2009 HOUSE AGRICULTURE

HB 1363

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1363

House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 23, 2009

Recorder Job Number: 7639

Committee Clerk Signature Pe Mae Kuch

Minutes:

Representative Jerome Kelsh (Sponsor of the bill): Several years ago, counties had to use detailed soils as a way of evaluating farm land. Many counties didn't because of budget considerations and lack of soil types information. Not too long ago, counties were given an ultimatum to either complete the process or lose 5% of their funding from the state distribution fund. In our county of Dickey that loss would run about $35,000/year. Many counties have purchased programs to help with the process. These are expensive programs. In the 2008 budget, Dickey County budgeted $32,000 to get the work done. Federal highway funds are going down, state gas tax receipts are probably falling, and sky rocketing prices of what you have to do in counties puts counties in a real financial bind. HB1363 is an appropriated bill that divides $2 million equally between the counties which gives them about $38,000 a county. This is probably only about half the cost of what it takes to do this process in all the counties. Our five-county area is very supportive of this. A lot of them thought they had this process pretty well started and found out they didn't and it would cost them a lot more money. I urge a "Do Pass" of this bill.

Representative Mueller: None of the counties have finished this work. Is that correct?

Representative Kelsh: I believe about a third of the counties are finished. They would get repaid for the cost. About a third are in the process. A third are not even started mainly because of the budget impact on their county.

Representative Mueller: So those that have completed the project are going to get $38,000 to defray past expenses.

Representative Kelsh: That is correct.

Representative Rust: Is that $2 million in the Governor's budget.

Representative Kelsh: No

Others in favor

Terry Traynor, Assistant Director of the ND Association of Counties:

(Written testimony attached #1) shows a map of counties and where they are in the process along with the costs. The county average cost of implementation has been slightly over $67,000. County government urges a "Do Pass" on HB1363.

Representative Mueller: Moving the deadline back has gone on for a fair number of sessions. You indicated the Senate has passed a bill that gives another 2-year extension. If we did do this, would we be fairly sure that at the end of that 2-year period the ag evaluation process in all the counties would be accomplished?

Terry Traynor: One thing to clarify. There never has been a deadline. Although the law has said: As the self-serving maps become available, the counties are to use them. That's been in the law since the 80's. The last session was the first time there was a deadline imposed with a penalty. So this is the first time we're asking to push it back. I can't promise that all the counties will be done. I suspect that the majority of them will. They understand that this is serious and they're going to lose money.

Representative Rust: Did the state mandate this process?

Terry Traynor: That is correct.

Representative Rust: Did the state give any money to do that?

Terry Traynor: No

Representative Vig: In Nelson Co. comments, I see Dakota Programs (tax billing program) is not working. When is it working and is it vital for soil surveys?

Terry Traynor: It is vital to link the valuation information with the mill levies that the school, counties, and cities use. We expect it within the next year. They are a major vendor for almost half the counties. The problem they have is not all counties are using the same valuation software. It isn't like they can make one fix to fit all.

Representative Boe: Of the counties that have finished their soil surveys and have implemented them, have you seen an increase in revenue?

Terry Traynor: No. The way the property tax works, NDSU sets the total value regardless of whether they were doing it the old way, which is a little more of a guess, or you use the scientific method of using soils. It doesn't change the total value. It just changes who goes up or down.

Vice Chairman Brandenburg: Give a little history about the western part of the state and why this came about.

Terry Traynor: Originally the bill that was introduced didn't include the mandate. It was prompted by one county that did implement the soil survey, Grant Co. It didn't change the total tax in the county but it certainly shifted east to west. The western rangeland saw an increase in taxes and the eastern cropland saw a decrease based on the productivity formula. There was a lot of consternation there. A lot of people felt the county should have looked at land use.

That part of the bill was written to say you look at productivity of the soil according to the federal government's soil data, then you look at modifiers, and then thirdly at land use. In the conference committee there was a big discussion about the implementation of this in Grant. Then in the discussion, why are half the counties not using the soil survey yet. It was said, we better make it happen. It was written in. OK there's a deadline. It was sort of an afterthought.

