

2011 SENATE FINANCE AND TAXATION

SB 2294

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2294  
2/9/2011  
Job Number 14240

Conference Committee

A. Ritzmiller

## Explanation or reason for introduction of bill/resolution:

Relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors

## Minutes:

Written Testimony Attached

**Chairman Cook** opened the hearing on SB 2294.

**Chairman Cook** – I'm here to introduce SB 2294 and ask for your favorable support. For the last 2 sessions, we in the legislature have spent considerable time discussing and debating property taxes. We have focused our intention on lowering the property tax burden by reducing the mill rate that our property taxpayers are faced with. Last session we passed legislation that did indeed lower property tax by buying down 75 mills of our citizens' property tax for education and it appears that this session we are going to continue down that path. Our state wide average for residential property is now at an average annual tax rate of 1.47% of true and full value. This reaches a goal we set in 2007 of 1.5% and we did this because our bosses, our constituents, demanded it. I would argue that lowering our property taxes is not the only demand that they are making. They are also saying, make them fair. That is what brings this to SB 2294. SB 2294 deals with the other side of the property tax formula. SB 2294 deals with the assessment side. That is the side of the formula that starts with us here in the legislature. We are the public policy body that drafts the rules. These rules become the bible that our partners, local government, and local tax assessors must follow. We determine the different classifications of property and the condition that must be met to obtain that certain classification. We write the rules on what property is taxable and what property is tax exempt. We write the rules for the formulas, and the rules that must be followed to determine the taxable valuation of different classifications and we define the process that must be followed to obtain that value. We define the responsibilities and limitations of local governments and the responsibilities of local tax assessors. All of this we do so that property tax is fair, uniform, and equalized. This is our responsibility. True equalization is the standard that we must meet. Then we can go home and hand the job of implementing all of these rules and policies to our partners, local government and tax assessors. It is their job to implement. I'm not going to stand here and talk about the problems that I believe exist with our current system, but I will stand here and say that we have developed over the years some bad habits. I will say we have some

challenges, we have some misunderstandings, and maybe we have a need for better education. I want to also point out that inadequacies in a property tax assessment system do not necessarily result in more revenue for local governments. They result in someone paying more than their fair share, and someone else paying less. It results in winners and losers and it results in taxpayers proclaiming that their property tax is unfair. For that reason I approached our Tax Commissioner shortly after last session. We started down a path of identifying improvements to our current process of assessing property. That path we started down has brought us here today. I want to thank the Tax Commissioner Cory Fong for all the work he put forth in this effort. We have had all of our partners and stakeholders at the table, we have worked hard, and had many meetings to try to improve this property tax system so that we truly do reach the level that we are responsible for and that is a property tax system that is uniform, its fair, and it's truly equalized. I think the appropriate phrase is, the road to perfection is always under construction.

**Vice Chairman Miller** – You said there were stakeholders involved. Who is involved in the writing of this?

**Chairman Cook** – We had at the table the counties, the cities, the townships, local assessors, we've reached out to the various stakeholder groups that are really affected with this, and we've had many meetings, and every time we met we made improvements to the bill.

**Chairman Cook** – Before I leave here, I did just get this morning a list that came from the Tax Department of the number of assessors that we have in the state (attachment A). I must say that I'm surprised that it is now down to, according to this list, 1,050. I think 2 years ago I stood here and probably said there were 16,000 but I wanted to pass that out for your information.

**Cory Fong, Tax Commissioner** – (See attached testimony B and B1 in favor of SB 2294)

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – (See attached testimony C, explanation of SB 2294)

**Senator Hogue** – I wonder if you could talk a little bit about section 2. You mentioned a lot of time the assessors don't do the assessment correctly because they may be lacking the training or the requisite credentials to know how to do it properly and I thought I heard you say there are other times when they are just rogue assessors that will not do what the state board directs them to do. You said there was a couple instances of it, and I'm wondering if you could go in to a little more detail about those and talk about, will this bill fix the problem of maybe the county commissioners, and some other political leaders and political subdivisions who really put political pressure on the assessors, not to follow the law.

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – I think the bill does have an opportunity to do that. First though, if I misspoke I would like to correct what I said. The problem that we had in some areas and it's not a lot of areas, where assessors are not doing their job and it's not a lack of education. They are required to pass their education before they are allowed to assess. If a local assessor does not pass and get that certificate they cannot assess. If they do value the properties, that information has to be

presented to a certified director of Tax Equalization who reviews those assessments and they can't be finalized until they are reviewed. So it isn't a person who is uneducated doing something that isn't being done right. You are correct on some cases; you have what you might call rogue assessor. I've had calls from tax directors asking what do I do. I have an assessor in such and such a city who hasn't done anything. They haven't gone out and assessed, they haven't returned the books, it's time to return them to the county, what do I do, I've been out to their house, they're not home, that's the kind of stuff we are having difficulty with. Not a lot of them. There are only a few, but it still creates a problem because it's impossible for the township or city to do its job if the assessor has not done his or her job. With the revocation provisions in here, an assessor like that would be asked to attend a hearing and show cause why that person's certificate should not be revoked. There is also a provision for that certificate to be reinstated.

**Chairman Cook** – When you have a tax equalization officer or assessor who understands what is right and wants to do what is right but is confronted with the political pressure that Senator Hogue talked about, we have it written in here so that basically that assessor would not lose his certificate but basically the issue would then focus on the elected officials.

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – That is correct. We are not looking to penalize an assessor for something he is forced to do or not do by his employer or supervisor.

**Senator Triplett** – Referring you to section 3 of the bill, on page 4 line 6, it says certified assessment officials must list and assess property as follows. Then you drop down to subsection 3 on line 23, it says an exterior and interior inspection of each residential or commercial building structure or other improvement must be made by the assessor. You said in your testimony that homeowners have the right to refuse that interior inspection. It seems to me the way this is drafted you are setting people up for conflict when you tell the assessor that they must do the process this way and they must do an interior inspection every 10 years. If we don't put something in there that tells the assessors subject to the refusal of the taxpayer, I think we are setting ourselves up for conflict as time passes.

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – It certainly could be added. We are not trying to recommend that an assessor break in where he's not welcome. But if some wording in here to clarify that would be advisable that would be fine.

**Senator Triplett** – I wasn't suggesting that you were going to train the assessors to break in, but I think there is a lot of opportunity between something like breaking and entering vs. respecting taxpayers rights where someone by verbal innuendo could suggest someone had to accept this because the assessor is standing there saying I must do this the law says I must do this therefore the implication is you must let me do it. I think that's wrong to state it that way.

**Senator Oehlke** – Who employs the assessors? The political subdivision correct?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – That is correct.

**Senator Oehlke** – Do they provide either the pad of paper or the forms or the computer they are suppose to do that on or is that the responsibility of the assessor?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – I don't think there is anything in the statute that says that. I suppose that would be agreed upon as terms of employment. I would expect that the political subdivision would be responsible for the necessary tools for the assessor. I've had calls from township and city officials wanting to know why they have to have property records. The tax director has told them that they need property cards and they don't want to pay for the property cards. In that case I'm sure the individual assessor was not expecting to have the cost of that.

**Senator Oehlke** – On page 10 line 10 it talks about filing a petition not signed by less than 10 freeholders in a political subdivision requesting a new assessment. Here's my question, there is a pile of townships out there that have less than 10 freeholders. There's some that have 3 or 4 maybe even less than that. How do you make that work?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – That's just one of four different ways that a new assessment can be required. The freeholders can petition for it, the county commissioners can make that decision on their own, and under this bill the State Board of Equalization or the Tax Commissioner can also make the decision that there needs to be a new assessment. The county commissioners have always had the ability to do that. They didn't have to wait for the freeholders to petition.

**Chairman Cook** – There is no where that this requires that database to be an electronic database, that's correct?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – That is correct. It can be paper or electronic. I would assume when the records are transferred to the county the county would probably keep them in an electronic form.

**Vice Chairman Miller** – Do you think there is any way we could provide some sort of incentive to allow counties, smaller political subdivisions to do this in an electronic form?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – Money is probably the incentive. If someone is encouraged to go from pen and paper to something electronic, it is going to cost money and if there were some provision to assist with the cost of a transition that would probably be an incentive.

**Chairman Cook** – That was one of the talking points we had through this process. The database and electronic storage of records and the cost of that and we brought this to you as inexpensively as possible.

**Senator Triplett** – On section 4 which is all new language you reported that this section provides that townships, cities, and counties may enter in to joint powers agreements for cooperation or joint administration of any power or function. Are you suggesting that the counties haven't already had that power?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – That was discussed during the meetings, that this may be kind of a duplication or unnecessary language but it was decided to keep it in here.

**Senator Dotzenrod** – Section 6 is the general duties and powers of the board. On page 7 number 4 it starts off by saying equalize the classification of taxable status of real property in any assessment district in a county in which the board determines that the classification or taxable status is incorrect. That looks like you are going to go into a county and perform, it looks like the duties of the director of tax equalization within a county which I would think would be a pretty big job if you are going to go into a county and make a determination that that director has not done things the way they should have, and essentially that looks like a pretty big job and maybe I don't understand what's involved there. If the state is going to come in and redo the work of the county director, for a whole county, maybe I'm misunderstanding it.

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – Let me give you an example that I think will explain this. A few years ago there was one county in North Dakota that, turned out that when they had taxable rural residences, not residences that are eligible for the farm residence exemption, they were still classifying the land under those residences as agricultural. Reading the statute, the property that is used as a residence would include all property, both the residential building and the land under it. So the State Board of Equalization ordered the county to classify the land under taxable rural residences as a residential land. When the state board directs a county to do something the statute says the county auditor shall make the change. Well, that county refused to do it. People didn't want their values going up because the residential valuation and market value was considerably higher than what they were looking at with the agricultural value. So, the county didn't do it. It has been decided by legal council that the state board, up to this point, did not have the authority because they don't have authority to reclassify. Now when the Supreme Court case on the Grand Forks home issue finally comes out with an opinion, if they agree, then we need this language to give the board that. If the court says no, they've always had that, then we don't need this language, but we don't anticipate the court is going to say it. We will find out when they issue their opinion.

**Senator Hogue** – I realize we will probably hear from the counties and the cities but I want your opinion on whether the counties and the major cities can comply with that 10 year inspection requirement without significantly adding or adding any staff or additional resources to get those inspections accomplished.

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – I don't know for sure. Ten years is a lot of time in which you can do a portion of the city. It's not like you have to do them all this year and all 10 years later. You do some each of those years. There probably would be a need for additional personnel in some areas.

**Senator Triplett** – On page 8 lines 5 through 15, which relates to subsection 7 of section 6 of the bill. You reported to us that the meaning of that section is that it provides that if any county or county official fails to take action ordered by the board that the board may petition

any judge of the district court to issue an appropriate relief. Are you suggesting that the courts don't already have that power?

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – It is not written in any of the property tax statutes. If they have that power from some other authorization outside the property tax statutes, maybe one of our attorneys could respond to that.

**Dan Rouse, Legal Council, Tax Department** – I think your observation may be on point. This was much like the joint powers agreement language, borrowed language to put in here. The notion being putting it into the bill, bringing up for discussion, it may be in fact unnecessary. As we work through this process if it's determined by this committee that it is not necessary we can certainly remove it. That power does exist now. The whole concept was, let's get these ideas in front of everyone so that we can discuss them and as we pair it down and reword it, we can add or delete as necessary.

**Senator Triplett** – It seems to me that if we start putting all of the authority of judges into every section we are going to make the code really long. Courts already have these powers. Every decision of a county commission is subject to the district court review within 30 days. Once it's subject to district court review, the district court can do whatever its general powers as a court are. I think we are really cluttering up the code.

**Dan Rouse, Legal Council, Tax Department** – Again, this might be an opportunity for us when we get toward a final product here that we can work with that. Again, the whole concept is getting all of the stakeholders to recognize all of the issues, let's talk this out and see how we can make this the best product available.

**Senator Dotzenrod** – Under the general powers of the board on page 7 subsection 5, it looks like by just reading through it that that is sort of a quality assurance or a compliance inspection that the state board would just from time to time randomly or through some system just pick out certain properties and go out.

**Marcy Dickerson, State Supervisor of Assessments, Tax Department** – The counties already have similar ability under the existing language on the County Board of Equalization. This just provides authority for the State Board of Equalization to also go out and randomly check the assessments.

**Chairman Cook** – I think as Commissioner Fong said, its educational purposes.

**Eric Aasmundstad, North Dakota Farm Bureau** - (See attached testimony D in favor with proposed amendments for SB 2294)

**Senator Triplett** – On page 4 where you were discussing lines 23 through 28, you are suggesting prior notification to the property owner? Would your group have any objection if we made it more clear that the property owner has the right to refuse those interior inspections altogether?

**Eric Aasmundstad, North Dakota Farm Bureau** – I suspect we wouldn't.

**Kevin Ternes, City Assessor, Minot** – (See attached testimony E in favor of SB 2294)

**Chairman Cook** – You made the comment additional resources for assessment offices; in my opinion are a good investment and I can't help but agree with you. I mentioned some bad habits when I introduced the bill. It's safe to say that maybe one of the bad habits we've picked up is, as local governments are building their budget they don't put the priority on this very important responsibility they have.

