

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2068

2001 SENATE FINANCE AND TAXATION

SB 2068

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2068

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date 1/17/01

Tape Number	Side A	Side B	Meter #
1	x		0-end
		x	0-6.5
1/24/01 - 1		x	11-45.2
Committee Clerk Signature <i>Lyndelle M. Kraft</i>			

Minutes:

Senator Urlacher: Called the hearing on SB 2068, relating to the valuation and assessment of inundated agricultural land for property tax purposes.

Rick Clayburgh: State Tax Commissioner, testified in support. Explains this bill provides some changes to the 1999 legislation. Goes over acreage, growing seasons, values, application deadlines, etc. Meter number .6-11.

Senator Kroeplin: The 10 contiguous acres, would they have to be covered with water?

Rick Clayburgh: That's correct.

Senator Urlacher: At what point does the Waterbank come in?

Rick Clayburgh: To my understanding, if you're in that program and the particular acres are covered by that and you're receiving a payment for it, it would fall into that formula. If your payment is greater than the county wide average, you're receiving a sufficient amount of income to be able to support the tax debt on that property.

Senator Kroeplin: When you talk about the less than the county average, the formula per acre, the seven year farm program and the transition payments, that would apply to those payments as the average across the farm?

Rick Clayburgh: Refers to Chuck Krueger. IF income is derived on all property ownership of that landowner, then we would apportion it to the land that is inundate and then compare that to the formula.

Senator Urlacher: So any income derived from any form would be injected into the formula?

Rick Clayburgh: That's correct.

Wade Williams: NDACo Government Relations, testified in support of the bill. Written testimony attached.

Senator Nichols: When you're considering the income that's coming in, in the case of cropland, would that qualify very often under this type of scenario when you have the after payments coming in? Is that something that was considered over the last two years?

Wade Williams: Generally the insurance payments, after a two year period, the start to trail off quite a bit. It was our feeling that as that payment went down, then this would kick in to make up that difference.

Senator Nichols: It would seem to me that there would be a lot of different interpretations on how those dollars would be applied. If everyone did it on the same basis, then it would be fair.

Wade Williams: That was one of the problems with the previous legislation, everybody had their own interpretation. I think with the meetings that we had throughout the counties, everybody is more on the same page with what's going to apply and what isn't.

Barry Cox: Past President of the County Commissioners Assoc., testified in favor. Covered original intent of law from 1999 meter number 19.8-20.6.

Ken Yantes: Representative of ND Township Officers Assoc., testified in support of the bill.

Written testimony attached.

Wade Moser: Stockman's Assoc., testified in support of the bill. We felt there was a big flaw in the system right now where many times absentee land owners who had CRP and receiving their checks in Phoenix that were possibly getting tax relief when the rest of us up here were left with the burden.

Patti Lewis: ND Farm Bureau, testified in the support of the bill but has some problems with it. We think this legislation is important and necessary.

Senator Kroeplin: In the third season is when you get the tax relief?

Rick Clayburgh: We look back to the previous year to make the determination for the taxes for the coming year. And in that interpretation, that may mean you'd be into the fourth growing season.

Senator Wardner: About hay land and forage crop, wouldn't that be considered cropland?

Rick Clayburgh: In my understanding of haying alfalfa, it would be treated like a cropland. And if you have native prairie grasses and they're under water, then that would qualify for relief also. Senator Stenehjem, Rick Clayburgh, and Barry Cox discuss acreage and potholes. Meter number 28.2-33.8.

Rick Clayburgh: Pointed out Emergency Clause on the bill to be acted on as soon as possible. Asks that action occurs as quickly as possible.

Senator Kroeplin: Cash rent, if you rent the piece of land, x amount of dollars, some of it gets inundated, does the contract need to be changed for those acres and written into the contract?

Rick Clayburgh: If you are the landowner by contract and paying the tax on that property, and your contract is a three year contract, you hold your tenant to the full payments for that period, than that land would not qualify for inundate land.

Senator Urlacher, Senator Stenehjem, Rick Clayburgh discuss. Meter number 36.2-41.5.

