

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1072

2007 HOUSE FINANCE AND TAXATION

HB 1072

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1072

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 08, 2007

Recorder Job Number: 711 8min, 20sec.

Committee Clerk Signature

*Micki Schmidt*

Minutes:

**Chairman Belter** called the Finance and Taxation Committee to order. Roll call was taken and Rep. Grande was absent (13-1)

**Chairman Belter** opened the hearing on HB 1072 relating to taxable valuation of centrally assessed wind turbine electric generators.

**Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division**, testified in support of HB 1072. There is no change to the actual provisions of this Legislation. It is merely being moved from one chapter into one that we believe is the more appropriate chapter. There is no change, what so ever to any of the provisions of the law. The bill does also add wind turbine electric generation units to the definition of "power company". These power units have been under this special legislation, they have been referred to as centrally assessed. They have been included in our opinion in the definition of "power company", but since we're moving that into that chapter, we just clarify that by putting them in the definition, rather than just assuming they're in the definition. There is no fiscal effect. (See attachment #1)

**Chairman Belter:** So what you are saying is currently you are taxing wind generation under this but no where in the code does it say that?

**Marcy Dickerson:** In the code, it refers to centrally assessed for wind generation, in the existing code and the existing section. And all centrally assessed property is under 57-06, except for railroads, which are under 57-05. But our attorney's have always held that the provisions of 57-02 do not apply to centrally assessed property. So, it's weird to have centrally assessed property, part of it sitting in 57-02. And the other exemption here that I quoted of the wind and solar and etc., that has always been held to apply only to locally assessed property. Of course you do have special treatment of the centrally assessed wind generators, instead of being set at a taxable value of 10%, like other conversal on centrally assessed property, their taxable value would be the 3% or 1-1/2% if they fit into a certain window that this legislature enacted. So they already have that benefit which was put in at the beginning. This does not change any of that, it merely puts it in with other centrally assessed property, and takes it out of the locally assessed. Some people have asked us...does five year exemption of the locally assessed apply to this. We tell them, no it doesn't, and it was our understanding from the beginning that the reduced taxable value was the benefit that the legislature provided for this type of business, not a 5% exemption and then the reduction on taxable value.

**Representative Brandenburg:** In changing from 57-02 to 57-06 as far as the local political subdivision in the taxable evaluation, will it still be kept at the local political subdivisions, or is it changed there?

**Marcy Dickerson:** No change in that at all. Centrally assessed values are forwarded, certified to the local counties. The counties tax them the same way they tax the locally assessed property and distribute the revenues through the political subdivisions.

**Chairman Belter:** Any other testimony for 1072? Any opposition? Any Neutral? If not, we'll close the hearing on 1072.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1072

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 8, 2007

Recorder Job Number: 716 03min 47sec

Committee Clerk Signature *Mickie Schmidt*

Minutes:

**Chairman Belter** opened the hearing on HB 1072.

**Chairman Belter:** Is there any discussion on this bill?

**Representative Brandenburg:** Would it be ok if I do a little checking on the code? I want to look at this.

**Chairman Belter:** Ok, we'll hold 1072. We'll close the hearing on 1073.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No.1072

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 795 2min 18sec

Committee Clerk Signature

*Micki Schmidt*

Minutes:

**Chairman Belter** opened the hearing on HB1072. I believe that Rep. Brandenburg had some concerns on this Bill.

**Representative Brandenburg:** Mr. Chairman, my concerns have been answered.

**Chairman Belter:** I would entertain a motion on 1072.

**Representative Brandenburg:** Mr. Chairman, I move a Do Pass.

**Representative Kelsh:** I Second it.

**Chairman Belter:** Any discussion? Hearing none, will the clerk read the roll for a Do Pass on HB 1072?

Yes: 14, No: 0, Absent: 0. Rep. Kelsh will carry the Bill. We will close the hearing on HB 1072.

