

2011 HOUSE FINANCE AND TAXATION

HB 1071

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB1071
January 11, 2011
12752

Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to retention of property tax status as agricultural property for property previously devoted to agricultural uses which is being used for mineral extraction and for which the surface owner owns none of the subsurface mineral rights; and to provide an effective date.

Minutes:

Representative David Drovdal: Sponsor of Bill. Support. Please refer to attached testimony (#1).

Representative Shirley Meyer: On the second page of the bill, it states on line 10 that the surface owner does not own any of the mineral interests they will continue to be assessed as agriculture property. Let's say I kept all my mineral rights, and then could it be assessed differently?

Representative David Drovdal: Thank you very much for pointing that out. If you read my testimony that was not supposed to be in the bill. There was supposed to be an amendment drawn up to remove that language and I hope that Mr. Walstad gets that language down to me. If you read my last second to last paragraph the Tax Department told me clarification law and when I asked the bill to be drafted I requested no difference between land owners who owned some minerals and those who don't. Somehow the language included that it would only exempt land owners who owned minerals. That would be impossible to determine for one thing and it is discriminating because they are already paying an in lieu of tax on there and it would be like a double taxation. So there will be some amendments submitted to remove that language on line 10 and 11 on page 2 so it will apply to all surface owners regardless of whether they own minerals or not.

Representative Shirley Meyer: Can an oil company purchase those 6 acres for the site? Some surface owners are requesting that the oil companies come in and purchase that and they've been told that that is prohibited somehow in state law, true or not?

Representative David Drovdal: I would refer that question to legal staff.

Representative Glen Froseth: If lines 10 and 11 are amended out do lines 12, 13, and 14 read accurately?

Representative David Drovdal: I'm sure when they get me the amendments they'll correct the language to read properly in the bill. I will distribute the amendments as soon as I get them.

Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division for the Office of State Tax Commissioner: See attached testimony (#2).

Representative Shirley Meyer: I asked the question because of the language in the bill where it states that the surface does not own any of the mineral rights. There's so many split estates where you may own all of them, none of them, or a small portion. The way this language is here I think it would have to be amended so that we knew what we were getting at.

Marcy Dickerson: I feel that if a person is benefiting monetarily from this development, it's different than if a person is just being inconvenienced and maybe harmed by the development.

Representative Shirley Meyer: Just a follow up to that, in order to determine how much like the surface owners in our areas they may get a royalty check of \$10 per month or less, it's such a difference. There's very few that own 100% of the minerals. So how would you qualify on just how much damage is going to be assessed to you as the surface owner if it's going to be offset by the royalty payment.

Representative Glen Froseth: It seems to me that it would be irrelevant to the mineral owners in this bill because the mineral owners don't pay any property taxes on the minerals. The only property taxes are to the surface owners. So if the surface owners pay the agricultural assessment and if the oil well comes along then the assessment is changed to a commercial assessment. That's not fair to the surface owner. He's paying an increased value of that land that he's lost for the benefit of the mineral owner that's getting all the income off of it. I can see where the mineral owners are irrelevant to this bill.

Marcy Dickerson: I agree with you. The way I was reading the bill is that if the surface owner who is being inconvenienced or harmed by the development, if he is benefiting from this mineral benefit by being a mineral owner or benefiting financially in some way, to me that person possibly doesn't qualify or need the assistance to make sure that their taxes don't go up. On a wind farm, the land where the wind towers are located should be classified as commercial property. But that's only for somebody being paid by the company who is using that land and using that land for a commercial purpose, they're renting it to this company. I'm not claiming to be knowledgeable in mineral development but I just see a difference if that land which is being used or damaged the owner is being compensated for that use or damage then maybe you should be assessed this commercial property if he's getting revenue from the commercial activity. If he's not getting it then I agree 100% with this bill.

Vice Chairman Craig Headland: I'm a bit confused here. We're having agriculture property that is being developed with a well reclassified in that area as industrial. In Speaker Drovdal's testimony he pointed out there's an in lieu of property tax paid from the site. So if there's an in lieu of taxes paid from the site who's paying that, the mineral

owners or is there still a property tax collected because it's industrial or are there two tax stream coming from this site now?

