

1999 SENATE FINANCE AND TAXATION

SB 2052

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2052

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 01/06/99

Tape Number	Side A	Side B	Meter #
1	TAPE RECORDER ERROR		
Committee Clerk Signature	<i>Sheila Wald</i>		

Minutes:

CHAIRMAN URLACHER: opened the hearing on SB 2052, A BILL RELATING TO THE VALUATION AND ASSESSMENT OF INUNDATED AGRICULTURAL LAND FOR PROPERTY TAX PURPOSES; AND TO PROVIDE AN EFFECTIVE DATE.

JOHN WALSTAD, Legislative Council explained the Bill, and the changes occurring. This Bill arose from the Devils Lake Basin. An agreement formula, in 1981, established for protection of rising waters, and property taken out of production. Only producing acres were valued. Formula recognizes that acres are being taken out of but does not account for the loss of production.

Inundated land is going to be taken out. County assessment will be based on productivity.

SEN. STENEHJEM- Could this affect other lands outside the Devils Lake area?

JOHN WALSTAD- It would not be limited to the Devils Lake area. Each parcel would have to

be addressed. An assessor can give a decision to see if it would be workable.

SENATOR URLACHER- If that land was to be used for hunting, would that be taken under consideration?

JOHN WALSTAD- Yes.

SENATOR STENEHJEM- The wildlife, goose hunting and nesting areas, if leased, farmers cannot gain.

JOHN WALSTAD- Formula does not recognize the farmers if they are getting a considerable amount from the hunters.

SENATOR CHRISTMANN- If the area is not full of water and has a drought, is it considered inundated? Is the dry area subject to tax?

JOHN WALSTAD- The bill draft applies to flood property.

BARRY HASTIE - 1. If property is used for hunting purposes, it is no longer considered agricultural. It is then taken out of the formula. 2. The formula does not reflect long term drought period.

SENATOR URLACHER- Anyone testifying please sign the register. Is there anymore testimony? Testimony was closed on SB 2052. SENATOR WARDNER moved to DO PASS.

SENATOR KINNOIN seconded the motion. The motion carried.

ROLL CALL - 7 yae 0 nae 0 absent

BILL CARRIED BY SENATOR CHRISTMANN.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2052

Amendment to: _____

Requested by Legislative Council

Date of Request: 12-10-98

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: SB 2052, if enacted, will establish a value for inundated agricultural land that may result in a reduction of the taxable value of agricultural land.

While SB 2052 could decrease the value of taxable property of counties, cities, and school districts, it does not require a decrease in property taxes. Any change in property tax revenue will be the result of county, city, or school district decisions as to the level at which government services will be funded, and not as a result of the passage of SB 2054. This bill alone causes no fiscal effect to the counties, cities, or school districts. There will be an indeterminable decrease in the property tax revenue for the one-mill state medical center levy.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	0	0	0	<\$5,000	0	<\$5,000
Expenditures	0	0	0	0	0	

What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: 0
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: 0
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: 0

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed
attach a supplemental sheet.

Signed: *Kathryn L. Strombeck*

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: 1-5-99

Phone Number: 328-3402

Date 1-6-99

Roll call vote # 1

Please type or use black pen to complete

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2052

Senate Fin + Tax Committee

Subcommittee on _____ (Identify or

Conference Committee _____ (check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Wardner Seconded By Kinnoin

Senators	Yes	No	Senators	Yes	No
SENATOR URLACHER	✓				
SENATOR CHRISTMANN	✓				
SENATOR SCHOBINGER	✓				
SENATOR STENEHJEM	✓				
SENATOR WARDNER	✓				
SENATOR KINNOIN	✓				
SENATOR KROEPLIN	✓				

Total 7
(Yes) (No)

Absent _____

Floor Assignment Senator Christmann

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

Do Pass

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
January 6, 1999 11:42 a.m.

Module No: SR-02-0329
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2052: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2052 was placed on the Eleventh order on the calendar.

