

2009 SENATE FINANCE AND TAXATION

SB 2052

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2052

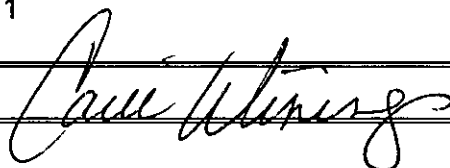
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01/12/2009

Recorder Job Number: 6771

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on SB 2052

John Walstad, Legislative Council Interim Committee: See Attachment #1 for testimony
(neutral information)

Chairman Cook: Any Questions?

Senator Hogue: I have three questions. 1. Give me a general idea of what a 5% penalty would be? 2. Could you give us a background on what reasons are cited by the counties for not being able to comply? 3. Characterize whether the non-compliant counties, are they the ones with more land, more rural than urban, or any trend?

John Walstad: The 5%, what a dollar amount would be, that varies from county to county. It is a significant hit. State aid distribution fund allocations are pretty substantial and pretty significant to political subdivisions, and losing 5% of that is a significant penalty. The reasons for non-compliance vary. Some is the expense, budget, time consuming, and software issues. The Association of \Counties is providing assistance on the software issue.

Senator Oehlke: Would that penalty be equivalent to the taking of taxes that county residents have paid?

John Walstad: That depends on how you look at it. It is not an entitlement. It is a statutory provision the legislature by law has provided that a share of sales used in motor vehicle excise tax collections will be shared with political subdivisions. Last session it was discovered that the state supervisor of assessments can tell counties that the law says you are to do this, but there is no enforcement in that case. That is why this was developed.

Senator Oehlke: Was there any talk about a penalty like this, but the 5% would be returned once the county has completed the process?

John Walstad: Not to my knowledge.

Vice Chairman Miller: Do you have any idea if the cost of implementing the program is relatively the same per county, or are there more challenges in other counties?

John Walstad: I suppose the challenges faced by counties are comparable, but each county is in unique circumstances. There are some difficulties. There is a group of counties that have agreed to cooperatively undertake this project in order to save some money individually.

Chairman Cook: Is it safe to say that the county that implements soil testing vs. the county that doesn't it means no more revenue to the county?

John Walstad: That is correct. The county really gains nothing except assuring to taxpayers in the county that they are going to be treated the same as taxpayers across the state.

Terry Traynor, Assistant Director, North Dakota Association of Counties: See Attachment #2 for testimony in support

Chairman Cook: Do you believe that in order for the production formula to be fair, work, or have some integrity to it that soil testing has to be part of it?

Terry Traynor: I think that includes the consistency from county to county. In my mind some of the methods that have been in place were reasonably fair, but then when you compare

borderline situations, one county to the next, that is where the soil information helps generate the consistency that legislature is looking for.

Chairman Cook: If you didn't have soil testing as part of the formula, you couldn't have modifiers, you couldn't modify the value of a quarter section based on "it's covered with rocks"?

Terry Traynor: I think using the soil survey data, and the productivity indexes that are generated from that, creates a much more scientific way of doing that. Talking with the tax directors that are not doing that, their interpretation is that that is what they are doing already but it is much more intuitive. They are using some of the same tactics.

Senator Hogue: Could you identify the 21 compliant counties?

Terry Traynor: I believe you will have that from the Tax Commissioner.

Cory Fong, Tax Commissioner: See Attachment #3 and #4 for testimony in support

Chairman Cook: Can you explain the difference between the detailed soil survey and the general soil survey?

Cory Fong: I cannot, but I will have that for you. Basically the terms are self-explanatory based on the terms themselves.

Chairman Cook: How do you use modifiers if you haven't implemented a detailed or general soil survey?

Cory Fong: I think that some modifiers were in place before, but we can get more information to you on that.

Joe Belford, Ramsey County Commissioner: Here to ask you to support SB 2052. I think it is a more accurate way of doing things. We have gotten nine counties together and hired a firm that will implement this. It has cost Ramsey County \$67,000 to do this and we have

spread that out in our budget process to do this. We would like to see the extension for this to be done right and well by the smaller counties with staff and time issues.

Chairman Cook: \$67,000 is that for all the counties?

Joe Belford: That is for Ramsey County.

Sandy Clark, North Dakota Farm Bureau: I am here in support of this bill to extend the deadline. We think it is very important to do this right the first time. Rather than asking counties to hurry and meet a deadline, it is better to give them more time to do it right. It is expensive and takes a large amount of time.

Scott Rising, North Dakota Soybean Growers Association: See attachment #5 for testimony in support

Woody Barth, North Dakota Farmers Union: I am here in support of this bill.

We are a part of putting together a manual, and we support the extension, and would like you to allow for the extra 2 years.

Julie Ellingson, North Dakota Stockman's Association: I am here in support of this bill. The Stockman's Association has long supported the use of soil survey data. We recognize that cannot happen overnight, and encourage the extension given in this bill.

Cliff Ferebee, Dunn County Commissioner: I had not planned on testifying, but my tax director asked for us to testify in support of this bill. The expense is high, but we want to get this done and done right. We can complete it, but we want to get it done right.

Chairman Cook: Close hearing in SB 2052.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2052

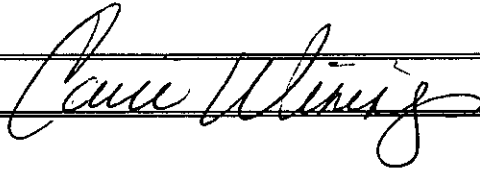
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01/14/2009

Recorder Job Number: 6974

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened the hearing on SB 2052.

Senator Anderson moved a Do Pass.

Senator Triplett seconded.

Chairman Cook: I do have one note here. The question was raised whether we want to have language in this bill that would provide for a further review of this issue during the next interim.

Senator Hogue: What if we were to grant an extension, but to increase that 5% to a higher percentage to make sure that we continue to incentivize them to complete the project?

Senator Triplett: I would object very strongly to increasing the penalty. Having been a county commissioner at the time it was passes, I know that it has seriously gotten the attention it deserved since it was passes. Everyone is working on it that have not finished. I don't think there are any counties that are sitting idle.

Senator Anderson: I agree with Senator Triplett that the attention was gotten, and that it will be taken to completion.

Chairman Cook: Don't be surprised that two years from now they don't want to extend it two more years.

Senator Hogue: Why are we extending it two years, why not one?

Chairman Cook: Because of the biennium.

Senator Triplett: Gives a brief synopsis of what happened two years ago on this bill when it was before the committee and why; focusing on the time consuming part of it.

Senator Dotzenrod: After looking at the map of the counties that have completed the process, I was surprised at the ones who have not. It appears to me that what we did two years ago is working. The Tax Department, after looking at this for two years, must have thought they needed two more years.

Chairman Cook: My surprise with this issue is that it wasn't just a handful of counties that had not done it, it was a lot and a bigger problem than we realized. But they are making progress. I have already been told that there are counties that will not get it done in two years.

The only question I do have is if you feel it necessary to be studied again in the next interim.

Senator Triplett: I do not think so; the tax department is watching it closely now.

Senator Dotzenrod:

Chairman Cook: We have a motion before us for a do pass on SB 2052, do we have any more discussion? (no reply) Take the roll.

A Roll Call vote was taken. **Yea: 7, Nay: 0, Absent: 0**

Representative Anderson will carry the bill.

Date: 01/14/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2052

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Senator Anderson Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 7 No 0

Absent 0

Floor Assignment Senator Anderson

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

REPORT OF STANDING COMMITTEE (410)
January 14, 2009 12:46 p.m.

Module No: SR-07-0291
Carrier: Anderson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

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

2009 HOUSE POLITICAL SUBDIVISIONS

SB 2052

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2052

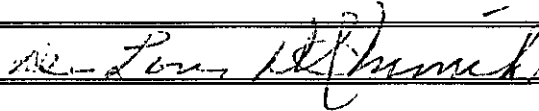
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 5, 2009

Recorder Job Number: 10297

Committee Clerk Signature



Minutes:

Chairman Wrangham: opened the hearing on SB 2052.

John Walstad: Legislative Council: (see attachment #1). I am on the interim taxation committee and that is where this bill originally came from. I made copies of a portion of the tax committee report to the legislative council for this bill. Beginning in 1981 there has been a provision in state law for county to implement use of surveys in agricultural properties. Some counties have done that. Some counties have not done that. Last session this provision of law was created to require that all counties implement use of soil survey information and they had to be done by the end the taxable year right now and failing to comply would subject the counties to withholding of 5% of the counties allocation from the state aid distribution fund until the county was in compliance. The interim committee worked with the tax department. The tax department did a lot of working contacting counties and finding out where they are on implementing soil survey use. By the end of the interim the information available to the committee is reported in what I gave your there. Every county was in some stage of implementation. It was also apparent that a great number of counties would not meet the deadline of full implementation by the end of the year. The committee recommended this bill

to extend by two years the deadline for implementing soil surveys. That is as much detail as I will go into.

Rep. Klemin: Why don't you start doing the 5% and get their attention.

John Walstad: I think the conclusion of the tax committee was that the legislature has gotten their attention. There is a lot of expense and work to go through. There is a lot of GIS mapping that has to be done. I think the entire soil survey mapping is complete, but you have to attach the data to those parcels of property and that takes time and effort.

Rep. Klemin: The deadline was 1981; why do they need more time? It has only taken 27 years so far to do this.

Rep. Conrad: What are their reasons for not being done yet?

John Walstad: Yes it is a fairly complicated process. Some counties who are not even into that process at all. Those are the ones who won't be able to meet that deadline that was set at the last session.

Rep. Kretschmar: You report that 19 counties are in the early stages. Is there any explanation why it took so long?

John Walstad: I think that dividing into stages was what it gave the committee on some idea on how they compare. Early stages can be quite a lot different from just thinking about it to actually accomplishing some things and getting somewhere. The feeling of the income tax committee overall was that a good faith effort is being made. The attention of the counties was achieved by this provision that was enacted last session. The committee felt a little patience would be appropriate so they can complete this process.

Chairman Wrangham: As I recall in the interim committee we did spend quite a little time discussing this. It was the decision of the interim committee that this would be best thing to do at this time.

Rep. Zaiser: Was there any other kind of effort for getting their attention before the last session?

John Walstad: I know that the tax department has and the state supervisor of assessment has pointed out this requirement in law many times over the last 27 years. The state supervisor of assessment has a lot of authority to make suggestions; very little authority to do much else.

Terry Traynor, Ass't Director, ND Association of Counties: We are very much in support of this bill today.(see testimony #2). He went over testimony and attached map and survey.

I would hope that your committee would reconsider when they look at this bill and obviously the most important thing is to allow them the two years to get the job done. It is only right to get those counties to get it done right we need it done with all people participating.

Rep. Klemin: In 1979 session 30 years ago there were a lot of complaints by farmers that the property tax on the land wasn't fair and I don't know if they have actually changed their point since that time because I keep hearing that. So there was an interim study, and that study came up with the soil conservation map as a basis in an effort to make the property tax fairer based on the productibility. So in 1981 then when this was all started based on productivity and therefore should be taxed more than other land that doesn't have the same productivity. So now we are in 2009 and they are still asking for more time. Do you think 30 years is enough?

John Walstad: Since 1979 we have been taxing on productivity. NDSU establishes the dollar value of all the land in the county based on their production and production costs. The county then spreads that out based on the soils in the county. All the counties use that method. The thing is they don't have the documentation of why they said this farmer's field was worth more than this farmer's field. They have been using their own seat of the pants. Some of the counties did use the old county dots inside the plat with a shield and come up with actual acreages with each soil type. They no longer have the methodology so it doesn't meet the requirements of being defined so they are going back through now and doing computerized. I think they are all using that system but they aren't using it probably to the degree and the precision that the tax department expects. Rest assured that productivity is the foundation of all tax assessments in the state.

Rep. Kretschmar: What in your opinion would be a reasonable amount of time for a county to do this?

Terry Traynor: A reasonable amount of time is 3-4 years depending upon the number of parcels in the county and whether you have a lot of irregular parcels like along a river system or something like that that takes a lot of hand work. If every parcel in your county was 160 acre quarter that is pretty fast, but if we have a lot of irregular parcels it takes a lot of hand work. All the soil types are in there. We can get those from the federal government. It used to be we get land use which also 1308 said now we have to consider land use. We used to be able to get that from the federal government and now they said that is confidential so that is no longer available to us. The key component that we don't have is the boundaries of those tax parcels on a map deictically and that is what they have to do and most of them are hiring a consultant to do it.

Rep. Zaiser: You said it would take two to three years to get this done. We had four years now and give them no more extensions. What do you think of that?

Terry Traynor: We had two years and are just asking for two more and that should be enough. There are a few counties that are really struggling and they don't have a lot of resources and it is hard to keep a consultant. I expect two or two and a half the majority of counties should be done.

Rep. Jerry Kelsh: On that formula from NDSU. Didn't part of that whole thing where taxes are figured into the land and also when detail soil was started it was suppose to not take into considerations land use? In other words pasture with the right kind of soil was supposed to be taxes like it was producing beets or whatever. Why was that changed and what was the thinking behind that?

Terry Traynor: A lot of the tax assessing professionals was very much opposed to putting use in it. Using the argument that if you have a four plex with one family living in it and a four plex with four living in it the use is different but their tax is the same. There was a big argument against that thought with those who thought we were suppose to report the factor and it prevailed and it is the preferred to look at the productivity of the soils and looked at the modified soils whether there is rocks or slope and then use it. I think if you look at the productivity of the soil and the modifier you pretty well determine what the use is anyway. It is my understanding that soil types are not considered by NDSU. It is just the cost of production, value of the products produced in a county and whether it is commercial.

Chairman Wrangham: I think this is a case where one size does not fit all. There is a huge difference in counties in the way the land is laid out; the population; the uses etc. Maybe some counties this doesn't even make sense to do. I don't know, I am not saying that. In thinking

along those lines and the cost of doing this; if it isn't done who suffers? Has there been an outcry from those who suffer in those counties to get it done?

Terry Traynor: Who suffers if the way the counties are assessing now is wrong, somebody is paying more taxes than they should and somebody is paying less taxes than they should. I don't know if there is a great outcry to get this done. After it has been done there has been a great outcry and that is where the political process comes in. I think everyone has to be brought in and understand why they are considering these modifiers and why land use is being considered and brought in the public scenarios and the values of the different types of soils so you don't have a state outcry. When you go through this process you can be assured that 50% of the land is going to go up. Maybe a little will go down. Grant County is a good case where some parcels went way up and some went way down.