Senator Urlacher: Isn't there some checks and balances of the assessor at the local level?

Rick Clayburgh: There is and that's one of the reasons for this bill.

Senator Stenehjem: Let's take the Devil's Lake region, there's a lot of acres under water. where does that tax go?

Rick Clayburgh: County wide.

Senator Kroeplin: With this bill, the tax burden goes back to the whole county, which would include residential and commercial property?

Rick Clayburgh: Yes.

Senator Stenehjem: Does it seem like a lot of people are going to apply?

Rick Clayburgh: Yes. We will be dealing with this problem for some time to come.

Lance Hagen: Ag Coalition, is opposed but wants to discuss it further with Tax Commissioner.

Arvid Winkler: Township Assessor, testified in opposition to the bill. Written testimony attached.

Al Broaten: President of ND Corngrowers, testified in opposition the bill because of the having to be inundated for three years.

Senator Urlacher: Closed the hearing. Action delayed.

Discussion held 1/24/01. Meter number 11-45.2.

Rick Clayburgh: Reappeared to propose an amendment, explain it, and answer questions. Meter number 11.7-36.8.

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Senate Finance and Taxation Committee
Bill/Resolution Number 2068
Hearing Date 1/17/01

Wade Williams: Reappeared to answer a question on deadline. Meter number 36.9-38.5.

AMENDMENT ACTION:

Motion made by Senator Wardner, Seconded by Senator Christmann, to move the amendment numbered 18073.0100. Voice Vote taken. All in favor, amendment adopted.

COMMITTEE ACTION: 1/24/01

Motion made for a DO PASS AS AMENDED by Senator Wardner, Seconded by Senator Christmann. Vote was 6 yeas, 0 nays, 0 absent or not voting. Bill carrier was Senator Wardner.

FISCAL NOTE
 Requested by Legislative Council
 12/18/2000

Bill/Resolution No.: SB 2068

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2068, if enacted, will establish the criteria property must meet to be classified as inundated agricultural land that may result in a reduction of the taxable value. While SB 2068 could decrease the value of taxable property of counties, cities, and school districts, it does not require a decrease in property taxes. Any change in property tax revenue will be the result of county, city, or school district decisions as to the level at which government services will be funded, and not as a result of the passage of SB 2068. This bill alone causes no fiscal effect to the counties, cities, or school districts. There will be an indeterminable decrease in the property tax revenue for the one-mill state medical center levy.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	8-3402	Date Prepared:	01/03/2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2068

Page 1, line 8, after "acres" insert "where the value of the inundated land exceeds ten percent of the average agricultural value of noncropland for the county and"

Page 1, line 10, replace "three" with "two"

Renumber accordingly

Date: 1/24/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2068

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number Move Amendment (Voice Vote)

Action Taken _____

Motion Made By Wardner Seconded By Christman

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 1/24/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2068

Senate Finance and Taxation Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 2:19 p.m.

Module No: SR-13-1637
Carrier: Wardner
Insert LC: 18073.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2068: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2068 was placed on the Sixth order on the calendar.

Page 1, line 8, after "acres" insert "If the value of the inundated land exceeds ten percent of the average agricultural value of noncropland for the county."

Page 1, line 10, replace "three" with "two"

Renumber accordingly

2001 HOUSE FINANCE AND TAXATION

SB 2068

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2068

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
1	X		84
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing and read the fiscal note.

RICK CLAYBURGH, STATE TAX COMMISSIONER, Testified in support of the bill.

Gave a report on how the bill came about. Related to CRP land. He stated this is a good piece of legislation for landowners who have land under water. He stated he met with township and county officials regarding inundated land, discussing ideas to help landowners with the problems that existed, and that is how we came up with the bill before you.

