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ROLL NUMBER

DESCRIPTION

1267

2007 HOUSE FINANCE AND TAXATION

HB 1267

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1267

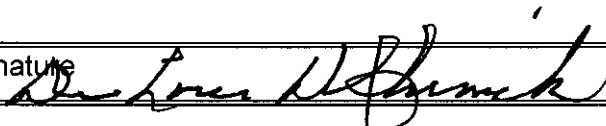
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1266

Committee Clerk Signature



Minutes:

**Chairman Belter:** Opened the hearing on HB 1267.

**Rep. Carlson:** (passed out attachment #1 & #2) In response to Rep. Weiler questions about special assessments. I just completed a new house and the special assessments are \$27,400 against that lot for water, sewer, streets, curb and gutter and lightning. It is a 90 foot lot in the city of Fargo. I know that you are dealing with property taxes today and this is another bill that deals with property taxes and it deals with the existing set up we have. The bill simply says an equalizing valuation and assessment of property among assessed districts. The state board of equalization chose to charge true and full value for residential and commercial property. There is a five year average of full and true value of those property classifications as determined by the sales market and productivity study and the base of range and tolerance for residence and commercial property assessments in that true and full target value. If you look at your first handout, I did a little checking. It says the property is to be assessed every year at 95% of full and true value. I thought that was statutory. It was a requirement that the state put on property that you had to assess it at least 95% of true and full value. I found out it is not statutory, Mr. Chairman. This is the minutes from the state Board of Equalization. The first handout says, is moved by Mr. Johnson and seconded by Mr. Peterson that the board

implement the same tolerance as in the past for locally assessed property for 2006. Valuation for commercial and residential should be between 95% and 105% of market value and for agricultural land between 95% and 105% of the county average per value per acre calculated by NDSU. If valuations were outside the tolerance the board would move them within 3% of the target. That guide would be sent to local officials. This is the basis to be used as our method for increasing taxes or increasing valuation across the state. Property taxes seems to be the driving force around all of the issues around the legislature this year. It has been in the Governor's budget, it's been in two or three different legislative plans for property tax relief and what the approach was that I think that you have to not only look at caps and spending, but you have to look at the mechanics of how we expect the local subdivisions to tax. The mechanics of this bill simply says that we will five year average these instead of taking every year being at 95-105% of full and true value. Look at the second sheet. Went over the sheet #2 for Fargo and Minot sales for 2006. Discussed the affects of the averaging and because of the five year averaging it takes some of the steep bumps out of the process of the continue high rise. Because valuations go up mills can be deducted. I think in Fargo the mills were actually lowered in some of our subdivisions. But when I got my tax statement my taxes went up. So you as a committee address property tax relief, if we don't look at the mechanics we are going to send a check home, but when you are all done you are still going to have a higher property tax bill the next year than you had the year before. I know it is a complicated issue that needs to be addressed because if I get a \$300 check back; but if the next year I still pay more tax than I paid the year before because of the assessed valuations than I think us as a state wasted some money. The averaging would assist in some of the places where step increases in land taxes in the rural areas as well as in the urban areas. It is a different formula. This addresses only residential and commercial properties in the cities, but you have to look at

the Ag formula as well when you are addressing this. : It shows what the averaging will do. It shows that the policy is not set by the legislature, but by the Board of Equalization, which I think should be addressed as well

**Chairman Belter:** I guess what your point would be is that you would smooth out the increases, but it probably still would not result in any tax savings because of the mill rates.

**Rep. Carlson.** If you reduce the taxable value on the new property from 54 million to 44 million you apply 180 mills to that. Somebody is going to be paying less taxes. Because there is 10 million dollars less in tax values that were used if you average those out. Or instead of an 8% increase it becomes 4%. I think there are other people smarter than I am to figure out the mechanics of how this all operates through the assessors and through all the cities. Maybe we should take a bold step forward and say what happens if we turn these into percentages?

How do we address that so the public when they get a statement knows what 424 mills means. No more support of HB 1267.

Opposition:

**Ben Hushka, City of Fargo Assessor:** The city of Fargo does oppose this bill, but I probably agree with Mr. Carlson that maybe part of this bill might work. I believe in formulating a changing tax policy there should be discussion on how high is too high and what property and income classes should bear how much of the burden. I am sure you are going to have some of these discussions coming up in this session. The simple fact that altering only the standard of value does not raise or lower the tax without mill levy or budget. The tax rate is simply arrived at by budgets divided by values so if you are only changing the denominator you are not really changing the total tax levy. A bill like this can cause some unintended negative consequences and this particular bill basing on previous five year market activity creates two of those consequences. First, it would make those resulting assessments harder to

understand. I think people understand the market value and assessments. I don't think all of people would know the average of the last five years sales prices of properties similar to theirs. It would give people no sense of assurance whether people have a basis to appeal their valuation. Right now with market valuation they do have some knowledge of what properties are worth. Another consequence of basing it on the five year average would be over assessment in a downward market. (see handout #3). My handout shows that. The top graph shows the five year assessed valuation under a five year average system. In a continually increasing market which Fargo has enjoyed assessments reach the level of under evaluation and sustained at that. To see what will happen in a continual downward market simply turn that graph upside down and read from right to left instead of left to right. Properties would be over assessed. The only difference is that in a decreasing market the percent of over valuation is greater than the percent of under valuation in an increasing market. The bottom chart I tried to simulate what would have happened in an up down up market and you can see after three years of a well market, Bismarck actually drops after year fifteen. There are five years of over valuation at the very time when people's property values are dropping. So I think for these reasons alternatives other than basing on a five year average or incorporated with this should be considered.

