NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

TAXATION COMMITTEE

Wednesday, July 2, 2008
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Bob Stenehjem, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Bob Stenehjem, Dwight Cook, Constance Triplett, Herbert Urlacher; Representatives Larry Bellew, Wesley R. Belter, David Drovdal, Glen Froseth, Craig Headland, Gil Herbel, Scot Kelsh, Mark S. Owens, Arlo Schmidt, Benjamin A. Vig, Dave Weiler, Dwight Wrangham

Members absent: Senator Ben Tollefson; Representative Jim Kasper

Others present: Bill Bowman, State Senator, Bowman

Representative Shirley Meyer and Senator David O'Connell, members of the Legislative Council, were also in attendance.

See Appendix A for additional persons present.

It was moved by Representative Bellew, seconded by Representative Drovdal, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

OIL AND GAS TAX REVENUE ALLOCATION STUDY

North Dakota Association of Oil and Gas Producing Counties

Chairman Stenehjem called on Ms. Vicky Steiner, Executive Director, North Dakota Association of Oil and Gas Producing Counties, for testimony (Appendix B) of the association relating to the committee's study of the allocation of oil and gas tax revenues. Ms. Steiner said she would present preliminary testimony on behalf of the association and the association would also be represented by Mr. Dean Bangsund from North Dakota State University, with regard to a study on county oil impacts, and representatives from Dunn County and Mountrail County, to present concerns from their perspectives.

Ms. Steiner said the association recommends that the current cap of $6 million for deposits in the oil impact fund should be eliminated, which would allow the oil impact fund to receive one-third of the first 1 percent of oil and gas gross production taxes. She said the association also recommends elimination of the caps on oil and gas gross production tax allocations to counties. She said this would provide an additional $35 million in allocations to counties, which could be used to meet oil development impact costs. She introduced Mr. Bangsund.

Mr. Bangsund said he is a research scientist at North Dakota State University and was asked by the North Dakota Association of Oil and Gas Producing Counties to do a study on the costs to county government from the effects of oil and gas development. He distributed copies of PowerPoint slides for his presentation (Appendix C).

Mr. Bangsund said the objective of the study was to document oil and gas impact costs to the provision of county government services. He said the approach taken was a survey of county officials to gather preliminary information. He said the survey was divided between county road departments and other county offices. He said inquiries were sent to 16 counties impacted by oil development and responses were received from 59 offices and departments in 14 counties. He said 13 county road departments responded to the survey.

Mr. Bangsund said general county offices were surveyed to identify changes attributable to petroleum sector activities in the past 12 months. He said 79 percent of general county offices reported increased workloads attributable to petroleum sector activities. He said these offices generally met the increased demand by internalizing the additional workload by adding staff, increasing work hours for existing staff, and purchasing new equipment. He said 69 percent of offices that reported increased workloads also reported increased costs. He said only 10 percent of offices that did not report increased workloads had reported increased costs. He said the overall result of the survey was that about 60 percent of general county offices reported cost increases attributable to oil impact.

Mr. Bangsund said cost projections were made for counties and, for purposes of estimates, high-impact counties were separated from other counties. He said the high-impact counties identified were Billings, Bowman, Dunn, McKenzie, Mountrail, and Williams Counties. He said these six counties have had the highest level of development and production for the last two years. He said information was gathered to determine the average net cost increase for county general offices in the past 12 months. He said for high-impact counties the average net increase cost is approximately $24,769 and for moderate impact counties the average net cost increase for the past 12 months is approximately $10,662. He said applying these cost increases across the counties in the affected area provides an estimate of $2,779,000 in cost increases to all counties in the area for the past 12 months.

Mr. Bangsund said trying to determine impact to county road departments provided unique challenges because each county has different circumstances relating to miles of roads; type, capacity, and characteristics of impacted roads; location of oil activity within each county; intensity of road use and traffic patterns; and costs for road operations. He said it was important in the study to recognize that escalating input costs for road maintenance for fuel, gravel, and other expenses are rising for all counties and is not directly tied to the petroleum sector use of roads. He said in the absence of petroleum industry activity, roads would still have maintenance costs. He said it was necessary to factor out the ordinary costs of road maintenance to try to isolate costs attributable to petroleum industry usage.

Mr. Bangsund said county road department questionnaires were structured to address unique situations in each county. He said it is not appropriate to gather road department cost information for a one-year period because major road projects done in one year would skew the cost data for that year. He said county road departments were requested to provide information for impacted and nonimpacted roads. He said cost projections were gathered for maintaining impacted roads and adjusted by deducting the cost of maintaining roads in the absence of oil industry impact. He said for 11 counties for which data was available, it was estimated that the average cost per county is $2.6 million to $2.7 million per year in additional road costs for oil and gas impact.

Mr. Bangsund said the summary of road cost projections for the 16 counties in the oil and gas impact area involves a low estimate and a high estimate. He said for purposes of nonresponding counties, the lowest estimate uses an impact cost estimate of $1 million per year, and the high estimate uses the average cost that was determined for the responding counties. He said the total of road impact costs and general office impact costs per year falls within a range of $36.9 million to $45.2 million per year.

Representative Meyer asked how it was decided for purposes of this study which roads were impacted roads. Mr. Bangsund said counties identified the roads impacted by oil and gas development and the costs of ordinary maintenance for nonimpacted roads was factored out of the costs for impacted roads to isolate costs attributable to impact.

Representative Weiler asked if the $45 million per year impact cost projection is based on current costs and how much of that cost is funded from current revenue sources. Mr. Bangsund said the study did not look at the revenue component and the estimated cost per year is based on current costs without estimated cost increases applied.

Representative Schmidt said the $45 million cost estimate in the report should be compared to funding available. He asked how much funding is available through the oil and gas impact grant fund. Representative Weiler said the oil and gas impact grant fund is capped at $3 million per year or $6 million per biennium. Senator O'Connell said the oil and gas impact grant fund had been limited to $5 million per biennium, which was increased to a limit of $6 million per biennium by legislation enacted in 2007.

Chairman Stenehjem called on Mr. Reinhard Hauck, Dunn County Auditor, for comments on oil and gas impact. Mr. Hauck said he has served as county auditor since 1981 and has seen Dunn County survive the oil development boom of the 1980s and Dunn County is now experiencing a second development boom. He said the current development boom has significantly more impact to Dunn County than the previous one.

Mr. Hauck said in March 2008 Dunn County identified $4.8 million in oil development impacts and applied for that amount in impact grants. He said the Energy Development Impact Office has $3 million per year to disburse in grants for the entire state so there was insufficient funding available for the grants applied for by Dunn County and the other applicants.

