. For any county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for any taxable year after 2009, the tax commissioner shall direct the state treasurer to withhold one hundred thousand dollars from that county's allocation from the state aid distribution fund under section 57-39.2-26.1. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

**SECTION 3. REPORT TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, each county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for property tax assessment purposes shall report to the legislative council the reason for failure to implement use of that information and the anticipated date when the county will have fully implemented use of that information."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

#1

Bill Number 1303 (, as (re)engrossed):

Date: April 11, 2007

Your Conference Committee \_\_\_\_\_

Fail

**For the Senate:**

**For the House:**

*Roll:*

Y N

← vote →

Y N

*Roll:*

<input checked="" type="checkbox"/>	Sen. Cook	<input checked="" type="checkbox"/>		Rep. Drovdal	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Sen. Triplett		<input checked="" type="checkbox"/>	Rep. Headland	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Sen. Urlacher			Rep. Vig	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

*motion failed for Amend. 0207.*

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

HOUSE CARRIER: \_\_\_\_\_ SENATE CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT: \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_ ABSENT

*No Action taken today!*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1303

That the Senate recede from its amendments as printed on pages 1025 and 1026 of the House Journal and pages 778 and 779 and page 820 of the Senate Journal and that Engrossed House Bill No. 1303 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact subsection 9 to section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment;"; replace "subsection" with "subsections", and after "7" insert "and 8"

Page 1, line 2, after "to" insert "use of soil surveys, modifiers, and" and remove "as a basis for determination of the"

Page 1, line 3, remove "status of property as cropland or noncropland" and after "purposes" insert "; to provide for a legislative council study"

Page 1, line 6, replace "Subsection" with "Subsections" and after "7" insert "and 8"

Page 1, line 7, replace "is" with "are"

Page 1, line 15, overstrike ", whenever possible,"

Page 1, line 16, remove "However, actual use of the property must"

Page 1, remove lines 17 through 19

Page 1, line 20, remove "actual use of the property occurs for purposes of this subsection.", overstrike "When", and remove "soil"

Page 1, line 21, remove "type and classification" and overstrike "data cannot be used, the county director of tax equalization"

Page 1, overstrike line 22

Page 1, after line 22, insert:

"8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:

a. Soil type and soil classification data from detailed and general soil surveys.

- b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.
- c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

**SECTION 2.** Subsection 9 to section 57-02-27.2 of the North Dakota Century Code is created and enacted as follows:

- 9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.

**SECTION 3. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 2007-08 interim, the reasons for failure of some counties to fully implement use of soil type and soil classification data from detailed and general soil surveys for agricultural property assessment purposes and whether it is feasible and desirable to establish a deadline for counties to implement use of that information. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE #2**  
**(ACCEDE/RECEDE)**

Bill Number \_\_\_\_\_ (, as (re)engrossed): Date: \_\_\_\_\_

Your Conference Committee \_\_\_\_\_

*Fail*

**For the Senate:**

**For the House:**

*Amend. 0206*

	Y	N	← vote →	Y	N
<i>Cook</i>					
<i>Triplet</i>	✓			✓	
<i>Wrlacher</i>				✓	✓

*Rep Drowdal*  
*Rep. Headland*  
*Vig*

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

**DATE:** \_\_\_\_\_

**HOUSE CARRIER:** \_\_\_\_\_

**SENATE CARRIER:** \_\_\_\_\_

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

**MOTION MADE BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**VOTE COUNT:** \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_ ABSENT

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1303

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Page 1, line 2, after "to" insert "use of soil surveys, modifiers, and" and remove "as a basis for determination of the"

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Page 1, line 16, remove "However, actual use of the property must"

Page 1, remove lines 17 through 19

Page 1, line 20, remove "actual use of the property occurs for purposes of this subsection.", overstrike "When", and remove "soil"

Page 1, line 21, remove "type and classification" and overstrike "data cannot be used, the county director of tax equalization"

Page 1, overstrike line 22

Page 1, after line 22, insert:

"8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:

a. Soil type and soil classification data from detailed and general soil surveys.

- b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.
- c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

**SECTION 2.** Subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code are created and enacted as follows:

- 9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
- 10. For any county that has not fully implemented use of soil type or soil classification data from detailed and general soil surveys for any taxable year after 2009, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each month from the state aid distribution fund under section 57-39.2-26.1 until that county has fully implemented use of soil type or soil classification data from detailed and general soil surveys. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

**SECTION 3. REPORT TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, each county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for property tax assessment purposes shall report to the legislative council the reason for failure to implement use of that information and the anticipated date when the county will have fully implemented use of that information."

Renumber accordingly

**Conference Committee Amendments to Engrossed HB 1303 (70587.0211) - 04/12/2007**

That the Senate recede from its amendments as printed on pages 1025 and 1026 of the House Journal and pages 778 and 779 and 820 of the Senate Journal and that Engrossed House Bill No. 1303 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment;", replace "subsection" with "subsections", and after "7" insert "and 8"

Page 1, line 2, after "to" insert "use of soil surveys, modifiers, and" and remove "as a basis for determination of the"

Page 1, line 3, remove "status of property as cropland or noncropland" and after "purposes" insert "; to provide for a report to the legislative council"

Page 1, line 6, replace "Subsection" with "Subsections" and after "7" insert "and 8"

Page 1, line 7, replace "is" with "are"

Page 1, line 15, overstrike ", whenever possible,"

Page 1, line 16, remove "However, actual use of the property must"

Page 1, remove lines 17 through 19

Page 1, line 20, remove "actual use of the property occurs for purposes of this subsection.", overstrike "When", and remove "soil"

Page 1, line 21, remove "type and classification" and overstrike "data cannot be used, the county director of tax equalization"

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"8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:

- a. Soil type and soil classification data from detailed or general soil surveys.
- b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.