The point of this bill is to fix what, we believe, is a good piece of legislation for landowners who have their land under water for a considerable amount of time. There are four issues. We established a minimum amount of acreage. Ten contiguous acres would be considered inundated. The bill extends to two growing seasons. The valuation of the inundated land was an issue. There was no way that the legislature intended to have CRP land included, we decided on a formula to describe the inundated land. The definition for revenue production property, would

be that if the average income of inundated acres is less than the average income of non cropland acres in each county, then it would qualify. They targeted ten dollars per acre. Currently, the inundated property is a requirement that the tax officials need to go out and make the determination if somebody qualifies. The committee felt there should be an application process. In walking through the application, the landowner will know whether they qualify or not. We put in a deadline of March 31. It is not written in stone, however.

He gave comments of what he heard, stating a lot of legislators called his office stating this was a tool to be used by the county at their discretion, if they wanted to use inundated land they could, but if they didn't want to, they didn't have to. He clarified this, saying the reason they didn't address that, and the reason they interpret the law to be mandatory, is that discussion cannot be granted in the case of equalization of property. When you talk about counties who have school districts across borders, and landowners who own property across county lines, if you allow discretion in this relief, you will end up creating protection problems with the North Dakota Constitution, and make the bill unconstitutional.

REP. WINRICH, The other committee I serve on is the Natural Resources Committee, and the issue that keeps coming up there is the issue of fee hunting, income for landowners who allow hunting on their land, etc., do you have a scheme for assessing that back to the land and counting it as revenue produced by the land?

RICK CLAYBURGH This is the first time I have had that question presented. That is an area we have to look at. From the standpoint of upland game hunting, I am assuming there won't be too much walking in inundated water. You may be hunting over a slough, however, you are

actually sitting on the dry land to do that hunting. The argument is that the hunting is done on the dry land not the wet land.

REP. WINRICH I would argue that the entire area is really what attracts the waterfowl and makes it a valuable hunting area, even if you happen to be doing your shooting from a dry area in the middle of this wet land, in fact, the productivity of that area is due to the potholes there?

RICK CLAYBURGH We will think that through and get back to you today.

He also pointed out that the bill did have an emergency clause, if you don't make any changes on it, and act on it as fast as possible, so we can work on it this session, and provide this relief this year.

REP. BRANDENBURG This is one of the bills I had a lot of calls on. You get forty bucks per acre for CRP and the cash rent is forty five, how will that fit in the way the language is written.

RICK CLAYBURGH Based on the formula, there is a known number in the county which will be the average income of non cropland acres. Roughly, it is pretty close to ten dollars per acre.

REP. BRANDENBURG What about counties that have participated and counties who have not participated, do they all have to participate now?

RICK CLAYBURGH Based upon an attorney general's opinion, there is a great latitude given to the counties that basically, is maintaining a status quo. There are some counties, by discretion, can say they don't believe it meets a determination of inundated land. We don't think those operating rules under that opinion, are proper to all of the parties. The bill will meet those needs.

REP. CARLSON This won't affect CRP land, you will get that payment whether there is water that showed up or not, you couldn't claim it on CRP land because you are getting a payment, right?

RICK CLAYBURGH To what I understand, how CRP will work, there are five year contracts, if it is inundated, you will still receive the dollars for that. But at the end of five years, when the CRP payments stops, if the land is still inundated, they would then qualify.

REP. RENNER Does this have to be inundated for two growing seasons, and what if it the land dries up later in the summer then comes back in the spring?

RICK CLAYBURGH Right now, it requires an entire growing season. If you have a heavy rain in the spring, or considerable snow melt and you can't plant, but mid July, you can get in and do anything, you would not meet the definition of inundated land.

REP. KELSH A growing season is considered from the last frost in the spring to the first frost in the fall?

RICK CLAYBURGH deferred to Chuck Krueger, State Tax Department, who answered, Yes.

MARK JOHNSON, NORTH DAKOTA ASSOCIATION OF COUNTIES, Testified in support of the bill. See attached written testimony.

REP. BRANDENBURG Are the counties going to be happy with this?

MARK JOHNSON I don't think so. There will have to be some compromises. I will guarantee you that Rick Clayburgh and I will be coming back next session saying, we just need another little thing. We thought it was the perfect bill last session, because it was the ultimate local control.