**Chairman Belter:** From a tax payer's perspective if we went to a five year average though, might it not be better for them. If property values level off then wouldn't it put the burden on those people in charge of the political subdivisions to probably have to say valuations have not gone up so much so we will have to raise your mill levy? Right now political subs kind of have a free ride just like us legislatures because of our good economy. I am thinking if we went to a five year average it would probably put a little more possible pressure on political subs to have

to make the decision that if they need more money they will have to raise the taxes based on mill levies and not get the advantage of inflation.

**Ben Hushka:** I actually looked at this five year average option about five or six years ago. It does have some attractive features to it. The negative aspect is because if the markets turn downward. It works very well if markets are going up. There have been communities in ND that have seen a downward trend in their market and we would be forced to not be able to reflect that, except over five years rather than immediately. Most people, if their valuation drops, would like to see their valuation assessment drop immediately too.

**Mel Carson, City Assessor Office in Grand Forks:** We realize there is a need for property tax relief and average sales over a five year period does seem like maybe an acceptable way of doing that. The consequences of doing that is in a down trend market the relief comes slower than it would on an annual sales tax. We value property for 2007 now. But we already use sales that took place in 2006 so we really are already assessing property for this year based on what happened last year. So we are already one year behind last year or the market. This would extend that one year to an additional four years and the peaks and values would be less abrupt. The problem that I see with the bill is that it causes confusion. The property tax payer could not know what a proper assessment is on his property. He may have borrowed \$100,000 but he does not know that the five year average supports only \$90,000. The key component in the tax is that the property tax payer can understand that the property tax assessment is equitable and proper in relation to something. Right now it is in relation to market value as measured over the last year.

**Rep. Dwight Wrangham:** Could we maybe address the homeowner not knowing what the true and full value of his home is in any given year to require that we print on the tax statement the current and also the average of the last five years.

**Rep. Carlson:** In Grand Forks we study about 700 residential properties every year. We determine based on those sales that we are 90% of what our property sold for last year. Some homes have escalated faster than others so to determine what this home would have been in the last five years is very difficult because the sales study looks at all the sales as a unit. I think you have to do the study on each individual home and that would be very difficult, I believe.

**Rep. Dwight Wrangham:** You currently do that. Each year the true and current value is on the statement.

**Rep. Carlson:** We would have a value on there, but it would be based on the five year average and we would not be able to know what that five year average is.

**Rep. Weiler:** Wouldn't this put some added pressure on the current assessor assessing the current assessment of that home knowing that if they are going to assess the house for \$100,000, they need to make up for the previous four years because it was \$75,000 and then it was \$85,000 and \$90. Maybe they will then assess the house at \$103,000 to make up the difference of the previous four years?

**Rep. Carlson:** I think your question has to do with would we assess it above 100% maybe? Right now we target 97% of last year's value. Are all the assessments at 97%, no? Most of our property falls into 97% range. Would we move that 97% target to 103%?

**Rep. Weiler:** My question is not would you move it, but whether there would be added pressure to move it up higher.

**Rep. Carlson:** There could be some pressure by some local leaders. I feel little pressure from my political leaders to have that value artificially high. They want a proper assessment, although, we have enjoyed more many years inflation. So every year there is an increase in valuation just because of inflation. I did a five year comparison on valuations in Grand Forks. The overall valuation in Grand Forks increased by 40%. Residential property increased by



47.3% in the same time frame. 32% of it came from inflation. This five year average would reduce that 32% increase to somewhat less than that. Inflation would be approximately half of that. On commercial property total increase was 31% and 10% only was from inflation over a five year period. I think the reason we are having problems is the residential property is picking up a bigger percentage of the burden than the commercial and than their agricultural counterparts. The five year average might solve it but it is more complicated and in a down trend market it would be actually holding the values up higher than they should be.

**Kevin Ternes: City of Minot Assessor:** If I go out tomorrow to value a home I have to put market value because that is how current law reads. In Minot in 2004 the average sale price was up about 9%. In 2005 the average sale price was up about that same amount. Between 9 & 10%. Those two numbers will haunt a five year average for us for awhile. Even if for the next three years we have a 2% growth and zero and zero. In year six I am going to have to send somebody a property tax increase valuation of maybe two or three percent because of those two good years that are in that five year average even though the prior years his house may have dropped off three or four percent. I think the citizens like the current market value. What is my home worth right now. Where are you going to be when the market drops off? I will be out there whether it is up or down. So we have a lot of concerns about this. If I have to go out and do a new appraisal on a new home it will be at full market value. The other neighborhoods will be at something less than that because the five year average has kind of camouflaged that actual market value.

**Rep. Louis Pinkerton:** You are pretty computerized in your office. Are Mohall or Bottineau are they that computerized?

**Kevin Ternes:** A lot of your smaller counties are not so computerized and will have to do allot of hand input. I don't know what their resources will be to calculate their five year averages. It will require more resources to calculate their information.

**Marcy Dickerson:** I am not going to bother you with my testimony I had planned since I think the other people have covered everything and there is no sense in doubling up on it. There are a couple of issues I would like to bring to your attention. On line 11 of the bill where it refers to the productivity study, that has no relevance when comes to a residential or commercial property. That only applies to agricultural property so this bill is set up just for residential and commercial. I think that record should be deleted. As you know the Four R Act requires that railroad property not be assessed in any discriminatory fashion compared to commercial property. If commercial property were valued on a five year average, which I am assuming would probably reduce its value, the railroads might make a claim of a violation of the Four R Act in that railroads are current valued at their current market value just as other property currently is. That is just a potential problem there is.