Mr. Hauck said oil and gas gross production tax allocations to Dunn County are capped at $4.1 million per year. He said of that amount received, Dunn County retains 45 percent, cities in the county receive 20 percent, and school districts in the county receive 35 percent.

Mr. Hauck said a factor that may be overlooked is connected to high wages being paid by the oil industry in the area. He said it is necessary for Dunn County to pay county road department employees up to $18 per hour or they will leave county employment to seek employment in the oil industry, which pays wages at that rate or more.

Mr. Hauck said county costs for royalties for gravel and scoria have increased substantially because the materials are in high demand in the county. He said gravel and scoria resources are running out, which will make obtaining materials more difficult.

Mr. Hauck said there are currently 14 oil drilling rigs operating in Dunn County. He said industry representatives have told county officials that from the time development begins on a site until the first barrel of oil is hauled out, 800 to 1,000 semitruck loads of materials and equipment are hauled into each drilling site. He said traffic in the county has increased from 50 vehicles per day to 300 vehicles per day in impacted areas. He said the county has placed many road traffic counters on roads in the county and the county knows where the traffic has increased. He said the city of Killdeer has about 800 residents and currently has about 3,000 vehicles per day coming through the city. He said another 1,500 to 2,000 vehicles per day are diverted around Killdeer onto county roads in three or four areas. He said the county is working on a gap road project that currently handles about 500 vehicles per day. He said the difficulty with handling heavy traffic during construction is that the construction cost is significantly increased as a result.

Mr. Hauck said not many vehicles involved in oil development traffic are licensed in Dunn County. He said these contractors and haulers pay motor vehicle fuels taxes. He said the fuels taxes paid on these vehicles do not benefit Dunn County because fuels taxes are allocated among counties on the basis of motor vehicle registrations and the vehicles are licensed outside Dunn County.

Mr. Hauck said Dunn County road costs will exceed $4 million this year. He said Dunn County road costs before the current increase in oil development activity were $1.5 million to $1.9 million per year.

Mr. Hauck said oil development activity impacts all levels of county government. He said the Dunn County sheriff recently had to add two additional deputies and vehicles and equipment for those deputies. He said traffic activity and traffic offenses have increased substantially. He said driving under the influence offenses have increased 300 percent.

Mr. Hauck said Dunn County offices are finding it hard to attract staff. He said salaries offered by county offices are not competitive with salaries offered in the oil industry. He said the oil industry activity has been good for Dunn County but has also created problems that must be faced by Dunn County government. He said problems that must be addressed by Dunn County are short-term and long-term problems, and the county could use additional resources to address these issues.

Representative Meyer asked Mr. Hauck what amount of funding would adequately fund the oil and gas impact fund. Mr. Hauck said he believes oil and gas development impacted counties would need approximately $40 million per biennium to adequately fund requests for impact assistance.

Representative Froseth asked if oil companies are trying to help the county with impact costs. Mr. Hauck said oil companies have been cooperative and helped with dust control on roads and funding for improvements to certain roads and bridges. He said county officials are concerned about costs of reclamation in certain areas after oil development activity declines.

Representative Drovdal asked whether Mr. Hauck has observed any impact to school districts in Dunn County. Mr. Hauck said the school superintendent has expressed concern about schoolbuses getting beaten up because of poor road conditions. He said he cannot identify other impacts to school districts and the question should be presented to school officials for adequate response.

In response to a question from Representative Headland, Mr. Hauck said Dunn County maintains about 900 miles of roads.

Senator Cook said Morton County officials are currently considering a proposed feedlot operation. He said the feedlot would add additional costs for county road maintenance and provide no additional property tax revenue to address those costs. He said discussions in Morton County have turned to working with the owner to assume costs, perhaps through special assessments. He asked whether Dunn County has looked into special assessments for road costs. Mr. Hauck said Dunn County has not explored imposing special assessments. He said oil and gas developers will contribute to the cost for roads and bridges when existing roads or bridges are inadequate to handle their traffic in an area they are actively developing.

Senator Cook asked whether the oil industry, county officials, or state government has ever looked into how other states impacted by oil development cover local road costs. He said the committee should obtain information on that topic. Chairman Stenehjem said information should be gathered for the committee on that issue.

Senator Stenehjem said legislators understand the issues faced by oil development impacted counties. He said it is necessary for legislators to bear in mind that all counties have problems dealing with road impact from various activities. He said Burleigh County requires developers to build paved roads before an area is opened for development.

Representative Meyer asked whether the vehicles used in oil and gas development could be licensed in Dunn County. Mr. Hauck said he has not seen a significant change in the number of motor vehicle registrations for Dunn County. He said a representative of one company told county officials company vehicles are licensed as a fleet and it would not be possible to register them in Dunn County.

Chairman Stenehjem called on Mr. Bert Hauge, Mountrail County Road Department, for testimony relating to oil and gas development impact. Mr. Hauge distributed copies of pictures of some of the trucks used in oil and gas development. He said it is important to understand that these are oversized vehicles and one of the vehicles in the pictures has 80 wheels. He said the committee should understand that oil industry vehicles are much larger than ordinary trucks and cause an enormous impact to roads and bridges. He said the vehicles are also so long that they are unable to negotiate turns on county and township roads so it is often necessary to expand approaches at intersections.

Mr. Hauge said with regard to the comments about oil and gas developers contributing to costs of road and bridge improvements, it should be recognized that the oil industry pays a tax of 11 percent on oil production and many oil industry representatives believe some of those tax revenues should be returned to development areas for infrastructure costs. He said oil industry representatives believe they are paying their fair share of taxes and should not also be required to pay local road and bridge costs.

Representative Froseth asked whether oil companies build their own access roads in an area they wish to develop where no county or township road exists. Mr. Hauge said oil companies build access roads in areas they wish to develop.

Senator Urlacher asked whether oil companies are required to reclaim land on which an access road is built after use of the road is complete. Mr. Hauge said he believes the oil companies will turn access roads over to the township after the road is no longer needed for development.

Chairman Stenehjem called on Mr. Greg Boschee, Mountrail County Commissioner, for comments on the oil and gas development impact study. Mr. Boschee said the Dunn County experience related to the committee is similar to the impact being experienced in Mountrail County, but the impact in Mountrail County is about double the impact in Dunn County. He said there are twice as many drilling rigs currently operating in Mountrail County. He said Mountrail County is scrambling to keep up maintenance of existing roads. He said the county is not building new roads. He said Mountrail County is just getting into heavy oil development and the increase in industry traffic means existing roads must be changed or redone. He said oil companies have cooperated with the county in some of the impacts of the industry, such as the cost of new sheriff deputies, road repairs and improvements, and other impacts. He said companies have been very cooperative but county costs are going to grow fast. He said Mountrail County knew oil development impact was coming but county officials had no idea it was going to be of the magnitude being experienced.