REP. RENNERFELDT The ten dollars income cap, what do you mean by that?

MARK JOHNSON The ten percent, is the average cropland, then take ten percent.

KEN YANTES, REPRESENTING NORTH DAKOTA TOWNSHIP OFFICERS, Testified in support of the bill. See attached written testimony.

REP. LLOYD Why ten acres and not twenty or thirty, ten seems too small.

KEN YANTES At the last session, there was no limitation. We discussed that in committee, and felt ten acres would be better than what we had.

REP. LLOYD Did you consider a higher acreage then ten?

KEN YANTES I don't believe we put in figures higher than ten.

RICK CLAYBURGH Interjected, stating they did discuss higher figures, but decided on ten, thinking it was reasonable and workable.

BRIAN KRAMER, NORTH DAKOTA FARM BUREAU, Testified in support of the bill.

REP. SCHMIDT Asked if he remembered the last session, when they went home, he got called from everyone, and they blamed him for the formula, he stated the people from the Farm Bureau helped him out in explaining, he had nothing to do with the formula.

BRIAN KRAMER Stated, he agreed, it did not have anything to do with the formula.

ARVID WINKLER, FARMER AND TOWNSHIP ASSESSOR IN BARNES COUNTY,

Testified in opposition of the bill. See attached written testimony. And also requested that the bill be amended that the date be set by the county commission to be not later than March 31.

REP. CARLSON What would you like us to do?

ARVID WINKLER Remove the emergency clause, add the phrase to give the county commission authority to change the deadline date for the written application, and then the phrase about the average revenue on line 13, insert "less than ten percent of the county's revenue", and then the date set should not be later than March 31.

REP. KROEBER How do you see the tax shift by percentage, on the land that is inundated and not inundated, just in your township?

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House Finance and Taxation Committee

Bill/Resolution Number SB 2068

Hearing Date March 5, 2001

ARVID WINKLER Related to the map he had submitted with his testimony.

REP. KROEBER Asked if he knew how much was shifted and who it shifted to.

ARVID WINKLER Stated in the county, it got to be one hundred thousand acres the first time through. It got changed to this ten dollar valuation. The county had to adjust the mill levy some way to make it up, as did the schools, so you had this shift to other agricultural lands, residential lands, and commercial lands.

With no further testimony, the hearing was closed.

COMMITTEE WORK 3-6-01, TAPE #1, SIDE B, METER #2619

REP. CARLSON Reviewed the bill for the committee members.

Committee members discussed amendments to the bill submitted by Arvid Winkler of Barnes County. After discussing the amendments, the committee members felt they would rather pass the bill out as is.

REP. DROVDAL Made a motion for a **DO PASS**.

REP. SCHMIDT Second the motion. **MOTION CARRIED**

13 YES 0 NO 2 ABSENT

REP. SCHMIDT Was given the floor assignment.

Date: 3-6-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2068

House FINANCE & TAXATION Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Rep. Drovdal

Seconded By

Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	A	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	A				

Total (Yes)

13

No

0

Absent

2

Floor Assignment

Rep. Schmidt

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2001 3:44 p.m.

Module No: HR-38-4949
Carrier: Schmidt
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2068, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman)
recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2068 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2068

**TESTIMONY TO THE
SENATE FINANCE AND TAXATION COMMITTEE**

**Prepared January 17, 2001, by the
North Dakota Association of Counties
Wade Williams, NDACo Government Relations**

Concerning Senate Bill 2068

Chairman Urlacher and members of the committee, I am before you today to express the counties and county officials support for Senate Bill 2068.

Inundated lands legislation passed last session caused many commissioners and tax directors great anxiety over how best to implement the new land classification. We believe SB 2068 addresses their concerns.

This bill creates a minimum acreage needed to qualify of ten contiguous acres, a minimum requirement for time inundated of three growing seasons, an income cap on the inundated land (which statewide averages approximately ten dollars), and finally an application process.