Sandy Clark: ND Farm Bureau: We just wanted to stand in support of this bill. We also feel strongly if you are going to do this is sure it is done right the first time. I don't think we should hurry through this. The productivity formula from NDSU; that does equalize valuations across the state between counties. The soil survey that is what is used to equalize within a county from parcel to parcel so it is really a two step process. The reason it takes so long to do this I think a whole lot of counties have been doing it throughout the year in various ways and methods. Those old soil surveys that have been done years ago; they were trying hard to be accurate. The thing now is the whole computerization and technology that is available today with GIS systems and so that is the big push in those things so that is why it is taking longer to get done.

Rep. Zaiser: It appears to me that after NDSU defined the values for counties; it is almost a crap shot on how to establish values on each farm.

Sandy Clark: When NDSU does that formula and let's say they come out and increase the value of an acre of land is so much in this county. They will have two different numbers. They will have a valuation for a cropland; a valuation for a non cropland and then an average for the county. Then when you get into the county; then they use the soil survey and they go through the good soils and they will have a value and then they get into those categories and then they were averaging them.

Sara Hewson: handed out material for Cory Fong, Office of State Tax Commissioner: (see testimony #3, #4, handout #5).

Rep. Jerry Kelsh: How come we use all different formulas? There are seven different factors that they use?

Sarah Hewson: The beginning of that formula is the production that is per acre from NDSU and comes from different counties and is summarized by NDSU and uses their formula. NDSU uses ten years of that production with the high and low years of production. Those remaining eight years are average and then the cost of production is factored in. On page 13 we have the formula. Went through the formula.

Larry Siverson: Farmer from Mayville: I am the tax assessor of Roosevelt and Trail Township: I would like to speak in support of this bill. Trail County has been nearing completion in this process and has had four past directors and each year we are told it is going to be soon implemented and it hasn't gotten done. Now we are still in stages of implementation. Right now if it is worth doing it is worth doing right. We hope they will not be forced into rushing to completion and not doing it correctly.

Rep. Klemin: Are they close to being done?

Larry Siverson: Yes without hang ups with the federal government we are close.

Julie Ellengson, ND Stockmen's Association: I am in support of this bill and the extension.

Opposition: None

Neutral: None

Hearing closed.

Chairman Wrangham: reopened the hearing on SB 2052.

Rep. Jerry Kelsh: I have amendments before we continue for consideration.

(See attached proposed amendment #1).

Rep. Kretschmar: I am really not hearing a great deal of criticism of the property taxes because the increased value of real estate. That has gone up on farmland all over the state, I think. Maybe the taxable evaluations haven't gone up that quickly so people are not going to rock the boat and criticism the valuation of the land.

Rep. Headland: last session we had a bill 1303 that added use; that was one of the modifiers.

Some of us didn't really like it but it was pointed out to us that there were areas in some counties where we had some good bottom land that was out in the middle of a canyon that was not acceptable to large equipment but the soil types said it was sugar beet ground so some assessors were assessing it as sugar beet ground and then you go over to the next county where you have the same thing and it wasn't happening so it was a fairness issue.

That is the reason the use got put in. So that is what 1303 did. Now 1303 were amended in conference committee to put in the hammer, which I was part of to get counties that chose to thumb their nose at the law to get them to move on it.

Rep. Jerry Kelsh: I think unfunded mandate in the offset. So it cost our county about \$50,000. I disagree that we are still in the early stages. We have spent probably \$45,000

working on this. You have to have the townships involved and modifiers of some type and it

takes a lot of work walking the ground and sometimes those maps are not very easy to follow. There was a federal guideline that allows us to use ASCS maps and that is another expense to get that run. If you get to Bismarck or Minot they can put a mill on the cities as well as the farmland to cover those costs. A lot of those rural counties don't have that option. It is only \$2000 for every mill so that is some of the reasons they are not done. There was no money to do it and there was no primer to do it until we did get mandated. Those maps with the ground cover and rocks etc. need to be worked over on each parcel to be sure they are right. I have a couple of amendments I have asked John to do and one is to put the \$2,000,000 back in there and if that doesn't happen we will see.

Rep. Conrad: I know that it is hard to get to some of the land and that is hard.

Rep. Jerry Kelsh: the other reason is the soil types. People had good land and they were using it for pasture and they were paying fewer taxes on it. That land use changed the whole thing for a lot of people.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2052

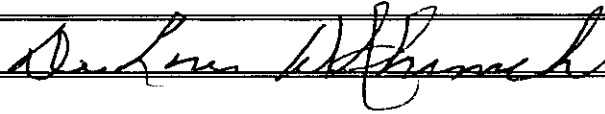
House Political Subdivisions Committee

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Hearing Date: March 13, 2009

Recorder Job Number: 10913

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on SB 2052.

Rep. Jerry Kelsh: I do have a proposed amendment. (Attachment #1). This would be an allocation of \$2 million. I realize that some of the counties have already done their surveys.

The counties that have already done them; each county would get support because they would get \$57,000 to reimburse them plus money for counties that need it to get their survey's done.

I would like to put this appropriation on this bill and send it down to the appropriations committee and go down and have an argument with them and present the information to them.

It takes quite a few mills at \$4000 a mill to make up this money. There is going to be a continuing extension of this. I think it is pretty drastic to lose 5% by not having this done.

Property tax has been such an issue and I think 5% is \$5,000 a year and that is pretty cumulative in my opinion.

Motion Made to Approve the Amendments by **Rep. Jerry Kelsh: Seconded by Rep.**

Kilichowski:

Rep. Kilichowski: I seconded it because Walsh County had to spend way over \$100,000 to get this done.

Rep. Conrad: As I look at the map Cass, Stutsman and Morton are three of the counties that haven't done it. Is that right? They are in the beginning stages? From the counties that a mill levy that generates \$20,000 a year; \$50,000 that is a lot.

Rep. Headland: I am going to have to reject the amendment for a couple of reasons. First of all you did not agree with the appropriation in the bill and killed it and the problem with putting it on this bill is this is an important piece of legislation giving the counties more time and I think again the house will reject the appropriation; then if the amendment is on there then in essence we will be rejecting the bill and we can't have that happen. At the interim we studied it and looked at it; I worked on this bill substantially last session, actually the prior two sessions and we can't lose this bill so for those reasons we have to reject the appropriations.

Rep. Klemin: This goes back to 1979 and 1981. This was a big deal back then and we lodge complaints from land owners within counties that the methodology used to attest agricultural property for tax purposes so there was a legislative study that was done in 1981 and made this requirement. The purpose of this was to try to do these soil survey's to equalize the taxes within the county so that people in one portion of the county were basically being taxed fairly compared to somebody else in the same county. I think it is only appropriate to have the counties pay for it. So I am concerned about the appropriation doing something that was really asked for to be done internally at the time and some counties have done it and some haven't and I guess I resist the amendment for that reason. This was a county responsibility to start with.

Rep. Kilichowski: I would hope we would support these amendments so that we could get it into a conference committee. That came down as a mandate when this came down and mandates are mandates and I don't like them and I don't think anyone in here likes mandates

coming down from the federal government either. A little bit of cost share to the counties for this is appropriate so I would hope we would give this support these amendments.

Rep. Zaiser: The counties just don't have a lot of money. Granted a long time ago they were supposed to do this. But cities don't have to pay extra money to have our property prepared for an assessor. In the rural areas they have to prepare those land surveys and that is an additional cost that we don't have so I think I am for the amendment.

Rep. Conrad: When you say tax credit and future cost; does that mean Ward County can go back to 1985 when they established this and get it back?

Rep. Jerry Kelsh: That \$2 million will be passed along and divided equally among the counties and it would end up about \$28,000 per county and that will be to offset the cost that they had spent; offset future costs or help the counties that are not done to continue getting done. I would like to comment on this map. It is a little out of date because Dickey County is well beyond the beginning stages. We have gone through every township and we don't have the modifier yet, but we have spent \$32,000 getting the maps and all those details that show the roads and things that the township has to go through individually every quarter of land. That is up to the county offices and they don't get paid for that. Explained the soil types and land use procedures and how that works. Use made it more difficult and it is taxed differently. By putting the use back in there is makes it more difficult and it put a weight on getting this done. It was suppose to be the soil types was the basis originally and then they put use in it. They may only do a million in conference committee. No I don't want the bill killed either. I don't think taking away \$35,000 a county is fair because you don't get something done. Rules have been changed. It was an unfunded mandate in the first place and it takes a lot of money for a lot of counties. We have got roads to fix and we have not had money to do for a long time and snow removal too.

Rep. Koppelman: Interesting debate. I am normally opposed to unfunded mandates too.

I think it is unfair; however, I am not sure I see this as an unfunded mandate. I understand the concerns that have been expressed and what counties go through. The Association of Counties came in supporting the bill as it was without the amendment. I see this as really carrying through on the constitutional obligation for a fair and equitable system of taxation which we are required to do in ND at all levels of government. I understand that costs money. In the cities we have assessors that have to go out and value property and it costs money and we have to pay them. We don't go out to people's houses in the country and figure out if it is a \$20,000 or a \$750,000 house because they don't pay tax on the house; they pay tax on the value of the land and on productivity standpoint and apparently it has been determined that soil type is a big piece of that puzzle. While I sympathize with the cost I am not sure it is something the state needs to pay for because we are in the tax collecting business. I can support the bill but not sure I can support the amendment.

Vote: Amendment failed.

Rep. Jerry Kelsh: proposed another amendment #2.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2052

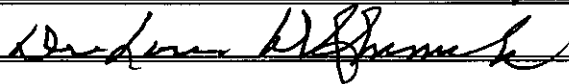
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 19, 2009

Recorder Job Number: 11251

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened hearing on SB 2052.

Rep. Jerry Kelsh: I don't want to lose this bill and this late in the session so I would prefer we pass the bill as it is. I think it is an unfair situation, but we need to pass the bill.

Chairman Wrangham: I think your remarks on the floor will still fit into the argument.

Do Pass Motion Made By Rep. Jerry Kelsh: Seconded by Rep. Hatlestad:

Discussion:

Rep. Jerry Kelsh: The cities also have problems with valuation of their properties. None of us think it is fair, but we do not control a penalty on them if they have not made it 100% fair to everybody; why are we doing it to counties? I am not sure this is going to be any fairer than the other way it was handled because the townships equal them in their townships before; and now they are still doing the same thing. Taking off all the things that they did before. People are never going to consider property taxes fair.

Rep. Zaiser: We in the cities, I think, as Rep. Koppelman says we have an appraiser, but an appraiser costs a whole lot less than the valuation of cropland. On the other hand I see Rep.

Klemin's point that they should have done it three or four years ago or whatever. So I see both

sides of the argument. I think it just costs more in rural areas, but we in the cities all we have to do is pay for the mileage of an assessor.

Chairman Wrangham: There are many opinions there, but this bill without an amendment, we are going to vote on it, is just going to extend the deadline and that is simpler.

Rep. Conrad: In Ward County most of our commissioners were from Minot. It was very helpful to have more discussion that everybody could understand. When you have 15% - 17% of the people in the counties than they get a little skeptical about the people in the cities I think it is must better conversation and it think it is more fair.

Rep. Koppelman: Are their amendments? Was there another one we adopted?

So the motion is for passage as is?

Do Pass Vote: 13 Yes 0 No 0 Absent Carrier: Rep. Hatlestad:

Attached a handout #1 for record.

Hearing closed.

#1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2052

Page 1, line 3, after the semicolon insert "to provide an appropriation to the tax commissioner for allocation among counties for costs of implementation of use of soil survey data in agricultural property tax assessments;"

Page 1, after line 15, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the tax commissioner for the purpose of allocation in equal amounts among the counties of the state to assist counties with the past, present, and future costs of implementation of use of soil survey data in agricultural property tax assessments as required by section 57-02-27.2, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 1, line 16, replace "This" with "Section 1 of this"

Renumber accordingly

Date: 3/13/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2052

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep Kelsh Seconded By Rep Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham			Rep. Conrad		
Vice Chair Rep. Headland			Rep. Kelsh		
Rep. Hatlestad			Rep. Kilichowski		
Rep. N. Johnson			Rep. Mock		
Rep. Klemin			Rep. Zaiser		
Rep. Koppelman					
Rep. Kretschmar					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Carrier: _____

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

*Unin Vote
Failed!*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2052

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to repeal subsection 10 of section 57-02-27.2 of the North Dakota Century Code, relating to the deadline for counties to implement use of soil survey data in agricultural property tax assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Subsection 10 of section 57-02-27.2 of the North Dakota Century Code is repealed."

Renumber accordingly

Date: 3/13
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2052

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Kelsh Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham			Rep. Conrad		
Vice Chair Rep. Headland			Rep. Kelsh		
Rep. Hatlestad			Rep. Kilichowski		
Rep. N. Johnson			Rep. Mock		
Rep. Klemin			Rep. Zaiser		
Rep. Koppelman					
Rep. Kretschmar					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Carrier: _____

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

Date: 3/19
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2052

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep Kelsh Seconded By Rep Headland

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham	✓		Rep. Conrad	✓	
Vice Chair Rep. Headland	✓		Rep. Kelsh	✓	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin	✓		Rep. Zaiser	✓	
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Pietsch	✓				

Total (Yes) 13 No 0

Absent 0

Floor Carrier: Rep Headland

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

REPORT OF STANDING COMMITTEE

SB 2052: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2052 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2052

#1

SOIL SURVEY IMPLEMENTATION FOR AGRICULTURAL ASSESSMENTS

Background

Since 1981 state law has required county assessment officials, whenever possible, to use soil type and soil classification data from detailed and general soil surveys in determining relative value of agricultural lands within the county. During consideration of legislation in 2007, the Legislative Assembly discovered that most counties have not implemented use of soil surveys in assessments and, as a result, there is a lack of uniformity among agricultural property assessments in the state. House Bill No. 1303 made it mandatory for counties to use soil survey information in agricultural assessments and set a deadline to require all counties to implement use of soil surveys by taxable year 2010 or a noncomplying county would incur withholding of 5 percent of the county's allocation from the state aid distribution fund until the county implements use of soil survey information.