**Kevin Ternes, City Assessor, Minot** – I would agree Mr. Chairman. Everything all year long elected councilmen, elected school board, elected county commissioners, want to talk about mill levy, but it all starts with the true and full value at the beginning of the year.

**Terry Traynor, Association of Counties** – Although we have a number of county commissioners that are decidedly nervous about this bill, they have said that we should support it and move forward on it. They see a lot of good in it. The concern they have is cost. I want to point out that the counties that I think are facing the greatest change with this are the ones that have the least ability to raise the revenue. I think its 32 counties now that are capped in their general fund and there's really no place to go to get more revenue. They see this as increasing the professionalism which undoubtedly is going to increase the cost of providing assessments. Their feeling is that more of this is going to migrate to the county level. Certainly there is language in here that allows the county to bill that cost back to the jurisdiction responsible, but as we know, most townships don't have a lot of resources and any money you take out of their budget is money off their road, snow removal, whatever. That is going to create internal problems between the county and the township. That is a concern. I'm glad that you mentioned the database can be a paper database because I suspect in a lot of counties do not have a computer aided mass appraisal system to store this information. The county commissioners did bring up the same issue that you talked about here; it would really provide a great deal of comfort if there was a sentence in here about the right of land owner refusal. We are very supportive of the second sentence in subsection 3 on page 4 that there is an opportunity for a county to petition the Tax Department if they can't do the 10 years, that they can come up with another plan because as my understanding is, this whole process is evolving and there may be other ways that they want to approach it in the future and that provides a good remedy. Section 4 on page 5, as I brought up in the committee, and I feel privileged to have served on the task force that studied this, through the 70's and 80's there were more and more and more sections like this that created specific permission to use joint powers agreement. The Attorney General and the state courts took notice and started to decide if you didn't have specific permission you couldn't use joint powers. In 1993 we went through and we struck them all out and said no, joint powers is joint powers. If you can do it, you can do it. To me we are building it back up again, we are creating restrictions around when you can use joint powers, and I just don't see where section 4 is needed. I would hope the committee would consider removing that before we go forward. The Cass County director of Tax Equalization emailed me his testimony this morning and asked that I provide that to the committee (attachment F)



**Jeb Oehlke, North Dakota Chamber of Commerce** – Looking at this bill we did have the same concerns that have been raised by the several other people that have stood up so far. The right to refuse entrance into a residence or commercial space and the cost to some of the smaller townships or smaller political subdivisions, but we do see it as an improvement.

**Senator Triplett** – You are the first one who's spoken of right of refusal in commercial space. I guess my personal concern is to the right of refusal in residential space. It seems to me there is probably some kind of a difference regarding commercial space because, first of all, commercial space is almost by definition, open to the public and sometimes fixtures are really part of the realty and I think there is an argument I think that assessors may need to have access to commercial property so enlighten me on that. Why you are bringing up commercial properties also.

**Jeb Oehlke, North Dakota Chamber of Commerce** – If it's private property, it is private property that the individual owner has the right to either allow or refuse to allow entrance on to that property.

**Chairman Cook** – Not all commercial property is open to the public.

**Josh Asvig, North Dakota Education Association** – Many of you are probably wondering why education is at the podium on a bill about this but I think it's important to remember that our education funding formula is based off of taxable valuations. Therefore having an accurate picture of what our taxable valuations look like is certainly beneficial because I suspect many of the bills, references mentioned, or at least seem to intimate overvaluation but I also think there is probably some concern about undervaluation in some areas as well. It's certainly making sure that we accurately reflect taxable valuations for the funding formula. It seems to make sense to us. I know there are concerns from others. There are some thoughts that people have brought up that I think the committee will take under consideration as well, but overall we think it's a good idea to take a look at the valuations and ensure that we get them accurate. We just spend a lot of time and we are continuing to work on adequacy in education funding and if we don't have the front end right the other end might not be accurate.

**Jerry Hjelmstad, North Dakota League of Cities** – I was struggling a little bit as to whether or not to get up in support or neutral because we do have some members that have some specific concerns that they have presented to the committee. There are a couple of concerns that I would like to point out at this time. Section 3 on page 4 subsection 2, relating to the records being open, there is a sentence on line 21, the records in the possession of a county or city must be available upon request to any person. We feel that this is already covered by the open records law, but there is a provision immediately following this in the code 57-02-11.2 that requires records of a commercial property income and expense information that's obtained by the assessor to be kept confidential so we don't want to cloud that issue with this language. Also, there are concerns with the language in subsection 3 on page 4 about the interior and exterior inspection requirements. I think some of the proposals that have been discussed to improve that language would also be greatly appreciated.

**Chairman Cook** – I will hand out the testimony of Ben Hushka. You can read this at your leisure but I will say that the official position taken by the Fargo City Commission is to oppose this bill in its current form however they do support the intentions of the bill to improve the assessment practices and he has suggested amendments that would make them supportive of the bill.

**Ben Hushka, City Assessor, Fargo** – (See attached testimony G, opposed with proposed amendments to SB 2294)

**Chairman Cook** asked for testimony opposed to SB 2294.

**Chairman Cook** asked for neutral testimony for SB 2294.

**Larry Syverson, Tax Assessor, North Dakota Township Offices Association** – Our association did not bring this issue to our floor at our convention so we have to take a neutral stance on it. We were present in the committee and we saw a lot of rough edges taken off of this so its not an unpalatable thing. We have members of our association that are very opposed to it. I personally see benefits to it, but we do have to be neutral on it.

No further action was taken.

**Chairman Cook** closed the hearing on SB 2294.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2294  
2/9/2011  
Job Number 14246

Conference Committee

A. B. Miller

## Explanation or reason for introduction of bill/resolution:

Relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors

## Minutes:

Committee Work

**Chairman Cook** – I want to go to Dan Rouse to clarify a statement that he made at the hearing.

**Dan Rouse, Legal Council, Tax Department** – I wanted to follow up on a comment. There is a case that is pending before the State Supreme Court right now and I'm sure Senator Triplett is familiar with it since it's from her area. It deals with some nonprofit homes and whether or not the State Board of Equalization had the authority to declare them to be exempt. One of the other elements of the case dealt with authority. We believe that is an unresolved question and I may have misspoken when I responded to Senator Triplett question earlier. This was an argument that the proponents who were saying the state board had the authority to do all of these things that we're saying we didn't that you see reflected in SB 2294. We took the corollary to that and said the state board likewise does not have the authority unless certain conditions are met. One of those conditions being a specific grand statutory authority. That is why you see the language in SB 2294 in section 6 on page 8 specifically talking about page 8 lines 5 through 15 or what is known as subsection 7. We believe that language is necessary in order to grant the State Board of Equalization the authority to go down this road if it chooses to do so. Unlike the language about the joint powers agreement where it may be repetitive, it was again, an opportunity to serve it up and bring it for discussion.

**Chairman Cook** closed discussion on SB 2294.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2294  
2/16/2011  
Job Number 14609

Conference Committee

*A. R. Miller*

## Explanation or reason for introduction of bill/resolution:

Relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors

## Minutes:

Committee Work

**Chairman Cook** opened discussion on SB 2294.

**Dan Rouse, Tax Department** went through the proposed amendments.

**Senator Oehlke** – Who are all the stakeholders?

**Dan Rouse, Tax Department** – The township officers, League of Cities, The Association of Counties, city and county assessment officials, as well as the Tax Department.

**Senator Oehlke** – So if an individual township or county wasn't aware this was going on that's certainly not any fault of yours or ours, their association didn't get them the message right?

**Dan Rouse, Tax Department** – The 2 gentlemen who ordinarily represent the Township Officers Association was in the room at the table when we discussed these amendments.

**Senator Triplett** – The stakeholders who were not at the table are sort of the ordinary taxpayers I guess. I'm not sure I have a real problem with this, but I want to point out on page 4 lines 27 through 32, I was one of the people who expressed concern about this not in any way giving property owners the notion that they couldn't refuse an inspection. Lines 27 through 31 were clearly drafted as you have stated from a stand point of protecting the job and reputation of the assessor. It still doesn't quite get to clearly notifying a property owner that they have an absolute right to refuse an interior inspection so long as they are willing to assume the consequences of being over assessed. It's written from a different perspective than I was thinking. Maybe you could speak to that.

**Dan Rouse, Tax Department** – We have to look at the statute it's going in to which are directions and instructions for assessment officials. It is targeted to tell them what they can and can't do and what the consequences to them are of what they can and can't do. I think it is inherent in this language that there is a right to refuse.

**Senator Oehlke** – Are all assessors employees of townships or political entities?

**Dan Rouse, Tax Department** – Those that are not employed by some commercial entity are employees of some political subdivision within North Dakota.

**Senator Oehlke** – I didn't see anything in this bill that required assessors to have a certain liability. When we talk about auto dealers and other folks, there's an insurance category, but I didn't see anything in here. What if someone gets on my property, get bit by my dog because it was a stranger and now I've got a situation but really it's their fault because they shouldn't have come through the gate without notifying me first. Or they get inside and trip and fall down, now it's my fault, but should it be?

**Dan Rouse, Tax Department** – I think they would be covered in their capacity as employees of a political subdivision.

**Senator Oehlke** – I believe that's true but if they are an independent contractor, I don't remember seeing anything in here relative to liability issues.

**Dan Rouse, Tax Department** – That wasn't part of this bill and I would suspect that those would be terms and conditions that would be negotiated between the political subdivision and the contractor providing those assessment services.

**Chairman Cook** – I would guess they are.

**Senator Dotzenrod** – It looks like in the bill, we've gotten rid of the term reassessments. That is all assessments now are new assessments. It looks like that term is covered on page 9 section 10; you've in the bill got a requirement for a new assessment every 10 years. I was looking through here to see where, how it works when a new house is built. Would that be in section 1 line 13? That first time that assessment is done, whether it's on old property that's been assessed before or on new property that's never been assessed before, it's still called a new assessment, in both cases, and I'm wondering if this bill makes any distinction on that first assessment.

**Dan Rouse, Tax Department** – As I understand it there really are 2 different scenarios here. One is the cycle of assessments, which I suppose you could call it a new assessment, but the whole point of changing the word reassessment to new assessment was to clarify that this was intended, new assessments are as defined on page 9 assessments that are ordered or authorized under these new sections for the cases where property has escaped assessment in whole or part or has been unfairly assessed, or it's not been assessed according to the statutes. I would imagine the new home scenario you asked about could fit into that if it had escaped taxation from the get go.

**Senator Dotzenrod** – Outside of that, there's really no distinction in the way it's bought in and the way that the assessment is done in the definitions whether it's a new first time assessment or a home that's been there for years and has been assessed prior. There are no sections that separate them. They are treated all the same.

**Dan Rouse, Tax Department** – Under either scenario that pretty much covers the universe of assessments, you are right.

**Vice Chairman Miller** – I'll move the amendments.

Seconded by **Senator Hogue**.

**Chairman Cook** – All in favor if the amendments signify by saying yea. Opposed? (7-0-0)

**Vice Chairman Miller** – I'll move a Do Pass as Amended.

Seconded by **Senator Hogue**.

Carried by **Chairman Cook**.

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/22/2011

Bill/Resolution No.: SB 2294

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

SB 2294 includes several provisions to improve the assessment process for property tax purposes.

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

There will be costs associated with compliance that will vary among townships, cities, and counties, depending on which issues exist in each taxing district and what remedies are needed.

There will be additional work required of the Tax Department and the State Board of Equalization, but it is not possible to estimate what those costs will be.

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

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

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

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

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

Date Prepared: 02/04/2011

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February 16, 2011

93  
2-16-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2294

Page 1, line 1, remove "create and enact section 57-02-50 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to joint powers agreements among political subdivisions; and to"

Page 3, line 10, after "Whenever" insert "an investigation by the state supervisor of assessments shows there is probable cause to believe"

Page 3, line 11, replace "fails" with "has failed"

Page 3, after line 19, insert:

"d. An individual whose certificate has been suspended or revoked in the manner provided in this section may appeal that determination to the district court.

e. The documented inability of a holder of a certificate to gain entry to the interior of a residential or commercial building, structure, or other improvement of property alone does not constitute cause for the state supervisor of assessments to petition the tax commissioner to suspend or revoke a certificate."

Page 4, line 15, replace "include" with "maintain"

Page 4, line 15, remove "in a county database of"

Page 4, line 16, remove "taxable property to be maintained in that office"

Page 4, line 21, remove "The records in the possession of a county or city must be available."

Page 4, remove line 22

Page 4, line 25, after the underscored period insert "If a property owner refuses to allow the required inspection or the assessor or assessor's representative is otherwise unable to gain entry to the interior of the residential or commercial building, structure, or other improvement of property, that fact and the grounds for a lack of interior inspection must be noted on the property record."