Marcy Dickerson: I'm a little confused by that too. You're talking about where a well is located?

Vice Chairman Craig Headland: In Speaker Drovdal's testimony, he said it should be pointed out that if exploration is successful, so they strike oil, then there's an in lieu of property tax paid from this site. If that's the case then even though it's been reclassified there is no property tax collected so what difference does it make?

Marcy Dickerson: That is in lieu of property tax only applies to real property at the site of the well. If they have any buildings or structures that would otherwise be taxable. It does not affect the land, the land is still paying property tax either as agricultural or if it's been reclassified as commercial. Now in a lot of rural areas the value of land for commercial purposes may not be a lot different than the area of land for agricultural purposes. If so, the reclassification probably wouldn't change the valuation or taxes on that land very much. The land is not subject to the in lieu tax. The in lieu tax is only for other real property at that site.

Vice Chairman Craig Headland: Ok, I've got that portion of it understood. But who's paying the property tax on the industrial site? Currently, it's the surface owner. I'm confused who's going to pay it now with this bill.

Marcy Dickerson: So long as the surface owner retains ownership of that land it is tax to him and if there were any taxes on other structures that would be not exempt because of the in lieu provisions he would also be stuck with that. But since those structures are exempt because of the in lieu provision on the oil and gas law, the only thing taxable is the land. The owner of the land is still responsible for paying the taxes on it even if it's reclassified because of industrial development.

Vice Chairman Craig Headland: I'm still confused, if he's still paying it how does this bill change anything?

Marcy Dickerson: It would change it. He owns this land. Say it's one of the counties where agricultural value is maybe 50% of market value for that land. If it's reclassified as commercial then the value would double. If that's proper assessment; it's up to the assessor to determine what the value of the land is there. It's possible that it's not worth any more for commercial purposes because of the location or something. But if the value would double then that same land owner would have to pay twice as much in taxes on that same piece of land.

Vice Chairman Craig Headland: I'll have to figure this out on my own, I'm still confused.

Representative Bette Grande: In this you mentioned the wind mills and when a wind mill is going up on your land you negotiate with that and you have it taken care of. If I'm a surface owner and a rig is going to take place on my land I negotiate with them a lost production payment so is that not the same?

Marcy Dickerson: I'm really not familiar with those negotiations so I can't respond to that.

Representative Bette Grande: Representative Meyer alluded to some people are receiving a \$10 payment and others. There's a negotiation process before they start drilling on your land. You negotiate what is going to be assessed on that land; how much am I going to be given to let you drive on my land. I can't stop you because you've taken the mineral rights but there's a payment that takes place. How is that different from the wind mill?

Marcy Dickerson: From my understanding, on the wind farms the amount paid for those wind mill sites is a fairly descent amount and the farming can sometimes make more money from leasing that land for wind development than from farming it. I don't know anything about the payments that you're referring too. If they're similar to wind payments I would feel differently. My understanding was if you're a surface owner and somebody wants to come in and do something with the subsurface minerals then you're probably going to be harmed in one way or another from it. If I'm incorrect about that I would change my testimony.

Representative Glen Froseth: In the beginning the first 5% production tax was put on oil and was an in lieu of tax, isn't that right?

Marcy Dickerson: That is correct but in lieu of taxes on property other than land. It was not in lieu of tax on land.

Representative Lonny B. Winrich: It seems to me the problem here is that we have this system of fractional ownership of mineral rights so we're going to impose the entire tax burden on the surface owner even though that surface owner may only own a small portion of the mineral rights. Under income tax law there is a provision for a taxpayer who, for example, has income from several states. To compute a fraction of that income from North Dakota and then use that fraction in order to determine the appropriate tax based on their taxable income. What would you think of a system that used similar fractions, say the fraction of mineral rights applied to the surface owner for whatever tax is assessed on that land?

Marcy Dickerson: I don't know how that would work if you had a number of mineral rights owners how that should affect the surface ownership. Surface ownership, sometimes more than one owner, usually has deeds that indicate who owns how much and you know who to send the tax bill to and the taxes on the land and anyone of those owners or all of them together can pay it. I'm not sure if it would be feasible to try and tie the multi subsurface owners into an ownership of the surface. I don't know how that would work; it's something I've never heard of.