*Same given
to House.*

Committee Consideration

At the request of the committee, the Property Tax Division of the Tax Department developed criteria to determine when a county has fully implemented soil survey use in assessments. The Tax Department worked with the North Dakota Association of Counties, assessment officials, and state geographic information system personnel to assist counties in implementing the use of soil surveys and agricultural assessments. After reviewing the status of each county, the Tax Department determined that 19 counties are in the early stages of implementation of use of soil surveys, 13 counties are in transition to full implementation, and 21 counties are fully compliant with use of soil surveys in agricultural assessments. Every county is at least in the process of implementing use of soil surveys. However, the committee was advised that several counties would not be able to meet the deadline of 2010 for full implementation of use of soil surveys and agricultural assessments.

Recommendation

The committee recommends Senate Bill No. 2052 to extend the deadline for county implementation of soil survey use in agricultural assessments from 2010 to 2012.

#2

**Testimony To
THE SENATE FINANCE AND TAXATION COMMITTEE
Prepared Monday, January 12, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

REGARDING SENATE BILL No. 2052

Chairman Cook and members of the Senate Finance & Taxation Committee, county government is very much in support of Senate Bill 2052.

The passage of legislation (HB1303) last Session, detailing the priority of factors to be considered in agricultural land valuation, and setting a deadline for the incorporation of soils data into the valuation process, prompted significant activity among many counties.

Recognizing that quite possibly many counties would be found to fall short of the requirements of this legislation, the NDACo Board of Directors authorized the retention of a consultant to create a number of tools to assist counties in their response. As discussed with the Interim Taxation Committee, we began by identifying and communicating a list of vendors capable of assisting counties in the development of digitized parcel maps. Since then, working with State and local experts, our consultant has finalized a set of recommended technical data standards for the creation of these maps, and a model request for proposal (RFP) for those seeking outside assistance.

Possibly of greatest importance has been the completion of a guide or manual to aid local officials in putting all the technical and political pieces of this process together. This manual was the result of a joint effort between our office and the State Tax Commissioner, and involved an advisory body of the major farm groups, State and federal technical experts, as well as county and township officials. I believe the final product will be extremely useful, and facilitate implementation with the smallest amount of controversy possible. The Tax Commissioner has assumed responsibility for the manual and its future update, and it is available for download from his website.

Today, we hope to give you a flavor for the efforts undertaken by counties across the State, and an understanding of the challenges they face in meeting the statutory deadline. While each county is at a different place in the process, has different resources, and may have different technical hurdles; we are here to communicate the seriousness with which counties are taking the deadline; as well as the costs – in software, hardware, staff time, and consultants.

Although not here today, I do want to mention one county that may be somewhat unique in the challenges it faces. Sioux County, you are likely aware, is a checkerboard of taxed and tax-exempt agricultural lands. Roughly 50% of their agricultural acres are taxed – and therefore need to be valued. However, mapping these 3,000 parcels necessitates boundary mapping much of the adjoining tax-exempt property – so their costs are the same as a similarly sized county.

Unfortunately, they have less than half of the tax base of a similarly sized county to support the effort.

Sioux County has two staff in the entire courthouse – so an in-house project is out of the question. They have been able to secure a consultant for \$35,000 for mapping, plus \$9,000 to translate the soils, productivity, modifier, and use information into tax values. A mill in Sioux County is now worth \$2,147 dollars – so the project cost equals over 22 mills of property tax. Their consultant has fortunately agreed to receive payment over three years – still a rather alarming expense. While they, like all of the counties, are striving to meet this mandate, I need to stress this extreme example. Five percent of Sioux County's State Aid – the statutory penalty for non-compliance – is about \$13,500. My understanding of the purpose of the penalty was to encourage compliance, not to punish non-compliance. Invoking this penalty – removing a third of the funds they need for the project – would certainly be counter-productive.

Our Association urges a “Do Pass” recommendation for SB2052 to delay the penalty portion of this statute – to allow all counties to achieve the Legislature's goal. We also understand that there will possibly be legislation introduced to appropriate some State funding to offset the property tax impact of this requirement, and we hope that this proposal will also be given strong consideration.



3

STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

*Same given
to House*

**TESTIMONY BEFORE THE
SENATE FINANCE AND TAXATION COMMITTEE**
Senator Dwight Cook, Chairman
Testimony from Tax Commissioner Cory Fong Re: Senate Bill 2052
January 12, 2009

Chairman Cook and Members of the Senate Finance and Taxation Committee, I am here today in support of Senate Bill (SB) 2052. The bill extends the deadline for counties to fully implement the use of soil type and classification data by two years, from 2009 until 2011.

BACKGROUND

During the last Legislative Session House Bill (HB) 1303 was approved, which was intended to make improvements to the way agricultural land is assessed by local assessors. As a result, local assessors are now required to apply the following considerations, in descending order, when determining the value of agricultural land:

- 1st Soil type and classification data either from general or detailed soil survey information;
- 2nd Schedule of modifiers, which must be approved by the State Supervisor of Assessments; and
- 3rd Actual land use for either cropland or noncropland purposes.

The requirement that local assessors consider soil type and classification data when valuing agricultural land has been a requirement in North Dakota law for quite some time. However, for a variety of reasons, the requirement has not been uniformly or universally implemented.

House Bill 1303 created a penalty provision for counties that do not fully implement the use of soil type and classification data by 2009. The penalty is a five percent reduction of the county's allocation from the state aid distribution fund each month until the county has fully implemented the use of soil type and classification data.

SECTION 1 – Section 1 of Senate Bill 2052 extends the deadline for counties to fully implement the use of soil type and classification data from general or detailed soil survey information by two years, from 2009 until 2011.

Many, if not most, counties have been impacted by HB 1303 and have been diligently working to develop the necessary tools to comply with all aspects of the law, including fully implementing the use of soil type and classification data. And, in several instances counties have been required to devote significant resources to move toward compliance.

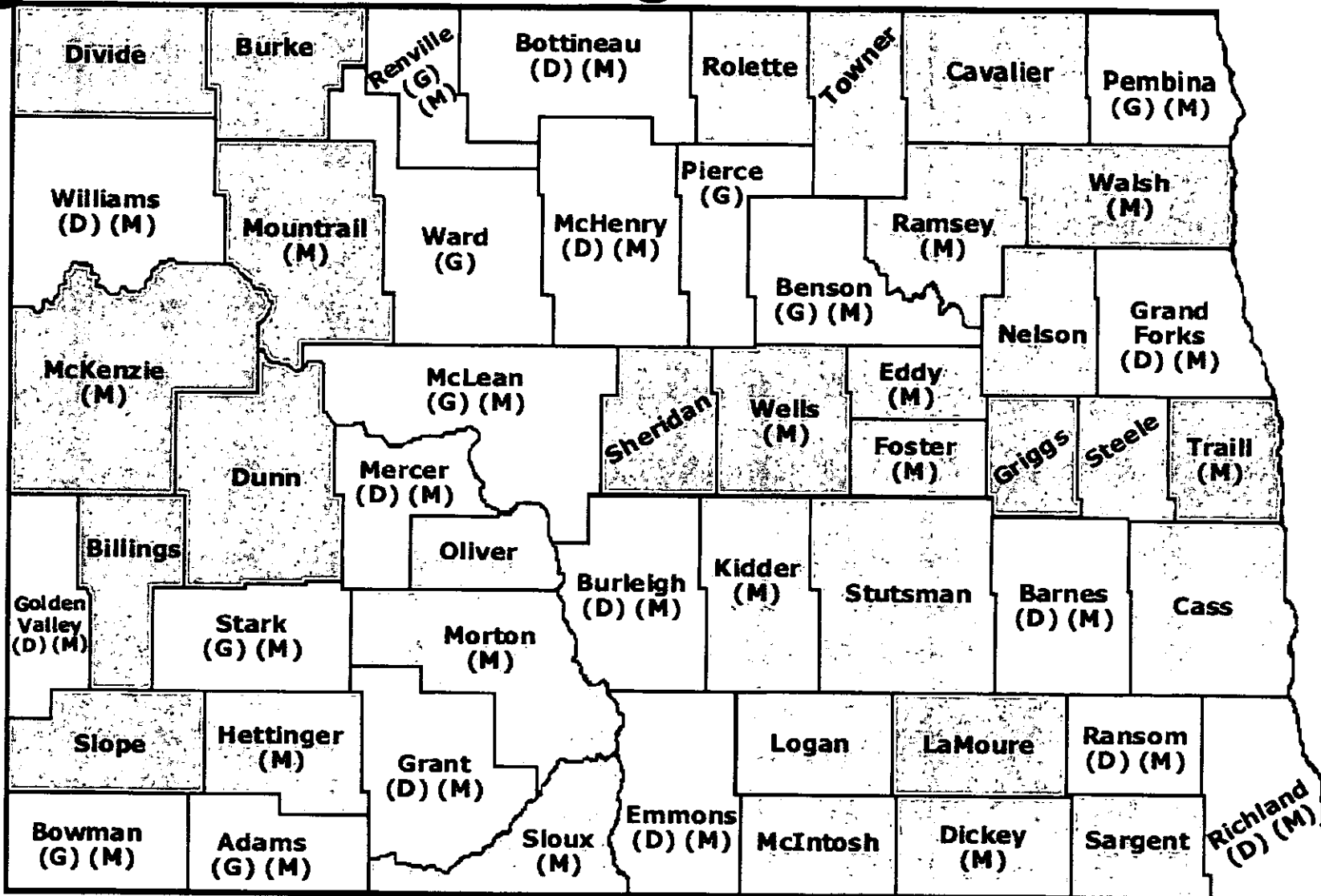
The Office of State Tax Commissioner, working closely with the North Dakota Association of Counties, county and township assessment officials, state producer groups, and soil experts, have collaborated to develop resources to assist local assessors comply with all aspects of the law,

including fully implementing the use of soil type and classification data. The North Dakota Digital Parcel File Standards and the Guide to Assessing Agricultural Land in North Dakota, both of which are being used by assessment officials to achieve compliance, are products of those collaborative efforts. I am including a copy of the Guide to Assessing Agricultural Land in North Dakota with my testimony.

While all counties are on their way toward fully implementing the use of soil type and classification data, the 2009 deadline is looming and may be difficult, if not impossible, for some counties to meet. And, some counties have reported that complying with the 2009 deadline may end in hurried results that may be less than optimal.

Extending the deadline until 2011 makes sense and will allow counties to fully comply with the law and achieve the intended results of the original legislation.

Thank you for your consideration and I ask that SB 2052 be given a do pass recommendation.

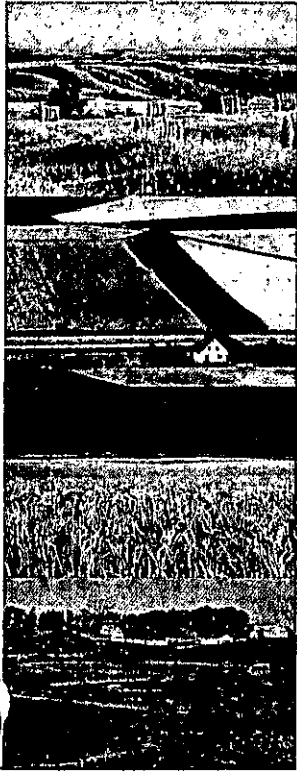


Yellow County using soil survey as basis for agricultural valuation
Blue County in the process of implementing detailed soil survey method of valuation.
Green County at the beginning stage of implementing the detailed soil survey method of valuation.

(D) Indicates detailed soil survey
(G) Indicates general soil survey
(M) Indicates use of approved modifiers



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER



Guide to Assessing Agricultural Land in North Dakota

*Same report
given to
House.*

2008 Edition



This publication is a joint project of:



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INTRODUCTION

Legislative Background

The 2007 North Dakota Legislative Assembly amended North Dakota Century Code (N.D.C.C.) Section 57-02-27.2, the section dealing with the valuation and assessment of agricultural lands. Effective August 1, 2007, subsection (7) of this statute provides:

“In determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall use soil type and soil classification data from detailed and general soil surveys.”

Subsection (8) of N.D.C.C. Section 57-02-27.2 further provides that to determine the relative value of each assessment parcel, the local assessor must apply the following considerations (in descending order of significance) to the assessment determination:

1. Soil type and soil classification data from detailed or general soil surveys;
2. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments (under subsection 9); and
3. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.

With regard to implementation of this system by counties, N.D.C.C. Section 57-02-27.2(10), provides:

“For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys for any taxable year after 2009, the tax commissioner shall direct the state treasurer to withhold five percent of that county’s allocation each month from the state aid distribution fund under section 57-39.2-26.1 until that county has fully implemented use of soil type or soil classification data from detailed and general soil surveys.”

As counties began to develop and implement this assessment method, many were seeking guidance. In recognition of this need, the North Dakota Office of State Tax Commissioner partnered with the North Dakota Association of Counties (NDACo) to provide assistance by:

Evaluating and summarizing the various methods compliant counties have successfully used;

Organizing a working group, the *Agricultural Land Valuation Advisory Committee*, comprised of various federal, state, and county government representatives and members of agricultural producer groups; and

Developing this manual and suggested methods.

Purpose of this Manual

The Agricultural Land Valuation Committee recognizes counties throughout the state may have unique perspectives and concerns about the assessment of agricultural land. What may work well for one county's valuation procedure may not work well for another county. For instance, counties in the Red River Valley have topography and production factors very different from counties in the Badlands; counties in the Turtle Mountains have different issues from those in the Missouri Coteau region. Each county must make decisions about the implementation of their assessment methods according to their own distinct needs.

The purpose of this manual is not to dictate how each county must implement the law. Rather, it is to provide guidance and suggestions to counties developing procedures to implement the soils survey, use of modifiers, and consideration of actual land use into their agricultural land assessment method.