Page 4, line 27, replace "a five-year" with "an alternative"

Page 5, remove lines 5 through 14

Page 6, line 22, overstrike "taxpayer's" and insert immediately thereafter "property owner's"

Page 10, line 20, after "assessment" insert "and equalization"

Page 11, line 26, after "reassessment" insert "terms and conditions of the"

Page 11, line 26, after "assessment" insert "order"

Renumber accordingly

Date: 2-10-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2294

Senate Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Senator Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman			Jim Dotzenrod		
Joe Miller - Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Verbal vote

Date: 2-16-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2294

Senate Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod	X	
Joe Miller - Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Cook.

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

**REPORT OF STANDING COMMITTEE**

**SB 2294: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact section 57-02-50 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to joint powers agreements among political subdivisions; and to"

Page 3, line 10, after "Whenever" insert "an investigation by the state supervisor of assessments shows there is probable cause to believe"

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Page 10, line 20, after "assessment" insert "and equalization"

Page 11, line 26, after "reassessment" insert "terms and conditions of the"

Page 11, line 26, after "assessment" insert "order"

Re-number accordingly

2011 HOUSE FINANCE AND TAXATION

SB 2294

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2294  
March 8, 2011  
#15097

Conference Committee

Committee Clerk Signature

*Mary Brueker*

## Explanation or reason for introduction of bill/resolution:

A bill relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors.

## Minutes:

*See attached testimony #1a and b, #2, #3*

**Senator Cook:** Sponsor. Support. For the last few sessions we as a legislature have spent quite a bit of time on property taxes, specifically the issue of lowering property taxes. We have spent the majority of our time on that mill levy side of the equation; how high taxes are. Last session we passed a bill where we brought down 75 mills of school property taxes and I can tell you that as a result of that bill residential property taxes is below our goal of 1.5% as it is at 1.47%. We've done all this because our constituents have demanded it and wanted it. Besides lowering our taxes they have certainly been asking for making them fair and that's what brings us to SB 2294. This bill deals with the other side of property tax equation, it deals with the assessment side. We here in this public policy arena, the legislature, we write all the rules regarding how property is assessed in North Dakota. They are all in code and we determine what property is taxable, what property is tax exempt. We determine the various classifications of property; agricultural, residential, commercial, centrally assessed, and we determine the differences between each one. We draft the rules as far as how this property is to come up with a value and the formulas to determine taxable value. Then we go home and hand over the process of following these rules and implementing them and doing the assessment to all of our partners in local government; townships, cities, counties, local assessors. There are 1,050 local assessors in the state of North Dakota today and they are out there following the rules that we put in place. I would argue that over the years it is safe to say that somewhere along the line we have developed some bad habits and that is what started to cause some concern in the state as far as whether or not property is being assessed fairly. We talk about our three legged tax stool; income tax, sales tax, property tax. Income tax is progressive, sales tax regressive, and property tax is equalized. The only way it can be equalized is if it is uniform and that is the number one priority of the rules we write is that they are uniform and uniform across the state. About 18 months ago, Tax Commissioner Cory Fong and I sat down shortly after the end of last session and started having discussions on the assessment side of our property tax equation. We spent considerable time working during the interim and trying to find ways to improve it. We have sat down with our partners, the counties, cities,

townships, and the tax assessors. Because of this we bring this bill before you that we believe will bring integrity to the assessment side of property tax equation in 2294. We heard the bill in the Senate and made some amendments to it. There was no testimony against it and all of our partners are on board and working with us. If we can make it a better bill we can do so otherwise we can pass the bill you have and when we go home let's take a giant step forward and do what our constituents want us to do and that is to make sure that property taxes are truly uniform and fair. That is what SB 2294 is about. The road to perfection is always under construction, we're on that journey. I would encourage a Do Pass on SB 2294.

**Cory Fong, Tax Commissioner:** Support. Please refer to attached testimony #1 a and b.

**Representative Glen Froseth:** You say this is a work in progress but if it goes into effect before the next tax season or assessment period. How are you going to train all the local assessors by that time so they will be up to speed on this and do it right?

**Cory Fong:** When I talk about being a work in progress I mean the bill itself. There has been a lot of discussion about the bill. We've been working on this for a year and there have been some local assessment officials that have had some concerns about this. If we need to make changes to this bill during this session we can certainly do that. Educating the assessors is going to be a major part of our effort going forward to implement this bill. Larry Syverson of the Township Officers Association and me has been visiting and he has some concern that the township assessors aren't getting enough education and training. We need to work on that with their group, our staff, the Association of Counties, and the League of Cities to increase opportunities for training. Part of that training now will incorporate and encompass the new provisions of this bill. It is a major portion of what we have to do to go forward and in that sense it will be a work in progress until we have everyone trained and up to speed.

**Vice Chairman Craig Headland:** Do you plan on arming these assessors when they are out there because I think if you enforce 10 year inspections on people then you are going to have some real outcry out there?

**Cory Fong:** No. That was a very important discussion on the Senate side that we are forcing that people are going to be required to let assessors on their property and that is not the case. If the assessor cannot gain access they will document that and that is now in the bill, it has been reflected and been amended on the Senate side. There should be an attempt made by assessors to inspect physical interior and exterior properties on a regular 10 year basis. If they can't get in because the property owner is saying not "no" but "hell no" then we have to respect that. That was changed in the bill to reflect that. The assessor can document that on their property card.

**Representative Shirley Meyer:** Back to that same point when our assessment officials did this in our area with the interior inspections specifically my phone rang off the hook. We had assessment officials who were looking at TVs to everything and they asked me if they could stop them from going in and I told them I thought they could. However, they were being told by the assessment officials that you are then going to be assessed the maximum amount of property valuation. Is that going to be addressed in the bill where that isn't going

to happen? You didn't really clarify that. You just said that they were going to note that they weren't allowed in. The property still has to have a value on it.

**Cory Fong:** I have heard that same technique. I think that there are assessors who can't inspect the property that has been their approach. It goes back to Representative Froseth's comment about training. We are going to have a better job of training and getting the word out about how to deal with the taxpayer who is not going to allow them onto the property. It is not addressed in the bill but the point is that interior and exterior inspections are going to improve the valuation, it is going to make it more accurate. That is the point the assessor needs to make to the property owners is that this is for their benefit, this is to improve the accuracy of your assessment. If we can't get in we have to make assumptions that you have kept your property up to date, you finished the basement, normal finishes, etc. That's the approach most assessors would take. I think most assessors approach would say that if they can't get onto the property then they would make certain assumptions and those assumptions are that you're keeping your property up to date and those kinds of things.

**Representative Dwight Wrangham:** Under what statute would the assessors have the authority to enter a home without a search warrant or a reasonable expectation that a crime is being committed? Without those I don't think the authority is there. I am puzzled that the tax commissioner would ask assessors to do something that is not legal. I'd welcome your comments on that.

**Cory Fong:** We are not asking assessors to break the law. We are just suggesting that physical interior and exterior inspections on a regular basis will improve assessments. If they are denied access we are not saying that they have to force their way in, by no means does this bill encourage that in any way. I look forward to others from the assessment community to answer that.

**Representative Scot Kelsh:** The city of Fargo employs college kids as interns in the summer and pay them \$10/hour to go out and visit properties and do the reassessments. Under the provisions of this bill it's mandating an alternate to this type of assessment and I don't see that the fiscal note can accurately reflect what those burdens and costs would be in order to meet those requirements. Since they are young and fresh they may have a little bit of trouble dealing with the homeowners and property owners who may have a problem with them asking the questions. Are there provisions for background checks, making sure the employees who are hired for this type of work and not have a criminal background especially when they are entering people's private residences?

**Cory Fong:** We acknowledge and recognize that there will be additional costs to the local government. As far as putting a fiscal note on that it is relatively impossible because of not understanding or knowing what those costs might be depending on the jurisdiction. We are fully knowledgeable on the increase of costs but there will be some benefits to the locals for having up to date and accurate assessments and valuations on their properties. The issue regarding standards for what might be temporary employees that are used for assessments and whether or not there are requirements for background checks, this is not in the bill. I'm not sure if I'm the right person to speak with regarding this. We certainly want to put standards on local officials and their assessment responsibilities we don't also want to tie



their hands. Townships probably don't need to do background checks for all their assessors but maybe the city of Fargo might choose to do so. I think it should be something left up to the local jurisdiction to decide.

**Representative Steven L. Zaiser:** Wouldn't it be true that if one didn't make the assumption that the property owner has made the improvements that they thought they would have made otherwise it would get around that to not let someone in would perhaps allow them to get the lowest assessment possible and that concept would circulate quite quickly.

**Cory Fong:** That's true. I think the way the assessment community talks to the property owners is to tell them that they don't have to let them on their property but we then have to make certain assumptions. That will help compliance in the neighborhoods, across the town, etc, to let them in because it helps to get a more accurate and fair assessment of your property.

**Representative Steven L. Zaiser:** If somebody has not allowed somebody in and they've made extraordinary improvements in their home and are getting by with a lower assessment than what they should probably get, wouldn't that too get around to the community and ,therefore, be a deterrent to anybody being allowed in the future.

**Cory Fong:** That is exactly why this is important because of the inequity that situation creates. That tax burden would have been disproportionately placed on someone else who has a more accurate valuation and that is exactly the point we are trying to make. If valuations aren't accurate the tax is disproportionately placed elsewhere. This is about tax fairness and insuring equity which is exactly what the state board of equalization does is to try to equalize values.

**Marcy Dickerson, State Supervisor of Assessments:** Please refer to attached testimony #2. Marcy reviewed the bill in her testimony.

**Chairman Wesley R. Belter:** On page 2 where the exterior and interior inspection then it talks about an approval for an alternative plan if the interior inspection is not allowed. What constitutes an alternative evaluation or whatever they are going to do?

**Marcy Dickerson:** I can give you an example. At the present time there is software developed where by use of aerial photographs or satellite imagery and they can determine a lot about properties. They can't really see inside, it's not superman x-ray vision but they can see if something has been added or if an addition has been built on, or something obvious to the exterior without individuals having to go out and personally inspect every property and walk around to see if somebody built a deck on the back. This can be done electronically, whether or not that will be available to the smaller jurisdictions is problematic because of the costs but that's just one example. It would be up to the jurisdiction who felt they could not or should not have to make these inspections every 10 years. They would present their idea of what an alternative would be. We wouldn't expect the same alternative from a town of 50 people as we would of a major city over 5,000.

**Chairman Wesley R. Belter:** When anybody does any improvement to their house there is usually a building permit required and I don't know if that varies from city to city as far as a threshold for a building permit, do you know?

**Marcy Dickerson:** In major cities a building permit is required but a lot of people don't get them. If it's an interior remodeling who knows about it? That's what they found in the city of Mandan because they are doing a reassessment of the whole city's residential property now and they found improvements that were made without building permits. The cities check the building permits as that is one of the jobs of the building inspector or the city assessor.

**Representative Glen Froseth:** Do you feel this will raise the assessments or lower the assessments in general?

**Marcy Dickerson:** In some cases it will raise the assessments but in others like they are finding in Mandan where they are finding properties that have just been updated on an annual basis and some of those older properties have had nothing done to it. If a person goes into what looks like a pretty nice home but everything has been allowed to deteriorate the value would be properly reduced due to lack of maintenance. It's hard to say how many would go up or down, there are plenty of both and some probably wouldn't change at all.

**Representative Glen Froseth:** Presently, how often is there a reappraisal made of assessments?

**Marcy Dickerson:** The law says the property will be valued on February 1 of every year. It doesn't specifically say it has to be looked at physically every February 1 as it isn't and it couldn't be. With regard to the sales ratio study if an assessor can determine that a certain area of town's value or assessment rates are going up at a greater rate than another area of town then he may put a percentage increase on that portion that appears to need it.

**Representative Glen Froseth:** They reassess property occasionally, I don't know if it's done regularly or if it's up to the county.

**Marcy Dickerson:** That is not in code. Whatever is done is done on their own basis. Some larger cities do the assessments on a cyclical thing. The International Association of Assessing Officers recommends doing an exterior and interior inspection every six years.

**Representative Shirley Meyer:** On section 5, subsection 7, if there is a county that refuses to do this does this mean the State Board of Equalization can take the county to court and remove the county commissioners?

**Marcy Dickerson:** I don't think the board would immediately go to those extremes. There would probably be some dialogue with the county if the county were the body that was not doing their job. There are a lot of other methods rather than the removal of commissioners. There are provisions for removing officials who don't do their job but I don't think that would be the first attempt of the State Board of Equalization.

**Representative Shirley Meyer:** I know that there have been a couple counties that have refused to do this and it has been quite an issue with the State Board of Equalization. I'm assuming they still aren't doing this so if this would pass this gives the State Board of Equalization..?

**Marcy Dickerson:** There's no sense in having authority in law if you can't enforce it. It says in the law that when the State Board of Equalization issues a decision or an order the county auditor can make that change in the assessment books. It doesn't give the county any authority to do anything. We've run into issues where the county board has told the county auditor not to do it. The county auditor is elected but I don't know the politics of standing up in front of the county board because the county board can't fire them but on the other hand it has worked out that the county board has taken a position where they have overridden the statute that says the county auditor shall do what the state board says.