1999 HOUSE FINANCE AND TAXATION

SB 2052

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SN 2052

House Finance and Taxation Committee

Conference Committee

Hearing Date February 24, 1999

Tape Number	Side A	Side B	Meter #
1	x		39.2
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

JOHN WALSTAD, LEGISLATIVE COUNCIL STAFF, Testified neither for nor against the bill. Covered SB 2052 and SB 2054. Submitted a copy of the Tax Committee's report. See attached copy. This is related to what to do with agricultural property that becomes inundated and is taken out of production. It has happend throughout the state but mostly in Devils Lake.

REP. SCHMIDT Asked what size of parcels of land was he talking about?

JOHN WALSTAD It is not limited, if you have a whole section of land that is under the surface of the lake now, you would be eligible to apply to the county for this kind of treatment, for the county to assess that land which is inundated, and which is subject to a much lower evaluation. They can do basically the same thing through the abatement process, but the problem with that is

granting an abatement doesn't solve the problem of getting value per acre so that it shifts value to other properties.

REP. SCHMIDT What about smaller parcels, if a parcel is a slough?

JOHN WALSTAD I believe this would allow, in those kinds of situations, with the approval of the county commission, that kind of property to be assessed as inundated.

MR. WALSTAD WENT ON TO EXPLAIN SB 2054.

Tape 1, Side B, Meter #1.3

Continuing with SB 2052

BARRY HASTI, SUPERVISOR OF ASSESSMENTS, OFFICE OF THE STATE TAX

COMMISSIONER, Testified in a neutral position. Pointed out something that would help in administering the bill. On page 3, line 9, suggested to remove "county" and replace "tax equilization" with "county commissioners".

PATTY LEWIS, NORTH DAKOTA FARM BUREAU, Testified in support of the bill. This is a commonsense approach to addressing the flooded acres.

MARK SITZ, NORTH DAKOTA FARMERS UNION, Testified in support. This is a fairness issue to producers who have land in this situation. Also in support of SB 2054.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-24-99, Tape #1, Side B, Meter #26.6

REP. GROSZ Made a motion to adopt the amendments presented by Barry Hasti.

REP. GRANDE Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. MICKELSON Made a motion for a DO PASS AS AMENDED.

REP. RENNER Second the motion. MOTION CARRIED.

13 Yes 0 No 2 Absent

REP. SCHMIDT Was given the floor assignment.

Please type or use black pen to complete

Date 3-24-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2052

House HOUSE FINANCE & TAX Committee

- Subcommittee on _____
- Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. GROSZ ^{Mickelson} Seconded By Rep. Grande Renner

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	A				
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	A				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 13 0
(Yes) (No)

Absent 2

Floor Assignment Rep. Schmidt

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
February 25, 1999 8:54 a.m.

Module No: HR-34-3513
Carrier: Schmidt
Insert LC: 90070.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2052: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2052 was placed on the Sixth order on the calendar.

Page 3, line 9, remove "county" and replace "tax equalization" with "county commissioners"

Renumber accordingly

1999 TESTIMONY

SB 2052

John Walstad
SB 2052

Dakota State University Department of Agricultural Economics. Annual gross return for rented land is determined from crop share or cash rent information and for other land is 30 percent of annual gross income for cropland used for growing crops other than sugar beets or potatoes, 20 percent of annual gross income for cropland used for growing sugar beets or potatoes, and 25 percent of gross income potential based on animal unit carrying capacity of the land for land used for grazing animals. Average annual gross return for each county is determined by using annual gross returns for the county for recent years, discarding the highest and lowest annual gross returns from those years, and averaging the returns for the remaining years. Passage of House Bill No. 1069 (1997) extended the number of years of production data used in the agricultural property valuation formula from six years to 10 years. The bill makes this change in increments by use of seven years' data in 1997, eight years' data in 1998, nine years' data in 1999, and 10 years' data after 1999. Average annual gross return is then capitalized using a 10-year average of the most recent 12-year period for the gross Farm Credit Services mortgage rate of interest. An average agricultural value per acre is established for cropland and noncropland on a statewide and countywide basis. This information is provided to the Tax Commissioner by December 1 of each year and then provided by the Tax Commissioner to each county director of tax equalization. The county director of tax equalization provides each assessor with an estimate of the average agricultural value of agricultural lands within the assessor's district. The assessor determines the value of each assessment parcel within that district. Within each county and assessment district, the average of values assigned must approximate the averages determined under the formula for the county or assigned to the district by the county director of tax equalization. In determining relative values, local assessment officials are to use soil type and soil classification data whenever possible.

