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Operator's Signature

Yolanda Rickford

Date

10/2/03

2003 HOUSE FINANCE AND TAXATION

HB 1054

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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1054

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 13, 2003

Tape Number	Side A	Side B	Meter #
1	X		28
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WESLEY BELTER, CHAIRMAN Called the hearing to order.

JOHN WALSTAD, CODE REVISOR, LEGISLATIVE COUNCIL Explained the bill and reviewed the interium committee report. See written interium committee report. He also covered the fiscal note relating to the \$913,000 expenditure for the biennium ending in July, 2003.

REP. DAVID DROVDAL, DIST. 39, Reported that he was involved during the interium committee. He gave a history of the Homestead Tax Credit relating back to the depression years and the income level of people in that age group. He stated when the bill was drafted, they didn't know about the fiscal note. This bill ties the poverty level with the national standard. If a senior citizen is 65 years old and make less than \$8,860, they will get 100% exemption on their real estate taxes. If an individual makes \$9,746 or a couple makes \$13,934, they pay 20% of their tax. If a couple makes \$14,328, they will pay 40% of their tax. If a couple makes \$15,522, they

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House Finance and Taxation Committee

Bill/Resolution Number HB 1054

Hearing Date January 13, 2003

will pay 60% of their taxes. An individual making \$12,404, an individual will pay 80% of their tax. and a couple making \$16,716, would get 20% off. They can only have \$50,000 in assets, so they are not well off. These are people who have paid their price, a lot of these people live in rural North Dakota. I think it is the time where we need to put this into perspective and do something for these people.

REP. SCHMIDT Stated he was on that interium committee too, it upsets me that we spent all of that time, and no one came forward with a fiscal note.

REP. DROVDAL Stated the estimate of the fiscal note during that time was half of what it is now.

JOHN WALSTAD Commented, that the reason there is a fiscal note on this is, the state reimburses political subdivisions for lost property tax under the homestead tax credit.

TERRY TRAYNOR, NORTH DAKOTA ASSOCIATION OF COUNTIES. Testified in support of the bill. He stated it keeps the costs down to where these people can stay in their home, and receive services in their home, and stay out of the nursing homes. It makes a very nice fit. We are interested in the appropriation that supports the bill.

MARCY DICKERSON, STATE SUPERVISOR OF ASSESSMENTS, STATE TAX

DEPARTMENT Provided information to the committee. See written testimony plus tables showing homeowner benefits. She stated there should be no effect to the current biennium, that is an error in the fiscal note. The bill is effective for the biennium beginning year 2003. The estimate in the fiscal note, was only for current applicants.

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House Finance and Taxation Committee

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REP. DROVDAL Commented that the evaluation of the homeowner was at a maximum of \$40, to 45,000. He stated that he remembered that during the interium committee. You stated the homestead value was \$80,000.

MARCY DICKERSON That is part of the provisions in this bill. In existing law, it is \$44,000. I believe, originally, you had completely removed a "maximum". Then the committee decided to bring the maximum up to \$80,000. If you would have removed "maximum" completely, in a few cases, some people with really expensive homes could have gotten 100% reduction. That is why the language in this bill raises the maximum to \$80,000.

REP. BELTER Asked whether the federal poverty level could be removed, and would it be very difficult to calculate a new fiscal note.

MARCY DICKERSON Stated they could calculate with different numbers.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-13-03, Tape #2, Side A, Meter # 2.7

REP. WINRICH Asked a question of Marcy Dickerson, who was still in the committee room, he felt that there was an assumption that everyone who applied was in an \$80,000 home.

MARCY DICKERSON This is for the new individuals who will become eligible, we made that assumption. For current homeowners and renters, we used their current situation, and just plugged in the new criteria. The ones in the \$80,000 home would only get 20% reduction in taxes. I feel safe that the fiscal note would not be higher, and it could be something less. We would have had a more complete fiscal note for the interium committee, had we figured out at that time, how to estimate who might be newly available because of the new income limits, and it

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House Finance and Taxation Committee

Bill/Resolution Number HB 1054

Hearing Date January 13, 2003

wasn't until October, that we received a tape from the IRS that showed how many North Dakota filers that were between the \$14,000 and the new maximum limit for two individuals had filed.