Opposition: None

Vice Chairman Brandenburg: Closed the hearing

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1363

House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2009 **(Committee Work)**

Recorder Job Number: 8815

Committee Clerk Signature Ro Mae Rust

Minutes:

Chairman Johnson: When we heard the testimony on the soil surveys, I believe about a third of the counties have this implemented and two-thirds are not still done with the process. They want money to complete the process. They've extended deadlines to get the process completed. That's where we are sitting right now.

Representative Rust: I have in my notes that a third of the counties haven't even started.

Vice Chairman Brandenburg: This came about because counties in the western part of the state had some assessors that were going out and assessing land that was in a pasture or on a hill or across a very deep terrain that you can't get to but they were still assessing that land as a productivity basis instead of land use. A third of the counties wanted it, a third didn't want it, and a third didn't care. I know it's an unfunded mandate but they asked for it. So I can't support paying for it especially since some counties have taken care of it and paid for it. It's not in the governor's budget either.

Chairman Johnson: You can see on the map handed out that we've got a mixture. It's not isolated to one area.

Representative Wall: The problem I have, we did mandate it. It appears in testimony the average cost per county is $65,000 to 70,000. The counties that have complied and have

done it, have not received more money because property tax has not appreciably changed. So we have mandated something that costs them money. Some of the counties that did not comply, that's a pretty big chunk of change.

Representative Mueller: The issue I would have is, we don't seem to have the teeth in getting it done. I think if we pass this, we need to have a deadline.

Representative Vig: As I remember from last session with HB1303, they had to get it done by 2012 or else have 5% reduction in state aid distribution. A couple of my counties are working on it. They had to increase 1 or 2 mills to get to that $50,000 or $60,000. They're under the gun to get going so they don't lose any state aid distribution. I'd be in favor of the state paying for this mandate that the state has put on our counties. We're not extending the deadline either.

Representative Belter: The interim tax committee passed a bill that extended the deadline and I don't know where that bill is.

Representative Rust: According to Terry Traynor's testimony, Senate Bill 2052 passed on Monday would delay the deadline by two years.

Representative Belter: I know we've given the counties a mandate but when I look at the map and see all the counties that went ahead and did what they were suppose to do and we didn't give them any money to do it and now we have the stragglers. Now all of a sudden we're suppose to come up with the money. I'm not so sure I can support this expenditure.

Chairman Johnson: Benson County, for example, is completed. Years ago it was much more difficult.

Representative Vig: As time goes on we ask our employees to do more and we don't increase their salaries. The least we can do is pay for the software programs and help our counties out. With that I move for a **Do Pass** on 1363.

Representative Mueller: Seconded the motion.

Vice Chairman Brandenburg: I'm going to resist that motion. The cost of doing this is going to take away money we have in the picture. We look at nursing homes, K-12 education, etc.

Chairman Johnson: The $32,000 per county goes to all counties. Even to those completed with the process.

Representative Kingsbury: When this was brought forward, was there any funding in that in the first place?

Representative Belter: It was passed last session and there was no funding in there.

Representative Kingsbury: Would we be interested in bringing the amount down and they don't get fully funded for it?

Chairman Johnson: We have a motion before us which would have to fail to change the amount of funding.

Representative Uglem: I believe you can go online and click on a piece of property and get soil types in each parcel. I believe it should be universal across the state through a federal website.

Chairman Johnson: My understanding of the price tag is the software.

Chairman Johnson: We'll take a vote on **Do Pass** on 1363.

A Roll Call vote was taken. **Yes:** 4 **, No:** 8 **, Absent:** 1 , (Repesentative Froelich).

Do Pass Failed.

Vice Chairman Brandenburg: I move a **Do Not Pass.**

Representative Schatz seconded.

Representative Boe: I'm going to oppose the **Do Not Pass.** We come up with the good ideas. We should put our money where our mouth is.

Representative Holman: This does reimburse all counties. Those that have done it as well as those that have not?

Chairman Johnson: Correct.

Chairman Johnson: In light that there's a Senate bill that extends the deadline two more years. We will see this before us again.