**Rep. Drovdal:** Coming from the area I come from and having difficulties with my assessor I know they don't go down when the market goes down. Isn't there some uniformity in the training of assessors across ND? Why are we getting these conflicting stories all the time about out assessors?

**Marcy Dickerson:** Definitely there are better and worse assessors. Your major city assessors do require more training than the small city assessor. There is training required for township and Class 2 assessors, which are in the smaller cities. Not as great as you have in the bigger cities. I think we would be better off if we had county instead of local assessors, but we don't have that structure. We don't have a way of making a way of making sure every assessor if as good as the other one.

**Rep. Drovdal:** Is there a continuing education for these assessors or is it a one time shot?

**Marcy Dickerson:** There is continuing education. First there is the basic training they are required to have in order to become certified. Then there are continuing education requirements. They vary depending on the larger or smaller cities.

**Rep. Drovdal:** If the assessors were all under the state they would be more uniform. When I talk to local assessors they keep telling me, well the state says I have to raise our agricultural land 2.5% and commercial 10% and have to raise our residence. Isn't there a lot of influence being dictated by the state?

**Marcy Dickerson:** Yes, the state does give them the sales ratio study and they all have excess to it and they can see where their assessments lie; if they are within 95-105%. The agricultural property we give them the values that are calculated by NDSU, which the tax commissioner is required to certify by counties. The law requires market value and agricultural value for agricultural products. There is no tolerance in the law. The attorney general ruled the state law was reasonable and was alright. In some communities city fathers and county commissioners override the recommendations of the assessors. We have good assessors, who try to do a good job, but they know who is signing their pay check and they have to do what their superiors tell them.

Hearing closed.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1267 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2368

Committee Clerk Signature *Mickie Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1267 relating to adding the true and fair value.

Marcy Dickerson was asked by Rep. Carlson to explain the amendments to us. **(See attachment #1)** (Marcy asked for a moment to look over these amendments) Chairman Belter offered to work on another Bill while Marcy familiarized herself with the Bill and amendments. Closed the hearing on HB 1267.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1267 C

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2371

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1267 and has asked Marcy Dickerson from the Tax Dept. to explain the amendments.

### **Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax**

**Division for the State Tax Commissioner; (See attachment #1)** Looking at this, I think the amendments make it a more complicated process than the original Bill. No problem going to a 3 year average instead of the 5 year average. I would prefer a 3 year average. I have difficulty with changing the definition of true and full value. I would feel better if the State Board of Equalization were limited to equalizing at a percentage of true and full value, rather than changing the definition of true and full value. In the Bill where it says residential and commercial property; productive capacity is not relevant to those, those words should be struck.

**Chairman Belter:** So in your professional opinion is that these amendments create more problems than they were to solve?

**Marcy Dickerson:** I think so.

**Chairman Belter:** Ok, we'll hold this one. We'll check with Rep. Carlson. Close the hearing on HB 1267.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1267 D

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2467

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1267, and asked what the committee's wishes are?

**Representative Brandenburg: I move a Do Pass.**

**Representative Headland: Second it.**

**Chairman Belter:** Any discussion?

**Representative Owens:** Aren't there any amendments on this? We haven't amended out for a productivity study; we haven't changed the 5 years to 3 years?

**Chairman Belter:** Would you like to withdraw your motions?

**Representative Brandenburg: I'll withdraw.**

**Representative Headland: I'll withdraw.**

**Chairman Belter:** We need to strike on line 11, "and productivity study."

**Representative Froelich:** In the amendments 0101, the productivity capacity is in there.

**Chairman Belter:** We don't want those amendments. We won't act on this now. We'll close the hearing on HB 1267.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1267

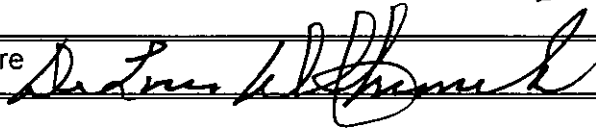
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2831

Committee Clerk Signature



Minutes:

**Chairman Belter:** Reopened the hearing on HB 1267. Rep. Carlson's bill where it equalizes over five years the taxes. The amendment he brought in has a lot of problems so I think we just have the bill before us. Went over the changes in the amendment. Motion Made By Rep.

Grande, Seconded By Owens to Change 5 to 3 and after sales strike productivity.

Discussion: Motion carried.

**Rep. Dwight Wrangham:** Is the 90% going to cause problems?

Do Pass Motion Made By Rep. Brandenburg, Seconded By Rep. Grande

**Rep. Louis Pinkerton:** The small counties said they would have a problem making this work.

They did not have the type of tax software that could deal with this. That is why I can not support this.

Vote            7            Yes            6    No    1            Absent

Carrier:    Rep. Grande

Hearing closed.

HB 1267

#1

1-31-07 AM

70544.0101

Title.

Prepared by the Legislative Council staff for  
Representative Carlson

January 31, 2007

Job 2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1267

Page 1, line 3, after "equalization" insert "; and to amend and reenact subsection 15 of section 57-02-01 of the North Dakota Century Code, relating to the definition of true and full value"

Page 1, after line 4, insert:

**"SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-01 of the North Dakota Century Code is amended and reenacted as follows:

15. "True and full value" means the value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed. This shall include, for purposes of arriving at the true and full value of property used for agricultural purposes, farm rentals, soil capability, soil productivity, and soils analysis. For residential and commercial property, "true and full value" is ninety percent of a three-year average of the value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed."