**Representative Mark S. Owens:** You stated that if they couldn't gain access then the county would be required to do up that plan and that seems in that case it could be retaliatory. Wouldn't it be better to have the plan designed in anticipation of not being able to gain access?

**Marcy Dickerson:** The 10 year interior and exterior or alternate plan is not based on the inability to get into a house. There is going to be certain amount of property owners who are not going to allow an inspection and we know that. That is not going to be a cause for a reassessment order. If you do an inspection every 10 years and 20% of the people don't let you in then you will just have estimated assessments on 20% of the homes. We recommend that they estimate that the person has maintained the property and probably has granite countertops and not the old linoleum ones or whatever they were. The access to the property is not tied in with how frequent the inspection should be. A person who files an application for abatement then an interior inspection is required.

**Representative Wayne Trottier:** Are the notes the assessors make on interior and exterior made public?

**Marcy Dickerson:** Yes those are public records. If you found something like black mold that would certainly be some reason to reduce the value of that property and that would appear on the property record.

**Representative Patrick Hatlestad:** When you do the interior evaluation do you have a specific checklist or if my wife has a flare for decorating could I be a victim of her creativity in terms of taxes?

**Marcy Dickerson:** No. There is a checklist for the interior as well as the exterior inspections. A lot of things in the interior of a building are personal property and are not subject to assessment. With regards to your wife's good taste in decorating, most all of that would be personal property and wouldn't be assessed. The portions of the house that are real property are assessed. If you have the very highest plumbing fixtures they would be valued higher than if you had the cheapest ones you get at Menards on sale day. As far as any personal property the quality or amount of that is not going to be involved in the assessment.

**Vice Chairman Craig Headland:** I think I believe this bill is intended to help property taxpayers but I'm struggling to see how.

**Marcy Dickerson:** If property is assessed uniformly and fairly it will be a benefit to property taxpayers in that they will be paying the tax they should on their property. The guy who's been getting away with a low assessment for years it won't benefit him but it will benefit his neighbor who was paying too much all those years.

**Vice Chairman Craig Headland:** I fail to recognize how anybody's assessment is going to go down. I see a whole bunch of assessments going up. I see a massive property tax increase coming. I don't see how you're going to get anybody at a township level to make an assessment for their yearly pay of \$150 so I think we might as well eliminate them. I don't know if anybody will sit by the county assessor in church. I don't know what to say about this piece of legislation.

**Marcy Dickerson:** That personal relationship with the assessor and the people in the community is a problem. I wouldn't want to be a tax director in some of your smaller counties; I'd hate to go to the grocery store. That is part of the job. If we had it where an assessor couldn't live within 200 miles of the property he was assessing that would help but it wouldn't be feasible cost wise. We need fair assessments for fair taxes for everybody. I think the townships want more training for their assessors and I believe they should have it. They or somebody is going to have to pay for it. There will be some cost but if you want to improve a system it will cost. The assessors training now is based on administrative rules that were put together according to statute where the tax commissioner and the state supervisor of assessment had to meet with certain individuals from the university and various agencies to create the standards or training for local assessors. I think those rules should be amended and there should be more training but it is going to cost to do it.

**Representative Scot Kelsh:** I assume that North Dakota is not the only state that has this challenge. Can you tell me how this is done in other states?

**Marcy Dickerson:** You're right; other states do have similar problems. A few months ago I had a call from someone in New York, which happens to be my home state, and he was asking questions about the assessment process and he started laughing when I told him some of our issues because those are some of the issues they were facing. I think most states face similar issues. I think you have more difficulty where there are smaller towns because of the money issue. I just completed a study on sales ratios and there are a lot of questions there. In some states they are doing a fine toothed comb type job and other states like North Dakota are doing a good job but nowhere near as detailed and it is because of money and personnel.

**Kevin Ternes, City Assessor for City of Minot:** Support. Please refer to attached testimony #3.

**Chairman Wesley R. Belter:** What in this piece of legislation do you feel is needed that would improve your overall assessing? From your testimony I think you're pretty confident

in the job of assessing you are doing so from my perspective why do we have to change this if you think you're doing a good job?

**Kevin Ternes:** Not everybody is doing what Fargo, Minot, Williston, and offices with the professionally trained full-time staff are doing. I hear it all the time from people asking why their property is assessed so much differently than their neighbors. I question the training. We don't believe it's fair nor do I think it's fair as a home owner that my value is at market value and yet in rural counties and some major cities these assessments don't reflect market value in any way shape or form. That is not fair to the people living in the organized cities who have had a good assessment. I think this would do it. I think this is going to get those people out to do their job and if they're not doing their job they need to be replaced. There is a concern on the shift of market value. The system is in place to work and we have to depend on our county commissioners and city council people.

**Representative Glen Froseth:** In regard to costs and staffing in this 10 year program would you do it every 10 years at 100% or would you do it at 10% of the city every year?

**Kevin Ternes:** We have enough people to look at every home in Minot once every 10 years. So we are doing 10% of the inventory every year. We think we would be pretty close to meeting this without adding too much staff. I know there is one person or two person shops out there that are going to need one or two people added. The only fair way to do this is to start with a geographic plan and everybody gets reviewed. Small counties and cities issue building permits. I don't think they should be issuing a building permit if they do not have a certified inspector going out to make sure the work is done properly. If they are only issuing a building permit as some kind of revenue generating source there are some issues with the building inspectors. Assessors then take that date and do what they can because there is an automatic assumption that what was done might affect the value of the property.

**Vice Chairman Craig Headland:** What do property taxes pay for, are they meant to pay for local government services?

**Kevin Ternes:** We know where the property taxes go, they go to police, fire, school boards, county, and park. I'm not familiar with three of these budgets but I know that most of the property tax dollars in Minot go to public safety.

**Vice Chairman Craig Headland:** Do you believe that local government can provide equal service to a rural resident who may have a \$200,000 home to the same person who has a \$200,000 within the political subdivision that's right there?

**Kevin Ternes:** That's correct. If you believe that a rural resident does not get the services. If it is the wisdom of this legislature that there should be some special rate applied to the \$200,000 home in the rural area then that would be up to you guys to decide that. But to say now in law that everything has to be assessed at market value but not in the rural because they don't get services, I think that is wrong. Now you have an individual assessor deciding how much or how less someone is going to pay. I think everybody has to be assessed at market value and then if you want to create a different class of property for lake cabins or rural properties...we already know that rural farmers don't pay any property

taxes on their buildings or their homes. If you want to create some more exemptions that is up to you but keep in mind that will probably spread the cost to those city and county residents who live in the city corporate area.

**Representative Shirley Meyer:** If an assessor is denied access into a property is there a checklist? Is it a set format they use or is it then simply based on market sale?

**Kevin Ternes:** If we're not allowed access we look at what the condition is of the exterior and the interior. If the exterior appears to be in really poor shape then our checklist says "exterior-bad shape" and other judgments based on the roof, etc. We will assume that the interior has been updated if we can't see it.

**Representative Shirley Meyer:** Is there a set format that everyone uses or is it on an individual basis?

**Kevin Ternes:** Not every assessment office has the same software; some don't have any software. I don't know how they are going to handle that. However they would assess that home whatever homes are selling for with good interior conditions and that is what the house should be valued on.

**Sandy Clark, ND Farm Bureau:** Support. Please refer to attached testimony #4.

**Larry Syverson, Farmer and Assessor for Roseville Township and President of North Dakota Township Officers Association:** Neutral testimony. We were first alerted to this by another lobbyist. We went to the commissioner and expressed our concerns and he invited us to sit at his table through several meetings of this committee. They included us in their discussion. Then the commissioner, Senator Cook, and Marcy Dickerson came to our annual convention and explained the proposal to our membership. After their presentation no one stood to oppose or support the proposal. We have not had a vote to take an official stand. I see that some problems exist with the assessment in some locations. We are concerned with the potential cost in townships and counties as they would be the least able to absorb those increases. I've had only two contacts from concerned officers and both were very opposed to the bill but after discussions where I pointed out the problems I heard both of them softened their opposition but were still worried about the cost. We have been active in trying to make this a workable bill should it become law.

**Cory Fong:** In response to the question Representative Meyer asked Marcy about counties not following and the process the state board follows through legal remedies, that would be a process we would initiate at the state board level if a county did not follow directives of the state board and that has occurred. That legal remedy would be decided by the court and that court could decide in favor of the state board or in favor of the county. In the case of deciding in favor of the state board and requiring the county to do that, if they chose not to do that then they are dealing with the court now and not the state board. Marcy may have implied and implied in error that the next action might be removing the county commissioners and that is not part of this bill, that is a separate process that is originated in a completely different way and this bill does not have that end result. It's emphasized if you look at page 8 of the bill where the court awards the cost to the party

that prevails implies that judge can decide in the state board's favor or the county's favor. We are not trying to remove local officials via this bill.

**Chairman Wesley R. Belter:** No further testimony. Closed hearing on SB 2294.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2294  
March 8, 2011  
#15126

Conference Committee

Committee Clerk Signature

*May Bruecker*

## Explanation or reason for introduction of bill/resolution:

A bill relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors.

## Minutes:

*No attachments.*

**Representative Shirley Meyer:** There's got to be a way to have more training. In our area this was a nightmare when they started doing this. They had not done it for a long time and when they started in...for example when a lady had put in a double sink in her basement and when she let the assessor come in he added \$10,000 to her home. She said if she would have known that she wouldn't have put the sink in. The whole sink cost \$500. It is a lack of training. It got around pretty fast not to let anybody in because look what you had to lose.

**Representative Dwight Wrangham:** I have several problems with this bill. When we did away with personal property tax way back when that is exactly what we did. The interior of a home is more personal property than it is real property. I think if all houses were assessed assuming the inside had all woodwork that was pine and they all had the same stove, this is personal property. There are plenty of ways to establish true and full value without going inside. I don't know where the tax department gets that. If we have time I would like to do some research on that. If we don't then we should just kill the bill. I'm going to ask that we amend it by putting in a portion that says the assessor must inform the resident that they have a right to say no to them entering. I'm also going to ask that we put a penalty in for any cases at which the assessor increases the valuation of the house directly due to not being allowed to go inside.

**Representative Bette Grande:** One of my concerns is entering my home. It is my private space and only I can determine when the government is going to come into my home. I talked with the townships and they promised that no township officer will be coming to my home.

**Representative Glen Froseth:** The counties can do this now because I remember years back when the Ward County had these types of inspections by the assessors where they came to every home and took a walk through and reassessed everyone. I don't know if



they do this on a regular basis or not, maybe the smaller communities don't do it as often but all you have to do is go to the coffee shop and find out who is remodeling so I don't know if it's necessary there either.

**Chairman Wesley R. Belter:** I don't believe it's in the code anywhere though. This puts it into code that they can ask to have access to your home. I don't think that is in the code now.

**Representative Lonny B. Winrich:** Anyone can ask to have access to your home. This establishes a standard that they need to ask that question. There certainly is no requirement that you have to let them in. This doesn't give rights to any new privileges to assessors in the law; it simply sets some standards that they will try and meet given the cooperation of the residents. That's desperately what we need is to have standards for assessors so that they are doing the same job in every jurisdiction.

**Chairman Wesley R. Belter:** I would agree that we need standards but it takes some real training to have someone walk into somebody's home and find out if they have a \$40 faucet or do they have an \$800 faucet in their kitchen sink. And are their windows \$200 or are they \$1,000 and that's what makes a difference in a \$200,000 and a \$600,000 house are those extra things. I really have to question this. When they have access to your house then they really need training to be able to figure out what property is really worth because there is such a tremendous difference in what you put into your home, like flooring and things that would be considered taxable. I've got a real problem with using the interior of your house as a measurement of the value. I think it's very subject to question.

**Representative Lonny B. Winrich:** I don't think that is what's being suggested here. It's more a matter of setting standards for what constitutes a complete assessment of property.

**Chairman Wesley R. Belter:** The only reason they want access to your house is they want a value.

**Representative Lonny B. Winrich:** That's what they are doing anyway.

**Chairman Wesley R. Belter:** Yes, but you can walk into a beautiful home that has \$40 faucets and you can walk into a home that may not be so beautiful that has \$800 faucets and who is going to know who has what? I think it's a very subjective evaluation.

**Representative Lonny B. Winrich:** There's also training provided in this. The tax department is going to work with the assessors and deal with those kinds of questions or try too.

**Representative Dave Weiler:** My concern in that issue is as a realtor we have a lot of training and we have to do a lot of things for a lot of number of years to be able to understand the value of someone's home when we help them put it on the market or when we help them purchase a home so they don't spend more money than what it is worth. I, firsthand, know how much work goes into something like that. I don't think we want to let appraisers have this ability or think they have the ability to determine these things. There are a lot of issues and a lot of different issues with this.