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/27/2006

Bill/Resolution No.: HB 1072

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1072 creates a new section to Chapter 57-06 of the North Dakota Century Code for the purpose of moving the statute on taxable value of centrally assessed wind turbine electric generators from Chapter 57-02 to Chapter 57-06. There is no fiscal impact due to the changes in HB 1072.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/05/2007

Date: 1-9-07  
Roll Call Vote #: HB 1072

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

Motion Made  
By

Rep. Brandenburg

Seconded By

Rep. Kelsh

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) 14 No 0

Absent 0

Floor  
Assignment

Rep. Kelsh

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



**REPORT OF STANDING COMMITTEE (410)**  
January 9, 2007 12:53 p.m.

**Module No: HR-05-0349**  
**Carrier: S. Kelsh**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1072: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1072 was placed on the Eleventh order on the calendar.**

2007 SENATE FINANCE AND TAXATION

HB 1072

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1072

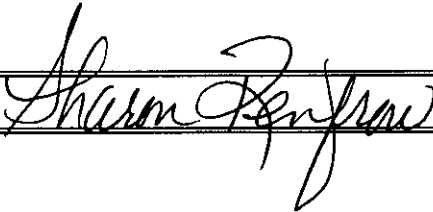
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: #3821

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order and opened the hearing on HB 1072.

**Marcy Dickerson**: Tax Dept. appeared in support with written testimony. (See attached)

**Sen. Cook**: there is no fiscal effect, there will be an affect on the taxable evaluation of school districts, is that not correct?

**Answer**: no that is not correct, because these are already being centrally assessed and they will continue to be centrally assessed and the value will still go to the same school district, nothing will change except the chapter that it's in. The assessment process will remain exactly the same.

**Sen. Anderson**: Your testimony states that there is a problem there, this clears up that problem?

**Answer**: the problem has been that some people have questions whether that 5 yr property tax exemption which applies to the locally assessed property which is correctly in 57-02, whether that also applies to the wind turbine electric generators. It was not intended to and if we try to say well that doesn't apply to centrally assessed property cause it doesn't apply to 57-06, this is in 57-02, that's where the difficulty has been.

**Sen. Cook**: we're not changing the rate at which they are being taxed?

**Answer:** Correct. Nothing changing here, we are just moving the same language from one chapter into the appropriate chapter.

**Sen. Cook:** where is the chapter they are being assessed this rate right now?

**Answer:** they are currently in 57-02-27.3; we are going to move em into 57-06 which is where centrally assessed property is found.

**Sen. Cook:** During the interim this problem of centrally assessed property not being figured into the property wealth of a school district. Can we correct that with an amendment to this bill?

**Answer:** I don't know what you're referring to because centrally assessed property evaluation is included in the valuation of a school district, I know for what purpose it may be excluded.

**Sen. Cook:** I don't believe it is, that came up in the interim that centrally assessed property when they determine the valuation that sits behind a school districts student population that centrally assessed property is not figured in there.

**Answer:** I don't know under what statute that would be, it wouldn't the property tax statute because centrally assessed property is included in assessed value and taxable value for all purposes of property tax.

**Bob Graveline:** Utility Shareholders of ND appeared neutral on the bill and suggested some amendments. There is another bill HB 1317 and that bill is superior in language to this bill affecting section 1. When I say superior I only mean with the way its written it says in 1317 that as approved by this legislative assembly and is amended, created by 1072 is approved and amended to be the same as the language that's in 1317. So if 1317 passes, the languages in 1072 will change. We have a concern with this bill and the other it relates only to setting up the preferential taxation treatment. The words in this bill and the other bill coming says that you must have purchase power agreement on line 20 in order to participate in the tax

break. I've prepared some amendments for consideration that would put the language in section 2 of 1072 to be the same as it is in 1317. All we would be doing is removing the words where it talks about, dealing with power purchase agreement so that Ottertail could own and operate a wind farm and still get the breaks. I also changed the dates on line 22 to comply with the way 1317 passage.

**Sen. Tollefson**: the two are in conflict then?

**Answer**: yes, your concern is the way this bill is currently in place it sets up preferential tax treatment for out of state independent power producers.

**Sen. Urlacher**: is this in conflict with Marcy's proposal?

**Answer**: doesn't believe so. We oppose the preferential tax treatment, we don't really have a position on what you do with the tax breaks.

**Marcy**: I don't believe there is any conflict, we have no problem with what they want to do with 1317. If this bill passes and 1317 didn't I would assume that just the existing language would remain and just be moved into the other chapter which is what we are asking in this bill. The other bill changes the provisions the way he would like to see them. If just this one passed and that one didn't then the provisions wouldn't be changed just the locations of the statutes

**Sen. Tollefson**: if 1317 does not pass, now this problem still exists as presented by Mr. Graveline.

**Marcy**: yes, I agree but if you're going to see the same amendments on this bill and on that bill I think you would be likely to treat them the same way at either hearing. It's the same issue if you approve them now you'll approve them then or vice versa.