Committee Considerations

Recent increases in agricultural property valuations in the state generated many complaints to legislators. Many farmers in the state are frustrated because a time of poor production and low commodity prices has been accompanied by increased agricultural property valuations and property tax burdens.

In 1996 average assessed value of agricultural land increased more than nine percent statewide. This substantial jump in values resulted because of the years used in the formula. For 1996 assessments, the 1988 drought year was replaced by 1994 good production year statistics. In addition, the capitalization rate has been declining steadily, which produces higher valuations. Passage of 1997 House Bill No. 1069 eased the effect of these factors by including an additional year of

AGRICULTURAL PROPERTY ASSESSMENT STUDY

Background

True and full value of agricultural property for property tax purposes is based on productivity, as established through computation of the capitalized average annual gross return of the land made by the North

production data to computation of agricultural property valuations, resulting in a decrease of almost 3.5 percent in 1997 average agricultural values per acre statewide compared to what would have been determined under the formula before the 1997 amendment. As additional years of data are added to the formula, the formula should generate more stable property valuations.

The committee reviewed detailed data on calculation of county average agricultural values per acre for several individual counties, including counties in the Devils Lake Basin experiencing difficulties because of inundation of agricultural property. The formula reflects the fact that land has been flooded because reported cropland acreage under the formula has diminished. However, nonproducing cropland is ignored in the formula and the average agricultural value per acre for the county is determined only on the basis of statistics for producing acreage. This artificially inflates the average agricultural value per acre for the county because the valuations for all agricultural property in the county must approximate the county average valuation as determined under the formula, and inundated land must be assessed as agricultural property. If the county assigns lower values to inundated lands, values of other agricultural property must be inflated to allow the average for all agricultural property to approximate the county average. The county is faced with the choice of keeping an unnaturally high valuation for inundated land or placing an unnaturally high valuation on property that remains in production. Representatives of counties in the Devils Lake Basin told the committee that they are having enormous difficulties with requests for abatement of inundated property, and that this in turn causes substantial problems for valuation of agricultural property that remains in production. It was suggested that the formula be adjusted to allow inundated lands to be excluded from consideration in agricultural property valuations. It was suggested that in addition to existing agricultural property classifications of cropland or noncropland, a third category should be created for inundated agricultural property.

The committee received a resolution signed by county commissioners from 10 counties stating that an increase in valuation for agricultural property is unacceptable in view of the current farm economy. The resolution requested assistance from the Legislative Assembly in restraining agricultural property valuations, particularly in counties in the Devils Lake Basin, where the lake has inundated vast amounts of farmland. The State Board of Equalization has recently granted several counties authority to reduce agricultural property valuations below the statewide average agricultural value per acre as determined under the valuation formula. The board concluded that following the law precisely would impose a hardship within these counties. This action was cited as evidence that the agricultural property valuation formula does not adequately address problems that arise in agricultural property valuation when a substantial amount of agricultural property is inundated.

The capitalization rate used in the agricultural property valuation formula was criticized as being too influential on valuations because a minor reduction in interest rates results in significant increases in valuation as established by the formula. The formula was also criticized for failing to account for costs of production because if farmers' costs of production increase while all other factors remain stable, farmers' net income will decrease but land valuation will remain the same. This was described as a deficiency in the formula because the formula is supposed to measure productivity, which should include consideration of all factors affecting farm income. The committee received information that farm production costs have increased approximately 67 percent in 10 years while yields have increased by 7.5 to 8 percent over that time period and prices received for products have declined.

The committee reviewed an analysis of the effect of restricting changes in the capitalization rate used in the agricultural property valuation formula. Based upon assumptions about what will happen to interest rates, it was estimated that limiting the capitalization rate to no less than 10 percent would result in land valuation reductions of approximately 2.5 percent per year, with a total reduction of approximately 14 percent by the year 2007.