It is an estimate, and we decided to estimate it at the highest level. It could be lower.

REP. BELTER decided to hold this bill until a revised fiscal note was received.

COMMITTEE ACTION 2-4-03, Tape #1, Side A, Meter #9.8

REP. DROYDAL Presented amendments to committee members which would, remove the evaluation, which would then, be maxed out at \$44,000. It will lower the fiscal note from 3 million down to 1.2 million dollars.

REP. HEADLAND Second the motion. Motion carried by voice vote.

REP. GROSZ Made a motion for a **DO NOT PASS AS AMENDED**

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

9 YES 3 NO 2 ABSENT

REP. CLARK Was given the floor assignment.

FISCAL NOTE
Requested by Legislative Council
02/06/2003

Amendment to: HB 1054

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$1,218,086			
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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.

Engrossed HB 1054 raises the maximum qualifying income to 140% of the single-person federal poverty level for applicants with no dependents, and to 140% of the two-person federal poverty level for applicants with one or more dependents. Those changes make current applicants eligible for greater reductions in taxable value of their homesteads, and also make the program available to new applicants for both the homeowner's credit and the renter's property tax refund whose income exceeds the limitations under existing law. Engrossed HB 1054 keeps the existing maximum taxable valuation of a homestead for which an applicant may receive a reduction. Engrossed HB 1054 is expected to increase state general fund expenditures by \$1.218 million over what was contained in the Governor's budget for the 2003-05 biennium.

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:	328-3402	Date Prepared:	02/06/2003

FISCAL NOTE
Requested by Legislative Council
12/16/2002

Bill/Resolution No.: HB 1054

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures	\$913,482		\$3,069,806			
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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.

HB 1054 raises the maximum qualifying income to 140% of the single-person federal poverty level for applicants with no dependents, and to 140% of the two-person federal poverty level for applicants with one or more dependents. Those changes make current applicants eligible for greater reductions in taxable value of their homesteads, and also make the program available to new applicants for both the homeowner's credit and the renter's property tax refund whose income exceeds the limitations under existing law. HB 1054 also raises the maximum taxable valuation of a homestead for which an applicant may receive a reduction. This act is effective for taxable years after December 31, 2002, so it affects the 2001-03 biennium.

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.

The estimated annual expenditures include \$3,339,022 for reimbursement to counties for taxes lost due to reductions in homeowners' taxable valuations and \$195,881 for renters' refunds, for a total of \$3,534,903. It will take \$913,482 in addition to the present fund balance of \$2,621,421 to pay the estimated amounts due in the remainder of the 2001-03 biennium. The same expense of \$3,534,903 is estimated for each fiscal year, or \$7,069,806 per biennium. It is not possible to know what changes will be made annually to the federal poverty level and what impact those changes will have on eligibility of applicants. The Governor's budget includes \$4,000,000 for the homestead tax credit for the 2003-05 biennium, resulting in estimated expenditures in excess of the appropriation of \$3,069,806 for the 2003-05 biennium.

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:	328-3402	Date Prepared:	01/10/2003

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Operator's Signature

Kalosta Rickford

10/2/03
Date

Date: 2-4-03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1054

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30029. 0301

Action Taken

Do Not Pass as amended

Motion Made By

Rep Grosz

Seconded By

Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR		✓			
CLARK	✓				
FROELICH	A				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH		✓			
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	A				
WEILER	✓				
WIKENHEISER	✓				
WINRICH		✓			

Total (Yes)

9

No

3

Absent

2

Floor Assignment

Rep. Clark

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

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Operator's Signature

Halista Rickford

Date

10/2/03

REPORT OF STANDING COMMITTEE (410)
February 5, 2003 11:15 a.m.