Senator Stenehjem asked if Mountrail County regulates vehicle weights of oil industry vehicles. Mr. Boschee said the county does not regulate vehicle weights itself, but the North Dakota Association of Oil and Gas Producing Counties regulates weights with permit fees for industry vehicles.

Senator Triplett said it appears requests for oil and gas impact grants far exceed the amounts available for grants. She asked whether Mountrail County is submitting realistic applications for funding through impact grants. Mr. Boschee said Mountrail County seeks grants for the real costs of the most significant improvements needed to address oil development impact.

Chairman Stenehjem called on Mr. Steve Cascaden, Superintendent of Schools, Parshall, for comments on the oil and gas impact study. Mr. Cascaden said oil and gas development will have the obvious impacts to school districts in the area. He said there is another aspect of development that will affect school districts in a way that might not be expected. He said the Stanley and New Town School Districts will be impacted by construction of gas plants that will be built in the 2009-10 school year. He said the gas plants will double or triple the taxable valuation of property in the school districts. He said increased valuation will benefit the school districts in one way but will also cause a reduction of mill rates and a resulting reduction in funding through the school aid formula. He said the reduction in state school aid will be especially difficult for these school districts because reservation land is part of each school district.

Chairman Stenehjem called on Senator Bill Bowman, State Senator and Bowman County Commissioner, for comments on the oil and gas development impact study. Senator Bowman said during the recent cycle of increased oil industry activity, he has tried to keep the Legislative Assembly aware of impact problems faced by counties. He said the enormous increase in oil industry traffic has impacted all levels of government and is more than a matter of local concern. He said there are significant impacts to the state highway system. He said semitrucks hauling loads of sand from Wyoming for injection in Bakken Formation wells seem to be a steady stream of traffic on Highway 85. He said truckloads of pipe and other materials, drilling rigs, industry trucks, and other industry traffic are causing the state highway system to carry a huge load increase. He said resources must be available to the state and local governments to rebuild infrastructure as necessary to handle the traffic load. He said challenges to local government are a big issue and costs to local government will continue to grow as impact increases. He said caps were placed on county revenues from oil and gas taxes at a time when industry impact was much less than what is being experienced. He said caps on county revenues from oil and gas taxes penalize counties for prosperity that benefits the entire state. He said this does not make sense in current conditions. He said caps on county revenues have not kept up with the costs counties are experiencing.

Chairman Stenehjem called on Mr. Terrald Bang, Dunn County, for comments on the oil and gas impact study. Mr. Bang said he is a rancher from Dunn County and lives on a gravel road. He said oil industry traffic is an immediate concern at his residence. He said dust from industry traffic is a concern because of the respiratory impact to cattle and people and the impact of road dust on crops can create problems. He said many of the gravel roads in Dunn County were originally constructed 50 or 60 years ago and they have never carried more than a load of hay or grain. He said these roads are now carrying constant traffic of huge loads from the oil industry. He said Dunn County welcomes oil development and the country needs the oil resources. He said his main concern as a resident of Dunn County is the impact of caps on county allocations of oil and gas taxes. He said the caps need to be adjusted to help counties deal with impacts from the oil industry.

Department of Transportation

Chairman Stenehjem called on Mr. Francis Ziegler, Director, Department of Transportation, for a presentation of information (Appendix D) on extraordinary road and bridge impacts. Mr. Ziegler said it is gratifying to see that North Dakota's economy is growing and diversifying. He said the fastest growing sectors of the economy appear to be transportation, public utilities, and manufacturing. He said there appears to be growth in all sectors of the economy and economic growth creates increased demands on roads.

Mr. Ziegler reviewed information on areas in which rapid oil and gas development is occurring. He provided information on the typical size and weight of trucks and equipment used in oil and gas development. He said the total number of truckloads of materials and equipment needed at the site of a vertical well is 400 loads and for a horizontal well is 600 loads to 1,000 loads. He said the size of the equipment involved and the number of loads hauled create enormous road impacts.

Mr. Ziegler said the drilling rig count in North Dakota is at a level that has not been seen in North Dakota since about 1983.

Mr. Ziegler said overweight and overdimension fees for oversized vehicles issued by the Department of Transportation increased from 33,348 in 2006 to 38,792 in 2007. He said the rapid increase in overweight and overdimension vehicles is likely to continue and will have a substantial impact on roads and bridges.

Mr. Ziegler said in addition to the equipment hauled to drilling sites, oil must be hauled away from drilling sites. He said pipelines carry approximately 35 percent of oil to refineries but approximately 65 percent of oil production must be hauled by truck. He said saltwater recovered in drilling operations must be disposed of and creates further road impact because approximately 35 percent is hauled by truck, totaling more than 23,000 truckloads.

Mr. Ziegler said natural gas processing plants are planned for four locations and each plant will create an additional road load of 25 truckloads to 35 truckloads of equipment and materials per day.

Mr. Ziegler provided information on structure replacement costs for county roads. He said costs fall within a range of $150,000 to $450,000 per structure, and the average is approximately $400,000.

Mr. Ziegler provided information on truck movement associated with oil and gas production. He said total truckloads of equipment and materials associated with oil and gas development total 1,669,700 per year. He said this equates to a daily average of 4,575 truckloads. He said from 1996 to 2006 truck traffic at 20 randomly selected sites in oil producing counties was up 41.3 percent. He said during the same time period, truck traffic on all state highways was up 20.2 percent.

Mr. Ziegler said the committee also expressed an interest in information on the impact to state roads outside the oil development area. He said North Dakota is one of only three states to experience a growth in manufacturing from 2000 to 2006. He said between 1993 and 2002, manufacturing tonnage in North Dakota increased by 37 percent. He provided information to illustrate the areas of growth in manufacturing employment within the state.

Mr. Ziegler said the ethanol and biodiesel production industry is currently in a growth phase. He said North Dakota currently has five ethanol plants producing 235 million gallons of ethanol per year. He said three additional ethanol plants are projected for North Dakota with a combined production capacity of 250 million gallons per year. He said North Dakota currently has one biodiesel production plant with a production capacity of 85 million gallons per year and three additional biodiesel facilities are projected with a combined production capacity of 37 million gallons per year. He said ethanol production facilities have a substantial truck traffic impact on roads. He said a 100 million gallon production ethanol plant will consume 122 truckloads of corn per day and 37 truckloads of coal per day and produce 37 truckloads of distiller grain products per day. He said most of the ethanol production will be transported by rail but some may be distributed by truck. He said the total potential annual truck volume associated with an ethanol production facility is 196 truckloads per day.

Mr. Ziegler said the agriculture industry in 1950 produced 17.1 billion pounds of agricultural products. He said in 2006 North Dakota agriculture produced 57 billion pounds of products, a 332 percent increase in weight from 1950 production. He said the 2006 agricultural crop equates to 1.3 million truckloads.