DIVISION OF DUTIES

Each county is encouraged to formally establish, in writing, the role of each entity involved in the agricultural property assessment process. The division of duties plan clarifies the duties assigned to each entity, as outlined in the following example from one North Dakota county:

AGENCY	ROLE IN DECISION MAKING
North Dakota State University	<ul style="list-style-type: none"> • Determines average value of agricultural land for each county
North Dakota Office of State Tax Commissioner	<ul style="list-style-type: none"> • Certifies average value of agricultural land for each county • Approves the Schedule of Modifiers for each county
County Commissioners	<ul style="list-style-type: none"> • Decide local taxation policy • Appoint Soils Committee members • Decide modifiers to be used • Decide how to incorporate land use
<p>* Soils Committee</p> <p><i>*If a county chooses not to implement the use of a Soils Committee, these roles may fall to the county tax director or outside professionals.</i></p>	<ul style="list-style-type: none"> • Advises county commissioners about: <ul style="list-style-type: none"> - Modifiers - Wet-Phase soils - Noncrop and cropland valuation - Nonproductive lands
County Tax Director	<ul style="list-style-type: none"> • Determines the breakpoint between cropland and noncropland based on soil productivity indices (if appropriate for county assessment system) • Develops cropland value spread • Develops noncropland values
<p>* Township Board</p> <p><i>*If a county has an unorganized township, these roles go to the county tax director.</i></p>	<ul style="list-style-type: none"> • Determines acreage of modifiers by soil type • Determines what soil types will require Wet Phase modification • Determines acreage of Nonproductive lands
Local Assessors	<ul style="list-style-type: none"> • Help the Township complete Data Sheets • Advise the Township on modifiers, Wet-phase soils, and Nonproductive land

Example 1: Establishing roles of each body

SOILS COMMITTEE DEVELOPMENT

The Agricultural Land Valuation Advisory Committee recommends each county develop a Soils Committee with members appointed by the county commissioners. Please note that counties are not required to use a Soils Committee. The Soils Committee may significantly assist the county tax director and county commissioners in gathering input necessary to implement an agricultural valuation process using soils. Soils Committees are routinely used to advise county officials how to effectively:

- Develop a methodology most beneficial for their county.
- Review Productivity Indices of soil types within their counties.
- Develop and apply modifiers based upon the county's unique needs.
- Consider land use in the valuation process.
- Answer questions from landowners regarding the assessment process.
- Review grievances from landowners.

Role of the County Director of Tax Equalization and County Commissioners with the Soils Committee

The recent changes in agricultural land valuation most significantly affect the duties of the county director of tax equalization. County commissioners should also be involved in the assessment process since they will be making decisions that affect the equalization procedure. For example, if a county decides to develop a Soils Committee, county commissioners would be invited to recommend potential committee members during the recruitment process and make the final appointment decisions during the selection process. In addition, county commissioners may wish to attend the Soils Committee meetings as observers in order to learn about any assessment issues.

The most significant role of the county director of tax equalization is to offer guidance to members about the provisions of the law and provide information and data necessary to complete assigned tasks.

In order to maintain the integrity of the Soils Committee, it is critical that the committee be allowed to pursue the best technical and unbiased solutions to issues and not be unduly influenced by outside interests.

Identifying Tasks of the Soils Committee

Prior to selecting Soils Committee members, it is important that the county tax director and/or county commissioners determine the goals and objectives to be addressed by the committee. This will help identify the necessary background or experience for committee members. Once the Soils Committee begins to meet, the goals may be expanded or redefined.

The following is an example of the goals for one county's Soils Committee:

1. Decide on land use classifications to use.
 - A. The State classifications are Cropland and Noncropland. [County] is adding a third category of Nonproductive lands.
2. Productivity Index (PI).
 - A. Decide which crops to use.
 - B. Find Yield Data
 - C. List soil types, PI, and acres.
 - D. Separate Cropland from Noncropland.
 - E. Establish categories for Nonproductive land.
3. Valuation.
 - A. Establish Cropland values.
 - B. Establish Noncropland values.
 - C. Establish Nonproductive land values.
4. Parcel Data.
 - A. List soil types by parcel.
 - B. Add in Nonproductive land.
 - C. Find value for each parcel.
5. Using Modifiers.
 - A. Determine the modifiers to be used.
 - B. Establish amounts to be used.
 - C. Add to parcel data.

Example 2: Identifying Goals of a Soils Committee

Recruiting and Selecting Soils Committee Members

It is important to determine eligibility criteria of the committee members prior to recruitment and selection of the members. Counties should select individuals from within the agricultural community to serve on the Soils Committee. Selected individuals should *not be currently serving on the county board of commissioners*.

In addition to seeking recommendations from the county commissioners, county tax directors may seek recommendations for Soils Committee membership from extension agents, soil conservation districts, and township officers.

Additional means of recruiting committee members may include direct mail, local newspapers, or various association newsletters. Township meetings are another good source for recruitment of Soils Committee members.

Persons interested in becoming members of a Soils Committee may be asked to submit letters or applications outlining their interest in the committee process and describing any experience pertinent to the needs of the committee. A selection committee, usually consisting of the county commissioners and county tax director, will review the applications and select the members.

Selected Soils Committee members may be farmers and ranchers with local agricultural knowledge and experience. Township officers, county agents, and local professionals from within the fields of agronomy, Geographic Information Systems (GIS), or soil conservation are also excellent committee candidates.

An important consideration when selecting committee members is to seek an adequate geographic representation from the county. This will ensure the committee has a balanced cross-representation and knowledge of local areas and management practices.

The number of Soils Committee members may correlate directly to the number of townships within the county. Examples include:

1. One committee member to represent every four townships within the county.
2. Or a county may be divided into districts, such as the existing county commissioner election districts, and committee members selected to represent each district.

An odd number of committee members is recommended to avoid tie votes. Alternate committee members should also be selected, attend meetings, and be available to step into the member role in the event a committee member becomes unable to fulfill his or her duties.

It is important to establish written guidelines regarding Soils Committee selection and membership. The following is an example from one North Dakota county:

- A. A member must be a resident landowner of [County].
- B. A member must be actively involved in farming, ranching, a retired farmer/rancher still active in county activities, or actively involved in a farm/ranch related field.
- C. Every two years the members change in rotation.
- D. A member does not have to be a township officer.
- E. County Commissioners may dismiss a Soils Committee member by a majority vote.
- F. A member need not reside in the district he or she is representing.
- G. Soils Committee will reorganize itself at the first meeting after the [County] Soils Committee Board election. This will occur every two years.
- H. The Director of Tax Equalization will become the permanent secretary for the Soils Committee.

Example 3: Soils Committee membership

Establishing a Soils Committee Policy

The County Commission (with input from its Soils Committee) establishes a written policy outlining the duties and responsibilities of the Soils Committee. All decisions of the committee are to be documented for future reference. Counties may also consider establishing a policy that addresses the per diem reimbursement for Soils Committee members.

The following is the policy used by one North Dakota county:

1. Purpose of the Committee – It is the purpose of this Soils Committee to make recommendation to the County Commissioners. This board can only recommend and has no inherent powers of its own.
 - This committee will meet at least once every year to determine if any recommendation for change should be made to the county soils policy.
 - The main duty of the Soils Committee is to recommend changes in soil type values to the County Commissioners. The Soils Committee may also recommend changes in soils policy.
 - The Soils Committee will randomly audit a parcel (or parcels) within each township each year.
2. County Equalization – In the future, all adjustments should be made by soil type. Adjustments should not be made by changing valuation by individual townships.
3. At local equalization meetings, changes can be made in modifiers and acres of soil type. This would then be entered into the computer to determine the new value or can be penciled in by the assessor.
4. A Soils Committee composed of eight members (one from each district) will be selected by the County Commissioners and serve a six-year term. Districts are outlined on map. The County Tax Director, when visiting a township, will invite a Soils Committee member from that district to attend. Serving as advisors will be a representative of NRCS and the County Extension Agent.
5. When appointments to said committee are first made, the members from district one and six will serve a two-year term. Members from district two and five will a four-year term, and members from district three and four will serve a six-year term.
5. Taxpayers who disagree with soil type values, price structure, or soils policy may complete the Agland Assessment Form at the County Tax Director's office. This form will be directed to the Soils Committee. All complaints will be handled at the next scheduled Soils Committee meeting. All complaints must be answered in writing.
6. Modifiers – The total percentage of modifiers used by individual townships rests with the County Commissioners, but the County Commissioners must request the Soils Committee to provide a recommendation.

Example 4: Sample Soils Committee Policy

Assigning Leadership and Defining Requirements

The Soils Committee elects a chairperson and appoints a secretary to keep minutes. The county tax director usually fills the secretary's role. The county tax director may initially assume the role of "acting chairperson" until a chairperson is selected.

Soil scientists or other professionals may be invited to participate in the initial Soils Committee meetings. These individuals may provide guidance on the use of a soil survey for assessment purposes and on how to complete the committee's objectives.

Initially, the Soils Committee considers the frequency of meetings (e.g., weekly, semi-monthly, or monthly). Frequent meetings will help to clearly define the objectives and goals of the committee, as well as provide information about the law and any specific tasks, and will ensure that each committee member receives the same instructions and information.

As tasks are completed and the agricultural land assessment method is established, meetings of the Soils Committee may be limited to once or twice per year. The purpose of these annual or semi-annual meetings may be to address concerns from landowners, make needed adjustments to the valuation schedules, or to revise the modifiers used in the land valuation process.

Information Provided to the Soils Committee

The county tax director or the county commissioners provide the Soils Committee with the following tools and information:

- Copies of the law outlining North Dakota agricultural assessment.
- Items related to soil survey (orientation to soil survey, web soil survey, map unit design, productivity indices, and information on the potential uses of soil survey for assessment processes).
- Current parcel maps and United States Department of Agriculture (USDA) - National Agriculture Imagery Program (NAIP) photography of the land.

Keeping Minutes

The Soils Committee must keep detailed minutes of each meeting. This will ensure decisions, votes, and other issues addressed by the Soils Committee are documented. The minutes must be retained for any future state or county review.

In addition, because a Soils Committee is formed by a political subdivision, and reports to that entity, the Soils Committee may be subject to the North Dakota Open Records and Open Meetings laws. Counties forming a Soils Committee should consult with their State's Attorney to determine the extent to which they may be subject to these laws.

The following is an example of minutes from one North Dakota county:

[County X] SOILS COMMITTEE MINUTES February 04, 1999, 1 p.m. [County X] COURTHOUSE

Present: Chairman [X], Secretary [Y], Members [A, B, C, D, E, F, G, H, I, J, K],
Director of Tax Equalization

Absent: Member L

Chairman [X] asked for any corrections from the previous meeting and there were three corrections to be noted on the spreadsheet distributed to the last meeting.

There was discussion on whether current CRP acre information is available on FSA fly-over maps and the question raised as to what year's maps should be used. It will be up to the local assessors to determine the CRP acres. Motion by [Member B] and seconded by [Member C]: **Motion that woodlands/shelter belts, excluding farmstead trees, be valued at the lowest noncrop price per acre and be coded 800 on data sheet.** Motion carried.

Motion by [Member B] and seconded by [Member D]: **Motion that waste lands, defined as "no production any year, any time, under any conditions", be valued at the lowest noncrop price per acre and be coded 801 on data sheet.** Motion carried.

Motion by [Member E] and seconded by [Member F]: **Motion that waterways, defined as any river, stream or grassed waterways, be valued at the lowest noncrop price per acre and be coded 802 on data sheet.** Motion carried.

Roads are to be valued at zero as per prior motion by [Member G] and coded 803 on data sheet.

Motion by [Member H] and seconded by [Member I]: **Motion that marsh (where rushes start) be valued at the lowest noncrop price per acre and be coded 804 on data sheet.** Motion carried.

Motion by [Member A] and seconded by [Member C]: **Motion that farmsteads, including any trees, be valued at the county noncrop average price per acre and be coded 805 on data sheet.** Motion carried.

CRP is to be treated as cropland and no modifiers are to be applied to those acres. The question was raised on how to treat preventive planting acres and it was determined that is not an issue as it is a management decision.

The next [County X] Soils Committee is scheduled for [date, time, and place].

Meeting was adjourned

Secretary _____

Example 5: Soils Committee Minutes

METHOD OF VALUATION

Each county must complete several generalized steps to change their valuation method in light of legislative changes.

1) Determine the Extent of Soils for Each Agricultural Parcel

First, each county must determine the acreage of each soil type or soil map unit within each property tax parcel classified as agricultural.

Acreage of soil types can be determined using paper soils maps, transparent overlays of parcel boundaries, and acre tabulation grids or planimeters to determine acres. This manual method may be labor intensive and time consuming.

A preferred method is creating a digital parcel layer in a Geographic Information Systems (GIS - a computerized mapping software system) environment and then overlaying the parcel layer with the digital soil survey available from the USDA-Natural Resources Conservation Service (NRCS). Using digital data and a GIS is the recommended method for counties just beginning the process of utilizing the soil survey in land assessment. The GIS approach has several benefits:

- a) The most current soils maps from NRCS are readily available in a digital format;
- b) A digital county parcel map may be used for other endeavors within the county and may offset the initial cost of development; and
- c) Digital data may be updated regularly to reflect ownership splits or merges and re-linked with soils maps for accurate soil acre determination.

Counties that have already determined their soils acres manually are not required to create a digital parcel map for their county. Acres of soil types for agricultural parcels may be determined by manual methods.

The topic of digital parcel development will not be further addressed in this manual. For more information about this process, please refer to the North Dakota Digital Parcel File Standard developed in the fall of 2007 to assist North Dakota counties in determining soil acreage. More information concerning the Digital Parcel File is available from NDACo and the North Dakota Information Technology Department.

2) Assigning Value to Soil Types

After determining the extent of each soil type for every agricultural parcel of land, counties must assign a value to each soil type based on productivity. Soil productivity can be determined by using a Productivity Index (PI) or a measure of range production, either Pounds of Forage or Animal Unit Months (AUM). Soils Committees may assist the county tax director in determining soil productivity. Assigning value to soil types is discussed in more detail in the following section.

3) Applying Approved Modifiers

Counties must determine if appropriate local modifiers are needed in the assessment process. If modifiers are used, counties must decide on a maximum rate each modifier will affect the value of land as determined from soil productivity.

4) Considering Land Use

Land use must be considered when determining the true and full value of land.

Assigning Value to Soil Types Based on Productivity

The fundamental basis for agricultural property valuation in North Dakota is productivity. Productivity Indices (PI) can be used to estimate the long-term production capacity of a soil used for agricultural crops under a defined level of management. PI are a relative ranking of soils in an area based on soil and landscape properties. Soils with favorable properties (e.g., high water holding capacity, run-on landscape positions, etc.) receive higher rankings than soils with unfavorable properties. The ranking ranges from 0 to 100, with the best soils in an area having a PI of 100. Some counties may determine a maximum PI of less than 100 (such as 98 or 95) to begin their ranking system and adjust the range to meet the needs of that county over time.