Page 1, line 9, replace "adopt a target" with "use a", after "is" insert "ninety percent of", and replace "five-year" with "three-year"

Page 1, line 11, replace "base the range of tolerance" with "may not approve valuation and assessment in any taxing district in which the true and full value"

Page 1, line 12, replace "assessments on that target true and full value" with "as assessed in that district exceeds the true and full value for residential and commercial property as determined under this section"

ReNUMBER accordingly



70544.0102  
Title.0200

Adopted by the Finance and Taxation  
Committee

February 5, 2007

**House Amendments to HB 1267 (70544.0102) - Finance and Taxation Committee  
02/03/2007**

Page 1, line 9, replace "five-year" with "three-year"

Page 1, line 10, replace the underscored comma with "and"

Page 1, line 11, remove ", and productivity"

Renumber accordingly



**REPORT OF STANDING COMMITTEE**

**HB 1267: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1267 was placed on the Sixth order on the calendar.**

Page 1, line 9, replace "five-year" with "three-year"

Page 1, line 10, replace the underscored comma with "and"

Page 1, line 11, remove ", and productivity"

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HB 1267

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1267**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 19, 2007

Recorder Job Number: # 5277

Committee Clerk Signature

*Sharon Kenyon*

Minutes:

**Sen. Urlacher** called the committee to order and opened the hearing on HB 1267 which relates to valuation of residential and commercial property by the state board of equalization.

**Rep. Carlson:** prime sponsor of the bill appeared stating this could very well be part of a package when you look at property tax relief and property taxes they are assessed. This is a mechanics only, this deals with how you slow that value down especially in markets where the values have gone 6 and 8% increases on a yearly basis, year after year after year. I do think looking at the mechanics because it is a recommendation from the board of equalization that establishes and if you remember last week there was at the end of the week there was quite a significant little debate between the mayor of my city and the mayor of West Fargo and the Mayer of Moorhead on how terrible a job the Legislators are doing in dealing with property taxes and relief. And you know what he brought up as one of his corner stones was that you people force us every year to go between 95 and 105% of full and true value when we assess and that was one of his comments, he understood where it came from but he realized that that was part of the problem.

**Sen. Cook:** did you say that the range of tolerance was not in code?

**Answer:** yes I did, I checked with Mr. Walstad when I drafted the bill and he was searching to find the 95 to 105 for me and he is the one who sent me the e-mail that says here's the minutes from the state board of equalization that establishes that.

**Sen. Cook:** when you reference the range of tolerance in 1267, what do you see that range of tolerance being then?

**Answer:** the range of tolerance is still the same except your going to average your numbers over the years.

**Sen. Cook:** so it's still going to be 5%?

**Answer:** it's still going to be 95 to 105% which is not in Century Code. It stays the same, it doesn't change what they have to do, what it does do is obviously going to lower the amount of values so they are going to have less taxes to collect or they're going to have to raise their mills because there going to go in Fargo on a 5 year average they went from 191 million to 166 million, that's fairly significant on 300 mills.

**Sen. Cook:** don't you think that should be in Century Code?

**Answer:** I assumed it was there, so my assumption would like yours we should probably be establishing what we believe is full and true value.

**Sen. Triplett:** how would you see assuming this bill passed in approximately this form and assuming that 1051 passes with its in its current form with a limitation on the ability of local government to raise taxes more than 5%, how would you see these two working together? If this dramatically reduced the amount that could be raised without county or cities having to increase their mill rates dramatically?

**Answer:** the way I view it is they would be going to the people for a vote because their value would have significantly gone down, the 3 ½ would not have gotten them back to where they

wanted to be at 3 ½% they would have had to take that back to the people to get to the additional revenue they requested.

**Kevin Ternes**: City Assessor of Minot appeared in opposition with written testimony. (See attached) I believe the current value is the best place to start.

**Sen. Tollefson**: Have you looked at a 5 yr scenario? This is based on 3 years. It would make some difference wouldn't it over a greater length of time?

**Answer**: I did not go back 5 years because this started as 5 I believe and then was brought back to 3, I would venture to say that with the 2 prior yrs in Minot when we to the 2 good years, probably going back to 2002 and 03 would probably be a wash at this point because those were still growth yrs too just not as much as those 2004-2005 were.

**Sen. Urlacher**: in establishing that market value, when you go through a realtor and there's a cost factor of probably 6% at the time a home is sold that market value in \_\_\_ includes the 6% does it not?

**Answer**: yes, in Minot the commission fee is generally around 7% there was a bill to address that and I don't think it passed but there are some concerns among the general population that if the house sells for \$100,000 could a realtor \_\_\_ really should have really sold for \$93,000 without the realtor. The problem with that is there is no industry standard for breaking out a realtor fee. For an appraiser to do that nation wide it's not in any text book and your bank appraiser won't do it.

**Sen. Urlacher**: there are some cities that turnover a larger percentage it appears. I guess what I'm saying is the home turned over twice within 10 years; you have a 14 or 12% increase on that portion vs. the neighbor who doesn't.

**Sen. Tollefson**: architectural fees are added to the commercial value of commercial property, that's true, just like the commission that is in the price of a piece of residential property. I

would imagine that commercial property doesn't turn as frequently as residential but it would have eventually an effect on the evaluation from the \_\_\_\_.

**Answer:** that's correct

**Bob Frantvåg:** ND League of Cities appeared in opposition and handed out testimony from Ben Huska who is the City Assessor in Fargo. (See attached)

**Claus Lembke:** ND Assoc. of Realtors appeared in opposition stating this bill is trying to lower the value but we think if your messing with lowering taxes, it's a gauge of measure how much you should pay taxes and we feel any time you do that you shouldn't do that. If you want tax relief which we support then do it in 1051.