Representative Lonny B. Winrich: I'm not suggesting that we have to go out and find all the people who own fractional mineral rights. It seems to me the intent of this bill is to somehow be fair to that surface owner. Rather than assess the entire tax burden on that one person or entity that a fair tax burden be assessed. A fractional system such as I suggested might be a way to get at that concept.

Marcy Dickerson: There would have to be some way of determining based on whatever the law might say, exactly who was going to pay how much on this. I can see especially with development going on at the rate it is you'd be having parcels changing all the time. I don't know how feasible it would be to try and make some adjustment instead of making Farmer Brown who owns this land being responsible for the taxes on it, that he and how many others owning how much percentage of the mineral rights would be involved in it. It was just either last session or the session before, I think it was last session that legislature abolished the law that required assessment of severed minerals. It's been on the books for how long but because of practicality nobody was doing it, it was too much difficulty to even find the owners of the severed minerals and I think it was a wise decision to give up on something that wasn't being done even though it wasn't law.

Representative Patrick Hatlestad: If I read this bill right, all it does is say that oil site that was previously taxed agriculture will remain taxed agriculture.

Marcy Dickerson: Yes, that's the way I read it.

Sandy Clark, ND Farm Bureau: I guess this has gotten a little bit confusing. We're going to stand in support of the bill with the amendments Representative Drovdal is suggesting. We too had concerns about Representative Meyer's comment about the number of different mineral owners that can be involved. Actually, a mineral owner or the surface owner could be a mineral owner and not get nearly enough money to pay the property taxes it was classified as commercial property. We think it would be better to have all land. We certainly support surface owner rights. There were several bills last session about how to go about taxing mineral owners, property tax on mineral owners, and someone had indicated that it had been determined that it was unconstitutional to do so. We'll often hear when the oil extraction tax and the gross production tax is paid its paid on the total amount of oil coming out of the well so it's paid before the mineral owner is paid. So that 11 ½ % tax, part of that is coming from the mineral owner to begin with so when those monies go back to the counties you could look at that as the mineral owner paying the tax because their paying towards the surfaces of the county because they are paying into that 11 ½ % tax. To refer to Representative Grande's question, as we look at the difference between wind payments and the surface damage payments in oil production, wind payments are annual payments so there's a source of revenue to pay that property tax but in this case of surface damages in oil it's usually a onetime upfront fee. So if you continue to classify that as commercial there is no money to pay it. We would support HB 1071 with amendments.

Representative Shirley Meyer: Is there someone from the Tax Department who could answer that if an oil company could purchase the 6 acres, that is normal well site acreage, and if that's the case would that be reclassified?

Marcy Dickerson: I know of no provision that would prevent an oil company or anybody from buying a piece of land if a landowner wanted to sell it. If there's an agreement between the buyer and seller they can buy it. If the land were then used for only a commercial purpose, if it either met four of the seven conditions that are required to change agricultural land to something else or if it were land that was not subject to those conditions it probably would be changed to commercial land and valued at a commercial value. The

commercial may not be that different from agricultural value depending on the location and the circumstances surrounding it. There may not be any market value for that land except for farming.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1071.

Representative Drovdal passed out the amendments he just received from Legislative Council.

Committee work:

Representative Bette Grande: If this starts out as agriculture it gets to stay taxed as agriculture. I want to go to Representative Meyer's line of question with if this land is being sold off now it's really owned by a business and now industrial. The way we word this, does that affect that we can't assess the oil company who purchases it as industrial or commercial versus agriculture or does it stay agriculture then?

Representative Shirley Meyer: The reason I asked that question is because there's a movement out there now in the oil companies where the surface owners want to sell the 6 acres to oil companies. There is not one case of them ever doing that and they've indicated they don't want to set the precedence of doing that. It's been told to me that people who offer this the oil company land then has indicated to them that North Dakota Century Code prohibits them from purchasing it from a land owner. That's why I asked the question. To date there is not one single oil company that's ever purchased the land that the pad is on.

