

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/16/2015**

Bill/Resolution No.: HB 1354

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

If enacted, HB 1354 will prohibit increasing agricultural land assessments by more than ten percent above the previous year's assessment.

- 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.*

Equalization is a method required by law to adjust assessments to be consistent with the value of agricultural productivity or market value. Commercial and residential properties are required to be equalized using market value. The State Board of Equalization has the responsibility of equalizing assessments among counties and assessment districts of the state.

Agricultural assessments totaled approximately thirty percent of the state's taxable valuation in 2014. Any limiting of assessment increases to a fixed percentage will create assessments that have not been equalized to market value or productivity. This limit may create inequity in assessments and shift the property tax burden to remaining classes of property. The amount of property taxes that may be shifted from agricultural to residential and commercial properties cannot be determined.

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/22/2015

**2015 HOUSE FINANCE AND TAXATION**

**HB 1354**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1354

2/2/2015

22973

- ☐ Subcommittee  
☐ Conference Committee

*Amanda Musola*

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

A Bill relating to limitation of increases in property assessments for property tax purposes.

### Minutes:

Attachment #1, 2, 3, 4

Vice Chairman Owens: Opened hearing.

Representative Paur: Introduced bill. Provided written testimony. See attachment #1.

Vice Chairman Owens: You're limiting agricultural land to 10% increase annually, no more than that, in this true value. Technically that would be the same type of land, everybody is treated the same. I am concerned that it creates a problem in the definition of taxation on true and full value that the courts made the state do. When you said the counties can still raise the mills anything they want but it would be limited to 10%.

Representative Paur: It would not be limited. You could pay 100 this year and 200 next year on a piece of property in taxes. It doesn't limit that, it limits how much the evaluation goes up.

Vice Chairman Owens: But that would affect the taxes you pay.

Representative Paur: Yes it will affect that taxes but it doesn't affect the income of the counties.

Vice Chairman Owens: It does.

Representative Paur: I can't see where it would.

Vice Chairman Owens: That is my concern, if the mills rise to a certain level and you limit the taxable value of the property, then the mills are still against that taxable value, that's true, but had it been at its maximum value than that amount is what they were expecting and that is the tax shift to other types of property. It would eliminate true and full value and allow mills to rise at any amount because you would have to limit both in order to accomplish what you are trying to do.

Representative Paur: If you're limiting mills then you're going to have the counties against it. The county is supposed to come up with a budget then it goes to the tax assessor and they turn around and levy the mills needed to reach that budget.

Vice Chairman Owens: Yes based on true and full value of all the property of the county

Representative Paur: Yes.

Vice Chairman Owens: If you restrict true and full value you alter that calculation.

Representative Paur: I don't really see how.

Vice Chairman Owens: That was just my concern.

Representative Steiner: There was a concern that may create inequity and the vice chairman touched on that when you shift property tax for other classes of property. Do you know how that would all work?

Representative Paur: With the other classes of property?

Representative Steiner: Will they be able to come in and ask for limits as well in the future?

Representative Paur: The number of the bill is 0200 at the end, there was an 01000 version had limits on increases on all property evaluations of 10% and then in further discussion with Walsted that is where we came up with that it wouldn't work in all instances. This cap would only work on agricultural land. It is arbitrary. It won't solve any problems with the evaluation and the people that are but it would make the increases or decreases restricted to 10% a year.

Vice Chairman Owens: Is there any support of HB 1354? Is there any opposition to 1354?

Allan Vietmeier, Burleigh County Tax Director: Provided testimony in opposition. See attachment #2.

Representative Trottier: Did you and your county see any of these wild increases in values?

Allan Vietmeier: In my county we have been use the sole survey since the 80's so we aren't seeing shifts in these values but we are still seeing increases upwards of about 10%, so if you put a cap of 10% on value and this year I leave 5% on the table next year my increases need to go up 15% and you put a 10% cap on, now I am 10% in the whole and pretty soon I will not be able to get out of the whole because I will always be bellows what the annual increases are. When you use a production model we eliminated the heavy swings up and down but when you have a steady increase and ssee the down turns in the markets and in production it doesn't drop like you see in the regular market so I am concerned if we put a cap on a value type we will never catch the true production value that we need to get to.

Representative Trottier: Can you understand the problem in these counties when they have a 200-300% increase in these values?

Allan Vietmeier: Without seeing what actually has taken place I can't speak for it, but from equalization stand point, if you are seeing that type on increase the values have been under assessed for a number of years and is it fair to not take that person to where the production is supposed to be? They haven't been paying or assessed where they should be so I don't see that as a problem.

Representative Froseth: If all counties are valued at 20% for productivity that seems pretty low. I would presume the actual market values are a bit higher than they would be in other counties according to their productivity?

