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10/3/03
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2003 HOUSE FINANCE AND TAXATION

HB 1310

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1310

House Finance and Taxation Committee

Conference Committee

Hearing Date January 22, 2003

Tape Number	Side A	Side B	Meter #
2	X		16

Committee Clerk Signature *Janice Stein*

Minutes:

REP. WESLEY BELTER, CHAIRMAN Called the hearing to order.

REP. CHET POLLERT, DIST. 29 Introduced the bill. The bill deals with the reassessment of the sale of a commercial grain elevator. What is happening in rural North Dakota, is the country grain elevators may come up for public auction, and what we are finding out is, some of the taxes assessed and some of the values are not done as well as we would like to see, or not done at all. In Foster county, there was a grain elevator sold in the town of Carrington, and the assessor came in and done a very fair job. In some counties that has not been happening. There will be a little discussion as to what an arm's length sale is. I think you will find this will be an education as to what someone goes through in the sale process.

KEVIN BLACK, GLENFIELD, ND Testified in support of the bill. He submitted handouts relating to grain elevators, and tax information from Griggs County. He also submitted a handout showing the appraisal of a grain elevator. He gave an account of his experience of

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10/3/03
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Page 2

House Finance and Taxation Committee

Bill/Resolution Number HB 1310

Hearing Date January 22, 2003

purchasing a grain elevator in November, 2000, at Binford, ND. He stated he purchased the elevator for \$27,000 at an auction sale. He related to the assessment value of this elevator for the year 2001, which showed \$134,600. (See attached copy) He stated he spoke to the assessor, the city fathers and the tax director. He pointed out the law which states whenever and wherever there is market data that can be relied upon, assessors should use it. They basically, ignore that. There have been four elevators sold in Griggs County in the past four years, all sold under \$30,000. He referred to the handout showing the 2002 assessment. This assessment still is higher than what the market sale value is. He felt assessors need some direction in assessment, and that is the purpose of this bill.

REP. WINRICH Asked what an "arm's length sale" is.

KEVIN BLACK He stated he is not an attorney, but in his opinion, it is a sale between a willing seller and a willing buyer.

STEVE STREGE, EXECUTIVE VICE-PRESIDENT OF THE NORTH DAKOTA GRAIN DEALERS ASSOCIATION. Testified in support of the bill. He stated there is a need to make an adjustment in the evaluations of non commercial units, why wouldn't we do it for commercial. You see more and more of the grain elevators sold. The value of these elevators is determined more and more whether they have rail service and whether there is a shuttle train loader nearby, then by the actual facility itself. He submitted amendments to committee members. He gave his opinion of an "arm's length sale" as being a sale without relatives involved.

Page 3

House Finance and Taxation Committee

Bill/Resolution Number HB 1310

Hearing Date January 22, 2003

REP. WINRICH This talks about reassessing the property when it is sold, and goes into effect for taxable years after 2002, since Mr. Black already purchased the elevator at that price, that sale is past, and it would have to be sold again before this could be effective?

STEVE STREGE I am not familiar with Mr. Black's situation, all we are saying is, if you are going to change it, all of these elevators are over valued. There is a difference if someone buys it and runs it as a farm elevator, or if someone buys it and runs it as a commercial elevator. Why shouldn't he be treated the same as far as value. If he paid \$35,000, that should be fair market value.

MARCY DICKERSON, SUPERVISOR OF ASSESSMENTS, STATE TAX

DEPARTMENT, Testified in a neutral position. Had a couple of concerns about the bill. See written testimony.

REP. BELTER Asked whether there was a definition of "arm's length sale" in the code.

MARCY DICKERSON Stated there was no definition in the code, the definition of market value, is not in the code either, but in the text books, market value is defined as an arm's length transaction between a willing buyer and a willing seller, both of whom are knowledgeable to the use of which the property may be put.

REP. DROVDAL I can understand the frustration, of the taxpayers in rural areas, when an assessment committee comes in, the taxpayer gets this statement in the mail for \$120,000, and he says this is wrong, somewhere there is an inequity in this system, with this assessment business. It is dictated by the state, and they don't even know what is happening in the rural area.

