

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1209

2005 HOUSE FINANCE AND TAXATION

HB 1209

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 19, 2005**

Tape Number

1

Side A

Side B

x

Meter #

48.6

Committee Clerk Signature

Janice Stein

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

REP. PHILLIP MUELLER, DIST. 24, Introduced the bill. The bill deals with nonfarm limitations for farm residents. Offered several points in support of the bill. It is important to keep in mind, that farm owners or ranchers, pay a pretty hefty chunk of their income for property tax on the land that they farm or operate. This would be something of a tax break for younger farmers and ranchers. It is hard to get \$40,000 off the farm, then losing the tax exemption. This bill is such, as to allow these people to stay on their farm. When you look at this total package of money, it is important to remember that that kind of income will pay for that land, and pay the principal on that piece of farm machinery.

REP. DROVDAL How can it be fair that we increase this, in my case, where I pay property tax on all of my farm, I still have to pay property tax on my farm home. I don't get any more service then the guy one half mile down the road does, he's exempt. How can that be fair?

REP. MUELLER There are some problems with this whole thing. Gave an example of his son who just came back to farm a year and a half ago, it didn't work out to have him live on the farm, so he has a little house in Wimbledon. This guy probably needs a tax break on that house, maybe more than Dad does, but that's not the way it works. What this bill attempts to do, is the issue which I spoke to, which is those younger folks that doing all they can do to stay on the farm, we ought no penalize them.

REP. CONRAD I would agree with you if you would take out the spouse. This is hard on women in the country. If they reach this limit, their husband will all of a sudden, have to pay property taxes.

REP. MUELLER I am not sure where you are going with that. Are you suggesting they are not part of the fifty percent?

REP. CONRAD Yes

REP. MUELLER I haven't studied that issue, if it is something that needs to happen, it would be just fine.

REP. CONRAD Gave a brief history of her background, her husband farmed and she worked off the farm. She felt the wife is penalized if she makes too much money off the farm.

REP. MUELLER I think this is what we are talking about. That off farm money does not just buy clothes for the kids and groceries for supper, it is subsidizing what is happening on the farm. That is the nature of farm business. I think we need to do what we can do, we need to help these people stay where they are at.

MARCY SVENNINGSSEN, FARMER, VALLEY CITY, ND Testified in support of the bill.

See attached written testimony. Also attached is an application for property tax exemption of a farm residence.

WOODY BARTH, REPRESENTING THE NORTH DAKOTA FARMERS UNION

Testified in support of the bill. See written testimony

REP. WRANGHAM I am thinking about this from a different direction. I think this is an exemption put in place to help the family farmers. A subsidy, if you will. We have been hearing several times this morning, as this being referred to as a penalty, I am not necessarily against raising it from forty to fifty five thousand, but I look at it from the other way, which this is a subsidy being offered, and you have to qualify for the subsidy. If you don't qualify for it, you are not being penalized for it, you are just not getting a subsidy, do you feel that way?

WOODY BARTH I think the Farmers Union residents in the country, where the majority of income is coming from the farm, should not be taxed, that is our policy. At a level, to be penalized, or do you subsidize, is probably a fine line, it is a question that could be debated for a long time. We feel as agricultural producers in North Dakota, our members do not want farm residences taxed, we look at it as supporting the rural community.

REP. BELTER The previous testimony, brought up the issue about the qualification, why do we even consider any dollar figure, if fifty percent of your income is received from farming, isn't that enough, maybe item number 5 is not relevant?

WOODY BARTH That would be the policy of Farmer Union, that farm residents should not be taxed, so if your income would be over the fifty percent level, what you said would coincide with what the North Dakota Farmers Union believes.

ARVID WINKLER, TOWNSHIP ASSESSOR IN BARNES COUNTY Testified in support of the bill. Submitted a handout from the Legislative Council interim committee relating to farm buildings property tax exemption history. See attached copy.

REP. WRANGHAM If we were to change this, and take out the three preceeding calendar years, would we then say, during the present calendar, or the previous calendar year, would that help?

ARVID WINKLER Then you start forcing them to play little games. Those people who live in the country, drive through the snow to get to work, and do all of the school things, you start running around all over. If it is a school district issue, you just better let somebody residing out there, otherwise, they are going to congregate in the larger metropolitan areas, and the countryside will be vacant.

ARDEN HANER, DOUGLAS, ND Testified in support of the bill. He related to his experience as a farmer and paying taxes on his farm residence.

JERRY HJELMSTAD, NORTH DAKOTA LEAGUE OF CITIES Testified in opposition of the bill. He stated their association has taken a position in opposition of any expansion of the farm residence exemption, as long as their is no cap on the amount of the values that the exemptions will cover. Right now, farm residences are exempt whether it be a fifty thousand dollar home or a five hundred thousand home. An expansion of the exemption would be a shift of that tax to the other taxpayers in that area.

REP. BELTER Stated, it is pretty bold of the League of Cities to take that position, when they want city sales taxes, when they expect people who don't live in the city to pay.

REP. BRANDENBURG What do you think if we would remove the line relating to the fifty percent?. Would that be something that could work?

JERRY HJELMSTAD The question is not so much as to who qualifies for it, the question is why would a five hundred thousand dollar residence, owned by a farmer, be exempt, whereas, a school teacher in town with a fifty thousand dollar residence is paying property taxes on that.

REP. BRANDENBURG I think the point you are missing is that, the farmer is paying property tax on the land he farms, and is living out there, but his wife or himself, is earning additional income, and still, even though the farm home is exempt, he is still paying taxes on the property he farms.

JERRY HJELMSTAD I can't disagree with you on that. The whole question is, why the break on the farm residence, at what level, we were talking about young farmers and keeping them on the farm, etc. At what level will we cut it off.

REP. FROELICH A number of years ago, we passed the renaissance bill, to help the cities revitalize, I voted for that. A number of years back, I bought a piece of property, buildings were falling down, maybe we should pass the renaissance bill for rural North Dakota, and give us a tax break. When we passed the renaissance bill, there was a property tax shift, there is no doubt about that.

JERRY HJELMSTAD I am not sure what you are driving at.

REP. FROELICH My point being, is your comment that the property taxes will shift. We have already shifted the property taxes from the cities, with the renaissance zone bill. We granted income tax and property tax relief. Within the cities themselves, they shifted the taxes, is that not correct?

JERRY HJELMSTAD I am assuming it would have to be a shift decided on by that governing board of the city. My point on this is, I wanted the committee to be aware that any expansion of this credit, will have to be picked up by the other taxpayers in the county.

REP. BRANDENBURG With the home rule charter, I pay a lot of sales tax, I don't live in that town, I think I am paying for a few houses in that town.

MARCY DICKERSON, STATE TAX DEPARTMENT Testified in a neutral position. See written testimony.

With no further testimony, the committee hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 26, 2005**

Tape Number	Side A	Side B	Meter #
2	X		41.5

Committee Clerk Signature

Minutes:

COMMITTEE ACTION

REP. HEADLAND Made a motion for a do pass.

REP. BRANDENBURG Second the motion.

REP. DROVDAL Had some amendments prepared to submit to committee members.

REP. HEADLAND and **REP. BRANDENBURG** Withdrew their motions for a do pass.

REP. DROVDAL Submitted amendments which he thought could help the first time farmers who had a hard time making a living on just farm income, These amendments would also help a farmer's spouse who worked off the farm.

REP. DROVDAL Made a motion to adopt the amendments.

REP. GRANDE Second the motion. Motion failed.

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House Finance and Taxation Committee

Bill/Resolution Number **HB 1209**

Hearing Date **January 26, 2005**

REP. BELTER Stated he had to resist the amendments as he felt there isn't as big a problem out there as the assessors say there is.

REP. HEADLAND Made a motion for a **do pass**.

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

12 YES 1 NO 1 ABSENT

REP. HEADLAND Was given the floor assignment.

FISCAL NOTE
Requested by Legislative Council
03/23/2005

Amendment to: HB 1209

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations				\$200,000		

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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 1209 with Senate Amendments requires the supervisor of assessments to randomly audit all classes of property assessments across the state as well as property tax exemptions allowed and denied. The findings of the audits must be reported to the State Board of Equalization and a legislative committee.

There is no direct impact on property tax revenues.

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.*

Section 2 of this bill appropriates \$200,000 to the tax commissioner for use in conducting the audits.

Name: Kathryn L. Strombeck
Phone Number: 328-3402

Agency: Office of Tax Commissioner
Date Prepared: 03/23/2005

FISCAL NOTE
Requested by Legislative Council
01/07/2005

Bill/Resolution No.: HB 1209

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.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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 1209 broadens the farm residency exemption by increasing the allowable nonfarm income to \$55,000 for each of the preceding three years. It is not possible to estimate how many persons would qualify, or how many presently taxable residences would become exempt under the provisions of HB 1209.

This bill would reduce tax revenue to the state medical center by an indeterminable amount. It would not affect overall tax revenue to any political subdivision that levies under NDCC Section 57-15-01.1, but it would shift the tax burden from newly exempted farm residences to other taxpayers.