Allan Vietmeier: I track my sales ratio on ag land all the time. We have to be able to defend our values. There are other counties that probably couldn't produce that percentage because they don't track that. We use production and other don't.

Vice Chairman Owens: I took that paragraph to mean something different, will you clarify?

Allan Vietmeier: There are multiple ways to do property tax (3). True and full value based on sales (the market value), the other one is what we are doing, Best Use, and that is what we use the production formula for on agricultural land. It has no relationship to what the land would sell for which is what we used for everything else.

Chairman Headland: You're telling me that if we compare the current sales value of land to the production formula, is 20% of what you consider the value? I thought that all the land you deal with only 20% is agriculture?

Allan Vietmeier: That represents what the actual market value comparative to the production value when a property sells. Our median ration of sales versus their production number is 20%.

Chairman Headland: Over the past years commodity prices have been higher and the market reflected that and now since we are in the down turn would you suggest that the market has dropped off on ag property to some extent?

Allan Vietmeier: I would say the market and agland in the county has stabilized, I wouldn't say that is has dropped at all. We are actually seeing an upturn.

Chairman Headland: Is there any other opposition?

Terry Traynor, North Dakota Association of Counties: Provided testimony in opposition. See attachment #3. Also provided testimony from Donald Flaherty, Dickey County Director of Tax Equalization. See attachment #4.

Representative Froseth: What causes the erratic changes in your values?

Terry Traynor: The formula that drives what the value is in a particular county is what the production has been if there is a high production, good prices, what the cost of production is, are the cost of fuel and fertilizer, and things like that high or low, that all goes into the counties total production the divisor is the capitalization rate and that has fluctuated widely (not in recent years). There was an attempt to cap the cap and when it went away values went through the roof and that is what happens when you try to artificially affect that and I believe that is what we did there.

Chairman Headland: It was kind of a compounding affect also with huge increasing commodity prices and everything, hitting at the same time. What you set our reflects that state wide average per acre of taxable value? True and full value, not assessed value?

Terry Traynor: That's true and full value as I understand it.

Chairman Headland: Further opposition to 1354?

Larry Severson, North Dakota Township Officers Association: I grow soybeans and have seen increases but they have to be allowed to happen because that is part of the productivity formula which was a battle fought and it has to be allowed to work.

Chairman Headland: Can Sarah return for questions?

Vice Chairman Owens: We have 3 ways to evaluate land for property tax, best use (the production), sales (marketing), what is the 3<sup>rd</sup> one?

Sara Meier, Property Tax Specialist with Office of Tax Commissioner: Would it be income? With the NDSU formula that is what we are using for the production formulas capitalized value.

Vice Chairman Owens: I thought that would be part of the best use theory. How you evaluate versus what it sells for.

Sara Meier: Our approach is to value market, cost, and income with any property so we say that the soil survey method is similar to the cost approach. The highest possible value adjusted for any limitations. The major part of the increase between 2011 and 2012 was the floor on the capitalization rate that is used in the formula dropping out. We no longer had that artificial floor and that contributed 26% to this increase in value. The rest as Headland had mentioned was more the commodity prices, the increase in the production numbers, actual crops that were produced, but for the most part that 26% was the cap rate changing.

Representative Trotter: Would you be able to predict that as we see land values, which we all think will come down and commodities have come down. Can you see a decrease in the values coming slowly?

Sara Meier: With the production formula that is possible, the other part is the capitalization rate if we start seeing interest rates increase that will follow those interest rates cause that is what it is based on and also the lower commodity prices coming into the formula that we

have had in the last years. That will all come into play but I think we will see a leveling more than a drop in the next couple years.

Chairman Headland: Closed the hearing.



# 2015 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1354  
2/2/2015  
22976

☐ Subcommittee  
☐ Conference Committee

*Amanda Muschla*

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

A Bill relating to limitation of increase in property assessments for property tax purposes.

### Minutes:

Chairman Headland: Opened the hearing on HB 1354

Representative Dockter: Made a motion to do not pass

Representative Klein: Seconded the motion

Chairman Headland: We have looked at these bills in the pass they aren't work they just shift taxes from one group to another and it isn't a good tax policy. We have gotten in trouble by trying to do that when we put in the cap rate and we saw the end result in that in how that tax increased when we tried to get out of it. We don't want to cause any issues.

Representative Trottier: We see no evaluations going up so much and maybe it was the assessors not keeping up and we make it sound like it was the assessors fault and put that on to the land owner. From that standpoint we can't go back on it.

Representative Dockter: I agree, that is what the bill 1134 is trying to address. It will take an even playing field among the assessors for ag land in the future.