- c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

**SECTION 2.** Subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code are created and enacted as follows:

9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
10. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys for any taxable year after 2009, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each month from the state aid distribution fund under section 57-39.2-26.1 until that county has fully implemented use of soil type or soil classification data from detailed and general soil surveys. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

**SECTION 3. REPORT TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, each county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for property tax assessment purposes shall report to the legislative council the reason for failure to implement use of that information and the anticipated date when the county will have fully implemented use of that information."

Page 1, line 23, replace "This Act is" with "Sections 1 and 2 of this Act are"

Renumber accordingly



*urlacher*

**PORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

*Cook*

Bill Number 1303 (, as (re)engrossed):

Date: April 12, 2007

Your Conference Committee House Finance & TAX

*"Voice"*

For the Senate:

For the House:

Roll:

Roll:

	Y	N	← vote →	Y	N	
<input checked="" type="checkbox"/> Sen. Cook	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Sen. Triplett	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Sen. Urlacher	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
						<input checked="" type="checkbox"/>
						<input checked="" type="checkbox"/>
						<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1025-26

and place 1303 on the Seventh order.

, adopt (further) amendments as follows, and place 1303 on the Seventh order:

         having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1303 was placed on the Seventh order of business on the calendar.

DATE: 4-12-07

HOUSE CARRIER: Rep Drovdal SENATE CARRIER: Sen Cook

LC NO. 70587.02/ of amendment
LC NO.                      of engrossment
Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: Sen Cook  
SECONDED BY: Rep Headland  
VOTE COUNT: 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1303, as engrossed:** Your conference committee (Sens. Cook, Triplett, Urlacher and Reps. Drovdal, Headland, Vig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1025-1026, adopt amendments as follows, and place HB 1303 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1025 and 1026 of the House Journal and pages 778 and 779 and 820 of the Senate Journal and that Engrossed House Bill No. 1303 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment;"; replace "subsection" with "subsections", and after "7" insert "and 8"

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**SECTION 3. REPORT TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, each county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys for property tax assessment purposes shall report to the legislative council the reason for failure to implement use of that information and the anticipated date when the county will have fully implemented use of that information."

Page 1, line 23, replace "This Act is" with "Sections 1 and 2 of this Act are"

Renumber accordingly

Engrossed HB 1303 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1303

#1 HB 1303  
1-16-07

Finance and Taxation Committee  
House bill 1303  
January 16, 2007

#### Finance and Taxation Committee Members

I would like to thank you for this opportunity to express my support for this bill. My name is Keith Payne. My wife and I farm & ranch about 100 miles southwest of Bismarck in Grant County.

There is a real need to have a simple, uniform, clear-cut way of determining what is cropland and what is non-cropland.

Historically cropland has been two to three times more valuable than non-cropland. Therefore, there has been such an incentive to have cropland that most all land that could be cropped, is now tilled.

Our County Tax Equalization Officer is using soil type only to determine what is cropland and non-cropland. The poorer crop producing soils are automatically determined to be non-cropland. Some of the better crop producing soils that are covered with rocks, have saline seeps or other problems and cannot be farmed, are being valued as cropland and therefore are being taxed that way.

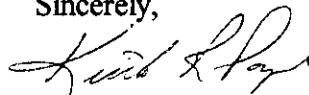
In this day and age of modern cropping, with the size and scope of machinery, it is not feasible to fence out ten to twenty acres of an irregular shaped patch of good soil to farm, in a 160-acre square quarter of non-cropland. We are now paying cropland taxes on these acres.

Modifiers have been put in place in an attempt to correct some of the inadequacies, but fall far short in the attempt! Since 2004, all ag lands in Grant County have been valued using Soil Conservation production data for wheat, oats barley and hayland. Approximately 50% of the county is cropland and 50% is non-cropland yet all the acres have been valued as if it were producing wheat, oats, barley or hay. We need to be using crop production to value cropland and grass production to value non-cropland! Land is what it is, no more, no less! The use of modifiers in correcting the difference between cropland and non-cropland simply does not work. By determining cropland and non-cropland by ag use, the need for modifiers could be greatly reduced.

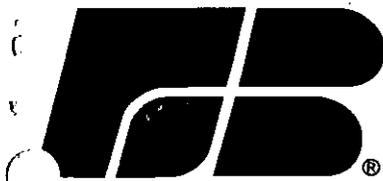
I therefore support this bill and strongly urge its passage!

Thank you for your time and consideration.

Sincerely,



Keith Payne  
8760 67<sup>th</sup> Ave SW  
Elgin, ND 58533



# North Dakota Farm Bureau

1101 1st Ave. N., Fargo, ND 58102  
P.O. Box 2064, Fargo, ND 58107-2064  
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503  
P.O. Box 2793, Bismarck, ND 58502-2793  
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

*Bringing ag home*

HB 1303

#2

1-16-07

## House Finance & Taxation Committee

*January 16, 2007*

### Testimony by North Dakota Farm Bureau

*presented by Sandy Clark, public policy team*

Good morning, Chairman Belter and members of the committee. My name is Sandy Clark and I represent the members of North Dakota Farm Bureau.

North Dakota Farm Bureau appreciates the intent of HB 1303. We concur that land use should be given consideration in determining the assessed valuations of agricultural land and in the equalization process on the county level.

However, we want to emphasize that NDFB believes soil type and soil classification data from the detailed and general soil surveys should remain the **primary** factor in the assessment process on the local level. We still believe that modifiers should be used to adjust for land characteristics that will align high-end soil type used for pasture land into the high-end non-cropland category.