Mr. Ziegler said crop patterns in North Dakota have shifted over time and showed illustrations in the changes in location of potatoes and durum wheat production from 1950 to 2006. He provided information to show combined agricultural, livestock, and oil production in pounds for 2006 for each county in the state.

Mr. Ziegler said it is important for the Department of Transportation and state policymakers to be aware of the existence and location of new and changing industries. He provided information on North Dakota wind farm locations. He provided information to illustrate the number of truckloads of material needed for a wind turbine generator and the location of completed wind farms and proposed wind farms.

Mr. Ziegler said train transportation has declined for North Dakota products. He said in 1950 five Class 1 railroads operated 5,243 miles of line in North Dakota. He said in 2008 two Class 1 railroads and five short lines operate 3,609 miles of line in North Dakota. He provided a map of the 2008 rail system in North Dakota and a map showing branch line abandonments by railroads from 1950 to 2008. He said abandonment of these branch lines has caused an increase in truck traffic to transport agricultural and industrial products.

Mr. Ziegler said in 1950 North Dakota had 1,025 licensed elevators with a 60,791,000-bushel capacity. He said in 2007, 402 licensed elevators operated in North Dakota with a 288,619,900-bushel capacity.

Mr. Ziegler said in 1950 North Dakota had 2,102 miles of paved state highways and 2,830 miles of paved county highways. He said in 2008 North Dakota has 7,384 miles of paved state highways and 6,814 miles of paved county highways.

Mr. Ziegler said it is important to understand the impact trucks have on highways. He said one 80,000-pound five-axle truck has the same impact as 9,600 automobiles. He said one 100,000-pound five-axle truck has the same impact as 27,000 automobiles. He said annual estimated truckloads on North Dakota highways by economic activity total 1,669,700 truckloads for oil and gas, 1,300,000 truckloads for agriculture, and 820,000 truckloads for manufacturing, which combine to provide an estimate of 3,789,700 truckloads for North Dakota highways each year.

Mr. Ziegler introduced Mr. John Mielke, Upper Great Plains Transportation Institute, to brief the committee on a study conducted by the institute. A copy of the PowerPoint slides used by Mr. Mielke is included in the material (Appendix D) provided by Mr. Ziegler.

Mr. Mielke said the Upper Great Plains Transportation Institute undertook a process to increase public participation in transportation policy and needs identification. He said the objective of the study was to estimate funding needs to maintain existing roads and bridges and to update studies done in recent years. He said the study focused on maintaining existing systems without expansion or major upgrades.

Mr. Mielke provided information on annual state roadway and bridge investment needs for 2008 with a total cost of $216,583,000. He said county road and bridge needs for 2008 total $159,905,000. He said urban center highway funding costs for 2008 are estimated at $70,700,000. He said estimated township highway costs for 2008 total $36,300,000 and small city highway costs total $29,700,000. He said the total estimated road and bridge funding needs for North Dakota for 2008 are $539,500,000.

Representative Belter asked Mr. Mielke if he is aware of union issues that may arise which would cause grain to be moved by truck instead of train. Mr. Mielke said a bottleneck exists in grain transportation when one railroad will not take a load for a short distance because it is more profitable to haul loads for a longer distance.

Mr. Ziegler said there is a "perfect storm" affecting road and bridge maintenance. He said revenues available for road maintenance and construction are reduced because there has been a decline in motor vehicle fuel sales because of price increases. He said inflation of materials and contract work has caused 47 percent inflation in highway construction and maintenance bids. He said increased heavy vehicle traffic loads have placed an increasing level of distress on roads and bridges.

Senator Triplett asked Mr. Ziegler if he has determined any creative approaches to deal with these problems. Mr. Ziegler said the Department of Transportation is in the process of gathering facts. He said the department will assess the facts and try to identify solutions for the 2009 legislative session.

Senator Urlacher said many of the difficulties described by Mr. Ziegler have a national impact. He asked how other states address these problems. Mr. Ziegler said the Department of Transportation is working with other states and exploring how they are dealing with these issues. He said one trend that has become apparent is the increased use of bonding and public and private partnerships. He said in some states an approach has been taken in which a private partner fixes and maintains a road and operates it as a toll road to generate revenue. He said he does not think toll roads would be a practical solution in North Dakota because there is not enough traffic. He said it appears North Dakota will need a combination of approaches to deal with the road and bridge problems the state faces.

Office of Management and Budget

Chairman Stenehjem called on Mr. Joe Morrissette, Office of Management and Budget, for a presentation of information on oil and gas tax and mineral royalty allocations to cities and counties. Mr. Morrissette distributed to committee members a copy of a table (Appendix E) prepared by the Office of Management and Budget to detail payments during fiscal years 2004 through 2008 for counties and cities for oil and gas production tax allocations and mineral royalties.

Department of Mineral Resources

Chairman Stenehjem called on Mr. Lynn Helms, Director, Department of Mineral Resources, for information on the location of current and future oil and gas drilling activity. Mr. Helms distributed printed materials (Appendix F) to the committee.

Mr. Helms said the information distributed shows a map of the state identifying the current location of drilling rigs and active drilling permits in North Dakota and the areas of future drilling permit activity. He said the materials also include a map showing the location of the Bakken Formation, which is the current focus of drilling activity, and the Three Forks Formation, which underlies the Bakken Formation and which has been identified as holding substantial oil reserves.

Mr. Helms said there are currently 76 drilling rigs operating in western North Dakota. He said the rigs are identified on the map to show their locations.

Mr. Helms said there are twice as many rigs operating in North Dakota as there were a year ago and each rig can drill twice as many horizontal wells. He said horizontal wells in the Bakken Formation took an average of 65 days to complete a year ago and now the industry has reduced the drilling time to an average of 29 days for those wells.

Mr. Helms said the number shown on the map within certain counties is the number of active drilling permits issued within that county.

Mr. Helms said in the short term the trend in drilling activity will be for drilling permits to move north toward Canada and then west toward Burke County. He said in Saskatchewan just north of Burke County is a very active drilling area in the Bakken Formation. He said a recent well completed in Divide County will cause observers to sit up and take notice. He said Burke County and Divide County will probably be the next areas of extensive oil exploration. He said before the activity in the current drilling areas is completed, he expects every section of Dunn County and Mountrail County will have a well on it.

Mr. Helms said the industry is still having difficulty getting drilling rigs in the supply demanded in North Dakota. He said oil exploration is going through upheaval in Colorado, and Colorado may lose 25 percent of its drilling activity. He said rigs are moving to North Dakota from Colorado and that transfer of rigs may increase.