A Roll Call Vote Was Taken: Yes 12, No 0, Absent 2 (Representative Strinden and Mitskog)

Representative Trottier will carry the bill

Date: 2-2-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1354

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Dockter Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	AB	
REP DOCKTER	✓		REP MITSKOG	AB	
REP TOMAN	✓		REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Trottier

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

**REPORT OF STANDING COMMITTEE**

**HB 1354: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1354 was placed on the Eleventh order on the calendar.

**2015 TESTIMONY**

**HB 1354**

HB 1354  
2-2-15  
# 1

HB 1354  
Testimony Highlights  
Rep. Gary Paur

The intent of this bill is to **slow** massive increases on individual ag land valuation within counties to 10% per year.

- The bill should not affect the counties ability to tax or its revenue.
- The bill **would** restrict the ability of the state's valuation to increase any county's ag valuation to 10% per year.

HB 1134 is well vetted and should be able to do what it is intended to do.

Concerns expressed concerning the bill:

- The bill is unconstitutional.
  - The bill should be constitutional because it does not address "ad valorem" taxes.
- If a cap of 10% is placed the counties will run with that and increase valuations 10%
  - Counties cannot increase ag valuations beyond the state established values.
- 1139 would restrict the ability to equalize grossly undervalued property due to mistakes in classification of land.
  - Valid argument
  - Hopefully those instances have mainly been addressed and are few.

Shortcomings seen by Prime Sponsor

- Huge increases may be masked by a yearly 10% increase.
  - Remedy may not be sought.
- A restriction may exist on the ability of counties to lower some of those previous large increases due to changes in modifiers or other factors.
  - Would there be enough available valuation which can be increased to offset large reductions in a **reasonable** amount of time.

HB 1354  
2-2-15  
#2

**TESTIMONY TO THE  
HOUSE FINANCE AND TAXATION**

**Prepared by Allan Vietmeier, Burleigh County Tax Director  
02/02/2015**

**House Bill 1354**

Mr. Chairman and members of the committee I offer the following testimony regarding 10% value cap on Agricultural land and recommend a do not pass:

- Currently valuing agricultural land is accomplished by applying the county's production numbers to the soil survey, applying applicable modifiers, and then considering the actual use of a specific property.
- By passing this bill it would create a value cap on agricultural property. Currently in Burleigh County our True and Full values of agricultural property is approximately 20% of the market. Is there really a need to cap values that are already 80% below their actual market value?
- This piece of legislation is designed to go directly against what equalization represents. Equalization is a tool that assures everyone is paying their fair share of taxes. By creating a ceiling on one class of property that the others are not afforded you will be shifting local tax burdens onto other classes of property.