Chairman Wesley R. Belter: Let's take a look at the amendments here.

Representative Glen Froseth: If the parcel is sold off from a farmer to a commercial industry it would have to automatically change its classification because that business that buys it isn't classified as a farmer. That parcel couldn't still possibly be assessed as agricultural; it would have to be converted to commercial or industrial.

Representative Shirley Meyer: Once it meets those qualifications that Marcy described then I just asked the question if they were prohibited from purchasing that. Say that they would then they'd fall into the other section of the code that Marcy indicated. This would not affect that I don't think.

Chairman Wesley R. Belter: Let's look at the amendment and see what the intent is here.

Representative Patrick Hatlestad: I would move the amendments.

Representative Bette Grande: Seconded.

A voice vote was taken--12 AYES 0 NAYS 2 ABSENT AMENDMENTS ADOPTED.

Representative Glen Froseth: Motion for DO PASS AS AMENDED.

Representative Patrick Hatlestad: Seconded.

MOTION CARRIED- DO PASS AS AMENDED.

REPRESENTATIVE STREYLE WILL CARRY HB1071.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB1071
January 12, 2011
12790

Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A Bill relating to retention of property tax status as agricultural property for property previously devoted to agricultural uses which is being used for mineral extraction and for which the surface owner owns none of the subsurface mineral rights; and to provide an effective date.

Minutes:

Chairman Wesley R. Belter: Motion should be made to reconsider our action to where we passed HB 1071.

Representative Dave Weiler: Made a motion to RECONSIDER our action of a Do Pass with Amendments.

Representative Bette Grande: Seconded.

Voice vote was taken-- 14 AYES 0 NAYS 0 ABSENT
MOTION CARRIED.

Representative Roscoe Streyle: In reviewing the language of this before carrying the bill to the floor some questions arose and I felt that it poorly written. Amendments reviewed with the committee.

Representative Bette Grande: Motion made to remove the previous amendments and have the bill back to its original form.

Representative Scot Kelsh: Seconded.

Voice vote was taken—14 AYES 0 NAYS 0 ABSENT
MOTION CARRIED.

Representative Lonny B. Winrich: Motion made to accept 1002 amendments.

Representative Bette Grande: Seconded.

Voice vote was taken—14 AYES 0 NAYS 0 ABSENT

MOTION CARRIED.

Representative Bette Grande: Motion for DO PASS AS AMENDED.

Representative Shirley Meyer: Seconded.

A roll call vote was taken—14 YES 0 NO 0 ABSENT

Representative Roscoe Streytle will carry HB1071.

11.0121.01001
Title.03000

Prepared by the Legislative Council staff for
Representative Drovda
January 11, 2011

V/R
1/11/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1071

Page 2, line 9, remove the underscored colon

Page 2, remove lines 10 and 11

Page 2, line 12, replace "(2) The" with "the"

Renumber accordingly

Date: 1-11-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Hatlestad Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE:
12 AYES 0 NAYS 2 ABSENT

Date: 1-11-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	AB				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	AB				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Streyle

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

Date: 1-12-11
 Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Amendments
from 1-11-11.

Motion Made By Rep. Weiler Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE
14 AYES 0 NAYS 0 ABSENT

Date: 1-12-11
Roll Call Vote # #2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Remove previous amendments and have bill back in its original form.

Motion Made By Rep. Grande Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE -
14 AYES 0 NAYS 0 ABSENT

VR
1/12/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1071

Page 2, line 7, replace "Lands" with "Land that was"

Page 2, line 7, replace "until" with "at the time the land was"

Page 2, line 9, replace the underscored colon with "the"

Page 2, remove line 10

Page 2, remove line 11

Page 2, line 12, remove "(2) The"

Renumber accordingly

Date: 1-12-11
Roll Call Vote # #3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

★ ACCEPT 1002 AMENDMENTS

Motion Made By Rep. Winrich Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE -
14 AYES 0 NAYS 0 ABSENT

Date: 1-12-11
Roll Call Vote #: 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.0121.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep Grande Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Streyle

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

REPORT OF STANDING COMMITTEE

HB 1071: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1071 was placed on the Sixth order on the calendar.