Since this particular situation became apparent in a specific county, the North Dakota Tax Department has improved its instruction to local assessors on the use of modifiers. You will now find the information in the Tax Department Property Tax Newsletter, in the Home Study Manual for Assessors and the Department has been teaching the use of modifiers in its Agricultural Land Assessment Classes.

North Dakota Farm Bureau appreciates the Tax Department's efforts to recognize the impact land use has on the assessment process.

However, there are counties who refuse to utilize modifiers. So we can understand why this bill is before you again this Session.

2

Unfortunately, North Dakota Farm Bureau cannot support the verbiage in HB 1303. We object to the language beginning on line 16 that says, "*...However, actual use of the property prevails over soil type and soil classification...*"

The word prevail is particularly bothersome to us. We would submit the following language for your consideration. Beginning on line 16, where the new language begins, we would substitute the following verbiage:

*"Actual land use of the property may be considered in conjunction with soil type and soil classification data to determine the status of property as cropland or noncropland for assessment purposes."*

We have no problem with the second sentence that is included in this bill.

Therefore, Mr. Chairman and members of the committee, we cannot support the bill as it is presented today. We can support the bill with the suggested language changes.

Thank you for your consideration. I would be happy to try to answer any questions you may have.

Sara  
#3

1303 1-16-07

soilsurvey.xls

County	Uses detailed soil survey	Uses general soil survey	Will implement detailed soil survey when?
1 Adams	Yes		
2 Barnes	Yes		
3 Benson	Yes		
4 Billings	Yes		
5 Bottineau	Yes		
6 Bowman		Yes	2008
7 Burke			2008
8 Burleigh	Yes		
9 Cass		Yes	
10 Cavalier			Not in future
11 Dickey			2008
12 Divide		Yes	2008
13 Dunn		Yes	
14 Eddy	Yes		
15 Emmons	Yes		
16 Foster			No plans
17 Golden Valley	Yes		
18 Grand Forks	Yes		
19 Grant	Yes		
20 Griggs			2008
21 Hettinger		Yes	
22 Kidder			
23 LaMoure			
24 Logan		Yes	
25 McHenry	Yes		
26 McIntosh		Yes	
27 McKenzie		Yes	
28 McLean	Yes		
29 Mercer	Yes		
30 Morton	No	No	Don't know
31 Mountrail	No	No	2008
32 Nelson	No	No	2010
33 Oliver		Yes	
34 Pembina	Yes		
35 Pierce	Yes		
36 Ramsey	No	No	No immediate plans
37 Ransom	Yes		
38 Renville		Yes	
39 Richland	Yes		
40 Rolette	No	No	Would like to
41 Sargent		Yes	Two to six years
42 Sheridan			One to two years
43 Sioux			talked about it
44 Slope			2008
45 Stark	Yes		
46 Steele	No	No	No plans
47 Stutsman	Yes		2008
48 Towner			
49 Trail			2008
50 Walsh		Yes	
51 Ward	Yes		
52 Wells	Yes		
53 Williams	Yes		

No. of Counties using 23 12 8 10  
 Detail General Plans to implement No Plans  
 6 that use general soil have plans to value based on detailed. 2 counties did not respond.

**Herbel, Gil**

---

**From:** shwshr@sdplains.com  
**Sent:** Monday, February 26, 2007 6:52 PM  
**To:** Herbel, Gil  
**Subject:** Soils information for property assessments

**Attachments:** AerialMap.pdf; PastureSoils.pdf



AerialMap.pdf (532 KB) PastureSoils.pdf (71 KB)

Gil,

Here is a sample of aerial and soils maps that can be used to determine soils for cropland and non cropland by selecting the fields from an overlay map. All of the data is compiled from FSA aerial photography and NRCS soils survey data.

The first map is an aerial map of land owned by my brother. The second map shows the break down of only the pasture soils. This service is provided by Agridata, Inc. of Grand Forks. I thought you might find the maps of interest, especially for those individuals that say it can't be done. My annual subscription fee to Agridata is \$400 per year. I use the service for all of my appraisal work.

Shawn Weishaar

# Aerial Map



map center: 46° 7' 32.13, 101° 49' 20.16  
scale: 1:8816

Map provided by:



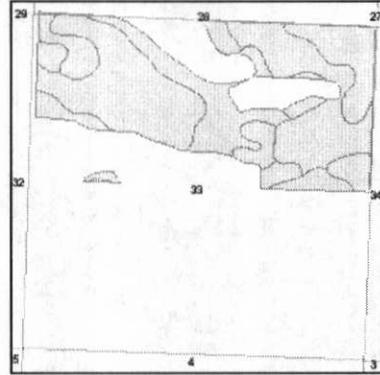
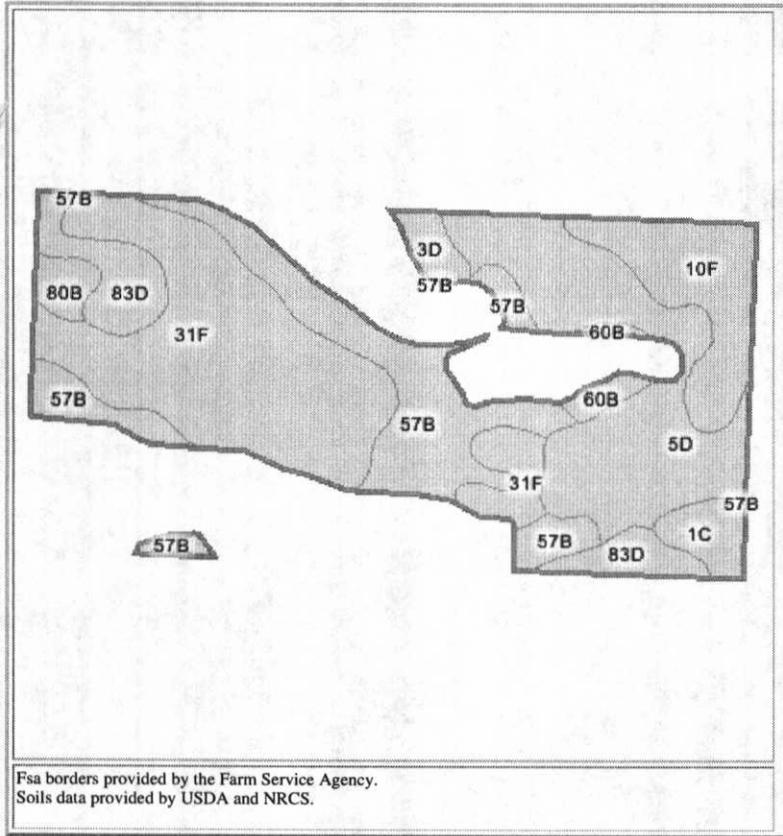
© AgriData, Inc. 2006

**33-131N-89W**  
**Grant County**  
**North Dakota**



2/26/2007

# Soils Map



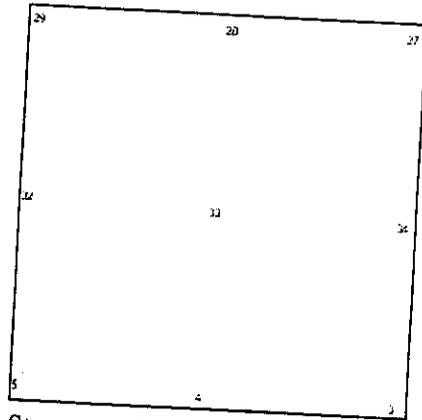
State: **ND**  
 County: **Grant**  
 Location: **33-131N-89W**  
 Township: **Pretty Rock**  
 Acres: **220.4**



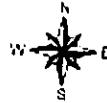
© 2006 AgriData, Inc.

Code	Soil Description	Acres	Percent of field	Non-Irr Class	Productivity Index
31F	Flasher loamy fine sand, 15 to 45 percent slopes, extremely stony	70.0	31.8%	VIIIs	9
5D	Amor-Cabba loams, 9 to 15 percent slopes	48.4	22.0%	Ve	37
57B	Savage clay loam, 2 to 6 percent slopes	44.8	20.3%	Ile	82
10F	Cabba loam, 15 to 45 percent slopes	22.4	10.2%	VIIe	22
83D	Vebar fine sandy loam, 6 to 15 percent slopes, very stony	16.4	7.4%	VIe	36
1C	Amor loam, 6 to 9 percent slopes	6.6	3.0%	IIIe	58
3D	Amor-Cabba loams, 3 to 15 percent slopes, very stony	4.3	2.0%	VIIs	27
80B	Vebar-Parshall fine sandy loams, 0 to 6 percent slopes	4.0	1.8%	IIIe	60
60B	Shambo loam, 2 to 6 percent slopes	3.5	1.6%	Ile	81
<b>Weighted Average</b>					<b>37</b>

# Soils Map



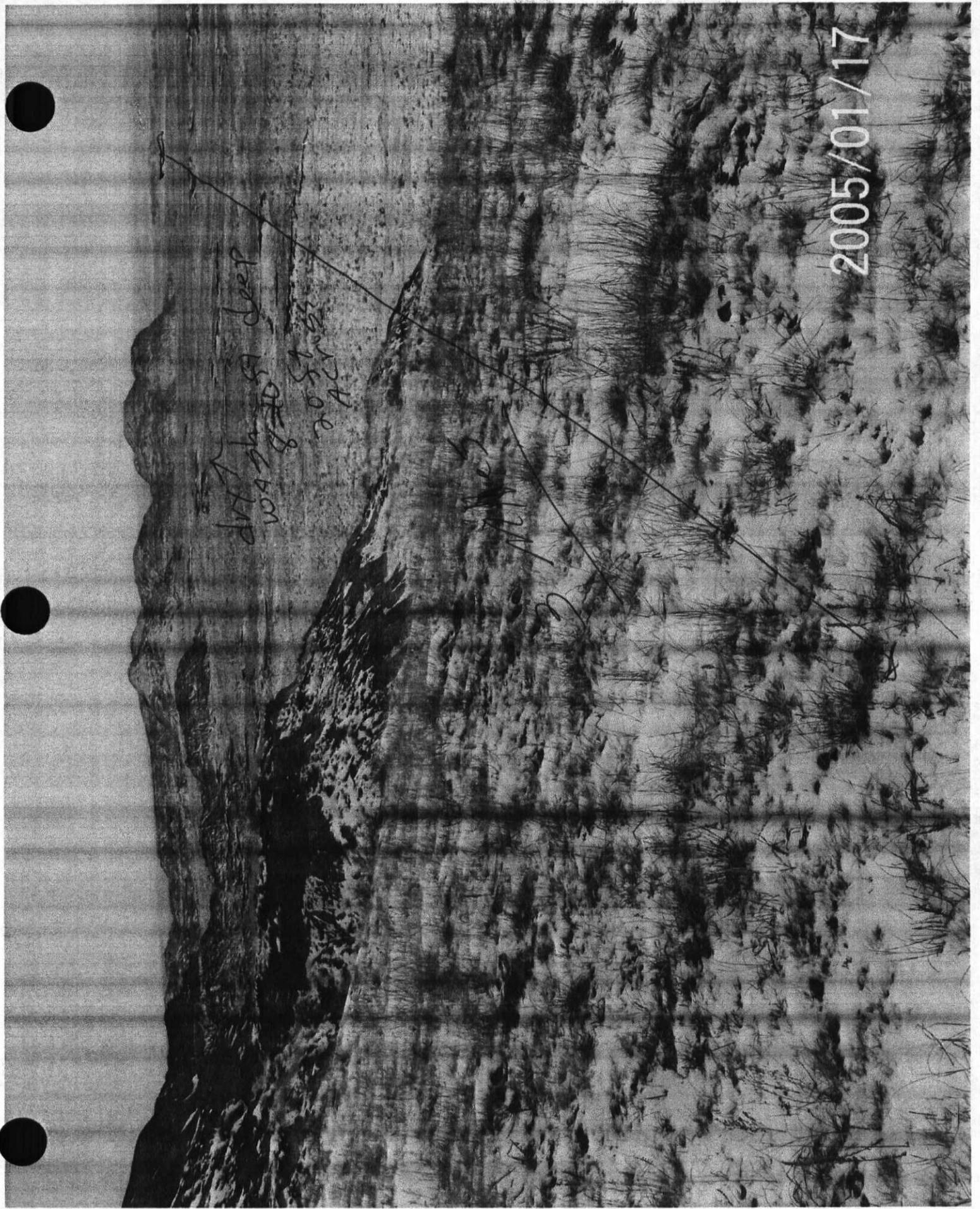
State: ND  
 County: Grant  
 Location: 33-131N-89W  
 Township: Pretty Rock  
 Acres: 94.0