Mr. Helms said the red boxes with Nos. 1 through 5 are the areas the Department of Mineral Resources foresees will be the scene of drilling activity in five years or so.

Senator Triplett asked whether drilling permits are issued with consideration of road impacts. Mr. Helms said road impacts only become an issue in consideration of drilling permit requests if someone speaks up to point out a problem. He said if that occurs, the department tries to work with the company to route traffic away from problem areas. He said the department tries to encourage drillers to concentrate drilling sites to use a single access road whenever possible.

Representative Meyer asked whether a permit to drill in the Bakken Formation extends to the underlying Three Forks Formation. Mr. Helms said a Bakken Formation drilling permit extends to the upper 50 feet of the Three Forks Formation but it would be necessary to get a reentry permit to go deeper.

Representative Herbel asked why drilling the Three Forks Formation has not taken off like drilling in the Bakken Formation. Mr. Helms said most of the exploration of the Three Forks Formation has occurred in Canada. He said the potential of the Three Forks Formation is just becoming known in North Dakota. He said there are not enough rigs and equipment to devote to drilling in the Three Forks Formation in North Dakota and exploration in North Dakota is fully engaged in exploring the Bakken Formation.

Senator Urlacher said horizontal Bakken wells extend a substantial distance from the wellhead and asked whether Bakken wells drain oil from neighboring areas. Mr. Helms said the Department of Mineral Resources has wrestled with that question. He said the department requires an increased setback of 1,320 feet for Bakken wells from the boundary of a spacing unit because fractures can extend to 1,100 feet from the wellbore. He said studies have been done indicating that it takes about five years to affect the pressure in the Bakken Formation due to an existing well. He said the department has not seen a new well show any effect on production from a neighboring well.

Chairman Stenehjem invited committee suggestions regarding the oil and gas development impact study. Senator Triplett requested preparation of a bill draft for committee consideration which would remove the caps from the oil impact fund and county shares of oil and gas gross production tax revenues and a fiscal analysis of the effect of that change.

PROPERTY TAX REFORM AND RELIEF STUDY

Governor's Tax Relief Proposal

Chairman Stenehjem called on Lt. Governor Jack Dalrymple to brief the committee on the property tax relief proposal that has been put forward by Governor John Hoeven. Lt. Governor Dalrymple said the Governor has proposed two forms of funding allocation to school districts. He said he refers to this portion of the proposals as the state mill levy reduction program. He said the Governor has proposed allocation of $200 million in the 2009-11 biennium's budget for statewide school district mill levy reductions. He said the funds are to be made available to schools and distributed on a per student basis with factors used for weighted student units to fit a permanent education funding formula. He said as a means of assuring that property tax relief will result, the proposal calls for a reduction in school district general fund property tax levy authority equal to $200 million. He said the Governor also recommends $100 million additional funding for allocation among school districts without the requirement of a property tax levy reduction.

Lt. Governor Dalrymple said the property tax relief proposal would replace the current property tax relief allocation based on the income tax system. He said most people do not consider 2007 Senate Bill No. 2032 as true property tax reform. He said he believes property tax reform should go to the heart of the property tax system by actual reductions in property tax levies. He said the Governor's proposal would do this by requiring school districts to deduct the amount of allocations received from property tax levies on a dollar-for-dollar basis. He said at the time of mill levy certification, a school district would calculate the property tax reduction based on the allocation received. He said he believes the proposal would result in an average reduction of 50 mills to 55 mills for each school district general fund levy.

Lt. Governor Dalrymple said the Governor's Commission on Education Improvement is looking at the mechanics of delivery of property tax relief under the proposal. He said several questions must be addressed. He said one issue is whether parameters are needed on the size of an allocation for each school district. He said this limitation could be based on requiring a minimum amount of property tax levy or creating a limit that would result in a maximum amount of the reduction in a school district levy. He said one result of the relief is the possibility that the range of school district general fund levies would be narrowed to perhaps a range of 110 mills to 140 mills. He said this would be a much narrower range than the current range of school district general fund levies. He said the intention is that the property tax relief proposal would be sustainable and that lower caps on school district general fund levies would remain in place, but consideration must be given to school districts currently below mill levy caps and how to maintain existing levy increase authority for those school districts eligible for an increase. He said he believes the plan would reduce the school districts' share of education funding statewide from the current level of approximately 49 percent to approximately 34 percent, excluding consideration of federal funding assistance.

Senator Urlacher said cities and counties are allowed to provide property tax exemptions for certain properties. He asked how local decisions on property tax exemptions would come into play in the property tax relief proposal. Lt. Governor Dalyrmple said local decisions on property tax exemptions should not be affected. He said relief should be structured to apply to taxable property and not impact local decisions on property tax exemptions.

Senator O'Connell said the education funding formula contains a provision for an offset of funding assistance based on oil tax revenue received by a school district. He asked whether this would continue to apply. Lt. Governor Dalyrmple said the offset for oil tax revenue probably would not be appropriate if this plan becomes effective. He said it is important to remember that the offset for oil tax revenue is a reduction in equity payments only and relates to determination of equalizing funding between rich districts and poor districts. He said the reduction for oil tax revenue does not apply to the main education funding formula.

Representative Herbel asked whether the tax relief proposal will affect the status of school districts under the equity funding provisions and whether the proposal will retain existing authority of school districts under the general fund levy limitation to increase property taxes by up to 18 percent per year. Lt. Governor Dalyrmple said the Governor's Commission on Education Improvement is not a tax policy group, so there is reluctance to recommend tax policy. He said levy limitations will be a necessary part of consideration by the commission.

Senator Triplett asked whether the Lt. Governor foresees this proposal as establishing a program that will extend into the future and become an appropriation decision for future Legislative Assemblies. Lt. Governor Dalyrmple said there are issues that involve more than appropriation decisions but funding would be an ongoing legislative appropriation issue. He said it appears likely that appropriations would need to be increased in the future at the same pace as school district property taxes to avoid property tax burdens creeping back up.

Representative Froseth asked what is the proposed source for the $200 million to be allocated to school districts under the proposal. Lt. Governor Dalyrmple said the Governor's office has studied funds available to the state and believes adequate funding is currently available and revenue sources are believed to be adequate to sustain the necessary funding into the future.

Senator Stenehjem asked whether the proposal would result in reduction of the current 185-mill general fund levy limit for school districts. Lt. Governor Dalyrmple said he believes the proposal would result in school district general fund levies being capped at the amount levied after reduction for those school districts that are now capped under current law. Senator Stenehjem asked how the proposal will address school districts with unlimited general fund levies. Lt. Governor Dalyrmple said these school districts are a special case and he believes most of the school districts with unlimited levy authority will be brought down into the middle of the pack in terms of the number of mills levied for general fund purposes, with the exception of the Fargo Public School District.