**Representative Dwight Wrangham:** I think we need standards and I think the standard should be that the assessor will evaluate the true and full value of the property the best he can and from the outside. The inside doesn't make any difference to anybody as to what personal property is in there. It is not necessary in any way. I agree with you in that it puts it in code. I can just see the assessor coming to the door and say the state tax commissioner says I have to inspect the interior of your home at least once every 10 years because that's what it says here.

**Vice Chairman Craig Headland:** The problem I have with the bill is if it's about fairness in assessments I think the bill is lacking in the area of the provision that doesn't allow for what I think is the biggest increase in property tax collections this state has ever seen. It's not about the house that is being assessed too much, I think what they are looking to do is find houses that are assessed too little and they believe there are a ton of them out there. Without a provision that equalizes the property tax revenue to where it is today I won't vote for this bill.

**Representative Steven L. Zaiser:** Based on the language in the bill it doesn't require the property owner to open up the door and let somebody in. I think in Fargo, for the most part, people are going in the homes. If we don't try to get into the homes every 10 years we are going to have such a situation of apples and oranges that I don't know how they are going to assess fairly because you can go into one house that has x amount of square feet and the inside has cracked walls and badly worn windows. I think this is going the right direction and that there needs to be some amendments but I think this is the right way to go.

**Representative Patrick Hatlestad:** I asked if I would be penalized if my wife had a flare for decoration and I think you would. I think if you walk into a house and it just grabs you because it is beautifully done the assessment goes up. I think your perception has already been colored.

**Representative Steven L. Zaiser:** Isn't it worth more then?

**Representative Dave Weiler:** That depends. The decoration might be extravagant couches or beautiful paintings on the walls and they are all going with so the house isn't worth more in that case.

**Representative Lonny B. Winrich:** That's part of the point that the house isn't worth more than that and if you have well trained assessors who are coached in what their job is they will know that. But if you talk to any realtor about selling your house you will also be told that if at all possible show the house when it's furnished and make sure it really looks nice inside because that will increase the chances you are going to get the price you're asking for. That is why there's a difference between a realtor appraising a property for sale and an assessor appraising it for tax purposes.

**Representative Glen Froseth:** I think there are some good parts in this bill but I don't think the state needs to get into the business of suspending and revoking the licenses to county and township assessors. It seems funny that they didn't ask for a couple more

employees in the tax department to oversee this program because if you suspend a county or township assessor who are you going to get to assess those townships? They are going to have to hire somebody or go out there and assess it themselves. I don't like that part of it; I think it is going too far for the state's responsibility.

**Chairman Wesley R. Belter:** I think this is all we'll do right now on this. It looks like some of you want to have some amendments so let's get them done and we'll come back to this.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2294  
March 21, 2011  
#15750

Conference Committee

Committee Clerk Signature

*Mary Brueker*

## Explanation or reason for introduction of bill/resolution:

A bill relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors.

## Minutes:

*See attached amendments.*

**Dan Rouse, Legal Counsel for North Dakota Tax Department:** Distributed and reviewed amendments. Please refer to attached amendments. We are proposing to remove the requirements for an inspection exterior or interior. It would also remove the requirement that a political subdivision that did not want to have an exterior or interior inspection program would be required then to submit an alternative assessment and maintenance plan to the state supervisor of assessments. There was an opportunity for the state supervisor of assessments to suspend or revoke certificate holders but it was specifically carved out beginning on line 21 on page 3 that if there was an inability of an assessor to get inside a home or to physically inspect a home because the property owner refused permission that could not be used in and of itself for disciplinary action by the state supervisor against that assessor. If you agree with the amendments that we're proposing to remove the inspection requirement altogether than this language would not be necessary at all as there wouldn't be any grounds for which the state supervisor could rely. Continued reviewing the amendment. The language on page 4 and 5 may have been likely to create more problems than what was intended to be cured. With the concerns that were raised and a number of conversations we've had with this committee it appeared quite obvious that this was problematic. It may have been more of an onerous burden on the landowners and property owners than what was intended. Our proposal then is to remove that language and eliminate the questions and the issues that have arisen with regard to the inspection and rights of landowners to refuse interior inspections. We would respectfully ask for your consideration of these amendments.

**Representative Dwight Wrangham:** I would move the amendment.

**Representative Bette Grande:** Seconded.

**A voice vote was taken: MOTION CARRIED.**

**Representative Bette Grande: I make a motion for a DO PASS AS AMENDED.**

**Representative Mark S. Owens: Seconded.**

**A roll call vote was taken: YES 10 NO 3 ABSENT 1  
MOTION CARRIED FOR DO PASS AS AMENDED.**

**Representative Mark S. Owens will carry SB 2294.**

*Prepared for the House Finance & Taxation Committee by  
the North Dakota Office of State Tax Commissioner  
March 21, 2011*

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2294**

Page 1, line 5, remove “inspection of property,”

Page 3, remove lines 21 through 24

Page 4, line 26, after “3.” remove “An exterior and interior inspection of each residential or commercial building, structure.”

Page 4, remove lines 27 through 31

Page 5, remove lines 1 through 4

Page 5, line 5, remove “4.”

Renumber accordingly

Date: 3-21-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2294

House Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Wrangham Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

VOICE VOTE  
MOTION CARRIED.

March 21, 2011

YK  
3/21/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2294

Page 1, line 5, remove "inspection of property,"

Page 3, remove lines 21 through 24

Page 4, remove lines 26 through 31

Page 5, remove lines 1 through 4

Page 5, line 5, replace "4," with "3."

Renumber accordingly



Date: 3-21-11  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2294

House Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Grande Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	<input checked="" type="checkbox"/>		Scot Kelsh	<input checked="" type="checkbox"/>	
Vice Chair. Craig Headland	<input checked="" type="checkbox"/>		Shirley Meyer	<input checked="" type="checkbox"/>	
Glen Froseth		<input checked="" type="checkbox"/>	Lonny B. Winrich	<input checked="" type="checkbox"/>	
Bette Grande	<input checked="" type="checkbox"/>		Steven L. Zaiser		<input checked="" type="checkbox"/>
Patrick Hatlestad	<input checked="" type="checkbox"/>				
Mark S. Owens	<input checked="" type="checkbox"/>				
Roscoe Streyle	<input checked="" type="checkbox"/>				
Wayne Trottier	<input checked="" type="checkbox"/>				
Dave Weiler		<input checked="" type="checkbox"/>			
Dwight Wrangham	<input checked="" type="checkbox"/>				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Owens

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

**REPORT OF STANDING COMMITTEE**

**SB 2294, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2294 was placed on the Sixth order on the calendar.

Page 1, line 5, remove "inspection of property,"

Page 3, remove lines 21 through 24

Page 4, remove lines 26 through 31

Page 5, remove lines 1 through 4

Page 5, line 5, replace "4." with "3."

Renumber accordingly

2011 TESTIMONY

SB 2294

# ND Assessment Officials

A

## Number of Persons Certified

00-Feb-11

78	Directors of Tax Equalization
43	Class I city assessors
25	Class II city assessors
217	Township assessors
520	Township and Class II city assessors
167	Assessors with no certification
<u>1050</u>	Total

<u>Required</u>	<u>Actual</u>
53 Director positions,	44 are certified
13 Class I city assessors,	12 are certified
39 Class II city assessors,	39 are certified
277 Township assessors,	277 are certified
461 Township and Class II city assessors,	443 are certified



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

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**SENATE FINANCE AND TAXATION COMMITTEE**  
**SENATOR DWIGHT COOK, CHAIRMAN**

**Senate Bill 2294**  
**February 9, 2011**

**Testimony from Tax Commissioner Cory Fong**

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I appear before your committee in support of Senate Bill (SB) 2294.

While our assessment process in North Dakota has its strengths, it has its weaknesses, too. And, every assessment cycle, those weaknesses become more apparent to me.

During my time as Tax Commissioner and as a member of the State Board of Equalization (SBOE), which includes the Governor, State Auditor, State Treasurer, and the Commissioner of Agriculture, I have seen a number of cases when the valuation system and assessment process itself has appeared broken to the point where it is eroding confidence in the system. And, despite the great efforts of local assessment officials, their hands are often tied by outdated laws, regulations, practices, and limited resources.

Unfortunately, this growing lack of confidence has, in many ways, diminished all the good work we have done in the past several years and the last two legislative sessions to deliver meaningful and substantive property tax relief.

Over the course of the last year, I have worked closely with the prime sponsor of SB 2294, Senator Dwight Cook, meeting numerous times with him along with the staff of the Tax Department, discussing ways that would improve and strengthen our assessment process and valuation system in the state.

In late summer of 2010, we expanded our efforts and broadened the discussion by forming a working group of stakeholders, which included representation from the North Dakota Association of Counties, the North Dakota League of Cities, the North Dakota Township Officers Association, and the North Dakota Association of Assessing Officials.

The ideas and concepts we developed that are reflected in SB 2294:

- Preserve our current system in North Dakota of locally controlled assessment through township, city, and county assessment officials
- Avoid local valuation and spending caps
- Introduce long-overdue accountability measures

Please let me spend just a few minutes summarizing the major components and ideas of SB 2294, which is attached for your reference.

Before turning it over to Marcy Dickerson, State Supervisor of Assessments, to offer a more technical overview of the bill, let me just add that SB 2294 is by and large the work product of Senator Cook, the staff of the Tax Department, the working group of stakeholders, and me. I might add that a lot of time and thoughtful effort, sometimes over numerous meetings and discussions, went into the end product, which has taken the form of SB 2294.

And, while SB 2294 is our approach, it is only one approach. In other words, I fully recognize there are other valid ideas for improving our state's assessment process and valuation system and maybe even better ways of going about it, some of which will be offered today. And all of them should be considered as this discussion goes forward during this legislative process. I see this as a work in progress and today you are looking at the first step toward that progress.

The former Executive Director of the Federation of Tax Administrators, Jim Eads, spoke to a group of state tax administrators at a meeting I attended a couple of years ago and he said something that really resonated with me. He said, "In order for a tax to be effective, it has to pass a very basic test. A tax has to 'feel' fair." In other words, taxpayers have to believe the tax is fair and equitable. They may still not like the tax or appreciate having to pay it, but the tax still needs to "feel" fair.

I think we've gotten to a point in North Dakota, due to our valuation system and assessment process, that some believe that property taxes in North Dakota no longer "feel" fair. That's why I believe the time has come to have a broader discussion about these weaknesses and how they may be overcome administratively, through improved procedures or policies, and through the legislation you have before you. And, it is especially important considering the investment the state has made in the last several sessions to provide substantive and meaningful property tax relief to North Dakota citizens.

I look forward to working with the Senate Finance and Taxation Committee, the assessment community, along with other stakeholders to improve SB 2294 to ensure the best end product for all interested parties, especially North Dakota taxpayers and property owners. North Dakota taxpayers deserve a property tax system that "feels" fair and is fair.

Thank you for your consideration.



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

**MAJOR COMPONENTS AND IDEAS OF  
SENATE BILL 2294  
TO IMPROVE THE ASSESSMENT PROCESS**

**“New” Assessments Replace Outdated/Inadequate “Reassessments”**

Replaces the outdated and inadequate “reassessment” process provided by current law with an updated process for ordering and conducting large-scale “new” assessments with deadlines and timelines that incorporate appropriate and realistic timelines for getting the assessment work done and provides for an appeals process to the county board of equalization and the SBOE.

(Sections 1, 5, 6, and 10)

**New and Expanded Authority to the State Board Of Equalization (SBOE)**

Provides new and expanded authority to the SBOE to ensure equalization is taking place throughout the state and among jurisdictions by granting the SBOE the authority to:

- Determine the classification and taxable status of property, upon receiving information about a specific property that may be classified or taxed erroneously or upon appeal from a taxpayer.
- Equalize classification and taxable status of property between assessment districts of the same county and between the different counties of the state.
- Correct the classification and taxable status of real property in any assessment district in a county and every county in which the classification or taxable status is incorrect or inequitable.
- Order reviews of selected properties by the Tax Commissioner, State Supervisor of Assessments, or their designee, to verify the accuracy of real property assessment listings, valuations, classifications, taxable status, and eligibility for exemptions and make necessary corrections, or direct the affected township, city, or county governing body to make corrections.
- Require the county to revalue each property that has been reclassified by the SBOE.
- Establishes a clear legal remedy for the SBOE to pursue if a county or county official fails to take action ordered by the SBOE.

(Sections 6, 7, 8, and 10)

### **Enhanced Record Keeping**

Improves and expands record keeping procedures for local assessment officials by requiring:

- Property records to be kept by the appropriate assessment official for each parcel of taxable property.
- Local assessment officials to provide copies of all property records to their County Director of Tax Equalization, which must be retained and maintained by the county in a database for ten years. There is an exception for cities with populations of 5,000 or more, which are responsible for maintaining their own records according to the law.
- Property records to be made available, upon request, to any person.