Module No: HR-22-1695
Carrier: Clark
Insert LC: 30029.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1054: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1054 was placed on the Sixth order on the calendar.

Page 2, line 5, remove the overstrike over "two"

Page 2, line 6, remove "three" and remove "six hundred"

Page 2, line 11, remove the overstrike over "one", remove "two", remove the overstrike over "six", remove "eight", and remove "eighty"

Page 2, line 17, remove the overstrike over "one"

Page 2, line 18, remove "two", remove the overstrike over "two", remove "one", and remove "sixty"

Page 2, line 24, remove the overstrike over "eight", remove "one thousand four", and remove "forty"

Page 2, line 29, remove the overstrike over "four"

Page 2, line 30, remove "seven" and remove "twenty"

Renumber accordingly

2003 TESTIMONY

HB 1054

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Salista Rickford
Operator's Signature

10/2/03
Date

John Walstad
#81054

JOHN WALSTAD

710 1001

Equalization and Abatement

Equalization is the process provided by law to adjust property assessments to be consistent with market value agricultural value. Property owners who are dissatisfied with assessment levels may appeal assessments through the township board of equalization or the city board of equalization in April, the county board of equalization in June, and the State Board of Equalization in August.

As an alternative to the equalization process, a taxpayer may pursue the abatement process by filing an application for abatement and refund of taxes. Several levels of review may be involved in the abatement process, which may culminate in appeal of the decision of the board of county commissioners to the district court and then to the North Dakota Supreme Court. Several statutory grounds exist for granting an abatement, including that the assessment is invalid, inequitable, or unjust.

Homestead Property Tax Credit

Since 1969 North Dakota law has provided a property tax reduction for persons 65 years of age or older with limited income. As created in 1969, the provision allowed a person 65 years of age or older with an income of \$3,000 or less per year from all sources to claim a 50 percent reduction in the assessment on the person's homestead up to a maximum reduction of \$1,000 of assessed valuation. This provision has been amended by 23 bills since 1969.

The income limitations in North Dakota Century Code (NDCC) Section 57-02-08.1 have been increased by legislation approved in 1973, 1975, 1977, 1979, 1981, 1985, 1989, 1993, and 1999. Other significant changes to this section include adding a matching credit and refund for renters in 1973, state reimbursement to political subdivisions of property tax revenue losses from the credit in 1975, extending the credit in 1975 to a person who is permanently and totally disabled, adding a deduction from income for medical expenses in 1977, changing the basis of the tax credit from assessed valuation to taxable valuation and proportionately reducing the amount of reductions allowed in 1983, adding an exclusion in 1983 to disallow the credit to a person whose assets exceed \$50,000 not including the value of the homestead, excluding federal rent subsidies from income and excluding tax-exempt property from eligibility for the credit for renters in 1985, imposing a \$6,000 limit on the credit allowed against special assessments in 1985, allowing the credit to remain available upon absence of the person from the homestead for nursing home care or care in a similar facility in 1989, and creating a definition for permanent and total disability in 1993.

Under NDCC Section 57-02-08.1, a person who is 65 years of age or older or permanently and totally disabled and whose income is \$14,000 or less per year from all sources is entitled to a reduction in taxable valuation of the person's homestead. The exemption continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility for

as long as the portion of the homestead previously occupied by the person is not rented to another person. The reduction in taxable valuation varies depending upon income as follows:

Income	Maximum Reduction in Taxable Valuation	Maximum Percentage Reduction in Valuation
\$0,000 or less	\$2,000	100%
\$0,001 to \$9,500	\$1,800	80%
\$9,501 to \$11,000	\$1,200	60%
\$11,001 to \$12,500	\$800	40%
\$12,501 to \$14,000	\$400	20%
Over \$14,000	\$0	0%

A person claiming the homestead property tax credit exemption must sign a statement that the person is 65 years of age or older or permanently and totally disabled, the person's income does not exceed \$14,000 per annum, and the value of the person's assets, excluding the value of the person's homestead, does not exceed \$50,000, including the value of any assets divested within the last three years.