Page 2, line 7, replace "Lands" with "Land that was"

Page 2, line 7, replace "until" with "at the time the land was"

Page 2, line 9, replace the underscored colon with "the"

Page 2, remove line 10

Page 2, remove line 11

Page 2, line 12, remove "(2) The"

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

HB 1071

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1071

3/7/2011

Job Numbers 14977 & 14978

Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to retention of property tax status as agricultural property for property previously devoted to agricultural uses which is being used for mineral extraction and for which the surface owner owns none of the subsurface mineral rights

Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on HB 1071.

Representative Drovdal – (See attached testimony A in favor of HB 1071)

Senator Oehlke – Is there a reason that this is limited to oil and natural gas, potash, or uranium?

Representative Drovdal – No particular reason, the language was put in by the lawyer.

Senator Oehlke – I was thinking of coal. Why wouldn't we want to cover it all now rather than come back later and say "oh yeah, there is another mineral".

Representative Drovdal – I would defer that to the Tax Department. They can better clarify that.

Jolene Vidal, Tax Department – Coal is subject to a different kind of a tax. This basically, these well sites are small areas where as if you are going to go and take coal, it's going to be a larger area so this is saying this one particular area. That's why I think it's minimized to these but I can check with Marcy Dickerson and find out why they chose this particular language.

Senator Oehlke – I was wondering if there was maybe a more general term you could use that would cover the issue so that 2 or 4 years from now we don't come back and say we forgot to add this mineral or that mineral.

Sandy Clark, North Dakota Farm Bureau – We certainly would stand in support of HB 1071.

Chairman Cook asked for testimony in opposition to HB 1071. No one came forward.

Chairman Cook asked for neutral testimony for HB 1071. No one came forward.

Chairman Cook closed the hearing on HB 1071.

Vice Chairman Miller – Just to discuss a little bit, I think coal or gravel or something of that nature, the process in which those items are mined are significantly different than oil and natural gas, or potash. Maybe it needs to be clarified for subsurface mining rather than surface mining.

Senator Oehlke – Four years ago I don't think, if we would have done this bill we probably wouldn't have put potash in here. That's my point. Is there a more general term that we could use that would cover all that style or type?

Senator Triplett – If I could offer a suggestion, it might make more sense if in addition to that you also check with Lynn Helms because he might have a better phrase for it.

Chairman Cook closed discussion on HB 1071.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1071
3/9/2011
Job Number 15198

Conference Committee

A. B. Miller

Explanation or reason for introduction of bill/resolution:

Relating to retention of property tax status as agricultural property for property previously devoted to agricultural uses which is being used for mineral extraction and for which the surface owner owns none of the subsurface mineral rights

Minutes:

Committee Work

Chairman Cook opened discussion on HB 1071.

Senator Oehlke explained an amendment he had drafted.

Senator Oehlke – I'll move the amendment.

Seconded by Senator Triplett.

Chairman Cook – All in favor of the amendment signify by saying yea. (6-0-1)

Senator Oehlke – I'll move a Do Pass as Amended.

Seconded by Vice Chairman Miller.

Chairman Cook – Ask the clerk to take the roll. (6-0-1)

Carried by Senator Oehlke.

11.0121.04001
Title.05000

Adopted by the Finance and Taxation
Committee

March 9, 2011

JF3
3-9-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1071

Page 2, line 8, replace "potash, or uranium" with "or subsurface minerals as defined in section 38-12-01"

Renumber accordingly

Date: 3-9-11
 Roll Call Vote # _____

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1071

Senate _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By O Seconded By M

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod		
Joe Miller – Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Oehlke

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

Amundment O-T 6-0-1

REPORT OF STANDING COMMITTEE

HB 1071, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1071 was placed on the Sixth order on the calendar.

Page 2, line 8, replace "potash, or uranium" with "or subsurface minerals as defined in section 38-12-01"

Renumber accordingly

2011 TESTIMONY

HB 1071

1-11-11
#1

Chairman Belter and members of the House Finance and Tax Committee. For the record I am David Drovdal, Representative from the 39th district. HB 1071, which is before you this morning, is in regard to property tax assessment of oil drilling location.