© 2006 AgriData, Inc.

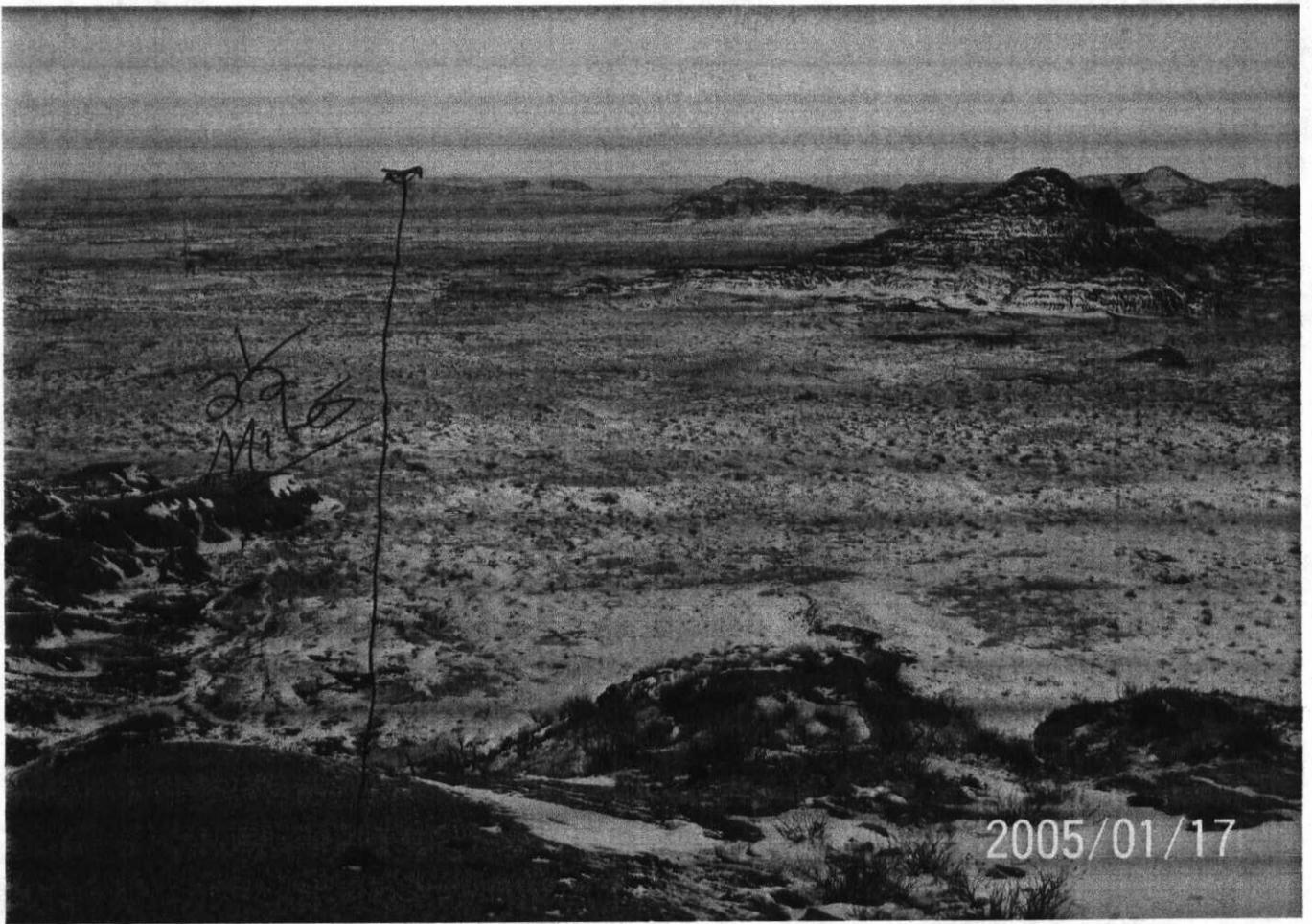
Fsa borders provided by the Farm Service Agency.  
 Soils data provided by USDA and NRCS.