**Marcy Dickerson:** Tax Dept. Appeared just to give info. Basically you supposed to be at true and full value for residential and commercial property that pretty much means market value.

**Sen. Cook:** I was surprised to find out that 95 to 105 wasn't in the law, can you tell who is on the state board of equalization?

**Answer:** State Treasurer, State Auditor, Commissioner of Agriculture, Tax Commissioner and the Chairman is the Governor.

**Sen. Cook:** Do you know when the first motion was made on the state board of equalization to make it 95 to 105?

**Answer:** I don't know for sure, a number of years ago the concept of it always was included. I don't know when that was probably back in the 80's sometime or even earlier. At one time they allowed a greater tolerance on the commercial and residential than they did on the agricultural because they thought the agricultural number was more of a set figure to go to.

There wasn't as much possibility for error or interpretation and at time I think they allowed only a 3% tolerance on agricultural and 5% on residential and commercial, then they later



expanded the agricultural to 5% also realizing there were a lot of factors that entered into those values.

Closed the hearing.

**Sen. Cook:** I'm don't know if I'm all that comfortable with letting the state board of equalization actually determining the rates of tolerance, I don't have a problem with the way it is 95 to 105 and that's I think that's probably where it should stay but they got 6 people out there and things change they could change it. I'm just wondering if that's what we want to have happen.

**Sen. Urlacher:** I think there's a reason for that tolerance and being in place for that many years it should be workable.

**Sen. Anderson:** made a **Motion for DO NOT PASS**, second by Sen. Triplett. The reason I say that is with testimony assessor from Minot. For instance, you're arriving at how many dollars that you need so I don't think it's necessary to have a 3 yr average; I think it should try to stay up to date.

**Sen. Triplett:** I think that this bill really muddies the water, it muddies up the discussion that were trying to have relative to 1051. If a city or county has a need for a particular budget then you build your budget in dollars and then you figure out the mills and so if all of this does is sort of artificially change how you're arriving at those mills, you end up with more mills to get to the same dollars.

**Sen. Tollefson:** I think Claus hit the nail right on the head it begins with the budget and whatever happens, however you don't see in the down turn in the economy or the sale of real estate at least I can't remember ever seeing a reduction in those evaluations and I know its tough to do it immediately but certainly evaluations as considered over community or county or state, that certainly has to take into that has to be taken into consideration. It's the budget that drives the whole business.

**Sen. Cook:** I've seen the true and full value of my property go down and I was certainly prepared to vote against this bill we've defeated a bill very like this in Political Subdivisions but I do have a problem without having the range of tolerance in code, I do have a problem with having this board of equalization having the authority to set that and what if we do have commercial and residential property start to deflate, depreciate? And lets say it goes down 5 – 10% is that going to force Political subdivisions to raise their mill levy or is it going to force them to cut their budgets and if we did have certain caps in place that say would force them to lower their budgets, does that then put pressure on them just to get to this board of equalization to raise the tolerance from 90 to 110? Nobody can answer it.

**Sen. Horne:** I don't support this either, I think it should be based on the means of the governing agency and the true value but aren't we talking about 2 different issues here, Sen. Cook: Isn't one separate from the other?

**Sen. Cook:** of course we are talking two different issues, I agree with the motion but I'm not going to vote for the motion because this is the only place I have to change the range of tolerance. It's in the bill and that's what I'm getting at is what I think we ought to do is amend this bill so that all we do with it is put into code what that range of tolerance should be.

**Sen. Triplett:** maybe you should make a mental note to yourself and make that as your first bill for the next legislative session. I don't think it's been a problem for a long time as Marcy indicated; it's been out there for 20 years or more and I don't think there's anything bad going to happen in the next 2 yrs. All of the people who are on there will serve at least for the next 2 yrs, I'd probably vote for that bill I would just rather kill this bill cleanly and not have to go back to a conference committee with the House. I'd support that bill next time around.

**Sen. Tollefson:** personally I think 3 yrs is too short I think that 5 yrs as originally proposed would be much better and more tolerable. In its present form I don't think I would vote for it

either but that 5 yr average is better for everyone and it really gives you a greater length of time to do your averaging out. That's how I feel.

**Sen. Urlacher:** Sen. Cook you wanted to protect it from to prevent if property values drop, historically you said in the 80's you see it drop.

**Sen. Cook:** we'll see it drop again, ya know short term or whatever I don't doubt that but that's just one example of where that I used to show why I think it's important that it's in the century code. I always thought it was in century code; it's not that it isn't and I think it should be.

**Sen. Urlacher:** so it's a question if goes off from that tolerance whether the legislature should come in and correct it at that time or correcting it now.

**Sen. Cook:** correct it now, that's right

**Sen. Tollefson:** I would like to amend the bill to a 5 yr average to bring it back to its original state, second by Sen. Cook so he can get one more shot at it.

**Sen. Anderson:** is it permissible to bring up what happened in another committee? Because the political subdivisions had the hearing on the 5 yr and I'd like to say something about what happened at that meeting, can I do that, is that permissible? There was a lot of opposition to the 5 yr actually the thought was that it was actually more detrimental to smaller communities with 5 yrs than it is with 3, so it was killed unanimously . Thank you for letting me relay that.