Initial PIs can be obtained from the NRCS Web Soil Survey. If a Soils Committee is established, these values are reviewed by the committee. NRCS PIs are based on the long-term production of spring wheat at a high level of management. Under certain conditions (for example, deep-rooted crops grown on high water table sands), these values may not be applicable to specific counties and a composite PI, representing several commonly grown crops, may be determined locally (see example 10 under “Multiple Crop Productivity Index Averaging”).

PIs derived from NRCS data bases represent the typical condition of the soil. For example, if the soil under consideration is commonly drained for agricultural production, the PI is listed for a drained phase. Because both drained and undrained conditions may exist in a county, local modifiers are used to adjust values for undrained soils. This situation may also apply to soils affected by salinity, sodicity (claypan), stones, channels, etc.

Counties should review their soil lists with NRCS representatives to determine which soils in their jurisdiction are susceptible to Wet Phase modification. Wet Phase modification may be applied to soils susceptible to a more or less *permanent* state of ponding, flooding, or surface saturation. Use of Wet Phase modification on these soils might be appropriate if the current PI does not adequately account for reduced productivity due to the wetness. Counties using Wet Phase modification may need to establish a new listing for those soils (for example Borup loam under wet conditions may be given a separate listing as ‘Borup loam very wet’). A new PI for the wet type will also need to be determined. Examples of soils susceptible to saturation include Arveson, Rosewood, and Borup series.

Once a PI has been reviewed and accepted for each soil type (soil map unit), the PIs are sorted for each soil type from highest to lowest. Soils may be grouped into *Productivity Classes*, based on groups of soils with similar PIs. Use of Productivity Classes reduces the amount of computations needed and helps to clear up any confusion related to lengthy soil lists.

Please note many older county soil survey reports contain outdated yield information. Current PI information is available at websoilsurvey.nrcs.usda.gov/app/.

Soils with the highest PI receive the highest value per acre and values decrease with lower PI as shown on the following sample condensed list (Valuation Schedule):

Soil Type (Map Unit)	Soil Name	Soil Productivity Class	PI	Bushels/Acre	Maximum Value/Acre
44	Arnegard loam 1-3% slope	A	100	32	\$343.00
96	Grassna	A	100	32	\$343.00
102	Bowbells loam 1-3% slope	B	100	32	\$343.00
28	Wilton silt loam 1-3% slope	B	97	31	\$332.00
44B	Arnegard loam 3-6% slope	C	94	30	\$322.00
7	Straw silty clay loam	C	94	30	\$322.00
104	Magnus silty clay loam	D	90	29	\$309.00
20	Lohler silty clay	D	90	29	\$309.00
15	Lawther silty clay 1-3% slope	E	85	28	\$292.00
10	Savage silty clay loam 1-3% slope	F	84	27	\$288.00
40	Shambo loam 1-3% slope	F	84	27	\$288.00
2	Tonka silt loam	G	81	26	\$278.00
44C	Arnegard loam 6-9% slope	G	81	26	\$278.00
36B	Williams loam 3-6% slope	H	75	24	\$257.00
AOB	Amor loam 3-6% slope	I	72	23	\$247.00
B0B	Belfield silt loam 3-6 slope	J	69	22	\$237.00
77	Bowdle loam 1-3% slope	L	59	19	\$202.00
71C	Searing-ringling loam 6-9% slope	Q	31	10	\$106.00
111	Pits, gravel	H	10	0	\$ 75.00

Example 6: County 'A' Valuation Schedule - Sorting Soils from Highest to Lowest PI

In the above example, the maximum value per acre is reduced to correspond to the soil's PI. In this case, the average value for the highest rated soil was determined using a formula provided by North Dakota State University (NDSU). The value of soils with lower PIs was determined by multiplying the highest PI soil price by the soil PI (divided by 100). For example, to determine the value per acre of Soil Type 7, multiply \$343.00 by .94 to calculate a value of \$322.00/acre. Note also, soil type 111 (Pits, gravel) does not have bushels/acre yield given, yet a productivity index was set at 10. In this case, the PI is not used to determine value. The county determined a minimum value of \$75.00 per acre for the land. This county assumes all land has a value and a potential to earn income.

The next series of examples show the progression of data for one North Dakota county (County 'B') beginning with the NDSU County Average Value Calculations, followed by the Valuation Schedule for the same county, and a Rural Landowner Data Sheet derived from that information.

Guide to Assessing Agricultural Land in North Dakota – 2008 Edition

NDSU Agricultural Land Valuation Calculation 2007

Annual number of acres:	Year	Sugarbeets & Potatoes	NASS cropland	Govt Payments	CRP	Reported Cropland	Reported Non-cropland	Reported Total
	1996	0	800,600		99,597	900,197	315,226	1,215,423
	1997	0	767,000		93,077	860,077	315,226	1,175,303
	1998	0	700,800		93,077	793,877	315,226	1,109,103
	1999	0	678,900		93,077	771,977	315,226	1,087,203
	2000	0	693,800		93,077	786,877	315,226	1,102,103
	2001	0	687,300		93,077	780,377	315,226	1,095,603
	2002	0	677,600		93,077	770,677	315,226	1,085,903
	2003	0	686,800		93,077	779,877	315,226	1,095,103
	2004	0	675,227		77,843	753,070	315,226	1,068,296
	2005	0	657,551		77,843	735,394	315,226	1,050,620
Annual gross returns:	1996	0	85,680,852	9,666,490	1,941,077	97,288,419	6,888,274	104,176,693
50% of return on irrigated cropland is included in NASS cropland gross returns; CRP returns are 50% of payments reported by FSA	1997	0	68,390,185	7,374,079	1,616,748	77,381,012	9,228,894	86,609,906
	1998	0	62,648,296	13,862,400	1,616,753	78,127,449	9,498,055	87,625,504
	1999	0	42,812,000	14,507,379	1,587,827	58,887,206	10,501,849	69,389,055
	2000	0	40,344,582	28,833,090	1,244,975	70,422,647	12,013,885	82,436,532
	2001	0	54,511,040	30,369,061	1,130,531	86,010,632	11,514,673	97,525,305
	2002	0	64,311,289	11,433,977	1,167,276	76,912,542	10,709,233	87,621,775
	2003	0	84,915,578	8,165,395	1,165,415	94,246,388	12,643,068	106,889,456
	2004	0	87,995,327	11,456,013	1,160,361	100,611,701	14,828,103	115,439,804
	2005	0	80,013,132	16,381,352	1,162,574	97,557,058	16,116,883	113,673,941
Landowner share of returns		20.00%	30.00%	30.00%		30.00%	25.00%	29.68%
Annual landowner share of gross return	1996					30,545,280	1,722,069	32,267,348
	1997					24,346,027	2,307,224	26,653,251
	1998					24,569,962	2,374,514	26,944,476
	1999					18,763,641	2,625,462	21,389,103
	2000					21,998,277	3,003,471	25,001,748
	2001					26,594,561	2,878,668	29,473,230
	2002					23,890,856	2,677,308	26,568,164
	2003					29,089,707	3,160,767	32,250,474
	2004					30,995,763	3,707,026	34,702,789
	2005					30,080,919	4,029,221	34,110,140
These 8 years of data were used in the following calculations:								
Eight-year annual average acres:						800,919	315,226	1,116,145
Eight-year average annual landowner share of gross returns:						26,389,449	2,841,805	29,231,254
Adjusted for cost of production index @	118.3824%					22,291,699	2,400,530	24,692,229
Eight-year average landowner share of gross returns per acres:						27.83	7.62	22.12
Capitalized average annual value per acre @	8.30%			Inundated	9.18	335.33	91.75	
Acreage provided or reviewed by county:						954,692	206,189	1,160,881
Inundated acres						105	102	207
Capitalized average value based on acreage provided or reviewed by county:								292.02

Example 7: County 'B' NDSU County Average Value Calculations

Working from the data distributed by NDSU in the previous example, County B developed their Valuation Schedule. County B's schedule sorts the soils by PI and allows for the value calculations per soil, similar to the Valuation Schedule model demonstrating soil ranking in Example 6. County B has established a 'breakpoint' in their soils list, separating cropland from non-cropland soils. For further discussion on "breakpoint establishment," see page 22.

Value per Soil Class 2007							
Cropland				Product	\$ per Ac	Proof	Adjusted \$
Map Unit	Map Unit			Avg PI	x PI	\$ per Ac	x \$ per Ac
Symbol	Prod. Index	Weighted PI	Acres	x Acres	+ Crop PI x	Soil Class Acres	+ County \$/Ac
Ma	99	1.0000	33,899.24	33,899	409.85	13,893,631	410.95
BoA	98	0.9899	46,489.78	46,020	405.71	18,861,369	406.79
St	95	0.9596	728.29	699	393.29	286,429	394.34
GaB	94	0.9495	136,878.61	129,966	389.15	53,266,311	390.19
WoA	92	0.9293	71,901.76	66,818	380.87	27,385,223	381.89
RpB	89	0.8990	1,634.59	1,469	368.45	602,265	369.44
MdB	89	0.8990	19,992.49	17,973	368.45	7,366,233	369.44
WoB	87	0.8788	55,988.12	49,202	360.17	20,165,241	361.13
LmB	84	0.8485	287,849.11	244,236	347.75	100,099,528	348.68
Tp	82	0.8283	11,307.89	9,366	339.47	3,838,689	340.38
FbB	79	0.7980	30,926.06	24,678	327.05	10,114,368	327.92
Pa	75	0.7576	8,139.40	6,166	310.49	2,527,202	311.32
RgC	70	0.7071	5,930.10	4,193	289.79	1,718,484	290.56
Gn	70	0.7071	34,211.52	24,190	289.79	9,914,156	290.56
Tr	64	0.6465	2,017.05	1,304	264.95	534,417	265.66
MIC	62	0.6263	116,195.47	72,769	256.67	29,823,891	257.36
VwC	58	0.5859	29,788.86	17,452	240.11	7,152,603	240.75
KrB	50	0.5051	21,234.45	10,724	207.00	4,395,531	207.55
Ac	50	0.5051	39,579.13	19,989	207.00	8,192,880	207.55
Total Cropland Acres			954,691.92	781,113.00	320,138,451.00		
Average Crop PI			0.8182				
Noncropland					\$91.75	\$ per Ac	\$292.02
Map Unit	Map Unit			Avg PI	x PI	\$ per Ac	x \$ per Ac
Symbol	Prod. Index	Weighted PI	Acres	x Acres	+ NCrop PI	x MU Acres	+ County \$/Ac
MID	45	1.0000	5,957.57	5,958	135.10	804,868	135.46
RzA	41	0.9111	2,340.51	2,132	123.09	288,093	123.42
RsA	40	0.8889	2,542.91	2,260	120.09	305,378	120.41
RtB	39	0.8667	580.51	503	117.08	67,966	117.39
Hs	39	0.8667	32,521.66	28,185	117.08	3,807,636	117.39
WaD	35	0.7778	23,013.79	17,900	105.07	2,418,059	105.35
NrnD	30	0.6667	94,589.20	63,059	90.06	8,518,703	90.30
RyC	29	0.6444	395.14	255	87.06	34,401	87.29
CaE	18	0.4000	25,896.35	10,359	54.04	1,399,439	54.18
Af*	0	0.2000	11,244.95	2,249	27.02	303,839	27.09
W**			7,105.93	7,106	9.18	65,197	9.18
Inundated Land**			207.56	208	9.18	1,904	9.18
Total Noncropland Acres			206,396.08	140,173.49	18,015,483.00		
Average NonCrop PI			0.6791				
County Totals			1,161,088.00		338,153,934.00		
Average Value Before Adjust.					\$291.24 After Adjust.		\$292.02

* A non-water or inundated map unit that does not have a Map Unit PI, as determined by Natural Resource Conservation, is assigned a weighted PI of 1/2 the lowest non-cropland weighted PI.

** Water, intermittent water, rivers, lakes, etc. will not be assigned a PI. The value per acre is 10% of the average noncropland value.

Example 8: County 'B' Valuation Schedule – With breakpoint between Cropland and Noncropland Soils (See Breakpoint Establishment under Considering Land Use)

The next example shows a Rural Landowner Data Sheet, with a full assessment of the owner's land based on soils, derived from the data in the previous two examples from County B:

RURAL LAND OWNER - DATASHEET								
PARCEL NUMBER 11-0002-09381-000								
TOWNSHIP 150								
RANGE 86								
SECTION 02								
LEGAL DESCRIPTION: S2NE4, LOTS 1-2 2-150-86								
SOIL TYPE	INDEX	SOIL NAME	MOD CODE	MOD %	MAX PRICE	MODIFIED PRICE	NUMBER ACRES	VALUE OF LAND
Pa	75	PARNELL SILTY CLAY LOAM			311.32		17.00	\$5,292.44
Tp	82	TONKA-PARNELL COMPLEX			340.38		15.00	\$5,105.70
Ma	99	MAKOTI SILTY CLAY LOAM			410.95		8.00	\$3,287.60
BoA	98	BOWBELLS LOAM, 1-3% SLOPES			408.79		9.00	\$3,681.11
WoA	92	WILLIAMS-BOWBELLS LOAM, 1-3% SLOPES			381.89		95.00	\$36,279.55
WoB	87	WILLIAMS-BOWBELLS LOAMS, 3-6% SLOPES			361.13		14.00	\$5,055.82
R	0	ROADS - EXEMPT FROM TAXATION			0.00		1.58	0.00
							TOTAL DEEDED ACRES:	159.58
							TOTAL EXEMPT ACRES:	1.58
							TOTAL TAXABLE ACRES:	158.00
UNMODIFIED PRICE PER ACRE AND TOTAL VALUE						\$371.41		\$58,682.22
MODIFIED PRICE PER ACRE AND TOTAL VALUE								\$58,682.22
AVERAGE VALUE PER ACRE, TAXABLE ACRES AND TRUE AND FULL VALUE (ROUNDED TO HUNDREDS)						\$371.52	158.00	\$58,700.00
PRICE PER ACRE CALCULATED BY DIVIDING TOTAL VALUE BY TAXABLE ACRES								
MODIFIER CODES: A - Salinity								
B - Nonconformity								
C - Inaccessibility								

Example 9: County 'B' Rural Land Owner Datasheet (No Modifiers Applied)

Multiple Crop Productivity Index Averaging

When NRCS Productivity Indices are not adequate or a county wants to refine them, another option is to use a composite or weighted PI derived from multiple crops. This is especially useful in counties where wheat production accounts for a relatively small portion of overall production or the wheat PI does not represent the productivity of the soil. An example of one county's utilization of this method is below:

[COUNTY 'C'] - NEW FORMULA FOR FINDING COMPOSITE OR WEIGHTED PI

The old system rated soils in [County C] based on ability to grow wheat. Yet, wheat represents only 24 percent of planted acres. Under the new system, we have rated soils using wheat, corn, and soybeans. This now represents 79 percent of planted acres.