A Roll Call vote was taken for a **Do Not Pass**.

Yes: 8, No: 4, Absent: 1, (Repesentative Froelich).

Chairman Johnson: Since it's a **Do Not Pass**, we don't need to refer it to appropriations.

Representative Brandenburg will carry the bill.

Date: 2/5/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1363

House **Agriculture** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Vig Seconded By Rep. Mueller

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair		✓	Tracy Boe	✓	
Mike Brandenburg, Vice Chair		✓	Rod Froelich	AB	
Wesley R. Belter		✓	Richard Holman	✓	
Joyce M. Kingsbury		✓	Phillip Mueller	✓	
David S. Rust		✓	Benjamin A. Vig	✓	
Mike Schatz		✓			
Gerry Uglem		✓			
John D. Wall		✓			
			failed		

Total (Yes) 4 No 8

Absent 1

Bill Carrier

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

Date: 2/5/09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1363

House **Agriculture** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Rep. Brandenburg Seconded By Rep. Schatz

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	✓		Tracy Boe		✓
Mike Brandenburg, Vice Chair	✓		Rod Froelich	AB	
Wesley R. Belter	✓		Richard Holman		✓
Joyce M. Kingsbury	✓		Phillip Mueller		✓
David S. Rust	✓		Benjamin A. Vig		✓
Mike Schatz	✓				
Gerry Uglem	✓				
John D. Wall	✓				

Total (Yes) 8 No 4

Absent 1

Bill Carrier Rep. Brandenburg

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

REPORT OF STANDING COMMITTEE

HB 1363: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1363 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1363

1/23/09
Terry Traynor
#1
1363

Testimony To
THE HOUSE AGRICULTURE COMMITTEE
Prepared Friday, January 23, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

REGARDING HOUSE BILL No. 1363

Chairman Johnson and members of the House Agriculture, our Association and the North Dakota County Commissioners Association both passed resolutions at their conventions this fall requesting that the Legislature appropriate funding to reduce the property tax impact of the state-mandated agricultural valuation process.

In the early 1980's as the federal government's soil mapping was being conducted on the county level, the Legislature directed counties to use soil survey data to establish the relative productivity of each tax parcel in the county, thereby allocating the total countywide agricultural value established by NDSU. As soil survey data became available to individual counties, those with the resources – both funding and staff – began to incorporate the soils data.

Last Session, the Legislature established a deadline in HB1303 that would trigger a rather significant penalty for each county that had not accomplished the agricultural land valuation in this manner. The deadline is currently December 31, 2009, and the Tax Department is charged with determining which counties have achieved compliance with this requirement. This legislation prompted an evaluation in all counties, revealing that some which assumed they were compliant were not, and it identified all of the counties which are currently missing the mark.

The most recent data suggests that 21 counties are compliant, 13 are transitioning to compliance, and 19 counties are in the early stages of implementation. The attached map prepared by the Tax Dept. illustrates the county-by-county results of this evaluation. Although an enormous amount of effort has been undertaken since last Session, and a very large amount of property tax revenue has been invested, it is understood that over half of the State's counties will not be compliant before the current deadline.

Senate Bill 2052, unanimously passed in the Senate on Monday, would delay the deadline and associated penalty by two years. However, the delay only solves the immediate