An illustration of the effect of the homestead property tax credit may be useful in understanding how the credit applies. For the following examples, a home with a \$60,000 true and full value is assumed for each homeowner, and the 1999 statewide average mill rate of 394 mills is applied to the property:

	Annual Income	Taxable Valuation Reduction	Property Tax Obligation	Property Tax Savings
Homeowner A	\$7,500	\$2,000	\$278	\$788
Homeowner B	\$10,000	\$1,200	\$881	\$473
Homeowner C	\$13,500	\$400	\$908	\$168
Homeowner D	\$15,000	\$0	\$1,054	\$0

For homeowners in the following examples, the same assumptions are used except the true and full value of the home is reduced to \$30,000. In these examples, Homeowner E is eligible for complete elimination of the property's taxable valuation. Homeowners F and G are limited in the reduction they receive because the maximum percentage reduction in valuation applies to them rather than the maximum dollar amount reduction under NDCC Section 57-02-08.1.

	Annual Income	Taxable Valuation Reduction	Property Tax Obligation	Property Tax Savings
Homeowner E	\$7,500	\$1,380	\$0	\$532
Homeowner F	\$10,000	\$810	\$213	\$319
Homeowner G	\$13,500	\$270	\$428	\$108
Homeowner H	\$15,000	\$0	\$532	\$0

Homestead Property Tax Credit for Renters

Any person 65 years of age or older or permanently and totally disabled and whose income of \$14,000 or less per year from all sources and who rents living quarters is eligible for a refund of a portion of the person's rent deemed to constitute payment of property taxes. Twenty percent of the person's annual rent, excluding federal rent subsidy and utilities, services, furniture, furnishings, or appliances furnished by the landlord

under the rental agreement, is considered payment made for property taxes. This 20 percent of annual rent, to the extent it exceeds four percent of the annual income of the person, is refunded from the state general fund, but the refund may not exceed \$240. A husband and wife who are living together are entitled to only one rent refund. The refund is not available for living quarters, including a nursing home, that is exempt from property taxes.

State Reimbursement of Homestead Property Tax Credits

Under NDCC Section 57-02-08.2, since 1975 the state has provided reimbursement to political subdivisions for property taxes lost as a result of the homestead property tax credit, and the state has also provided refunds to eligible renters under the homestead property tax credit. Each county is required to certify to the Tax Commissioner the name and address of each person allowed the homestead property tax credit for the previous year, the amount of the exemption, and the total of tax mill rates against the property. The Tax Commissioner is required to certify to the State Treasurer for payment to each county the amount of property tax excused under the homestead property tax credit.

Renters entitled to a refund must apply annually to the Tax Commissioner for refunds.

The following table shows appropriations made for state reimbursement to political subdivisions and payments to renters for the homestead property tax credit for each biennium since the state began providing reimbursement:

1975-77	\$3,268,014
1977-79	\$2,900,000
1979-81	\$3,550,000
1981-83	\$6,280,000
1983-85	\$5,341,000
1985-87	\$4,260,000 ¹
1987-89	\$4,708,000 ²
1989-91	\$5,000,000
1991-93	\$4,878,163
1993-95	\$5,375,000
1995-97	\$5,181,280
1997-99	\$4,780,813
1999-2001	\$4,540,813
2001-03	\$4,408,813

¹ After \$750,000 reduction by the 1987 Legislative Assembly.

² After \$456,000 deficiency appropriation added by the 1989 Legislative Assembly.