Some will question why we did not use sugar beets, sunflowers, etc. Sugar beets represent only 4.5 percent of the total acreage in the county. If you assess higher on certain soil types because of their ability to grow sugar beets, this would be correct. The problem arises when you consider that 9 out of 10 farmers who own that soil type do not raise sugar beets and, therefore, would be penalized. Soils capable of raising sugar beets already have good ratings anyway.

We will use soil type Kratka fine sandy loam (Kr) as an example to find the rating of a specific soil type. First, using the yield determined by the Soils Committee, we must find the Productivity Index (PI) of each crop. Wheat rating is 29 bushels per acre, divided by the top yield in the county of 45 bushels per acre gives a PI of 64 for wheat. The yield for soybeans is 32 bushels, divided by the top yield of 38, equals a PI of 84 for soybeans. Using 109 as the yield for corn, divided by 115 for top yield, we have a PI of 95 for corn. We now have a PI for each crop -- wheat 64, corn 95, and soybeans 84.

1. PI of each crop	<u>WHT</u> 64	<u>SOY</u> 84	<u>CORN=</u> 95	<u>Total PI</u> =243
2. PI of each crop / total PI (243) x 100	26%	35%	39%	=100%
3. PI x %	16.64	29.4	37.05	=83.09 (Avg PI)

Line 1) This information represents the PI for each crop that we have already calculated. Add these three together to find the total PI.

Line 2) We now divide each individual PI by the total PI and multiply it by 100 to convert to a percentage. This gives us the percent each PI contributes to the total PI.

Line 3) Individual PI multiplied by the percent of contribution gives us the amount of PI that contributes to the total. Finally, we add the three contributing PIs together to find our composite or weighted PI of 83.

Example 10: County 'C' Multiple Crop Productivity Index Averaging

Applying Approved Modifiers

N.D.C.C. Section 57-02-27.2 provides that local assessors must apply the consideration of modifiers to the assessment determination, but those modifiers must first be approved by the state supervisor of assessments. Specifically, N.D.C.C. Section 57-02-27.2(8)(b) provides:

The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments.

With regard to approval by the state supervisor of assessments, N.D.C.C. Section 57-02-27.2(9) further provides:

Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.

Modifiers are used to show and document a reduction in soil values caused by a limitation on the functional utility of a soil type. Modifiers reduce the upper limit of a soil type's Productivity Index.

Modifiers must be approved by the county board of commissioners and the state supervisor of assessments prior to use. Counties must send their schedule of modifiers, definition of modifiers, and descriptions of how they are used to:

State Supervisor of Assessments
North Dakota Office of State Tax Commissioner
600 East Boulevard Avenue
Bismarck, ND 58505-0599

It is important to use modifiers consistently and equitably throughout the county. Modifiers may be determined based on field notes, field visits, aerial photographs, and applicable township and Soils Committee observations.

When determining which modifiers will be applied throughout the county, it is also important to remember that the productivity index of the soils already accounts for many factors that may affect productivity. In many cases, factors such as salinity, sodicity, presence of rocks, sand, and gravel, erosion rates, and drainage problems are reflected in the soil PI. In some cases, this eliminates the need to inventory each agricultural parcel for these factors during the assessment process. However, there may be cases where local modifiers are needed to supplement the soil survey. For example:

- NRCS Productivity Indices usually reflect the dominant drainage condition in the county. Modifiers may be needed to reflect localized conditions.

- Salinity is a temporal property that can change with climate and management. NRCS soil survey maps only delineate areas of moderate or severe salinity that are more or less permanent. Modifiers may be needed to reflect changes in saline levels.
- NRCS usually mapped “channeled” phases along small meandering streams. The soils in these areas are commonly of high quality but accessibility or conformity may be poor. A local modifier may be needed for these areas.
- NRCS soil maps were usually developed at a scale of 1:20,000 or 3.2 inches to the mile. Map units may have small inclusions of contrasting soils that may affect productivity. In some cases, modifiers may be needed to manage these areas. However, it is important to establish size limitations to maintain consistency in the use of such modifiers.

Most parcels of land may contain several small areas containing modifications. Counties may consider setting a minimum number of continuous acres affected by each modifier per parcel during the valuation process.

Potential Modifiers

The following is a list of potential modifiers typical to the state of North Dakota that may be considered when valuing agricultural property:

Inaccessibility: (obstacles; obstructions) Agricultural land with access restricted by rivers, canals, ravines, roads, towers, buttes, rock piles, etc.

Irregular Fields: Small areas of land that may have good quality soil yet are difficult to cultivate due to their irregular shape.

Nonconformity: Small areas of productive soils surrounded by less productive soils, making cultivation less economical. The land is not fulfilling its highest and best use due to the distribution or intermingling of soil characteristics.

Poor Drainage: Low-lying areas on the landscape susceptible to flooding, ponding, or drowning out crops during heavy rains, resulting in lower productivity.

Rocks: Used as a modifier where production, operating expenses, and crop selection are affected due to the presence of substantial rock outcropping or surface stones. This modifier is not meant for the presence of incidental rocks that may be accounted for in the soil productivity index.

Saline Deposits (Salinity): This modifier includes areas where soluble salts precipitate on the soil surface or in the soil’s rooting zone, resulting in reduced vegetative production or the elimination of crops and grasses on agricultural lands. In some cases, laboratory analysis is needed to confirm salinity.

Stream Overflow: Low-lying areas of land which are susceptible to overland flooding from a nearby stream or river after a crop has been planted. This modifier is not to be used in areas that are prone to flooding during the typical spring runoff before the crop is planted.

Wind Erosion: Areas of sandy soils or clay soils that are prone to wind erosion, resulting in a loss of topsoil, which can affect the productivity of the soils.

When deciding which modifiers will be considered throughout the county, it is important to establish criteria for using the modifier and determine a set percentage or valuation procedure by which each modifier will reduce the valuation of the land. This will ensure county-wide consistency and equity in the assessment process.

The following example illustrates how County B has assigned fixed percentages or valuation rules to its modifiers:

COUNTY 'B'

Inaccessibility Adjustment: Values are reduced 70% for the affected acres.

Salinity Adjustment: 10% reduction of affected soil type.

Nonconformity Adjustment: Reduce to value of best, surrounding soil type.

Rocks Adjustment: Reduce to noncrop value of these soil types, or 50% of crop value

Example 11: County 'B' Modifier Valuation Rules

The following is an example of a County B landowner data sheet in which modifiers were applied:

RURAL LAND OWNER - DATASHEET								
PARCEL NUMBER 11-0002-09381-000								
TOWNSHIP 150								
RANGE 86								
SECTION 02								
LEGAL DESCRIPTION: S2NE4, LOTS 1-2 2-150-86								
SOIL TYPE	INDEX	SOIL NAME	MOD CODE	MOD %	MAX PRICE	MODIFIED PRICE	NUMBER ACRES	VALUE OF LAND
Pa	15	PARNELL SILTY CLAY LOAM			311.32		17.00	5,292.44
Tp	40	TONKA-PARNELL COMPLEX	A	10%	340.38	306.34	0.00 15.00	0.00 4,595.13
Ma	85	MAKOTI SILTY CLAY LOAM	C	70%	410.95	123.29	0.00 8.00	0.00 986.28
BoA	99	BOWBELLS LOAM, 1-3% SLOPES	C	70%	406.79	122.04	7.00 2.00	2,847.53 244.07
WoA	88	WILLIAMS-BOWBELLS LOAM, 1-3% SLOPES			381.89		95.00	36,279.55
WoB	74	WILLIAMS-BOWBELLS LOAMS, 3-8% SLOPES			381.13		14.00	5,055.82
R	0	ROADS - EXEMPT FROM TAXATION			0.00		1.58	0.00
							TOTAL DEEDED ACRES:	159.58
							TOTAL EXEMPT ACRES:	1.58
							TOTAL TAXABLE ACRES:	158.00
** UNMODIFIED PRICE PER ACRE AND TOTAL VALUE						\$371.41		58,882.22
** MODIFIED PRICE PER ACRE AND TOTAL VALUE						\$350.01		55,300.82
AVERAGE VALUE PER ACRE, TAXABLE ACRES AND TRUE AND FULL VALUE (ROUNDED TO HUNDREDS)						\$350.00	158.00	\$55,300.00
** PRICE PER ACRE CALCULATED BY DIVIDING TOTAL VALUE BY TAXABLE ACRES								
MODIFIER CODES: A - Salinity								
B - Nonconformity								
C - Inaccessibility								

Example 12: County 'B' Rural Land Owner Datasheet with Modifiers Applied

Considering Actual Use of the Land

After a county has determined the agricultural value based on soil types and applied the approved modifiers, the final consideration a local assessor shall apply is the actual use of the land in comparison to the property's potential. See N.D.C.C. Section 57-02-27.2(8)(c). For agricultural land assessment purposes, common land uses considered are cropland and noncropland.

For this discussion, the following definitions apply:

Cropland: Land used for the production of adapted crops for harvest. Crops include alfalfa hay, sudan grass, conservation reserve program, etc.

Noncropland: Includes permanent pastureland and rangeland:

Permanent Pastureland: Land managed primarily for the production of introduced forage plants for livestock grazing. Pastureland cover may consist of a single species in a pure stand, a grass mixture, or a grass-legume mixture. Management usually consists of cultural treatments: fertilization, weed control, reseeding or renovation, and controlled grazing such as fencing. Land composed of introduced or domesticated native forage species used primarily for the production of domestic livestock, which receives periodic renovation and/or cultural treatments, such as tillage, fertilization, mowing, and weed control. (Cropland grazed in between crops is NOT permanent pastureland. These areas are to be viewed as cropland and valued accordingly.)

Rangeland: Land on which the ecological climax or potential plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing, and introduced forage species managed like rangeland. Rangeland is considered land that has never been broken and can be used for grazing.

Considering actual use of the land requires an inventory of land use or management practices currently employed within each taxable parcel. There may be instances where a landowner is cultivating crops on low-productivity soils better suited for noncropland activities. On the other hand, a landowner may not be cultivating a soil with a high PI, choosing instead to use the land for noncropland activities.

It is important to remember that land use for a few parcels in each county may change from year to year. For example, a producer may choose to clear woodlands and cultivate the field, or a producer might convert rangeland into cropland. Counties must review the land use of each parcel periodically and update data records to reflect any changes.

Land use information may be obtained from aerial photographs with land cover delineated from sources such as the Farm Services Agency or AgriData web sites (depending upon availability). To obtain actual land use information, landowners may also be required to report annual activities directly to the county, or local assessors may have to travel to various parcels of land to evaluate the annual management practices. The county may adopt an application program by which property owners request a physical inspection of the land to change the classification from cropland to noncropland or vice versa.

Finally, a lack of use does not necessarily change the actual use classification. An example of this is Conservation Reserve Program (CRP) acres. The land at one time must have supported a mechanically harvested crop to qualify for CRP. If the soils present are tillable in character, no adjustment for actual use will be made, the land remains assessed as cropland.

Cropland and Noncropland Breakpoint Establishment

Another option when instituting a distinction between land use values is to establish a dividing line between cropland soils and noncropland soils. If crop PIs are used as a proxy for estimating range production, it may be necessary to re-classify soils into either cropland or noncropland based on the assumption of highest and best use.

After the soils are arranged from high to low based on PI or estimates of range production, a 'breakpoint' between cropland soils and noncropland soils may be determined. The breakpoint is the point on the soil list where the highest and best use changes from cropland to rangeland or permanent pasture ("Highest and best use is that use which will generate the highest net return to the property over a reasonable period of time." - Property Assessment Valuation, International Association of Assessing Officers, 1996. In other words, highest and best use of an agricultural property is its *potential* as cultivated cropland versus rangeland or permanent pasture.)

The county tax director determines the breakpoint by considering county average values, production factors, and soil properties. The primary example of this type of valuation is given in Example 8 of this manual.

Example 13 illustrates this type of breakpoint valuation. The county in this example took another step in separating yield data into bushels per acre for the cropland soils (C) and pounds of forage per acre (LBS/AC) for the noncropland (NC) soils:

SOIL TYPE	SOIL NAME	LAND USE	SOIL CLASS	INDEX RATING	BUS/AC LBS/AC	MAXIMUM PRICE
8	Grail silty clay loam 1-3% slope	C	A	100	32	\$350.00
28	Wilton silt loam 1-3% slope	C	B	97	31	\$340.00
94	Makoti silt loam	C	C	94	30	\$329.00
104	Magnus silty clay loam	C	D	91	29	\$319.00
15	Lawther silty clay 1-3% slope	C	E	88	28	\$308.00
47	Havrelon loam	C	F	84	27	\$294.00
2	Tonka silt loam	C	G	81	26	\$284.00
43	Colvin silt loam	C	I	71	23	\$249.00
55B	Vebar fine sandy loam 3-6% slope	C	K	63	20	\$221.00
71B	Searing loam	C	M	56	18	\$196.00
53	Banks loam	C	Q	34	11	\$119.00
Breakpoint - Cropland above, Noncropland below						
5	Dimmick silty clay	NC	A	44	5200	\$115.00
88	Harriet clay	NC	C	42	2200	\$110.00
38E	Zahl loam 15-35% slope	NC	E	36	1900	\$105.00
86E	Wabek soils 3-25% slope	NC	H	13	700	\$75.00

Example 13: County 'E' Soils List with Breakpoint Separating Cropland from Noncropland Soils

As indicated above, noncropland is designated specifically for the purpose of sustaining livestock. They are also referred to as grassland, rangeland, and pastureland. Soils 'production' on these lands refers to the amount of livestock the soil and landscape can sustain, rather than the crops it may grow.