MARCY DICKERSON It is not dictated by the state. The closest it is dictated by the state, is on the agricultural land where the university has to establish an average value per acre and the

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Date

Page 4

House Finance and Taxation Committee

Bill/Resolution Number HB 1310

Hearing Date January 22, 2003

counties have to come with that as a value. That has nothing, whatsoever, to do with commercial assessment.

REP. DROVDAL It may not be dictated in code, like we have our agricultural land, but in reality, it is. Call my assessor back in Watford City, and she will tell you she is governed by the action she gets from the state. I think this reflects that same problem.

MARCY DICKERSON The state only gets involved so far as the sale's ratio set goes. We conduct a study every year, that compares selling prices of properties that sold with the commercial values the assessors have placed on them. For a county or major city, it is handled in bulk. Some of them will be really close, some won't be so close. If the sale ratio study indicates the properties, overall, are over assessed or under assessed, then the State Board of Equilization will recommend that the counties make an adjustment. If the counties don't make an adjustment, then the state board will make an adjustment to bring them up to market value. In the case of this elevator that you are talking about, assuming that this assessor was at \$134,000, and the sale price was \$25,000 to whatever it was, they would look at that, except, the statute requires that an auction sale not be counted. If that had been just a private sale, verified by the county people, but it was an arm's length transaction, that would show that that assessment was way out of line.

REP. DROVDAL In small towns, there are no sales on main street, for many years. They are not using actual figures, and they keep saying they can't adjust it because, in my particular case, I had a building that I wanted adjusted, and they wouldn't do it, finally I petitioned to the county commissioners, and they asked the auditor where he got the figures, there was only one building sold in the last ten years, she still insisted that she couldn't change it, because of this percentage

Lu Costa Rickford
Operator's Signature

10/3/03
Date

Page 5

House Finance and Taxation Committee

Bill/Resolution Number HB 1310

Hearing Date January 22, 2003

that you just mentioned. There is a problem with the assessments in rural North Dakota, and it is affecting people who are trying to make the best use of some of these older buildings.

MARCY DICKERSON At the risk of infuriating some local people, some of them kind of pass the buck and say, the state made me do it. Sometimes, it isn't quite the way they describe it. I would agree with you, to a certain extent, that commercial property probably is being over assessed in those areas. There is a great reluctance on the part of some of the local officials, city and county, to reduce values, because they really are trying to maintain their tax base. They have to have somebody to tax, the farmland values have been going up, but obviously, the agricultural interests are not happy with that. If all of your commercial and residential values are going down, there is no tax base.

WADE WILLIAMS, NORTH DAKOTA ASSOCIATION OF COUNTIES Testified in opposition of the bill. He stated their concern with this bill is, what happens if the sale is greater than what it is assessed. We would like the tables to go the other way. Related to Century Code 57-02-11.1, Section 1, that section says, assessors cannot use the value of a piece of property which has sold at auction, and use that value. Maybe something needs to be addressed there. With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-29-03, Tape #1, Side B, Meter #21

REP. HEADLAND Presented and explained amendments prepared by Rep. Pollert. The amendments would allow public auction sale bids, to be an arm's length sale.

REP. HEADLAND Made a motion to adopt the amendments as presented.

REP. IVERSON Second the motion. Motion carried by voice vote.

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Page 6
House Finance and Taxation Committee
Bill/Resolution Number HB 1310
Hearing Date January 22, 2003

REP. SCHMIDT Felt the bill should also be amended to say "three or more" sealed bids, as one bid, would probably not constitute true market value.

REP. WINRICH Felt committee members should probably address Marcy Dickerson's concerns in her testimony.

REP. HEADLAND Made a motion for a **DO PASS AS AMENDED**.

REP. KLEIN Second the motion. **MOTION CARRIED**

12 YES 1 NO 1 ABSENT

REP. HEADLAND Was given the floor assignment.

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Date: 1-29-03
 Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1310

House FINANCE & TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep. Headland Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	A				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	A				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH		✓			

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep Headland

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

La Costa Rickford 10/3/03
 Operator's Signature Date