Tax Department

Chairman Stenehjem called on Ms. Kathy L. Strombeck, Research Analyst, Tax Department, for a presentation of information (Appendix G) on tax revenues and state fund balances.

Ms. Strombeck said general fund revenues for the current biennium are 16.9 percent above the amount forecasted in April 2007. She said several revenue sources are substantially above projected levels. She said oil and gas production and extraction tax collections are not shown as substantially above projections in the report because revenue to the general fund from these taxes is capped at $71 million, and that level was reached early in the biennium. She said through May 2008 oil tax collections totaling $159 million have been transferred to the permanent oil tax trust fund.

Ms. Strombeck reviewed data on taxable sales and purchases by industry sectors for calendar years 2006 and 2007. She said taxable sales and purchases grew by more than 10 percent from 2006 through 2007.

Ms. Strombeck reviewed data on income tax collections. She said the forecast for income tax revenue assumed modest growth for fiscal years 2007 through 2009. She said actual growth in fiscal year 2007 was more than 14 percent and, adjusting for property tax relief, fiscal year 2008 growth is approximately 7 percent.

Ms. Strombeck reviewed data on corporate income tax collections. She said corporate income tax revenues are variable due to timing issues and audit activities. She said fiscal year 2008 corporate income tax collections and audit collections have increased.

Ms. Strombeck said the current estimated ending general fund balance for the biennium is more than $271 million. She said the current estimated ending balance in the permanent oil tax trust fund this biennium is more than $268 million. She said it appears that at the end of the biennium, more than $200 million will be transferred from the general fund to the budget stabilization fund by operation of law.

Chairman Stenehjem called on Ms. Donita Wald, Legal Counsel, Tax Department, for testimony (Appendix H) relating to the implementation and administration of property tax relief under 2007 Senate Bill No. 2032. Ms. Wald said implementing and administering the property tax legislation presented opportunities and challenges and the Tax Department developed innovative solutions. She provided statistics on the success of the program. She said more returns will be processed but at this time more than $37 million in income tax credits have been provided to individual and corporate taxpayers and more than $5 million has been provided to individual taxpayers in the form of redeemable property tax certificates. She said more than 5,000 returns have reached the maximum property tax credit available under Senate Bill No. 2032.

Ms. Wald said notwithstanding the success of administering the property tax relief program, the Tax Department does not believe that the income tax is the proper vehicle to provide property tax relief. She said Senate Bill No. 2032 limited property tax relief to individuals with a primary residence in North Dakota. She said because of this limitation, residential and agricultural property held by a trust, estate, or entity other than an individual does not receive relief. She said many farm corporations and partnerships did not receive property tax relief because of the way the property is held. She said individuals whose primary residence is outside North Dakota are not eligible for the property tax relief, regardless of ownership of property in this state. She said nonresidents are allowed to claim the credit for commercial property. She said different treatment for residential and commercial property creates an inconsistency that may need to be addressed if the program is continued.

Ms. Wald said another issue that presented a new challenge for the Tax Department was for individuals who are not ordinarily required to file an income tax return but who pay property taxes, a method was required to allow the individuals to claim a certificate to be redeemed against future property tax liability. She said the certificate option was not made available for commercial property owners. She said an example of difficulty for an individual taxpayer is a taxpayer whose residence was located on a large lot, divided into two parcels. She said the residential structure was located on one of the parcels and the other property was classified as commercial property. She said the taxpayer did not receive any credit for taxes paid on the commercially classified parcel.

Ms. Wald said property held by joint owners created some issues. She said property tax statements are sent to one of the coowners. She said the Tax Department discovered that some counties divide the total property tax assessment and send a tax statement to each owner with a pro rata share of taxes due. She said this situation created confusion for taxpayers and the Tax Department.

Ms. Wald said Senate Bill No. 2032 provided a cap on the amount of property tax credit of $500 for single individuals and $1,000 for married individuals. She said single individuals expressed the belief that the $500 cap that applied to them was inequitable.

Ms. Wald said classification of property into residential, agricultural, and commercial classes created challenges in administration of the property tax relief program. She said taxpayers are often unaware of the rules applied by state law in classifying property. She gave an example of a native North Dakotan who has retired and moved to Arizona but still owns rental property in the state. She said this individual did not receive property tax relief on a duplex he owns because the property is assessed as residential. She said the individual also owns a fourplex apartment unit for which he received property tax relief because that property is classified as commercial.

Ms. Wald said another issue that had to be addressed was determining who was eligible for a property tax credit if the property was sold or exchanged during the tax year. She said this would be an issue difficult to resolve legislatively because contractual arrangements in sales or exchanges are variable. She said the Tax Department addressed the situation by determining that the individual who owned the property on January 1 was the person eligible for the property tax relief credit. She said the Tax Department does not believe this situation can be easily remedied without imposing substantial and onerous requirements on property owners and the Tax Department staff.

Ms. Wald said another area of consideration related to limiting the property tax relief to taxes paid on property owned by the taxpayer. She said the obligation to pay taxes is often imposed on a tenant or occupant of the property and not the property owner. She said the variety of ways individuals transfer property interests would make it difficult to draft legislation to cover all possible ownership and occupancy situations.

Ms. Wald said verification issues for caps on credits and identification of property for which taxes are paid created issues in administration. She said the Tax Department implementation team determined that use of parcel numbers to identify property was the best method. She said the Tax Department was able to obtain property tax information from all 53 counties to administer the program. She said despite the use of parcel numbers and education efforts by the department, taxpayers often entered wrong information in preparing returns. She said some taxpayers had 50 or more parcels of property to enter on the return before they reached the cap of the refund.

Ms. Wald said the Tax Department was concerned entering the administration process whether software vendors would support the property tax relief inclusion on returns. She said the Tax Department has achieved a level of more than 60 percent of returns being filed electronically. She said some of the software companies did not support the added schedule and return required for property tax relief and, in some cases, companies that supported these schedules did so incorrectly.

Ms. Wald said the property tax relief certificate provided for in Senate Bill No. 2032 allowed property tax relief to individuals who otherwise have no income tax filing requirement. She said the fact that these individuals did not have a filing requirement made it difficult to identify them and provide notice to them that they may be entitled to a credit.

Ms. Wald said the Tax Department believes the property tax relief program was successful in providing almost $40 million of property tax relief to North Dakota citizens to this point. She said administration of the property tax relief program was difficult for tax practitioners, taxpayers, counties, and Tax Department staff. She said because of the inherent differences between income tax and property tax, the Tax Department has concluded that without substantial changes to the program, the income tax is not the best delivery system for property tax relief. She said if the Legislative Assembly determines that the program should continue, the Tax Department will work with the Legislative Assembly to address problems that have been identified.