The following table shows the number of claimants, total payments, and average payments per claimant under the homestead property tax credit:

Tax Year	Qualifying Homeowners	Paid for Homeowners	Average Per Homeowner	Qualifying Renters	Paid to Renters	Average Per Renter	Total Payments
1975*	6,004	\$850,863	\$108	414	\$26,182	\$63	\$876,875
1976	6,738	\$891,582	\$103	508	\$37,367	\$74	\$928,950
1977*	9,663	\$1,351,324	\$140	1,325	\$143,352	\$108	\$1,494,676
1978	10,738	\$1,556,881	\$145	2,301	\$292,458	\$127	\$1,849,339
1979*	10,529	\$1,582,855	\$150	2,672	\$353,058	\$137	\$1,935,713
1980	10,633	\$1,881,802	\$177	2,594	\$365,696	\$141	\$2,247,298
1981*	10,158	\$1,970,209	\$194	2,635	\$387,906	\$147	\$2,358,114
1982	9,411	\$1,886,433	\$200	2,684	\$414,429	\$156	\$2,300,862
1983	8,620	\$1,841,081	\$209	3,133	\$516,244	\$165	\$2,357,325
1984	8,206	\$1,818,526	\$222	3,088	\$519,667	\$169	\$2,338,193
1985*	7,362	\$1,697,678	\$231	2,206	\$159,713	\$72	\$1,857,391
1986	7,567	\$1,987,970	\$263	1,994	\$181,805	\$81	\$2,169,775
1987	7,540	\$2,011,933	\$267	1,878	\$183,092	\$87	\$2,175,025
1988	7,546	\$2,142,139	\$284	1,881	\$183,357	\$87	\$2,305,496
1989	7,307	\$2,158,650	\$295	1,657	\$149,666	\$90	\$2,308,316
1990*	7,168	\$2,336,992	\$325	1,601	\$149,705	\$94	\$2,486,697
1991	7,029	\$2,230,637	\$317	1,582	\$151,600	\$98	\$2,382,237
1992	6,743	\$2,181,292	\$323	1,534	\$155,205	\$101	\$2,336,497
1993	6,576	\$2,184,714	\$332	1,563	\$166,739	\$107	\$2,351,453
1994	6,376	\$2,159,466	\$339	1,626	\$175,554	\$108	\$2,335,020
1995*	6,095	\$2,104,889	\$360	1,590	\$177,782	\$112	\$2,372,471
1996	5,680	\$2,072,141	\$365	1,499	\$166,841	\$111	\$2,238,982
1997	5,278	\$1,974,283	\$374	1,482	\$165,060	\$111	\$2,139,343
1998	4,943	\$1,852,124	\$375	1,454	\$173,370	\$119	\$2,025,494
1999	4,457	\$1,817,652	\$408	1,508	\$190,211	\$126	\$2,007,763

*Denotes years in which income limitations for credits were increased. The 1990 increase was approved in 1989 legislation, the 1995 increase was approved in 1993 legislation, and an increase for 2000 was approved in 1999 legislation.

Homestead Credit for Special Assessments

Under NDCC Section 57-02-08.3, a person who is qualified for the homestead property tax credit may also elect to qualify for a homestead credit against special assessments. The credit is available only for annual installments of special assessments and must be claimed each year the applicant wants the credit. The total amount of credits allowed for any parcel of property may not exceed \$6,000, not including interest charged

by the governing body levying the special assessment. The amounts claimed are to be reported by the county to the Tax Commissioner for payment to the special assessment district.

The amount of the homestead credit for special assessments, plus interest of 9 percent per year, is a lien in favor of the state against the property upon which the special assessment credit is allowed. The lien is generally payable from the estate of the claimant, and title to

the homestead may not be transferred without the lien being satisfied, except in the case of a transfer between spouses because of the death of one of them, in which case the lien need not be satisfied until the property is transferred.

Subsidized Housing Valuation

The three basic approaches to valuation of property are the income approach, cost or replacement approach, and sales comparison or market approach. Senate Bill No. 2348, which failed to pass in 2001, would have required valuation of subsidized housing by the income approach and consideration of only actual rental income and expenses. The legislation was supported by developers of low-income housing under Section 42 of the Internal Revenue Code.