The committee obtained an analysis of the effect on agricultural property valuation of including a component in the valuation formula based on the National Agricultural Statistics Service annual index of prices paid by farmers. It was estimated that use of this component would decrease agricultural property valuations statewide by approximately two percent per year. The cumulative effect of this change would be a reduction of approximately 25 percent in agricultural property assessed valuation by the year 2010 as compared to values determined under the formula without use of the cost index.

The committee recognized that including a production cost index in the agricultural property valuation formula would decrease agricultural property values, and that this change would have differing effects in different counties. Whenever agricultural property valuations are decreased, there will be a resulting shift of tax burden to other types of property unless valuations of those properties decrease even more. Because the mix of agricultural, residential, commercial, and utility property within counties is different, the effect of reduction of agricultural property valuations and resulting shift of property tax burden is different for each county. This effect will be minimal in counties in which substantial amounts of residential, commercial, and utility property exist to absorb the shifting tax burden but will have a more pronounced effect in counties in which agricultural property makes up a high proportion of the property tax base. The committee requested an analysis of this change, which was completed after the committee's final meeting and which bears out the committee's concern. The analysis shows that effects on agricultural property valuations are

variable for different counties. Over a period of 10 years, including a production cost index in the agricultural property valuation formula, and assuming all other factors remain the same, could result in an agricultural property tax decrease of 5.3 percent and a residential property tax increase of 17.1 percent in Benson County, an agricultural property tax decrease of 5.7 percent and a residential property tax increase of 15.1 percent in Nelson County, and an agricultural property tax decrease of 8.5 percent and a residential property tax increase of 10.6 percent in Walsh County. For the same time period, an agricultural property tax decrease of 21.4 percent would be accompanied by a residential property tax increase of 1.4 percent in Grand Forks County, an agricultural property tax decrease of 11.6 percent would be accompanied by a 1.1 percent residential property tax increase in Cass County, and a 12.9 percent agricultural property tax decrease would be accompanied by a 2.9 residential property tax increase in Williams County.

Recommendations

The committee recommends Senate Bill No. 2052 to create a separate category for inundated agricultural land for valuation purposes. The bill limits the county average valuation for inundated lands to 10 percent of the valuation of noncropland for the county. Establishing a separate classification category for inundated land will allow these lands to be assigned reduced valuations without affecting the valuation of other agricultural property in the county. This will address a significant problem that has arisen for counties in the Devils Lake Basin, where it has been necessary to transfer valuation from inundated agricultural lands to agricultural lands that remain in production. This will not solve the problem of loss of property tax revenue from inundated lands but will give counties a way to avoid the need to receive requests for abatements for inundated lands and the need to artificially inflate valuations of productive agricultural property. The bill defines inundated agricultural land as property that is unsuitable for growing crops or grazing farm animals for a full growing season or more due to the presence of water. The bill requires that classification of a parcel of property as inundated agricultural property must be approved by the county board of equalization for each taxable year. This will avoid the need for granting abatements but still allow the county to have decisionmaking authority to review the productive status of the property. The bill provides that valuation of individual parcels of inundated agricultural property may recognize the probability of whether or not the property will be suitable for production in the future.

The committee recommends Senate Bill No. 2053 to limit the capitalization rate in the agricultural property valuation formula to no less than 10 percent and no more than 11 percent. Under current law, the capitalization rate is one-half of the determinant of agricultural

property valuations. Limiting the capitalization rate fluctuation will avoid extreme effects on agricultural property values when interest rates are abnormally high or low.

The committee recommends Senate Bill No. 2054 to incorporate use of an index of prices paid by farmers in the agricultural property valuation formula. The bill requires establishing a base year index of prices paid by farmers which would be compared with an average of those costs over the most recent 10 years. Changes in prices paid by farmers would be factored into the valuation formula to increase valuations if costs decline or decrease valuations if costs increase. The index would be based on annual statistics prepared by the National Agricultural Statistics Service.