Because the PI rating system is based on crop production, counties with a higher interest in grazing land productivity may opt to further expand upon the soils capability as it relates to livestock production (shown in Example 13). The correct measure of grazing land soil productivity is based upon a determination of the land's carrying capacity, stocking rate, or Animal Unit Months (AUM). Currently, no standard for determining these measures of range productivity is readily available. Each rangeland site's past history must be evaluated to determine future production potential. For this reason, NRCS range specialists must visit the land when determining carrying capacity or designing a range management program. Range specialists estimate AUMs when developing a range management program, but the data is for a specific piece of land and as such, is not readily available on a regional basis.

However, as part of NRCS' soil survey, every map unit component is assigned an ecological site. Each ecological site has several transition phases and vegetative species are identified for each phase. Total production is often determined, but because of differences in plant palatability, does not correlate exactly with carrying capacity (e.g., a wetland site produces much vegetation but little is used by the grazing animal). Having the county Soils Committee assign a productivity value to each ecological site may be a viable option for counties choosing to expand upon their noncrop valuation method. If this method is pursued, a composite range productivity estimate of a soil map unit would have to be determined from the individual ecological sites of the components. Because of the large amount of work involved in developing estimates of range production, the Productivity Index (PI) as determined by NRCS or local Soils Committee may still be the most readily available method of ranking the productivity for rangeland.

Assigning Cropland and Noncropland Values to Each Soil Type or Class

Counties must establish a procedure to separate cropland values from noncropland values. One option would be to establish cropland and noncropland values for each soil type that falls within the county's jurisdiction.

An example of this type of valuation methodology is below:

Soil Type (Map Unit)	Soil Name	Soil Class	PI	Actual Use: CROPLAND Value/Acre	Actual Use: NON- CROPLAND Value/Acre
44	Arnegard loam 1-3% slope	A	100	\$343.00	\$211.11
96	Grassna	A	100	\$343.00	\$211.11
102	Bowbells loam 1-3% slope	B	100	\$343.00	\$211.11
28	Wilton Silt loam 1-3% slope	B	97	\$332.00	\$204.78
44B	Arnegard loam 3-6% slope	C	94	\$322.00	\$198.44
7	Straw silty clay loam	C	94	\$322.00	\$198.44
104	Magnus silty clay loam	D	90	\$309.00	\$190.00
20	Lohler silty clay	D	90	\$309.00	\$190.00
15	Lawther silty clay 1-3% slope	E	85	\$292.00	\$179.44
10	Savage silty clay loam 1-3% slope	F	84	\$288.00	\$177.33
40	Shambo loam 1-3% slope	F	84	\$288.00	\$177.33
2	Tonka silt loam	G	81	\$278.00	\$171.00
44C	Arnegard loam 6-9% slope	G	81	\$278.00	\$171.00
36B	Williams loam 3-6% slope	H	75	\$257.00	\$158.33
AOB	Amor loam 3-6% slope	I	72	\$247.00	\$152.00
B0B	Belfield silt loam 3-6 slope	J	69	\$237.00	\$145.67
77	Bowdle loam 1-3% slope	L	59	\$202.00	\$124.55
71C	Searing-Ringling loam 6-9% slope	Q	31	\$106.00	\$ 65.44
111	Pits, gravel	H	10	\$ 50.00	\$ 50.00

Example 14: County 'D' Valuation Schedule with Separate Values for Cropland and Noncropland for Each Soil Type

Assigning Other Use Categories: Nonproductive Lands

When considering land use in the assessment process, another category of use that may be encountered is nonproductive land. Nonproductive lands are those areas not managed for cultivating crops or sustaining livestock and are often given values comparable with the lowest ranking soil or lowest ranking noncropland value.

It is important a county defines nonproductive land to meet local conditions and applies the concept consistently and equitably (e.g., land falling into this category may not have high agricultural value but may still command a high market value).

Descriptions of nonproductive lands are provided:

Farmsteads/Farm Plants/Ranch Headquarters: A category that includes dwellings, outbuildings, barns, pens, corrals and feedlots next to buildings, farmstead or feedlot windbreaks, and family gardens associated with operating farms and ranches. These lands are still assessed based on the soil type.

Inundated Lands: Agricultural land that has become flooded due to rising water levels. These lands are subject to classification under N.D.C.C. Section 57-02-27.2(6). Application for consideration as inundated land must be made annually.

Manmade Features: This category includes abandoned railroads, man-made drains, waterways, dikes, abandoned towns and farmsteads, communication towers, power lines, billboards, guy lines, wind towers, etc. Please note that land leased for commercial purposes, such as communication towers, power lines, billboards, guy lines, and wind towers, is not assessed as agricultural land.

Marshland (Wetland): A land cover/use described as a non-forested area of land partly or intermittently covered with water and usually characterized by the presence of such marsh grasses and plants. (Some wetlands may already be classified under N.D.C.C. Section 57-02-10 or the Emergency Watersheds Program 16 U.S.C. Section 2203, as amended and 7 U.S.C. Section 428a, or identified in the soil survey.)

Mines, quarries, and pits: Uses of land for extraction of ores, minerals, and rock materials. Where the mine, quarry, or pit is active, this land is considered 'Commercial Property' and assessed accordingly. When the mine, quarry, or pit is inactive and reclaimed, the land reverts to agricultural property. Some of these areas are identified in the soil survey.

Planted Shelterbelts (Planted windbreaks): Trees planted for the purpose of reducing wind erosion on agricultural lands. Some shelterbelts may already fall under the Forest Stewardship tax in chapter 57-57 of the North Dakota Century Code.

Roads: Includes roads, trails, and rights-of-way (Road Permanent Easement, N.D.C.C. Section 57-02-10 may apply). Some four lane roads are identified in the soil survey.

Rural Residences: Residences on agricultural lands, which are not eligible for the farm residence exemption.

Woodlands (Natural growth trees): Includes natural growth trees and brush in and around fields. Some woodlands may already fall under the Forest Stewardship Tax, N.D.C.C. chapter 57-57.

Water: A category consisting of permanent water, such as a *perennial* stream, lake, or pond. Typically categorized as inundated land and valued at 10% of the lowest valued soil. Some of these areas have been identified in the soil survey.

The following example illustrates how one North Dakota county assigned a separate, set value to their non-productive lands:

<i>Valuation for Nonproductive Land</i>	
Shelterbelts	\$108.00/acre
Pits/Gravel	75.00/acre
Woodlands	30.00/acre
Waterways	30.00/acre
Marsh	30.00/acre
Roads	10.00/acre

Example 15: County 'F' Valuation Schedule for Non-Productive Lands

Agricultural Improvements

Individual landowners may choose to invest and implement the use of various management tools to increase the production of their fields. Practices such as irrigation and surface and subsurface drainage to remove wetness or salinity are typical throughout the state. These improvements are considered part of an agricultural operation or management decision and would not increase the valuation of the land established on soil productivity.

PUBLIC NOTIFICATION METHODS

It is important to keep landowners informed of the changes in the assessment methods used in a county. Some landowners' property values and taxes may be raised due to the high quality of their soil, while some may see a decrease in value and taxes due to the lower value of their soils or application of modifiers, or both. Providing landowners with an understanding of how their property is assessed may help eliminate many questions and concerns.

Options for public notification include newspaper articles, radio announcements, public mailings, letters of explanation with tax statements, and county and township meetings.

RECORDS MAINTENANCE

To assist with state compliance audits, it is important to maintain records of all Soils Committee minutes, county board decisions regarding land use consideration, soils lists showing ranking from PIs, Valuation Schedules, schedules of modifiers, and any documents outlining how the county considers land use. Counties should maintain these documents indefinitely, as well as any landowner datasheets.

For counties that use a Geographic Information System (GIS) mapping program to determine acres of soil type per parcel, it is very important to maintain a parcel map layer separate and distinct from the soil map layer for updating property splits and boundary changes. An additional copy of the county parcel layer should be stored in a remote location to protect against fire or other disaster. Copies of the parcel file annually linked with the soils layer for acreage determinations should also be maintained separately by year.

REPORTING COUNTY ACRES TO NDSU

County Tax Directors are advised that the average county agricultural land values as provided by NDSU through the state productivity formula are established by land use, not soil type. When county tax directors annually submit the county acres to NDSU, the acres submitted should closely reflect the taxable acres represented by the land use (i.e., cropland, noncropland, and inundated). These acreage counts may be acquired from the county Farm Service Agency, or a summarization of local assessment inspections. The acres reported are NOT simply to be determined by the soil type categorization as cropland/noncropland acres as produced by their computerized tax system.

SUMMARY

This manual is meant to provide guidance to North Dakota counties in implementing a cohesive agricultural assessment process. Township and local assessors are an integral part of the assessment process for each county. It is very important for county officials to keep township and local assessors updated on state, county, and Soils Committee decisions regarding the agricultural assessment methods to be used in that county.

The Agricultural Land Valuation Advisory Committee may reassemble and make changes to this document as deemed necessary. Counties are invited to contact members of the Advisory Committee or the State Supervisor of Assessments with questions or suggestions regarding the content of this document.

ACKNOWLEDGEMENTS

The Agricultural Land Valuation Advisory Committee extends its gratitude to each county tax director and local assessor serving in North Dakota who assisted us over the past several months. Many willingly sent us documents, data sheets, Soils Committee minutes, etc., for use in this manual.

Agricultural Land Valuation Advisory Committee		
Elwood "Woody" Barth	Secretary, Board of Directors	North Dakota Farmers Union
John Bollingberg	Chairman	Wells County Soils Committee
Robert Christman	Deputy Tax Commissioner	Office of State Tax Commissioner
Sandra Clark	Public Policy Director	North Dakota Farm Bureau
Dwayne Erickson	Commissioner	Foster County
Sara Hewson	Property Tax Specialist	Office of State Tax Commissioner
Scott Hochhalter	Soil Conservation Specialist	North Dakota Soil Conservation Districts
Wade Moser	Executive Director	North Dakota Stockmen's Association
Brion Norby	Director of Tax Equalization	Williams County
Larry Osborn	Director of Tax Equalization	Richland County
Jerry Ratzlaff	Director of Tax Equalization	Ramsey County
Kate Ronning-Schimetz	Natural Resources and Cartography Consultant	North Dakota Association of Counties
Terry Traynor	Assistant Director	North Dakota Association of Counties
Mike Ulmer	Senior Regional Soil Scientist	United States Department of Agriculture
Bob Wisness	Director	North Dakota Grain Growers
Ken Yantes	Executive Director	ND Township Officers Association

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Cory Fong, Tax Commissioner**

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2052

SB-2452 ND Soybean Growers Association Testimony

Good morning. My name is Scott Rising. I am here this morning to testify in support of SB ²⁰⁵² 2452 on behalf of the North Dakota Soybean Growers Association.

First, we have concerns about the implementation of the soil survey data technique utilized for agricultural assessments until soil type and classification mapping is complete. This alone, is sufficient to support the continued delayed implementation of subsection 10 of section 57-02-27.2 of the ND Century Code.

Our second concern is with property owner awareness of the rationale for and the consequences of applying the soil survey data technique. We would encourage legislative leaders to consider funding local outreach activities as an aid to provide understanding of Century Code provisions and their ultimate acceptance.

Our third concern is for the training of local, generally township, assessors and their compensation. At the heart of this concern, is the retention of experienced assessors which we regard as both diligent and competent.

Thank You for your consideration.

Questions and clarifications can be directed to Scott Rising at (701) 527-1073

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**Testimony To
THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE
Prepared March 5, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

REGARDING ENGROSSED SENATE BILL No. 2052

Chairman Wrangham and members of the House Political Subdivisions Committee, county government is very much in support of engrossed Senate Bill 2052.

The passage of legislation (HB1303) last Session, detailing the priority of factors to be considered in agricultural land valuation, and setting a deadline for the incorporation of soils data into the valuation process, prompted significant activity among many counties.

Recognizing that quite possibly many counties would be found to fall short of the requirements of this legislation, the NDACo Board of Directors authorized the retention of a consultant to create a number of tools to assist counties in their response. As discussed with the Interim Taxation Committee, we began by identifying and communicating a list of vendors capable of assisting counties in the development of digitized parcel maps. Since then, working with State and local experts, our consultant has finalized a set of recommended technical data standards for the creation of these maps, and a model request for proposal (RFP) for those seeking outside assistance.

Possibly of greatest importance however, has been the completion of a guide or manual to aid local officials in putting all the technical and political pieces of this process together. This manual was the result of a joint effort between our office and the State Tax Commissioner, and involved an advisory body of the major farm groups, State and federal technical experts, as well as county and township officials. I believe the final product has been and will be extremely useful, and facilitate implementation with the smallest amount of controversy possible. The Tax Commissioner has assumed responsibility for the manual and its future update, and it is available for download from his website.

Today, we hope to give you a flavor for the efforts undertaken by counties across the State, and an understanding of the challenges they face in meeting the statutory deadline. While each county is at a different place in the process, has different resources, and may have different technical hurdles; we are here to communicate the seriousness with which counties are taking the deadline; as well as the costs – in software, hardware, staff time, and consultants.

The 2007 legislation prompted an evaluation in all counties, revealing that some which assumed they were compliant were not; and it identified all of the counties which are currently missing the mark. The most recent data suggests that 21 counties are compliant, 13 are transitioning to compliance, and 19 counties are in the early stages of implementation. The attached map prepared by the Tax Dept. illustrates the county-by-county results of this evaluation. Although an enormous amount of effort has been undertaken since last Session, and a very large amount of property tax revenue has been invested, it is understood that over half of the State's counties will not be compliant before the current deadline.

Although not here today, I do want to mention one county that may be somewhat unique in the challenges it faces. Sioux County, you are likely aware, is a checkerboard of taxed and tax-exempt agricultural lands. Roughly 50% of their agricultural acres are taxed – and therefore need to be valued. However, mapping these 3,000 parcels necessitates boundary mapping much of the adjoining tax-exempt property – so their costs are similar to those of a similarly sized county. Unfortunately, they have less than half of the tax base of a similarly sized county to support the effort.