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
Phone Number: 328-3402

Agency: Office of Tax Commissioner
Date Prepared: 01/18/2005

1-26-05

BILL/RESOLUTION NO. **HB 1209**

Committee



Action Taken

Rep. Headland

Rep. Brandenburg

Yes No

**BELTER, WES, CHAIRMAN
DROVDAL, DAVID, V-CHAIR
BRANDENBURG, MICHAEL
CONRAD, KARI
FROELICH, ROD
GRANDE, BETTE
HEADLAND, CRAIG
IVERSON, RONALD
KELSH, SCOT
NICHOLAS, EUGENE
OWENS, MARK
SCHMIDT, ARLO
WEILER, DAVE
WRANGHAM, DWIGHT**

[illegible]

12

1

Rep. Headland

Rep. Headland

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

REPORT OF STANDING COMMITTEE (410)
January 26, 2005 4:15 p.m.

Module No: HR-17-1139
Carrier: Headland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1209: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1209 was placed on the Eleventh order on the calendar.

2005 SENATE FINANCE AND TAXATION

HB 1209

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 14, 2005**

Tape Number	Side A	Side B	Meter #
# 1	X	X	24.5 - 61.5 0.0 - 51.0

Committee Clerk Signature



Minutes:

CHAIRMAN URLACHER CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1209.

REP. MUELLER: appeared as prime sponsor of the bill stating this allows farm couples or residence of farms to earn \$55,000 off farm income before losing their farm home tax exemption for property tax purposes. Off farm income is an issue that relates to 1 of 4 criteria. You do not qualify for a farm home tax exemption unless you meet those qualifications. One of them being the 51% off farm has to be the prime occupation of the folks that are asking and questioning this farm residence tax exemption for property tax and they have be sitting on at least 10 acres, the 4th criteria is the one we are going to talk about this morning and that's the can't be more than \$40,000 off farm income.

SEN. URLACHER: it will also increase the amount you have to make off the farm to meet the 50%?

ANSWER; that's correct, there were no changes in the law as it stands now except for moving from 40 to 55,000 in your off farm income, nothing else changes with the current law.

SEN. COOK: the bill as introduced will expand the number of farmers who get the farm residence exemption?

ANSWER; if passes, yes, more qualifying.

SEN. COOK: I believe that the only result if passing this bill is that there are people out there who have a spouse who is making more than \$40,000 for 3 consecutive years and therefore they are not getting the farm residence exemption that would all of a sudden qualify for it. I wanted to make sure we agree there.

ANSWER: we do agree with that.

SEN. COOK: through the study we found out that ND is the only state that offers a farm residence exemption to farmers, I think we found out that its been around since the early 1900's and if I recall it was originally put into place as a means of discouraging out-of-state investors from buying farm land in ND, or should I say give an advantage to living in the state and owning the farm land. When I look at the whole exemption which is presently \$40,000, they have to have a spouse in order to lose this exemption for 3 consecutive years, the spouse has to make over \$40,000. The spouse could make \$100,000 off the farm for 2 years and then make less than \$40,000 for 1 out of 3 years and they would still get the exemption, but the question I have for you, I have a lot of neighbors that make together (husband and wife) makes less than \$40,000 a year and they pay a lot of property tax for their home, so if that's the case, if we have people all over the state that are paying a lot of property tax and they are making a lot less than \$40,000, I have a hard time understanding why would we even allow somebody to get the exemption if they

have a spouse making \$40,000 off the farm and now you want to raise it to \$55,000. So would I look at some of my constituents who are making less than \$40,000 and paying property tax, how can I justify to them that those who are making more than \$40,000 don't have to just because their spouse is a farmer?

ANSWER; I think you certainly bring good issue to the table and I understand what your saying. I think I'll make 2 points about it, #1 in those instances those folks more than likely are working in town or with some business and probably live in the town certainly in the city of Mandan that would be very true. The point that we reference is does not involve the appreciation issue, they are not involved in paying the kind of interest that would probably be required out on a farm buying that herd of cattle or that new machinery. Those capital assets all depreciate, that's something that that home owner I think your referencing probably isn't involved with. The other point that I would make about that is that out on that farm, I have to put my sewer system in, I have to put my water system in, I have to plow the snow off that road out there and there are a number of amenities that tax dollars do in fact through property tax is provide for that non farm residence folks are not able to take advantage of. We spend a lot of time as I indicated earlier regarding property tax and well we should, but we have become exceedingly reliant on property taxes to do the work that needs to be done in this state.

SEN. COOK: I agree, we rely very heavily on property tax to fund a county govt., our city govt., park districts and most of all our school districts, but when we consider the way that all of these political subdivisions build their budgets, they start with dollars needed and divide by the taxable valuation of the property within that political subdivision. As we expand the number of farmers who are going to be eligible for the farm resident exemption as we take these residences off of

the farm or the property tax payrolls, are we not just shifting those dollars onto the neighbors who still have to pay the farm with their residence property taxes. In Morton County as the county builds its budget, if there is more residence in Morton County that come off, it just shifts the tax burden onto those who are in many cases making a lot less then \$40,000 right now and paying property taxes, is that not correct?

ANSWER; yes, it also goes back to the folks that own that land or ranch land around that farm, they are having it moved back to them as well. Exemptions are part of the problem. When the city that we are meeting in here has 50% of their property off the tax rolls, its part of the problem that Sen. Cook references and I agree. This particular bill or law is in existence, what the attempt of 1209 is to do is to bring it back, bring it up to the point that it makes sense like it did 6 or 8 years ago.

GREG SWENNINGSON: Valley City appeared in support with written testimony.

ARVID WINKLER: on behalf of himself appeared in support stating I see this as maintaining an index of this inflation thing, this is to maintain those that are already receiving the exemption rather than trying to gather more who would like to get the exemption.

WOODY BARTH: ND Farmers Union appeared in support with written testimony.

ANDY MORK: on behalf of himself appeared in support stating farmers pay their fair share and much more of it and remember this issue here is on farm building exemption and not on farm land exemptions.

SEN. COOK: Your in the Mandan School District, are you aware that I think the Mandan School mill levy is 311 mills that those in the city pay 311 mills and those that are not in the city pay 80% of that?

ANSWER: I'm very aware of that. It's not the rural areas that pay the 80% its the farm valuations.

REP. WILLIAMS: appeared in opposition stating what this bill addresses since 1997 is a 38% increase to \$55,000. I somewhat apprehensive on that because I am sympathetic to the farm exemption, I believe it has a place, however, problems have emerged in certain geographic areas, one of them is Wahpeton. The problem is simple, Wahpeton like Mandan and other urban areas have become job centers and have generated off farm income and that is part of the problem. However, with this bill and this increase coming in right now, I have some apprehension, this is part of a study in the last interim. That study if you look at it was delivered to us in December states some important points, #1 there are some alternatives, either get rid of the abuse and get some uniformity in the present system , #2 get rid of the farm exemption, that is why I voted against 1209. Simply because I believe that 1209 does not deal with the problem of uniform assessment which is why we have so much controversy. Until we deal with the uniformity problem, I don't feel that we should augment the problem by raising the farm exemption by 38% in basically an 8 yr. time period.

SEN. THANE: appeared in opposition stating the problem I have with this bill is not so much an exemption but the increase of the exemption from \$40,000 to \$55,000 which really is adding fuel to a smoldering fire that exists in many areas and probably more so in Wahpeton area than any place else because of the so called prosperity in Agriculture where your seeing beautiful brand new farm homes going up, not on the old farmstead but in new locations that are exempt and I thinks that's wrong. I'm not philosophically opposed to an exemption of sorts, but I'm

opposed to increasing this from \$40,000 to \$55,000. Its just going to create a bigger problem that already exists.

TERRY MAROHL: a rural Richland County resident appeared in opposition on behalf of himself with written testimony.

BILL WARD: Former Richland County farmer appeared in opposition with written testimony.

DAVE PAULY: on behalf of himself appeared in opposition stating I lost my exemption because of the 51% _____. I went to work in town because things were slow on the farm and they said I couldn't spend 40 hours a week in town and still work 40 hours a week out at the farm, so I lost my exemption. It is in my view that if your making \$40,000, that means your making \$40,001 on the farm to retain your farm exemption you have the money to pay the taxes.

JIM JOHNSON: from Mandan appeared in opposition stating this bill may be good if amended in a couple of different directions. I think everything should be fair and equal, why not tax it on the true and full cash value, plain and simple and be fair all the way around. If I got the bucks to pay for the farm, then I got the bucks to pay for the tax.

RALPH MUECKE: of Gladstone appeared in support (changed his position on the bill) because of the 50% rule and as to whether it was never a gross income which threw him for a loop stating his representative apparently didn't understand this bill, so I was against it but now I'm hearing all the testimony and would like to change my position to support.

MARCY DICKERSON: appeared neutral on the bill with written testimony.

SEN. COOK: clarification on numbers. 363 township assessors in the State and 571 of township assessors and class 2 city assessors, those 363 are not part of the 571 are they?