To give you a brief history, oil developers have the right to ingress onto surface owners land for the purpose of oil and gas exploration if they hold the lease for some of the minerals under that land. The surface owner may or may not have an interest in the exploration but the surface owner is still responsible for the property taxes on that parcel. It should be pointed out that if the exploration is successful then there is an in lieu of property tax paid from that site. Over the past 50 some years of oil exploration the policy has been that the land value of that site would remain classified as it was before the activity started. It was brought to my attention that a county land appraiser decided that when a well was completed then thereafter the property should be valued as industrial. This could have the potential of raising the value of the land from a few hundred dollars to 10's of thousands of dollars per acre. The local landowner, who had no say or may not receive any benefits from the well, would be charged a much higher property tax.

In visiting with the tax department they told me they supported the clarification of the language in the law. When I asked the bill to be drafted I requested that there be no difference between landowners who own some minerals and those who don't. Somehow there is language included that would only exempt the landowners who own no minerals. This would be hard to determine, it is discrimination and would be double taxation. I am submitting an amendment that would remove the language that makes it only apply to surface owners that are non mineral owners.

Thank you for your time and I ask for you favorable consideration. I would be glad to answer any questions.

David Drovdal

#2

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE**

HOUSE BILL 1071

JANUARY 11, 2011

Chairman Belter, members of the House Finance and Taxation Committee, I am Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division for the Office of State Tax Commissioner. I am here today to testify in support of House Bill 1071.

BACKGROUND

N.D.C.C. § 57-02-01(1) defines agricultural property for purposes of ad valorem assessment. Certain conditions must be met before land is reclassified from agricultural to residential or commercial land.

REASON FOR PROPOSED CHANGE

When mineral resources are being developed, surface owners who do not own the mineral rights may suffer loss of the use of their property, and financial loss. Development may create conditions that meet the requirements of § 57-02-01(1), causing assessment officials to reclassify the agricultural land to commercial property. The reclassification is likely to increase the property taxes on that land. It seems unfair that a landowner would have to pay more taxes on land that, through no fault of the owner, and with no payment to the owner, has been made less useful for agricultural purposes.

CHANGE

The proposed amendments require lands assessed as agricultural property until put to use for extraction of oil, natural gas, potash, or uranium to continue to be assessed as agricultural land, if the surface owner does not own any of the underlying mineral rights for oil, natural gas, potash, or uranium, and the remainder of the surface owner's parcel continues to qualify for assessment as agricultural property. This language does not provide any compensation to the landowner for any loss or damage, but it does prevent an increase in property taxes due solely to reclassification.

EFFECTIVE DATE

The provisions of House Bill 1101 are effective for taxable years beginning after December 31, 2010.

CONCLUSION.

This change seems reasonable. It does not prevent reclassification of land when the owner is involved in or benefits from the activity that causes reclassification. It prevents additional tax burden from falling on a landowner due to commercial activity from which that landowner does not benefit. I respectfully request that you give favorable consideration to House Bill 1071.

I will be glad to try to answer any questions.

Chairman Cook and members of the Senate Finance and Tax Committee. For the record I am David Drovda, Representative from the 39th district. HB 1071 which is before you this morning is in regard to property tax assessment of oil drilling location.

To give you a brief history, oil developers have the right to ingress onto surface owners land for the purpose of oil and gas exploration if they hold the lease for some of the minerals under that land. The surface owner may or may not have an interest in the exploration but the surface owner is still responsible for the property taxes on that parcel. It should be pointed out that if the exploration is successful then there is an in lieu of property tax paid from that site. Over the past 50 some years of oil exploration the policy has been that the land value of that site would remain classified as it was before the activity started. It was brought to my attention that a county land appraiser decided that when a well was completed then thereafter the property should be valued as industrial. This could have the potential of raising the value of the land from a few hundred dollars to thousands of dollars per acre. The local landowner, who had no say or may not receive any benefits from the well, would be charged a much higher property tax.

In visiting with the tax department they told me they supported the clarification of the language in the law.

Thank you for your time and I ask for you favorable consideration. I would be glad to answer any questions.

David Drovda