Sioux County has two staff in the entire courthouse – so an in-house project is out of the question. They have been able to secure a consultant for \$35,000 for mapping, plus \$9,000 to translate the soils, productivity, modifier, and use information into tax values. A mill in Sioux County is now worth \$2,147 dollars – so the project cost equals over 22 mills of property tax. Their consultant has fortunately agreed to receive payment over three years – still a rather alarming expense. While they, like all of the counties, are striving to meet this mandate, I need to stress this extreme example. Five percent of Sioux County's State Aid – the statutory penalty for non-

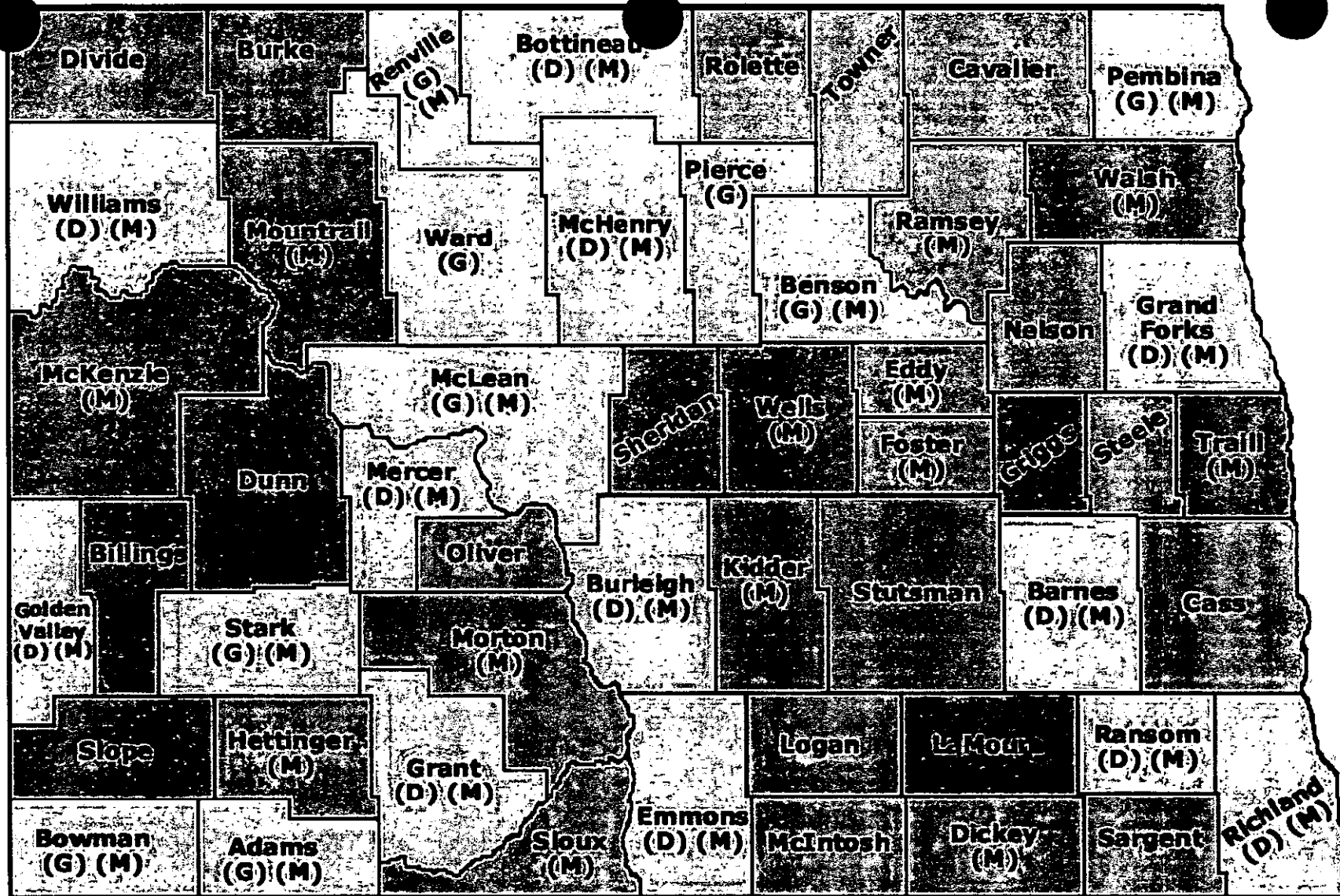
compliance – is about \$13,500. My understanding of the purpose of the penalty was to encourage compliance, not to punish non-compliance. Invoking this penalty – removing a third of the funds they need for the project – would certainly be counter-productive.

For these reasons, our Association urges a “Do Pass” recommendation for SB2052 to delay the penalty portion of this statute – allowing all counties to achieve the Legislature’s goal. We however were very much disappointed with the failure in the House of HB1363, introduced to appropriate some State funding to offset the property tax impact of this requirement. It would be our request that this Committee consider this closely related issue and amend SB2052 to add this funding.

A survey was conducted of counties – those which are in the midst of the assessment process as well as those that completed the process earlier – in some cases much earlier. The survey data (attached) indicates that while somewhat variable, the county average cost of implementation has been slightly over \$67,000. Looking at it another way, implementation has averaged just under \$12 per agricultural parcel. Additionally, counties were asked about their ongoing costs and, with the exception of a few with significant in-house resources, the maintenance of their systems run about \$4,500 per county per year, or somewhat over \$1.25 per parcel per year. Again, this is funded with property tax revenues. The counties are color-coded in the survey results table to correspond with the map, and comments received with the survey are attached.

HB1363 was proposed to give each county an equal grant of \$37,736 to reduce the property tax impact of the fixed costs of this mandate, although it certainly wouldn’t cover all of each county’s implementation costs, nor address the ongoing maintenance of this valuation methodology.

At a time when property taxes are obviously a key concern for local officials and legislators, counties believe that State General Fund support for a statutory mandate is a logical solution. Mr. Chairman and committee members, county government strongly urges inclusion of this funding support and then a “Do Pass” recommendation on SB2052.



Yellow
Blue
Green

County using soil survey as basis for agricultural valuation
 County in the process of implementing detailed soil survey method of valuation.
 County at the beginning stage of implementing the detailed soil survey method of valuation.

(D) Indicates detailed soil survey
 (G) Indicates general soil survey
 (M) Indicates use of approved modifiers

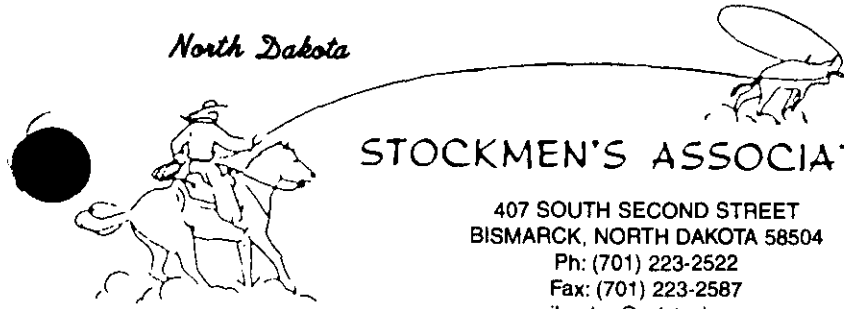
Agricultural Land Valuation Cost Survey

County	Number of Ag Parcels	Costs Incurred for hardware, software, consultants, etc.				Total Through 2009		Est. Annual Maintenance	
		Prior to 2007	In 2007	In 2008	Budgeted for 2009	Dollars	\$ per Parcel	Dollars	\$ per Parcel
Barnes	7,454	\$44,450	\$10,805	\$7,532	\$8,000	\$70,787	\$9.50	\$5,000	\$0.67
Bottineau	8,800	\$36,000				\$36,000	\$4.09		
Bowman	4,998				\$51,730	\$51,730	\$10.35	\$12,860	\$2.57
Burke	5,100	\$85,000	\$10,000	\$6,000	\$6,000	\$107,000	\$20.98	\$5,000	\$0.98
Divide	5,800	\$27,900	\$1,450	\$12,900	\$14,000	\$56,250	\$9.70	\$2,500	\$0.43
Dunn	7,000	\$8,000	\$15,000	\$12,000	\$12,000	\$47,000	\$6.71	\$7,500	\$1.07
Eddy	3,400	\$10,000		\$10,700	\$14,200	\$34,900	\$10.26	\$7,000	\$2.06
Emmons	7,900			\$5,000	\$65,000	\$70,000	\$8.86	\$10,000	\$1.27
Foster	3,400	\$6,000		\$10,702	\$16,700	\$33,402	\$9.82	\$7,000	\$2.06
Grand Forks	8,367			\$10,000	\$10,000	\$20,000	\$2.39		
Griggs	4,500	\$27,800	\$3,616		\$12,000	\$43,416	\$9.65		
Hettinger	5,265			\$35,000	\$5,000	\$40,000	\$7.60	\$5,500	\$1.04
Kidder	6,000			\$13,998	\$13,998	\$27,995	\$4.67	\$13,998	\$2.33
Logan	5,600			\$29,000	\$16,000	\$45,000	\$8.04	\$4,000	\$0.71
McIntosh	5,719		\$10,000	\$11,000	\$42,000	\$63,000	\$11.02	\$2,000	\$0.35
McKenzie	8,675	\$205,012	\$18,350	\$12,300	\$22,800	\$258,462	\$29.79	\$10,000	\$1.15
McLean	9,500	\$95,000				\$95,000	\$10.00		
Mountrail	8,650	\$70,500		\$41,000	\$20,000	\$131,500	\$15.20		
Nelson	4,386	\$14,250		\$57,750		\$72,000	\$16.42	??	
Oliver	5,000	\$4,200	\$19,000	\$13,200	\$17,500	\$53,900	\$10.78	\$25,000	\$5.00
Pembina	3,000	\$60,000				\$60,000	\$20.00		
Pierce	6,175	\$8,400	\$2,115	\$1,170	\$10,000	\$21,685	\$3.51	\$3,000	\$0.49
Ramsey	7,000	\$20,000		\$25,000	\$22,000	\$67,000	\$9.57	\$2,000	\$0.29
Richland	9,748	\$60,000	\$1,500	\$1,500	\$1,500	\$64,500	\$6.62	\$1,500	\$0.15
Rolette	4,164		\$40,000	\$9,000	\$5,000	\$54,000	\$12.97	??	
Sioux	3,000	\$6,500	\$6,500	\$16,500	\$20,000	\$49,500	\$16.50	\$7,500	\$2.50
Stark	6,150	\$142,863				\$142,863	\$23.23	\$1,200	\$0.20
Steele	3,500			\$32,380	\$36,000	\$68,380	\$19.54	\$5,000	\$1.43
Stutsman	22,000	\$30,000	\$2,000	\$5,000	\$20,000	\$57,000	\$2.59	\$2,000	\$0.09
Traill	4,000		\$54,000	\$6,000	\$30,000	\$90,000	\$22.50	\$2,000	\$0.50
Ward	5,000				\$50,000	\$50,000	\$10.00		
Total						\$2,082,270		\$141,558	
Average Cost per County/per Parcel						\$67,170	\$11.78	\$4,566	\$1.27

SURVEY COMMENTS RECEIVED

- Barnes The majority of the time to develop the parcels, the first expense of the Arcview, a color printer, PAT program and training were prior to 2007. We will finish develop the parcels in 2009, so in the future will mainly be maintenance fees and new splits.
- Bottineau Bottineau County paid the Soil Conservation Service \$34,000 for the initial detailed soil maps. An estimated additional \$2,000 was spent on supplies and additional salaries.
- Bowman Budgeted for 2009: \$4,180 Part-time help with data entry \$8,280 annual maintenance fee for Off-Road Software program to manage soils data. \$450 Money to purchase GPS unit for modified acres and parcel boundaries. \$1500 For purchase of ArcView for mapping \$37,320 GIS Dataservices for developing parcels Estimated annual after 2009: \$4,180+ Part-time assistance in office \$8,280 Annual maintenance fee for Off-Road Software for soils data. \$400 Annual maintenance fee for ArcView
- Burke Burke County co-oped with NRCS and paid \$6000 a year for 6 years for the soil survey. We also purchased a laptop, two monitors, printer and GIS software and other programs for the soil project. We have licenses for ARCGIS, and PAT which are used for the soil project. I also have a part time \$5000 annually and they commissioners have been given me \$1000 a year to do the project in house.
- Dunn \$36,000 (3 yr 12K payment) for digitized parceling contract with vendor for 2007-2009. Prior to 2007: GIS software, training, consulting, hardware.
- Eddy Actually \$14,200/year until 2012 then \$7,000. Payment per parcel would probably be the most fair
- Foster Actually \$16,700/year until 2012 then \$7,000
- Griggs The TD position to go full time instead of 3/5ths to ensure the Detaled Soils project is finished.
- McIntosh We are financially strapped county and need financial help to accomplish this mandate. Thank You
- McKenzie Amounts include parceling costs, supplies which include computers and plotters (done prior to 2007)
- Mountrail Cost to County for Soil Study in 1990 was \$17,000. I am not sure what the estimated annual after 2009 would be - need to see how things proceed this year.
- Nelson Single person office - limited time to tackle this project. Cannot hire additional staff at this time. Our Tax billing program (Dakota Programs-shared with 22 counties) has a number of issues that need to be corrected to get soils working properly. We can't finish until DP does.
- Oliver The County Commission did send a letter to our Representatives and Senator this past week. We have not started the parceling at this time, still working on modifiers
- Pembina We did received some grant money that is not included in the above amount.
- Pierce Parcelling done in-house by tax director. Cost? Priceless..
- Ramsey Our original contract is about \$60,000 payable over 3 years for parceling and soil work.
- Richland The \$60,000 was a contract with NRCS to redo our soil types signed in 1993. \$1,500 each year is budgeted amount for soils committee meetings. Rather than buy software we hired a full time GIS person- this cost not included but part of his work is devoted to the soils layers.
- Rolette I truly feel our county could use funding to do this project correctly and without cutting corners just to be in compliance with the law. It would be nice to get monies to not only train our tax director but the soils committee and farming community ; please accept changes that they understand.
- Sioux 2008 consultants, printer, computer support
- Stark The acres were counted back in 1974, but we had KLJ parcel everything starting in 2004.
- Steele Plus another \$40,000 in 2010 for implementation
- Ward \$50,000 may not be spent until 2010 - I am a new Tax Director and I have no way of knowing what was spent in prior years.

North Dakota



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SB 2052

Good afternoon, Mr. Chairman and committee members. For the record, my name is Julie Ellingson of the North Dakota Stockmen's Association.

As you know, the North Dakota Stockmen's Association has long supported the use of soil survey data for use in figuring agricultural property tax assessments. Yet, we recognize getting set up for that system requires a conversion that does not happen overnight. Therefore, we support the implementation extension SB 2052 provides for to give the remaining counties more time to get the job done before penalties are imposed.

We'd ask for your favorable consideration of this bill.