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Senate Finance and Taxation Committee

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Hearing Date March 14, 2005

ANSWER: no. That's another group, 363 are certified just as township assessors and the 571 are another classification, now all new assessors do get both classification but previously they were separate designations.

SEN. COOK: so how many total people do we have in the State that are assessing property out there?

ANSWER: looks like about 1,000 assessors.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

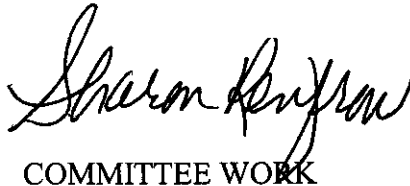
Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 21, 2005**

Tape Number	Side A	Side B	Meter #
#1		X	12.1 - 18.7

Committee Clerk Signature



Minutes:

COMMITTEE WORK

SEN. COOK: I do have some amendments up at my desk and don't know if I really want to offer them, I guess if there is strong desire from others here that I would. If you remember from this testimony, I think any testimony we get regarding a lot of these property tax exemptions is the importance of uniformity and I think we as on the other side of the chamber up here, the two chambers have come to understand that we are far away from having property taxes assessed uniformly in this state and that we needed some solutions to move towards a more uniform assessment of taxes of property taxes. However, across the isle they just said the ___ them all, they just don't seem to understand that uniformity or the lack of it is a problem. My amendments were basically the hog house to put it back into the same form of a bill we passed out of here earlier that would have given them another chance to reconsider that issue. That was the bill in my mind was the most important bill we have for moving towards uniformity is the auditor bill. I'd be happy to offer them to this, but I don't know if I'm that eager to, if the committee wants to

continue to give them a chance to address uniformity I'm willing to fight the fight otherwise I would move a do not pass on it.

SEN. EVERY: Mr. Chairman I struggled with this bill as well, and there were good arguments on both sides and the uniformity and the fair and equal were very good arguments, I would like to see the amendments, I think that's a kind of a compromise on our part to get the bill out of here. I struggle with it, I really do on both sides of the issue. I side with the farmer and I also side with the other tax payers that say its true and full value. I agree, I'd like to see the amendments myself.

SEN. WARDNER: that's all we've heard in the interim on the taxation committee, its about the unfairness, the different way it's being addressed out there. Not only the farm exemption but other things too and if we don't start now, when are we going to start, 2 years from now. I'd like to see the amendments.

SEN. COOK; presented amendments and explained them, stating that we heard different testimony than the House side did. These amendments have a \$200,000 dollar appropriation and if we pass this, I would hope that if we decide to do it again that its going to have to go to appropriations, I think its certainly a bill that has some merit whether or not they will reconsider where their at over there. We heard different testimony here than what they heard, I can tell you that. A lot of the testimony we heard here about the problems weren't over there when they had the hearing on the House side.

SEN. URLACHER: so it retains the 40 or 55,000?

SEN. COOK: Mr. Chairman it would just be the hog house amendments that would stay at \$40,000. All it would do is add the work of the assessors review.

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Senate Finance and Taxation Committee
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SEN. EVERY: made a **MOTION TO ADOPT THE AMENDMENTS**, seconded by Sen. Tollefson.

VOICE VOTE: 6-0-0 **AMENDMENT PASSES.**

SEN. COOK: made a **MOTION FOR DO PASS AS AMENDED AND REREFER TO APPROPRIATIONS**, seconded by Sen. Every.

ROLL CALL VOTE: 6-0-0 Sen. Cook will carry the bill.

March 14, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1209

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-01-05 of the North Dakota Century Code, relating to an annual audit of property tax assessments and property tax exemption decisions; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

57-01-05. State supervisor of assessments. The state tax commissioner shall appoint a supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the supervisor of assessments by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. The supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. The supervisor of assessments may require the attendance of groups of assessors at meetings called by the supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. The supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling a record of sales of property made in the county or city, and in conjunction with the county commissioners shall analyze the sales for the purpose of advising the state supervisors of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study,

the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.

5. The supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Within the limits of legislative appropriations, the supervisor of assessments shall cause an annual random audit to be performed of property assessments statewide in each classification of property under section 57-02-27 and of property tax exemptions allowed or denied under subsection 15 of section 57-02-08 and of valuations under section 57-02-14 of real property exempt from taxation. Audits must focus on assessment and equalization decisions, accuracy, uniformity, and compliance with state law and directives and advice of the state supervisor of assessments. The state supervisor of assessments shall prepare results, findings, and recommendations of annual audits conducted under this subsection for presentation to the state board of equalization and to a committee designated by the legislative council.
8. The supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the tax commissioner for the purpose of random property tax audits as directed by the supervisor of assessments under section 57-01-05, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Renumber accordingly

Date: 3.21.05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1209

Senate

Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

0103

Action Taken

Adopt Amendments

Motion Made By

Every

Seconded By

Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Voice
Vote

Total (Yes)

No

Absent

Floor Assignment

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

Date: 3-21-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1209

Senate

Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As Amended

Motion Made By Cook Seconded By Every

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Cook

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

REPORT OF STANDING COMMITTEE

HB 1209: 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). HB 1209 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with " for an Act to amend and reenact section 57-01-05 of the North Dakota Century Code, relating to an annual audit of property tax assessments and property tax exemption decisions; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

57-01-05. State supervisor of assessments. The state tax commissioner shall appoint a supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the supervisor of assessments by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. The supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. The supervisor of assessments may require the attendance of groups of assessors at meetings called by the supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. The supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling a record of sales of property made in the county or city, and in conjunction with the county commissioners shall analyze the sales for the purpose of advising the state supervisors of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the

number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.

5. The supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Within the limits of legislative appropriations, the supervisor of assessments shall cause an annual random audit to be performed of property assessments statewide in each classification of property under section 57-02-27 and of property tax exemptions allowed or denied under subsection 15 of section 57-02-08 and of valuations under section 57-02-14 of real property exempt from taxation. Audits must focus on assessment and equalization decisions, accuracy, uniformity, and compliance with state law and directives and advice of the state supervisor of assessments. The state supervisor of assessments shall prepare results, findings, and recommendations of annual audits conducted under this subsection for presentation to the state board of equalization and to a committee designated by the legislative council.
8. The supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the tax commissioner for the purpose of random property tax audits as directed by the supervisor of assessments under section 57-01-05, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Renumber accordingly

2005 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1209

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

House Finance and Taxation Committee

☒ Conference Committee

Hearing Date **March 30, 2005**

Tape Number	Side A	Side B	Meter #
1	X		0.1

Committee Clerk Signature

Ganin Stein

Minutes:

REP. BELTER Called the conference committee to order.

SEN. COOK Explained their reasons for the amendments they put on the bill, the intent was to have a conference committee on the bill. He related to SB 2243. He felt there are serious problems throughout the state with assessments of property. He stated the testimony in the Senate committee meeting was that there was no uniformity in assessments in rural North Dakota.

SEN. WARDNER Stated there were people who testified from Richland County who are really frustrated with the difference in the way property is assessed. They felt there is favouritism for some and not others.

REP. BELTER Stated there will probably always be problems with assessments, the system is not perfect. He felt because the bill was defeated by the House, that is an indication that they won't except a \$200,000 fiscal note where there is no appropriation to cover that will not begin to touch the tip of the iceberg for someone to clear every dispute in the county.

SEN. COOK Related to subsection 7 and what it does, and also related to subsection 6. He felt there are different procedures of doing things. He felt if a supervisor came to the city of Mandan, they would probably only spend a half day. It is the supervisor's position to see that these assessors are instructed and trained and that they are all doing it the same way.

REP. BELTER Asked if there is something they could do, if they go back to the original HB 1209, to alleviate some of the problems that are evident in the farmstead exemption.

SEN. COOK The farmstead exemption is defined in law as to who qualifies. If we are going to have a farmstead exemption, let's see that it is done the way it should be. He stated the League of Cities proposed an amendment which limited the exemption to the first \$75,000, to get away from the problem of someone building a \$350,000 or \$500,000 home and having an exemption. I don't support raising that \$40,000 income. A lot of my constituents think that someone making \$40,000 off the farm, should get an exemption.

REP. BELTER Stated he didn't have a strong feeling on the \$55,000. In the House hearing, some wondered why we even have an off-farm income figure in there. Is that creating a problem? Would it be better if half the income is from farm income? Should we just forget about income earned off the farm.

REP. WARDNER In the testimony we heard, that was unacceptable. Those people wanted it left where it is, they were opposed to the \$55,000. Looking at the big picture, everybody is complaining about property taxes. They want property tax relief. Our thinking is, we need to get uniformity, that is why this bill is here. I don't know if \$200,000 and a couple of auditors is going to solve the problem, it will only be a start. Once you get uniformity, then start looking at

adjusting taxes so the sales, income and the property taxes kind of balance with one another. It is probably a ten year project.