We believe the new language not only clarifies the process of recognizing inundated acres; but also makes the system much more equitable from county to county. Our Association has gone on record in support of the changes this bill proposes to the inundated lands law.

Thank you Mr. Chairman and members of the committee for the opportunity to express our support of Senate Bill 2068.

Testimony for SB2068
Senate Finance and Taxation Committee

Prepared by North Dakota township Officers Association

Mr. Chairman and members of the Senate Finance and Taxation Committee, my name is Ken Yantes and I am here today as a representative of the North Dakota Township Officers Association. Our State President, Mr. Bryan Hoime, and I were members of the Tax commissioners Study Committee on inundated lands. We support this bill as we feel it is a needed improvement on last session's effort.

At our annual meeting in December, the draft bill was discussed by our membership and some concerns about the three consecutive growing season language on line #10 in this bill and hay land were raised. Testimony given said it was too long a period in some instances for a producer to wait for tax relief. Many were in support of the elimination of the revenue generating lands coverage and the ten acre contiguous acre provision was thought to be a good addition as the bill was meant to help those who really have a disaster.

Other concerns mentioned were hay land and forage crop producers and having done neither, I must admit that I really don't know enough about this and hope some one else here will clarify it in their testimony.

The North Dakota Township Officers Association consisting of over a 1000 dues paying townships, having over 6000 grassroots elected officers stands in support of this bill and asks for a do pass on Senate Bill # 2068.

Ken Yantes Past Pres. and Legislative affairs committee rep.

1-17-01

My name is Arvid Winkler. I am a farmer and township assessor in Barnes County. I have been the Cuba Township assessor since 1977. I have a bachelor's degree in civil engineering from NDSU.

I am very much opposed to the effective date and emergency clause of SB 2068. In my opinion, beginning after December 31, 2001 would be a more appropriate effective date for this bill.

The phrase on line 12 "less than the county average" causes concern for me. 99% would be less than the county average, yet you are asking to apply a 10% value to the inundated parcel. It appears to me that capitalizing something like a 2% income level would be more in line with a 10% valuation level.

Line 15 has a date of March thirty-first for the written application. By statute, the assessor is to begin assessing on February first for the year. To me that is the date which should be used for the written application. Basically the assessment books are to be completed by March thirty-first. It seems unfair to permit an application to come dragging in at that late date.

As I see it, the net effect of this proposed legislation will be to increase agricultural land values from their current status. Increasing values creates an entirely different set of problems than previous emergency legislation which had the effect of reducing values.

I am not opposed to the ten acres or the written application. I just do not see the need to gum up the process for the 2001 assessment year with the emergency clause.

There are several dates in the agricultural land assessment process that are fixed by statute. If legislation such as this is indeed an emergency, then provision should be made to revise the dates so things can at least be done in the proper order.

1) By December first NDSU is to report valuations by classification to the tax commissioner.

2) By January first the tax commissioner is to certify valuations to the counties.

3) By February first the local assessor is to start the valuation process.

4) The local township equalization meeting is to be held on the second Monday in April.

5) The county equalization meeting is to be held in June.

6) The state equalization meeting is to be held in August.

I will be happy to answer any questions the committee may have on this issue.

**Testimony To The
HOUSE FINANCE AND TAXATION COMMITTEE
Prepared January 17, 2001, by the
North Dakota Association of Counties
Mark A Johnson, NDACo Executive Director**

Concerning Engrossed Senate Bill 2068

Chairman Carlson and members of the committee, I am before you today to express the support of counties and county officials for Engrossed Senate Bill 2068.

Inundated lands legislation passed last session caused many commissioners and tax directors great anxiety over how best to implement the new land classification. We believe SB 2068 addresses their concerns.

This bill creates a minimum acreage needed to qualify of ten contiguous acres, a minimum requirement for time inundated of two growing seasons, an income cap on the inundated land (which statewide averages approximately ten dollars), and finally an application process.

We believe the new language not only clarifies the process of recognizing inundated acres, but also makes the system much more equitable from county to county. Our Association has gone on record in support of the changes this bill proposes to the inundated lands law.