**Sen. Oehlke:** I don't think any of us that are in business like anybody else telling us how much to sell our product for. I don't think I want somebody saying that you should give me the same price on that insurance that you sold me this year as I paid 10 years ago or 5 yrs ago or 3 yrs ago. We're a free enterprise system I just don't, this does not make sense, what makes sense is what the value of that property is today and I know zero about the century code

related thing, somebody will have to share with me why the people that are on or make that decision now aren't able to do it or they don't have the capacity to do it or they are not smart

enough or something, I'm not sure why it has to be in the century code either, but I'm open to it. Tell me, I need more information.

**Sen. Cook:** I agree whole heartedly that it should be the value of the property today. So if you'd have a home and the market value is \$100,000 the tolerance says and I always thought this tolerance was in century code 95 to 105, he said that home has to be assessed from \$95,000 to \$105,000. If it's assessed outside of that range, you are going to be successful in a protest, that's all it means. I always thought that that 95 to 105 was in code, its not in code it's the authority of the state tax equalization board and they could change it if they wanted to then to 90 to 110. I just think tax assessment is something that people always complain about that their assessments are going so high and quite frankly I believe we are responsible for assessments and we ought to say this is what's its going to be and I'm fully comfortable with 95 to 105, I've taken responsibility for it all along but I certainly don't like it to be in somewhere else, that's the only thing I have a problem with.

**Sen. Anderson:** I think we're off the subject, no offense meant but when you say 90 to 110 most of the local governing bodies would set it at 90 rather than 110.

**Sen. Urlacher:** well we have a motion on the table, all in favor of the amendment say aye.

Voice vote: **Motion fails**

**Sen. Urlacher:** we have a motion for do not pass; any further discussion on that, if not call the roll.

Roll call vote: 5-2-0 Sen. Anderson will carry the bill.

Date: 3-19-07

Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1267**

Senate Finance & Tax Committee

Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Anderson Seconded By Triplett

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

Total (Yes) 5 No 2

Absent 0

Floor Assignment Anderson

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

**REPORT OF STANDING COMMITTEE (410)**  
March 19, 2007 3:50 p.m.

**Module No: SR-51-5691**  
**Carrier: Anderson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1267, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)**  
recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1267 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1267

#1 HB 1267  
L-17

Carlson, Al H.

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**From:** Walstad, John M.  
**Sent:** Tuesday, January 16, 2007 3:55 PM  
**To:** Carlson, Al H.  
**Subject:** FW: March 2, 2006 resolution by State Board of Equalization

Al- The State Board of Equalization adopts policy for tolerances of assessments. Marcy sent this most recent adoption by the Board on this issue. JW

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**From:** Dickerson, Marcy D.  
**Sent:** Wednesday, December 13, 2006 11:08 AM  
**To:** Walstad, John M.  
**Subject:** March 2, 2006 resolution by State Board of Equalization

It was moved by Mr. Johnson and seconded by Mr. Peterson that the Board implement the same tolerance as in the past for locally assessed property for 2006. Valuations for residential and commercial property should be between 95 and 105 percent of market value, and for agricultural land between 95 and 105 percent of the county average value per acre calculated by North Dakota State University. If valuations were outside the tolerance, the Board would move them to within 3 percent of the target. That guidance should be sent to local officials.

Upon roll call, all members present voted "aye." Motion carried.

*Marcy Dickerson  
State Supervisor of Assessments  
ND Office of State Tax Commissioner  
mdickerson@nd.gov  
(701) 328-3128*



#2

HB 1267

1-17

Fargo city

Minot city

	sale price	t & f value
2006	\$211,443,500	\$191,400,300
2005	\$181,102,649	\$161,638,800
2004	\$168,504,460	\$147,297,100
2003	\$150,693,740	\$138,918,700
2002	<u>\$113,560,500</u>	<u>\$103,840,600</u>
	\$825,304,849	\$743,095,500
5 Yr Avg.	\$165,060,970	\$148,619,100

	sale price	t & f value
2006	\$61,009,911	\$54,269,100
2005	\$52,538,319	\$47,132,250
2004	\$47,910,154	\$45,783,200
2003	\$42,207,548	\$40,775,180
2002	<u>\$36,816,464</u>	<u>\$36,050,900</u>
	\$240,482,396	\$224,010,630
5 Yr. Avg.	\$48,096,479	\$44,802,126

1-17 HB 1267 #3

### 5 Year Ratio Study Fargo Single Family Existing Homes



### 5 Year Average Value - Hypothetical



HB 1267 1-17

#4

1/17/2007 Committee Hearing on House Bill No. 1267

SUBJECT: Consideration of a Five Year Average Target Value

TO: House Finance and Taxation Committee, Chairman Wesley R. Belter

FROM: Kevin Ternes, City of Minot Assessor, [ternes@web.ci.minot.nd.us](mailto:ternes@web.ci.minot.nd.us) 701-857-4160

Mr. Chairman and members of the House Finance and Taxation Committee:

My name is Kevin Ternes. I am the Minot City Assessor.

As an assessment professional I do have some concerns about equity, fairness, and basically questions about administering property assessments under the concept and spirit of this proposed statute.

How do we assess selected neighborhoods or properties that have recently sold for more or less than assessed value? Now we assess at current market value for the following year based on current sales. If this bill were to become a state statute, would we continue to assess single properties individually at current market value while the remainder of the city is assessed with a 5 year average value trend as determined by the State Board of Equalization?

Currently in Minot we review about 15% of the city every year which includes on-site review of the property and comparing it to comparable homes that have sold in the neighborhood and then assessing a current True and Full value that represents a fair estimate of the current market making certain that all similar homes in that neighborhood are assessed in a similar fashion. So my question is would we continue to assess at

current market value those homes and neighborhoods that are visited by assessor staff but the rest of the city is allowed to trend on the 5 year average which is not the current market value?