Under Section 42 of the Internal Revenue Code, a developer is eligible for an income tax credit for developing qualifying low-income rental property. The credit may be sold to investors to raise money to make financing a project feasible. For 30 years, rent limitations and tenants' income limitations apply to the rental units. The North Dakota Housing Finance Agency selects and monitors buildings under the tax credit program. Different tenant income and rental unit rent restrictions are established by the Department of Housing and Urban Development for each county.

Committee Consideration

Assessment Issues

The committee reviewed the effect of special assessments on the assessed valuation of the property. The Property Tax Division of the State Tax Department has taken the position that the amount of special assessments should be added to the true and full value of property because special assessment projects are improvements to property.

The committee reviewed use of the sales ratio study in smaller communities. The sales ratio study is intended to improve assessment quality by comparing sales prices to true and full valuation. A minimum sample of 30 sales each for residential and commercial property is required for use of the sales ratio study in each county and major city. If the number of sales in the year does not meet the minimum sample size, data must be supplemented with sales from three prior years or the current year appraisals. For communities in which property sales are infrequent or there are no purchasers for property, the sales ratio study is a reference, but valuations should reflect local conditions.

Property tax burden has shifted from agricultural property to residential property from 1990 to 2000. During this period, there have been increases in property taxes levied on all classes of property. From 1990 to 2000, agricultural property declined from 43 to 38 percent of property value and from 34 to 29 percent of total property taxes. In that period, residential property increased from 29 to 35 percent of property valuation and from 34 to 41 percent of total property taxes. Commercial property and centrally assessed

property remained fairly constant in their shares of valuation and taxes levied from 1990 to 2000.

The committee reviewed when fee hunting or similar use would cause agricultural property to lose its agricultural tax status. If the primary use of property is for hunting or some other nonfarming activity, the property should be classified as commercial property. If farming is the primary or dominant use of property and commercial hunting or other activity on the property is incidental, the property does not lose its status as agricultural property.

Homestead Property Tax Credit

Income limits under the homestead credit law have been increased in recent years, but the maximum reduction against property values has not been changed. Homeowners who previously received complete exemption of their property may now be subject to taxes on part of the value of the property because the maximum reduction has not kept pace with property valuations. The existing maximum reduction eliminates taxes on about \$44,000 of true and full value, which covered most eligible property at the time the exemption was created. Other weaknesses noted by the committee under the homestead property tax credit are that income limitations do not respond to changing economic conditions and the same income limit applies to a single person and a married couple.

Subsidized Housing Valuation

The committee was asked to recommend legislation to provide for uniform valuation of Section 42 properties across the state. The committee considered legislation enacted in Iowa and noted there were resulting problems in valuation of similar properties. An approach was recommended to provide a partial property tax exemption for housing that qualifies for the Section 42 credit. The committee considered an approach to value these properties under normal assessment procedures and subtraction from the true and full value of components of the value to the renter of having rent restrictions and the value of the income tax credit under Section 42. The committee was urged not to recommend the bill draft for property tax exemption of subsidized housing. Developers of property under Section 42 receive an upfront subsidy under federal tax law and providing a property tax break for these properties was characterized as an additional competitive advantage for these developers, with whom private developers compete in the housing market. The state supervisor of assessments said proper assessment of subsidized housing should recognize limitations on valuation, using either the income approach or the market approach. Committee members noted other types of subsidized housing programs would not be provided special valuation under the approach considered. The committee makes no recommendation with respect to a partial property tax exemption for subsidized housing.