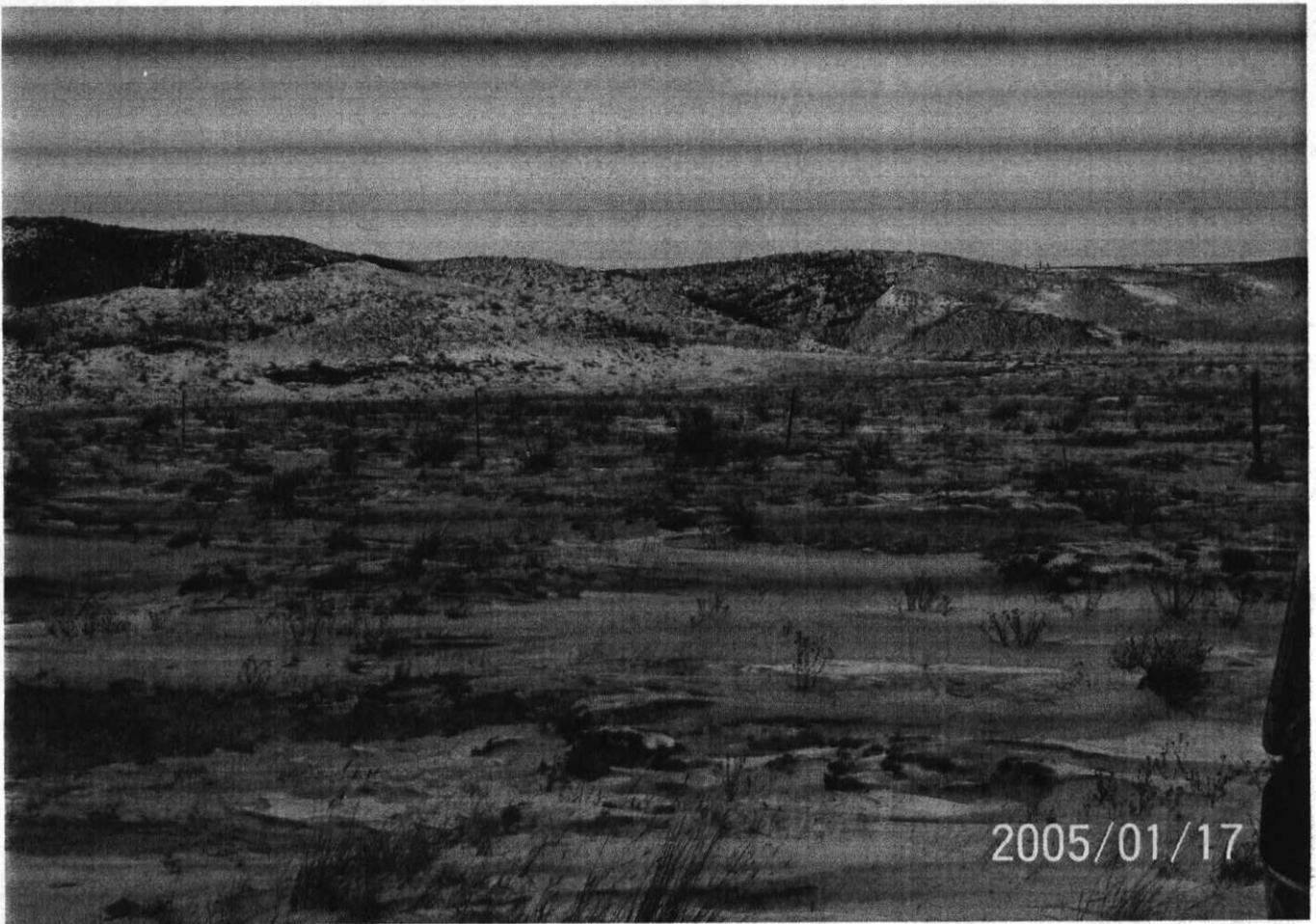
Soil Description	Acres	Percent of field	Class	Productivity Index
57B Savage clay loam, 2 to 6 percent slopes	84.3	89.7%	Ile	82
60B Shambo loam, 2 to 6 percent slopes	6.2	6.6%	Ile	81
31F Flasher loamy fine sand, 15 to 45 percent slopes, extremely stony	2.2	2.3%	VIIIs	9
5D Amor-Cabba loams, 9 to 15 percent slopes	1.0	1.1%	Ve	37
3D Amor-Cabba loams, 3 to 15 percent slopes, very stony	0.3	0.3%	VIIs	27
<b>Weighted Average</b>				<b>80</b>