(Section 3)

### **Certificate Suspension and Revocation**

Provides for the suspension or revocation of a local assessment official's certificate by the Tax Commissioner, upon petition of the State Supervisor of Assessments and following a hearing, when good cause is shown that the certificate holder has failed, or is failing, to comply with the law or perform his or her duties as provided by law. The certificate may also be reinstated. During the time a certificate holder's certificate is suspended or revoked, the continued responsibility for administration of property assessment in a county, city, or township, would be borne by the county, by a person authorized to perform those duties according to the law. The associated expenses would be billed to the appropriate political subdivision via a deduction from their regular county distribution.

(Section 2)

### **Exterior and Interior Property Inspections Every 10 Years**

Requires local assessment officials, or their representatives, to conduct exterior and interior inspections of each residential or commercial building, structure, or other improvement to property in their jurisdiction not less than once every ten years. Political subdivisions that are unable to meet the 10-year requirement would be allowed to submit a 5-year assessment maintenance plan to the State Supervisor of Assessments.

(Section 3)

### **Joint Powers Agreements For Assessment/Valuation Purposes**

Encourages cities and townships to enter into joint powers agreements with counties for the purposes of cooperation or joint administration of any power or function related to property classification, valuation, assessment, collection, exemption determination, equalization, or general administration.

(Section 4)





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

**REVIEW OF SENATE BILL 2294**

**SECTION 1**

Amends subsection 7 of section 57-01-02. This is a technical correction to replace “reassessment” with “new assessment” to correspond with changes to chapter 57-14.

**SECTION 2**

Adds a new subsection to section 57-01-05 to provide for suspension or revocation of a certificate issued by the state supervisor of assessments under chapter 11-10.1, if the holder fails to comply with any provisions of title 57 pertaining to assessments or any rules prescribed by the tax commissioner. Provides for a hearing upon not less than ten days’ notice. If cause to suspend or revoke is shown, the tax commissioner may suspend or revoke a certificate. The tax commissioner may restore a certificate after suspension or revocation.

Provides that if a certificate holder’s certificate is suspended, the county governing body shall ensure continued administration of assessments within that county by a person authorized under section 11-10.1-05 and be responsible for any expenses associated with the fulfillment of this responsibility. Expenses incurred by a county to fulfill the duties of a township or city assessment official whose certificate has been suspended or revoked must be charged to the political subdivision in which the certificate holder is employed and must be deducted by the county treasurer from funds apportionable to the subdivision.

**SECTION 3**

Amends section 57-02-11 to add requirements that certified assessment officials list and assess property as follows:

An individual property record must be kept by the appropriate assessment official for each parcel of taxable property.

Assessors must provide copies of all property records to the county director of tax equalization.

The tax director shall include those records in a county database of taxable property and maintain the database in that office for ten years from the date the records were received from the assessors.

A city with a population of 5,000 or more may elect to maintain the records on behalf of the county, and must include the records in a city database of taxable property to be maintained in the office of city assessor for 10 years from the assessment date.

The records in the possession of a county or city must be made available, upon request, to any person.

An exterior and interior inspection of each residential or commercial building, structure, or other improvement to property must be made by the assessor or assessor's representative not less than once every ten years.

If a political subdivision is not able to comply with the ten year timeline, the political subdivision must submit to the state supervisor of assessments for approval a five year valuation and assessment maintenance plan.

Amends former subsection 2 (now subsection 4) to replace "injured" with "damaged".

#### **SECTION 4**

Creates section 57-02-50 to provide that townships, cities, and counties may enter into joint powers agreements for cooperation or joint administration of any power or function related to property tax classification, valuation, assessment, collection, exemption determination, equalization, or general administration.

#### **SECTION 5**

Amends subsection 3 of section 57-12-06 to provide that an owner of property which has been subjected to a "new assessment" under section 57-14-08 (change from existing "reassessment") may appeal to the state board of equalization.

#### **SECTION 6**

Amends section 57-13-04 as follows:

In subsection 3, changes the word "taxpayer" to "owner of the property".

Provides that the state board of equalization does not have authority to reduce a new assessment provided for under section 57-14-08 unless the taxpayer has first appealed the assessment to the county board of equalization in the county in which the property was assessed.

Subsection 4 gives the state board of equalization authority to equalize the classification and status of real property in any assessment district in a county and every county in which the board determines the classification or status with regard to exemption is incorrect or inequitable.

The board may equalize property under this subsection if information is received indicating that property within the assessment district or county is erroneously classified or the property's taxable status is incorrect.

The board may also equalize property under this subsection if a property owner has first appealed the property's classification or taxable status determination to the local equalization board and to the county board of equalization of the county in which the property is situated.

Subsection 5 provides for review of selected properties by the tax commissioner, state supervisor of assessments, or their designee, to verify the accuracy of real property assessment listings, valuations, classifications, and eligibility for exemptions. The state board of equalization must examine the reviews at its annual meeting in August. The board may make necessary corrections, or direct the affected township, city, or county governing body to make corrections.

Subsection 6 provides the board may prescribe rules and regulations necessary and advisable for the detailed administration of and compliance with this section.

Subsection 7 provides that if any county or county official fails to take action ordered by the state board of equalization under the authority granted to it in this chapter or chapter 57-02, the board may petition any judge of the district court to issue a restraining order, writ of mandamus, or other form of declaratory or injunctive relief requiring the county or county official to comply with the order of the board. The judgment must include costs in favor of the prevailing party.

#### **SECTION 7**

Amends section 57-13-05 to add determination of classification or determination of taxable status to subjects for which any board of county commissioners, city council, board of city commissioners, township supervisors, representative groups of taxpayers or taxpayers' associations, or any individual representing the same, may be heard in opposition to a determination by a county board of equalization or a change proposed by the state board of equalization.

#### **SECTION 8**

Amends section 57-13-07 to require the secretary of the state board of equalization to include in the abstract of proceedings for each county, information that will enable the county auditor to make corrections to the valuation or classification of taxable property or status with regard to exemption of property in the auditor's county.

#### **SECTION 9**

Amends section 57-13-08 to require the county auditor to revalue each tract or lot of real property that is reclassified by the state board of equalization using the proper valuation method for the class of taxable property specified by the board. The county auditor shall adjust the status

of a tract or lot to comply with any determination made by the board in which the tract or lot is found by the board to be taxable or exempt.

### **SECTION 10**

Amends section 57-14-08 to change "general reassessment" to "new assessment" of property. Defines "new assessment" as an assessment ordered by a board of county commissioners or the tax commissioner of any class of property, or of all property, located within an political subdivision of the county if, in the opinion of either the board of county commissioners or the tax commissioner, taxable property located within a subdivision has escaped assessment in whole or in part, has been assessed unfairly, or has not been assessed according to law.

Provides that the state board of equalization or the tax commissioner may order a new assessment of any class of property or all property located in any political subdivision. The new assessment must be conducted under the terms and conditions as set forth in the state board of equalization's or tax commissioner's order. The local governing body responsible for the new assessment may petition the state board of equalization or tax commissioner for a modification of any or all of the order's terms and conditions, which may be granted for good cause shown.

Upon completion of the new assessment, the county auditor shall give notice that a meeting for the purpose of equalizing the assessment will be held on the day and at the time specified for the meeting of the county board of equalization. (This provision replaces the existing provisions for a special board of equalization.)

Any property owner aggrieved by a decision of the county board of equalization with regard to a new assessment may appeal that decision to the state board of equalization at its August meeting, if the owner of the property has first appealed the new assessment to the county board of equalization of the county in which the property was assessed.



# North Dakota Farm Bureau

*Bringing ag home*

1101 1st Ave. N., Fargo, ND 58102  
P.O. Box 2064, Fargo, ND 58107-2064  
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503  
P.O. Box 2793, Bismarck, ND 58502-2793  
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

## Senate Finance & Taxation Committee

*February 9, 2011*

### SB 2294 Testimony by North Dakota Farm Bureau

Good morning, Mr. Chairman and members of the committee. For the record, my name is Eric Aasmundstad. I am a farmer from Devils Lake and president of North Dakota Farm Bureau.

Farm Bureau stands in support of SB 2294. As we see it, this bill brings clarification to the process of property tax assessment and should make the system more equitable within taxing districts and across the state.

We have always subscribed to the premise that property tax is a local tax and should be administered locally. However, the legislature is charged with establishing the assessment process and setting the parameters, like classifications, exemptions and levy limitations.

This bill does not impede local control in its ability to assess property and levy taxes; actually, this bill maintains local control.

What this bill does accomplish is uniformity of the assessment process across the state. We support the entire bill, but want to point out a couple provisions that we think are particularly important.

First, it allows for the removal of township, county or city tax assessors that are not doing their job properly. We do recognize that we may have a few local assessors out there who may not be as qualified as we would like them to be. It's difficult to find people who are interested in taking on the responsibility of being a township assessor. In most cases, additional education would improve the problem areas.

While we defend that any removal should be done on a local level, we recognize that is often difficult to do so because of close relationships and personalities involved. This bill does not negate the ability of local officials to replace ineffective or unqualified assessors, but the state can step in if it deems necessary.

*(over)*

We also like the provisions that require new assessments every ten years. Because of the ag productivity formula, agricultural property is reassessed every single year. The same should be true for other classes of property. Unfortunately, when new assessments are grossly out-dated and inconsistent within a taxing district, someone else is picking up the tab for those under-assessed properties.

At the same time, when taxing districts do not reassess on a regular basis, they can make themselves "property poor" from the standpoint of the school funding formula. Property rich school districts, which are mainly rural districts with ag property, are penalized. The property poor-property rich school districts could be different if all districts were reassessed in a timely manner.

Finally, when taxing districts are not current with reassessment and then mass reappraisal is undertaken in a community, the valuation increases are astronomical. It's better policy to have gradual increases over time, than one huge valuation increase in one year.

We would like to request an amendment on page 4, lines 23-28. This section provides for interior and exterior inspection of the property. We do not have a problem with the inspections themselves. However, we would like to request that language be included to specify that the assessor cannot enter the property without advance notice to the property owner. We also request that the property owner must be given the opportunity to be present when the inspection is conducted. Anything less is unlawful trespass.

Let me give you an example. One of our members told us that the woman was home alone on the farm. She saw a vehicle enter the farmyard and park beside the grain bin. She was frightened. After some time, the car left. She learned later that it was the tax assessor doing an exterior appraisal. This should not be allowed to happen. First, if this person was doing an appraisal of the farm home, he or she didn't do a very good job of it by inspecting the proper from afar. And secondly, government actions should not frighten citizens. Notification seems like common sense and courtesy. It should not have to be included in the law, but I guess times have changed and it appears to be necessary. We hope you can add language to rectify this possible situation.

We don't oppose the section on random reviews, but it will probably come with a hefty cost to the State Tax Department. I don't know where the money will from, but we would oppose charging the counties for this added cost.

SB 2294 is good step toward providing uniformity in the assessment process and will provide better equalization of assessments across the state.

We encourage you to give SB 2294 a "do pass" recommendation. Thank you and I would entertain any questions you might have.

**Testimony to the Senate Finance and Taxation Committee,**

**Chairman Senator Cook**

2011

Kevin Ternes, City Assessor

City of Minot

kevin.ternes@minotnd.org

Senate Bill 2294

Mr. Chairman, for the record my name is Kevin Ternes and I am the City Assessor in Minot. I would like to speak in favor of SB2294. In my opinion, this is a reasonable step towards improving the property assessment process in North Dakota. Among other requirements, it would give the state more oversight of the local assessment offices and allow for the state board of equalization to take additional action in cases where equalization and clarification of classifications of property are required.

The bill relates directly to assessors because for those that aren't doing the duties required of them, there are penalties in this bill as a recourse. The bill also requires all property to be physically reviewed at minimum every 10 years. For those jurisdictions that are unable to comply, a 5 year plan of review must be submitted. Of course I would like the committee to realize that not everyone allows access to their home/building/property so a certain percentage of parcels will have to be estimated from the street/road.

I would expect the cost of this bill could be significant for some assessment offices, as I believe that this bill will force many county and city property assessment offices to request additional resources from elected officials that may include both extra staff and funding for software and additional training. It should be noted, there is no way the majority of the assessors will be able to comply with this proposal with their current budgets. In my opinion, the majority of assessment offices have been underfunded, undertrained, and undermanned for quite some time. Additional resources for assessment offices in my opinion are a good investment. This bill probably will require the state tax department to ask for additional resources also as they will be doing random auditing and to do that, I believe tax department staff will have to be increased and additional training in appraisal of property to include becoming familiar with the assessment of large commercial properties and the use of statistical programs used by assessors in larger cities they may or may not be familiar with. In short, investments in assessor offices will be required of cities, counties and the state which is a good thing.

Regarding the expense of assessments now....in Minot, our office assessed over 2.5 billion in property valuation which translates to about 117 million in taxable valuation for an estimated 38 million in property taxes. The Minot City Assessor's office has a budget for 2011 of \$352,000 or about 1% of that 38 million. That's a pretty good cost ratio in my opinion and we could comply with a 100% of this requirement with one additional staff person.

We all know that schools, cities, counties, and park districts rely on property taxes as one of their sources of revenue to provide local service to their citizens. Therefore, the True and Full Value of each parcel of property is very important and needs to be calculated properly and with relation to the assessed value that is required by current state statute. I think we all realize that this might not be the case right now in 100% of the state to include both rural and urban areas.