Senator Cook asked if there are things the Tax Department can change now to solve some of the problems encountered. Ms. Wald said the Tax Department has learned from administration of the program for one tax season but not all problems can be resolved. She said the Tax Department is reviewing its experience and will try to improve some areas of administration. Representative Weiler said the 2007 legislation provided about $115 million in appropriation authority for the property tax relief program. He asked whether all of the appropriation is going to be used. Ms. Wald said the Tax Department is not certain if the cap for the first year of the program will be reached. She said if the cap is reached, the legislation provides for proportionate reduction in the amount available for distribution in the second year.

Senator Cook said money was appropriated to the Tax Department for implementation in Senate Bill No. 2032. He asked whether the funds appropriated have been used up. Ms. Wald said the funds are not used up but she cannot provide a status of the appropriation.

Representative Wrangham said it would be easier to administer a program if the state could write checks for property tax refunds to taxpayers. He asked whether the state can do this. Ms. Wald said the concern with writing checks to taxpayers is with possible violation of the gift prohibition in the constitution.

Senator Urlacher said he has talked to tax preparers in his area who thought the property tax relief program worked pretty well. He asked whether there are certain groups of taxpayers with problems under the relief program. Ms. Wald said it is not really a question of certain groups of taxpayers. She said problems were encountered by taxpayers in different circumstances.

INCOME TAX STUDY

Ms. Wald said the Tax Department has reviewed the bill draft presented to the committee at the previous meeting which would eliminate the Form ND-2 for individual income tax filers. She said the bill draft is very similar to a bill considered in 2007 and appears to make the necessary changes. She said the Tax Department would suggest eliminating the repeal of North Dakota Century Code (NDCC) Sections 57-38-02 and 57-38-03. She said the Tax Department believes these sections should be retained for administration of the individual income tax. She said the fiscal effect of the bill draft is minimal and would probably result in an increase in income tax collections of about $150,000 per year.

PROPERTY TAX RELIEF STUDY

Chairman Stenehjem called on Ms. Marcy Dickerson, State Supervisor of Assessments, Tax Department, for a presentation of information relating to property tax issues. Ms. Dickerson said she was requested to address certain questions on property tax issues and distributed a copy of information (Appendix I) prepared in response to those questions.

Ms. Dickerson said the first chart in the information she distributed was prepared in response to a request for adjustment in some information she provided the committee at an earlier meeting. She said this chart was prepared to exclude new residential property from the comparison of true and full valuation of agricultural, residential, and commercial property. She said exclusion of new property does not substantially alter the trend in relative valuations of property classifications.

Ms. Dickerson said she was requested to provide examples of true and full value changes over a period of 10 years for actual parcels of property in different classifications in six different counties. She said the table provided illustrates these comparisons. She said properties selected for comparison have not been significantly improved during the time period of the comparison, so the actual change in assessment levels can be compared. She said the comparison indicates that true and full value and property taxes paid have increased slightly more for residential property than for agricultural property.

Ms. Dickerson said the third sheet of data provided is information on the valuation and property taxes for her home in Bismarck. She said the table shows the changes in property taxes and valuation of the residence, the combined mill rate applied, and the effective tax rate for a period of 25 years.

Senator Cook said he believes in Mandan the effective tax rate is approximately 2.4 percent. He asked whether Ms. Dickerson could provide information on the effective tax rate for commercial and agricultural property. Ms. Dickerson said she is not sure if the information can be provided but could look into that issue. She said statewide comparisons could be made but she is not sure if there is enough history for individual properties to make that kind of comparison.

Representative Headland asked whether individuals who move from rural areas to city residential property impact the tax shift from agricultural to residential property. Ms. Dickerson said those moves have some impact on the perceived tax shift but not as much as you might think.

Senator Urlacher said he sees fewer farmers in rural areas but the homes appear to be occupied. He asked whether there is a way to measure the number of rural residences that have become taxable. Ms. Dickerson said the state does not have information on that question and the information would have to be obtained from individual counties.

Representative Herbel asked Ms. Dickerson whether she could prepare the comparison of true and full valuation by classification of property going back an additional five years. Ms. Dickerson said that information can be provided.

Senator Cook asked whether a chart could be prepared showing each county agricultural land valuations going back to 1982 to show the effective tax rate for property classifications. He requested Ms. Dickerson to provide the comparison to committee counsel to send to committee members as soon as the information is available.

State Board of Equalization Decisions

Chairman Stenehjem called on committee counsel for a presentation of a memorandum entitled *State Board of Equalization - Enforcement of Decisions*. Committee counsel said the memorandum was requested to review the authority of the State Board of Equalization and determine whether statutory provisions allow enforcement of decisions of the board. He said the memorandum reviews the powers and duties of the board. He said the county auditor is required by statute to apply assessment changes directed by the State Board of Equalization. He said there is a statutory provision providing for removal of officers from office for failure to perform a duty imposed by law and there is a criminal law provision imposing a Class A misdemeanor offense for a public servant who knowingly refuses to perform a duty imposed by law. He said county commissioners may also be subject to criminal prosecution if the board of county commissioners orders the county auditor not to comply with the directives of the State Board of Equalization. He said the threat of criminal prosecution may not be useful because a county state's attorney would be reluctant to prosecute county officials.

Committee counsel said county officials who refuse to comply with directives from the State Board of Equalization risk the potential of a civil action filed by dissatisfied taxpayers. He said the state's attorney is only required to defend a county officer if the action alleges that the officer is acting within the scope of employment. He said refusal of an officer to comply with a directive from the State Board of Equalization would probably take the action outside the scope of employment and the county official would be required to retain legal counsel at personal expense.

Committee counsel said enforcement options for decisions of the State Board of Equalization appear to be limited. He said action initiated by the Attorney General's office on behalf of the State Board of Equalization to prosecute county officials or seek a court order that county officials comply with a directive is an option. He said an aggrieved taxpayer would have the option to seek a writ of mandamus to compel county officials to comply with a directive of the State Board of Equalization. He said another option to encourage compliance would be imposition of a monetary penalty for a county that fails to comply with orders from the board, similar to a provision in 2007 House Bill No. 1303, imposing a penalty for noncompliance in the form of withholding 5 percent of county allocations from the state aid distribution fund.

Senator Urlacher said he believes decisions of the State Board of Equalization are significant in maintaining assessment balance across the state. He said decisions of the State Board of Equalization should be followed by local officials.

Senator Cook said he believes it is important to have a mechanism for state-level enforcement of decisions of the State Board of Equalization.

Lake Metigoshe Property Assessments

Chairman Stenehjem called on Mr. Greg Johnson, representative of property owners at the Lake Metigoshe recreation area, for comments on concerns of property owners at Lake Metigoshe. Mr. Johnson distributed written information (Appendix J) to committee members. He reviewed his written testimony and the charts attached.