dry wash is deep  
201502  
201502

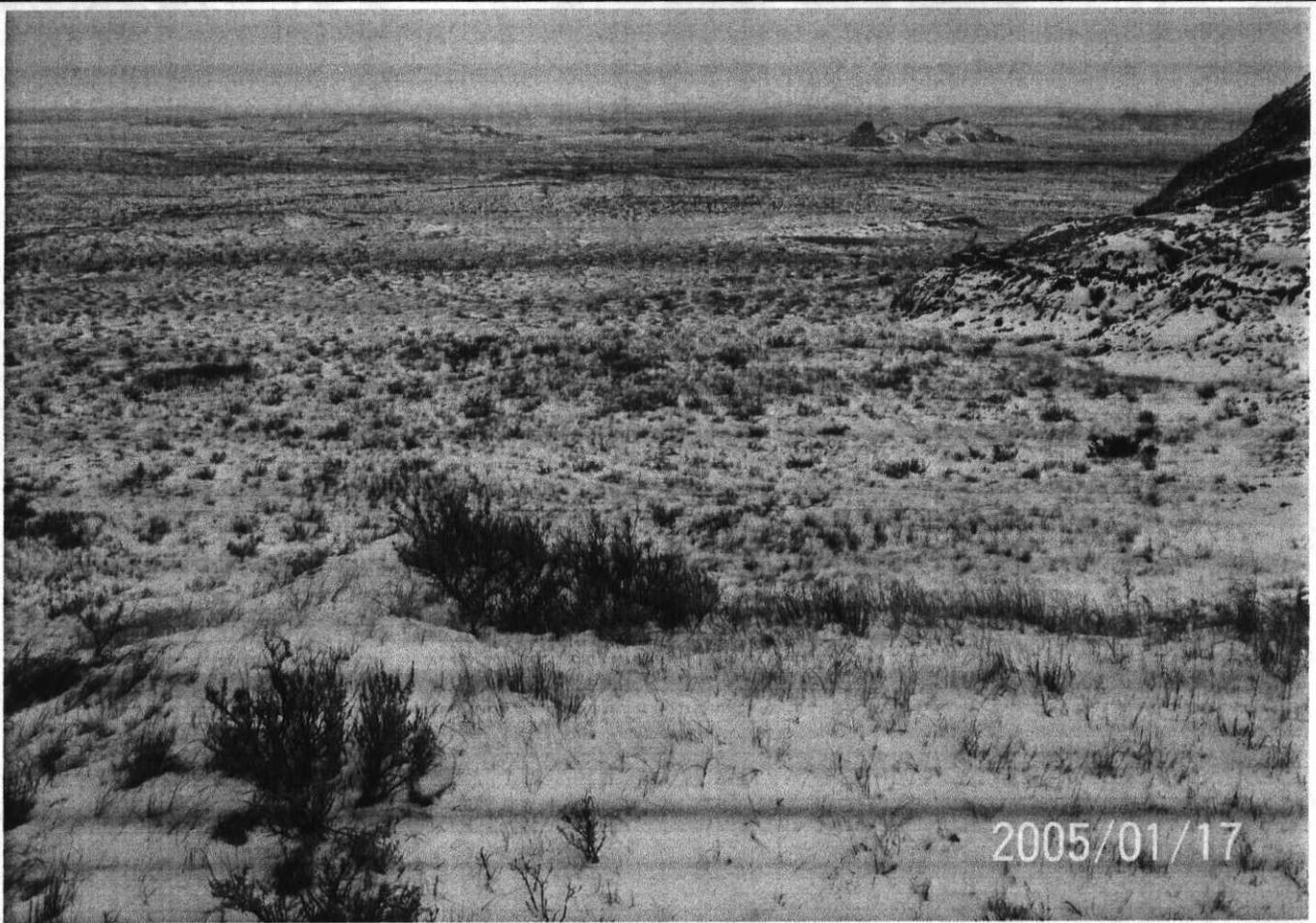
2005/01/17





All HARD PAN  
No Vegetation





SE4 2



Almost  
3 miles

# SE4 2 Toward Section 12 + 7H1

Senate Finance and Taxation Committee  
House Bill 1303  
February 27, 2007

Mr. Chairman and Committee Members:

I would like to thank you for the opportunity to express my support for House Bill 1303. My name is Keith Payne. My wife and I farm and ranch about 100 miles southwest of Bismarck in Pretty Rock Township. I'm not sure if they named it Pretty Rock because they thought the rocks were pretty or because it is pretty rocky.

There is a need for a simple and uniform way to establish what is cropland and what is non-cropland. This needs to be the first step in the assessment process just as determining whether a lot in town is residential or commercial.

In 57-02-27.2 of the ND Century Code, we have Ag Statistics and NDSU determine the average valuation for cropland and non-cropland for each county. Each county then has yearly set average values for both cropland and non-cropland. In 2006 cropland in Grant County was valued at 2.75% more than non-cropland. I fully support the use of detailed soil maps and NRCS production data in determining the land valuations for each of the categories, cropland and non-cropland.

Our county now uses soil type only to determine what is cropland and what is non-cropland. All agricultural land is presently being valued on its ability to produce wheat, oats, barley and hay.

I have included some pictures of land in my area. The first picture is an example of the average type of land. In the bottom half of the picture you can see the fields that I farm. In the next quarter of the picture is some of my hay land. We farm everything that is feasibly possible to farm. Picture 2 is also showing some of the terrain. Picture 3 shows some of the problems that I encounter with rocks. Picture 4 shows some of the land that our county deems as cropland with the sixth highest producing cropland soil in the county. These are not just surface rocks but they go clear through the soil profile. How much land in these pictures is able to produce wheat, oats, barley or hay? Yet all of these acres are being taxed on wheat, oats, barley or hay production.

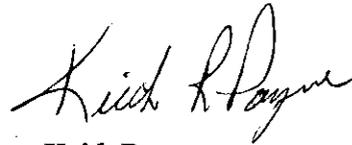
I don't have a problem with paying my fair share of the taxes. I have served over 30 years on various local political subdivisions. I see how our taxes are needed in our communities, however I don't feel the present method of taxation is fair. If I have rangeland, it should be taxed on rangeland productivity, not on cropland productivity. There is no way that all the land in these pictures could ever produce wheat, oats, barley or hay. It is not just a management decision. Land is what it is, nothing more, nothing less. Common sense tells me cropland is something that you can sink a plow into and till, non-cropland is something that you can't. The landowner is going to use this land for the best economic return because it is an economic investment.