A fair, equitable, and reasonably accurate True and Full value of each parcel of property is the first step in determining the property tax on real estate and this is the assessor's responsibility to determine. It's proper for the citizens of the entire state to expect their True and Full value actually meets the state's definition of True and Full value as it relates to agricultural, commercial or residential property. We may all have different ideas or suggestions on how to improve the process of arriving at this reasonable estimate of True and Full Value and our office would certainly be open to those suggestions if there are some amendments that would be forthcoming as long as it made the assessment process more professional, accurate, and equitable to all citizens in the state.

Thank you for your consideration.



Written Testimony on Senate Bill 2294  
Senate Finance and Taxation Committee  
Chairman Senator Dwight Cook  
By Frank Klein, Cass County Director of Equalization  
February 9<sup>th</sup>, 2011

Mr. Chairman and members of the Senate Finance and Taxation Committee; my name is Frank Klein and I am the Director of Equalization for Cass County.

It would appear that this bill is intended to increase the professionalism of the assessment function, of which I am in favor. I find the reassessment portions of the bill to be a positive change.

However, I have concerns about certain parts of this bill. I believe that the section regarding the revocation of an assessor's certificate as currently written is unfair both to the holder of the certificate and the political subdivision. If the competency of assessors is an issue, then the education requirements should be increased. The property tax division should be providing the needed educational and technical assistance to the local assessor.

I am not in favor of expanding the powers of the state board of equalization regarding classification and exemption. It has been my experience over a period of 26 years that county boards of equalization are in the best position to properly make these determinations. Decisions of the board of county commissioners regarding abatement of taxes are reviewable by the courts. If the goal is to have more uniformity across the state, I believe that the best option is for the state tax department to provide more guidelines, adopt administrative rules, provide increased training, and to provide technical resources to assessors regarding assessment issues.

There of course will be increased costs to local governments to comply with the proposed legislation.

Thank you for your consideration.

**Written Testimony on Senate Bill 2294  
Senate Finance and Taxation Committee  
Chairman, Honorable Senator Dwight Cook  
by Ben Hushka, Fargo Assessor  
February 9, 2011**

Mr. Chairman and members of the Senate Finance and Taxation Committee, my name is Ben Hushka. I am the City Assessor for Fargo.

The official position taken by the Fargo City Commission is to oppose this bill in its current form. However, we do support the intention of the bill to improve on assessment practices in the state. That can only benefit both taxpayers and assessors alike. I have included suggested items for consideration of an amendment to this bill that address some of our concerns.

One requirement of the bill is for assessors to inspect every building and improvement at least every ten years. There has been much research and advancement in assessment techniques over the years implementing geographic information systems, oblique imagery, statistical tools, and automated valuation modeling. Many of the larger jurisdictions in the country use these modern tools in lieu of interior physical inspections in reappraisal areas and achieve similar or better quality results on a much greater number of properties. This not only assures a much more effective allocation of resources but also allows more ability for technical analysis and immediate reaction to the more difficult valuation issues. These can include rapidly changing market conditions, foreclosure sales, and the appraisal of low income housing or contaminated properties, to name a few.

My suggested amendment includes the ability for assessors who are able, to utilize new appraisal and assessment techniques in periodic updates over more traditional methods where applicable.

There is a very diverse makeup of assessment offices in the state. They include township assessors with very little training and experience and extremely few parcels as well as departments with experienced, certified, and/or licensed staff with thousands of parcels. Some measures of the bill are necessary to improve assessment practices in some offices but may very well hinder advancements some offices have made or may create in the future.

Although not included in the recommended items for amendment, I would also like to suggest additional methods of enhancing the professionalism, work product, credibility and the public trust of assessors.

I have been with the Fargo Assessment Department for close to 35 years. I have been a member of the International Association of Assessing Officers for most of that time. I have also held the Certified General Real Property Appraisal license from the North Dakota Appraisal Board since national appraisal standards and licensing came into being under passage of the Federal law known as, *Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA)*, in the wake of the savings and loan crisis of the 1980's. I co-authored the document which was adopted by the North Dakota Appraisal Board that spells out the means by which mass appraisal experience and education can be reported and recognized for state appraiser licensure. I have also served on the certification committee that deals with the certification of North Dakota assessment officials. I have more than just a casual interest in this topic and am aware of measures taken over the years in both the public and private sector dealing with the professionalism of appraisers and assessors.

Other states as well as professional appraisal organizations have continually adopted measures over the years to address issues of concern relating to the credibility and public trust of appraisers and assessors. Those measures have included increased requirements to become certified and to maintain certification. They also include the adoption or development of appraisal and assessment standards and extensive, continually updated,

guidelines dealing with innumerable appraisal specific topics and issues. Finally, to assist appraisers and assessors in complying with those standards, numerous educational offerings have been and are continually being made available as new concerns, research, and technologies occur.

I believe that a study should be done of the current certification requirements for North Dakota assessment officials. I feel additional and more timely educational offerings should be provided to assessors at reasonable costs. Many smaller jurisdictions are unable to afford the offerings by the national appraisal organizations. And finally, I believe that a clearly defined set of appraisal and assessment standards should be adopted along with continued training in the understanding of and compliance with those standards.

That concludes my testimony. Thank you for your consideration.

## Suggested Amendments To Senate Bill 2294

- A. Page 4, Lines 21-22 - Strike the words, "The records in the possession of a county or city must be made available, upon request, to any person."  
a. This is already covered under open records laws.
- B. Page 4, Line 23 - After the words, "exterior and interior inspection" add the words "or updated appraisal, using accepted mass appraisal methodology,".
- C. Page 4, Line 23 - After the word "each", insert the word "improved".
- D. Page 4, Line 23 - Strike the word "or" and replace with the word "and".
- E. Page 4, Lines 23-24 - Strike the words "building, structure, or other improvement of".  
a. Items B., C., D., & E. call for updated appraisals, by accepted methods, on all improved residential and commercial properties at least every 10 years.  
b. Resulting Language: "An updated appraisal, using accepted mass appraisal methodology, of each improved residential and commercial property must be made by the assessor or assessor's representative not less than once every ten years."
- F. Page 4, Line 27 - Strike the words "a five year valuation and" and insert the words "an alternative".  
a. Allows for flexibility in proposed reappraisal alternatives.  
b. Resulting Language: "If a political subdivision is not able to comply with the ten year timeline required under this subsection, the political subdivision must submit an alternative assessment maintenance plan to the state supervisor of assessments for approval."
- G. Page 6, Line 22 - Strike the word "taxpayer's" and insert the words "owner of the property's".  
a. Provides for consistent language within the subsection.  
b. Resulting Language (partial): "...or other communication to the board in which the owner of the property's reasons for asking for the reduction are made known to the board."
- H. Page 9, Line 22 - After the words "county auditor", insert " , or their designee."  
a. Allows for the auditor's assigned responsible party to implement equalized changes from the board.  
b. Resulting Language (partial): "Upon receipt of the report of the proceedings of the state board of equalization, the county auditor, or their designee, shall add to or deduct from each tract..."



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

**HOUSE FINANCE AND TAXATION COMMITTEE**  
**REPRESENTATIVE WES BELTER, CHAIRMAN**

**Senate Bill 2294**  
**March 8, 2011**

**Testimony from Tax Commissioner Cory Fong**

I appear before your committee in support of Senate Bill (SB) 2294.

While our assessment process in North Dakota has its strengths, it has its weaknesses, too. And, every assessment cycle, those weaknesses become more apparent to me.

During my time as Tax Commissioner and as a member of the State Board of Equalization (SBOE), which includes the Governor, State Auditor, State Treasurer, and the Commissioner of Agriculture, I have seen a number of cases when the valuation system and assessment process itself has appeared broken to the point where it is eroding confidence in the system. And, despite the great efforts of local assessment officials, their hands are often tied by outdated laws, regulations, practices, and limited resources.

Unfortunately, this growing lack of confidence has, in many ways, diminished all the good work we have done in the past several years and the last two legislative sessions to deliver meaningful and substantive property tax relief.

Over the course of the last year, I have worked closely with the prime sponsor of SB 2294, Senator Dwight Cook, meeting numerous times with him along with the staff of the Tax Department, discussing ways that would improve and strengthen our assessment process and valuation system in the state.

In late summer of 2010, we expanded our efforts and broadened the discussion by forming a working group of stakeholders, which included representation from the North Dakota Association of Counties, the North Dakota League of Cities, the North Dakota Township Officers Association, and the North Dakota Association of Assessing Officials.

The ideas and concepts we developed that are reflected in SB 2294:

- Preserve our current system in North Dakota of locally controlled assessment through township, city, and county assessment officials
- Introduce long-overdue accountability measures

Please let me point you to a summary of SB 2294 titled **Major Components and Ideas of SB 2294**, which is attached for your reference.

Before turning it over to Marcy Dickerson, State Supervisor of Assessments, to offer a more technical overview of the bill, let me just add that SB 2294 is by and large the work product of Senator Cook, the staff of the Tax Department, the working group of stakeholders, and me. I might add that a lot of time and thoughtful effort, sometimes over numerous meetings and discussions, went into the end product, which has taken the form of SB 2294.

And, while SB 2294 is our approach, it is only one approach. In other words, I fully recognize there are other valid ideas for improving our state's assessment process and valuation system and maybe even better ways of going about it, some of which will be offered today. And all of them should be considered as this discussion goes forward during this legislative process. I see this as a work in progress and today you are looking at the first step toward that progress.

The former Executive Director of the Federation of Tax Administrators, Jim Eads, spoke to a group of state tax administrators at a meeting I attended a couple of years ago and he said something that really resonated with me. He said, "In order for a tax to be effective, it has to pass a very basic test. A tax has to 'feel' fair." In other words, taxpayers have to believe the tax is fair and equitable. They may still not like the tax or appreciate having to pay it, but the tax still needs to "feel" fair.

I think we've gotten to a point in North Dakota, due to our valuation system and assessment process, that some believe that property taxes in North Dakota no longer "feel" fair. That's why I believe the time has come to have a broader discussion about these weaknesses and how they may be overcome administratively, through improved procedures or policies, and through the legislation you have before you. And, it is especially important considering the investment the state has made in the last several sessions to provide substantive and meaningful property tax relief to North Dakota citizens.

I look forward to working with the House Finance and Taxation Committee, the assessment community, along with other stakeholders to improve SB 2294 to ensure the best end product for all interested parties, especially North Dakota taxpayers and property owners. North Dakota taxpayers deserve a property tax system that "feels" fair and is fair.

Thank you for your consideration.



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STATE OF NORTH DAKOTA  
**OFFICE OF STATE TAX COMMISSIONER**

Cory Fong, Commissioner

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**MAJOR COMPONENTS AND IDEAS OF  
SENATE BILL 2294  
TO IMPROVE THE ASSESSMENT PROCESS**

**“New” Assessments Replace Outdated/Inadequate “Reassessments”**

Replaces the outdated and inadequate “reassessment” process provided by current law with an updated process for ordering and conducting large-scale “new” assessments with deadlines and timelines that incorporate appropriate and realistic timelines for getting the assessment work done and provides for an appeals process to the county board of equalization and the SBOE.

(Sections 1, 4, 5, and 9)

**New and Expanded Authority to the State Board Of Equalization (SBOE)**

Provides new and expanded authority to the SBOE to ensure equalization is taking place throughout the state and among jurisdictions by granting the SBOE the authority to:

- Determine the classification and taxable status of property, upon receiving information about a specific property that may be classified or taxed erroneously or upon appeal from a taxpayer.
- Equalize classification and taxable status of property between assessment districts of the same county and between the different counties of the state.
- Correct the classification and taxable status of real property in any assessment district in a county and every county in which the classification or taxable status is incorrect or inequitable.
- Order reviews of selected properties by the Tax Commissioner, State Supervisor of Assessments, or their designee, to verify the accuracy of real property assessment listings, valuations, classifications, taxable status, and eligibility for exemptions and make necessary corrections, or direct the affected township, city, or county governing body to make corrections.
- Require the county to revalue each property that has been reclassified by the SBOE.
- Establishes a clear legal remedy for the SBOE to pursue if a county or county official fails to take action ordered by the SBOE.

(Sections 5, 6, 7, 8 and 9)



### **Enhanced Record Keeping**

Improves and expands record keeping procedures for local assessment officials by requiring:

- Property records to be kept by the appropriate assessment official for each parcel of taxable property.
- Local assessment officials to provide copies of all property records to their County Director of Tax Equalization, which must be retained by the county for ten years. There is an exception for cities with populations of 5,000 or more, which are responsible for maintaining their own records according to the law.

(Section 3)

### **Certificate Suspension and Revocation**

Provides for the suspension or revocation of a local assessment official's certificate by the Tax Commissioner, upon petition of the State Supervisor of Assessments and following an investigation and hearing, when good cause is shown that the certificate holder has failed, or is failing, to comply with the law or perform his or her duties as provided by law. A certificate holder may appeal the suspension or revocation of his or her certificate to the District Court. A certificate may also be reinstated. During the time a certificate holder's certificate is suspended or revoked, the continued responsibility for administration of property assessment in a county, city, or township, would be borne by the county, by a person authorized to perform those duties according to the law. The associated expenses would be billed to the appropriate political subdivision via a deduction from their regular county distribution.