REP. HEADLAND Part of the problem I see with the farm home exemption is it is too complicated. I think our chairman is on to something by getting rid of the off-farm income. If we could simplify it so these assessors could be able to determine, up or down, whether they deserve the exemption, that is the direction we should go. Talking about your amendment, I can see in my county what the assessor will think of that. If we went in the direction of the state auditing everything, I think the local assessors would shift everything to the state and let them take care of it.

REP. FROELICH Related to a situation in his area, whereby they told the local assessor to view the property and take care of it. If the landowner wouldn't have agreed, he could have gone to the state, I think things are being taken care of without this bill.

SEN. COOK The problem is, we have all the protection in the world if we are being taxed too high, we have the process in which we can protest that. The problem that comes out there is, when you have a property that is not taxed high enough, you will not protest if they are too low. If they aren't paying the taxes they should be paying, those taxes get shifted to someone else. Related to the last interium meeting, when the township tax assessor was there, stated there were 17 residents in that township, 5 ligitimate farmers, four were getting the tax exemption, 9 were on the tax roll, and he was fired. This is the protection that is going on out there. There are a lot of reasons why we don't have uniformity. In some cases, there are assessors who are just not educated well enough on the rules.

REP. BELTER I am not so sure that someone coming from Bismarck, will necessarily solve the problems as you see them. From my perspective, there are three options. I do not see the House accepting your amendments. If you want to take the bill and just defeat it, because you don't like the \$55,000 limit, that is not a big point for me. Or, if there something in the original HB 1209, if we change that, to help alleviate some contention.

SEN. WARDNER I think you are right, that is where we are at. If we leave the bill as it is, it will be defeated.

REP. BELTER I think we are creating more problems then we are solving, by changing the \$40,000 to \$55,000.

The conference committee meeting was adjourned to a later date.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

House Finance and Taxation Committee

☐ Conference Committee xx

Hearing Date **April 1, 2005**

Tape Number	Side A	Side B	Meter #
1	X		0.5

Committee Clerk Signature

Minutes:

CONFERENCE COMMITTEE

REP. WES BELTER Called the conference committee meeting to order.

Rep. Belter stated that at the last meeting he had stated we could do three options, he asked the Senators if they went back to the original bill to see if we could improve the intent of HB 1209.

SEN. COOK Asked, what do you see as the original intent?

REP. BELTER We still have the fifty percent match, when you raise the off-farm income, are you not also raising the requirement that more income has to be raised on the farm too?

SEN. COOK I think there is some confusion in that. Stated that all you have to do is be below that off-farm income one of the three years, to qualify for three years.

REP. BELTER Thought you still have to meet the fifty percent requirements.

REP. HEADLAND Stated that fifty percent of the income had to come from the farm.

SEN. COOK To qualify for the fifty five thousand, you have to do that three years in a row.

REP. BELTER Stated, so you are saying, that raising it to fifty five thousand, makes it more lenient to qualify?

SEN. WARDNER Stated if once out of every three years, you would have fifty percent of your income from off the farm, you would be O.K.

REP. BELTER Is there any interest in working within the original language of HB 1209. I am not interested in accepting the Senate amendments.

SEN. COOK That would be option two, option three would be that you would accede to our amendments and then have a discussion on the merits of SB 2243. We are sitting here with this conference committee because of the different perspective the House and Senate have as to what degree do we have a problem with the way property is assessed. To me, there is a major, major problem with the way property is assessed. We don't have any mechanism right now to put some teeth into assessments.

He submitted an article relating to state tax policy regarding assessment of property tax.

Sen. Cook, stated, he thinks the only way we will solve educational funding is when we solve the property tax assessment. He related to a township where taxes were shifted because there was no uniformity in the assessments.

REP. BELTER That is why counties have a county tax assessor, that is his job to make sure there is equalization in townships to look those things over. We have a situation where there is a state tax equalizer, where they can bring complaints to be solved. I think we do have a system in place. It may not be perfect, but I am not sure, starting another level of bureaucracy is going to solve it. I think we have the framework in place to deal with this.

SEN. COOK We are not starting another level of bureaucracy, this level is already in place with responsibilities to oversee assessments for the sole purpose of making it uniform. If you were in a township and being assessed to the letter of the law, and you are next to a township and they are not being assessed, you know your taxes are higher because this township is not. What right would you have to have that problem addressed?

REP. HEADLAND Don't you have the county assessor who is supposed to oversee both of those townships, and if he sees that the one is not assessing properly, doesn't he have the ability to assess himself?

SEN. COOK Let's get Marcy Dickerson down here and ask that question. She has the ability to say they are doing it wrong, but I don't believe it is anywhere, where they can say, you are doing it wrong.

REP. BELTER I have yet to have gotten a complaint in my county regarding a terrible inequity problem between one township versus another, somebody must be handling that if there is. The county commissioners ought to be hearing if there is a problem, and they must have authority to weigh in on this issue and see if there is a problem between townships.

REP. FROELICH Didn't the county commissioner request that the assessor reassess properties.

SEN. COOK I think they did. He related to the last interior committee meeting, where they heard people state they were assessed differently from neighboring counties. Maybe it is a problem that is just starting to arise.

REP. BELTER Stated there are probably problems that arise, but that is the job of the State Board of Equalization, it is their job to make sure that there is continuity between various

counties. That whole mechanism is in place now. Maybe they aren't doing their job like they should, but I can't see bringing another person on board without creating a large expenditure.

The other thing that really concerns me is, that by and large, our property tax system has generally worked quite well. There are a lot of variables in assessing property, and whenever you have a lot of variables, it calls for personal decisions and judgments. If you are going to have someone step in and be a referee in these things, I see the local officials just dropping everything and put it on the shoulders of this new group that you want to set up. They will end up dealing with everything they should be handled by the local level.

SEN. COOK Related to the last sentence of subsection 7. We see all kinds of legislation that allows us to gather information so we can make decisions. The latest was a \$150,000 appropriation to study whether or not we need a heritage center or where it should be built. This, to me, is the most important part that will result in improving assessing processes. He stated he would be happy to meet at another meeting, when you mentioned variables, I would be happy to listen to anybody about these variables that assessors have.

REP. FROELICH Can't we get a list from the Board of Equalization right now?

SEN. COOK I think we should have Marcy Dickerson down here and the Board of Equalization.

The meeting was adjourned, the meeting will be set up for another time.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **April 4, 2005**

Tape Number	Side A	Side B	Meter #
1	X		0.5

Committee Clerk Signature

Minutes:

CONFERENCE COMMITTEE

REP. WES BELTER Called the conference committee to order.

He asked if the Senate wanted to recede from their amendments.

SEN. COOK Asked if the House wanted to accede to the Senate amendments.

He asked if there is a better way to address the problem then what was put into the bill. Is there a better way to move toward a more uniform way of assessing property taxes.

REP. BELTER Stated, maybe next session we want to look at that, but as far as this session goes, we dealt with this bill once and soundly defeated it, so I guess I am not interested in looking at any major changes.

SEN. WARDNER I know we study everything, is there any study resolution which we could encompass this in. We are talking about the equity and fairness of assessing property taxes, throughout the state. I can't remember if we have had a study resolution along those lines.

REP. FROELICH Stated that he thought SB 2272 is a study resolution on this.

SEN. WARDNER From my experience of being on Finance & Tax over the years, and especially from what we heard in this bill, I really think we need to take a look and really get serious about finding some solutions to move forward, and in this bill, where we amended it for \$200,000, for a couple of staff and the tax department to go out and audit. That would be a very small step in getting this done. We don't even think it would solve the problem by any means, but we felt it was a start in that direction. This equity situation does create irritation with people. We talk about agriculture, but there are also some problems in the urban areas.

REP. BELTER We could look at SB 2272, and see if that would satisfy us as far as a study. I don't see your amendment passing the house.

SEN. COOK This whole problem came up in the last interium committee, in regard to preferential tax treatment. To what degree do we have tax exemptions getting preferential treatment. We have a system out there that is being abused. The key to this is, ultimately, we have to study it. The most important part is to send somebody out into the field to gather the accurate data that is needed for that study, and then, report back to the committee. Maybe the tax interium committee should conduct a meeting in Richland County, then go to Grand Forks County.

REP. BELTER Stated he wanted to look at the language in SB 2272 and see, I am not opposed to that interium committee taking a look at that.

The meeting was adjourned to another day.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1209**

House Finance and Taxation Committee

☐ Conference Committee XX

Hearing Date **April 8, 2005**

Tape Number	Side A	Side B	Meter #
1	X		0.3

Committee Clerk Signature

Minutes:

REP. WES BELTER, CHAIRMAN Called the conference committee to order.

REP. BELTER Stated that earlier in the week Sen. Cook and he visited with John Walstad at the Legislative Council regarding amendments to HB 1209. They decided to change HB 1209 into a comprehensive study dealing with the property tax assessments from the very grass root level up to the Board of Equalization. The amendments before you are what the draft is.

He asked for discussion on the amendments.

SEN. COOK He related to a statement in the tax book which they received, which states that before local property assessments practices must usually be done before school finance reform can be accomplished. Most of this discussion has been a discussion of what degree to we have uniformity in the state. That seems to be what separates us, I believe we are a long ways from it. This study would certainly shed more light on what degree we have a uniformity problem.