**Sen. Triplett**: I say lets do it now, its just a plain simple clean up piece of legislation that just says we screwed up in the past and its placed in the wrong place and causing confusion so

let's put it in the right place so that it gets assessed correctly. The other bill is a policy change and needs discussion.

Closed discussion.

Date: 3-12-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1072

Senate Finance & Tax Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Senator Triplett Seconded By Senator Horne

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Horne

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

**REPORT OF STANDING COMMITTEE (410)**  
March 12, 2007 4:18 p.m.

**Module No: SR-46-5049**  
**Carrier: Horne**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1072: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1072 was placed on the Fourteenth order on the calendar.**



2007 TESTIMONY

HB 1072

HOUSE FINANCE AND TAXATION COMMITTEE  
Testimony of Marcy Dickerson, State Supervisor of Assessments

January 8, 2007

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed by the State Tax Commissioner as State Supervisor of Assessments and Director of the Property Tax Division.

My testimony concerns House Bill No. 1072. This bill creates a new section to chapter 57-06 of the North Dakota Century Code for the purpose of moving the statute on taxable value of centrally assessed wind turbine electric generators from chapter 57-02 to chapter 57-06, which relates to centrally assessed property. This bill also adds "wind turbine electric generation units" to the definition of "power company" in subsection 4 of N.D.C.C. § 57-06-02.

When "taxable value of centrally assessed wind turbine electric generators" was enacted as § 57-02-27.3 in 2001, it was placed in the chapter that relates to locally assessed, not centrally assessed property. That has created confusion because the provisions of chapter 57-02 are held not to apply to property subject to central assessment.

House Bill No. 1072 also clarifies that the property tax exemptions for "installations, machinery, and equipment of systems in new or existing buildings or structures, designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by utilization of solar, wind, or geothermal energy ...", found in subsection 27 of § 57-02-08 apply only to locally assessed property. We have received numerous questions about whether that subsection applies to a "centrally assessed wind turbine electric generation unit".

This bill makes no change to the provisions already in place concerning the reduced taxable value for wind turbine electric generators. It merely moves the provisions into the appropriate chapter. There is no fiscal effect.

That concludes my prepared testimony. I will be glad to try to answer any questions.

SENATE FINANCE AND TAXATION COMMITTEE

Testimony of Marcy Dickerson, State Supervisor of Assessments  
House Bill 1072 – February 26, 2007

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed by the State Tax Commissioner as State Supervisor of Assessments and Director of the Property Tax Division.

House Bill No. 1072 creates a new section to chapter 57-06 of the North Dakota Century Code for the purpose of moving the statute on taxable value of centrally assessed wind turbine electric generators from chapter 57-02 to chapter 57-06, which relates to centrally assessed property. This bill also adds “wind turbine electric generation units” to the definition of “power company” in subsection 4 of N.D.C.C. § 57-06-02.

When “taxable value of centrally assessed wind turbine electric generators” was enacted as § 57-02-27.3 in 2001, it was placed in the chapter that relates to locally assessed, not centrally assessed property. That has created confusion because the provisions of chapter 57-02 are held not to apply to property subject to central assessment.

House Bill No. 1072 also clarifies that the property tax exemptions for “installations, machinery, and equipment of systems in new or existing buildings or structures, designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by utilization of solar, wind, or geothermal energy ...”, found in subsection 27 of § 57-02-08 apply only to locally assessed property. We have received numerous questions about whether that subsection applies to a “centrally assessed wind turbine electric generation unit”.

This bill makes no change to the provisions already in place concerning the reduced taxable value for wind turbine electric generators. It merely moves the provisions into the appropriate chapter. There is no fiscal effect.

That concludes my prepared testimony. I will be glad to try to answer any questions.

**HB-1072**

**PROPOSED AMENDMENTS**

HB-1317, which will likely be before this Committee soon, deals with this same section of the NDCC and is superior in language to the language in HB-1072. In order for the language in the two bills to be the same, I offer the following **amendments for HB-1072:**

On Page 1, line 20 –

Delete the words “a purchased power agreement”

On page 1, line 21 –

Delete the words “has been executed after April 30, 2005 and before January 1, 2006, and”

On page 1, line 22 –

Delete “April 30, 2005” and insert in its place, “July 1, 2007”, then also delete “July 1, 2006” and insert in its place “January 1, 2011”.

On page 1, line 23 –

Delete the words “and this reduced valuation”

On page 2, delete lines 1 and 2,

and renumber accordingly.