Thank you Mr. Chairman and members of the committee for the opportunity to express our support of Senate Bill 2068.

Testimony for SB2068
House Finance and Taxation Committee

Prepared by North Dakota township Officers Association

Mr. Chairman and members of the House Finance and Taxation Committee, my name is Ken Yantes and I am here today as a representative of the North Dakota Township Officers Association. Our State President, Mr. Bryan Hoime, and I were members of the Tax Commissioners Study Committee on inundated lands. We support this bill as we feel it is a needed improvement on last session's effort.

At our annual meeting in December of 2000, the draft bill was discussed by our membership and some concerns about the three consecutive growing season language were expressed. The Senate has agreed and amended the original bill from 3 to 2 years which makes this bill even more acceptable to our membership. Many were in support of the elimination of the revenue generating lands coverage, and the ten acre contiguous provision was thought to be a good addition as the bill was meant to help those who really have a disaster.

Although this bill does not fix all the ills in the ag it at least allows a substantial tax break to those who have lost their income producing ability due to inundation of agricultural lands.

The North Dakota Township Officers Association consists of over a 1000 dues paying townships and has over 6000 grassroots elected officers.

We stand in support of this bill and ask for a do pass on Senate Bill # 2068

Ken Yantes Past Pres. and Legislative affairs committee rep.

Subject: SB 2068: Points of Clarification

Date: Fri, 16 Feb 2001 20:20:19 -0600

From: Arvid Winkler <awinkler@valleycity.net>

To: Brad Cruff <bacruff@ictc.com>

Barnes County Commission Chairman Brad Cruff,

The emergency clause is a part of SB 2068. I object to the emergency clause in the first place because of the statutory February first assessing date. Additionally, the testimony of Tax Commissioner Rich Clayburgh on the Senate side was that the bill would hopefully be passed quickly on both sides of the hallway, be signed by the governor, and we could get on with assessing. It is quite apparent that no Senate bills will be heard in the House Finance and Taxation Committee before the crossover date. It seems to me that this bill is not an emergency in the first place. By their actions, or lack thereof, the House does not seem to sense an emergency either. Some actions for the 2001 assessing year were begun back in October of 2000. Some activities for the 2002 assessing year could begin after July 1, 2001. I continue to request that the emergency clause be removed from this bill.

In my mind, the definition of inundated contained on lines 8 and 9 on page 1 of the bill does not reconcile with the question asked by Senator Stenehjem at the Senate hearing, nor with my conversation with Noel Johnson on 2-5-01. The dictionary definition of inundated would give with the May 11, 1999 guidelines of Barry Hasti, flooded with measurable water above the surface. Someone seems to be discussing an "old" and "new" level of inundation as opposed to an actual level of inundation apparent at any field review. It is only through verbal communications that I get this "old" and "new" inundation concept. I do not get that from reading the bill draft itself. From an assessing standpoint, I view the "old" and "new" water concept as an administrative nightmare. It would depend too much on what the assessor remembered as opposed to what the assessor could actually see in the field, or from some document.

Before the arrival of the inundated classification in the 1999 legislation, the "old" inundated acreage had to be included in the noncropland classification. Any lower valuation given to the inundated parcel would have to be made up in some higher ground parcel to maintain a township or county average. To me the inundated classification provided a tool to remove the flooded acres from the noncropland classification and assign them a more realistic and consistent valuation. Additionally, the "old" inundated acres should be more entitled to the inundated classification as they have paid their dues for the longest period of time. Keeping "old" inundated acres in the noncropland classification, while granting newly flooded acres some "new" inundated status, seems very unfair from an equalization standpoint.

If the "old" and "new" inundated acreage concept has become a political reality through the interim committee process, it should at least be clarified in the definition on lines 8 and 9. I do think it is a mistake to force some "old" inundated acres to remain in the noncropland classification. It seems to be playing with the dictionary definition of inundated.