SEN. WARDNER Stated he concurred with those remarks.

Page 2

House Finance and Taxation Committee

Bill/Resolution Number **HB 1209**

Hearing Date **April 8, 2005**

SEN. COOK Made a motion that the Senate recede from the Senate amendments.

SEN. EVERY Second the motion. Motion carried

SEN. COOK Made a motion to adopt the amendment # 50249.0104

SEN. EVERY Second the motion. Motion carried.

SEN. COOK Made a motion for a **do pass as amended**.

SEN. EVERY Second the motion. **MOTION CARRIED**

6 YES 0 NO

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

Bill Number)

HB 1209

(, as (re)engrossed):

Your Conference Committee

For the Senate:

SEN. COOK

SEN. WARDNER

SEN. EVERY

For the House:

REP. BELTER

REP. HEADLAND

REP. FROELICH

☒ recommends that the SENATE HOUSE (ACCEDE to) RECEDE (from)
the Senate House amendments on (SJ/HJ) page(s) 1262-1263

☐ and place
727

on the Seventh order.

☒ adopt (further) amendments as follows, and place
HB 1209 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) HB 1209 was placed on the Seventh order of business on the
calendar.

DATE: 4 / 8 / 05

CARRIER: Rep. B. Otter

LC NO. 50249 . 0104 of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

HB 1209: Your conference committee (Sens. Cook, Wardner, Every and Reps. Belter, Headland, Froelich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1262-1263, adopt amendments as follows, and place HB 1209 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1262 and 1263 of the House Journal and pages 950-952 of the Senate Journal and that House Bill No. 1209 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the property tax system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - PROPERTY TAX SYSTEM.

The legislative council shall consider studying, during the 2005-06 interim, the property tax system of the state. The study must include all of the following:

1. Analysis of the property tax administration system from the assessment level through the state board of equalization.
2. Examination of the checks in the property tax administration system for reconsideration and correction of errors.
3. Analysis of the appropriate level of government for making property assessments.
4. Methods to assure uniformity and equity among assessment and taxing districts in spreading property tax burdens as provided by law.
5. Examination of existing processes to challenge property tax assessment and levy decisions, including analysis of the accessibility of the system for a citizen to mount a challenge.
6. Analysis of how budgets are determined by political subdivisions and whether levy limitations have an unintended influence on budget decisions.
7. Analysis of property tax allocation and assessments among the classifications of property and the shifting of property tax burdens among property types that occurs because of assessment changes.
8. Analysis of the use of variables to valuation standards by local assessment officials.
9. Analysis of the frequency of reassessment and problems that arise if assessments are not kept current.
10. Analysis of whether there are aspects of existing law that provide incentives or opportunities for distortion of assessments for property tax or other purposes.

The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

HB 1209 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1209

Testimony for Jan. 19, 2005 HB 1209

Marcy Svenningsen
3546 109 Ave. SE
Valley City, ND 58072
(701) 845-2517

Chairman Belter and members of the Finance & Tax Committee – My name is Marcy Svenningsen and my husband, Greg, and I farm 1600 acres and calve out 185 cows on a ranch about 10 miles west of Valley City. I am here today to support HB 1209. Both my husband and I grew up on family farms and when we got married in 1980, our goal was for both of us to work on the farm. But by 1983 we were paying 18% interest on our operating note and line of used equipment and it was very apparent that if we didn't get some off farm income to help pay bills, we would lose our farming operation. Since I had an accounting degree, we decided I should look for work in town. I found a job as a secretary with the Open Door Center in Valley City that year. In 1986 I was promoted to Business Manager of that organization and I continue in that same position today – 22 years with the same company.

Because of my longevity with the company, my salary has of course continued to rise. Enough so that when I received the application last

year for property tax exemption of a farm residence, I had to answer the 4th question on the active farmer category "Yes" we did have nonfarm income of more than \$40,000 during each of the three preceding calendar years. I feel that I am being penalized for having a good nonfarm job by now having to pay property tax on our home. It is especially upsetting because the only reason I continue to work at my nonfarm job is to keep our farming operation intact. My husband will tell you, our bank loan officer will tell you – that without our off farm income the past 22 years – there wouldn't be a farm. I am not unique in this situation – three of the four support staff I work with at Open Door Center are farm wives. We use our vacation time to combine, work cattle, and help with the many other jobs that we would like to be home for all the time. However something has to pay for health insurance and groceries and in my case - the two children we currently have in college. If these wives and in some cases husbands are fortunate to find good jobs, they then lose the property tax exemption on their farm homes.

I understand the reason some are questioning the property tax exemption for a farm residence. I realize that we have urban folks moving out into

the country trying to claim a farmstead exemption when they are not truly farmers. But the third question on the property tax exemption form should answer that concern. Does the annual net income from farming constitute 50% or more of the total income? The form tells you how to determine net farm income and when I use their rationale and average the last three years of our information – my nonfarm income has only been 32% of our net income while the farm generated 68%. If you use gross dollars - my nonfarm income has averaged only 13% of our total revenue during the last three years. Clearly our primary business is farming and ranching and we should be eligible for the property tax exemption.

I urge this committee to support the \$15,000 increase in the limit of nonfarm income that HB 1209 calls for but ideally I would like to see that fourth question eliminated because I believe the third question takes care of the people living in the country who are trying to incorrectly claim the exemption. Thank you for hearing my testimony and I would be glad to try and answer any questions you may have.

Application For Property Tax Exemption of a Farm Residence

This application must be filed every year on or before January 1st of the year for which the exemption is being requested. Return the completed application to:

Property Number: 17-3230300
Property Occupant: SVENNINGSSEN, GREG & MARCY
Property Address:

Legal Description

SW1/4 32-140-59

3546 109 AV SE
VALLEY CITY ND 58072

The property owner(s) apply for real property tax exemption for the year 2005 on the property described above and, certify the following:

*** SELECT ONLY ONE CATEGORY THAT APPLIES ***

Active Farmer Category

- * Is the residence located on a tract or contiguous tracts of agricultural land containing 10 or more acres farmed by the occupant? Yes ☐ No ☐
- * Is the major portion of the occupant's time devoted to farming activities? Yes ☐ No ☐
- * Does the annual net income from farming constitute 50% or more of the total income, including the income of a spouse if married, during any one of the three preceding calendar years? Yes ☐ No ☐
"Net income from farming" means taxable income from farming as computed for state income tax purposes adjusted as follows:
i. add back interest expense from farming which has been deducted in computing taxable income and,
ii. add back depreciation expense from farming activities which has been deducted in computing taxable income.
Did the occupant engaged in farming have nonfarm income, including that of a spouse if married, of more than \$40,000 during each of the three preceding calendar years? Yes ☐ No ☐

Vacant Residence Category

- * Is the residence intended for use as a farm residence? Yes ☐ No ☐
- * Was the residence last used as a farm residence or as part of a farm plant? Yes ☐ No ☐

Farm Laborer Residence Category

- * Is the residence being used as part of a farm plant to provide housing for that farmer's workers? Yes ☐ No ☐

Retired Farmer Category

- * Is the residence occupied by an individual who retired from farming because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the applicant lives and for which the exemption is claimed? .. Yes ☐ No ☐

Beginning Farmer Category

- * Is the residence occupied by an individual who began occupancy and operation of a farm within the three preceding calendar years? Yes ☐ No ☐
- * Is a major portion of the individuals time normally devoted to farming activities? Yes ☐ No ☐
- * Does the farmer have at least one of the prior three years where there was no farm income or loss? Yes ☐ No ☐

I am willing to furnish proof of income if requested to do so by someone authorized to administer this exemption and I understand that making false statement in a governmental matter is punishable as a Class A misdemeanor provided in N.D.C.C. § 12.1-11-02.

Signature of applicant

Date

Assessor or Director of Tax Equalization

Date

North Dakota Farmers Union

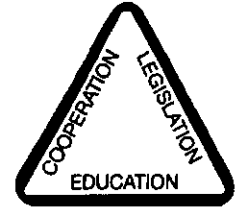
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House Bill 1209 Finance and Tax

Chairman Belter and members of the House Finance and Tax committee,

My name is Woody Barth; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in favor of House Bill 1209, which deals with limitations for farm residence property.

-The intent if this bill is to raise the amount of non-farm income that farm family members can earn off the farm from 40K to 55K annually and still qualify for the exemption of property taxes on the farm residence.

- If the intent is to keep the amount indexed to inflation or wage levels, it is probably time that this should be raised. Depending on family size and circumstances, this level of income is certainly not a high level of income.

-Why should we penalize farm family members who need to supplement their extremely variable farm income with wages earned off the farm?

-We are concerned about out-migration in North Dakota, especially from our rural communities. If someone can continue to live in these rural areas, and supplement farm income with wages from non-farm income, will we not keep more people in rural counties to support the local economy?

-Why do we assume that \$40k is a level at which we start imposing penalties and extra costs?

-If farm families are forced to pay thousands of dollars in additional real estate taxes on their residences, that leaves less dollars for them to spend in their local communities.