Recommendation

The committee recommends House Bill No. 1054 to revise eligibility for the homestead property tax credit. The bill establishes income limits in five income categories. If an eligible person's income does not exceed the federal poverty level, the person is entitled to a reduction of 100 percent of taxable valuation of the person's homestead, with a maximum reduction of \$80,000 in true and full valuation. Based on February 2002 guidelines from the United States Department of Health and Human Services, the federal poverty level was \$8,860 for a single person and \$11,940 for a couple. Income up to 110 percent of the federal poverty level would entitle the claimant to an 80 percent reduction of the taxable valuation of the homestead, with a maximum reduction of \$64,000 in true and full valuation. The 110 percent limit is equivalent to \$9,746 for a single person and \$13,134 for a couple. Income not exceeding 120 percent of the federal poverty level would entitle the claimant to a 60 percent reduction of the taxable valuation of the homestead, with a maximum reduction of \$48,000 in true and full valuation. The 120 percent limit is equivalent to \$10,632 for a single person and \$14,328 for a married couple. Income not exceeding 130 percent of the federal poverty level would entitle the claimant to a 40 percent reduction of the taxable valuation of the homestead with a maximum reduction of \$32,000 in true and full valuation. The 130 percent limit is equivalent to \$11,518 for a single person and \$15,522 for a couple. The highest income category of eligibility in the bill is 140 percent of the federal poverty level, which would entitle the claimant to a reduction of 20 percent of the taxable valuation of the homestead, with a maximum reduction of \$16,000 in true and full valuation. The equivalent income at the 140 percent limit is \$12,404 for a single person and \$16,716 for a couple. Current law limits the credit to claimants with income of \$14,000 or less, so the bill would reduce the income limitation for a single person and increase the income limitation for a couple. The bill provides that for renters the maximum \$240 rent refund per year would remain available, but the same income categories are applied by the bill for the homestead credit based on the federal poverty level. The state reimburses political subdivisions for property tax revenues not received because of the homestead credit, so the bill would have a fiscal effect to the state. The estimated fiscal effect to the state of the bill would be an additional \$1,362,244 per biennium, which would be added to the current state cost per biennium of \$4,540,813.

SPECIAL ASSESSMENTS STUDY

Background

Under North Dakota law, cities have had authority to levy special assessments for improvements since 1897, counties have had that authority since 1983, and townships were given that authority in 2001.

Eight chapters of the North Dakota Century Code govern improvements by special assessment in cities. County authority for improvements by special

assessments is based on a reference to city provisions. Township special assessment levy authority is governed by an abbreviated statutory procedure provided under NDCC Chapter 58-18. Special assessments for city projects are the most common and were the primary focus of the study.

An improvement district must be created by ordinance or resolution as a jurisdictional prerequisite before a public improvement to be paid for by special assessments may be undertaken. There is no statutory provision for initiation of improvements by special assessment by petition but it appears that special assessment districts are almost universally initiated by petition of property owners. After a petition is received or the governing body decides to proceed, the city generally schedules an informal meeting with property owners or notifies them by mail that a project will be considered. The size and the form of a special assessment district is decided by the city governing body after consultation with the city engineer.

A city may create a water district, sewer district, water and sewer district, street improvement district, boulevard improvement district, flood protection district, or parking district. After a district is created, the city governing body must direct the city engineer to prepare a report as to the nature, purpose, and feasibility of the improvement, an estimate of the probable cost of the project, and detailed plans and specifications for construction.

After filing and approval of the city engineer's report, the city governing body may adopt a resolution declaring the necessity of the improvements. A resolution of necessity is not required if the improvement is a water or sewer improvement, service charges will pay for the improvement, or a petition signed by owners of a majority of the area of property included within the district has been received. The resolution must be published once each week for two consecutive weeks in the official newspaper of the city. Within 30 days after the first publication of the resolution of necessity, owners of property in the proposed improvement district may file written protests. If protests are received from owners of a majority of the area of property within the improvement district, the protest is a bar against the improvement project. If protests are received from owners of a majority of any separate property area within the district, the protest is a bar against the portion of the improvement to be assessed in whole or in part upon property within that area.