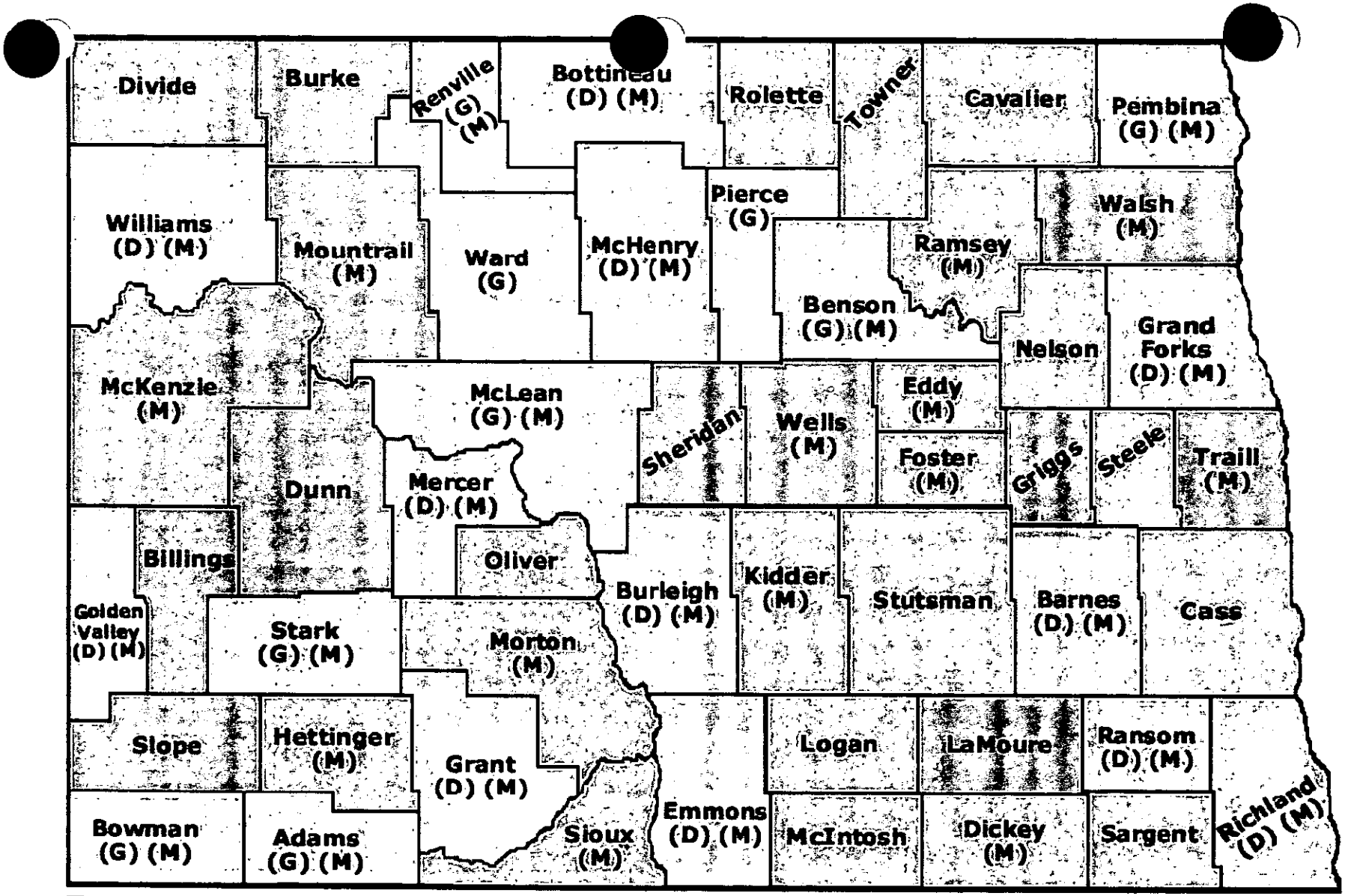
concern for counties. This bill, HB1363, would appreciably reduce the impact of this mandate on property taxes.

A survey was conducted of counties – those which are in the midst of the assessment process as well as those that completed the process earlier – in some cases much earlier. The survey data (attached) indicates that while somewhat variable, the county average cost of implementation has been slightly over $67,000. Looking at it another way, implementation has averaged just under $12 per agricultural parcel. Additionally, counties were asked about their ongoing costs and, with the exception of a few with significant in-house resources, the maintenance of their systems run about $4,500 per county per year, or somewhat over $1.25 per parcel per year. Again, this is funded with property tax revenues. The counties are color-coded in the survey results table to correspond with the map, and comments received with the survey are attached.