The language on line 13 of page 1 seems to be lacking in clarity. Revenues of simply less than the county average for noncropland do not seem to be deserving of a valuation at ten percent of the average contained on line 23. and 24. The Attorney General opinion of 9-24-99 used the language on the bottom of page 1 and the top of page 2 to

provide for the possibility of valuations higher than ten percent of noncropland values. The income method of valuation is part of the training in the assessor certification process. It involves capitalizing an annual revenue. Hopefully that capitalization procedure can be used to value some inundated acreage which is producing less than average revenues. While agricultural land valuation is to be done on a productivity basis, it appears some of the inundated acreage could best be valued from an income standpoint. Barring some clarification, it appears that some inundated acreage could be valued such that the owner could be getting a 100% annual return from a valuation standpoint.

It is unclear to me whether this legislation would undo the Attorney General opinion of 9-24-99.

The written application deadline of March thirty-first of each year seems be too late from a system data flow standpoint. Counties have the option of reporting their acreages by classification to the agricultural economics department of North Dakota state university by October thirty-first of each year, as currently administered. The conditions around July first of each year basically determine the growing season potential of any inundated acreage. That jives with FSA crop acreage reporting dates. FSA flyovers are taken about that time on a statewide basis. Somewhere in that time frame, landowners could start the written application process for the next assessing year by providing the application to the local assessor. An opportunity for field review would then be there. A time allowance for the board of county commissioners to approve the classification is necessary in order to inventory the acres in time for reporting to NDSU. County commission approval by October first may necessary for the inventory procedure.

It is anticipated that the county commission is granting some limited authority for the local assessor, or township officials, to at least temporarily approve the written application for acreage reporting to the county director of tax equalization.

It gets confusing whether or not the board of county commissioner approval process provides for the elimination of the inundated status on a county by county basis. There is even some discussion as to whether the board of county commissioners has any assessing authority until it meets as the county board of equalization in June.

A copy of these comments is being given to Representative Metcalf at the forum on 2-17-01.

Arvid Winkler
Cuba Township Assessor
12217 40 St SE
Valley City, ND 58072-9575
845-0608

1999 Property Tax Legislation

May 11, 1999

**Barry Hasti
Office of State Tax Commissioner**

Exemptions - Other

- HB 1281 - ND Irrigation District Finance Program
 - Under control of state water commission
 - Instrumentality of state §57-02-08(2)
- SB 2051 - New business 40-57.1-03
 - Affected school districts and townships
 - Nonvoting ex officio members of governing body during negotiation and deliberation

Ag Land Value - Inundated

- SB 2052 - effective for 1999 assm't
- Inundated land
 - Flooded with measurable water above surface
 - Land unsuitable for growing crops or grazing livestock
 - One or more full growing seasons
- County average inundated value at 10 percent of noncropland value

Ag Land Value - Production Cost

- SB 2054 - effective for 1999 assm't
- Base input costs - 5/7 years thru 1995
- Current input costs - same period as production of crops
- Adjustment
 - Capitalized agricultural value is factored in inverse relation to change from base input costs to current input costs
 - About 2.5 percent reduction per year

Property Tax Legislation Interactive Video Notes 5-11-99

Inundated ag land

Flooded with measurable water above surface

Not just wet

Must have water above the surface

Land unsuitable for growing crops or grazing livestock

A choice to not raise an alternate crop, hay or graze is a management decision and should not affect the inundated classification

CRP

Same class of property in the same assessment district should be assessed on an equal basis

There is a contract for payment

CRP payment paid whether flooded or not

The CRP acres are a matter of public record

All CRP payments are part of revenue picture

Possibly assessed as an improvement

Attorney General opinion coming on the issue

May need annual review

Full growing season

Flooded early and later planted winter wheat in fall is not inundated

Spring wheat planted and later flooded is not inundated

Arvid Winkler
SB 2068
opposition

A common geological formation exists in your township such that after the spring runoff an area is flooded to an extent that 10 acres have never been cropped or grazed in the memory of those still living. In recent years, the uncropable and ungrazeable area has expanded to be 20 acres in size.

While the geology of the parcels is similar, the pattern of operation varies making valuation for assessment purposes difficult for the local assessor.