-City residents sometimes forget that many of the services and conveniences they have available in town are not automatically available on the farm. The farmstead driveway, the water well and wastewater system, fire department and other emergency services, snow removal, and other necessities are all paid for by farmers and ranchers living on farms. While city dwellers say they pay monthly service fees for these, still local property taxes have built some of the infrastructure.

-If we want our youth to return to North Dakota, and especially rural North Dakota with their new high-tech skills learned in our universities and other educational systems, why not reward them with some incentives to continue to live in rural areas, especially if they are married to a farmer or rancher.

-We have a declining number of yard lights in many areas of North Dakota already, encouraging folks to stay on farms and ranches, prevents more loss of population and strain on large city economies.

Thank you Chairman Belter and members of the House Finance and Tax committee, I would be willing to answer any questions that you have at this time.

David Winkler
HB 1209

August 2004

FARM BUILDINGS PROPERTY TAX EXEMPTION HISTORY

Before 1918 the Constitution of North Dakota did not allow exemption from property taxes for buildings. In November 1918 the voters approved an amendment to what is now Article X, Section 5, of the Constitution of North Dakota which allowed the Legislative Assembly to classify buildings as personal property and thereby exempt selected buildings from property taxes.

The first property tax exemption for agricultural buildings in North Dakota was enacted by passage of 1919 Senate Bill No. 44. That bill simply provided exemption from property taxes for "all structures and improvements on agricultural lands." The bill contained no definition of the terms "structures and improvements" or "agricultural lands." The farm building exemption is presently contained in subsection 15 of North Dakota Century Code Section 57-02-08.

For a period of 50 years the farm building exemption was changed very little, although a presumption was added that any parcel of property of less than five acres was not a farm. It appears that application of the exemption became more difficult as "nonfarmers" began moving to rural areas, and a 1969-70 Legislative Council interim Finance and Taxation Committee report recommended an amendment to increase the statutory presumption of the size of a farm from 5 to 10 acres and to require that not less than 50 percent of total gross annual income of the farmer and the farmer's spouse must be derived from the farmland. The report states that testimony indicated there was a problem in some areas when persons who were not farmers built houses out of the city limits and claimed the property was exempt under the farm structure exemption. The 1971 Legislative Assembly approved House Bill No. 1057 as recommended by the Legislative Council study but deleted the requirement of 50 percent of the farmer's income coming from the farmland.

Passage of 1973 Senate Bill No. 2318 was apparently intended by the Legislative Assembly to restrict the application of the farm building exemption. This 1973 legislation introduced several new concepts such as application of income limitations, activities limitations, and retirement considerations. The bill included a statement of intent of the Legislative Assembly that the exemption as applied to a residence was to be strictly construed and interpreted to exempt only a residence situated on a farm occupied or used by a person who is a farmer. The bill defined the term "farm" as agricultural land containing a minimum of 10 acres which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than

50 percent of the person's annual net income, and the bill defined the term "farmer" to mean an individual who normally devotes the major portion of the person's time to the activities of producing products of the soil, poultry, livestock, or dairy farming and who normally receives not less than 50 percent of the person's annual net income from these listed activities. The bill also defined the term "farmer" to include an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

Passage of 1981 House Bill No. 1542 further restricted the farm building exemption by defining income from farming activities, requiring that a husband and wife who reside in a residence claimed as exempt must receive not less than 50 percent of combined net income from all sources from farming activities, and allowing the assessor to require that the occupant of a residence who is claiming the agricultural building exemption file a written statement regarding the income qualifications of the applicant and spouse.

Passage of 1983 Senate Bill No. 2313 added the requirement that the individual and spouse claiming the exemption could not qualify for the exemption if the individual and spouse had more than \$20,000 of nonfarm income during each of the three preceding calendar years. This provision does not apply to an individual who is retired from farming and otherwise qualifies for the exemption. This annual nonfarm income limitation was increased from \$20,000 to \$30,000 per year for three preceding calendar years by passage of 1985 Senate Bill No. 2409.

Passage of House Bill No. 1615 in the November 1991 special legislative session provided that any structure or improvement located on platted land within the corporate limits of a city or any structure or improvement located on railroad operating property subject to assessment by the State Board of Equalization is not exempt as a farm structure. X

Passage of 1995 House Bill No. 1202 provided that "livestock" as used in the exemption includes "nontraditional livestock."

Passage of 1997 House Bill No. 1280 replaced the requirement that the farm must normally provide the farmer with 50 percent or more of annual net income with a provision that would disqualify the farmer from the farm residence exemption if the farmer receives more than 50 percent of annual net income from nonfarm income during each of the three preceding calendar years. Passage of 1997 House Bill No. 1301 increased from \$30,000 to \$40,000 the limitation on nonfarm income during each of the three preceding calendar years which would disqualify the farmer from

the farm residence exemption. This bill also provided that a farmer operating a bed and breakfast facility would not be disqualified from the farm residence exemption because of income from operation of the bed and breakfast facility.

Passage of 1999 House Bill No. 1053 replaced the disqualification for earning 50 percent or more of annual net income from nonfarm income in each of the three preceding calendar years with a requirement that annual net income from farming activities must be 50 percent or more of annual net income during any of

the three preceding calendar years. The bill also allowed a beginning farmer to qualify for the exemption by excluding consideration of that person's three preceding calendar years of farm income. Passage of 1999 House Bill No. 1054 expanded the farm building exemption to include feedlots and buildings used primarily, rather than exclusively, for farming purposes. Passage of 1999 House Bill No. 1363 allowed addition of depreciation expenses from farming activities to net farm income for purposes of qualifying for the exemption.

HOUSE FINANCE AND TAXATION COMMITTEE

January 19, 2005

Testimony of Marcy Dickerson, State Supervisor of Assessments

HOUSE BILL 1209

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed as State Supervisor of Assessments and Director of the Property Tax Division by the State Tax Commissioner. My testimony concerns House Bill 1209.

House Bill 1209 increases from \$40,000 to \$55,000 per year the amount of nonfarm income allowed in each of the three preceding calendar years before an applicant is disqualified from receiving the farm residence exemption, so long as the applicant meets the other requirements. A person having \$55,000 of nonfarm income in the most recent of the three preceding years and more than \$55,000 of nonfarm income in each of the other two preceding years could be eligible for three years' exemption before having to qualify again. In one of the three years that person would have to receive at least \$110,000 total farm and nonfarm income in order for farm income to be at least 50 percent of total income.

Whenever property is exempted, the tax burden from that property is shifted onto other properties – residential, commercial, agricultural land, and centrally assessed. Political subdivisions have the option of levying more mills to collect the required amount of revenue or, if they are at the maximum allowed mill rates, they can levy under N.D.C.C. § 57-15-01.1 which allows them to levy the same number of dollars as they did in the previous year, no matter what happens to the taxable value. Either way, other property picks up the taxes that are not paid by the exempt property.

This concludes my prepared testimony. I will be glad to try to answer any questions.

Testimony for March 14, 2005 HB 1209

Greg Svenningsen
3546 109 Ave. SE
Valley City, ND 58072
(701) 845-2517

Chairman Urlacher and members of the Finance and Tax Committee – My name is Greg Svenningsen. My wife, Marcy, and I farm 1700 acres and calve out 185 cows on a ranch about 10 miles west of Valley City. My wife would have liked to have been here to testify today but she is in Washington D.C. lobbying against CAFTA. We support HB 1209. Both my wife and I grew up on family farms and when we got married in 1980, our goal was for both of us to work on the farm. But by 1983, we were paying 18% interest on our operating note and line of used equipment and it was very apparent that if we didn't get some off farm income to help pay bills, we would lose our farming operation. Since my wife had an accounting degree, we decided that she should look for work in town. She found a job as a secretary with the Open Door Center in Valley City that year. In 1986, she was promoted to Business Manager of that organization and she continues in that position today – 22 years with the same company.

Because of her longevity with the company, her salary has, of course, continued to rise. Enough so that when we received the application last year for property tax exemption of a farm residence, we had to answer the 4th question on the active farmer category "Yes", we did have nonfarm income of more than \$40,000 during each of the three preceding years. I guess it would have been okay for her to have been working at McDonald's or some other lower paying job – then we would still have our farmstead exemption. It's especially upsetting because the only reason she continues to work at her

nonfarm job is to keep our farming operation intact. I will be the first one tell you, as well as our bank loan officer – that without our off farm income the past 22 years – there wouldn't be a farm. We're not unique in this situation – three of the four support staff that Marcy works with are farm wives. They use their vacation time to combine, work cattle and help with the many other jobs that they would like to be home for all the time. However something has to pay for health insurance and groceries and in our case – two children currently in college. If these wives and in some cases – husbands – are fortunate to find good jobs, they then lose the property tax exemption on their farm homes.