In response to a question from Representative Belter, Mr. Johnson said Lake Metigoshe property owners believe agricultural assessments are far below market value and that shifts an unfair share of tax burden to lakeshore property. Representative Belter asked what county officials say in response to the concerns of Lake Metigoshe property owners. Mr. Johnson said county officials have told property owners they need to get changes in state law to address their problems.

In response to a question from Representative Drovdal, Mr. Duane Detzloff said state law intends that property should be assessed at 95 percent to

105 percent of market value, under the policy of the State Board of Equalization. He said lakeshore property at Lake Metigoshe is currently assessed at about 71 percent of market value. He said the reason property is substantially below market value is that people are paying exorbitant prices for cabins, greatly inflating market value of property. He said the Bottineau Public School District is getting a windfall from Lake Metigoshe property because of the rapidly increasing valuation of that property. He said the Bottineau Public School District is able to keep its mill rate at about the same level but lakeshore property is increasing much faster in market value than other property and, as a result, pays a significantly higher share of the school district property tax levy.

In response to a question from Senator O'Connell, Ms. Lisa Peterson, Bottineau County Director of Tax Equalization, said lakeshore property at Lake Metigoshe is currently assessed at about 71 percent of market value as established under the sales ratio study. She said other residential property in the county is currently assessed at approximately 98 percent of market value. She said Bottineau County is sympathetic to taxpayers having property at Lake Metigoshe but all of the evidence available to the county indicates that market value of lakeshore property at Lake Metigoshe is increasing rapidly based on recent sales of property.

Chairman Stenehjem called on Ms. Dickerson for comments on how market value was established for Lake Metigoshe lakeshore property. Ms. Dickerson provided committee members written information (Appendix K). She said property is required to be valued at true and full value and market value is the best method of determining true and full value. She said the table on the information provided is the most recent sales/assessment ratio study information for Roland Township in Bottineau County. She said 41 lakeshore properties were sold in 2007 and the 2007 assessment of the property was compared to the actual sales price. She said only 2 of the 41 sales had a sales price for which the assessed value was 95 percent or more of the sales price. She said the data indicates that Lake Metigoshe lakeshore property assessments are substantially below the prices at which the properties were sold in 2007.

Soil Survey Use

Chairman Stenehjem called on Ms. Sara Hewson, Property Tax Specialist, Tax Department, for testimony (Appendix L) relating to county compliance with implementation of the use of soil surveys in agricultural assessments. She said all counties have responded to the request for a valuation schedule for soils. She said all counties responded to the request for information on modifiers being used and 32 counties provided a schedule of modifiers being used which have been approved by the state supervisor of assessments. She said one county did not have approved modifiers and the other 20 have not established modifiers.

Ms. Hewson said 21 counties are compliant with the use of soil type and soil classification data from detailed or general soil surveys. She said 13 counties are at different stages of implementation and 19 counties are at the beginning stage of the process of implementation. She said the map attached to her testimony indicates by color key the status of counties in implementation of soil survey use.

Chairman Stenehjem called on Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, for testimony (Appendix M) on the implementation by counties of soil survey use in agricultural assessments. Mr. Traynor said the association urges delay, if not repeal, of the penalty provision relating to implementation of soil survey use and requests consideration of state funding to offset property tax impact of the requirement.

Representative Belter asked whether Mr. Traynor believes the assessment system will be improved when the use of soil surveys is fully implemented. Mr. Traynor said in the short term there is some disappointment and controversy at being required to implement soil survey use and how to accomplish that. He said in the long run, statewide implementation of soil survey use should provide more equity in agricultural assessments.

Chairman Stenehjem called on Mr. Ken Teubner, Towner County Commissioner, for comments on the soil survey implementation study. Mr. Teubner said he is filling in for Mr. Joe Belford, Ramsey County Commissioner, who is unable to appear. He said Towner County is one of a group of five counties working together on implementation of the use of soil surveys. He said the five counties submitted a joint invitation for proposals from vendors regarding implementation of soil survey use. He said the five counties jointly picked one vendor to provide service for all of the counties. He said another county has since joined the group to be served by the vendor. He said the counties involved in the project lacked money in their budgets initially for this project so there was a delay until the counties could budget money for the project. He said the counties in the project are proceeding with implementation but are not likely to meet the implementation deadline. He said the counties in the project would respectively request a legislative delay in the statutory provision to implement a penalty for noncompliance.

Chairman Stenehjem called on Mr. Dwayne Erickson, Foster County Commissioner, for comments on the soil survey implementation study. Mr. Erickson said Foster County is working to implement the use of soil surveys. He said he has been told that full implementation takes three years to five years. He said he believes more time is needed for counties to comply with implementation than the deadlines allow.

Senator Stenehjem called on Mr. Frank Klein, Cass County Director of Tax Equalization, for testimony (Appendix N) on the soil survey implementation study.

INCOME TAX STUDY

Chairman Stenehjem called on committee counsel to review the bill draft [90018.0100] to eliminate the use of individual income tax Form ND-2. Committee counsel said the bill was presented and reviewed by the committee at the November meeting. He said the bill draft has not been changed and was distributed for further committee consideration. He said the bill eliminates the use of Form ND-2 and the credits and deductions available only on that form. He said the bill includes NDCC Section 57-38-30.3, which contains the rates for Form ND-1. He said these rates are not changed in the bill draft but were included in case committee members wish to make adjustments to that form for equalizing the fiscal effect. He said the Tax Department estimated the fiscal effect would be approximately $150,000 additional general revenue per year.

Senator Cook said he believes it would be appropriate to adjust the Form ND-1 rates to make the bill revenue-neutral.

Representative Froseth said the bill should be adjusted to remove the sections from the repeal clause that the Tax Department believes are necessary for income administration. He said committee counsel should work with the Tax Department to develop revenue-neutral changes to the rates in Form ND-1 to offset the revenue gained from eliminating Form ND-2. Senator Cook said he agrees that committee counsel should work with the Tax Department to make the bill draft revenue-neutral.

Representative Belter said he thinks it would be appropriate to extend or eliminate the deadline for county soil survey use implementation for agricultural property assessment. He said counties are making progress and it would be appropriate to allow more time. He said a bill draft should be prepared to eliminate the deadline. Representative Drovdal said he thinks a deadline should be retained because it appears it has gotten action from counties to comply. Senator Triplett said it would be appropriate to extend the deadline by four years.

After further committee discussion, Chairman Stenehjem said a bill draft should be prepared to extend the deadline by two years for county compliance with implementing the use of soil surveys in agricultural assessments. No further business appearing, Chairman Stenehjem adjourned the meeting at 5:00 p.m.

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John Walstad
Code Revisor

ATTACH:14