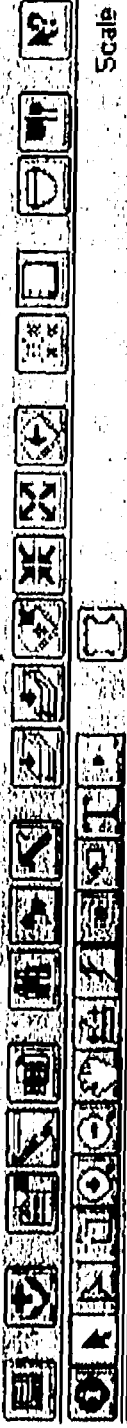
- 1) All By Myself is the owner/operator of the parcel. There is no traceable income pattern from any rental agreement. Any revenue opportunities would need to be obvious from inspection of the parcel.
- 2) Easy Rider rents the parcel from Nearly Thoughtless for use as a pasture. The rental contract is scrawled on a napkin from the Good Times Saloon. The parcel is considered by both to be a good deal because there is a dependable source of water for the entire grazing season. Paperwork for any governmental entity is considered an intrusive experience to be avoided if at all possible.
- 3) Just M Harasser rents the parcel to I M Clever whereby the water is considered worthless and merely a haven for blackbirds to create a nuisance for the growing of sunflowers. Only the cropable acres are rented with no visible income from the uncropped area. The uncropped area becomes infested with weeds creating a problem for the local Weed Control Board for which no one wants to accept responsibility.
- 4) Durum N Arizona owns the parcel and now has placed this highly erodeable area in CRP except for the 10 acres for which no cropping history could be established. The pocket gophers have been having a field day creating just enough disturbance to maximize germination of weed seeds which have been blowing around from the nearby uncropped area. The field is so rough that commercial spraying services will no longer bounce their equipment over any of the parcel area. Aerial applicators refuse to spray the area because of the nearby sunflower field and the newly constructed wind energy generation towers.
- 5) Maximum Foresight hires his brother-in-law attorney, I M Sharp, from the firm of Shaftem, Skinem, and Sinkum, to draft a rental agreement whereby the area subject to flooding is rented out at a rate of \$10.00 per acre in a county where the county average revenue per acre for noncropland is \$10.04 per acre as published by the agricultural economics department of NDSU. The balance of the parcel is rented out at a premium rate and the total parcel is rented to Anne Accompliss for grazing and haying to provide for some prized horses in an environment where money is no object. The written application for consideration as inundated acres, as provided under SB 2068 of the 2001 legislative session, arrives at 4 pm on March 31 with the gentle reminder to the local assessor of the recent hassle over the farm exemption of the rural residence in which Anne resides as part of the rental agreement.

6) The parcel is owned by Loves To Squak who has been to every local equalization meeting in the last 40 years. He got consideration for his unproductive acres years ago by distributing the valuation break he received to other parcels owned by the Hilltop Brothers and I R Absentee, who do not even get the local paper where the meeting notices are published. The valuation of noncropland in the neighboring parcels was raised in order to meet valuation targets assigned to the township by the county director of tax equalization, after citing target requirements established by NDSU, the Tax Commissioner, and the State Board of Equalization. Of course all this was done in the name of equalization. One of the Hilltop Brothers recently died. The attorney from a well known local law firm is questioning the valuation which has been placed on his client's parcel in recent years.

7) A large contiguous area of obvious inundation is spread over four parcels owned by the Bear family. Baby Bear's parcel only contains 8 acres of such inundation and now he feels slighted because his area of inundation is somehow too small to reach a certain status enjoyed by other family members who have broken his toys, and his heart, over many issues in the past.

2 ArcView GIS Version 3.0

File Edit View Theme Graphics Window Help



2 Barnes County, ND -- Cuba Township

Scale 1:54,353

578,879.95
5,191,907.04

Legend

☒ Roads

☒ Railroad

☒ Standing Water

☒ Barnes County Satellite Imag.

Total Water Acreage - 4824 Ac.