Unfortunately, all counties are not created equal. On the extreme end, we have Sioux County. As most of you are likely aware, Sioux is a checkerboard of taxed and non-taxed (reservation) land. While it has probably the fewest agricultural parcels in the State (~3,000), they also have the smallest tax base to support this valuation effort. Each county regardless of their number of parcels have some fixed costs for hardware and software, and when all is said and done relatively few property taxpayers of Sioux county will share a $49,500 bill. Fortunately Sioux County's vendor will allow them to pay the majority of these costs over a three year period. Unfortunately, with a mill value of just over $2,100, you can see that compliance will still require close to 7 mills of property tax – a burden that, due to levy limitations, will in all likelihood require funds that would otherwise go to road maintenance, social services, or law enforcement.

HB1363 is a proposal that would give each county an equal grant of $37,736 to reduce the property tax impact of the fixed costs of this mandate, although it certainly wouldn't cover all of each county's implementation costs, nor address the ongoing maintenance of this valuation methodology.

At a time when property taxes are obviously a key concern for local officials and legislators, counties believe that State General Fund support for a statutory mandate is a logical solution. Mr. Chairman and committee members, county government strongly urges a "Do Pass" recommendation on HB1363.



Yellow	County using soil survey as basis for agricultural valuation
Blue	County in the process of implementing detailed soil survey method of valuation.
Green	County at the beginning stage of implementing the detailed soil survey method of valuation.

(D) Indicates detailed soil survey
(G) Indicates general soil survey
(M) Indicates use of approved modifiers

Agricultural Land Valuation Cost Survey

County	Number of Ag Parcels	Costs Incurred for hardware, software, consultants, etc. Prior to 2007	In 2007	In 2008	Budgeted for 2009	Total Through 2009 Dollars	$ per Parcel	Est.Annual Maintenance Dollars	$ per Parcel
Barnes	7,454	$44,450	$10,805	$7,532	$8,000	$70,787	$9.50	$5,000	$0.67
Bottineau	8,800	$36,000				$36,000	$4.09		
Bowman	4,998				$51,730	$51,730	$10.35	$12,860	$2.57
Burke	5,100	$85,000	$10,000	$6,000	$6,000	$107,000	$20.98	$5,000	$0.98
Divide	5,800	$27,900	$1,450	$12,900	$14,000	$56,250	$9.70	$2,500	$0.43
Dunn	7,900	$8,000	$15,000	$12,000	$12,000	$47,000	$6.71	$7,500	$1.07
Eddy	3,400	$10,000		$10,700	$14,200	$34,900	$10.26	$7,000	$2.06
Emmons	7,900			$5,000	$65,000	$70,000	$8.86	$10,000	$1.27
Foster	3,400	$6,000		$10,702	$16,700	$33,402	$9.82	$7,000	$2.06
Grand Forks	8,367			$10,000	$10,000	$20,000	$2.39		
Griggs	4,500	$27,800	$3,616		$12,000	$43,416	$9.65		
Hettinger	5,265			$35,000	$5,000	$40,000	$7.60	$5,500	$1.04
Kidder	6,000			$13,998	$13,998	$27,995	$4.67	$13,998	$2.33
Logan	5,600			$29,000	$16,000	$45,000	$8.04	$4,000	$0.71
McIntosh	5,719		$10,000	$11,000	$42,000	$63,000	$11.02	$2,000	$0.35
McKenzie	8,675	$205,012	$18,350	$12,300	$22,800	$258,462	$29.79	$10,000	$1.15
McLean	9,500	$95,000				$95,000	$10.00		
Mountrail	8,650	$70,500		$41,000	$20,000	$131,500	$15.20		
Nelson	4,386	$14,250		$57,750		$72,000	$16.42	??	
Oliver	5,000	$4,200	$19,000	$13,200	$17,500	$53,900	$10.78	$25,000	$5.00
Pembina	3,000	$60,000				$60,000	$20.00		
Pierce	6,175	$8,400	$2,115	$1,170	$10,000	$21,685	$3.51	$3,000	$0.49
Ramsey	7,000	$20,000		$25,000	$22,000	$67,000	$9.57	$2,000	$0.29
Richland	9,748	$60,000	$1,500	$1,500	$1,500	$64,500	$6.62	$1,500	$0.15
Rolette	4,164		$40,000	$9,000	$5,000	$54,000	$12.97	??	
Sioux	3,000	$6,500	$6,500	$16,500	$20,000	$49,500	$16.50	$7,500	$2.50
Stark	6,150	$142,863				$142,863	$23.23	$1,200	$0.20
Steele	3,500			$32,380	$36,000	$68,380	$19.54	$5,000	$1.43
Stutsman	22,000	$30,000	$2,000	$5,000	$20,000	$57,000	$2.59	$2,000	$0.09
Traill	4,000		$54,000	$6,000	$30,000	$90,000	$22.50	$2,000	$0.50
Ward	5,000				$50,000	$50,000	$10.00		
					Total	$2,082,270		$141,558	
					Average Cost per County/per Parcel	$67,170	$11.78	$4,566	$1.27