Some opponents of this bill feel that this would be an added expense. However, the present programs, with some modifications, have these capabilities. It would be just a matter of a time commitment. There are also other programs, used by land appraisers that use satellite imagery. They count cropland and non-cropland acres and also the different soil types within those acres. I have included an example of such a program. The cost of this program, which includes all parcels of land in North Dakota, South Dakota and Montana, is \$400. per year.

Opponents would like you to believe that this is strictly a Grant county problem but it is not. Grant County is not unique in the need to determine what is cropland and what is non-cropland. In my opinion the land use is the logical way of accomplishing this. This is strictly a fairness issue in relation to the grassland owners across the state.

Therefore I support this bill and strongly urge its passage!

Respectfully,

A handwritten signature in cursive script that reads "Keith R. Payne".

Keith Payne  
8760 67<sup>th</sup> Ave. SW  
Elgin, ND 58533



# North Dakota Farm Bureau

*Bringing ag home*

1101 1st Ave. N., Fargo, ND 58102  
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## Senate Finance & Taxation Committee

*February 27, 2007*

### HB 1303 Testimony by North Dakota Farm Bureau

*presented by Sandy Clark, public policy team*

Good morning, Chairman Urlacher and members of the committee. My name is Sandy Clark and I represent the members of North Dakota Farm Bureau.

We just wanted an opportunity today to emphasize that this bill does not have any impact on the productivity formula that is used to determine property taxes on agricultural land. The productivity formula, that you hear so much about, is used to equalize property taxes on a statewide level...between counties.

Each county receives its productivity valuation from the State Tax Department, as it was determined through the productivity formula by NDSU. That's the valuation that the county must come up with on a county level.

The county uses the soil surveys and detailed soils maps to assess property on the county level and to equalize taxes across the county...between townships.

North Dakota Farm Bureau appreciates the intent of HB 1303. We concur that land use should be given consideration in determining the assessed valuations of agricultural land and in the equalization process on the county level.

NDFB believes soil type and soil classification data from the detailed and general soil surveys are an accurate vehicle to assess property on a local level. Farm Bureau supports modifiers to adjust for land characteristics that will align high-end soil type used for pastureland into the high-end non-cropland category.

However, there are counties who refuse to utilize modifiers. So in those cases, land use can have some of the same assessment result.

Thank you for your consideration. I would be happy to try to answer any questions you may have.

HOUSE BILL 1303

By Jim Hauge, Mandan, ND

It is a generally accepted fact that tillable land is worth more than pasture or grazing land, most times about 2 to 2 ½ times the value no matter what the soil type. I will concede that grazing land with good soil types is worth more than grazing land with poorer soil types but poorer soil type tillable is worth more than good soil type grazing land. The reason being is the amount of revenue that can be generated from tillable land versus grazing land. So in reality, most land that can be tilled is already broke up.

There is a misconception that it is most always economical to break up grazing land with good soil types. Some general economic barriers to breaking up grazing land are rocks, hills or steep slopes; a creek, too small of patches of good land, access, and in some cases not a large enough area to fence out the adjoining pasture. Some say that this is a management decision, comparing this to buying fertilizer or chemicals; in reality it is a capital purchase. It is a cost that should be amortized back into the value of the land, in the land that is presently being tilled; someone has already borne that expense on that land.

For these reasons, I believe logic would favor the language in this bill of also considering the use in addition to soil type.

LETTER OPINION  
96-L-79

April 25, 1996

Mr. Fabian E. Noack  
Foster County State's Attorney  
PO Box 15  
Carrington, ND 58421-0015

Dear Mr. Noack:

Thank you for your letter inquiring whether modifiers may be used for the ad valorem assessment of agricultural lands to account for conditions that are not documented in a soil survey.

N.D.C.C. § 57-02-27.2 provides the methodology for the valuation and assessment of agricultural lands. This section provides, in pertinent part, that "[i]n determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall, wherever possible, use soil type and soil classification data from detailed and general soil surveys." (Emphasis supplied.)

I have been advised by the Office of the Tax Commissioner that when the Property Tax Division of that office conducts training sessions for assessment officials, those assessment officials are encouraged to use modifiers to account for conditions that are not documented in a soil survey. These undocumented conditions include such things as unmapped wet areas, saline seeps, and rocky fields. Modification is also recommended to account for inaccessibility (e.g., tillable land along a creek bed at the bottom of a deep ravine), non-conformance (e.g., small area of tillable land in the middle of a quarter section of pasture land), and unusable shapes of tracts (e.g., generally caused by a highway or railroad right of way bisecting a tract leaving a long narrow triangular tract).

The Office of the Tax Commissioner has interpreted the above-quoted language from N.D.C.C. § 57-02-27.2 as providing the authority for the use of these modifiers. The North Dakota Supreme Court gives weight to the Office of the Tax Commissioner's practical interpretation of an ambiguous property tax statute. Ladish Malting Co. v. Stutsman County, 351 N.W.2d 712, 720 (N.D. 1984). Based on the interpretation the Office of the Tax Commissioner has given this statute, it is my opinion that assessment officials may use modifiers to account for conditions that are not documented in a soil survey.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

rww/pg

From: Sara Hewson - Tx Dept

Dear Senator:

I am asking you to vote against the amendment on HB 1303. This amendment strips away the original intent of this bill and modifiers are already in place. Modifiers don't solve the problem, they may help but the bottom line is the land that can be broke up and tilled, already is and tillable land is worth 2 to 2 1/2 times more than grazing land.

Thank you for considering passing HB 1303 WITHOUT THE AMENDMENT.

Jim Hauge  
Mandan, ND