I understand the reason some are questioning the property tax exemption for a farm residence. I realize that we have urban folks moving out into the country trying to claim the farmstead exemption when they are not truly farmers. But the third question on the property tax exemption form should answer that concern. Does the annual net income from farming constitute 50% or more of the total income? The form tells you how to determine net farm income and when I use their rationale and average the last three years of our information – our nonfarm income has only been 32% of our net income while the farm generated 68%. If you use gross dollars – and why wouldn't you compare apples to apples – our nonfarm income has averaged only 13% of our total revenue during the last three years. Clearly our primary business is farming and ranching and we should be eligible for the property tax exemption.

I urge this committee to support the \$15,000 increase in the limit of nonfarm income that HB 1209 calls for but ideally I would like to see that fourth

question eliminated because I believe the third question takes care of the people living in the country who are trying to incorrectly claim the exemption.

I also understand that there are some people who don't believe that farmers should be entitled to the property tax exemption at all. Certainly that is a way to generate additional taxes without actually "raising" taxes. But I believe that one of the reasons the exemption was put into place was because those legislators realized that it costs more to live in rural areas than it does in town and we don't have access to the services townpeople do. It takes a lot more money to buy and maintain a tractor and loader than it does a snowblower sitting in a garage. While the fire department does the best job they can do -- by the time they get to the farm, containment is what they are usually worried about - not saving the structure that started on fire. In a life threatening emergency, waiting for the ambulance to arrive when every minute counts takes on a new meaning.

I believe that it's important to keep as many people on the farm as possible. If a homestead exemption is just one approach to help that goal, we should keep it. Think of it as economic development or even a "renaissance zone". HB 1209 is just taking into account that some farm wives happen to be nurses, long term employees, teachers, etc. In order to qualify for the exemption, the farm still has to provide over 50% of the income -- and that's an adjusted net figure -- not gross. Thank you for listening to my testimony and I would be glad to try and answer any questions you may have.

North Dakota Farmers Union

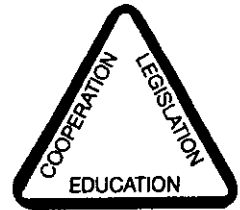
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House Bill 1209 Senate Finance and Tax

Chairman Urlacher and members of the Senate Finance and Tax committee,

My name is Woody Barth; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in favor of House Bill 1209, which deals with limitations for farm residence property.

-The intent if this bill is to raise the amount of non-farm income that farm family members can earn off the farm from 40K to 55K annually and still qualify for the exemption of property taxes on the farm residence.

- If the intent is to keep the amount indexed to inflation or wage levels, it is probably time that this should be raised. Depending on family size and circumstances, this level of income is certainly not a high level of income.

-Why should we penalize farm family members who need to supplement their extremely variable farm income with wages earned off the farm?

-We are concerned about out-migration in North Dakota, especially from our rural communities. If someone can continue to live in these rural areas, and supplement farm income with wages from non-farm income, will we not keep more people in rural counties to support the local economy?

-Why do we assume that \$40k is a level at which we start imposing penalties and extra costs?

-If farm families are forced to pay thousands of dollars in additional real estate taxes on their residences, that leaves less dollars for them to spend in their local communities.

-City residents sometimes forget that many of the services and conveniences they have available in town are not automatically available on the farm. The farmstead driveway, the water well and wastewater system, fire department and other emergency services, snow removal, and other necessities are all paid for by farmers and ranchers living on farms. While city dwellers say they pay monthly service fees for these, still local property taxes have built some of the infrastructure.

-If we want our youth to return to North Dakota, and especially rural North Dakota with their new high-tech skills learned in our universities and other educational systems, why not reward them with some incentives to continue to live in rural areas, especially if they are married to a farmer or rancher.

-We have a declining number of yard lights in many areas of North Dakota already, encouraging folks to stay on farms and ranches, prevents more loss of population and strain on large city economies.

Thank you Chairman Urlacher and members of the Senate Finance and Tax committee, I will answer questions at this time.

Testimony of Terry Marohl
Senate Finance and Tax Committee
March 14, 2005

Mr. Chairman, members of the committee, I am Terry Marohl a rural Richland County resident from Mooreton ND.

I am here today on behalf of myself and my rural neighbors from Richland County in regards to the tax inequities and the farm exemption law as it is today. We are against Senate Bill 1209 in regards to raising the off farm income to \$55,000.00. We want you to know that we are not against farmers and we realize that they pay taxes. Remember some of us are still farming and many of us own farmland and know what the taxes are on farmland. We also realize that some farms and ranches struggle to cash flow, but we also know that most are a far cry from the poor small family farm of yesterday.

We feel something needs to be done with the tax structure in North Dakota and how it relates to people like ourselves that are called rural residents, some of which farm and others that don't but live in the rural areas of our state. There are a number of people like us that have grown up on the farm and enjoy the country way of life. For whatever reason (and there are many of them) it is impossible for many of us to get started in farming or sustain our current farm situation so we have taken jobs in town, picked other career paths and have chosen to live in the country in a farm setting, or in some cases still on the farm. Because we now have taken a job off the farm we don't qualify under the Farm Exemption Rule and are now known as a Rural Resident.

The problem starts with the taxation of these rural residents and who does the assessing. In most cases these township assessors also serve as a township officer. In many counties there are as many as 18-20 people assessing property and all of them doing it differently. There is no uniformity to the assessed valuation of property between townships and therefore we are all over the board in what people are paying for taxes. In some cases there are properties that are not even listed on the tax roles. The farm exemption form and its guidelines are not being enforced and in many cases the township officers just give a thumbs up or thumbs down as to if you get the exemption or not. The ones that are filling out the exemption are never required to prove any of the information on the form so it becomes more of a formality than a document used for finding out if they truly qualify.

In Richland County, we challenged the validity of how assessing was being done to rural residents in July of 2003. There were many residents in our same situation and we wanted some answers to this issue. The result of this was the county commissioners passing a resolution that made all the local assessors turn in the information to the courthouse. If you can believe it some townships never had field cards on properties from their townships in the courthouse. This resolution has helped but has not even come close to taking care of the problem. We from the very beginning have said until you make the township officers and assessors held accountable for their actions you will never get uniformity.

According to a report put out from the tax director of Richland County in June of 2004 some of the townships had to increase their taxable valuations in excess of 150%-200% to even get close to where they should have been for years. In this report there is a difference of taxable valuations of rural properties of

\$23,307,696.00 from 2003 to 2004. Much of this was a result of just making the local assessors do a better job of assessing. In some instances there were rental properties that were not even listed. When you apply the mill levy to this amount it comes to around \$400,000.00 in real money to the county coffers. Some of these townships were in no way close to where they should have been for years, and many still have a long way to go. This really comes down to an equity issue. This doesn't even include the farm exemption discrepancies that are taking place. This should have been corrected years ago by the director of tax equalization for the county but never has been.

. The County assessor for Richland County, Larry Osborn, states that his position is only an administrative one; the decision-making should be done at the township level, then the county level and lastly the state. Therein lies the problem. The townships are the biggest abusers of the system. You take this to the County Commissioners and they tell us that the state gives no direction on how to enforce something like this. If there are laws to be followed in regards to these taxation issues who has the responsibility to see that these laws are enforced? It shouldn't have to come down to the citizens of the county to do checks and balances on these issues when there is department located in the courthouse that should be on top of these problems we are faced with today. There needs to be a fair and equitable method for all the citizens of North Dakota.

We were disappointed to hear the defeat of Senate Bill 2243 in which the Tax Commissioners office would have done an audit on 5% of assessments in the state. We believe the money collected from the areas that haven't been enforcing the rules as they are today would be more than adequate to pay for this position. Look what has happened in just our county. If nothing else, somebody needs to give the counties some direction on how to enforce the law as it is written today.

As of last week with just a quick check of some of properties in Richland County there is proof of faulty assessing. The BUDDY system is in full effect in many areas. There is incorrect assessing happening with just the rural residential property and many who are claiming farm exemption are not even close to following the guidelines of the law as it is written today. We have instances of people building new homes where both the individuals work in town and because one of the township officers is a dad, brother, uncle or friend they get the farm exemption. No questions asked. On the other hand some individuals in the same townships take jobs in town and the assessor shows up within three months and they get put on the tax role. There are instances of people who should have been paying for years and haven't been.

Unfortunately the people that are abusing the system are not the poor struggling farmers that have to take a job in town to supplement their income. It is the ones that build \$300,000.00, \$400,000.00 and \$500,000.00 homes and they are not even building them on the farm, they are building them off the farm adjacent to main highways or next to town on land that they own and still get the full exemption. Some of these have spouses that have been exceeding the \$40,000.00 limit for some time. Remember, in addition you still have to prove that 51% of your total annual income must come from the farm and in many cases this is not happening.

When we look at the farms some of these individuals are from this is what we see: Trucking Companies, Chemical Business, Seed Business, Repair Business, Custom Spraying Business, Custom Harvesting, Truck Sales, Farm Supply Business. These are businesses that handle thousands of dollars in sales and services each year but pay no tax other than the ag land rate on which these businesses sit because they are run on the farm. Is this why we have to raise the off farm income to \$55,000.00 when the average wage in North Dakota is \$27,629.00? If we take a fulltime job off the farm we are told that we are no longer considered a full time farmer so we lose our farm exemption, but it is only enforced on some and not others. I personally had one individual tell me I should keep my mouth shut, after all it was bad enough he had to pay taxes on his home at the lake in Minnesota without having to pay it on his new \$400,000.00 home also.