Or what about homes that are newly built. We had over 150 new single family homes built in Minot last year. The current law instructs the assessor to appraise that home at current market value. This proposed bill would have the rest of the city going up or down with a 5 year trend, which is not the current market value. So that would mean a home that was built 2 years ago and is now worth maybe 3% to 5% more in market value would change what the 5 year average says it should change which may or may not be its actual market value. Meanwhile, a brand new home just constructed would be assessed at market value? Now we would have two homes, maybe even identical in construction and amenities, only 1 year apart in age, both in comparable condition and maybe even side by side, both having a different assessment. And the newest one could even be assessed lower than the home that is a year older because the newest one would be at current value while the 1 year old home is being assessed by the 5 year trend that may have included some very sharp growth years in the last 5 years.

Currently the standard for commercial and residential property assessment is market value. Everyone understands that standard and it can be verified by realtors and private appraisers? It can be explained to the public that this year's assessment is based on last year's market. How do I explain to the public that their assessment is going up for example 3% next year based on a 5 year average that may include some very strong increases in real estate value when last year's market didn't change or maybe went up only 1% or 2%, or might have gone down 1% or 2% in the prior year?

The assessment process now is simple to explain. Your assessment is simply based on the current market value as of Feb 1<sup>st</sup> of the taxable year. This legislation would change the assessment of the majority of homes and commercial buildings to a 5 year average. But would not address the assessment of new homes or annexed properties that would be assessed at current market value. In my opinion as an assessment official, it simply isn't fair or equitable to have some homes assessed based on the market for the last 5 years, and others based on the current market. The current assessment statutes relating to property assessment refer to current market value. A 5 year average is not current market value.

Below are 3 illustrations using a 5 year average. These are very realistic scenarios. In all 3 examples, assessments would be raised because of a 5 year average yet the prior years or prior year might suggest no growth in value or even a decrease in market value in the prior year.

These 3 scenarios show growth in each of 5 years with the total divided by 5 and the average increase that would be required.

$9+8+5+2+0=24\%$   $24\%/5=4.8\%$  *increase required when the prior year was no growth in market value*

$8+5+2+0+0=15\%$   $15\%/5=3\%$  *increase required when the prior 2 years indicated no growth in market*

$5+2+0+0+-3=4\%$   $4\%/5=.8\%$  *increase required when 2 years indicated no growth and the immediate prior year had an -3% drop in average value.*

1-17  
HB 1267  
1  
1/17/2007 Committee Hearing on House Bill No. 1267

SUBJECT: Consideration of a Five Year Average Target Value

TO: House Finance and Taxation Committee, Chairman Wesley R. Belter

FROM: Kevin Ternes, City of Minot Assessor, [ternes@web.ci.minot.nd.us](mailto:ternes@web.ci.minot.nd.us) 701-857-4160

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current market value those homes and neighborhoods that are visited by assessor staff but the rest of the city is allowed to trend on the 5 year average which is not the current market value?

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$5+2+0+0+-3=4\%$   $4\%/5=.8\%$  *increase required when 2 years indicated no growth and the immediate prior year had an -3% drop in average value.*



**Testimony to the Senate Finance & Taxation Committee,  
Chairman Urlacher**

**Prepared March 18th, 2007 by  
Kevin Ternes, City Assessor  
City of Minot  
[ternes@web.ci.minot.nd.us](mailto:ternes@web.ci.minot.nd.us)**

House Bill No. 1267

Mr. Chairman, my name is Kevin Ternes and I am the City Assessor in Minot.

I am opposed to this bill because it removes primary emphasis on the most current market and sales data from the sales ratio study when it is available and combines it with 3 years of market and sales data. Technically, in those smaller communities and counties where market data is limited and sales and qualified transactions are limited the state board already uses 3 years of data. Certainly, sometimes you have to go back more than a year in some areas to find adequate data for appraisal and assessment purposes. But for the larger cities and counties where market data and transactions are more abundant, assessments are based on the most recent data available. The market can change upward or downward within 6 months to a year and if assessments are to represent market value as the law requires now, market value is best determined by the most recent data. Not data that has been averaged with 3 years of transactions.

Some states that have moved from a current market based system, have spent several years phasing a current market based assessment system back into place. Minnesota for instance, is going back to a market based assessment system and has been phasing in current market value assessments over the last few years. South Dakota and Montana currently consider market value as the basis for their assessment process.

As an assessment professional I do have some concerns about equity, fairness, and basically questions about administering property assessments under the concept and spirit of this proposed statute.

How do we assess selected neighborhoods or properties that have recently sold for more or less than assessed value? Now we assess at current market value for the following year based on current sales. If this bill were to become a state statute, would we continue to assess that percentage of properties individually reviewed by assessment staff at current market value while the remainder of the city is assessed with a 3 year average value trend as determined by the State Board of Equalization?

Currently in Minot we review about 15% of the city every year which includes on-site review of the property and comparing it to comparable homes that have sold in the neighborhood and then assessing a current True and Full value that represents a fair estimate of the current market making certain that all similar homes in that neighborhood are assessed in a similar fashion. So my question is would we continue to assess at current market value those homes and neighborhoods that are visited by assessor staff but the rest of the city is allowed to trend on the 3 year average which is not the current market value?