(Section 2)

### **Exterior and Interior Property Inspections Every 10 Years**

Requires local assessment officials, or their representatives, to conduct exterior and interior inspections of each residential or commercial building, structure, or other improvement to property in their jurisdiction not less than once every ten years. Political subdivisions that are unable to meet the 10-year requirement would be allowed to submit an assessment maintenance plan, which must be approved by the State Supervisor of Assessments.

(Section 3)



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

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**REVIEW OF ENGROSSED SENATE BILL 2294**

**SECTION 1**

Amends subsection 7 of section 57-01-02. This is a technical correction to replace "reassessment" with "new assessment" to correspond with changes to chapter 57-14.

**SECTION 2**

Adds a new subsection to section 57-01-05 to provide for suspension or revocation of a certificate issued by the state supervisor of assessments under chapter 11-10.1, if there is probable cause to believe the holder has failed to comply with any provisions of title 57 pertaining to assessments or any rules prescribed by the tax commissioner. Failure to gain entry to the interior of a commercial or residential building does not constitute cause for the state supervisor of assessments to petition the tax commissioner to revoke a certificate. Provides for a hearing upon not less than ten days' notice. If cause to suspend or revoke is shown, the tax commissioner may suspend or revoke a certificate. The tax commissioner may restore a certificate after suspension or revocation. A person whose certificate has been suspended or revoked may appeal to the district court.

Provides that if a certificate holder's certificate is suspended, the county governing body shall ensure continued administration of assessments within that county by a person authorized under section 11-10.1-05 and be responsible for any expenses associated with the fulfillment of this responsibility. Expenses incurred by a county to fulfill the duties of a township or city assessment official whose certificate has been suspended or revoked must be charged to the political subdivision in which the certificate holder is employed and must be deducted by the county treasurer from funds apportionable to the subdivision.

**SECTION 3**

Amends section 57-02-11 to add requirements that certified assessment officials list and assess property as follows:

An individual property record must be kept by the appropriate assessment official for each parcel of taxable property.

Assessors must provide copies of all property records to the county director of tax equalization.

The tax director shall maintain the records in that office for ten years from the date the records were received from the assessors.

A city with a population of 5,000 or more may elect to maintain the records on behalf of the county, and must include the records in a city database of taxable property to be maintained in the office of city assessor for 10 years from the assessment date.

An exterior and interior inspection of each residential or commercial building, structure, or other improvement to property must be made by the assessor or assessor's representative not less than once every ten years. If a property owner refuses to allow inspection or if the assessor or assessor's representative is otherwise unable to gain entry, that fact and the grounds for a lack of inspection must be noted on the property record.

If a political subdivision is not able to comply with the ten year timeline, the political subdivision must submit to the state supervisor of assessments for approval an alternate valuation and assessment maintenance plan.

Amends former subsection 2 (now subsection 4) to replace "injured" with "damaged".

#### **SECTION 4**

Amends subsection 3 of section 57-12-06 to provide that an owner of property which has been subjected to a "new assessment" under section 57-14-08 (change from existing "reassessment") may appeal to the state board of equalization.

#### **SECTION 5**

Amends section 57-13-04 as follows:

In subsection 3, changes the word "taxpayer" to "owner of the property".

Provides that the state board of equalization does not have authority to reduce a new assessment provided for under section 57-14-08 unless the taxpayer has first appealed the assessment to the county board of equalization in the county in which the property was assessed.

Subsection 4 gives the state board of equalization authority to equalize the classification and status of real property in any assessment district in a county and every county in which the board determines the classification or status with regard to exemption is incorrect or inequitable.

The board may equalize property under this subsection if information is received indicating that property within the assessment district or county is erroneously classified or the property's taxable status is incorrect.

The board may also equalize property under this subsection if a property owner has first appealed the property's classification or taxable status determination to the local

equalization board and to the county board of equalization of the county in which the property is situated.

Subsection 5 provides for review of selected properties by the tax commissioner, state supervisor of assessments, or their designee, to verify the accuracy of real property assessment listings, valuations, classifications, and eligibility for exemptions. The state board of equalization must examine the reviews at its annual meeting in August. The board may make necessary corrections, or direct the affected township, city, or county governing body to make corrections.

Subsection 6 provides the board may prescribe rules and regulations necessary and advisable for the detailed administration of and compliance with this section.

Subsection 7 provides that if any county or county official fails to take action ordered by the state board of equalization under the authority granted to it in this chapter or chapter 57-02, the board may petition any judge of the district court to issue a restraining order, writ of mandamus, or other form of declaratory or injunctive relief requiring the county or county official to comply with the order of the board. The judgment must include costs in favor of the prevailing party.

Subsection 8 provides that the board may order a new assessment of any class of property or all property in a political subdivision if, in its opinion, taxable property has escaped assessment or has been assessed unfairly.

#### **SECTION 6**

Amends section 57-13-05 to add determination of classification or determination of taxable status to subjects for which any board of county commissioners, city council, board of city commissioners, township supervisors, representative groups of taxpayers or taxpayers' associations, or any individual representing the same, may be heard in opposition to a determination by a county board of equalization or a change proposed by the state board of equalization.

#### **SECTION 7**

Amends section 57-13-07 to require the secretary of the state board of equalization to include in the abstract of proceedings for each county, information that will enable the county auditor to make corrections to the valuation or classification of taxable property or status with regard to exemption of property in the auditor's county.

#### **SECTION 8**

Amends section 57-13-08 to require the county auditor to revalue each tract or lot of real property that is reclassified by the state board of equalization using the proper valuation

method for the class of taxable property specified by the board. The county auditor shall adjust the status of a tract or lot to comply with any determination made by the board in which the tract or lot is found by the board to be taxable or exempt.

#### **SECTION 9**

Amends section 57-14-08 to change "general reassessment" to "new assessment" of property. Defines "new assessment" as an assessment ordered by a board of county commissioners, the tax commissioner, or the state board of equalization, of any class of property, or of all property, located within any political subdivision of the county if taxable property located within a subdivision has escaped assessment in whole or in part, has been assessed unfairly, or has not been assessed according to law.

Provides that the state board of equalization or the tax commissioner may order a new assessment and equalization of any class of property or all property located in any political subdivision. The new assessment must be conducted under the terms and conditions as set forth in the state board of equalization's or tax commissioner's order. The local governing body responsible for the new assessment may petition the state board of equalization or tax commissioner for a modification of any or all of the order's terms and conditions, which may be granted for good cause shown.

Upon completion of the terms and conditions of the new assessment order, the county auditor shall give notice that a meeting for the purpose of equalizing the assessment will be held on the day and at the time specified for the meeting of the county board of equalization. (This provision replaces the existing provisions for a special board of equalization.)

Any property owner aggrieved by a decision of the county board of equalization with regard to a new assessment may appeal that decision to the state board of equalization at its August meeting, if the owner of the property has first appealed the new assessment to the county board of equalization of the county in which the property was assessed.

**Testimony to the House Finance and Taxation Committee,  
Chairman Representative Belter**

2011

Kevin Ternes, City Assessor  
City of Minot  
kevin.ternes@minotnd.org

Senate Bill 2294

Mr. Chairman, for the record my name is Kevin Ternes and I am the City Assessor in Minot. I would like to speak in favor of SB2294. In my opinion, this is a reasonable step towards improving the property assessment process in North Dakota. Among other requirements, it would give the state more oversight of the local assessment offices and allow for the state board of equalization to take additional action in cases where equalization and clarification of classifications of property are required.

The bill relates directly to assessors because for those that aren't doing the duties required of them, there are penalties in this bill as a recourse. The bill also requires all property to be physically reviewed at minimum every 10 years. For those jurisdictions that are unable to comply, a 5 year plan of review must be submitted. Of course I would like the committee to realize that not everyone allows access to their home/building/property so a certain percentage of parcels will have to be estimated from the street/road.

I would expect the cost of this bill could be significant for some assessment offices, as I believe that this bill will force many county and city property assessment offices to request additional resources from elected officials that may include both extra staff and funding for software and additional training. It should be noted, there is no way the majority of the assessors will be able to comply with this proposal with their current budgets. In my opinion, the majority of assessment offices have been underfunded, undertrained, and undermanned for quite some time. Additional resources for assessment offices in my opinion are a good investment. This bill probably will require the state tax department to ask for additional resources also as they will be doing random auditing and to do that, I believe tax department staff will have to be increased and additional training in appraisal of property to include becoming familiar with the assessment of large commercial properties and the use of statistical programs used by assessors in larger cities they may or may not be familiar with. In short, investments in assessor offices will be required of cities, counties and the state which is a good thing.

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We all know that schools, cities, counties, and park districts rely on property taxes as one of their sources of revenue to provide local service to their citizens. Therefore, the True and Full Value of each parcel of property is very important and needs to be calculated properly and with relation to the assessed value that is required by current state statute. I think we all realize that this might not be the case right now in 100% of the state to include both rural and urban areas.

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The fair, equitable, and reasonably accurate True and Full value of each parcel of property is the first step in determining the property tax on real estate and this is the assessor's responsibility to determine. It's proper for the citizens of the entire state to expect their True and Full value actually meets the state's definition of True and Full value as it relates to agricultural, commercial or residential property. We may all have different ideas or suggestions on how to improve the process of arriving at this reasonable estimate of True and Full Value and our office would certainly be open to those suggestions if there are some amendments that would be forthcoming as long as it made the assessment process more professional, accurate, and equitable to all citizens in the state.

Thank you for your consideration.



# North Dakota Farm Bureau

*Bringing ag home*

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## House Finance & Taxation Committee

*March 8, 2011*

### SB 2294 Testimony by North Dakota Farm Bureau

Good morning, Mr. Chairman and members of the committee. For the record, my name Sandy Clark and I represent North Dakota Farm Bureau.

Farm Bureau stands in support of SB 2294. As we see it, this bill brings clarification to the process of property tax assessment and should make the system more equitable between taxing districts and across the state.

We have always subscribed to the premise that property tax is a local tax and should be administered locally. However, the legislature is charged with establishing the assessment process and setting the parameters, like classifications, exemptions and levy limitations.

This bill does not impede local control in its ability to assess property and levy taxes; actually, this bill maintains local control.

What this bill does accomplish is uniformity of the assessment process across the state. We support the entire bill, but want to point out a couple provisions that we think are particularly important.

First, it allows for the removal of township, county or city tax assessors that are not doing their job properly. We do recognize that we may have a few local assessors out there who may not be qualified as we would like them to be. It's difficult to find people who are interested in taking on the responsibility of being a township assessor. In most cases, additional education would improve the problem areas.

While we defend that any removal should be done on a local level, we recognize that is often difficult to do so because of close relationships and personalities involved. This bill does not negate the ability of local officials to replace ineffective or unqualified assessors, but the state can step in if it deems necessary.

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We also like the provisions that require new assessments every ten years. Because of the ag productivity formula, agricultural property is reassessed every single year. The same should be true for other classes of property. Unfortunately, when new assessments are grossly out-dated and inconsistent within a taxing district, someone else is picking up the tab for those under-assessed properties.

At the same time, when taxing districts do not reassess on a regular basis, they can make themselves "property poor" from the standpoint of the school funding formula. Property rich school districts, which are mainly rural districts with ag property, are penalized. The property poor/property rich school districts could be different if all districts were reassessed in a timely manner.

Finally, when taxing districts are not current with reassessment and then mass reappraisal is undertaken in a community, the valuation increases are astronomical. It's better policy to have gradual increases over time, than one huge valuation increase in one year.

We would like to request an amendment on page 4, beginning on line 26. This section provides for interior and exterior inspection of the property. We do not have a problem with the inspections themselves. However, we would like to request that language be included to specify that the assessor cannot enter the property without advance notice to the property owner. We also request that the property owner must be given the opportunity to be present when the inspection is conducted. Anything less is unlawful trespass.

Let me give you an example. One of our members told us that the woman was home alone on the farm. She saw a vehicle enter the farmyard and park beside the grain bin. She was frightened. After some time, the car left. She learned later that it was the tax assessor doing an exterior appraisal. This should not be allowed to happen. First, if this person was doing an appraisal of the farm home, he or she didn't do a very good job of it. And secondly, government actions should not frighten citizens. Notification seems like common sense and courtesy. It should not have to be included in the law, but I guess times have changed and it appears to be necessary. We hope you can add language to rectify this possible situation.

We don't oppose the section on random reviews, but it will probably come with a hefty cost to the State Tax Department. I don't know where the money will from, but we would oppose charging the counties for this added cost.

SB 2294 is good step toward providing uniformity in the assessment process and will provide better equalization of assessments across the state.

We encourage you to give SB 2294 a "do pass" recommendation. Thank you and I would entertain any questions you might have.