If sufficient protests are not filed and the resolution of necessity is adopted, the city governing body must advertise for bids on a project. The governing body must award a contract for construction of a public improvement to the lowest responsible bidder. The governing body may reject any bid and readvertise for proposals if no bid is satisfactory. If a contract for construction of a public improvement is estimated to exceed \$100,000, plans, drawings, and specifications must be procured from a licensed architect or registered professional engineer. Before acceptance of any bid, the governing body must require the city engineer to reestimate the cost of the work under the bids. The governing body may not

FINANCE AND TAXATION COMMITTEE
January 13, 2003

Testimony of Marcy Dickerson, State Supervisor of Assessments

HOUSE BILL NO. 1054

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed by the State Tax Commissioner as State Supervisor of Assessments. My testimony concerns House Bill No. 1054 and relates specifically to the fiscal note and proposed amendment.

House Bill No. 1054 bases income eligibility of applicants for homestead credit and the renter's refund on the federal poverty level for single persons and for persons with one dependent. The federal poverty changes each year, so the income brackets will change each year. I have attached a table showing the provisions of this bill using the February 2002 federal poverty level. This bill also increases the maximum taxable value for which 100 percent exemption will be allowed to \$3,600, which represents a homestead with a true and full value of \$80,000.

To estimate the fiscal effect of House Bill No. 1054, we recalculated homestead credit and renter's refund payments made in 2001 and 2002 using the provisions in this bill. To estimate the additional amount that would be required for persons who become eligible because of the increased income limit for those having one or more dependents, we considered the total number of joint income tax filers, age 65 and older, who reported income between the current maximum of \$14,000 and the proposed maximum of \$16,716. We then broke those potential applicants down between homeowners and renters in the same proportion as currently eligible persons. We assumed each homeowner and each renter would be eligible for the maximum

Yolanda Rickford
Operator's Signature

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refund or credit available to a person in that income category. We estimate a single year's payments under this bill will increase 83 percent over homeowner and renter payments made in 2002.

The proposed amendment to House Bill No. 1054 prepared by the Office of State Tax Commissioner repeals the requirement that the tax commissioner distribute annually a supply of forms to each county director of tax equalization. This change will save a substantial amount of postage. Tax directors, city assessors, and applicants have immediate access to the application form because we have placed it on our website. It may be filled in electronically or printed out and completed manually. Several larger jurisdictions already use their own computer-generated application forms instead of the three-part forms provided by the tax commissioner. A fill-in form for the County Auditor's Certificate of Qualifying Senior Citizens and Permanently Disabled Persons will soon be on the website also. We believe this amendment will reduce the cost of administering the homeowner's credit with no reduction in service to applicants or county and city officials.

This concludes my prepared testimony. I will be happy to try to answer any questions you may have.

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House Bill No. 1054

01/11/03

Federal poverty level:

One person

\$8,860

Two persons

\$11,940

Table of homeowner benefits

Categories: If income is	Single person		Person with one or more dependents	
	If your income is	Taxable value is reduced by	If your income is	Taxable value is reduced by
Less than Federal Poverty Level (FPL)	\$ 0 - 8,860	100%	\$ 0 - 11,940	100%
Between 100% and 110% of FPL	8,861 - 9,746	80%	11,941 - 13,134	80%
Between 110% and 120% of FPL	9,747 - 10,632	60%	13,135 - 14,328	60%
Between 120% and 130% of FPL	10,633 - 11,518	40%	14,329 - 15,522	40%
Between 130% and 140% of FPL	11,519 - 12,404	20%	15,523 - 16,716	20%

Table of renter benefits

	Single person		Person with one or more dependents	
	If your income is	Maximum Refund	If your income is	Maximum Refund
Less than Federal Poverty Level (FPL)	\$ 0 - 8,860	\$240	\$ 0 - 11,940	\$240
Between 100% and 110% of FPL	8,861 - 9,746	192	11,941 - 13,134	192
Between 110% and 120% of FPL	9,747 - 10,632	144	13,135 - 14,328	144
Between 120% and 130% of FPL	10,633 - 11,518	96	14,329 - 15,522	96
Between 130% and 140% of FPL	11,519 - 12,404	48	15,523 - 16,716	48

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