For some of us that have livestock and outbuildings to house them, not to mention the machine sheds end up getting charged for every square foot of these structures at the residential rate. How can this not be considered ag use? Another thing we have a problem with is that when you look at what our land is valued at as a rural resident, and knowing it is right next to and in some cases being used for agricultural purposes the valuation in comparison to ag-land is astronomical. In our township we are currently assessed at valuations of \$5,000.00 for the first acre, \$1500.00 for acres 2-5 and \$1000.00 for every acre after that. These even if you have it fenced in and are using it for pasture. When you look at farmsteads that are 6,7,8,10,15,20 acres in size think what happens to the taxes owed on just the yard, shelterbelts included. Some parts of our county use \$10,000.00 per acre. Compare that dollar amount to our overall county ag- land assessed valuation of \$508.55 per acre. In many instances we end up paying more in tax than that of people that have homes in town.

Until the townships are held accountable for their actions and that of their assessors not complying with the law as it stands today, this problem will never be solved. It is impossible to have equity when there is one set of rules and 18 or 19 different interpretations of those rules.

In closing, I would like to give just one example of how this law has been abused. This example is of my parent's small farm located in rural Richland County. My parents have a farm where I grew up with my 6 younger brothers and sisters. Growing up on the farm we did all the things that you would normally do as farm kids. We had horses, chickens, pigs, and cows, made hay, threw bales, cleaned barn, 4-H so on and so forth. We never had enough land to make it farming so my father worked off the farm as a custodian to make ends meet. Once my brothers and sisters were all in school my mother went to work also. To this day my parents still raise livestock that the grandchildren now refer to as grandpa's pets. The older grandchildren now help with the heavy work and get to spend some real quality time with Grandpa and Grandma. My parents are now in their late sixties. The home they live in is a 100-year-old house. Because my father and later my mother both worked off the farm they have never been eligible for the farm exemption. They have always been assessed as a rural residence and their land assessed as residential even though it has a barn, machine shed and small pasture located on it. Therefore they have paid taxes for as long as I can remember.

Now lets compare that to another couple that are in the same age bracket as my parents that live 6 miles away who also had a farm similar to the same situation as my parents but did have more land. This couple like my parents also worked off the farm. They totally quit farming, built a new home, cash rented out their land when they were about 50 years old and they continued to still work in town.

Lately both my Dad and this individual retired within a year of each other from their jobs in town. The only difference is this couple has received the farm exemption all their lives. Now they are considered retired farmers and still don't have to pay taxes on their home and buildings. Why? It is a different township, but the same assessor that does the township my parents reside in also does the township of this other couple. By the way it happens to be the Richland County Director of Tax Equalization Larry Osborn who assesses both these townships. Lately when this was questioned the answer we received was "well the township supervisors never said anything."

I guess it helps if you are one of the township officers. If you would compare my parent's farm to the farm of this other couple you would have to say there is a definite comparison.

Why didn't anybody say anything? Because nobody wants to talk about taxes. How would you know this is happening? You wouldn't, unless you ask the individual or go to the courthouse and check on your neighbor. Who wants to do that and why should we have to? These abuses are more common than many of us want to believe, yet this is going on and nobody ever questions it. Don't ask, don't tell, you scratch my back and I'll scratch yours. My parent's pay and the other couple received the deal of the century.

I only wish my parents could have all the money they had to pay in taxes the last 35 years. Maybe they too could have a newer home or spend their winters in Arizona like the other couple does now.

I think the state of North Dakota has a major problem with the Farm Exemption Law. Why is our state the only state that has this antiquated law? In the words of one Senator *quote* "It's a bit of a sacred cow, but I think its time for it to head to the slaughter house, as far as I'm concerned" *unquote*

Property tax relief of some sort has to be a serious consideration of you, our elected officials. We are asking for your help. Something has to change; you are taxing us right out of our homes. The problem is not going to be solved by raising the off farm limit to \$55,000.00 if anything it will make it worse. Why not give all of us rural residents the same break.

We would hope you keep in mind all the citizens of North Dakota and not just the ones that can afford lobbyists or special interest groups to represent them.

Thank You

SENATE FINANCE AND TAXATION COMMITTEE

March 14, 2005

Testimony of Marcy Dickerson, State Supervisor of Assessments

HOUSE BILL 1209

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed as State Supervisor of Assessments and Director of the Property Tax Division by the State Tax Commissioner.

N.D.C.C. § 57-02-08(15)(b)(5) provides that a person who had nonfarm income of more than \$40,000 during each of the three preceding calendar years does not qualify for the farm residence exemption. House Bill 1209 increases the limit on nonfarm income from \$40,000 to \$55,000. A person having \$55,000 of nonfarm income in the most recent of the three preceding years and more than \$55,000 of nonfarm income in each of the other two preceding years could be eligible for three years' exemption before having to qualify again. In one of the three years, that person obviously would have to receive more than \$110,000 total farm and nonfarm income in order to meet the requirement that net income from farming activities be 50 percent or more of total income in any of the three preceding years.

Whenever property is exempted, the tax burden from that property is shifted onto other properties – residential, commercial, and agricultural land. Political subdivisions have the option of levying more mills to collect the desired amount of revenue or, if they are at the maximum allowed mill rates, they can levy under N.D.C.C. § 57-15-01.1, which permits them to levy the same number of dollars as they did in the base year (the highest of the three preceding years), regardless of an increase or decrease in taxable value. Either way, other property picks up the taxes that are not paid by the exempt property.

This concludes my prepared testimony. I will be glad to try to answer any questions.

Testimony of Bill Ward
Senate Finance Committee
March 14, 2005

Mr. Chairman, members of the committee, I am Bill Ward a former farmer of 34 years from Richland County

I am here today to speak to you about why I feel you should not pass Senate Bill 1209 which would allow the off farm income to increase to \$55,000.00. I think the farm exemption law as it is written today is antiquated, flawed and should be completely thrown out.

I want to tell a little bit of my own situation as it applies to this law. When I quit farming because of economic reasons I was then contacted by my local assessor to assess my home and be put on the tax role. I was told that because I was no longer qualified for the farm exemption I would have to pay tax on my home. I was ok with this because I knew I no longer followed the exemption guidelines.

This is when I started taking a look at Richland County and other individuals that were in my same situation. I was surprised when I started asking questions of Larry Osborn our County Tax Director as to why some of these individuals were not also forced to follow the exemption guidelines. There is an individual that lives a few miles from me that had quit farming and was also close to my same age. He built a new house next to the farm and changed occupations. The original house he lived in is now occupied by his son and his sons wife who both work off the farm. Both residences are receiving the farm exemption! When I inquired about this I was told he was a retired farmer. He was no older than I when I quit farming. How does this work---did I forgot to mention that he is also a township officer. That is when Larry informed me that he only assesses 17 of the 36 townships in Richland County. He claimed that it was the township officer's responsibility to make sure these individuals were following these guidelines not his.

When I went to my township officers they said if the individual filled out the form and turned it in that was good enough. No questions asked. So why didn't it work for me? Because when I filled out the form I was truthful about the information, I submitted my tax statement along with the form. I didn't realize that the rest weren't doing the same. **STUPID ME!!!!** I read the bottom of the farm exemption form and I didn't want to go to jail for a class A misdemeanor.

The result of my honesty is that I have to pay taxes on my land and home. To add insult to injury on March 4th of this year the assessor was out and has now assessed my outbuildings. They were constructed as part of the farm plant when I was farming and now they are considered residential property. These buildings are still used for ag purposes such as grain storage, housing livestock and equipment used to make hay for my livestock. The end result is my taxes will increase another \$500.00. I am already paying \$3000.00 on just my home not to mention my ag land.

Tell me what has happened to the individuals that have been making in excess of the \$40,000.00 limit on the exemption as it is written today. From what I can see nothing, I am the one paying and they are not. What are we going to accomplish by raising the off farm income to \$55,000.00 when we can already prove there are a number of individuals that are exceeding the \$40,000.00 limit now and are not paying.

Is this why our large farm organizations are endorsing this bill? Sounds like another perk for the farmer. Let's face it, the ones that this would benefit the most are those that have spouses working off the farm or have outside income from non-farm related activities in excess of \$40,000.00 already. These people are **NOT** the struggling farmer that has to take a job in town to make ends meet. Remember the average wage in North Dakota is only \$27,629.00.

So in closing what do you propose to do for me and others like me that are being taxed right off the farm. I feel it is time for the State of North Dakota to take a real hard look at this antique law. The farms of today are no longer the mom and pop operations of yesteryear. North Dakota has to get with the 21st Century on this law.

I encourage you not to pass Senate Bill 1209. It doesn't do anything for the average person making less than the \$40,000.00. Why would you want to help the people that are already exceeding the \$40,000.00 limit?

Thank You