Thank You,  
Allan Vietmeier  
Burleigh County Tax Director

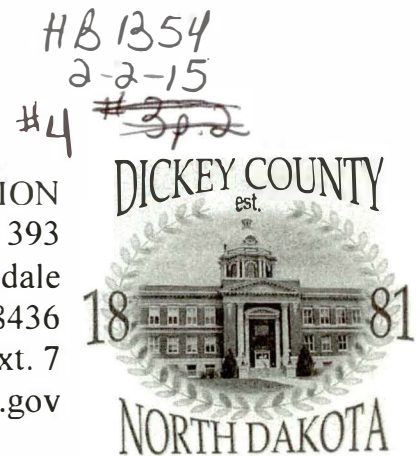
HB 1354  
2-2-15  
#3 p.1

North Dakota Ag Land Comparisons  
NDSU Ave/Acre

	2010	2011	2012	2013	2014	2015
State Wide Ag Ave/Acre	\$332.40	\$350.37	\$452.47	\$495.26	\$556.58	\$596.90
% Change from Previous		5.41%	29.14%	9.46%	12.38%	7.24%
Richland Co Ag Ave/Acre	\$664.13	\$682.22	\$872.89	\$959.08	\$1,066.35	\$1,115.98
% Change from Previous		2.72%	27.95%	9.87%	11.18%	4.65%
Ransom Co Ag Ave/Acre	\$436.68	\$451.10	\$585.31	\$637.62	\$705.05	\$753.81
% Change from Previous		3.30%	29.75%	8.94%	10.58%	6.92%
Sargent Co Ag Ave/Acre	\$519.96	\$541.84	\$709.86	\$768.49	\$860.40	\$933.55
% Change from Previous		4.21%	31.01%	8.26%	11.96%	8.50%
Cavalier Co Ag Ave/Acre	\$472.96	\$479.74	\$641.46	\$707.80	\$785.65	\$824.68
% Change from Previous		1.43%	33.71%	10.34%	11.00%	4.97%
Pembra Co Ag Ave/Acre	\$699.60	\$707.92	\$922.33	\$1,018.37	\$1,183.84	\$1,242.83
% Change from Previous		1.19%	30.29%	10.41%	16.25%	4.98%
Walsh Co Ag Ave/Acre	\$611.43	\$623.88	\$745.09	\$819.71	\$909.62	\$952.51
% Change from Previous		2.04%	19.43%	10.01%	10.97%	4.72%
LaMoure Co Ag Ave/Acre	\$505.73	\$536.21	\$698.61	\$798.38	\$894.19	\$945.12
% Change from Previous		6.03%	30.29%	14.28%	12.00%	5.70%
Dickey Co Ag Ave/Acre	\$404.95	\$423.59	\$553.86	\$706.03	\$766.25	\$810.92
% Change from Previous		4.60%	30.75%	27.47%	8.53%	5.83%
Logan Co Ag Ave/Acre	\$222.96	\$237.61	\$305.66	\$345.85	\$385.89	\$407.50
% Change from Previous		6.57%	28.64%	13.15%	11.58%	5.60%
McIntosh Co Ag Ave/Acre	\$255.12	\$277.44	\$329.94	\$410.13	\$447.21	\$479.30
% Change from Previous		8.75%	18.92%	24.30%	9.04%	7.18%
Burleigh Co Ag Ave/Acre	\$210.82	\$225.66	\$288.97	\$318.95	\$361.32	\$401.81
% Change from Previous		7.04%	28.06%	10.37%	13.28%	11.21%
McLean Co Ag Ave/Acre	\$325.07	\$359.52	\$468.40	\$523.57	\$593.71	\$657.24
% Change from Previous		10.60%	30.28%	11.78%	13.40%	10.70%
Sheridan Co Ag Ave/Acre	\$240.56	\$256.34	\$333.58	\$371.60	\$417.06	\$446.33
% Change from Previous		6.56%	30.13%	11.40%	12.23%	7.02%
Burke Co Ag Ave/Acre	\$257.32	\$280.85	\$378.31	\$387.22	\$424.81	\$454.77
% Change from Previous		9.14%	34.70%	2.36%	9.71%	7.05%
Divide Co Ag Ave/Acre	\$256.12	\$275.98	\$382.02	\$388.09	\$432.28	\$467.18
% Change from Previous		7.75%	38.42%	1.59%	11.39%	8.07%
Williams Co Ag Ave/Acre	\$217.23	\$237.35	\$317.31	\$329.08	\$378.00	\$414.84
% Change from Previous		9.26%	33.69%	3.71%	14.87%	9.75%
Adams Co Ag Ave/Acre	\$173.63	\$187.49	\$240.28	\$264.71	\$300.90	\$346.07
% Change from Previous		7.98%	28.16%	10.17%	13.67%	15.01%
Bowman Co Ag Ave/Acre	\$158.87	\$169.02	\$217.39	\$238.29	\$306.61	\$337.48
% Change from Previous		6.39%	28.62%	9.61%	28.67%	10.07%
Slope Co Ag Ave/Acre	\$179.61	\$195.03	\$250.37	\$260.34	\$293.42	\$327.06
% Change from Previous		8.59%	28.38%	3.98%	12.71%	11.46%

February 1, 2015

OFFICE OF TAX EQUALIZATION  
P. O. Box 393  
Ellendale  
ND 58436  
Phone: (701) 349-3249 Ext. 7  
E-mail: dflaherty@nd.gov



2015 House Finance and Taxation Committee  
Honorable Representative Craig Headland, Chairman  
North Dakota State Capitol

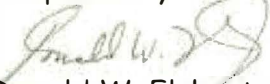
Dear Representative Headland and Members of the House Finance and Taxation Committee:

My name is Don Flaherty and I am the Director of Tax Equalization for Dickey County. I am writing you today to speak against HB 1354. I believe that the proposed changes to chapter 57-02 of the North Dakota Century Code to limit the amount of possible increase to agricultural land assessments is shortsighted and contrary to the application of professional best practice within the assessment process.

The proposed change will have a long term negative effect on the assessment of Ag land within the state. As you can see from the accompanying table, limiting increases to no more than 10% per year will cause Ag land valuations to become artificially low in comparison to other assessments. The last time this was done by the manipulation of the capitalization rate, the result was a dramatic increase in valuations in 2012. Had that freeze never been put in place, Ag land values would have risen in a more manageable manner over the period of the freeze. If there is concern over the increase in Ag land values being out of control, then that should be addressed at the source and the formula for determining those values should be examined by an interim committee. I personally believe this would be the best course of action as I feel the Ag land valuation formula does not accurately provide for an equalized assessment when it comes to cropland vs non-cropland values.

Placing a restriction on the amount of growth does not solve the problem; it will just create a greater one as it did in 2012. Therefore I would strongly urge each of you to vote against HB 1354.

Respectfully Submitted,



Donald W. Flaherty

Dickey County Director of Tax Equalization