Or what about homes that are newly built? We had over 150 new single family homes built in Minot last year. The current law instructs the assessor to appraise that home at current market value. This proposed bill would have the rest of the city going up or down with a 3 year trend, which is not the current market value. So that would mean a home that was built 2 years ago and is now worth maybe 5% to 10% more in market value would change what the 3 year average says it should change which may or may not be its actual market value. Meanwhile, a brand new home just constructed would be assessed at market value? Now we would have two homes,

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Everyone understands that standard and it can be verified by realtors and private appraisers? It can be explained to the public that this year's assessment is based on last year's market. How do I explain to the public that their assessment is going up for example 5% this year based on a 3 year average that may include some very strong increases in real estate value when last year's market didn't change or maybe went up only 1% or 2%, or might have gone down 1% or 2% in the prior year?

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Below are 3 illustrations using a 3 year average. These are very realistic scenarios. In all 3 examples, assessments would be raised because of a 3 year average yet the prior years or prior

year might suggest little or no growth in value or even a decrease in market value in the prior year.

These 3 scenarios illustrate possible results of 3 years of market data with the total divided by 3 and the average increase that would be required.

#### Scenario 1

$9+8+3+=20\%$   $20\%/3=6.6\%$  increase required when the prior year was 3% growth in market value

#### Scenario 2

$7+4+0=11\%$   $11\%/3=3.6\%$  increase required when the prior year indicated no growth in market value

#### Scenario 3

$5+2+-2=5\%/3=1.6\%$  increase required when the prior year indicated a 2% drop in the market

I understand the goal of this bill is to smooth out those spikes in market value, but what about those times when prices are stagnant or drift backwards. The assessor will be unable to react to a soft or stagnant market.

The assessments are calculated for 2007 in Minot and the necessary adjustment is about 6.5% upward on average for most residential property. If this bill would be effective for 2007, because of 2004 and 2005, an adjustment for 2007 in Minot would have been closer to 8%.

Because of unfairness among all assessments as to those appraised at market value and those assessed with trending factors from a 3 year average, and because this restricts the assessor from reacting to an up or even down market, I ask you to recommend a DO NOT PASS on House Bill 1267.

**TESTIMONY ON HOUSE BILL 1267**

**Senate Finance and Taxation Committee**

**Ben Hushka, City Assessor  
City of Fargo, ND**

**March 19, 2007**

Mr. Chairman and members of the committee, my name is Ben Hushka. I am the assessor for the City of Fargo and have served in the department for over 30 years. I want to thank you for the opportunity to offer this testimony in opposition to House Bill 1267.

This bill calls for the State Board of Equalization to adopt a target standard of value in equalizing assessments based on a three year average of sales and market activity. The current standard of value for property assessment is based on current market value which is determined by the most recent activity of real estate transactions.

Under the present system, the State Board of Equalization monitors jurisdiction compliance by utilizing a sales ratio study. This is simply a process of comparing the ratio or percentage of assessment values for a given year to the actual sale prices of those same properties in that year.

The statistical measure of central tendency utilized by the State Board of Equalization is currently the median ratio of value to sale price. That is simply the center or middle ratio if all sale ratios were sorted in order from low to high. The median is the industry standard measure of central tendency. It has several benefits over other measures such as the average because it minimizes the effects of extreme ratios at the high or low ends.

House Bill 1267 proposes to use the average rather than the median as the measure of central tendency. This could possibly skew jurisdiction values if there happens to be a number of extreme high or low ratios. This is a very real possibility in smaller jurisdictions with very few sales and lower values because the process works with the ratio or percentage of the sale price. For instance, consider if the assessment value is only \$3,000 different than the sale price. On a \$100,000 sale, that is only a 3% difference. However on a \$30,000 sale price, that assessment value is 10% off.

I believe there are at least a few desired positive outcomes to be expected from the process proposed by House Bill 1267. One is that by using three years of sales rather than one year, values for assessment would not increase as quickly and drastically in times when real market activity may be doing just that.

I actually considered this as a possibility a few years ago and have done some study and analysis of possible effects. It is true that in a continually increasing market, such a process would smooth out drastic spikes or changes in the valuations for assessment. It

*Ben Hushka, City Assessor*

would also reach a level of underassessment in terms of comparing assessment value to actual property prices or value.

In the very early stages of that analysis, several possible negative outcomes became quite apparent. If a jurisdiction's property sales indicated a downturn in the market, there would be the same lag in reflecting that circumstance in assessment values as there would in an increasing market. The result would be that assessment values would continue to increase at the very time when people's real value is declining. Assessment values would be in excess of market values until the lag time period transpires. In the case of House Bill 1267 that would be three years; more if the market continues to decline for a longer period.

In analyzing and contemplating such a system from the standpoint of an assessment administrator, other negative consequences became quite apparent. In having dealt with taxpayers for many years regarding property tax assessments, I know that most people desire the tax to be at least fair and understandable. I believe that one consequence as a result of the passage of House Bill 1267 would be that it could make the property tax less understandable to most people.

In terms of understandability, many people either have an idea or have access to readily available resources to determine roughly what the current value of their property is. They may know of recent sales of similar properties. They may even have recently purchased or refinanced and have an independent appraisal of their own property. They may also engage the services of a Realtor or independent appraiser to assist them in that regard.

These resources can serve more than to just provide them an understanding of the value of their property. It also gives them an understanding of whether they are being over assessed and, if so, factual information which they may present in an appeal of that assessment.

I believe that assessments based on some statistical measure of the previous three years of market activity would eliminate much of that for the public. That would be especially true if market activity was somewhat erratic and didn't necessarily move in the same direction from year to year.

For the stated reasons, I would ask consideration of a DO NOT PASS recommendation of House Bill 1267.

Thank you for your consideration.

Ben Hushka

Fargo Assessor

701-241-1340

[bhushka@cityoffargo.com](mailto:bhushka@cityoffargo.com)