SURVEY COMMENTS RECEIVED

Barnes	The majority of the time to develop the parcels, the first expense of the Arcview, a color printer, PAT program and training were prior to 2007. We will finish develop the parcels in 2009, so in the future will mainly be maintenance fees and new splits.
Bottineau	Bottineau County paid the Soil Conservation Service $34,000 for the initial detailed soil maps. An estimated additional $2,000 was spent on supplies and additional salaries.
Bowman	Budgeted for 2009: $4,180 Part-time help with data entry $8,280 anual maintenance fee for Off-Road Software program to manage soils data. $450 Money to purchase GPS unit for modified acres and parcel boundaries. $1500 For purchase of ArcView for mapping $37,320 GIS Dataservices for developing parcels Estimated annual after 2009: $4,180+ Part-time assistance in office $8,280 Annual maintenance fee for Off-Road Software for soils data. $400 Annual maintenance fee for ArcView
Burke	Burke County co-oped with NRCS and paid $6000 a year for 6 years for the soil survey. We also purchased a laptop, two monitors, printer and GIS software and other programs for the soil project. We have licenses for ARCGIS, and PAT which are used for the soil project. I also have a part time $5000 annually and they commissioners have been given me $1000 a year to do the project in house.
Dunn	$36,000 (3 yr 12K payment) for digitized parceling contract with vendor for 2007-2009. Prior to 2007: GIS software, training, consulting, hardware.
Eddy	Actually $14,200/year until 2012 then $7,000. Payment per parcel would probably be the most fair
Foster	Actually $16,700/year until 2012 then $7,000
Griggs	The TD position to go full time instead of 3/5ths to ensure the Detaled Soils project is finished.
McIntosh	We are financially strapped county and need financial help to accomplish this mandate. Thank You
McKenzie	Amounts include parceling costs, supplies which include computers and plotters (done prior to 2007)
Mountrail	Cost to County for Soil Study in 1990 was $17,000. I am not sure what the estimated annual after 2009 would be - need to see how things proceed this year.
Nelson	Single person office - limited time to tackle this project. Cannot hire additional staff at this time. Our Tax billing program (Dakota Programs-shared with 22 counties) has a number of issues that need to be corrected to get soils working properly. We can't finish until DP does.
Oliver	The County Commission did send a letter to our Representatives and Senator this past week. We have not started the parceling at this time, still working on modifiers
Pembina	We did received some grant money that is not included in the above amount.
Pierce	Parcelling done in-house by tax director. Cost? Priceless..
Ramsey	Our original contract is about $60,000 payable over 3 years for parceling and soil work.
Richland	The $60,000 was a contract with NRCS to redo our soil types signed in 1993. $1,500 each year is budgeted amount for soils committee meetings. Rather than buy software we hired a full time GIS person- this cost not included but part of his work is devoted to the soils layers.
Rolette	I truly feel our county could use funding to do this project correctly and without cutting corners just to be in compliance with the law. It would be nice to get monies to not only train our tax director but the soils committee and farming community ; please accept changes that they understand.
Sioux	2008 consultants, printer, computer support
Stark	The acres were counted back in 1974, but we had KLJ parcel everything starting in 2004.
Steele	Plus another $40,000 in 2010 for implementation
Ward	$50,000 may not be spent until 2010 - I am a new Tax Director and I have no way of knowing what was spent in prior years.